

LDD Moth Overspray Policy November 30th, 2021

Introduction

Section 135 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended or replaced provides authority for an upper-tier municipality to prohibit or regulate the destruction or injuring of trees in a woodland, it is illegal to trespass onto, and damage County owned property.

The Corporation of the County of Middlesex is an upper-tier municipality in the Province of Ontario which has duly passed Woodlands By-law #5738, as amended or replaced, which defines County woodlands (hereafter "Woodlands") and prohibits and regulates the destruction or injuring of trees in Woodlands and County-owned forests.

The County of Middlesex owns and manages the County-owned forests / County-owned woodlands that consist of 2500 acres (1040 hectares) within 27 tracts and County Council has established the following vision for the County-owned forests:

'The Middlesex County Forest will be managed to ensure the ecological sustainability of the Middlesex County Forest and their associated natural heritage features and social and economic values through the utilization of an integrated ecosystem-based approach to management'.

County Council has adopted a 'Protection and Enhancement of Tree Canopy and Natural Vegetation Policy' (Legislative Policy 4.01) that includes a number of initiatives that, cumulatively, protect and enhance the tree canopy and natural vegetation within the County including the sustainable management of the Woodlands and County-owned forest.

The LDD Moth (*Lymantria dispar dispar*) (also known as the European Gypsy Moth) is a non-native insect from Europe that was introduced to North America in the 1860s. The insect has spread widely in areas across the Great Lakes Basin in both rural and urban ecosystems and has evolved to a state of naturalization.

The LDD Moth population dynamics can be described as boom and bust, where every 8-12 years, the population within certain areas will reach epidemic proportions only to collapse again and remain at endemic levels for another eight years or so. LDD moth outbreaks may appear suddenly and may continue for two to five years in a location. The LDD population is influenced by a complex combination of factors such as precipitation levels, temperatures, predation, parasites, and pathogens; making it difficult to predict future populations.

The County utilizes a passive management response to the LDD Moth outbreaks within the Woodlands and County-owned forests. A passive management approach involves no controls to modify the infestation and is generally recommended for public woodlands that are not intensively used for recreation (not campgrounds, urban parks), where woodlands are not within urban settings, and where significant ecological damage to the Woodlands and County-owned forests is not predicted.

This policy supplements the provisions of Middlesex County By-law #5738, as amended or replaced, by providing a LDD Moth Overspray Policy whereby neighbours to County-owned forest, as defined in By-law #5738 as amended or replaced, when conducting gypsy moth spraying of their own properties, may extend their overspray across their property line and spray County-owned Woodlands without such being considered an offence of County By-law #5738 as amended or replaced or being considered a trespass by the County.

Objective

The purpose of this policy is to provide a method to address requests from the public to allow overspray of pesticides targeting the LDD Moth onto County-owned forests. This policy applies to any property owner applying pesticides where any County-owned forests are adjacent and within the overspray boundary. This policy does not apply to County Road Allowances which are addressed under separate Transportation By-laws and Permits.

Definitions

“BTK” means, Btk pesticide products licensed for use in Canada which are generally an aqueous suspension formulation of *Bacillus thuringiensis* subspecies “Kurstaki”.

“County” means the Corporation of the County of Middlesex.

“County-owned forest” means one or more trees located on land owned by the County of Middlesex.

“Pesticide” means a substance that:

- Is intended, sold, or represented for use in preventing, destroying, repelling or mitigating, directly or indirectly, any pest;
- Is a pest control product within the Pest Control Products Act (Canada) and is granted federal registration by the Pest Management Regulatory Agency, Health Canada, such as herbicides, insecticides, fungicides, rodenticides, and miticides, or;
- Is a plant growth regulator, a defoliant, or a plant desiccant;

“Woodlands” means woodlands as defined by Middlesex County Woodlands By-law #5738, as amended or replaced.

Policy

1. Any application of pesticides on private property that will result in overspray over or onto County-owned forests must obtain approval from the County of Middlesex.
2. The property owner or contractor must complete the form in *Schedule "A"* and submit it to the County of Middlesex Clerk. Completed forms must be received at least four weeks prior to the application of the pesticide.
3. The County will take reasonable measures to mitigate the effects of the spray on the following public or private lands. The County reserves the right to deny applications in cases where it is unable to do so:
 - a) Pollinator program areas
 - b) Water sources such as streams, creeks, ponds
 - c) Private Properties where residents voice concerns about overspray effects
4. The County may barrier areas to ensure the dwell time is achieved prior to public use and may require the application of Btk to be delayed in order to coordinate with planned activities.
5. Spray applicators must obtain written permission for overspray on non-County owned forest properties from private property owners.
6. The County is not responsible for any costs related to the pesticide application program.
7. The County is not responsible for any claims or damages as a result of the pesticide application or any overspray issues.
8. The property owner will be held liable for any damage to municipal property that occurs as a result of the pesticide application.



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Schedule "A" To LDD Moth Overspray Policy

Attention: County Clerk

Email: mivanic@middlesex.ca

Fax: 519-434-0638

Name of Owner:	
Name of Contractor (If Applicable):	
Phone Number: owner or contractor	
Municipal Address to be Serviced:	
Method of Application:	
Potential Overspray Distance onto County Property:	
Planned date of Pesticide Application:	

By signing below, the owner / contractor acknowledges that:

- The permission to overspray on County Woodlands does not in any way imply permission to overspray onto privately owned property.
- They have obtained written permission from all affected property owners to allow the overspray onto their lands.
- Documentation has been provided to the County at least 4 weeks prior to an anticipated application.
- The product will be applied as per the manufacturer's instructions.
- They will be held responsible for any damage to Woodlands or County owned land.

Signature of Owner:

Date

Signature of Contractor:

Date

County Approval:

Date