INTERIM CONTROL BY-LAW RELATING TO FOREST MANAGEMENT ACTIVITIES ON PRIVATE LANDS IN THE MUNICIPALITIES OF THE MRC PONTIAC

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ADOPTED

CANADA
PROVINCE OF QUÉBEC
REGIONAL COUNTY MUNICIPALITY OF PONTIAC

By-Law Number 214-2015 Enacting an Interim Control By-law Relating to Forestry Activities on Private Lands in the Municipalities of the Regional County Municipality of Pontiac

WHEREAS the MRC Pontiac's last revised land development plan took effect February 23, 2001, in accordance with an Act respecting land use planning and development;

WHEREAS the general aim of land development policy of the last revised development plan in relation to forestry is to promote sustainable development of the forestry sector;

WHEREAS the MRC Pontiac is revising this land development plan;

WHEREAS Section 79.1 of an Act respecting land use planning and development allows the MRC, by by-law, to regulate or restrict planting and cutting of trees throughout the MRC Pontiac territory in order to protect the forest cover and promote sustainable development of private forests;

WHEREAS once the by-law comes into effect, the municipality's council in question loses the right in its internal zoning regulations to make provisions to a subject referred to in Paragraph 12.1 of Section 113 of an Act respecting land use planning and development;

WHEREAS pursuant to Section 445 of the Municipal Code, a notice of motion was given at the Council of Mayors regular meeting held on May 26, 2015, to adopt an interim control by-law to regulate or restrict planting and cutting trees on the MRC Pontiac territory in order to ensure the protection of the forest cover and promote sustainable development of private forests;

WHEREAS the monitoring and enforcement of the by-law, as well as the issuance of authorization certificates has been entrusted to a designated official by each municipal council;

THEREFORE, this By-law ordains and decrees as follows:

I. DECLARATORY PROVISIONS

1.1 Preamble

The preamble of this By-law is an integral part thereof.

1.2 By-law Title

The Bylaw is identified by the number 214-2015 and is entitled: '*Interim Control By-law relating to Forestry Activities on Private Lands in the Municipalities of the Regional County Municipality of Pontiac'.*

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1.3 Applicable Territory

This By-law applies to all the private lands in the municipalities whose territory is included in that of the MRC Pontiac.

1.4 Persons Affected

This By-law affects all individuals or legal persons of public or private right. The Government, its departments and representatives are submitted to the enforcement of this By-law in accordance with an Act respecting land use planning and development (R.S.Q., c. A-19.1).

1.5 Partial Invalidity of the Bylaw

In the event that one part, clause or provision is declared invalid by the Court, all other parts, clauses and provisions remain valid.

Council has adopted, article by article, this By-law and has decreed the rest of this By-law remain valid despite the invalidity of a part or the total of one or several articles.

1.6 Precedence and Effects of this By-law

This By-law takes precedence over all provisions contained in the zoning, construction and other planning by-laws of the municipalities affected by this By-law.

No construction permit or authorization certificate can be delivered pursuant to these planning by-laws, unless the activity in question respects the provisions contained in this By-law.

1.7 Objectives and Scope of Application

This By-law aims at regulating tree cutting to ensure the protection of the forest cover and to promote sustainable development of private forests.

This By-law does not apply to tree cutting that will change the use of lot, such as:

- Cutting for agricultural cultivation;
- Cutting for cultivating Christmas trees;
- Cutting for gravel or sand pits;
- Cutting for quarry, gravel or sand pit development;
- Cutting for road construction;
- Forestry work necessary for the construction or development of infrastructures requiring municipal zoning permits.

II. INTERPRETATIVE PROVISIONS

2.1 Interpretation of the Text

The titles contained in this By-law are an integral part of the text. In the event of contradiction between the text and titles, the text shall prevail.

The present tense includes the future tense.

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The singular includes the plural and vice-versa, unless the meaning clearly indicates otherwise.

The masculine used herein includes the feminine unless the meaning clearly indicates otherwise.

The use of the word ‘must’ or ‘will’ indicates an absolute obligation. The word ‘can’ indicates that it is optional.

2.2 Unit of Measurement

All dimensions in this By-law are expressed in Standard International Units, the metric system.

2.3 Definitions

For interpretation of this By-law, unless the context indicates otherwise, the words and expressions in this article have the meaning attributed to them as set out below.

TREE CUTTING

The action of cutting down a tree, in any way whatsoever.

PILING AREA

An area of land where logs are piled to await transportation.

TREE

Living timber matter, measuring 2 meters or more in height and with a trunk.

COMMERCIAL TIMBER

Tree with a diameter of 10 centimeters or more, measuring 1.3 metres from the highest ground level at the base.

BUFFER ZONE

A wooded strip of varying size and shape preserving or enhancing aesthetic values along roads, trails, or water and around recreation sites.

LOGGING ROAD

Road built and used solely for forestry activities.

PRIVATE ROAD

A private road consists of a lane of traffic whose base has not been turned over to a municipality or government.

PUBLIC ROAD

A public road consists of a lane of traffic belonging to a municipality or the provincial or federal government.

COMMERCIAL LOGGING

Tree cutting or harvesting of commercial timber per 15-year period, including wood from logging trails, from a surface area greater or equal to 2 hectares. A single cut

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consists of all sites on which commercial logging took place, on the same property, separated by a distance no greater than 200 meters.

WATERCOURSE

Any body of water with regular or intermittent flow, including man-made watercourses.

Are excluded a ditch along a public road, a joint ditch within the meaning of Section 1002 of the Québec Civil Code and a drainage ditch which meets the following requirements: a) for drainage and irrigation purposes only, b) that exists only because of human intervention and c) the surface area of the watershed is less than 100 hectares.

WATERCOURSE WITH INTERMITTENT FLOW

Body of water or partial watercourse whose flow depends directly on precipitation and whose bed is completely dry during certain periods of the year.

WATERCOURSE WITH REGULAR FLOW

Body of water that flows during every season, from periods of heavy rain to little rain or draught.

ROAD ALLOWANCE

Area of land used for road construction. In the case of a road built in a forested area, access is measured perpendicularly to the road, as far as the forest has been cleared for said construction.

PRECOMMERCIAL THINNING

Forestry treatment, for a surface area of at least 0.4 hectare, carried out in a young, dense forest, aimed at stimulating quality stems by eliminating a certain number of them with cutting. The fallen stems remain on site.

SUGAR BUSH

Forest which produces maple syrup with an area of at least 4 hectare.

DITCH

Narrow channel used to carry off surface water from adjacent land, whether road ditches, boundary ditches which drain adjacent lands only, or ditches used to drain a single piece of land.

HERONRY

A site where there are at least 5 nests used by the Large Heron, the Night Heron or the Great Egret during at least one of the last five breeding seasons.

LAKE

All bodies of water surrounded by land.

HIGH WATER MARK

A line which marks the limit of the littoral zone and the shoreline or riverbank. It corresponds to the natural high-water mark, namely:

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(a) the point where predominantly terrestrial plants succeed predominantly aquatic plants, or where there are no aquatic plants, the point closest to the water where terrestrial plants no longer grow;

Plants considered to be aquatic plants are all hydrophytes, including submergents, floating plants, emergents and emerged herbaceous and woody plants characteristic of open marshes and swamps.

(b) where a water retaining structure exists, the maximum operating water level of the hydraulic structure for the upstream portion of the body of water;

(c) where there is a legally erected retaining wall, the top of the structure;

If the high-water mark cannot be determined using the above criteria, it may be sited as follows:

(d) where the information is available, the 2-year flood limit, considered to correspond to the mark established according to the botanical criteria defined in paragraph a.

LITTORAL ZONE

The part of lakes and bodies of water that extend from the high water line towards the center of the body of water or wetland.

WETLAND

Area that is flooded or saturated over a period of time long enough to influence the nature of the soil and composition of the vegetation.

Ponds, swamps, marshes and bogs, but not limited to, represent the main wetlands; they are distinguished mainly by their type of vegetation.

FOREST STAND

Group of trees with similar characteristics (variety, age, height, density, etc) setting them apart from neighboring forest stands.

FORESTRY PLAN

Document describing a forest stand and recommended silvicultural operations. This document must be signed by a forestry engineer who is a member of the *Ordre des ingénieurs forestiers du Québec* (OIFQ).

PROPRIETOR

Person or business who owns property.

PROPERTY

Lot or group of adjoining lots owned by a person or business.

PROGRESS REPORT

Document describing a forest stand following the tree cutting executed within a forestry plan. This document must be signed by a forestry engineer.

MUNICIPAL BY-LAWS

All by-laws adopted by the local municipalities and the MRC.

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LAKESHORE, RIVERBANK

Strip of land that borders lakes and bodies of water, as well as wetlands adjacent to bodies of water that extend inland from the high water level.

The depth of the shoreline is established within municipal zoning by-laws or an interim control by-law.

TIMBER MARKET VALUE

Volume of wood (calculated in solid cubic metres) contained in each commercial tree in a given area.

III. ADMINISTRATIVE PROVISIONS

3.1 Designated Officer

The application of this By-law is assigned to the officer in charge of issuing permits and certificates under the planning by-laws of the municipalities.

3.2 Visiting Rights

The officer designated to administer this By-law is authorized to visit and examine, at any reasonable time, any movable or immovable property, as well as the interior or exterior of all houses, buildings or structures, to ensure that this By-law is respected, and all proprietors, lessees or occupants of said properties, houses, buildings and structures, must allow access to the premises.

3.3 Obligation of an Authorization Certificate for Tree Cutting

Obtaining an authorization certificate is required for all commercial cutting on an area of at least 2 hectares.

3.4 Validity of the Authorization Certificate

The authorization certificate is valid 12 months starting on the issuing date of certificate.

3.5 Content of Application for Obtaining an Authorization Certificate

The following information must appear on the application for authorization certificate:

- Name, address, phone number of proprietor;
- Name, address, phone number of person conducting the work;
- Property identification (lot, range, township, municipality and roll number);
- Cadastral map to 1:20,000 scale locating the property, proposed roads, identification of wetlands, lakes and bodies of water, location of piling areas, cutting area or tree thinning area;
- Description of projected work (surface area, percentage of volume to be cut), production rate and zone must be clearly indicated ;
- Approximate start and finish dates.

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IV. PROVISIONS RELATING TO FORESTRY ACTIVITIES

4.1 Commercial Cutting Provisions

Commercial cuts are permitted without limit in terms of their surface area. Cutting or even harvesting of trees with a diameter of 14 centimetres or more taken from commercial wood per 15-year period is permitted.

4.2 Provisions for All Commercial Cutting on Mountaintops and Hillsides of More than 30% Gradient

Unlimited commercial cuts are permitted in terms of the surface area. Cutting or even harvesting of trees with a diameter of 14 centimetres or more up to 40% of commercial wood per 15-year period is permitted.

4.3 Provisions for All Precommercial Thinning

No certificate of authorization is required for all precommercial thinning.

4.4 Provisions for Roadsides, Corridors, Sites and Areas of Aesthetic Interest

A buffer zone with a minimum width of 30 metres must be preserved.

Unlimited commercial cutting is permitted according to the surface area. Cutting or even harvesting of trees with a diameter of 14 centimetres or more up to 40% of commercial wood per 15-year period is permitted.

4.5 Provisions for Piling Areas

For all commercial cutting, the following provisions apply to piling areas:

- Piling areas must be situated a minimum of 30 metres from all public and private roads (excluding forestry roads);
- Piling areas must be situated a minimum of 30 metres from wetlands, lakes and bodies of water;
- Piling areas must be situated a minimum of 100 metres from private residences, excluding that of the proprietor conducting the work;
- Piling areas must be free of all logs, branches, other residue, as well as all non-vegetal waste (oil cans, machine parts) within 6 months following the commercial cut.

Notwithstanding the above, piling areas can be situated less than 30 metres from a public or private road, less than 30 metres from wetlands, lakes or bodies of water, or less than 100 metres from a private residence, when one of the following conditions is met:

- The working area outside of these protected areas do not allow for the development of a piling area due to a steep hillside or insufficient drainage;
- The surface area does not allow the piling area to be positioned outside of said protected areas;
- A piling area already exists and is not regenerated with forest species.

In all these cases, the following conditions must be respected:

- The piling areas must have a maximum width of 30 metres;

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- The piling areas must be free of all logs, branches, other residue, as well as non-vegetal waste (oil containers, machine parts) within 30 days following the commercial cut;
- Piling areas must never be situated on the banks of wetlands, lakes or watercourses.

4.6 Provisions for Construction of Forestry Road

4.6.1 Maximum Road Allowance Width

The maximum road allowance width for a forestry road is 12 metres.

In the case when the road allowance is used for a piling area, the maximum width authorized is 20 metres.

4.6.2 Protective Measures for Wetlands, Lakes and Watercourses

All construction of forestry roads is prohibited within a 50 metres radius surrounding wetlands and lakes, as well as either side of watercourses.

The buffer zone is measured from the high water mark of lakes and watercourses. In the case where a wetland is adjacent to a lake or watercourse, the high water mark is determined from the wetland being part of the lake or watercourse.

Notwithstanding the above, construction of the logging road can be executed in the buffer zone within a 50 metres radius around the wetlands and lakes as well as alongside the watercourses, and only when one or some of the following conditions apply:

- Developing a road outside of this zone is not possible due to steep hills or insufficient drainage;
- The land surface area does not permit the road construction outside of the buffer zones;
- Road construction is to connect to an existing road in these buffer zones.

With all these exceptions, road construction is forbidden on the banks of wetlands, lakes or watercourses.

4.6.3 Provisions for Crossing a Watercourse

When necessary, construction of a logging road is authorized for a watercourse crossing as long as the road is perpendicular to the watercourse, and is situated minimum 50 metres from each side of it.

Developing a bridge or culvert is required under the following terms:

- The bridge or culvert must not result in reducing the width of the watercourse by more than 20%, width measured from high water mark;
- At no time must the passage of fish be obstructed;
- The bridge and culvert extremities must be stabilised.

4.6.4 Provisions for the Visual Protection of All Public or Private Roads

All construction of logging roads is prohibited in a buffer zone within 30 metres along all public roads.

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However, a logging road can be built to give access behind the buffer zone, but in all cases, its path must be at a minimum 70% angle with the street's right-of-way. Within the buffer zone, the right-of-way must be at least 10 metres.

Notwithstanding the above, construction of the logging road can be done in the buffer zone 30 metres from the public or private road, as long as one or some of the following conditions are met:

- The land outside of this area does not allow for road development due to steep hillsides or insufficient drainage;
- The land surface area does not allow for a road outside of the buffer zone;
- Road construction serves to connect to an existing road in the buffer zone.

With all of these exceptions, road construction is strictly forbidden on the banks of wetlands, lakes or watercourses.

4.7 Provisions for Tree Cutting Within a Heronry and the Perimeters of the Protected Area

4.7.1 Applicable Territory

For purposes of this By-law, a 'heronry' is any habitat with heronry characteristics defined in Article 2.3.

4.7.2 Provisions for Tree Cutting Within a Heronry and the Protected Area

Tree cutting is forbidden at all time within a 200-metre radius around a heronry.

Within a radius between 200 and 500 metres around a heronry, tree cutting is forbidden during the nesting period from April 1 to July 31 of each year.

4.8 Provisions for Forest Management Activities within the Lakeshores, Riverbanks and Littoral Zones

4.8.1 Provisions for Tree Cutting in the Littoral Zones or Wetlands

All tree cutting is forbidden in the littoral zones of lakes and watercourses, as well as wetlands.

4.8.2 Provisions for Tree Cutting Along a Lakeshore, a Permanent Stream or Wetlands

Along the lakeshores and riverbanks, tree cutting is authorized under the following conditions:

- A buffer zone with a minimum width of 30 metres must be preserved;

- A maximum of 40% of the commercial timber volume can be removed from the buffer zone per 15-year period.

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4.8.3 Provisions for the Circulation of Forestry Equipment along Lakeshores and in Wetlands

The circulation of forestry equipment is forbidden on lakeshores or riverbanks, as well as wetlands.

Notwithstanding the first paragraph, forestry equipment circulation is authorized in the riverbank in order to cross it. In all cases of watercourses crossing with forestry equipment, the following conditions must be met:

- A bridge, culvert or temporary crossing must be installed without affecting the bed of the watercourse;
- Forestry equipment circulation in the riverbank must be conducted perpendicular to the watercourse;
- Precautions must be taken to limit depositing of sediment in the watercourse during and after tree cutting.

4.9 Provisions for Forest Management Activities in the Presence of a Source of Drinking Water

All tree cutting is forbidden within a 60 metres radius of a shallow well or municipal water intake and within a 30 metres radius of an artesian well.

4.10 Provisions for Forest Management Activities Along Communication Lines

Forestry equipment is not authorized to circulate within 5 metres of a visually protected zone along communication lines.

V. FINAL PROVISIONS

5.1 Criminal Prosecution

Council authorizes the designated officer to undertake legal proceedings against any offender with respect to any provision of this By-law, and consequently authorizes said officer to issue citations for this purpose; these persons are in charge of enforcing this By-aw.

5.2 Offence Punishable by Fine

Every person who contravenes any provision of this By-law is guilty of an offence and punishable by fine.

First offence:

- minimum fine of $300 if the offender is an individual and $500 if the offender is a legal person;

- maximum fine is $1000 if the offender is an individual and $2000 if the offender is a legal person;

Second offence:

- minimum fine of $500 for a second offence if the offender is an individual a minimum fine of $2000 for a legal person;

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- maximum fine for a second offence is $2000 if the offender is an individual and $4000 if the offender is a legal person.

In all cases, legal costs are added.

The time frame for payment of fines and fees incurred, along with the consequences for non-payment are established according to the Québec Criminal Code (R.S.Q., c. C-25.1).

If an offence spans more than one day, the offence committed each day constitutes one distinct offence and the penalties can be imposed for each day of the infraction, in accordance with this Article.

5.3 Specific Penalty for Unauthorized Tree Cutting

Fines are implemented according to Law.

5.4 Effective Date

This By-law shall come into force according to the provisions under an Act respecting land use planning and development (R.S.Q., c. A-19.1).

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