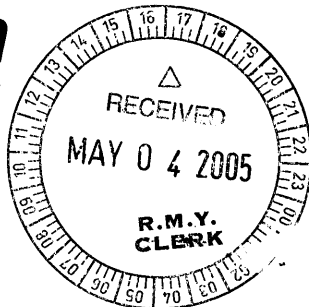




April 18, 2005

Mr. Denis Kelly
Regional Clerk, Corporate and Legal Services
Regional Municipality of York
17250 Yonge Street
P.O. Box 147
Newmarket, ON L3Y 6Z1

Dear Mr. Kelly:

At Authority Meeting #1/05, of the Toronto and Region Conservation Authority (TRCA), held on February 25, 2005, Resolution #A17/05 in regards to the York Region Forest Conservation By-law, was approved as follows:

THAT WHEREAS the Tree By-laws or Forest Conservation By-laws have been identified as one of the tools to assist in the protection and management of the terrestrial natural heritage system consistent with Toronto and Region Conservation Authority's (TRCA) draft Terrestrial Natural Heritage System Strategy;

WHEREAS York Region has demonstrated an ongoing commitment to protecting forest resources and supporting the natural environment through its land use planning and Greening Strategy initiatives, including such things as the significant woodlands study, stewardship, and public education and awareness;

WHEREAS harmonization with local municipal Tree By-laws would regulate cutting in woodlands between 0.2ha (0.5 ac) and 1ha (2.5 ac) (similar to the existing regional by-law) and provide a consistent, streamlined approach to regulating forest management and tree cutting;

AND WHEREAS conservation authority forest management activities would be subject to the new permitting process under the Forest Conservation By-law;

THEREFORE LET IT BE RESOLVED THAT York Region be notified of TRCA's support for the proposed Forest Conservation By-law and York Region's ongoing commitment to the protection and management of the region's natural heritage system;

THAT the region and local municipalities be encouraged to seek a harmonized approach to regulating forest management and tree cutting to include woodlands greater than 0.2 ha.;

AND FURTHER THAT staff be directed to meet with the region to clarify and streamline the permitting process as it relates to TRCA's forest management activities to ensure the effective and efficient delivery of these programs.

Enclosed for your information and any action deemed necessary is the report as presented to the Watershed Management Advisory Board on February 11, 2005. If you have any questions or require additional information, please contact the undersigned at 416-661-6600 extension 5264 or Dena Lewis at extension 5225.

Sincerely



Kathy Stranks
Supervisor, Board Member Services

cc. Dena Lewis, Planning Ecologist, TRCA

/Encl.

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Gayle Wood, CAO/Secretary-Treasurer, Lake Simcoe Region Conservation Authority
Clerk, Town of Georgina

TO: Chair and Members of the Watershed Management Advisory Board
Meeting #8/04, February 11, 2005

FROM: Adele Freeman, Director, Watershed Management

RE: YORK REGION FOREST CONSERVATION BY-LAW

KEY ISSUE

York Region's proposed Forest Conservation By-Law, replacing the existing Tree By-law.

RECOMMENDATION

THE BOARD RECOMMENDS TO THE AUTHORITY THAT WHEREAS the Tree By-laws or Forest Conservation By-laws have been identified as one of the tools to assist in the protection and management of the terrestrial natural heritage system consistent with Toronto and Region Conservation Authority's (TRCA) draft Terrestrial Natural Heritage System Strategy;

WHEREAS York Region has demonstrated an ongoing commitment to protecting forest resources and supporting the natural environment through its land use planning and Greening Strategy initiatives, including such things as the significant woodlands study, stewardship, and public education and awareness;

WHEREAS harmonization with local municipal Tree By-laws would regulate cutting in woodlands between 0.2ha (0.5 ac) and 1ha (2.5 ac) (similar to the existing regional by-law) and provide a consistent, streamlined approach to regulating forest management and tree cutting;

AND WHEREAS conservation authority forest management activities would be subject to the new permitting process under the Forest Conservation By-law;

THEREFORE LET IT BE RESOLVED THAT York Region be notified of TRCA's support for the proposed Forest Conservation By-law and York Region's ongoing commitment to the protection and management of the region's natural heritage system;

THAT the region and local municipalities be encouraged to seek a harmonized approach to regulating forest management and tree cutting to include woodlands greater than 0.2 ha.;

AND FURTHER THAT staff be directed to meet with the region to clarify and streamline the permitting process as it relates to TRCA's forest management activities to ensure the effective and efficient delivery of these programs.

BACKGROUND

York Region, is proposing to enact a new Tree By-law under the Municipal Act, 2001. The region's current Tree By-law was enacted in 1991 under the Trees Act. Tree cutting by-laws under the Municipal Act have generally been referred to as forest conservation by-laws. This reflects the natural heritage or ecosystem based intent of the administration of the by-laws. The proposed new by-law demonstrates York Region's continuing commitment to protecting forest resources and supporting the natural heritage system.

In the past 200 years in southern Ontario, the landscape has been altered from a predominantly forested landscape to one dominated by a wide variety of agricultural, industrial and urban land uses. Over 70% of the original woodlands have been lost in southern Ontario. By the early 20th century in York Region, many areas had lost over 90% of their original forest cover. It is recognized that woodlands provide a variety of important environmental and economic benefits. These benefits include erosion prevention, water retention, provision of wildlife habitat, recreation and the sustainable harvest of woodland products.

While the provisions for Tree By-laws set out in the Municipal Act, 2001 can help regulate the destruction or injuring of trees, this may not result in a healthier forest if used alone. Initiatives such as stewardship, public education and awareness, are critical to the overall protection of forest resources.

York Region has an important strategic role to implement sustainable planning and regulation of woodlands, through the official municipal planning process, and through the enactment and implementation of a forest conservation by-Law

A copy of the new Forest Conservation By-law is available upon request or is available at www.region.york.on.ca. Changes from the existing Tree By-law are highlighted in Table 1. The following are the key elements or changes in the proposed by-law:

- Restriction of the region's jurisdiction to woodlands greater than one hectare (currently 0.2 hectares) in accordance with the Municipal Act.
- Expansion of regional tree protection abilities and powers through agreements with local municipalities. The region can protect woodlands less than one hectare in size through an agreement with the local municipalities. Through this arrangement, the region's by-law would apply to woodlands greater than 0.2 hectares (0.5 acres) in size (as it does today under the existing by-law).
- Exemptions – statutory exemptions, most of which applied to the existing by-law, are carried forward in the new legislation. These include: activities undertaken by a municipality or a local board, activities conducted under the Surveyors Act, or according to a Planning Act approval. Additional exemptions have been included for (a) personal use of up to five cords of wood per 12-month period, and (b) building permits involving the clearing of less than one hectare of forest. Forest management and tree cutting activities undertaken by conservation authorities are not exempt under the new by-law.

- More effective administrative instruments, including a permit system for tree cutting activities. The current by-law does not provide for permits, but allows Council to consider tree clearing activities and grant minor exceptions. The proposed permit system comprises the following 3 categories of permit:

Good Forestry Practices Permit (1A) – permit fee \$25.00. For sustainable selective harvest activities. Where the services of a Registered Professional Forester (R.P.F.) have been secured to prescribe and direct the harvesting activities. A harvest prescription is written, the woodlot is marked and the trees are cut according to the prescription. Region staff review the application and issue a permit with conditions.

Harvest Permit (1B) – permit fee \$250.00. For sustainable selective harvest activities. Where a woodlot is marked in accordance with good forestry practices and/or where the basal area and minimum circumference limits are met as set out in the by-law. Region staff review the application in accordance with the by-law and the decision tree screening process, and issue a permit with conditions.

Special Permit (2A and 2B) – permit fee \$500.00. This permit would be available to consider tree destruction activities not consistent with good forestry practices e.g. clear cutting. Region staff will review the proposal in accordance with policies adopted by Regional Council, particularly with reference to the special criteria and principles developed for agricultural applications, with a decision by staff for 'minor' tree clearing of less than 0.2 hectares of forest (2A), and a Council decision on all other proposed 'major' tree clearing applications (2B), similar to the Minor Exception review process under the existing by-law.

- A right of appeal to the Ontario Municipal Board in accordance with the Municipal Act. Under the current By-law Council decisions on Minor Exceptions are final.
- Enhanced enforcement tools and penalties; including the ability to use a 'set fine' process for ticketable offences, and "stop work" order provisions.

Tree By-law Harmonization

The region is proposing that in partnership with the local municipalities, and at their request, the region would assume local powers to regulate tree cutting in woodlands between 0.2 hectares (0.5 acres) and one hectare (2.5 acres). Once the new Forest Conservation By-law is in place, local municipalities will be advised of individual permit applications as part of the review process.

The intent is for local municipalities to evaluate their needs and define tree protection which best suits their purposes. The Town of Aurora has a new Tree By-law in place, and the Town of Markham, Town Newmarket and the Township of King are currently reviewing or advancing the development of Tree By-laws under the new Municipal Act.

Under the Oak Ridges Moraine Conservation Act, 2001 (ORMCA), local municipalities with lands on the Oak Ridges Moraine may be required to pass Tree By-laws. It is anticipated that the region's woodlot protection harmonization efforts with local municipalities will reflect the intent of the ORMCA.

Public review and consultation has been ongoing for the past year. The final draft of the Forest Conservation By-Law is proposed to be submitted for Council endorsement in February, 2005, for enactment in April, 2005, following a communications campaign.

Table 1
Existing Tree By-law Compared to a Forest Conservation By-law

Provisions	Existing Tree By-law (Trees Act)	Proposed Forest Conservation By-law (Municipal Act)
Woodland Protection	> 0.2 ha (0.5 acres)	> 1 ha (2.5 acres) by York Region > 0.2 ha (0.5 acres) < 1 ha* by York Region in agreement with local municipalities
Notification/ applications	· Minor Exceptions (Regional Council)	· Permits (staff/ Regional Council)
Appeal Process	· None	· Ontario Municipal Board
Enforcement Tools	· Charges	· Charges · Ticketable fines · Stop work orders
Penalties	· \$5,000 per occurrence · 3 months imprisonment · Replant court order	· \$10,000 or \$1,000 per tree · Subsequent conviction \$25,000 or \$2,500 · Replant court order

* In York Region 681 ha (1.7% of all woodlands) of woodlots are between 0.2 and 1 ha.

NOTE: > means greater than, and < means less than

IMPLICATION FOR TRCA'S PROGRAMS AND OPERATIONS

As the population of the region expands, the need for forest protection and restoration is increasing. The need for an expanded and improved terrestrial natural heritage system has been highlighted in TRCA's draft Terrestrial Natural Heritage System Strategy as critical to achieving "The Living City" objective for Regional Biodiversity. The development and administration of a Forest Conservation By-law linked to the regional Official Plan and the promotion of good forestry practices demonstrates York Region's commitment to protecting forest resources and the natural environment and is consistent with TRCA's draft Terrestrial Natural Heritage System Strategy.

The refinement of the region's Tree By-law to a Forest Conservation By-law within a sound and complimentary policy and administrative framework, will provide more effective tools, raise the profile of forest management and advance forest cover protection in York Region.

Under the Municipal Act, TRCA would be subject to the permitting provisions of the new Forest Conservation By-law for our forest management and tree-cutting activities. TRCA is currently acquiring the necessary credentials to comply with the "Good Forestry Practices" Permit and many of our lands are already covered by a Managed Forest Tax Incentive Plan (MFTIP). However, there is concern that the process for permit applications could cause delays tendering and implementing our management activities in a cost effective manner. In addition, if local Tree By-laws are not harmonized with the region's Forest Conservation By-law there may be additional delays. TRCA staff have had preliminary discussions with region staff to outline the concerns. Regional staff have indicated a desire to clarify and streamline the permitting process for conservation authority tree cutting and forest management activities and further discussions are planned. Lake Simcoe Region Conservation Authority has expressed interest in joining these discussions to ensure a consistent approach in the region.

Report prepared by: Dena Lewis, extension 5225
For Information contact: Dena Lewis, extension 5225
Date: January 28, 2005

