

August 2020 Public Comment Period Written Comments

Submission 1

I have 10.59 acres of forest and as such am just shy of being eligible for the MFTP scheme after the one acre is taken off for the house. I would like this scenario to be brought forward for the bylaw update if possible.

Submission 2

The [Ontario Professional Foresters Association] OPFA has reviewed the draft Forest Conservation Bylaw and finds it well written. We commend the County on drafting a bylaw that recognizes the interests of its landowners and balances them with the broader public good. We offer the following suggestions for improving the draft document on Good Forestry Practices described in the [Draft Guidelines For Good Forestry Practices].

Page 3: Suggest that the definition for Good Forestry Practices identify the Forestry Act, Section 1(c) RSO 1990 C 26 as the legal definition.

Page 4: Qualified Member of the OPFA means:

1. A member registered as an R.P.F.,
2. An Associate member who is authorized by their scope of practice to prepare prescriptions and plans within the forested land base being managed, or;

Good Forestry Practices Applications must include a silvicultural prescription and where necessary a tree marking prescription, prepared by a qualified member of the OPFA. Hiring a Qualified OPFA Member ensures that individuals preparing silvicultural prescriptions have the proper education, training and experience to make forest resource management decisions.

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Tree Marking: A Certified Tree Marker who is currently certified through the Ontario Ministry of Natural Resources and Forestry must complete all tree marking based on the prescription written and certified by a Qualified OPFA Member for a Good Forestry Practices Application. This requirement will ensure that individuals marking trees to be harvest are experienced, well trained, can apply resource management standards, use discretion in [adapting tree marking to circumstances such as variability in terrain, forest stand type, habitat conditions, ecological features, ecological and social values; and apply tree marking prescriptions in a consistent manner.]

Page 6: Stand Analysis. Number of basal area plots, species, size classes (Polewood, Small, Medium, Large and Extra-Large Sawlogs), acceptable growing stock, unacceptable growing stock, total number of trees, pre-harvest basal area, target basal area and ideal basal area. Ideal Residual (i.e. the basal area remaining immediately after harvest) Basal Areas for Haldimand County ,

Submission 3

I went over the draft Haldimand By-Law & the Good Forestry Practices Guidelines & am a little fizzy how the two match up? Just a thought should **1.15** make reference to the Guidelines? Not sure from legal stand point if that is possible?

Why two names for the By-Law Number XXX/20 vs Forest Conservation By-Law? Seems a little confusing.

5.13 as normal farm practices – how well defined is the destruction of trees in the practice? Is it even addressed or just someone interpretation which could make you job hell!

5.14 – 20 trees, does that mean I can remove 20 trees along the edge of my bush, likely remove the stumps & decrease the size of my woodlot? Over a few years my bush is gone!

Guideline – Harvesting Consideration:

Bullet #1 – “in the fall” which means end of Sept.. That leaves out August & Sept?

Bullet #2 – The exception to this could be conifer operations with harvesters/forwarders with floatation tires, harvester head, dry sites, etc. I know we have to deal with nesting/breeding but in mono culture stands it might not be an issue?

Hosing down equipment for invasive species. Is this something that could be made mandatory?

Submission 4

I have just finished reading the forestry bylaw and plan. As a forestry technician for over forty years with urban forestry experience working for the Hamilton Forestry Dept. I found the plan very complete and well thought out. The difficult part is always in the implementation, unforeseen costs, [lack] of funds and manpower can stall the biggest plans. The ash problem is such a setback. Certain areas of the county such as Dunnville and Lowbanks area the ash make up about 40% of the forest canopy along rural roads. The recent removal of dead ash trees along the canal on Northshore was done amazingly well, unfortunately a couple weeks earlier Hydro went along the feeder roads on the opposite side of the canal and butchered the trees, topped dead trees and left their trunks standing and dumped everything in the canal. Urban trees trimmed by hydro or their contractors are trimmed not for looks but to clear their wires as much as possible resulting in huge holes in their canopies, poor pruning techniques used on the trees, bad cuts all resulting in a huge reduction in the life of the tree and a truly ugly landscape in our towns. Consideration should be given to setting out standards that they must adhere to when working in our region, after all there wires and poles are located on property owned by Haldimand County. The other thing that can be done is to encourage people not to plant trees under power lines move them farther back on the property away from the wires. Tree planting is relatively inexpensive especially when you utilize the community. Trees planted between mature trees get established so that when the mature trees are gone you have a new shady tree well on its way. The next few years will be very difficult and expensive pick a set of priorities that is workable, do a few things well you are already well on your way and ask for help the community is behind you. Good luck I hope this was helpful.

Submission 5

I am now a retired forester with no vested interest in Haldimand County forest management, but from time to time I have been involved with local woodlands. Based on many years of hands-on experience across Ontario, my following selected recommendations for the proposed County of Haldimand Forest Conservation By-law are meant to be constructive suggestions to help landowners, forest managers, loggers, and the County of Haldimand all work together to

manage forests as efficiently as possible under the Province's *Four Pillars of Forest Sector Strategy*.

Concerning the Ontario Four Pillars of Forest Sector Strategy

Any Good-Forestry-Practices-Only By-law undermines at least one of the Province's *Four Pillars of Forest Sector Strategy*, as it increases business costs and adds regulatory burden onto landowners. Forcing owners of private-land woodlands to pay extra every time that a timber harvest is in the works adds costs and adds restrictions to a person's ability to manage their property as he or she see fit. Landowners should have the choice to use a consultant or not.

The Four Pillars approach also fosters innovation. The County should not interfere with landowners who want to clear off *previously cleared* land to grow commercial tree crops.

Main Recommendations for the Proposed Haldimand County Forest Conservation By-law.

Permit or Notice of Intent not needed for harvesting. As long as the size and shape of a woodland remains the same, no permit or other County input should be needed. If a woodland owner is satisfied with the proposed tree harvest on his or her own *private* property, then the County should not regulate that harvest as it is just another Agricultural Operation.

Regulating the size and shape of a woodland (overall tree cover) is for the public good – e.g. for erosion control, climate control, etc. But, micro-managing individual trees within someone else's woodland on private property is an over- extension. *Section 135(7) of the Municipal Act, 2001*, says that a permit, not a Notice of Intent, may be issued. However, I have still seen successful POA convictions in municipalities that use the Notice of Intent method for tree harvests. The NOI has its merits; especially because it involves less costly regulatory input. (Province's *Four Pillars of Forest Sector Strategy*).

Good Forestry Practices is a personal balance of priorities that cannot be truly measured as being right or wrong for By-law enforcement purposes. While both the "*Good Forestry Practices*" term and the potential results are appealing, the actual legal definition of Good Forestry Practices is based on an inexact process that balances the "*proper implementation of harvest, renewal and maintenance...*" that "*...minimizes detriments...*" to a wide variety of competing features and functions. Prioritizing to minimize these detriments varies with personal interpretation and from woodland to woodland, and often leads to conflicting interpretations.

Accept Minimum Size Harvesting. Please retain the minimum diameter or circumference timber harvesting method as a valid harvesting option. When doing so, also allow loggers to remove obviously diseased or otherwise defective trees without having the landowners pay for others to state the obvious. Often, just removing large shade-makers along with selected poorer trees is all that is needed to stimulate natural tree regeneration (a good forestry practice). Forestry is not rocket science, and it is not necessary or legally required to pay for a professional to say that a tree is defective. Loggers can be trusted, but for investigating size limit harvests, fresh stumps can still be measured for enforcement and auditing purposes. Therefore, with the size limit option, trees that meet or exceed minimum sizes do not need to be pre-marked unless a landowner wants them pre-marked. Only the smaller defective trees that would be removed should be painted.

There may not be enough qualified woodland consultants under retirement age in southern Ontario. Council should contact the Ontario Professional Foresters Association to get a detailed list of *qualified* consulting members who have experience at writing silvicultural prescriptions for private land forests in southern Ontario. Council will be surprised at how short that list is. Just being pointed to the OPFA website will not be good enough.

Reconsider the mandatory use of Certified Tree Markers. A Certified Tree Marker is only certified to mark timber by following a valid silvicultural prescription. Qualified members of the Ontario Professional Foresters Association and landowners on their own property can legally write prescriptions (See 6 and 7 below), so they or their agents already can legally mark to prescriptions without certification. Also, provincially certified Tree Markers are only audited to be certified for one management approach for upland shade tolerant trees, such as Sugar Maples, Beeches and Hemlocks, and one management approach for White Pines. To get this restrictive certification, a person needs to pass both the course and the audit. See attached OMNRF certification auditing requirements. The Certified Tree Marker approach may work for some tree species, but it can leave too many shade trees behind that are detrimental to regenerating shade *intolerant* species, such as Oaks, Black Cherries, Hickories, Black Walnuts, Silver and Red Maples, other conifers, Chestnuts and Butternuts. Check to see how many upland shade tolerant woodlands there actually are in the County and how many qualified certified tree markers are available.

Accept, Trust and Respect Private-Land Managers. Already legal under *Section 3. (2) (a)* of the *Professional Foresters Act, 2000*, please include in the new By-law that landowners may “*design, specify or approve*” a silvicultural prescription, as well as the follow-up pre-marking and harvesting on their own property - *if they want to do so*. This inclusion will reduce landowner costs, get landowners more involved in their woodland management, and will promote trust and respect for the landowners who want to manage their own private woodlands as *they* see fit. (Province’s *Four Pillars of Forest Sector Strategy*) It is extremely important that the County trusts loggers, landowners and consultants and that their Officers do not interfere with a prescription or the subsequent tree pre-marking unless some aspect is illegal. E.g. cutting endangered tree species.

Simple Prescription that a Landowner Could Complete To bring County-wide consistency to landowner-prepared silvicultural prescriptions, Haldimand County needs to post on-line a basic and simple fill-in-the-blanks optional form for an applicant to use. The form would only cover the points listed in the County’s Good Forestry Practices definition. Without the fluff. Regardless of who writes it, the landowner would sign or co-sign a prescription to be valid under *Section 3.(2) (a) the Professional Foresters Act*. OPFA members would still have to use the prescription requirements of their Practice Bulletin 10.

Showing Regard for Good Forestry Practices If a harvest permit must be issued, a timber harvesting permit for the Good Forestry Practices option should only confirm that a prescription *has regard for* the Forestry Act definition of Good Forestry Practices.

Fees or Charges are not Allowed Although *Section 429 of the Municipal Act* generally allows for fees and charges, *Section 394 (1) (e)* specifically states that there cannot be a fee or charge for a natural resource. Trees are a natural resource.

Hazardous Trees as an Exemption Landowners have to live with the fears of being hurt by unsafe trees on their property. They should not have to pay someone to show up for a brief visit to tell them not to be afraid. If these consultants are wrong, how do they undo death, injury or damage? Landowners should be able to have trees removed that they feel are unsafe without having to pay someone to agree or disagree.

Noxious Weeds As written, the By-law protects European Buckthorn, a noxious weed tree. Since the *Weed Control Act* dictates that a landowner shall destroy all noxious weeds on

the property and that the County Weed Inspector may force a landowner to do the same, requiring a permit to clear Buckthorns is an unnecessary regulatory burden. Since Buckthorns take over pastures and fields and strangle out other tree species in the process, all plants need to be removed from a site and the ground needs to be worked. A landowner should not have to seek permission to get rid of the greater bad.

Basal Area: Beware of those who want to *regulate* by the basal area method. Aiming for estimated average basal areas has its merits, but for enforcement purposes, that method was rejected in Court as being an *"inexact process"*.

Is it a woodland? To apply the "woodland" or "woodlands" definition, one needs to determine the overall average number of trees per hectare. Trees are not spaced evenly in a woodland and sampling a few trees is used because there are so many trees. Sampling is an estimate only and it does not give an absolute 100% picture of the whole site. To compare "apples to apples", the County needs to first prepare the same clear sampling instructions for the landowner (or agents) and for County staff – so that in theory both would independently sample the same trees and get the same results. Then, the County needs to provide instructions on how to determine the accuracy of those sampling results. This can be done with an on-line fill-in-the-blanks formula. For example, knowing the sampling margin of error, standard deviation, and how many samples are needed to reach a pre-determined confidence level (say 90%) are important indicators of accuracy that could avoid costly court battles. Without this analysis, sampling is just another inexact process.

To be practical, only trees on the property in question should be considered in the *"woodland"* definition. Access onto neighbouring properties would be needed to determine the overall average for tree cover that extends beyond the fence. Venturing beyond property boundaries could require multiple permissions or search warrants. The costs and frustrations involved would not be in line with most infractions.

Proper and complete definitions By-law authors need to include the full legal definitions of a term. For example, the definition of *"woodlands"* in the *Forestry Act, 1990*, is the legal source for the definition of a *"woodland"* or *"woodlands"*, and the last part of the Act's definition – not included in the By-law - says: "For the purpose of the definition of *"woodlands"*, all measurements of the trees are to be taken at 1.37 metres from the ground. 1998, c. 18, Sched. I, s. 20."

Fines only should be sought for By-law infractions where timber harvesting occurs *and* where the size or shape of a woodland is not reduced by more than 5% of its area on that property. (such as cleaning back encroachment into fields.) Part III charges should be left for major infractions that involve willfully clearing an established woodland.

Final Public Input Before formalizing a draft, wait until it is safe to do so, and then hold more public meetings to see if any of the concerns from the 2018 open house were addressed in the "final" draft By-law. Listen to the landowners.

I am available for discussion.

Submission 6

I have recently been informed that Haldimand County's Tree cutting by-law is under review and a draft has been produced. I have reviewed the draft by-law in detail. As the owner of the

largest sawmill and kiln drying operation in Southwestern Ontario for over 30 years, I have some questions, comments, and concerns with the direction of the Draft by-law.

1. Who are all the people and related parties that have been involved in creating the Draft By-law? There are so many stakeholders that this by-law can and will affect, all stakeholders must be involved.
2. Is the County aware that by only allowing harvesting that has been marked and prepared by a professional forester that the landowner has to absorb extra costs, and landowners will be restricted on the work on their own land when trying to meet their objectives? Due to this, the County will have a major increase in harvesting without permits, and therefore also increased poor cutting and harvesting practices. This has happened in other counties when trust and respect for landowners are removed.
3. Is the County aware of the current shortage of Ontario foresters in the southwestern Ontario Area? Many Ontario foresters who trained in Northern Ontario have little knowledge of the high quality hardwoods that grow in Southwestern Ontario. We at Townsend Lumber have experienced issues locally with professional foresters, who are unable to identify species of Southwestern Ontario hardwoods. Some land owners understand more about managing hardwoods in Southern Ontario than a forester that has only worked on Crown timber in Northern Ontario. With the shortage of qualified foresters working in the area marking and managing in the correct and consistent manner this will likely become a serious issue.
4. In my opinion, the most important goal of the County with the tree cutting by-law should be to preserve the size and shape of all the current woodlands and not allow any reduction in size. Doing this would have the greatest benefits for sustainable forest management, erosion control, and climate control. The current draft tree cutting by-law micromanages individual trees in a land owners woodlot. If the obviously diseased and defective trees are missed or not marked for removal by the foresters in error, loggers and land owners will not have the authority to cut these at their discretion, resulting in more of this material left in the woodlots than current practices. This is not an improvement over current standards.
5. Townsend Lumber works with a number of foresters around the province and cuts and harvests a wide variety of woodlots. Through my experience doing this, it is my opinion that the county will see a much more inconsistent marking and woodlot management than what you are able to achieve with the current by-law harvest pre-inspection. We must keep in mind that the majority of professional foresters are self-employed, so they are also motivated by their own financial needs and goals. Our team has seen a very wide range of marking practices between foresters, some we agree with, and some that we feel the woodlot has been negatively impacted, and has taken a step backwards after the harvest. If the draft by-law was passed, will the County have the time to review, and knowledge to reject a permit application from a RPF if it isn't in line with best forestry? Since there are limited private foresters available, the County would be taking a large risk relying on a few individuals to control the long-term forest management of the entire county. What happens if in 15 years the County found out that the foresters were not doing a good job or their personal style of forest management and marking were poor? The main goal is to not allow any reduction in forest cover in the County.
6. The Professional Foresters Act already recognizes that landowners can personally design, specify and approve silvicultural treatments including timber harvesting on their own

properties. Municipal by-laws should follow this by giving the landowner the choice to pay consultations fees or use their own team to manage and prepare for timber harvesting.

7. Townsend Lumber is FSC certified has been for the past six years, for all the timber that we receive from southwestern Ontario. When enrolling in the program 5-6 years ago all local county tree cutting by-laws were reviewed and were all approved by the world wide FSC standards and naturally qualify under the current tree cutting by-law, no extra work or practices need to take place for the material and wood fiber from this area to be considered FSC and sustainably sourced. I understand the we always want to try and do the best we can, but at that same time current by-laws are already achieving the certification of FSC approved material with how they are currently being managed.
8. I am the owner of a local sawmill and forest products operator that has over 200 employees. Long term forest management for our local natural resources is always top priority as we wish to be sawing timber and lumber for many more years. I do not agree that only allowing (Good Forestry) or only approved cuts that a Professional Forester is involved in is the answer. It may look good on paper and relieve the county of some responsibility. However, the main goal needs to be to promote forest management with landowners involvement, not to restrict and police what is allowed on their land by wanting to approve every individual tree that is marked for cutting. By making sure we encourage harvesting and forest management that does not reduce THE FOREST COVER OR SIZE OF WOODLOTS, trees will continue to always grow in the existing woodlots and forest cover. My business operates in many different counties across southern Ontario that touch on Lake Erie, Lake Ontario, Lake Huron and Georgian Bay and the best management and best quality timber and trees are in Norfolk County and surrounding counties, and none of these counties are currently rely on tree cutting by-laws that only allow good forestry with professional foresters. This is proof that we can see first-hand, not on paper or in theory.

Thank you in advance for your time and consideration to review my experience and knowledge on this subject. I hope to hear from you on this subject soon, as this is a top priority for our local environment and all the stakeholders involved.