



WOODLANDS HEARINGS BOARD

RULES OF PROCEDURE

September 2014

TABLE OF CONTENTS

Part 1: Short Title 3

Part 2: Definitions..... 3

Part 3: General Rules 3

Part 4: Publication of Rules..... 4

Part 5: Hearings..... 4

Part 6: Notice of Hearings 5

Part 7: General Jurisdiction and Powers 5

Part 8: Dismissal without Hearing 6

Part 9: Procedures and Evidence at Hearing Sessions 6

Part 10: Board's Criteria for Making Decisions 8

Part 11: Decisions of Board to be Final..... 8

Part 12: Appeal Process 8

Part 13: Costs 9

Part 14: Annual Report of Board..... 9

Part 1: Short Title

This procedural manual shall be known as the "Rules of Procedure" for the Lambton County Woodlands Hearings Board.

Part 2: Definitions

"Appeal Panel" shall mean a quorum of the elected officials (Councillors) of The Corporation of the County of Lambton, excluding any elected official who participated in a Hearings Panel.

"Applicant" means a legal person that is seeking a ruling from the Woodlands Hearings Board.

"Board" means the Lambton County Woodlands Hearings Board.

"Hearings Panel" means a three person panel, consisting of the Warden, the Deputy Warden and the Chair of Committee A.M. When any of the foregoing are not available, or declare a conflict, substitute members may include the Vice-Chair Committee A.M. and the Chair, Committee P.M. at the discretion of the Warden.

"Interested Party" means any person who wishes to make representations to the Hearing Panel or Appeal Panel in relation to an application under consideration.

"Representative" refers to a licensee, as defined by the *Law Society Act*, R.S.O. 1990, c. L.8.

"Rules of Procedure" shall mean the rules and regulations hereinafter provided in this document.

"Solicitor" shall mean the County Solicitor of The Corporation of the County of Lambton or any external counsel retained by The Corporation of the County of Lambton to act in said role.

Part 3: General Rules

- 3.1 The rules and regulations contained in this Procedural Manual shall be observed in all hearings and appeals.
- 3.2 Where these rules are silent, the principles, policies and procedures established by the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S.22, as amended, shall be followed.
- 3.3 No rule of this Board shall be suspended, amended, or rescinded without a vote by the Council of The Corporation of the County of Lambton.

Part 4: Publication of Rules

- 4.1 Rules of Procedure shall be published on the County's [website](#).
- 4.2 A written copy of the rules shall be made available as reference material for any Applicant or Interested Party at every Hearing or Appeal.

Part 5: Hearings

5.1 Location of Hearings

All hearings of the Woodlands Hearings Board shall be conducted in Committee Room #1 at the County Administration Building, located at 789 Broadway Street, Wyoming, Ontario.

5.2 Location of Appeals

All appeal hearings of the Woodlands Hearings Board shall be conducted in County Council chambers at the County Administration Building, located at 789 Broadway Street, Wyoming, Ontario.

5.3 Hearings to be Open to Public

All hearings and appeals are to be open to the public. The exceptions to the open hearing requirement are those portions of a Hearing or Appeal during which the Board Members wish to seek legal advice from the County Solicitor or external counsel, or wish to confer with each other in respect to reaching a decision. Board members have the right to private deliberations, prior to rendering a decision and may physically adjourn, or request members of the public to vacate, for said purpose. During private deliberations, only the County Solicitor, external counsel, County Clerk or Deputy Clerk may remain in the room.

5.4 Appearance before Board

An Applicant or Interested Party may appear and be heard, either orally, or by written brief, in person or by his/her Representative.

5.5 Disclosures of Pecuniary Interest

If an elected official has any pecuniary interest, in any matter in which the Board is engaged and if he/she is present at a Hearing, he/she shall disclose his/her interest and the general nature thereof and shall not take part in the consideration or discussion of the matter. It is expected that any scheduled

member of a Hearings Panel will make arrangements for an alternate to sit on the panel prior to the scheduled hearing.

5.7 Decision Format

All decisions of the Hearings Board and the Appeals Panel are to be delivered orally by a single member of the Hearings Board or a single member of the Appeals Panel.

Part 6: Notice of Hearings

Notice shall be furnished to the contact particulars provided by the Applicant, and if furnished to said contact particulars by regular mail, by email, by fax, by personal service or by courier shall be deemed adequate, if delivered at least 15 calendar days prior to the scheduled hearing.

6.1 Service by Publication

If, in any case within the jurisdiction of the Board, it is made to appear to the satisfaction of the Board that service of any such notice cannot conveniently be made or effected, the Board may order and allow such service to be made by publication in at least two periodicals.

6.2 Service of other Documents

Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section.

6.3 Service to Interested Parties

Service of all documents, including Notice of Hearing, shall be made to all adjoining owners of real property.

Part 7: General Jurisdiction and Powers

The Board has jurisdiction and power:

- 7.1 To hear and determine all applications made, proceedings instituted and matters brought before it and for such purpose to make such orders, give such directions, issue such approvals, deny or vary applications and otherwise do and perform all such acts, matters, deeds and things, as may be necessary or incidental to the exercise of the powers conferred upon the Board;

- 7.2 To perform such other functions and duties as are now or hereafter conferred upon or assigned to the Board by County By-Law or under statutory authority;
- 7.3 To make, give or issue or refuse to make, give or issue any order, directions, regulation, rule, permission, approval, certificate or direction, which it has power to make, give or issue;
- 7.4 To order the payment of monies to the County, prior to any authorized cutting, in compensation for the estimated cost of replanting trees and vegetation elsewhere in the County;
- 7.5 Despite the *Statutory Powers Procedure Act*, to hold hearings or other proceedings by a conference telephone call, by videoconference or any other electronic or automated means, subject to any rules made by the Board regulating their use.

Power to Determine Law and Fact

- 7.6 The Board, as to all matters within its jurisdiction, has authority to hear and determine all questions of law or of fact.

Part 8: Dismissal without Hearing

- 8.1 Despite the *Statutory Powers Procedure Act* or any other Act, the Board may dismiss any matter brought before it without holding a hearing on its own motion if:
- a) the fee(s) prescribed under section 4(a)(ii) of Bylaw 4 of 2012, or its successor legislation, has/have not been paid; or
 - b) the Applicant fails to attend the Hearing and the matter has been adjourned at least one time previously.

Part 9: Procedures and Evidence at Hearing Sessions

The rules of evidence hereinafter established will be substantially followed by the Board. If appropriate, and upon consultation, the Board may relax such rules when in his/her judgment such relaxation would not impair the rights of any party and would more speedily conclude the presentation of the claim.

Where the procedures are silent, recourse shall first be had to the rules of the Environmental Review Tribunal of Ontario, and should those be silent to the rules of the

Assessment Review Tribunal of Ontario. Final recourse, should all of the foregoing be silent will be to the County Solicitor, who will rule on evidentiary or procedural matters.

9.1 The general order of the presentation of evidence at a Hearing shall be as follows:

- a) the Applicant shall introduce evidence (including witnesses) and/or make submissions;
 - b) the County's representative shall introduce evidence (including witnesses) and/or make submissions;
 - c) any Interested Party may introduce evidence (including witnesses) and/or make submissions;
 - d) Board Members may ask questions of the parties at any point in time during the proceedings. In the event that the Hearing Panel or Appeal Board poses a question, each party to the proceeding shall be given an opportunity to answer the question.
 - e) rebuttal evidence shall only be permitted where necessary in the opinion of the Board.
- 9.2 Neither the Applicant, an Interested Party nor the County's representative may introduce testimony of more than two witnesses at a Hearing.
- 9.3 The presentation of evidence by the Applicant is limited to 30 minutes in total duration.
- 9.4 The presentation of evidence by the County is limited to 30 minutes in total duration.
- 9.5 The presentation of evidence by an Interested Party is limited to 15 minutes in total duration.
- 9.6 Closing submissions by any party are limited to 5 minutes in duration.
- 9.8 Time extensions to any of the foregoing are at the sole discretion of the Board.
- 9.9 No party has any right to a deposition, examination for discovery or similar mechanism to question the opposing party under oath prior to a Hearing.
- 9.10 The parties may file an agreed statement of facts in writing or by stipulation in the record, which will be treated in all respects as evidence.
- 9.11 Affidavit evidence is not permissible.
- 9.12 The County Solicitor shall, in accordance with these rules, and except as otherwise provided in these rules, rule upon all questions of procedure and, in

the event that evidence is taken, on the admissibility of the evidence where so challenged. The decision of the County Solicitor or external counsel shall be final.

- 9.13 Oral reports of hearsay conversations may be accepted or otherwise considered. Hearsay evidence shall be identified as such and can be given as much, or as little weight as is deemed appropriate by the Hearings Panel. Likewise oral references to County policies or administrative practices may be considered without a copy of the applicable document.
- 9.14 Hearsay evidence which consists of oral references to other statutes, existing documents, written policies, administrative practices, handbooks and similar operational procedures or activities shall not be accepted without a legible copy of the applicable document.

Part 10: Board's Criteria for Making Decisions

There are three criteria, of equal importance, that the Board shall consider when making any decision:

1. Does the application account for good farming practices?
2. Is the general intent and purpose of the County's Woodlands Conservation By-Law being maintained?
3. Are there significant ecological or environmental considerations?

Part 11: Decisions of Board to be Final

Save as otherwise provided in this section,

- (a) every decision or order of the Board Hearings Panel is final, unless appealed
- (b) every decision of the Appeal Panel is final.

No order, decision or proceeding of the Board, or the Appeal Panel of the Board, shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court.

Part 12: Appeal Process

12.1 Notice of Appeal

Notice of Appeal must be given in writing, to the County Clerk, within 10 days of a decision by the Hearings Board.

12.2 Grounds of Appeal

Appeals may only be on issues of law, principle or mistake of fact. New evidence is not permitted on appeal.

12.3 Rules on Appeal

Except as otherwise indicated, the rules included in Part 9 shall apply to all Appeals.

12.4 Submissions on Appeal

The appellant will have a maximum of 15 minutes to present their case. The respondent will have a maximum of 10 minutes in response. Any interested party that made submissions during the Hearing may speak for a maximum of 5 minutes. At the discretion of the Appeal Panel, up to 5 minutes may be granted for reply submissions to any party.

12.5 Conduct of Appeal

All appeals shall be heard by an Appeals Panel at the next regularly scheduled meeting of Lambton County Council.

Part 13: Costs

The Board does not have the power or authority to order costs to any party with respect to a hearing, application for a hearing, or an appeal.

Part 14: Annual Report of Board

The Board shall, after the close of each calendar year, make an annual report upon the affairs of the Board to the Committee A.M. and thereafter to County Council. The Board, at its own discretion, may delegate this task to the General Manager of the Infrastructure & Development Services Division or the Manager of the Planning & Development Services Department.