

SERVICE LEVEL AGREEMENT  
TREE AND FOREST CONSERVATION BY-LAW

THIS AGREEMENT made as of the 1<sup>st</sup> day of August, 2008

BETWEEN:

THE REGIONAL MUNICIPALITY OF NIAGARA  
(hereinafter called the "Region")

OF THE FIRST PART

- and -

THE NIAGARA PENINSULA CONSERVATION AUTHORITY  
(hereinafter called "NPCA")

OF THE SECOND PART

WHEREAS section 447.4(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, permits a municipality to enter into agreements with a person or body in relation to matters of mutual interest for the purpose of coordinating the enforcement of by-laws;

AND WHEREAS Council of the Region has approved entering into an agreement with the NPCA wherein the NPCA will administer and enforce the Region's Tree and Forest Conservation By-law No. 30-2008, as may be amended (the "By-law");

AND WHEREAS the NPCA is willing to assume responsibility for administration and enforcement of the By-law;

NOW THEREFORE the parties hereto hereby agree as follows:

**Interpretation**

- 1.1 Each capitalized term not otherwise defined in this Agreement has the meaning given to it in the By-law.

## NPCA's Obligations

- 1.2 The NPCA agrees to administer and enforce the provisions of the By-law in a manner consistent with the following purposes and principles:
- preserving and improving the Woodlands in the Regional Municipality of Niagara through Good Forestry Practices;
  - promoting Good Forestry Practices that sustain healthy Woodlands and related natural habitats and environments;
  - helping to achieve the goal of 30% forest cover in the Niagara Region;
  - minimizing the destruction or injuring of trees in Woodlands;
  - regulating and controlling the removal, maintenance and protection of trees in Woodlands;
  - minimizing and guarding against dangerous conditions which may result in injury;
  - protecting, promoting and enhancing the aesthetic values of Woodlands;
  - contributing to human health, recreation, enjoyment and quality of life through the maintenance of woodland cover;
  - providing for the production of wood and other products derived from trees;
  - supporting the objective of the Regional Policy Plan to maintain, restore and enhance the ecological health, integrity and biodiversity of the Core Natural Heritage System and its contributions to a Healthy Landscape as defined in the Regional Policy Plan; and,
  - Enhancing and implementing processes and decisions made with respect to applications made under the *Planning Act*, R.S.O. 1990, c. P.13, as amended.
- 1.3 In matters where tree cutting is proposed by the NPCA on lands owned by NPCA, the NPCA shall submit an application to the Region for review by Region staff to ensure that such cutting is compliant with the Tree and Forest conservation By-law.
- 1.4 The NPCA shall establish and maintain a Tree and Forest Conservation By-law Advisory Committee (the "Advisory Committee") in accordance with Section 11 of the Tree and Forest Conservation By-law. The NPCA agrees to maintain the current membership of the Advisory Committee for the remainder of this term of Council. The NPCA shall consult the Advisory Committee on the following general matters:
- 1.4.1 Matters related to the development and dissemination of educational material and information in support of Good Forestry Practices;
  - 1.4.2 Matters related to issues, not specifically addressed in the By-law, but which may result in proposals for changes to the By-law; and
  - 1.4.3 Matters related to changes in Provincial, regional or local policy which could impact tree and forest conservation.

- 1.5 The NPCA agrees to carry out public education efforts and seek improvements in development application processes that would support Good Forestry Practices. This may include, but is not limited to; providing landowners and interested parties information and advice on the By-law, forestry management and Good Forestry Practices; and, working with Area Municipalities to establish pre-development agreements related to tree preservation.
- 1.6 The NPCA agrees to provide, at least semi-annually, reports to Council of the Region on the following matters:
  - a) Status of prosecutions and charges under the By-law;
  - b) Status of investigations;
  - c) Permits issued, denied and renewed;
  - d) Issues arising from enforcement and administration activities that may require changes to the By-law;
  - e) Current tree and forest conservation issues; and
  - f) Minutes and recommendations of the Advisory Committee.

#### **Region's Obligations**

- 2.1 The Region agrees to provide existing information and materials related to the By-law administration, enforcement and educational efforts to the NPCA.

#### **Term**

- 3.1 The term of this Agreement shall commence on August 1, 2008, and continue until such time as the Agreement is terminated in accordance with the terms herein.
- 3.2 Either party may terminate this Agreement by providing at least ninety (90) days prior written notice to the other party.

#### **Dispute Resolution**

- 4.1 Disputes of any kind should be resolved at the lowest level of authority within both organizations. If escalation is required on specific issues, they shall resolve the dispute by convening a meeting with the Region's responsible Commissioner and NPCA's General Manager.

If escalation is still required in a dispute over this Agreement, they shall resolve the dispute by convening a meeting of the Parties with the Chief Administrative Officer of the Region.

## **General**

### Amendments

- 5.1 If at any time during the term of this Agreement the parties deem it necessary or expedient to make any alteration or addition to this Agreement they may do so by means of a written agreement between them, executed by both parties.

### Jurisdiction

- 5.2 This Agreement is governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

### Waivers

- 5.3 No party is to be deemed to have waived the exercise of any right that it holds under this Agreement unless such waiver is made in writing. No waiver made with respect to any instance involving the exercise of any such right is to be deemed to be a waiver with respect to any other instance involving the exercise of the right or with respect to any other such right.

### Assignment

- 5.4 Neither party may assign this Agreement, either in whole or in part, without the prior written consent of the other.

### Notice

- 5.5 Any notice given or required under this Agreement shall be served personally or via facsimile transmission and is effective as of the next business day following delivery as follows:

To the Region:

The Regional Municipality of Niagara  
2201 St. David's Road, P.O. Box 1042  
Thorold, Ontario L2V 4T7

Attention: Pam Gilroy, Regional Clerk  
Fax: 905-687-4977

To the NPCA:

The Niagara Peninsula Conservation Authority  
250 Thorold Road  
Welland, Ontario L3C 3W3

Attention: Tony D'Amario, CAO, Secretary-Treasurer  
Fax: 905-788-1121

#### Severability

- 5.6 In the event any provision of this Agreement, as may be amended from time to time, is deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions of this Agreement remain in full force and effect.

#### Successors and Assigns

- 5.7 This agreement shall bind the parties hereto and their respective successors and permitted assigns.

#### Indemnification

- 5.8 The NPCA shall indemnify and save harmless the Region, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest, or damages of every nature and kind whatsoever arising out of the negligence, errors, omissions, fraud or wilful misconduct of the NPCA, its officers, employees and agents, or any of them, attributable to or connected with the performance, non-performance or purported performance of the NPCA's obligations pursuant to this Agreement, except to the extent that same is attributable or caused by the negligence of the Region, its officers, employees and agents, or any of them.

The Region shall indemnify and save harmless the NPCA, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest, or damages of every nature and kind whatsoever arising out of the negligence, errors, omissions, fraud or wilful misconduct of the Region, its officers, employees and agents, or any of them, attributable to or connected with the performance, non-performance or purported performance of the Region's obligations pursuant to this Agreement, except to the extent that same is attributable or caused by the negligence of the NPCA, its officers, employees and agents, or any of them.

**DATED** May 21, 2008

THE REGIONAL MUNICIPALITY OF NIAGARA

- and -

NIAGARA PENINSULA CONSERVATION AUTHORITY

A G R E E M E N T

ADMINISTRATION  
THE REGIONAL MUNICIPALITY OF NIAGARA  
2201 St. David's Road, Box 1042  
Thorold, Ontario L2V 4T7