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**Subject:** Woodland Conservation By-law Review  
**Report to:** Planning and Economic Development Committee  
**Report date:** Wednesday, October 14, 2020

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### Recommendations

1. That Regional Council **APPROVE** the Niagara Region Woodland Conservation By-law attached as Appendix 1 to this report, Report PDS 16-2020;
2. That staff **BE DIRECTED** to terminate the service level agreement with the Niagara Peninsula Conservation Authority (NPCA) for the enforcement of the Woodland Conservation By-law and advertise the Regional Forester position for external hire;
3. That staff **CIRCULATE** a copy of this report and the new Niagara Region Woodland Conservation By-law to the Local Area Municipalities, NPCA, Niagara North Federation of Agriculture, Niagara South Federation of Agriculture, Niagara Woodlot Association, Niagara Home Builders Association, Niagara Construction Association and Niagara Parks Commission; and,
4. That a copy of the Niagara Region Woodland Conservation By-law **BE POSTED** on the Region's website and local municipalities be requested to include a reference and link to the By-law in all pre-consultation applications.

### Key Facts

- The purpose of this report is to present the updated Niagara Region Woodland Conservation By-law for Regional Council review and approval.
- The Woodland Conservation By-law Review engagement strategy began in March 2020 and included two stakeholder sessions, a virtual public open house, online survey, and other comments/inquires received through the project email site.
- Section 135 (2) of the Municipal Act enables Regional Council to prohibit or regulate the destruction or injuring of trees in woodlands as defined in the Forestry Act larger than one hectare in size.
- The current Tree and Forest Conservation By-law is 12 years old and the review considered legislative changes, alignment between the By-law and the Regional Official Plan, best management practices and operational needs.
- Currently, the Niagara Peninsula Conservation Authority (NPCA) administers the By-law on the Region's behalf through a Service Level Agreement. Through the By-law

review, and discussions with NPCA, staff recommend terminating the Service Level Agreement (Appendix 2) in order to bring the Regional Forester Position back to the Region.

### Financial Considerations

Financial costs of undertaking the Woodland Conservation By-law review internally were accommodated through the 2019/2020 Planning and Development Services Operating Budget.

Currently, the NPCA administers the Tree and Forest Conservation By-law on the Region's behalf through a Service Level Agreement. The annual cost to the Region is \$108,985. Annual Reports are prepared to inform Council of the activities undertaken throughout the year by the NPCA to provide Good Forestry Practices, educate the public, and enforce the provisions of the by-law (Appendix 3).

Upon terminating the Service Level Agreement, the above will be repurposed to fund the internal Regional Forester Position (existing approved FTE) that has been left vacant to fund NPCA for this service.

### Analysis

#### Background

Section 135 of the Municipal Act allows municipalities to prohibit and regulate the destruction or injuring of trees through enacting tree by-laws. Upper-tier municipalities may enact such a by-law for trees in woodlands as defined in the Forestry Act that are greater than one hectare in area. Local municipalities may also enact such a by-law for individual trees and trees within woodlands that are less than one hectare. The Act also provides upper-tier and local municipalities with the option to delegate all or part of their power to pass such by-laws to each other, with an agreement.

Grimsby, Niagara-on-the-Lake, Niagara Falls and West Lincoln have delegated their authority to regulate trees in woodlands less than one hectare to the Region, as per the Municipal Act, s. 135 (10).

- **Tree and Forest Conservation By-law (30-2008)**

The current by-law regulates the destruction or injury of trees within woodlands that are greater than one hectare. The intent of the existing by-law is to encourage the conservation and improvement of woodlands in Niagara through Good Forestry Practices. The by-law prohibits the clearing of woodlands except under specific circumstances and requires landowners to follow Good Forestry Practices when

harvesting trees. This is accomplished by requiring landowners to submit a forest management plan or a silvicultural prescription prepared by a Registered Professional Forester (or a member of the Ontario Professional Foresters Association) to obtain a permit.

### Benchmark Research

Woodland conservation by-laws from 13 upper tier municipalities across southern Ontario were compared according to a number of criteria (Appendix 4). The large majority of by-laws require a permit to cut, do not have by-law committees, and none are able to require direct compensation from fines (in accordance with legislation). A majority of by-laws allow personal use exemptions, and require permits or exemptions to be processed for tree removal where a building permit has been issued. Additionally, a majority of by-laws reviewed protect woodlands less than 1.0ha.

### Proposed Changes to the By-law

In 2013, various municipal by-law officers and staff from the Ministry of Natural Resources formed a Forest Conservation By-law Committee and developed a template for upper tier municipalities to use when creating and/or updating their Forest Conservation By-laws. It provides suggested legal text and best management practices and to encourage a more consistent format between Forest By-laws making it easier to adhere to when working in and across the boundaries of various municipalities. The proposed updates to the Niagara Region Woodland Conservation By-law includes suggestions from this template.

Changes to the Woodland Conservation By-law are proposed for Council approval. The majority of changes are minor and provide clarity and alignment with the *Municipal Act* and *Forestry Act*.

Key changes to the by-law include the following:

- **Administration of the By-law**

Niagara Region's existing Tree and Forest Conservation By-law (30-2008) has been in place since 1981. The most recent update to the by-law occurred in 2008 in response to changes to the Municipal Act, a request for amendments to the by-law from the Township of West Lincoln, as well as to facilitate the transfer of responsibilities for enforcement of the by-law to the NPCA

As a result, the administration and enforcement of the by-law was delegated to the NPCA and a Service Level Agreement was developed in August 2008. In 2018, the NPCA returned the environmental planning review functions back to the Region, including stormwater management review. At that time, the only role that was not fully

returned to the Region was the Regional Forester position. This position remained at the NPCA because the 2008 By-law needed to be updated to remove NPCA administration references from the By-law. To finalize the 2018 environmental planning review transfer to the Region, staff are recommending deleting NPCA references from the By-law and terminating the Service Level Agreement in order to bring back the Regional Forester Position to the Region. Returning the Forester position back to the Region is appropriate as we also undertake the prosecution.

The NPCA staff have provided comment and input into the Woodland Conservation By-law and aware of the changes being brought forward. The By-law includes a delayed enforcement date of January 31<sup>st</sup>, 2021 to allow the Region time to complete the hiring process for a Regional Forester and provide for the required 90 days' notice to terminate the service level agreement with the NPCA. Upon the Woodlands Conservation By-law taking effect on January 31<sup>st</sup>, 2021, the current by-law 30-2008 will be repealed.

- **External Committee**

Niagara Region is the only municipality in the province with an external advisory committee written into its Tree and Forest Conservation By-law. Having an external advisory committee for by-law enforcement is very irregular and is not required under the *Municipal Act*. Enforcement decisions under the by-law are to be made by a By-law Enforcement Officer, not an advisory committee. The purpose of the external advisory committee was to provide advice on matters of tree and forest conservation. The committee included, at a minimum, representatives of the local municipalities, the Niagara North and Niagara South Federations of Agriculture, the Niagara Woodlot Association and the logging industry. There was an expectation of the advisory committee to discuss compliance matters with members of the public and decide on whether charges should be laid. This practice was ended given it is highly improper to discuss compliance matters with members especially if charges are laid and court proceedings are to be conducted.

Staff are recommending the removal of the external committee from the by-law as it is not required by the *Municipal Act* and is in keeping with other municipal woodland by-laws in the Greater Toronto Hamilton Area (GTHA). Furthermore, staff suggest the use of the regional Agricultural Policy and Action Committee (APAC) as a forum to discuss any matters relating to tree and forest conservation.

- **Removal of Tree Preservation Plan requirements in By-law**

Previously the 2008 By-law included a definition for Tree Saving Plan including all the requirements. The Tree Saving Plan definition has been removed and instead will be replaced as a stand-alone guideline titled “Tree Preservation Guideline”, see Appendix 5.

#### Public Consultation Summary

The Woodland Conservation By-law Review was initiated in March 2019. Consultation included two stakeholder sessions, held on March 3, 2020, and a virtual public open house, held on June 17, 2020. Both the stakeholder sessions and open house consisted of a presentation and Q&A period moderated by a facilitator and Regional staff, respectively. In addition, an online survey was conducted. The results of the public consultation are summarized below.

- **Stakeholder Sessions**

Invitations to the stakeholder sessions were sent to 181 individuals. There were 24 attendees at the morning stakeholder session, including biologists, arborists, ecologists, planners, developers and project managers. There were 14 attendees at the afternoon session, including planners from the local area municipalities and representatives from local environmental groups. The sessions consisted of a presentation and facilitated question and answer period. Questions at the stakeholder sessions focussed on existing and proposed exemption policies, changes to definitions, the connection between the By-law and Official Plan, the status of the By-law advisory committee and enforcement policies.

- **Survey**

A survey to gather feedback on the by-law was posted on the Region’s website and advertised through social media posts from June 11, 2020 to July 5, 2020. There were 372 survey responses, with 273 of them being complete and 99 partially complete. “Providing increased protection for woodlands from unauthorized clearing or cutting” ranked as the highest priority for the by-law review by those that provided input via the online survey.

Please refer to Appendix 6 for a full summary of the survey results.

- **Virtual Open House**

Invitations were sent to 255 individuals, and contact information for registration was posted on the project webpage two weeks prior to the virtual open house. 82 people registered in advance to attend, and 79 people attended. The virtual open house was

presented in the same format as the stakeholder sessions and consisted of a presentation followed by a question and answer period with Regional staff. Questions at the open house had a similar focus as the questions received at the Stakeholder Sessions.

- **Comments Received**

The input received on the by-law update revealed a keen interest to recognize the challenges and limitations of the current By-law, as well as identifying opportunities for the review and finalization of the updated By-law. A full summary of all comments and questions received are included in Appendix 7. Input collected throughout the review has been considered in drafting the updated By-law and is reflected in the draft By-law presented today.

#### Alternatives Reviewed

The option of postponing the review of the by-law until the Regional Official Plan review has concluded was considered but is not recommended. The Regional Official Plan review is a multi-year project, and there are items that require immediate attention such as ensuring the language of the by-law aligns with current best management practices. The Woodland Conservation By-law will often compliment the intent of the natural heritage policies of the new Niagara Official Plan in preserving woodlands by prohibiting their removal for development or construction unless properly assessed and the correct planning and building approvals are provided first.

In 2018, the responsibility for plan review and technical clearance for the natural environment policies of the Regional Official Plan (Chapter 7) returned to the Region. A review of the by-law is timely to ensure administration and enforcement requirements remain clear.

Postponing the review could result in an extended period with an out of date by-law, and may result in issues with interpretation and enforcement. Given the aforementioned changes, and considering there has been no review of the by-law since its approval in 2008, the option to move forward with the review immediately is prudent and responsible.

#### Relationship to Council Strategic Priorities

The Woodland Conservation By-law aligns with objective 3.2 Environmental Sustainable Stewardship:

*“A holistic and flexible approach to environmental stewardship and consideration of the natural environment, such as in infrastructure, planning and development, aligned with a renewed Official Plan.”*

### Other Pertinent Reports

- DPD 49-2006 Update on the Tree Conservation By-law
- CAO 4-2008 Tree and Forest Conservation By-law Amendments
- DPD 133-2007 Tree and Forest Conservation By-law Amendments
- Service Level Agreement Tree and Forest Conservation By-law August 2008
- PDS 13-2019 Initiation of a Woodland By-law Review
- CWCD 41-2020- Woodland By-law Review Update

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#### **Prepared by:**

Diana Morreale, MCIP RPP  
Director, Development Approvals  
Planning and Development Services

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#### **Recommended by:**

Rino Mostacci, MCIP, RPP  
Commissioner,  
Planning and Development Services

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#### **Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with Adam Boudens, Senior Environmental Planner, Britney Fricke, Senior Development Planner, Vanessa Aykroyd, Landscape Architect, Patricia D'Souza, Legal Counsel, and reviewed by Donna Gibbs, Director Legal and Court Services.*

### **Appendices**

Appendix 1	Woodland Conservation By-law
Appendix 2	Service Level Agreement
Appendix 3	2019 Annual NPCA Report
Appendix 4	Benchmark Municipalities
Appendix 5	Tree Preservation Guidelines
Appendix 6	Survey Results
Appendix 7	Comments Received

**THE REGIONAL MUNICIPALITY OF NIAGARA**

BY-LAW NO.

A BY-LAW TO PROHIBIT OR REGULATE THE  
DESTRUCTION OR INJURING OF TREES IN  
WOODLANDS IN THE REGIONAL  
MUNICIPALITY OF NIAGARA

WHEREAS Section 135(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, (the “*Municipal Act*”), as amended, provides that Regional Council may by bylaw prohibit or regulate the destruction or injuring of trees in Woodlands designated in the by-law;

AND WHEREAS Section 135(7) of the *Municipal Act* provides that the by-law may require that a permit be obtained to injure or destroy trees in Woodlands as designated in the by-law and impose conditions on a permit, including conditions relating to the manner in which destruction occurs and the qualification of persons authorized to injure or destroy trees;

AND WHEREAS the Council for The Regional Municipality of Niagara (“Regional Council”) deems it desirable to enact such a By-law for the purposes of:

- conserving and improving the Woodlands in the Regional Municipality of Niagara (the “Region”) through Good Forestry Practices;
- promoting Good Forestry Practices that sustain healthy Woodlands and related natural habitats and environments;
- helping to achieve the objectives of the Regional Official Plan to ensure the long-term health and productivity of woodlands;
- regulating and controlling the removal, maintenance and protection of trees in Woodlands;
- protecting, promoting and enhancing the values of Woodlands;
- contributing to human health, recreation, enjoyment and quality of life through the maintenance of Woodland cover;
- enhancing biodiversity and forest resilience to help our communities adapt to climate change;
- supporting the objective of the Regional Official 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 Official Plan; and,
- supporting the objective of the Regional Official 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 Official Plan.



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AND WHEREAS on April 10, 2008 By-law No. 30-2008 was passed by Regional Council and this by-law has been in place to prohibit or regulate the destruction or injuring of trees in Woodlands in the Region;

AND WHEREAS Regional Council wishes to repeal By-law No. 30-2008 and replace same with an updated By-law regulating the destruction or injuring of trees in Woodlands in the Region;

NOW, THEREFORE, the Council of The Regional Municipality of Niagara hereby enacts as follows:

**1. DEFINITIONS**

In this By-law:

- 1.1 "Agricultural Use" means the commercial production of crops and/or raising of livestock for human use and includes ploughing, seeding, Harvesting, leaving land fallow as part of a conventional rotational cycle, production of tree fruits and grapes, grazing, animal husbandry, and buildings and structures associated with these activities;
- 1.2 "Area Municipality" means any one of the municipalities of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, and the Township of West Lincoln;
- 1.3 "Building Permit" means a building permit issued by an Area Municipality under the *Building Code Act, 1992*, S.O. 1992, c.23, as amended;
- 1.4 "Bumper Tree" means a poor quality, low value tree that grows in close proximity to higher value trees and is located along skid roads to protect residual trees from damage during logging and skidding operations;
- 1.5 "Coppice growth" means clump growth where more than one tree stem grows from a single tree stump and the point of measurement for such growth means that point on each stem measured immediately above the point of fusion, provided such point of fusion is less than 1.37 metres above the highest point of undisturbed ground at the base of the coppice or clump growth;
- 1.6 "DBH" or "Diameter at Breast Height" means the diameter of the stem of a tree measured at a point that is 1.37 metres above the ground;
- 1.7 "Diameter" means the diameter of the stem of a tree measured at a specified Point of Measurement with such measurement including the bark of the stem;

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- 1.8 “Farmer” means a person who has a current and valid farm registration number under the *Farm Registration and Farm Organizations Funding Act, 1993*, S.O. 1993, c. 21, as amended;
- 1.9 “Forest Management Plan” means a course of forest management action prescribed for a particular woodland area after specific assessments and evaluations have been made by a Qualified OPFA Member in accordance with the Ministry of Natural Resources document “A Silvicultural Guide to Managing Southern Ontario Forests”, as amended from time to time;
- 1.10 “Good Forestry Practices” means:
- 1.10.a the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values, including: significant ecosystems; important fish and Wildlife Habitat; soil and water quality and quantity; forest productivity and health; and the aesthetic and recreational opportunities of the landscape;
  - 1.10.b the cutting and removal of hazardous, severely damaged, diseased and insect-infested trees which must be removed in order to prevent contamination or infestation of other trees or because they no longer contribute to the achievement of forest values;
  - 1.10.c in the case of hazardous, damaged, diseased or insect-infested trees, the maintenance of a Woodland after the cutting and removal is completed unless it is determined through a report prepared by Qualified OPFA Member that trees must be removed and a Woodland would not be maintained; and,
  - 1.10.d the forestry management practices as set out in the Ministry of Natural Resources document “A Silvicultural Guide to Managing Southern Ontario Forests”;
- 1.11 “Harvesting” means the Injury or Destruction of a Tree through cutting or other mechanized means. The term “Harvested” shall have a corresponding meaning;
- 1.12 “Heritage Tree” means a Tree identified and designated by the Council of an Area Municipality as having heritage significance;
- 1.13 “Injury” or “Destruction” means lasting damage to a Tree, that has the effect of inhibiting or terminating growth and which may include, but is not limited to:
- 1.13. a broken branches in the crown of a Tree;
  - 1.13. b the breaking off or splitting of the stem of any Tree and the noticeable tipping of any Tree;
  - 1.13. c the splitting of, removal of or damage to the bark of a Tree; or

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1.13. d damage to the root structure of a Tree;

but does not include damage to Bumper Trees, or pruning or removing branches for maintenance purposes. The terms "Injury", "Injured" , "Injuring", "Destroy", "Destroying" or "Destroyed" shall have a corresponding meaning

1.14 "Normal Farm Practice" means a practice that is recognized by the Normal Farm Practices Board which is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or makes use of innovative technology in a manner consistent with proper advanced farm management practices;

1.15 "Officer" means an individual appointed by the Regional Council for the administration and enforcement of this By-law;

1.16 "Owner" means any Person having control over any portion of land that contains Woodland or Woodlands and specifically includes any Person having any right, title, interest or equity in the land and any Person lawfully permitted on the land;

1.17 "Own Use" means use that does not include a commercial sale, exchange or other disposition of trees Injured or Destroyed;

1.18 "Permit" means a permit to Injure or Destroy Trees issued under this By-law;

1.19 "Person" means an individual or a corporation and their respective heirs, executors, administrators or other duly appointed representatives;

1.20 "Point of Measurement" means the point on a tree trunk measured above the highest point at which the ground meets the tree. For Coppice Growth the Point of Measurement shall be at the point on the tree trunk where the tree stems separate provided that such point of separation is less than 1.37 metres from where the ground meets the tree;

1.21 "Qualified OPFA Member" means a Registered Professional Forester or Associate Member of the Ontario Professional Foresters Association under the *Professional Foresters Act* 2000, c.18, as amended, certified to practice professional forestry, unless a suspension, term, condition or limitation of certification applies which would restrict the Member from carrying out responsibilities under this By-law;

1.22 "Qualified Tree Marker" means:

1.22.a An individual who is currently certified through the Ontario Ministry of Natural Resources Certified Tree Marker Program; or

1.22.b A Qualified OPFA Member qualified to do tree marking.

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- 1.23 “Region” means the Regional Municipality of Niagara;
- 1.24 “Regional Council” means the Council of the Region;
- 1.25 “Regional Official Plan” means the Official Plan of the Regional Municipality of Niagara;
- 1.26 “Sensitive Natural Area” means lands that are in a Woodland and:
- 1.26.a within the Environmental Protection Area designation of the Natural Heritage System and adjacent lands, as defined in the Regional Official Plan; or
  - 1.26.b within a Natural Area as designated in the Niagara Escarpment Plan;
- 1.27 “Significant Community Tree” means a Tree identified and designated by the Council of an Area Municipality as having community significance;
- 1.28 “Silviculture” means the theory and practice of controlling forest establishment, and the composition, growth and quality of forests to achieve the objectives of forest management. The term “Silvicultural” shall have a corresponding meaning;
- 1.29 “Silvicultural Prescription” means the site specific operational plan, signed and sealed by a Qualified OPFA Member (unless otherwise exempted under the *Professional Foresters Act*), that describes the existing forest conditions and the forest management objectives for an area, and which prescribes the methods for Harvesting the existing forest stand and a series of silvicultural treatments that will be carried out to establish a free-growing stand in a manner that accommodates other resource values as identified;
- 1.30 “Tree” or “Trees” means any living species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 meters at physiological maturity;
- 1.31 “Tree Preservation Plan” means a plan, prepared by a Qualified OPFA Member or Certified Arborist, for the purpose of protecting and preserving trees on properties where development or disturbance of the natural forest cover is to occur;
- 1.32 “Wildlife Habitat” means areas where plants, animals and other organisms live, and find adequate amounts of food, water, shelter and space needed to sustain their populations. Specific wildlife habitats of concern may include areas where species concentrate at a vulnerable point in their annual or life cycle; and areas which are important to migratory or non-migratory species;

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- 1.33 "Woodland" or "Woodlands" means land on one or more properties with a density of at least:
- 1.33.a 1,000 Trees, of any size, per hectare;
  - 1.33.b 750 Trees, measuring over five (5) centimetres in Diameter at DBH, per hectare;
  - 1.33.c 500 Trees, measuring over twelve (12) centimetres, in Diameter at DBH, per hectare; or
  - 1.33.d 250 Trees, measuring over twenty (20) centimetres, in Diameter at DBH, per hectare;

but does not include:

- 1.33.f a cultivated fruit or nut orchard;
- 1.33.g a plantation established for the purpose of producing Christmas trees and which is being actively managed and Harvested for the purposes for which it was planted, except that this does not refer to plantations that have ceased being managed or Harvested for their intended purpose for a period of 15 years or more; or
- 1.33.h a bona fide tree nursery that is being actively managed and harvested for the purposes for which it was planted.
- 1.33.i a hedgerow or windrow less than 20 meters in width.

## **2. APPLICATION OF THE BY-LAW**

This By-law shall apply to:

- 2.1 all Woodlands having an area of one (1) hectare or more;
- 2.2 all Woodlands having an area of less than one (1) hectare upon delegation of such authority by an Area Municipality to the Region; and
- 2.3 Heritage Trees and Significant Community Trees identified and designated by the Council of an Area Municipality, upon delegation of such authority by an Area Municipality to the Region.

## **3. GENERAL PROHIBITIONS**

- 3.1 No Person through their own actions or through any other Persons shall Injure or Destroy any Tree located in Woodlands:
  - 3.1.a Unless exempted under Section 4 of this By-law; or
  - 3.1.b Unless in possession of a valid Permit issued under this By-law and in accordance with its terms or conditions.

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- 3.2 No Person through their own actions or through any other Person shall:
- 3.2.a Contravene the terms or conditions of a Permit issued under this By-law;
  - 3.2.b Fail to comply with an Order issued under this By-law; or
  - 3.2.c Remove or deface any Order that has been posted pursuant to this By-law.
- 3.3 No Person through their own actions or through any other Person shall Injure or Destroy any Tree that has been designated by the Council of an Area Municipality as a Heritage Tree or a Significant Community Tree, provided that the authority to regulate such Trees has been delegated to the Region by the Area Municipality.
- 3.4 An Owner is deemed to have knowledge of, to have permitted, and to be liable for actions that violate this By-law that occur on the portion of land over which the Owner has control.
- 3.5 A Person is not liable under Section 3.4 of this By-law if such Person establishes, on a balance of probabilities, that the actions that violate this By-law occurred before or after such Person was an Owner.

**4. EXEMPTIONS**

Despite Section 3 of this By-law, this By-law does not apply to:

- 4.1 activities or matters undertaken by a municipality or a local board of a municipality;
- 4.2 activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*, S.O. 1994, c.25, as amended;
- 4.3 the Injuring or Destruction of Trees by a Person licensed under the *Surveyors Act*, R.S.O. 1990, c. S.29, as amended, to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- 4.4 the Injuring or Destruction of Trees imposed after December 31, 2002:
  - 4.4.a as part of a Tree Preservation Plan required as a condition of approval in a plan of subdivision that has received draft approval under Section 51 of the *Planning Act*;
  - 4.4.b as part of a Tree Preservation Plan required as a condition on a consent approved under Section 53 of the *Planning Act*;
  - 4.4.c as a condition to the approval of a site plan or a plan of subdivision under Sections 41 and 51, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;

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- 4.4.d in a development agreement between an Owner and an Area Municipality;
- 4.4.e as a condition to a development permit authorized by regulation made under Section 23(b) of the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, c. N.2, as amended; or
- 4.4.f as a condition to a development permit authorized by regulation made under Section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;
- 4.5 the Injuring or Destruction of Trees by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act*, 1998, S.O. 1998, c.15, Sched. A, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- 4.6 the Injuring or Destruction of Trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended;
- 4.7 the Injuring or Destruction of Trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land:
  - 4.7.a that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act; and
  - 4.7.b on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*;
- 4.8 the Injuring or Destruction of Trees that is required in order to erect any building, structure or thing, including yard areas, in respect of which a Building Permit has been issued and has taken into consideration the protection of Trees surrounding the structure or work within the building envelope, provided that no Tree is removed that is located more than 15 metres from the outer edge of the building, structure or thing, and that only those Trees necessary to accommodate the building structure or thing, including yard areas, are removed;
- 4.9 the Injuring or Destruction of Trees that is reasonably required in order to install and provide utilities, including a private waste disposal system, to the construction or use of the building, structure or thing in respect of which a Building Permit has been issued;
- 4.10 the Injuring or Destruction of Trees that is required in order to install, provide or maintain a driveway of sufficient width for vehicular access to the building, structure or thing in respect of which a Building Permit has been issued;
- 4.11 the Injuring or Destruction of Trees on lands, including buffer lands, used for the purpose of a licenced waste disposal site that has been approved, where applicable, under the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as

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- amended, the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, as amended, the *Environmental Assessment Act*, R.S.O. 1990, c. E.18, as amended, the *Planning Act*, and/or the *Niagara Escarpment Planning and Development Act*;
- 4.12 the Injuring or Destruction of Trees for the construction of drainage works under the *Drainage Act*, R.S.O. 1990, c. D.17, as amended;
- 4.13 the Injuring or Destruction of Trees that:
- 4.13.a are dead;
  - 4.13.b are diseased, as identified in a Silvicultural Prescription or Forest Management Plan; or
  - 4.13.c pose a hazard to human safety or property;
- 4.14 the Injuring or Destruction of Trees by an Owner of a Woodland who may Harvest, Destroy or Injure Trees for his or her Own Use on his or her property provided that:
- 4.14.a Good Forestry Practices are employed in accordance with the Ministry of Natural Resources document "A Silvicultural Guide to Managing Southern Ontario Forests"; and
  - 4.14.b the Injuring or Destruction, in that part of the Woodland where Trees have been Injured or Destroyed, does not reduce the number of Trees per hectare below that necessary to constitute a Woodland.
- 4.15 the Harvesting, Injuring or Destruction of Trees by a Farmer that involves the clearing of all or part of a Woodland for Agricultural Use on land that is owned by the Farmer doing the clearing and is part of a farm operation or farm corporation that has existed for at least three (3) years prior to such clearing.
- The clearing shall be carried out in accordance with Normal Farm Practices as defined in the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c. 1, as amended, provided that:
- 4.15.a the land that is cleared is put into Agricultural Use within three (3) years of the date on which such clearing commences;
  - 4.15.b prior to the clearing, the Farmer advises the Officer of the proposed clearing. For the purposes of this section the marking of Trees, a Forest Management Plan or a Silvicultural Prescription, a fee and a Permit are not required; and
  - 4.15.c the land being cleared for Agricultural Use is outside the Urban Areas as defined in the Regional Official Plan, and is designated and zoned for Agricultural Use in the Official Plan and Zoning By-law of the Area Municipality and, where applicable, in the Niagara Escarpment Plan;



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- except where the Injuring or Destruction of Trees involves a Sensitive Natural Area, in which case a Permit is required pursuant to the provisions of this By-law, but no fee shall be required.
- 4.16 the Harvesting, Injuring or Destruction of non-native/invasive Trees in a Woodland for the purpose of restoring the tree cover to native species as per an approved Forest Management Plan or Silvicultural Prescription.
- 4.17 the Injuring or Destruction of Trees in a Woodland for the purpose of conducting site rehabilitation activities to remove and/or treat contaminated soils. A reforestation plan must be prepared and approved by the officer prior to Tree removal.

**5. GOOD FORESTRY PRACTICES PERMITS**

- 5.1 The Niagara Region hereby delegates to an Officer the authority to issue a Good Forestry Practices Permit under this By-law, and to impose such terms and conditions in accordance with Good Forestry Practices.
- 5.2 An application for a Good Forestry Practices Permit shall be submitted at least four (4) weeks prior to the commencement date of Harvesting and shall include the following:
- 5.2.a a complete signed application form as provided by the Region;
  - 5.2.b a copy of the Silvicultural Prescription sealed by a Qualified OPFA Member; and,
  - 5.2.c A signature from a Qualified OPFA Member confirming proof that themarking of the Trees to be cut has been carried out by a Qualified Tree Marker in accordance with a Silvicultural Prescription or Forest Management Plan. Tree marking must include clean, legible paint marks at breast height, visible from any direction, and 40 centimetre stump marks that are in crevices (if available) and run right to the ground.
- 5.3 A Good Forestry Practices Permit issued under this By-law shall be subject to the following terms and conditions:
- 5.3.a Trees which are to be harvested are cut in accordance with Good Forestry Practices, and as described in a Silvicultural Prescription sealed by a Qualified OPFA Member;
  - 5.3.b the Harvesting, Injuring or Destruction of Trees will not reduce the number of Trees per hectare below the minimum number of Trees per hectare required to be considered a Woodland;

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- 5.3.c The Permit-holder must notify the Officer at least 48 hours before start of cutting and again upon resumption of activities after any four (4) week period of inactivity; and
  - 5.3.d Any other terms and conditions deemed appropriate and imposed by the Officer.
- 5.4 Notwithstanding Sections 5.2 and 5.3, a Good Forestry Practices Permit may be issued where an exclusion provision under the *Professional Foresters Act* applies and a qualified member of the Ontario Professional Foresters Association provides an opinion that the Harvesting of Trees is consistent with Good Forestry Practices.

**6. PERMIT APPLICATION PROCESS**

- 6.1 Every Person who intends to Injure or Destroy Trees personally or through another Person, where a Permit to do so is required under this By-law, shall first complete and submit an application for a Permit in the form approved by the Region from time to time.
- 6.2 Applications for Permits will be processed only if:
- 6.2.a the appropriate application form, approved by the Region from time to time, has been completed in full, duly signed and submitted to the Officer;
  - 6.2.b the requirements that must be submitted with an application have been included; and
  - 6.2.c applications are in keeping with the general purpose and intent of this By-law.
- 6.3 A Permit application that does not meet the requirements of clauses 6.2.a, 6.2.b and 6.2.c will be returned to the applicant within 30 days.
- 6.4 A Permit may be:
- 6.4.a issued by the Officer to the Owner for a term of up to one (1) year from the date of issue and shall not be transferable; and,
  - 6.4.b may be renewed by the Officer for up to two (2) additional one (1) year terms contiguous with the expiry date of the original Permit and after a written request from the Owner for renewal is made to the Officer, who must be satisfied that there are reasonable grounds for the renewal.
- 6.5 In addition to those terms and conditions listed in section 5.3, the Officer may impose conditions to a Permit that relate to, but which are not restricted to:

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- 6.5.a the manner and timing in which Harvesting, Injuring or Destruction is to occur;
  - 6.5.b the species, size, number and location of Trees to be Injured or Destroyed, or to be planted;
  - 6.5.c the marking of Trees to be cut with paint;
  - 6.5.d the qualifications of Persons authorized to Injure or Destroy Trees;
  - 6.5.e the submission of additional information required before the Permit becomes effective;
  - 6.5.f measures to be implemented to mitigate the direct and indirect effects of the Injuring or Destruction on Sensitive Natural Areas; and
  - 6.5.g a follow-up fuelwood (firewood) harvest.
- 6.7 When denying a Permit, the Officer will notify the applicant in writing by registered mail. The Officer shall provide written reasons for their decision to the applicant.
- 6.8 A Permit issued under the By-law does not relieve the Owner of any other applicable property boundary, municipal, provincial, or federal by-laws, regulations or requirements.

**7. APPEALS TO REGIONAL COUNCIL**

- 7.1 An applicant for a Permit under this By-law may appeal to Regional Council if:
- 7.1.a the Officer refuses to issue a Permit; such an appeal must be made within 30 days after the refusal; or
  - 7.1.b if the applicant objects to a condition in the Permit; such an appeal must be made within 30 days after the issuance of the Permit.
- 7.2 A request by an applicant for a hearing shall be made in writing and filed with the Regional Clerk.
- 7.3 The Regional Council shall hold a hearing on the issue and shall give the applicant an opportunity to make representations at the hearing. The Regional Clerk shall mail a notice of hearing to the applicant at least seven (7) days before the hearing.
- 7.4 The Regional Council may:
- 7.3.a Uphold the decision of the Officer;
  - 7.3.b Vary any condition on a Permit; or
  - 7.3.c Issue a Permit with conditions as the Regional Council considers appropriate.
- 7.5 The Regional Council will provide reasons for its decision. The decision of the Regional Council is final.

## **8. ORDERS TO DISCONTINUE ACTIVITY**

- 8.1 Where an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring the Person who contravened the By-law or who caused or permitted the Injuring or Destruction of Trees in contravention of the By-law to stop the Injuring or Destruction of Trees. The Order shall set out:
- 8.1.a the municipal address or the legal description of the land;
  - 8.1.b reasonable particulars of the contravention; and
  - 8.1.c the period within which there must be compliance with the Order.
- 8.2 An Order issued under this By-law may be served personally or by registered mail to the last known address of:
- 8.2.a the Owner of the Woodland; and
  - 8.2.b the person identified as Injuring or Destroying Trees.
- 8.3 Where service of an Order is made by registered mail, service shall be deemed to have been served on the fifth day after the date the Order is mailed.
- 8.4 Where service cannot be carried out under subsection 8.2, the Officer shall place a placard containing the terms of the Order in a conspicuous place on the affected lands. The placing of the placard shall be deemed to be sufficient service of the Order on the Person to whom the Order is directed. The placard shall not be removed without the approval of the Officer.

## **9. WORK ORDERS**

- 9.1 Where an Officer believes that a contravention of this By-law has occurred, the Officer may issue an Order requiring the Person to rehabilitate the land or Woodlands, or to plant or replant Trees.
- 9.2 The Order shall set out:
- 9.2.a the name and the Owner and the municipal address or the legal description of the land;
  - 9.2.b reasonable particulars of the contravention;
  - 9.2.c the work to be done and the date by which the work must be done;
  - 9.2.d a statement that if the work is not done in compliance with the Order within a specified time period, the Region may have the work done at the expense of the Owner; and,
  - 9.2.e contact information of the Officer.

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- 9.3 The Order may be served in accordance with the service provisions contained in section 8.
- 9.4 If a Person fails to comply with an Order issued pursuant to this section, the Region may enter the lands at any reasonable time for the purposes of doing the things described in the Order at the Person's expense.
- 9.5 If the Region enters onto the lands and completes the work, the Region may recover its costs to complete the work for the Person named in the Order by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

**10. PENALTY**

- 10.1 Any Person who contravenes any provision of this By-law, or an Order issued under this By-law is guilty of an offence and is liable:
- 10.1.a on first conviction, to a fine of not more than \$10,000 or \$1,000 per Tree, whichever is greater;
  - 10.1.b on any subsequent conviction for the same offence, to a fine of not more than \$25,000 or \$2,500 per Tree, whichever is greater; and,
  - 10.1.c on conviction for a continuing offence, to a fine of not less than \$100 and not more than \$10,000 for each day or part of a day that the offence continues. The total of the daily fines may exceed \$100,000;
- 10.2 Despite subsection 10.1, where the Person convicted is a corporation:
- 10.2.a the maximum fines in clause 10.1.a are \$50,000 or \$5,000 per Tree; and
  - 10.2.b the maximum fines in clause 10.1.b are \$100,000 or \$10,000 per Tree .
- 10.3 If a Person is convicted of an offence for contravening this By-law or an Order is issued under this By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the Person to rehabilitate the land or to plant or replant Trees in such a manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the Trees.
- 10.4 If an Order has been issued under this bylaw or by the court, and the order has not been complied with, the contravention of the Order shall be deemed to be a continuing offence for each day or part of the day that the Order is not complied with.
- 10.5 The destruction of two or more Trees without or in contravention of a Permit shall be deemed to be a "multiple offence" as provided in the *Municipal Act*

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and shall be subject to the per tree penalties prescribed in section 10.1 and 10.2.

**11. ENFORCEMENT**

- 11.1 The provisions of this By-law may be enforced by an Officer
- 11.2 An Officer or any person authorized by an Officer may, at any reasonable time, enter upon and inspect any land for the purposes of enforcing this By-law, determining compliance with this By-law, determining compliance with terms and conditions of a Permit issued under this By-law, determining compliance with an Order issued under this By-law or laying charges under this By-law.
- 11.3 An Officer exercising a power may be accompanied by a Person under his or her direction.
- 11.4 Any Person who obstructs or interferes with an Officer, or any Person or agent authorized by an Officer, in the discharge of his or her duties under this By-law, shall be considered in violation of this By-law.
- 11.5 Any Person who provides false information to an Officer shall be deemed to have obstructed or interfered with the Officer in the execution of their duties.

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12. **ADMINISTRATION**

- 12.1 If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Regional Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such.
- 12.2 The short title of this By-law is the “Woodland Conservation By-law”.
- 12.3 By-law 30-2008 of the Regional Municipality of Niagara and all amendments thereto, are hereby repealed.
- 12.4 Despite subsection 12.3, By-law 30-2008, as amended, shall continue to apply to:
- 12.4.a proceedings in respect of offences that occurred before its repeal;  
and,
  - 12.4.b permits in compliance with Bylaw 30-2008, which were approved prior to its repeal.
- 12.5 This by-law shall come into force on January 31, 2021.

THE REGIONAL MUNICIPALITY OF NIAGARA

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Regional Chair

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Regional Clerk

Passed: \_\_\_\_\_

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

**2019 ANNUAL REPORT**  
**NIAGARA REGION**  
**TREE AND FOREST CONSERVATION BYLAW (2008-30)**



**Niagara Region Tree and Forest Conservation Bylaw**  
**2019 Annual Summary Report**  
Niagara Peninsula Conservation Authority

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## Introduction

The Niagara Region Tree and Forest Conservation By-law 30-2008 exists to encourage the conservation and improvement of woodlands in Niagara through Good Forestry Practices. The By-law prohibits the clearing of woodlands except under specific circumstances and requires landowners to follow Good Forestry Practices when harvesting trees. This is done by requiring landowners to submit a forest management plan or a silvicultural prescription prepared by a Registered Professional Forester (or a member of the Ontario Professional Foresters Association) to obtain a permit.

In August of 2008 the Region of Niagara delegated administration of the By-law to the Niagara Peninsula Conservation Authority (NPCA). The NPCA is responsible for reviewing applications and issuing permits for timber harvesting within the Region. We also follow up on public inquiries and investigate violations, which sometimes lead to charges. For this reason, NPCA forestry staff is designated as Provincial Offences Officers under the Provincial Offences Act. The NPCA employs one full-time staff, a Registered Professional Forester to administer the By-law.

The 2019 year marked the eleventh year in which the NPCA administered the By-law on behalf of the Region. This report will summarize the activities undertaken throughout the year by the NPCA to promote Good Forestry Practices, educate the public and enforce the provisions of the By-law.

## Permits

Good Forestry Practices (GFP) Permits are issued after an application is received and satisfies the necessary criteria. In 2019, 11 new GFP Permits were issued by the NPCA, 3 permits were carried over from the 2018 year. 54% of these permits were completed by the end of 2019. Poor weather conditions was a contributing factor for permits not being completed by year's end.

Commenced in 2012 and continued in 2019, strategies for managing woodlots for emerald ash borer (EAB) are required in prescriptions and tree marking for woodlots that have a significant component of ash. This strategy will continue into 2019 as the impact of EAB continues to be an issue.

Landowners are provided a copy of a recent publication from the Ontario Woodlot Association, 'A Landowner's Guide to Careful Logging', when a permit is approved. The guide provides landowners with information on proper logging practices that will ensure good forestry is attained. The harvest inspections conducted by the NPCA are based on the contents in the guide.

All permits are subject to conditions which are specified and tailored to the characteristics of the individual site. For example, harvesting in woodlands with sensitive ground conditions will be conditional to the work being done while the ground is frozen in the winter, or during a dry period during the summer, to minimize soil disturbance. Failure to follow the conditions of a permit is considered a violation of the By-law. There were no incidents in 2019 where permit conditions were not complied with. Forest Bylaw staff maintained regular communication with logging contractors to ensure operations were suspended when ground conditions were not favourable.

## ***Selection Silvicultural System***

The forest management plan or silvicultural prescription required for a permit is prepared and reviewed by forest professionals with expert knowledge in silvicultural practices. Silviculture practices are treatments applied at the stand (woodlot) scale to achieve specific forest management objectives. Treatments are broadly categorized as either harvest, renewal, or tending. Ideally these practices are applied in a coordinated fashion with a long-term view of what is possible, practical, and desirable at both a stand and landscape scale. The coordination and long-term view are achieved through application of a silvicultural system.

A silvicultural system is a planned program of silviculture treatments that extends throughout the life of a stand for the purposes of controlling stand establishment, composition, and growth. While this view implies a certain intensity of effort and manipulation, on suitable sites the simplest application may include only a single harvest with natural regeneration (assuming a seed source, seedlings are present in sufficient quantity to restore the forest to a desired composition and structure).

There are three silvicultural systems used in Ontario; Clear-cut, Shelterwood and Selection. **Selection is the system most commonly used in the Niagara Region.** The following table describes the three silvicultural systems.

Silvicultural System	Description	General characteristics
Clear-cut	Most of the overstory trees are removed over a short period of time to create a fully exposed microenvironment for the establishment of a new even-aged stand.	<ul style="list-style-type: none"> <li>• even-aged future stand</li> <li>• regeneration established in &gt;70% full sunlight.</li> </ul>
Shelterwood	Most of the overstory trees are removed in a series of two or more harvests for the purpose of establishing and sheltering regeneration under a residual canopy.	<ul style="list-style-type: none"> <li>• even-aged future stand</li> <li>• regeneration established in 30-70% full sunlight</li> <li>• regeneration period &lt;20% of the intended rotation</li> <li>• final removal creates &gt;70% full sunlight.</li> </ul>
Selection	Periodic partial harvests timed based on basal area recruitment using vigour, risk, and species preference, to select trees for harvest and retention.	<ul style="list-style-type: none"> <li>• all-aged future forest</li> <li>• regeneration established in ≥70% residual cover (approx. ≤30% full sunlight)</li> <li>• <b>dense mature forest cover maintained in perpetuity.</b></li> </ul>

The selection system provides an environment ranging from partial to full-shade and a forest floor protected from temperature extremes and desiccation. Regeneration under single tree selection favours shade tolerant species while some mid-tolerant species are well suited to group selection openings. Both single tree and group harvest methods are used in Niagara

**Single Tree:** Individual trees are removed at regular intervals with no clear patches or edges created.

**Group:** The removal of a small group of trees, in an area normally less than 2 tree heights in diameter, in a single entry or progressive fashion, within a matrix of mature forest canopy.

The following illustrations show the implementation of the Single Tree Selection Silvicultural System.

(a) Pre-harvest



(b) Post-harvest



(c) Ten years later

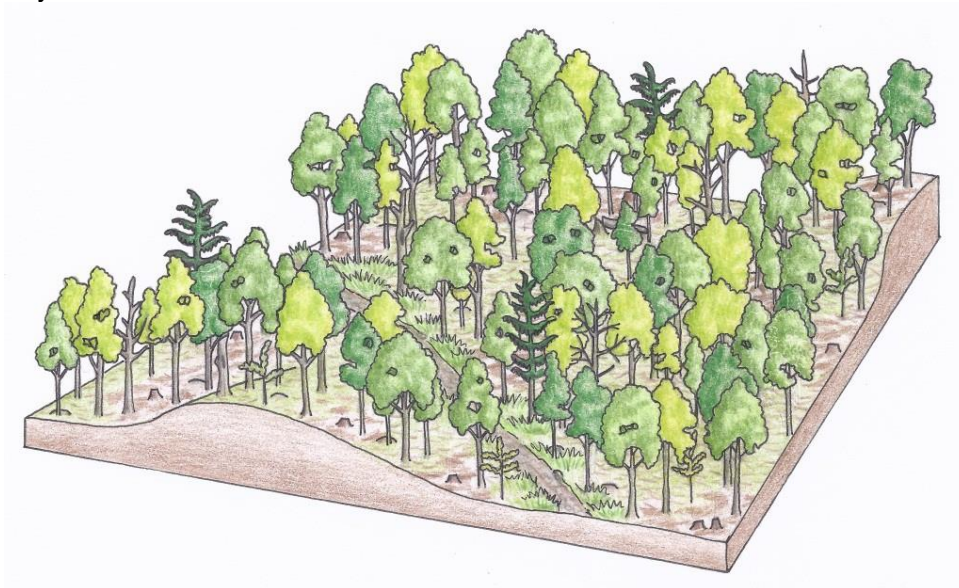


A profile of an individual selection silviculture system depicting a pre-harvest tolerant hardwood stand (a), stand conditions after a partial selection cut (b), and 10 years later with the natural regeneration of shade tolerant species under the canopy (c) (illustrations by Jodi Hall).

(a) Post-harvest



(b) Ten years later



An aerial view of an individual tree selection harvest in a tolerant hardwood stand resulting in >70% residual cover and perpetual all-aged stand. Image (a) depicts the initial harvest entry, while image (b) depicts regrowth after approximately 10 years and the harvest associated with the next cutting cycle (illustrations by Jodi Hall).

## ***Tree Marking***

The selection system requires the practice of tree marking. Tree marking involves the selection of individual trees to be harvested, while leaving trees to grow for future harvests and to provide wildlife habitat. The actual process of tree marking is recognized as being both an art and a science. Historically, many of our forests were subjected to various types of uncontrolled harvest. This included “high-grading,” a term that refers to woodlots that have had only the largest and best quality timber harvested. These unregulated disturbances, in combination with other factors, such as disease and insects, can lead to a forest with irregular stand structure and unpredictable growth. In the absence of sound forest management these forests often display a lack of regeneration of favorable species and poor spacing of smaller diameter stems.

When properly applied, tree marking can reverse many of the historical, negative impacts that unregulated cutting has created in our forests. This often requires two or more cutting cycles and adhering to the guidelines of selection and shelterwood system management.

Trees to be cut through tree marking are physically identified through the application of paint on the tree. Depending on the management system being used, trees are marked in a colour that indicates the tree is to be cut or in some cases a colour that indicates the tree should not be cut. The objective of marking is to optimize growth for all trees being retained rather than attempting to maximize growth on a few individual trees. Marking also allows the forest manager to make changes, if necessary, to selected trees before the harvest takes place.

Tree marking alone will not prevent 'high-grading'. Virtually anyone with a can of spray paint can sell their services as a tree marker. It is only when tree marking is applied in conjunction with good forestry practices that the opportunity for high-grading can be minimized. Regular monitoring (site visits) by the NPCA Forester during harvest operations ensures tree marking is being followed.

To ensure the practice of tree marking is being done professionally, the Bylaw requires those marking woodlots be ‘Certified Tree Markers’. Since 1995, the MNR has provided tree marking certification training. The training involves a one-week course covering silvicultural systems, silviculture, silvics, wildlife habitat, tree defects and tree vigour characteristics. Participants are field tested, and successful trainees are issued a certificate endorsing their skills as a certified tree marker (of conifer forests, hardwood forests or both). To maintain MNR's certification, a tree marker must attend and successfully complete a two-day refresher course every three years.

Certified tree markers must be knowledgeable in silviculture, tree and wildlife biology, and forest economics to choose the right trees to mark for cutting. Knowledge required for proficiency as a tree marker:

- ability to identify species
- understanding of silvical characteristics of species
- familiarity with site and land features
- recognition of tree defect characteristics and indicators
- appreciation of tree quality and vigour, including use of an acceptable tree classification system
- comprehension of stocking levels and structural types
- appreciation of commercial values of species, products, and grades, and
- appreciation of wildlife habitat, biodiversity, and other ecosystem values



## ***Forest Harvest Summary***

The following table breaks down the distribution and harvest area of the 2019 GFP permits by municipality.

Municipality	Number of permits	Harvest Area		Harvest Volume	
		Hectares	Acres	FBM	Cubic Meters
Fort Erie					
Grimsby					
Lincoln					
Niagara Falls					
Niagara on the Lake					
Pelham	1	3.5	8.6	22,178	52.3
Port Colborne					
St Catharines					
Thorold					
Wainfleet	10	98.1	242.4	465,721	1099.0
Welland					
West Lincoln					
Totals	11	101.6	251	487,899	1151.3

The table excludes permit renewals. Permit renewal statistics will always be included in the year in which the original permit was issued.

## ***Inspections***

Generally, each permit site is inspected at least twice, many sites were visited multiple times. The first inspection occurs upon receiving the application. NPCA Bylaw staff visit the site and inspect the tree marking to ensure it follows good forestry practices. Any concerns with the tree marking and prescription will be noted and followed up with the landowner and/or certified tree marker. The permit may not be approved until any concerns are addressed. At this time NPCA staff also assesses the site conditions (soil) and any environmental values present which may be impacted by the harvest operation such as stick nests and streams. This will affect conditions that may be stipulated on the permit.

The operation may be inspected again while the work is underway, and the crew is onsite. This gives NPCA Bylaw staff the opportunity to observe the precautions being taken and ensure that the permit conditions are being met.

Lastly the site is inspected again when the work has been completed. At this time NPCA Bylaw staff can verify that only trees that were marked have been removed and that all permit conditions are satisfied.

The result is that NPCA staff made approximately 65 site inspections on permits during 2019.

## Education

In 2019 the NPCA continued to educate the public as well as groups and public agencies regarding the Bylaw.

Much of the educational activity takes place when members of the public phone or drop into the NPCA office and ask questions. Staff also conducted site visits when requested by the land owner to provide forestry knowledge and make them aware of Bylaw requirements. Staff is always available to answer questions and often spend considerable time going over the details of the bylaw and management strategies to deal with Emerald Ash Borer.

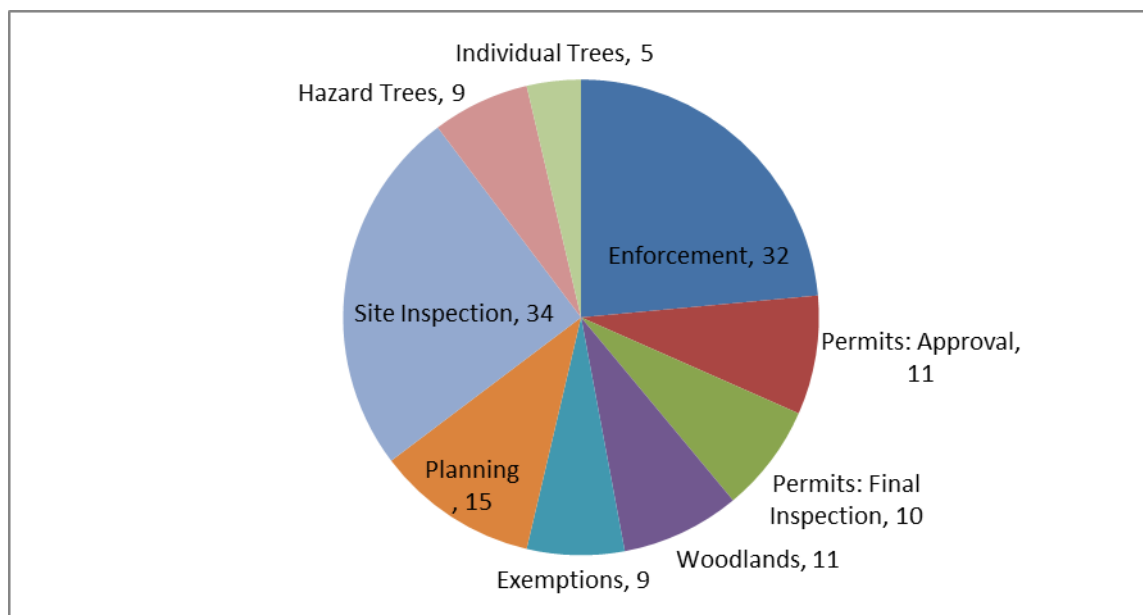
The NPCA website has a section dedicated to the Forest Bylaw with an emphasis placed on Good Forestry Practices and the latest strategies for managing woodlots for Emerald Ash Borer.

## Bylaw Inquiries

Bylaw inquiries occur when Bylaw staff responds to an issue either presented by a member of the public or outside agency, or an issue initiated based on observations of Bylaw staff. Most are made by telephone. NPCA staff track inquiries for reporting purposes.

In 2019, Bylaw staff responded to 154 bylaw inquiries. Chart 1 indicates the number of inquiries by program area. Most of the inquiries were about enforcement followed by permits and woodlands. Most of the inquiries about individual trees were related to dead and dying ash trees from local citizens. Many inquired if a permit was required for their removal. A brief explanation of program area's follows.

**Chart 1: Number of Inquiries by Program Area**



## ***Program Area Descriptions***

**Enforcement:** Any enforcement related matters which required action by Bylaw staff.

**Exemptions:** Inquiries regarding exemptions which required evaluation by Bylaw staff.

**Individual Trees:** Inquiries regarding individual trees on private property, most of which are outside the jurisdiction of the Bylaw.

**Permits Approval:** The review and issuing of a Good Forestry Practices permit.

**Permits Final Inspection:** A formal documented inspection of a completed harvest operation.

**Public Outreach:** Inquires about by-law & other educational materials. Mail out of educational materials.

**Woodlands:** Issues and inquiries centered on the application of the Bylaw to woodlands.

**Site Inspections:** An informal site inspection of a permit during a harvest operation.

**Planning:** Land use planning inquiries

**Chart 2: Number of Inquiries by Interest Group**

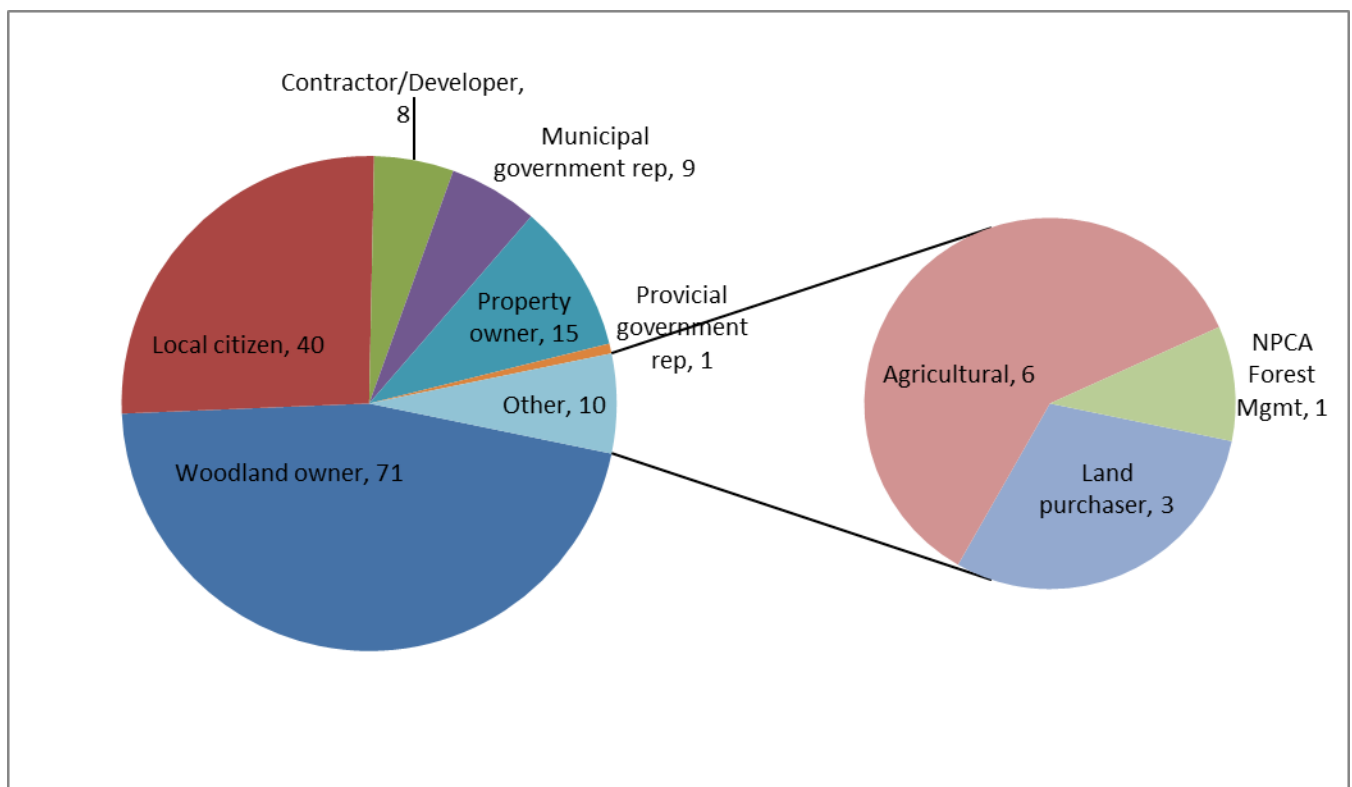


Chart 2 is a break down of the types of people that make the inquiries to the NPCA office. Most of the inquiries are from woodlot owners, followed by local citizens and contractors/developers.



## **Enforcement and Charges**

Should it become necessary to initiate charges resulting from Bylaw violations, it is done under Part III of the Provincial Offences Act. This is referred to as commencement by information.

There were two Bylaw infractions in which Part III Informations were filed in 2018 for properties located in Thorold and St. Catharines. The Thorold property had 4.1 hectares of forest cleared without a valid exemption. That matter is still being processed in court as of the date this report was prepared. The infraction in St. Catharines involved clearing a 40-meter-wide section of forested slope along the Martindale Pond. The matter was settled before going to trial in December 2019. The landowner was fined \$5,000 and required to reforest the disturbed area as instructed in a reforestation plan prescribed by the NPCA Forester. Reforestation activity is planned for spring 2020.

There was one new Bylaw infraction where a charge was laid in 2019. The infraction occurred in Thorold. The matter is before the courts and is scheduled for trial in January 2020. It is the intention that the outcomes will be presented in future annual reports once the matters are finalized.

## **Training and Development**

The Bylaw staff conducted independent learning to remain current with respect to the practice of forestry in the region and the application of the Bylaw. Staff will attend applicable training opportunities when available.

## **Advisory Committee**

The Tree and Forest Conservation By-law Advisory Committee did not meet during 2019, as there were no issues brought up by NPCA that required additional meetings. The role of the committee is to review and provide advice or recommendations on matters of forest conservation as requested by the NPCA.

## **Conclusion**

2019 was the eleventh full year in which the Bylaw was being administered by the NPCA. There were no issues with the NPCA's ability to carry out the role of administering the Bylaw for the Region. All aspects of the Bylaw, from managing Good Forestry Practice permits, enforcement and public education were conducted in a professional manner.

Woodlot management strategies to deal with Emerald Ash Borer will continue to be a main concern in 2019. Current strategies will be used in woodlots that have a significant component of ash.

A revision process was initiated in 2019 to make changes to the Bylaw. An amended Bylaw is expected in 2020.

Literature Cited:

OMNR. 2015. Forest Management Guide to Silviculture in the Great Lakes-St. Lawrence and Boreal Forests of Ontario. Toronto: Queens Printer for Ontario. 394 pp.

Upper Tier	Does your by-law require a permit to cut?	Requires a silvicultural prescription when using GFP?	Cost for a GFP Permit?	Exemptions (similar to Special Council Permit)	Maximum Area Exempted	How many people are involved? Their role? Staff or contract?	Protected 'Woodland' size	Other Natural Heritage lands protected?	Removal for personal use without permit	Tree Saving Plans
Halton Region	Yes	Yes	No	Yes requires approval by council (\$500)	Typically 0.5 to 1 ha	Regional Forester	0.5 ha	Yes, greenlands	Yes	no, but in DA process
Brant County	Notice of intent	No	N/A	Minor Exceptions (council to approve)	N/A	Forestry Officer	1/0.2(woodlot)	regulates woodland/woodlots within sensitive natural areas (No cutting)	Yes	No
City of Brampton	Yes	Yes	\$250	Yes (council to approve)	N/A (replacement policy)	Unconfirmed	0.2 ha	No	No	No
Middlesex County	Notice of Intent	Yes	N/A	Yes (\$100) city council to approve exemption	N/A	1 Woodland Bylaw Officer	1 ha	No	Yes	No
Niagara Region	Yes	Yes	No	No	N/A	1 Forester (RPF)	1 ha unless delegated by municipality	Permit required for owner personal use in sensitive natural areas	Yes	Yes
Perth County	Notice of Intent	Yes	N/A	No	N/A	Bylaw Officer is RPF	0.2	No	Yes	Yes
Region of Durham	Yes	Yes, if more than 50 trees are to be removed.	\$50	Clear cutting permit	0.1 to 1 ha (approved by planning commissioner) >1 ha require public meeting and Regional council approval	Forestry Consultant hired for admin and enforcement	1 ha	No	At the discretion of officer	No
Simcoe County	Yes	Yes	No	Special Permit (council to approve)	N/A	Forestry Officer	1 ha	Yes, sensitive natural areas	Yes	No
Wellington County	Yes	Yes	No	Clearing permit (also No fee, approved by officer)	0.5 ha	2 Permit Officers	1 ha	No	Yes 20 trees/yr	No
York Region	Yes	Yes	\$25	Special Permit	0.2 ha (\$250) approved by officer >0.2 (\$500) approved by council	Unconfirmed	0.2 ha	No	No	No
Oxford County	Notice of Intent	Yes	\$25	Exemptions by By-law officer	\$200 fee	Urban Forester and other bylaw officers	1 ha	No	Yes 20 trees per ha	No
Dufferin County	Yes		can't find	Yes (approved by council, application submitted 3 months before destruction)	n/a		1/0.5	No	No	

## Niagara Region Tree Preservation Guidelines

As per the Region's EIS Guidelines (January 2018) and Official Plan Table 7-1 and Policy 7.B.1.19, a Tree Preservation Plan is required for development within or adjacent a Significant Woodland. The purpose of the Plan is to preserve as many trees as possible, confirm there are no species of concern within the development/construction footprint, and where applicable, quantify the removals for replacement plantings.

**"Tree Preservation Plan"** means a plan, prepared for the purpose of protecting and preserving trees on properties where development or disturbance of the natural forest cover is to occur. Such plans shall attempt to retain as many trees as possible and as a minimum shall include all of the following:

- a) an inventory and graphic display of trees on the property including location, size, species, general age distribution health and any individual trees or grouping of trees with particular significance such as but not limited to age, species and size;
- b) identification of natural features and functions present, whether they should be protected, and if not, why;
- c) a statement identifying whether any threatened or endangered species are present and if so, how they are to be protected;
- d) a description and a map of the trees to be removed and retained including written reasons why the trees are to be removed or retained;
- e) an indication as to how the trees to be retained will be marked or otherwise identified as trees to be protected;
- f) the layout of the proposed development superimposed on the woodland area, including existing and proposed grades, services/utilities, roads, surface drainage and building envelopes;
- g) the specific measures to be used during and after construction or site disturbance to protect and preserve individual trees or clumps of trees identified for retention, including but not limited to fencing around the dripline, the avoidance of storage or dumping of materials over root zones and operation of equipment over root zones;
- h) a tree replanting program using native species;
- i) a statement indicating that the plan conforms to the Region's Tree and Forest Conservation By-law; and
- j) consideration of the relationship between an Environmental Impact Study, prepared as part of a development application, and requirements of the Regional Policy Plan.

It is especially important that the Tree Preservation Plan include an updated drawing showing the limits of construction impact (i.e., including the site preparation/grading plan, servicing or drainage, stockpile areas, driveway, backyard development, etc.) in relation to the trees to be removed or retained, and an indication of how the trees to be retained will be protected. A 10 m buffer from the dripline of mature trees is typically required to adequately protect the root system of those trees to be maintained.

The drawing should illustrate where protective tree hoarding and/or any other mitigation measures for protection are proposed, and include protection notes and details.

Mitigation measures should include **but are not limited to:**

- Protective tree hoarding locations and specification;
- Root pruning standards following International Society of Arboriculture (ISA) protocols; and
- A note indicating that if trees are being removed within the active nesting period for migratory birds (generally between March 15 and August 31), a nest search will be completed by a qualified biologist.

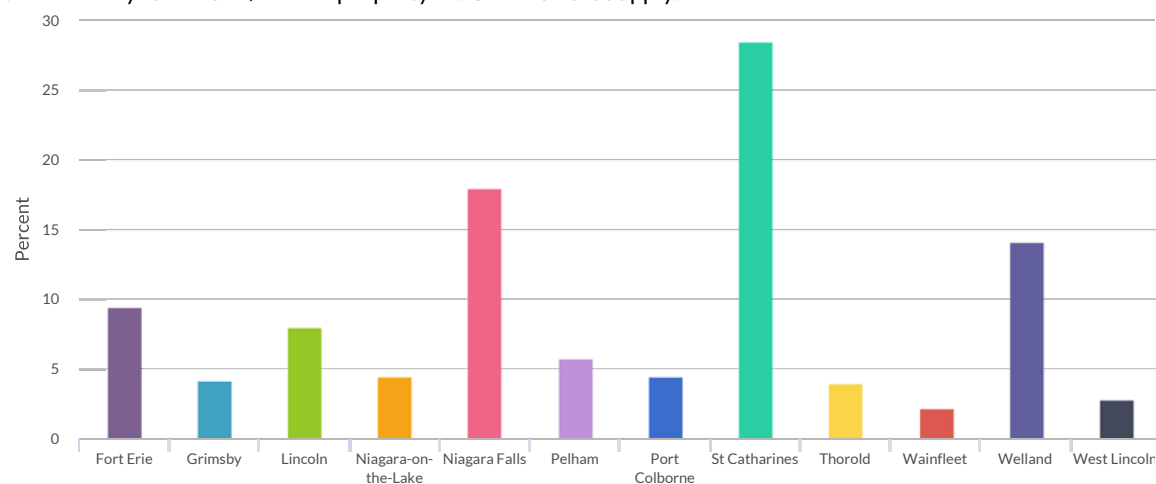
Please note that the tree inventory should include all trees with a diameter at breast height (DBH) of 10 cm or more, but any species of concern, regardless of size, should be identified. Smaller trees may be grouped as per item a) above, and location accuracy (i.e., the exact, surveyed location of trunks larger than 10 cm DBH) is not required, except where 1) trees along the property line (including tree hedges) belonging to an adjacent landowner may be impacted; and 2) trees to be retained immediately adjacent to the proposed development require specific mitigation measures that necessitate survey by an Ontario Land Surveyor (OLS). In such case, the OLS shall take every reasonable measure to determine the exact location of trunks of trees growing on a property line without damaging said trees, and noting the angle of lean where a tree straddles a property line below where the tree would naturally begin to branch out.

# Report for Woodland By-law Review

## Response Counts

<b>Completion Rate:</b>	<b>73.4%</b>	
Complete		273
Partial		99
		<b>Totals: 372</b>

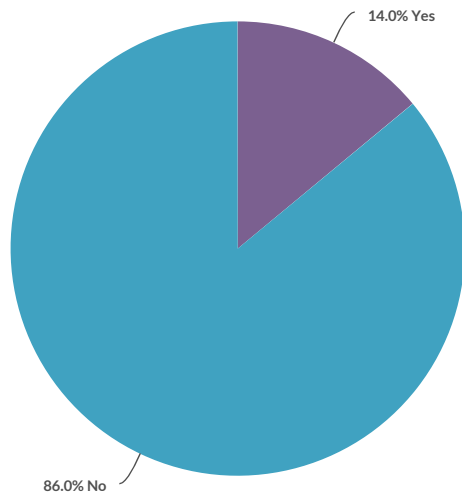
## 1. Where do you live and/or own property in? Check all that apply.



Value	Percent	Responses
Fort Erie	9.4%	34
Grimsby	4.1%	15
Lincoln	8.0%	29
Niagara-on-the-Lake	4.4%	16
Niagara Falls	18.0%	65
Pelham	5.8%	21
Port Colborne	4.4%	16
St Catharines	28.5%	103
Thorold	3.9%	14
Wainfleet	2.2%	8
Welland	14.1%	51

Value	Percent	Responses
West Lincoln	2.8%	10
I don't live in or own property in Niagara	2.5%	9

2. In order to qualify as a "woodland," an area must meet specific density requirements: 1,000 trees of any size per hectare (2.47 acres) OR 750 or more trees of 5 cm in diameter per hectare (2.47 acres) OR 500 or more trees of 12 cm in diameter per hectare (2.47 acres) OR 250 or more trees of 20 cm in diameter per hectare (2.47 acres) Do you live on property, own property, or manage property in Niagara with a woodland or forest on it?



Value	Percent	Responses
Yes	14.0%	46
No	86.0%	283
		<b>Totals: 329</b>

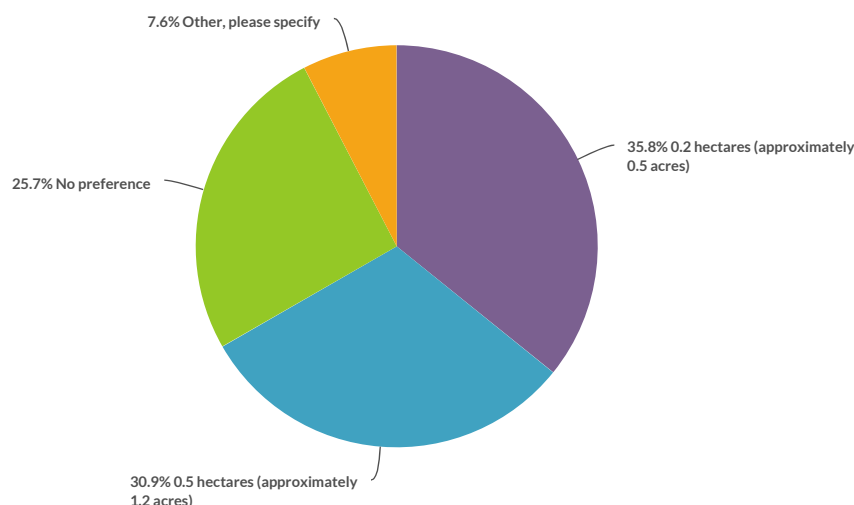
3. Have you ever obtained a permit or exemption under the current Tree and Forest Conservation By-law?

Value	Percent	Responses
Yes	4.6%	15
No	95.4%	312
		Totals: 327

4. Niagara Region has identified several priorities that will guide the implementation of the revised by-law. Rank which priorities are most important to you with 1 being most important.

Item	Overall Rank	Rank Distribution	Score	No. of Rankings
To provide increased protection for woodlands from unauthorized clearing or cutting	1		986	277
To increase species diversity and forest health to help Niagara adapt to climate change	2		968	263
To increase protection of woodlands in urban areas	3		915	262
To help achieve the current Regional Official Plan goal for increased forest cover in Niagara	4		712	255
To contribute to the local economy and ensure a sustainable supply of forest products	5		442	256
		Lowest Rank      Highest Rank		

5. The current by-law regulates the destruction or injury of trees in wooded areas 1 hectare (2.47 acres) in size or larger that meet specific density requirements. Wooded areas less than 1 hectare, and specific heritage or community-significant trees, are governed by Niagara's local municipalities, who can also choose to delegate that authority to the Region. For those municipalities who choose to delegate their authority to the Region for woodlands less than 1 hectare, what should be the minimum size able to be regulated?





Value	Percent	Responses
0.2 hectares (approximately 0.5 acres)	35.8%	103
0.5 hectares (approximately 1.2 acres)	30.9%	89
No preference	25.7%	74
<a href="#">Other, please specify (click to view)</a>	7.6%	22
		<b>Totals: 288</b>

6. The current by-law regulates the destruction or injury of trees in wooded areas 1 hectare (2.47 acres) in size or larger that meet specific density requirements. Wooded areas less than 1 hectare, and specific heritage or community-significant trees, are governed by Niagara's local municipalities, who can also choose to delegate that authority to the Region. For those municipalities who choose to delegate their authority to the Region for woodlands less than 1 hectare, what should be the minimum size able to be regulated? - comments

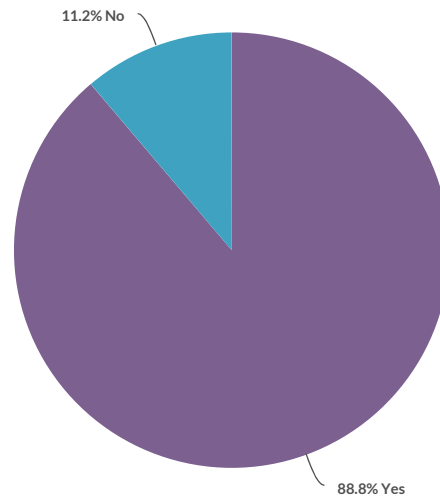


[Show Responses ▶](#)

7. The current by-law includes several exemptions, some that are legislatively required, and others that are optional. The following optional exemptions are included in the current by-law: Harvest of trees for personal use, as per specific conditions in the by-law Removal of trees by a farmer for agricultural use, as per specific conditions in the by-law Removal of trees on a waste disposal site Removal of trees for the construction of drainage works under the Drainage Act Removal of trees that are dead or hazardous to human safety or property Removal of trees that are diseased, as identified in a Forest Management Plan or Silvicultural Prescription Niagara Region is considering adding an exemption for woodlands on historically contaminated lands that require soil remediation (cleanup) as directed by the Province. Should this exemption be added?

Value	Percent	Responses
Yes	60.7%	170
No	39.3%	110
		Totals: 280

8. Niagara Region is considering adding a condition that woodland removals not associated with a Good Forestry Practices Permit must occur during late fall or winter, or after bird/bat surveys are completed and measures identified, to protect bird and bat species during their spring/summer breeding periods. Should this condition be included?



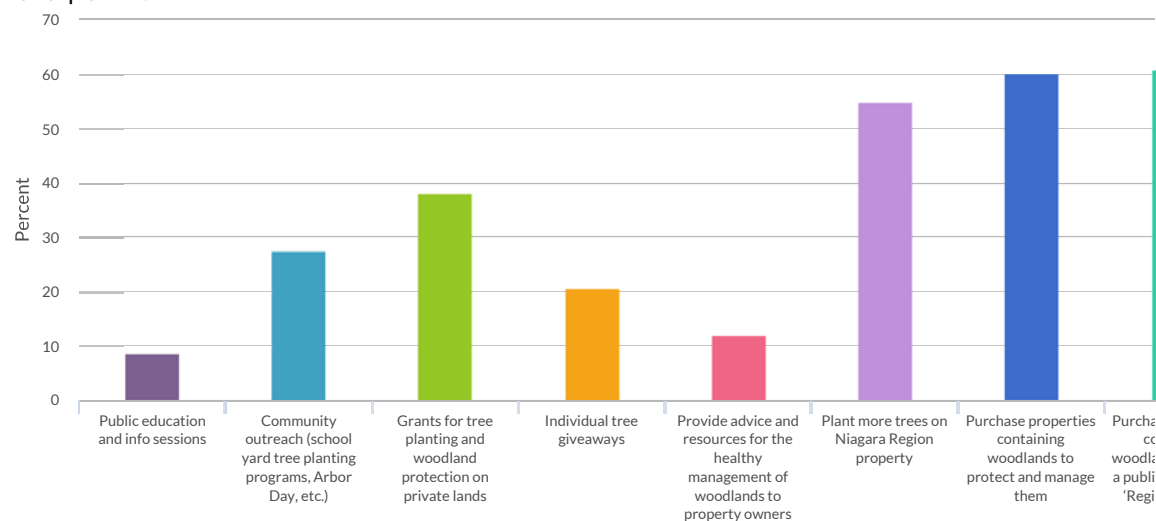
Value	Percent	Responses
Yes	88.8%	245
No	11.2%	31
		Totals: 276

9. Should Niagara Region require replacement planting or cash-in-lieu payments to be used for planting in targeted areas when trees are approved for removal under building permits or Planning Act applications?



Value	Percent	Responses
Yes	84.2%	234
No	15.8%	44
Totals: 278		

10. Woodland canopy cover in Niagara is estimated to be approximately 17 percent. How should Niagara Region direct these cash-in-lieu resources to increase canopy cover? Choose your top three.



Value	Percent	Responses
Public education and info sessions	8.6%	20
Community outreach (school yard tree planting programs, Arbor Day, etc.)	27.5%	64
Grants for tree planting and woodland protection on private lands	38.2%	89
Individual tree giveaways	20.6%	48
Provide advice and resources for the healthy management of woodlands to property owners	12.0%	28
Plant more trees on Niagara Region property	54.9%	128
Purchase properties containing woodlands to protect and manage them	60.1%	140
Purchase properties containing woodlands to create a publicly accessible 'Regional Forest'	60.9%	142

11. Do you have any additional comments or feedback?

2020-07-31

ResponseID	Response
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382	We have just completed a planting of 1400 trees in a sensitive area on one of our properties in conjunction with Npca. We actually have many other areas we are willing to reforest which should benefit society as a whole. My concern is that non landowners will have a disproportionate input on what we should/could do on our private lands. Many people I know in the urban areas (friends / relatives) are all in favour of conservation and forestry restrictions as long as it doesn't affect them. If people have a tree in town that shades their pool, drops maple keys etc, the reaction is to want it removed. I guess in short,I am just pointing out the hypocrisy.
383	You cannot protect Niagara's remaining woodlands over time if you continue to allow the destruction of the understory. Find a way to prevent this. The exemptions and loopholes that allow the destruction of the remnants of forest that remain in Niagara ensure that we will continue to lose our valuable green infrastructure at a time when the Global Warming crisis and the extinction crisis makes them evermore important. What the Woodland bylaw cannot do, the Region must through the designation of a Natural Heritage System. The Region, whether on its own or through partnership and funding to the NPCA and community groups, must also get serious about restoring tree canopy and improving biodiversity throughout the region through tree planting, grants, tree giveaways, buying land, promoting the planting of native species by Regional residents — whatever it takes. While I appreciate the work of the staff on the Woodland Bylaw Review, I don't think there is anything in it that will save an addi <a href="#">(Read More)</a>
389	Trees in residential addresses that have wildly grown due to lack of property maintenance and affect fences and neighboring properties need to be addressed. Bylaws in place for tall grass but not for invasive trees on properties.
395	Why is brush hogging, mowing or destruction of the understory or shrubbery edge good forestry. It should not be allowed as it destroys biodiversity, prevents forest regeneration and changes the habitat that the plants and animals depend on that already live there. "Property maintenance" of this type should not be allowed and certainly should not be allowed while development is being considered or pursued as it disrupts the natural environment before studies such as breeding birds or botanical surveys can be completed. Enforcement has not been happening and forests have been losing canopy cover and or resilience. Forests have been cleared by landowners after being decimated by Emerald Ash Borer . These decimated Ash forests should be protected and allowed to regenerate.
398	If it is the Regions' goal to increase forest cover in Niagara, but a particular Municipality supports a foreign developer who keeps violating our provincial policies by negligently bulldozing substantial Forest cover when no one is looking, without any authorization to destroy protected wetlands and woodlands, how does the Region plan to support their important goal? How can forest cover be increased when rogue developers understand there will be little to no consequences for their actions, when they enjoy the full support of a Municipality that is complicit in their continued disrespect for our Forest and our laws? Lots of work to do to address this ongoing affront to Niagara's natural heritage. I hope you find the correct solution. Niagara's Forests deserve to be protected, not sold off to demonstrably inept rogue foreign developers. With regards to adequate by-laws, punishment needs to fit the crime.
400	I responded to question about soil remediation based on the assumption that a forested area is self-remediating and that removing those trees would be a greater disturbance to the local ecosystem at that stage.

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This is a report for "Woodland By-law Review" (Survey #50069742)

Woodland By-law Update  
Questions/Comments & Responses Summary Table

ID #	Question/Comment	Response
Regulated Woodlands versus Other Woodlands		
1	Will the by-law affect or regulate small groupings of trees (e.g., 10 m <sup>2</sup> ) on private property?	<p>No, as per the <i>Municipal Act</i>, the Region only has the right to regulate trees in woodlands 1 hectare (2.47 acres) or more in size. Woodlots less than 1 hectare are the responsibility of the local municipality. Five local municipalities (Grimsby, Niagara-on-the-Lake, Niagara Falls, St. Catharines and West Lincoln) have currently delegated their responsibility for woodlots less than 1 hectare to the Region, but small groupings of single trees do not meet the definition of “woodland” as defined in the <i>Forestry Act</i>.</p> <p>Local municipalities also have the ability to enact local woodland by-laws as well as private tree by-laws. However, the Region does not have the ability to enact private tree by-laws.</p>
2	Will this affect my woodland, sized about 10-12 acres?	<p>Yes, private woodlands greater than 1 hectare in size (about 2.5 acres) are subject to the by-law. Woodlands less than 1 hectare in size are also subject to the by-law in five of the Region’s 12 local area municipalities where the municipality has delegated authority to the Region for smaller woodlands (Grimsby, Niagara-on-the-Lake, Niagara Falls, St. Catharines and West Lincoln). This means that as a private landowner, you are not allowed to clear your woodland without permission under the Planning Act. If you would like to remove multiple single trees to improve the health of the woodland (for example, to help combat the spread of Emerald Ash Borer), you will likely require a Good Forestry Practices permit. There are also exemptions identified in the by-law, including an exemption that permits landowners to remove dead or hazard (soon to be dead) trees.</p>
3	With regard to recommendations on what size woodland to regulate where authority has been delegated from the local municipality, I have concern with the small size of 0.2 ha. We don't have mature trees like other areas of the GTHA, and this size limit will restrict small lot owners. I would prefer 0.5 ha.	<p>Results of the woodland by-law survey suggest an approximately even, but slightly higher preference for a minimum regulated size threshold of 0.2 hectares (approximately 0.5 acres) as opposed to 0.5 hectares (approximately 1.2 acres). Approximately 36% of survey respondents preferred 0.2 hectares and 31% preferred 0.5 hectares, while 26% had no preference and 7% either preferred larger sizes (1 to 1000 hectares) or protections for all trees regardless of woodland size.</p> <p>The Natural Heritage Reference Manual (Ministry of Natural Resources, 2010) points to a threshold size as small as 0.2 hectares for establishing significance criteria, as is the case in some other municipalities (e.g., York Region).</p>
4	Does you plan include forests on federal land in the Niagara Region?	<p>Federal, provincial and municipal lands are exempt from the by-law as per the requirements of the <i>Municipal Act</i>.</p>
5	If a treed area is found not to be a woodland through the by-law (i.e. <i>Forestry Act</i> definition), but is mapped as an ECA under the Regional Official Plan, how will that be treated?	<p>The by-law only applies to woodlands that meet the definition of woodland as per the <i>Forestry Act</i>. Woodlands that do not meet the density requirements outlined in the Act, but do meet regional significance criteria to be designated as Environmental Conservation Area (ECA) or Environmental Protection Area (EPA), are subject to applicable Regional Official Plan policies through the development application process.</p>
6	What is the connection between the woodland by-law and the Region’s Official Plan? I would like to see more consistency.	<p>Yes, there is inconsistency between the Regional Official Plan and the by-law. According to Chapter 7 of the Regional Official Plan, a woodland must meet one or more of six criteria in order to be considered “significant woodland” – and the criteria do not include density. For example, those criteria pertain to whether the woodland contains wetlands or a watercourse, endangered species, or based on size, if it’s bigger than 2 hectares in urban areas, or 4 hectares outside urban areas north of the escarpment, or 10 hectares south of the escarpment. If it meets any one of these criteria, Official Plan policies apply. However, those policies are only triggered when a Planning Application is required, so for example, a new subdivision, or if a landowner wants to rezone or sever off a part of their property. Typically, the completion of an Environmental Impact Study is required if there is development proposed within 50 metres of Significant Woodland.</p>

ID #	Question/Comment	Response
		<p>The Region is currently working on updating the woodland mapping and associated policies as part of the new Regional Official Plan work. Interested stakeholders and members of the public are encouraged to get involved in that process. More information is available on the <a href="https://www.niagararegion.ca/official-plan/default.aspx">Region's website</a> at: <a href="https://www.niagararegion.ca/official-plan/default.aspx">https://www.niagararegion.ca/official-plan/default.aspx</a>.</p> <p>Although we are striving to be as consistent as possible between the by-law and the Regional Official Plan, this may not be possible. The primary reason for this is that the Municipal Act requires the by-law to use the Forestry Act definition for a woodland, whereas the Official Plan relied more heavily on other methodologies for identifying a woodland (e.g., Ecological Land Classification methodology).</p>
7	Can separate/more protections be included in the by-law for Provincially Significant Woodlands which, as part of a Natural Heritage System (and EPA/ECA) are intricately tied to the ecosystem and biodiversity of the area?	<p>More protections for Significant Woodlands or Environmental Conservation Areas (ECA) as defined in the existing Regional Official Plan was originally one of the key goals of the by-law update. However, through the background review process, it has been determined that in order for the by-law to apply, a woodlot must meet the tree density requirements as outlined in the <i>Forestry Act</i>. If the woodlot is not large enough or does not contain enough live trees to meet the definition of “woodland” as per the Act, the by-law does not apply. This determination is made by the Regional Forester.</p> <p>For clarification, there is no such thing as “Provincially Significant Woodlands”. Rather, there are “Provincially Significant Wetlands” (PSWs), identified by the Province using provincial criteria, which are considered Environmental Protection Areas (EPA) as per the Regional Official Plan. Development or site alteration is generally not permitted within EPAs.</p>
8	There was an error in the tree workshop presentation. It was stated that there are no provincially significant woodlands. This is an error. These were determined by the Niagara Region using provincial criteria, which are laid out carefully in the Ministry of Natural Resources and Forestry's Natural Heritage Implementation Guidelines. These lands are identical to the Niagara Regional Official Plan's Environmental Conservation Areas. Participants should be emailed to correct this error. To further substantiate my view of Provincially Significant Woodlands, please go to the Lands Ontario [mapping]. The mapping is identical to the Environmental Conservation Areas identified in the Niagara Regional Plan.	<p>The Province does map woodlands that can be used by municipalities as a starting point for identifying “Significant Woodlands” within their jurisdiction. However, this mapping is not the only thing used by municipalities to identify significant woodlands. Rather, they are identified by the municipality using regional criteria as informed by provincial guidelines.</p> <ul style="list-style-type: none"> <li>• The Regional Official Plan does not refer to any woodlands as “provincially significant”, as this is specific terminology with specific classification requirements.</li> <li>• For Woodland, the Region uses ‘significant’ as woodlands are identified using regionally developed criteria that were <i>informed</i> by provincial guidelines. <ul style="list-style-type: none"> <li>○ The Province provides Municipalities multiple documents that provide criteria for determining significance of woodlands.</li> <li>○ In Niagara, the ‘<i>Natural Heritage Reference Manual</i>’ and ‘<i>Technical Definitions and Criteria for Key Natural Heritage Features in the NHS of the Protected Countryside Area</i>’ can be used for developing a criterion for significance.</li> </ul> </li> <li>• For Wetlands the Region uses ‘provincially significant’ as wetlands are identified by the province using provincial criteria. <ul style="list-style-type: none"> <li>○ Provincially significant wetland mapping is provided to the Region by the Province.</li> </ul> </li> <li>• Although most significant woodlands in the Region are in the Environmental Conservation Area (ECA) designation, significant woodlands in the Greenbelt Plan Natural Heritage System are in an Environmental Protection Area (EPA) designation. The ECA/EPA designations are specific to the Regional Official Plan, and not a requirement of the Province.</li> </ul>
9	The Provincial Ministry has identified certain areas as Heritage Woodlands. How does the by-law protect these provincially designated resources?	<p>The Province does not identify “Heritage Woodlands”. Rather, Significant Woodlands are considered a “key natural heritage feature” within the Provincial Natural Heritage System and applicable provincial natural heritage policies apply. The by-law can only regulate woodlands that meet the definition of woodland as per the <i>Forestry Act</i>.</p>
10	What about woodlands composed on mostly non-native species, like plantations of black locust, Norway spruce, red spruce, red poplar. Will these be protected under the by-law?	<p>Plantations are typically composed of mostly Scots Pine, White Pine, or a combination of Walnut and White Pine. Plantations that are not actively managed eventually transition to woodland, and the by-law will apply – regardless of species composition – if the woodland meets the tree density requirements outlined in the <i>Forestry Act</i>.</p>

ID #	Question/Comment	Response
11	Will there be specific terminology to exclude certain species from protection under the by-law?	It is not currently anticipated that certain species (e.g., invasive or non-native species) will be excluded from the by-law. Buckthorn for example, is an invasive species that rarely reaches the height considered to be a tree (1.37 metres at breast height). Therefore, buckthorn is not considered a tree under the by-law.
<b>Woodland Assessment</b>		
12	Who and how does someone decide upon an area to be measured to determine if it is a "woodlot" under the by-law? For instance, the density would be affected if a less-dense greater area is measured, rather than a smaller more dense area for the same site. A few stray trees could affect the area to be measured.	The Regional Forester is responsible for administration of the by-law and conducts forest sampling to determine tree density. Foresters are trained to conduct sampling using various methods. The fixed-area plot method is the ideal way to collect tree density.
13	There should be clarification in the by-law on who is qualified to evaluate woodlands (i.e. biologist and forester). There also needs to be clarification on what would be included towards calculating density of a woodlot. The <i>Forestry Act</i> definition is problematic because it can lead to using saplings, especially non-native, towards density calculations. Ecologically speaking, this would be a thicket. I would like qualification or exemption for this scenario (i.e. only saplings at a height of 5 m would count).	<p>The Regional Forester is responsible for administration of the by-law, including forest sampling to determine tree density and whether a woodlot meets the <i>Forestry Act</i> definition of "woodland". Biologists or ecologists are responsible for determination of woodland "significance" through the development approvals process.</p> <p>The <i>Municipal Act</i> requires that the by-law use the <i>Forestry Act</i> definition of woodland, which includes trees of any size, as long as they can be measured at "breast height" which is considered 1.37 metres (just under 5 feet) in height.</p>
14	The definitions in the by-law need to be refined (i.e. using woody plant height for physiological maturity is open to interpretation, and many species of hawthorns may meet this definition compared to sexual maturity). There should be an exemption for shrubs, but the by-law doesn't specify that and shrubs aren't defined (i.e. hedge row - is it 20 m from drip line, space of stem, etc.).	<p>The <i>Municipal Act</i> requires that the by-law use the <i>Forestry Act</i> definition of woodland, which includes trees of any size, as long as they can be measured at "breast height" which is considered 1.37 metres (just under 5 feet) in height.</p> <p>The definition of hedgerow has been included and clarifies that measurements shall be taken from the dripline.</p>
15	In cases where a forest has been infested with emerald ash borer, but then the ash trees miraculously come back to life after being dead, will these trees count as dead or alive when calculating density plots?	If during the time a density count is being conducted and there is an ash stump with live sprouts on it and they are greater than 1.37 meters in height, then yes, it would be counted in the density plot. Epicormic branching (or "suckers" that emerge from dormant buds along the trunk or branches) does not count.
16	Regarding density, is there any opportunity to recognize a forest as a woodland where it is in transition (e.g. forest which has a high percentage of (now) dead ash which will increase density over time)?	The determination/recognition of a woodland through the by-law is based on what exists there at the time of inventory, not projections of its future forest condition.



ID #	Question/Comment	Response
17	Be clear on the methodology for determining density and whether a feature meets the <i>Forestry Act</i> definition of woodland. Dan's process of using plots is good – other municipalities use assessment methodologies that are not reproducible (i.e., counting whole woodland). Representative sample plots are supported.	The methodology for determining density is not defined in the <i>Forestry Act</i> . However, the Regional Forester uses sample plots or “fixed area cruising” as per the recommendations of the <a href="https://www.ontariowoodlot.com/publications-and-links/owa-publications/woodland-notes/the-art-of-timber-cruising-part-ii-fixed-area-plots">Ontario Woodlot Association</a> found here: <a href="https://www.ontariowoodlot.com/publications-and-links/owa-publications/woodland-notes/the-art-of-timber-cruising-part-ii-fixed-area-plots">https://www.ontariowoodlot.com/publications-and-links/owa-publications/woodland-notes/the-art-of-timber-cruising-part-ii-fixed-area-plots</a> .
18	Is there an appeal process for whether something is considered a woodland?	An appeal cannot be made by the general public. However, the landowner could call into question the Regional Forester's determination of tree density by hiring their own experts qualified to measure/sample tree density. This might occur when there is a by-law violation and the owner is disputing the charges.
19	Is there a database on woodlands?	Yes, Significant Woodlands are mapped as per the Regional Official Plan. This database includes approximate size and the criteria for which the woodland was originally identified as “significant”. This mapping is currently being updated as part of the new Regional Official Plan using a combination of aerial photo interpretation and sample field verification.
20	Can we not use Google Earth mapping to identify protected woodlands across the Region, rather than the ad hoc means by one individual as is the current practice?	Woodland density cannot be determined using Google Earth. Identification of woodland density requires field assessment. As part of the new Regional Official Plan, updated Ecological Land Classification (ELC) mapping is being prepared using a combination of aerial photo interpretation and sample field verification.
<b>Woodland By-law Scope</b>		
21	If a tree or small group of trees on private property could be cut because the by-law doesn't apply, how does the <i>Endangered Species Act</i> factor into the removal process?	Trees listed as endangered such Butternut or Eastern Flowering Dogwood for example, are protected under the provincial <i>Endangered Species Act</i> . A landowner must get permission from the Ministry of Environment, Conservation and Parks (MECP) before disturbing or removing an endangered species. If appropriate permissions are not obtained, the landowner could be charged by the Province under the <i>Endangered Species Act</i> .
22	Can a site alteration by-law regulate smaller groups of trees on private property?	The <i>Municipal Act</i> section 142(2) delegates the authority to local municipalities to prohibit or regulate what would typically be the subject of site alteration by-laws (e.g., placing/dumping of fill, removal of topsoil, alteration of the grade of the land)
23	At the March meeting it was stated that owners of woodlands are being allowed to remove underbrush to maintain woodlands “in a more park-like” setting. The concern is that if this continues to be allowed, no woodlands will eventually qualify as woodlands as older trees die and new trees are not allowed to grow. Will this practice continue to be allowed under the new by-law?	Removing the understory is certainly not a good forestry practice as it eliminates new growth/young regeneration. Known instances where this happens will continue to be inspected to determine if the understory tree removal reduces the tree density below the minimum levels to be considered a woodland under the by-law. If there is no compliance issue with the residual tree density, the owner cannot be charged under the by-law, but will still be made aware that it is not a recommended forest practice.  It is also important to note that the size of the area disturbed must meet the area requirements to be covered under the by-law. For example, a 0.5 hectare treed area in Welland is not regulated under the by-law because it is less than 1 hectare in size and Welland has not delegated authority to the Region for woodlands less than 1 hectare.
24	My concerns focus on the critical importance of woodlands to the ‘water cycle’; providing habitat for wildlife, several of which are classed as endangered; and especially on the role of woodlands in climate change mitigation. The US	Increasing our urban tree canopy and the percentage of land area in forest or wetland cover is an important aspect of climate change mitigation. The purpose of the by-law is to prohibit or regulate the harvesting, destruction or injuring of trees in woodlands. Several existing Regional Official Plan policies also speak to this requirement (see below). In addition, Niagara Region is currently working on a new Regional Official Plan, including updated policies that address natural heritage and water resource systems protection.

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	Forestry Service estimated the value of free services provided by a tree as approximately \$57,000 (\$65,000 Canadian?). Several countries, including Canada, have worked on strategies for planting millions of trees to combat the worst effects of climate change. Scientists tell us we have just ten years to stop the increase of atmospheric carbon. How do we preserve the health and viability of the forests we already have and expand them to meet the threat posed by climate change?	
25	<p>The Project Scope (PDS 13-2019 - March 20, 2019) states:            “In addition, recent changes to the Municipal Act (more particularly section 270 which introduced the <u>requirement for municipalities to adopt a policy addressing the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality</u>) warrant consideration through a review of comparator municipalities.”</p> <p>I raised this question as well at the PIC and the presenter advised they did not have an answer and would respond to me later.</p> <p>As well, the Region is a leader in setting the standard for municipalities on protecting our Natural Environment and enabling policies for climate change resiliency. One of the goals of the Region’s OP is to achieve a target of 30% forest cover/wetland.</p> <p><b>Question:</b>            How does the by-law address Section 270 (1) 7 of the <i>Municipal Act</i> (implemented under Bill 68) where municipalities must demonstrate how they will protect the tree canopy?</p>	<p>The by-law currently prohibits or regulates the harvesting, destruction or injuring of trees in woodlands in the Regional Municipality of Niagara. Policies for the protection and enhancement of the tree canopy and vegetative cover are more appropriately defined in the Regional Official Plan. Several existing Regional Official Plan policies also speak to this requirement:</p> <p>7.A.1.1 The Region shall support efforts to achieve...30% of the land area in the Region in forest cover or wetland...</p> <p>7.A.1.2 The Region shall support the efforts of landowners to maintain and improve ecosystem health by:</p> <ul style="list-style-type: none"> <li>a) Promoting good forestry practices and development of Woodland Management Plans;</li> <li>b) Encouraging and supporting natural heritage conservation and restoration, including the planting of native vegetation; and</li> <li>c) Maintaining and implementing a Regional Forest Conservation By-law regulating harvesting, destruction or injuring of trees in woodlands...</li> </ul> <p>7.A.1.3 Local municipalities shall be encouraged to:</p> <ul style="list-style-type: none"> <li>a) Adopt by-laws protecting trees and woodlands not covered by the Regional Forest Conservation By-law or delegate their authority to the Region;</li> <li>b) Require preparation and implementation of Tree Saving Plans for new development, if needed; and</li> <li>c) Integrate natural features and natural vegetation, including the planting of native species, into development.</li> </ul> <p>In addition, Niagara Region is currently working on a new Regional Official Plan, including updated policies that address natural heritage and water resource systems protection. Interested stakeholders and members of the public are encouraged to get involved in that process. More information is available on the <a href="https://www.niagararegion.ca/official-plan/default.aspx">Region’s website</a> at: <a href="https://www.niagararegion.ca/official-plan/default.aspx">https://www.niagararegion.ca/official-plan/default.aspx</a>.</p>
26	Who is responsible for drafting the policy?	Niagara Region is currently working on a new Regional Official Plan, including updated policies that address natural heritage and water resource systems protection. Interested stakeholders and members of the public are encouraged to get involved in that process. More information is available on the <a href="https://www.niagararegion.ca/official-plan/default.aspx">Region’s website</a> at: <a href="https://www.niagararegion.ca/official-plan/default.aspx">https://www.niagararegion.ca/official-plan/default.aspx</a>
27	Can “enhancement” of the tree canopy policies be implemented and incorporated into this By-law?	Enhancement of tree canopy policies will need to be evaluated outside of the Woodland Bylaw, due to the limitations and parameters of the bylaw identified in the Municipal Act.

ID #	Question/Comment	Response
28	How does this By-law support the Region's target of 30% forest cover/wetland?	Recognizing that preserving existing forest cover is critical to achieving the Region's target of 30% forest cover, this by-law serves as a deterrent to the illegal removal of woodlands and is one tool to support the baseline so that reforestation efforts increase rather than replace removed forest cover. The bylaw also contains tools and mechanisms that support replanting where forest cover has been removed illegally.
29	<p>Woodlands protected through the Planning Act process are identified as Environmental Conservation Areas (significant woodlands). Not all of these areas are mapped under the Niagara Regional Official Plan. The Tree and Forest Conservation By-law overrides mapping to ensure woodlands that meet the criteria may be protected.</p> <p><b>Question:</b> What is the Region doing to ensure that mapping of Woodland (woodlots) meeting the Forestry Act and Woodland Conservation By-law are aligned with the Regional OP?</p>	As part of the new Regional Official Plan, updated Ecological Land Classification (ELC) mapping is being prepared using a combination of aerial photo interpretation and sample field verification. This will identify all wooded areas; then further desktop assessment will be undertaken to identify those areas that meet one or significance criteria. However, woodland density – and by extension whether the woodland by-law would apply – cannot be accurately determined via a desktop exercise. Identification of woodland density requires field assessment, which is why the by-law may not align with even the new Regional Official Plan mapping.
30	How recent and up-to-date is the Woodlands (and Wetlands) inventory mapping?	<p>The Region's woodland mapping dates from the early 2000's and is currently being updated as part of the new Regional Official Plan, using Ecological Land Classification (ELC) mapping being prepared via a combination of aerial photo interpretation and sample field verification.</p> <p>Provincially Significant Wetland (PSW) mapping is provided to Niagara Region by the Ontario Ministry of Natural Resources and Forestry (MNRF) on a regular basis, as is Locally Significant Wetland (LSW) mapping by the Niagara Peninsula Conservation Authority (NPCA).</p>
31	Who is responsible for validating the accuracy of the mapping/Woodland determination in the event of a property owner appeal and is this addressed in the amended By-law?	The by-law has been updated to clarify that an appeal cannot be made by the general public. However, the landowner could call into question the Regional Forester's determination of tree density by hiring their own experts qualified to measure/sample tree density. This might occur when there is a by-law violation and the owner is disputing the charges.
32	<p>The definition of "Sensitive Natural Area" currently means lands that are in a woodland and within an Environmental Protection designation as defined in the Niagara Region Official Plan or within a natural area as designated in the Niagara Escarpment Plan.</p> <p>Policy 7.B.1.3 Environmental Protection Areas include provincially significant wetlands; provincially significant Life Science Areas of Natural and Scientific Interest (ANSIs); and significant habitat of threatened and endangered species. In addition, within the Greenbelt Natural Heritage System, Environmental Protection Areas also include wetlands; significant valleylands; significant woodlands;</p> <p><b>Question:</b></p>	Significant Woodlands as per Regional Official Plan policy 7.B.1.5 are automatically elevated to Environmental Protection Area (EPA) (i.e., no development or site alteration) within the Provincial Natural Heritage System (expanded to include areas outside the Greenbelt as per the 2019 Growth Plan for the Greater Golden Horseshoe). Additional protections or the elevation of woodlands to EPA status are more appropriately considered through updated Regional Official Plan policy.

ID #	Question/Comment	Response
	Where a Woodland is designated Regionally significant and retains characteristics that are provincially significant or rare, is there opportunity to add a section to the By-law to provide additional protections for these Woodlands, and to have them elevated from Environmental Conservation Areas to Environmental Protection Areas?	
33	As there are some cases where the Regional OP does not identify a significant Woodland as an EPA (as not all Woodlands are currently mapped), does the Woodland Conservation By-law take precedence?	<p>The woodland by-law takes precedence over the mapping. If a woodland is not mapped as Significant Woodland but meets density requirements, it is still subject to the by-law. Conversely, if a woodland is mapped as Significant Woodland but is found through field verification by the Regional Forester, to not meet the by-law density requirements, then the by-law cannot apply.</p> <p>Regional Official Plan policy 7.B.1.8 addresses unmapped areas with natural vegetative cover. For example, through the development review process, where woodlands or wetlands may be located on a property but are not mapped, a Constraints Analysis as outlined in the Region's Environmental Impact Study Guidelines is typically required as a first step to determine if the unmapped feature meets criteria for identification as an Environmental Conservation Area (ECA) or Environmental Protection Area (EPA).</p> <p>Simply put, in both the by-law and Regional Official Plan, the text takes precedence over any mapping that exists. If a woodland meets the definition of the by-law then the policies of the by-law apply. If a woodland meets the criteria of significance in accordance with the Regional Official Plan, then the policies of the Official Plan apply.</p>
34	Could you please explain to me how this by-law can supersede the rights given and granted by the Sovereign of all of the woods and waters laying and being to the first settler his heirs and assigns forever? How does the municipality elevate it's self above our head of state?	<p>In Ontario, municipalities are created by statute, specifically the <i>Municipal Act</i>, 2001. As provided by section 2 of the <i>Municipal Act</i>: "Municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this Act and many other Acts for the purpose of providing good government with respect to those matters."</p> <p>The Region's proposed woodland by-law will be passed in accordance with the legal authority conferred upon the Region pursuant to the <i>Municipal Act</i>. In this regard, the Region is empowered pursuant to section 11 of the <i>Municipal Act</i> to pass bylaws with respect to the "economic, social and environmental well-being of the municipality"; and more specifically, s. 135 of the Act grants the Region the specific power to prohibit or regulate the destruction or injuring of trees in woodlands designated in the by-law. Further pursuant to section 270(1)7 of the Act, the Region is required to adopt and maintain a policy regarding the manner in which the municipality will protect and enhance the tree canopy and natural vegetation within the municipality.</p>
35	The recommendation is to create a stand alone Tree Saving By-law, separate from the Woodland By-law and Regional OP. Will a Tree Saving By-law be enforceable, and under what legislation?	For clarification, there will be no separate Tree Saving "by-law". Rather, the intent is to create a separate "guideline" for the development of Tree Saving Plans. Currently, the by-law section 1.36 provides the minimum requirements for Tree Saving Plans, which are often required as a condition of development approval. In the past, these requirements have been widely interpreted, resulting in a variety of "plans" which sometimes do not meet expectations. It is anticipated that the creation of a standalone guideline or standard, to be prepared separate from the by-law as is common in most other municipalities, will alleviate the inconsistencies in Tree Saving Plans currently being prepared.
36	<p>Removal of the Tree Saving Plan (1.36) requirements from the By-law</p> <p><b>Question:</b> Who will be drafting the Tree Saving Plan as a separate policy and will it be brought to Regional Council at the same time as the draft Woodland</p>	At this time, the current or existing Tree Saving Plan definition (Section 1.36) will be removed from the body of the bylaw and included as an appendix so that it may be updated from time to time expeditiously through a report to council, but without amendment to the bylaw. The Bylaw Update report to Council will include a recommendation to direct staff to prepare updated Tree Saving Plan Requirements.

ID #	Question/Comment	Response
	Conservation By-law (as it currently forms a part of it)?	
37	By separating the Tree Saving Plan into its own policy (which in a lot of cases is directly related to a Planning Act application), how do municipalities ensure the minimum requirements are incorporated into any pre-consultation agreement and enforceable?	<p>The requirement for a Tree Saving Plan is typically required as part of the development approvals process through the <i>Planning Act</i> (Site plan, Plan of Subdivision, etc). It is helpful to have a set of Tree Saving Plan Requirements independent of the bylaw so that staff can consistently and clearly convey to applicants and their consultants the requirements for a tree saving plan, and allow staff to verify that they are reflected in application submission materials for treed areas. These plans often become incorporated into conditions of approval and are required to be implemented in agreements through the Planning Act.</p> <p>Tree Saving plans should not be confused with Environmental Impact Studies or Assessments for which there are already guidelines in effect, and which may contain a tree saving plan component.</p>
38	<p>I do appreciate that the <i>Municipal Act, 2001</i> permits municipalities to legislate "... with respect to matters within their jurisdiction...". As well, I acknowledge that the <i>Municipal Act, 2001</i> grants specific powers concerning regulation of trees. However, I ask that you please keep in mind that at all times such powers are limited to any municipality's respective jurisdiction.</p> <p>My concern is that the Region's proposed by-law fails to recognize that the powers derived from the <i>Municipal Act, 2001</i> will vary depending upon the type of land at issue. For instance, a municipality's ability to legislate pursuant to, or in accordance with, the <i>Municipal Act, 2001</i> differs in respect to Federal Crown Land, Reserve lands, and as well to land conveyed to a private landowning entity (be it individual or corporation) at different times throughout history.</p> <p>Consider the <i>Public Lands Act</i> RSO 1990, s. 58 which states:</p> <p style="padding-left: 40px;">“(3) A reservation of all timber and trees or any class or kind of tree contained in letters patent dated on or before the 1st day of April, 1869 and granting public lands disposed of under this or any other Act is void. R.S.O. 1990, c. P.43, s. 58 (3).”</p> <p>Through this section, reservations concerning trees that are contained in letters patent prior to April 1, 1869 are void. Thus, any Crown interest in those reservations which the Crown may have had since the time of issuance of the respective letters patent, are no longer, by confirmation of the Public Lands Act. Indeed, this was confirmed to me by Mr. Scott</p>	<p>Section 2 of the <i>Municipal Act, 2001</i> states “<i>Municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this Act and many other Acts for the purpose of providing good government with respect to those matters.</i>”</p> <p>The Regional Municipality of Niagara is also required to follow Federal and Provincial Legislation (Ontario). Under the <i>Constitution Act</i>, the control of land and its uses is a provincial responsibility, which is derived from the Constitutional authority of “property and civil rights”. The provincial government of Ontario has established municipalities that are empowered to control the use of land within their boundaries. Crown patents are part of a broader legal framework and any rights or obligations granted to a landowner in such patents must be considered together with the applicable statutory regime. The rights under such patents, however, do not displace otherwise validly enacted provincial legislation.</p> <p>On the day of the Virtual Open House for the Woodlands By-law Review, XXXXXX asked a very similar question to the one staff had provided a response to you on. Unfortunately, we did not verbally respond back to her question. This was an oversight on our part. Following the open house, we did respond to her question via email. All questions posed at the Open House and the Region's responses to these questions will be posted on the <a href="#">Region's website</a> next week. You will be able to view these questions and answers by following this link: <a href="https://www.niagararegion.ca/culture-and-environment/woodland-bylaw-review/default.aspx">https://www.niagararegion.ca/culture-and-environment/woodland-bylaw-review/default.aspx</a></p> <p>The Virtual Open House that was conducted was not legislatively required by the <i>Municipal Act, 2001</i> or the <i>Forestry Act</i>. The Region of Niagara is conducting public engagement on the by-law because we are soliciting feedback as part of our review process. The engagement process we are conducting goes above and beyond the Region's strict legislative requirements. Section 270 of the <i>Municipal Act</i> mandates that a municipality shall adopt and maintain policies with respect to public notice. The Act does not specify what the content of the public notice requirements should be. The Region's Public Notice policy requires public notice of any Public Meeting be published in a Newspaper or posted on the Region's website at least ten (10) days in advance. While not strictly meeting the definition of “Public Meeting”, notice of the Open House was provided on the Region's website and in local newspapers, in accordance with the Region's policy.</p> <p>Further, the proposed bylaw amendments have not yet been considered by Council or the appropriate Standing Committee. Once it is placed on the Standing Committee agenda, public notice of the committee meeting will be given and copies of the agenda along with the related staff report and draft bylaw will be available to the public on the Region's website, in accordance with the Region's Procedural By-law no.120-2010.</p>

ID #	Question/Comment	Response
	<p>Kaldeway, Ministry of Natural Resources, who wrote:</p> <p><i>"reservations of trees granted under any Act prior to April 1, 1869 are void (Section 58 of the Public Lands Act) – you would now own all trees, regardless of species."</i><sup>[1]</sup></p> <p>Mr. Kaldeway was responding to an inquiry I had made concerning land granted through letters patent. The patent I inquired about expressly grants land "together with all of the woods and waters laying and being".</p> <p>Lest you doubt that letters patent may themselves be of any force or effect, I also refer you to section 24 of the <i>Evidence Act</i>, RSO 1990 which states:</p> <p><i>"Letters patent</i> <i>24 Letters patent under the Great Seal of the United Kingdom, or of any other of Her Majesty's dominions, may be proved by the production of an exemplification thereof, or of the enrolment thereof, under the Great Seal under which such letters patent were issued, and such exemplification has the like force and effect for all purposes as the letters patent thereby exemplified or enrolled, as well against Her Majesty as against all other persons whomsoever. R.S.O. 1990, c. E.23, s. 24."</i></p> <p>Accordingly, proof of the contents of the letters patent flows from the patent itself.</p> <p>In summary, my concern about the Region's draft by-law is that it overreaches – the Municipal Act, 2001 only permits a municipality powers in respect of trees over which it has jurisdiction. It does not extend unilaterally to all trees, on all different types of land against all different types of landowners. To claim otherwise would constitute an excess of jurisdiction, elevating the Municipality's by-law over other acts of the Province of Ontario, the Federal Crown, and the Crown as it historically existed, prior to Confederation. Quite simply, the proposed by-law cannot elevate above the authority of those who</p>	

<sup>[1]</sup> See attached email of Scott Kaldeway, Ministry of Natural Resources, dated May 15, 2014, attached hereto as Appendix 1.



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	<p>may have granted trees (and land) to property owners, their heirs and assigns forever. Instead, and in my view it would be prudent that the by-law ought to first meet a jurisdiction threshold to establish whether the municipality has appropriate jurisdiction over the subject tree in question. If so, then the remainder of the by-law may apply to that particular tree. The by-law cannot be drafted so as to apply equally to all trees within a geographical area. Such a by-law would be ultra vires the municipality, necessitating a challenge and ought to be struck down.</p> <p>Lastly, I acknowledge that you invited my participation in the virtual open house held June 17th through Zoom. I was unable to attend. However, I understand that the above issue concerning the letters patent was raised during the virtual open house. Sadly, the Zoom host or facilitators ignored putting the question to the general assembly (i.e. the public) and no answer was provided or explanation given (see appendix 2 concerning the question posed at open house). Thus, the open house appears to have been far less “open” then one would expect. Accordingly, my position is that the virtual open house failed to meet the legislatively mandated requirements of transparency and access to the public pertaining to public discussion on draft by-laws. I therefore invite you to please provide an explanation as to 1. why this question was not put forward to the public, 2. why the question was left unanswered by the facilitators or authorities in attendance, and 3. how the failure to address, and at the very least raise, this question meets the Region’s obligations concerning a public forum for by-law introduction. Presently, and in my opinion, the Region’s conduct does not meet the Region’s obligations, and so even in its efforts to present this by-law, the Region is acting contrary to the legislative scheme concerning enactment of by-laws.</p> <p>Further to my above-noted concern about the apparent lack of transparency surrounding this by-law, I ask that you provide me with the following:</p>	

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	<ol style="list-style-type: none"><li>1. the background staff reports prepared in support of this by-law,</li><li>2. the notice of the public/council meeting or meetings that considered the enactment or amendment of this by-law,</li><li>3. the Agenda of each respective meeting where this by-law was considered;</li><li>4. the date the Agenda for each council meeting was made public, how it was publicized, and all attached proposed bylaw amendments or enactments, and all supporting material which accompanied these Agendas;</li><li>5. the minutes of any Council/Region meeting where this by-law was considered,</li><li>6. any public announcements involving this by-law, after being amended, passed or repealed.</li></ol> <p>Given that I am aware that at least one question was asked at the Region’s purported open house but not put the public, I also ask that you provide me with a complete list of all questions asked at the open house, including identifying those questions that were raised, but not made public or otherwise responded to during the Zoom call.</p> <p>If you disagree with any of the contents of this letter, I ask that you identify your basis of disagreement together with rationale for same.</p> <p>I look forward to hearing from you and to receipt of the aforementioned (public) documents concerning the Region’s consideration, consultation, and presentation of this draft by-law.</p>	
39	<p><b>Climate Change</b></p> <p>Under the current Purposes of the bylaw, there is no mention of “mitigating the impacts of Climate Change” or maintaining the benefits of the green infrastructure services healthy woodlands provide. I am pleased to see you are considering adding “to increase species diversity and forest health to help Niagara adapt to climate change”, however, I don’t see anything in the suggested changes to the bylaw that will help you achieve this purpose.</p>	<p>The core mandate of the By-law, to protect trees within woodlands, serves to preserve opportunities for biodiversity and forest resilience to help our communities adapt to climate change. We will be addressing more specific climate change strategies through the Regional Official Plan review.</p>



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	<b>Question 1:</b> In what way would the proposed changes to the bylaw address this proposed purpose?	
40	<b>Aesthetic Values</b> Furthermore, I submit mitigating the impacts of Climate Change or maintaining the benefits of the green infrastructure services healthy woodlands provide should be high on the list of purposes and are certainly infinitely more important than “enhancing the aesthetic values of woodlands”, in fact what does that even mean? Who is judging the aesthetics? Too often groomed and maintained landscapes are valued by humans when natural, wild spaces provide the most environmental, biodiversity, green infrastructure and climate change benefits. <b>Question 2:</b> What is meant by “aesthetic values” in this context? Is this needed as a goal?	The “aesthetic value” purpose was included in the 2009 By-law and is being considered for removal in the revised Woodland By-law.
41	<b>Allowing Understory Removal</b> This brings me to one of the greatest concerns I have that is not addressed by your proposed changes to the bylaw: currently, woodland owners are not prohibited from clearing out the understory of their woodlands. This means that they are being allowed to destroy the very biodiversity this bylaw purports to protect both in the current bylaw where it says “Supporting the objective of the Niagara Regional Official Plan to maintain, restore, and enhance the ecological health, integrity and biodiversity of the Core Natural Heritage System” or in the goals being considered in the new bylaw: <ul style="list-style-type: none"><li>• To increase species diversity and forest health to help Niagara adapt to climate change</li><li>• To help achieve the current Niagara Regional Official Plan goal for increased forest cover in Niagara</li></ul> It also means that no woodland in Niagara is protected overtime because if new trees are not allowed to grow, then as older trees die off or are removed, the woodland will lose its designation over time. I have asked questions about this at the in person public meeting and during the online meeting and have yet to receive a satisfactory answer about why this is allowed and	The Woodland By-law is limited specifically to the protection of “trees” by the Municipal Act. However, staff recognize the importance of the forest understory and will be reviewing opportunities to address this concern.

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	why the Region cannot include something in the bylaw that would not prevent this destruction. <b>Question 3:</b> Could you please explain why allowing this practice cannot be prohibited?	
42	<b>Provincial Legislation</b> Three of the stated goals of the Woodland By-law update was to: To review any changes to provincial legislation that provides Niagara Region with the power to enact/delegate the administration and enforcement of such a by-law; To review the alignment between the existing Niagara Regional Official Plan and the by-law; To review whether the by-law is able to fulfill the current objectives as outlined in the preamble of the current by-law, and any other objectives identified through the review. <b>Question 6:</b> What was the review's findings in regard to these goals?	The process is still ongoing and the findings are not fully known. The findings of the consultation and review process with regard to the goals and objectives of the By-law will be summarized in the report going to Committee and Council in the Fall.
43	As well there was another stated goal to review whether the by-law is in line with similar municipal tree and forest conservation by-laws within the Greater Golden Horseshoe and commonly accepted best practices. I would suggest the goal should be to find out whether the bylaw was not similar to others but rather meets the very highest standards of best practice. <b>Question 7:</b> Why not aim to have the best standards?	We do aim to have best management practices incorporated into the updated By-law, and as you mentioned, the review process did include a review of best practices from other upper tier municipalities.
44	<b>Replacement</b> You asked: Should Niagara Region require replacement planting or cash-in-lieu payments to be used for planting in targeted areas when trees are approved for removal under building permits or Planning Act applications? The answer is of course replacement planting should be required. No to cash in lieu because it usually gets misdirected into general revenues. Cash in lieu doesn't address the loss of canopy. The question is how do you put a good replacement plan in place. Removing a forest can only be remedied by adding new forest. Where do you do that? Who does it? How is it monitored?	Since the survey was drafted, we have consulted with the Region's Legal staff. They have advised that Section 135(7) of the Municipal Act specifies the conditions that may be imposed in relation to a permit, which include conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees. The context for the replacement plan will be for tree removal that occurs through applications under the <i>Planning Act</i> , which is an exemption specified in the current Tree and Forest Conservation By-law. We hoped to address this through the proposed By-law; however, because of legislation limitations of the By-law, we are unable to require this under the proposed By-law.

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	<p>You can't replace one on one. Replacement should be related to the canopy cover lost, for instance, the canopy of one 200-year-old oak cannot be replaced by even 10 young trees, especially since most won't survive given the harsh conditions they are usually planted in. What do you plant in lieu? Will it only be native trees? Are we planting for the future by taking climate change into effect and planting appropriate species? Are we only replanting trees of a certain DBH or are we trying to recreate what was lost by planting additional shrubs, plants etc.?</p> <p><b>Question 10:</b> What kind of replacement plan are you contemplating?</p>	
45	<p><b>Cash in Lieu</b></p> <p>Further to the question you asked about directing cash in lieu on the questionnaire. Ideally, as previously stated, there is immediate replacement planting, but if cash in lieu is allowed, it should go to purchasing woodland so that it remains as woodland, as a top priority but the Region could also do that by providing funding to the NPCA. The Region shouldn't have to buy land to preserve because it should create a Natural Heritage System and designate the land as Halton Region has done. Protecting the remnant woodlands that exist should be the Region's top priority. Following that, planting more native trees on Regional properties, and working with partners like the NPCA to plant more trees, is the next step. Identifying lands that can be reforested should be a priority. Providing grants for tree planting, as long as that's well supervised, and doing tree giveaways as well as the educational component that goes along with it.</p> <p><b>Question 11:</b> If you allow cash in lieu, how do you ensure the money is not diverted into general coffers, as it usually is, and if directed into land preservation or tree planting, how so you ensure that it is properly managed so that the goal of increasing Regional tree cover is met?</p>	<p>Since the survey was drafted, we have consulted with the Region's Legal staff. They have advised that we cannot allow cash-in-lieu payments for replacement planting that must occur as a result of an offense. With respect to the fines that may be imposed, those fines don't 'compensate' a specific department and they are divided up on a pro rata share with the lower tier municipalities based on legislated requirements.</p>
46	<p>The Project Scope (PDS 13-2019 - March 20, 2019) states one of the objectives of the review is to</p>	<p>More protections for Significant Woodlands or Environmental Conservation Areas (ECA) as defined in the existing Regional Official Plan was originally one of the key goals of the by-law update. However, through the background review process, it has been determined that in order for</p>

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	<p>“Recommend changes to bylaw as required to align with current ROP”</p> <p>On the June 17 PIC Q&amp;A, the presenters noted that the By-law “can’t fix the disconnect between the Regional OP and the By-law...”</p> <p><b>Question:</b> If the mandate was to align the By-law to be in conformity with the OP, how does this meet the objective?</p>	<p>the by-law to apply, a woodlot must meet the tree density requirements as outlined in the <i>Forestry Act</i>. Use of this definition is legislated as per the <i>Municipal Act</i> and cannot be changed. Unfortunately, there may continue to be instances where the by-law and Official Plan are not in complete alignment.</p>
47	What is the implication of not aligning the OP and the By-law with respect to definitions, administration and enforcement?	<p>Niagara Region can only lay charges or levy fines for by-law violations. Where trees or woodlots are removed that do not meet the density requirements to be defined as woodland as per the <i>Forestry Act</i>, unfortunately there is no legal recourse. This means that the by-law may not apply to all woodlands currently mapped as Significant Woodland or Environmental Conservation Area as per the Regional Official Plan. Further, dying woodlands that no longer meet by-law density requirements, due to Emerald Ash Borer for example, cannot be protected under either the by-law or existing Regional Official Plan policies. It is anticipated that the new Regional Official Plan may include new policy regarding dead trees, similar to other municipalities.</p>
48	How are property owners being informed and educated on the requirements under this By-law (before it becomes a compliance or enforcement issue)?	<p>We are currently considering what components of community outreach will be necessary to communicate changes to the updated bylaw.</p>
<b>Advisory Committee</b>		
49	<p>I have concerns about the reliance on elected officials and the removal of an advisory committee with non-elected officials on it. Given our recent political history, how is it felt prudent to further remove citizen involvement in something as important as this?</p>	<p>Having an advisory committee for by-law enforcement is very irregular. It is not required under the <i>Municipal Act</i> and no other region/county has such a committee to oversee implementation of their forest by-law. Enforcement decisions are to be made by an individual designated as a by-law enforcement officer, not by a committee.</p> <p>When enforcement of the by-law was transferred to the Niagara Peninsula Conservation Authority (NPCA) in 2008, there was an expectation of the advisory committee to discuss compliance matters, know the parties involved, and decide/vote on whether charges should be laid. This practice was ended given it is highly improper to discuss compliance matters with members of the public. Further, the issuance of Good Forestry Practice Permits does not require a committee to make decisions on whether a permit should be approved. Rather, the decision is made by an individual with the education, expertise and authority to do so. No complaints have been received by the Region or the NPCA since 2013 regarding why there were no meetings.</p> <p>The stated purpose of the advisory committee in the current by-law is to “review and provide advice on matters of tree and forest conservation as requested by the NPCA.” It is proposed that this statement will be removed and no advisory committee be required.</p>
50	<p>I am a member of the Niagara Federation of Agriculture. Prior to 2008, the Niagara Region managed the Woodland By-law and enforcement, whereby regional staff ran all meetings and invited members from the Woodlot Association, agricultural sectors and others to regular meetings. The meetings were well attended and much was</p>	<p>Thank you for your letter and suggestions. We will review your request and see how we move this forward with our review of the woodland by-law. In the meantime, I will reach out to Councilor Witteveen and see if we can use APAC as a way to discuss any issues that arise from the woodland by-law instead of having a separate advisory committee.</p>

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	<p>discussed. After 2008, the NPCA was given the administration and enforcement of the by-law, whereby things went awry. Even though the chair of the committee was an agricultural member, meetings did not run well and eventually stopped altogether. Farmers are great stewards of the forests and land as they utilize Best Management Practices. I believe that removing the Advisory Committee as a whole is wrong as the Region only heard one side of the story.</p> <p>In the best interests of the Woodland By-law, I suggest that the Niagara Region's Agricultural Policy and Action Committee (APAC) take the place of Section 11's Tree Forest Conservation By-Law Advisory Committee for advice and comment. I understand that APAC does not meeting regularly enough, however items for reference or discussion could be sent out to the committee for comment and added to the following meeting for updating.</p>	
<b>Building Permits</b>		
51	How can the potential to overharvest with building permits be eliminated?	Building permits are the responsibility of lower-tier municipalities, and as such, the woodland by-law is unable to address concerns related to the overharvest of woodlands through the building permit process. However, staff will be working with lower-tier municipalities to determine how best to enact best management practices.
52	Has the Region given thought to what the "zoning clearance" process could look like at the building permit stage? Would that be a clearance at the local level or Regional level?	Staff are having discussions with our partner lower-tier municipalities to determine what the 'zoning clearance' process would look like. Based on a review of the process being implemented by other upper-tier municipalities.
<b>Good Forestry Practice Permits</b>		
53	How many GFP permits do you typically process annually?	The Regional Forrester typically processes approximately 20 Good Forestry Practice permits per year. The Niagara Region Tree and Forest Conservation By-law Annual Reports are currently available by request. However, given the interest, these <a href="#">Annual Reports</a> will soon be made available online at: <a href="https://www.niagararegion.ca/government/bylaws/tree/default.aspx">https://www.niagararegion.ca/government/bylaws/tree/default.aspx</a> .
54	Is it possible for someone who has recently purchased property with a woodland on it to obtain a "Good Forestry Practice Permit" before 2 or 3 years?	Yes, the two-year rule is for the landowner's own use, not for Good Forestry Practices permits.
55	How much does a Good Forestry Practices permit cost?	Currently there is no charge for obtaining a Good Forestry Practices permit. However, there is a cost involved because the services of a Professional Forester are required to prepare a Forest Management Plan or Silvicultural Prescription to accompany the permit application.

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56	<p>Good Forestry Practices Permit – Common Conditions (from the Presentation/Display Materials) #12 - The landowner or the logging contractor must notify the by-law officer at the Niagara Peninsula Conservation Authority of the exact day when operations are to commence. The notification must be three (3) working days (excludes weekend days) before the commencement</p> <p><b>Question:</b> Should this be reworded with the proposed changes to show administration and enforcement fall under RMoN?</p>	Yes, the updated by-law is being updated to reflect by-law administration and enforcement by Niagara Region.
Timing Windows		
57	I suggest including conditions for removals to follow bat and bird windows, even where exemption for agricultural uses applies.	Timing windows that avoid the spring/summer breeding bird and bat active season are typically required as part of the development approvals process. Outside of the development process, Good Forestry Practices permits are subject to conditions that include no harvesting during the spring/summer breeding bird period. However, an option is provided for a qualified ecologist or biologist to conduct a “bird sweep or nest sweep” within 48 hours of the proposed tree removals. If nests are found, work within 10 metres of the tree should cease until the young of year have fledged or until the nest is determined to be inactive. If no nests are present, clearing may occur.
58	If you add restrictions for removals to follow bird and bat windows, this will be restricting to only winter removals and will hinder development.	Timing windows that avoid the spring/summer breeding bird and bat active season are typically required as part of the development approvals process. Alternatively, bird or nest sweeps may be conducted as outlined above, and acoustical bat surveys may be conducted according to protocols approved by the Ministry of Natural Resources and Forestry.
59	<p><b>Breeding Birds</b> The more restrictive provisions to protect breeding birds are welcome but ultimately futile if you are allowing the permanent removal of their breeding sites and habitat. What is the point of allowing fledglings to survive only to remove any site for them to breed/feed in subsequent years? When you destroy the habitat, you destroy the animals that live there, period. There is no other place to go. All habitat is filled to capacity. We have to stop pretending otherwise. These continuous deaths of a thousand cuts are what is decimating our songbird population and in a larger sense creating the Holocene/Anthropocene extinction.</p> <p><b>Question 4:</b> how will this bylaw protect breeding birds in the long term?</p>	The proposed by-law changes include clarifying timing windows for removals permitted under the provisions of the By-law, and are intended to better align with Federal Guidelines and the provisions of the (s.6) Migratory Birds Convention Act. One of the overall goals of the by-law is also to enhance Regional tree canopy cover, which will assist in protecting habitat for breeding birds in the long term.
Exemptions		

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60	In regards to your consideration of adding this option of allowing trees to be removed from historical areas of contamination when they are being restored to your by-law, can you please give an example of such a site?	For clarification, the proposed exemption for historically contaminated lands will allow the removal of trees from a site requiring soils remediation (cleanup) as directed by the Province. An example of such a site would be the old Cytec site in north Niagara Falls across from the Gale Centre.
61	If trees are required to be removed for remediation of a site as authorized by the Province, would an application still need to be made to the Region to complete this work?	A permit would not be required, so no application would need to be made. However, yes, the Regional Forester would still need to be made aware of the proposed work in order to ensure applicable Provincial requirements and/or authorizations are in place.
62	Further to the process of remediation involving the Province's direction, would the Region still require a professional to prepare the application, or would the owner simply need to provide the background information and Provincial direction for the Region's review and files? If formal application still required, what extra costs would need to be considered for a potential owner?	A permit would not be required, so no application would need to be made. However, the "extra costs" associated with Provincially-directed soils remediation are typically substantial. Applicable Environmental Site Assessment (ESA) reports prepared by a qualified professional and correspondence with the Ministry of Environment, Conservation and Parks (MECP) regarding the remediation requirements would be required.
63	For the contemplated exemption for contaminated land, would it be subject to Risk Management Plans, Record of Site Conditions or Certificate of Property Use?	Specifics have not yet been defined, but in cases where the Province has directed remediation based on the results of Environmental Site Assessment studies or otherwise, the intent is not to require a Record of Site Condition or Certificate of Property Use. It is anticipated that the requirement for Risk Management Plans would be determined by the Province on a site-specific basis.
64	With regard to the exception for removal of dead trees, if once dead trees are taken out, the overall density doesn't meet requirements, would it still be considered a woodland? (i.e., example of a property that was taken over by bush, which was removed, leaving 15 trees on 2 acres - would the owner have to replant to keep it as woodland?)	Dead trees are not included in the density count, thus the site would not be considered a woodland, the by-law would not apply, and the landowner would not be made to replant it. It is important not to fault a landowner for removing dead/hazardous trees if the trees were killed/infected by invasive species (e.g., Emerald Ash Borer) because the owner could not have fully prevented it. A government-funded restoration program for landowners interested in replacing the forest cover on their property would be ideal.
65	The three year "waiting period" for agricultural clearing seems excessive in cases of reclamation or return to agricultural use of former agricultural lands (e.g., vineyard establishment on overgrown former orchard). Could the revised by-law include a little more case-specific flexibility for farmers?	The 3-year waiting period was adopted in the previous by-law update to ensure tree clearing for farming was being carried out by established farmers. However, given it is restrictive on new people entering the agriculture industry (such as vineyards), the option to include site-specific flexibility will be explored.
66	Farmers who own farmland can clear - what about leased land? Would it be the landowner that could proceed with the clearing?	Yes, only a registered farmer and the owner of the farm (not tenant) may proceed with clearing farmland for agricultural purposes.
67	Through the existing by-law, there are exemptions for the removal of trees in accordance with an	There is no intention to remove that exemption – it's one of the mandatory exemptions legislated under the <i>Municipal Act</i> .

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	approved Tree Saving Plan through a <i>Planning Act</i> Application. I would just like to confirm that there is no intent to remove the exemption.	
68	<b>Optional Exemptions</b> The list of Optional Exemptions is large, and you are adding another in regard to contaminated land. Should we be removing precious forest cover in Niagara for waste disposal sites? Should we be removing dead or diseased trees if they don't pose a danger to human health or the health of other trees? Dead trees are required for biodiversity and a healthy ecosystem. Many plants, animals and fungi feed of dead and dying trees, and as they decompose, they contribute immensely to the health of the forest soil. In terms of contaminated lands, plants are often employed to help decontaminate polluted soil. Unless there is a very dangerous situation that needs to be addressed to human health or the water system, why would we need to remove woodlands to remedy contaminated soil? Given the industrial and agricultural history of Niagara, I fear that there is very little land that is not contaminated and that this will be used as an excuse to remove forest cover to prepare land for development. <b>Question 8:</b> Are all of these really required?	Some exemptions are mandated by s. 135(12) of the Municipal Act. Some exemptions (i.e. agricultural exemption) were included from previous versions of the by-law as a result of stakeholder engagement.
69	<b>Question 9:</b> How will the Region prevent abuse of the contaminated land exemption?	The contaminated lands exemption proposed to be included in the updated By-law would come from Provincial direction for remediation, and would not apply to all lands that require remediation.
<b>Violations/Penalties</b>		
70	Under the current by-law, the Region must lay charges or levy fines within six months of a violation. Can the new by-law increase this time period to 1 or 2 years?	If a wooded area is dense enough to meet the definition of woodland, then the landowner can be charged for woodland removal. Charges typically involve a fine and/or court-ordered restoration works. An increase in the time-period to lay charges was originally one of the key goals of the by-law update. However, through the background review process, it has been determined that the Region is required to stay within the 6-month statute of limitations.  As per section 76(1) of the <i>Provincial Offences Act</i> , "A proceeding shall not be commenced after the expiration of any limitation period prescribed by or under any Act for the offence or, where no limitation period is prescribed, after six months after the date on which the offence was, or is alleged to have been, committed." The <i>Municipal Act</i> does not prescribe any other specific limitation period, so section 76(1) applies and the 6-month time limit must remain. The 2-year limitation period under the <i>Limitations Act</i> that applies to other claims (not under the <i>Provincial Offences Act</i> ) unfortunately does not apply in this case.
71	Will the updated by-law address restoration requirements for woodland boundaries for portions of woodlands that are removed? For example, a	The Woodland by-law would not permit the removal of 30% of trees within a woodland unless it meets one of the identified exemption policies.



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	developer plans to develop a subject property which has a woodland (by definition) on a portion of the property. The developer proposes to remove 30% of the trees within the woodland. Trees previously protected by that 30% are now exposed, which may result in the eventual decline in the quality of the woodland. Is there a requirement by the developer to do invasive species management and/or to restore a 6-15m (just an example) strip along the boundary to prevent the deterioration of the quality of the stand?	The type of development being described would likely require a Planning Act approval, and through that process any proposed removal of woodland would require the completion of an Environmental Impact Study (EIS). If sufficient justification was provided in the EIS to remove portions of the woodland, then mitigation measures are typically required which include Edge Management Plans to prevent the deterioration of the quality of the remaining woodland.
72	When was the last time the Region prosecuted a violation under this by-law? Is it frequent?	Two violations are before the courts right now and one additional charge will be laid once the courts start intake again (currently on-hold due to the pandemic). The most recent conviction was in December 2019 involving a property in St. Catharines.  The Niagara Region Tree and Forest Conservation By-law Annual Reports summarize this information and are currently available by request. However, given the interest, these <a href="#">Annual Reports</a> will soon be made available online at: <a href="https://www.niagararegion.ca/government/bylaws/tree/default.aspx">https://www.niagararegion.ca/government/bylaws/tree/default.aspx</a> .
73	How many charges have been laid in the past 5 years?	There have been 13 charged laid in the past 12 years. Very few charges were laid from 2000-2008.
74	The NPCA had indicated that mandated restoration/remediation with regards to the first violation by GR-CAN, the developer at Thundering Waters, had been completed. However, there is no evidence of this, and requests for details of the remediation plan were not provided or acknowledged. What is the Region's role in enforcing this, as well as the second unsanctioned substantial violation that destroyed significant protected woodland, wetlands and wildlife habitat at Thundering Waters Forest? And what happens in the event of a conflict between the Region and a Municipality?	The restoration work required by the Niagara Peninsula Conservation Authority (NPCA) for the compliance matter related to borehole drilling was completed. The NPCA is responsible for enforcing violations related to wetlands under Ontario Regulation 155/06. Niagara Region has no involvement in this legislation or restoration order involving wetlands.  The Region's by-law only applies to areas considered "woodlands" as per the <i>Forestry Act</i> definition. The treed areas most recently removed at the Thundering Waters/Riverfront property did not meet the density requirements to be defined as woodland, as verified during site inspections by the Regional Forester, nor were the tree removals within the wetlands. As a result, no second violation or charge could be laid under either Ontario Regulation 155/06 or the Region's Tree and Forest Conservation By-law. Tree removals were reported to the Ministry of Environment, Conservation and Parks (MECP) for follow-up regarding any potential violations under the <i>Endangered Species Act</i> .  A lower tier municipality (e.g., City of Niagara Falls) cannot supersede the Region's authority to administer the by-law if woodlands are involved.
75	There is an obvious weakness in restoration plans in response to offences. At Thundering Waters since the violation there was no tree planting done in response to the cutting that resulted in charges under the Region's tree by-law. This was confirmed at the recent Riverfront Open House, where the ecological consultants of the developer admitted they had never been on site since the offence took place.	To clarify, there were no charges laid under the Region's Woodland By-law at the Thundering Waters property (Riverfront). The Region's by-law only applies to areas considered "woodlands" as per the <i>Forestry Act</i> definition. The treed areas most recently removed at the Thundering Waters/Riverfront property did not meet the density requirements to be defined as woodland, as verified during site inspections by the Regional Forester, nor were the tree removals within the wetlands. As a result, no violation or charge could be laid under the Region's Tree and Forest Conservation By-law.  If you have further questions about the unauthorised works in the NPCA regulated area, please contact the NPCA directly as they are investigating the issue.

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76	Regarding the term "restoration" given in answer to a question involving breaking the law. Very vague. Who will be around to evaluate that? Nice term but rather weak.	The Region's current Tree and Forest Conservation By-law is enforced by the Region's Registered Professional Forester, and the revised Woodlands By-law will also be enforced by this Professional. If there is a contravention of the By-law, the Forester and the Region's Legal Department work together to determine appropriate remedies and/or pursue charges through the Provincial Offences Court.  A Court Order requires full implementation of a reforestation prescription assigned to properties with by-law violations. The prescription is written by a Registered Professional Forester. Regular monitoring of the reforested area is done until it is considered "free growing" (i.e., young trees are mature enough to survive competing brush).
77	Did the landowner have permission to remove the woodland that came down in Niagara-on-the-Lake?	Relatively small groupings of trees are not subject to the by-law. Wooded areas that don't have enough trees to meet the definition of "woodland" as per the <i>Forestry Act</i> area also not subject to by-law. Trees were removed in Niagara-on-the-Lake, but they were not covered by the by-law. Individual trees are the responsibility of the lower tier municipality, and Niagara-on-the-Lake has a private tree by-law.
78	<b>Charges</b> It's an improvement to increase the time limit for charges to be laid from six months to two years. <b>Question 5:</b> How will you know if offences have occurred? Will you rely on citizen reports or will the Region actively monitor woodlands that fall under the bylaw?	Offences are pursued on a complaint basis. Under the Provincial Offences Act, we are not permitted to increase the timing window for pursuing charges.
79	Who is responsible for enforcement and under what authority for fines/penalties if it is not embodied within the Region's Woodland By-law (Penalties under Section 9)?	The Woodland Bylaw is currently enforced by the Region, and will continue to be. Until this point, the Regional Forester has been physically located at the NPCA, however, charges under the bylaw have always been pursued by the Region directly. Charges are pursued in the Ontario Court of Justice Provincial Offences Court under the provisions stipulated in the Municipal Act.
<b>Stakeholder Sessions and Virtual Open House</b>		
80	Who was invited to the stakeholder session on March 3?	Two stakeholder sessions were held on March 3, 2020 to solicit preliminary comments and feedback on the public open house materials in advance of the open houses previously scheduled for the end-of March. Invitees generally included local area municipal staff, environmental and agricultural group representatives, environmental consultants and local developers.
81	I went to the Niagara Region at 7 pm to try to attend this [March 3 <sup>rd</sup> ] event. Was not listed at front desk and could not locate with help of a staff person.	The meeting was at 1 pm as per the invitation you RSVP'd to. Nonetheless, there is still lots of opportunity to become involved – the presentation slides and an online survey will be posted within the next few days on the Region's website. Please also feel free to attend one of the four Public Information Centres (PICs) scheduled for March 24, 25, 30 or 31 [subsequently cancelled due to the pandemic].
82	I was looking for the slide deck that was presented during the public meeting on Tuesday, March 3 <sup>rd</sup> . Will it be posted soon or can I be emailed a copy?	The <a href="https://www.niagararegion.ca/culture-and-environment/woodland-bylaw-review/default.aspx">presentation slides</a> are available on the project website (https://www.niagararegion.ca/culture-and-environment/woodland-bylaw-review/default.aspx) and were again presented during the virtual public open house on June 17, 2020.
83	Were the Public Information Centre sessions cancelled last month due to the virus controls?	Yes, the Public Information Centres (PICs) were cancelled. The cancellations were advertised on the Region's website, in local newspapers and through the Region's social media accounts. Unfortunately posting of the planned survey link has also been delayed. In the meantime, we are investigating the possibility of moving to an online format, but no decisions have yet been made. Updates regarding a new format and/or rescheduled PICs will be communicated via our website, social media, newspaper notices, and email notification to those on our contact list.
84	Is this review continuing, and if so, how can the public receive more information or provide comments? Has the deadline been extended for commenting?	The by-law review will continue [despite the pandemic and closure of facilities] but yes, the original commenting deadline was extended to June 30, 2020. If anyone has any specific questions or comments or would like further information, they are welcome to contact us through the website or via e-mail at <a href="mailto:woodlandreview@niagararegion.ca">woodlandreview@niagararegion.ca</a> .

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85	Do you have any document(s) that I could look at that would give me some guidance on what types of changes that you are considering? We have a client who has a nature trail on their property and we would like to provide some input to your process on their behalf. I see “overheads” on your website from a public meeting – is there any additional documentation?	A high-level summary of the changes being considered are summarized in the stakeholder presentation slides, pages 15-18, available on the project website (and attached). Pages 13 and 14 of the display boards available for download from <a href="#">the website</a> also explain the proposed changes. If you have any specific questions regarding your client’s property, please let us know.
86	The majority of woodlot owners is Niagara live in rural areas. Many of them are farmers and the timing of this virtual meetings may seem convenient to the organizers but for those busy doing farm chores, the time of year may not be fair timing. Also, many of these woodlot owners will not be comfortable with a zoom meeting. Please make sure that you reschedule public meetings for a later time after COVID.	<p>The timing of public meetings is inevitably always inconvenient for at least some interested individuals. A <a href="#">live recording of the presentation</a> is available for review on the project website (<a href="https://www.niagararegion.ca/culture-and-environment/woodland-by-law-review/default.aspx">https://www.niagararegion.ca/culture-and-environment/woodland-by-law-review/default.aspx</a>) and the recommendations for the by-law update will be brought forward to Regional Planning Committee, which is open to public viewing and comment. Rescheduling of the public meetings for a later time is not contemplated.</p> <p>Those on the project mailing list (who either attended the stakeholder sessions, registered for the virtual public open house or e-mailed <a href="mailto:woodlandreview@niagararegion.ca">woodlandreview@niagararegion.ca</a>) will be notified when the Committee Report and attached by-law recommendations are posted online.</p>
87	It appears then that a journalist cannot follow this open house online. Why don't you wait and hold them when we can have a little physical distancing in a real room?	<p>There was certainly no intent to block access. The link to the virtual open house was sent but it may have gone to your junk mail folder. The presentation is available for viewing on the project website or on <a href="#">YouTube</a> at: <a href="https://www.youtube.com/watch?v=HknmJ0kc6Mw">https://www.youtube.com/watch?v=HknmJ0kc6Mw</a>.</p> <p>This was the Region’s first foray into online engagement, so we’re still working through some kinks. As we move forward we’ll be looking at ways to improve the process to make sure we’re as accessible and responsive as possible.</p>
88	I sent a notification to register for this presentation but did not receive the instructions.	It appears the meeting invites/link may have automatically been directed to some junk mail folders. As Niagara Region continues to move forward with online engagement, we’ll be looking at ways to improve the process.
89	I’m interested in knowing the names of the authors and their positions at the Region who prepared the woodland by-law review, and also was it done in collaboration with NPCA and/or any additional consultants. What is the consultant’s name if in fact one was used?	The woodland by-law update is being prepared internally by Niagara Region Planning and Legal staff, in consultation with Niagara Peninsula Conservation Authority (NPCA) staff, as applicable. No consulting services are contemplated.
<b>General Comments/Feedback*</b>		
90	There should be new definitions in the by-law to ensure consistency in terms between planning documents and this by-law.	The definitions included in the by-law are being reviewed and updated as part of this process. However, it is not anticipated that all inconsistencies can be rectified through this update (e.g., the protection of Significant Woodlands as identified in the Regional Official Plan if they do not meet the Forestry Act definition of woodland).
91	Clarification on who is qualified to assess hazard trees should be included (i.e., add arborist).	“Hazard tree” has been added to the definitions with clarification that a Qualified Ontario Professional Foresters Association (OPFA) Member (i.e., Certified Arborist or Registered Professional Forester) must agree that the woodland hazard tree(s) to be removed are in fact hazardous to human health or property.
92	A major reform to the Official Plan should be to make Peer Reviews of Environmental Impact	Environmental Impact Studies (EIS) are reviewed by Regional Environmental Planning staff and Niagara Peninsula Conservation Authority (NPCA) staff as applicable, depending on the natural heritage or regulated environmental features involved. Your comment has been forwarded to the OP team for consideration.

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	Studies mandatory. Now they are at the discretion of the regional planning commissioner.	
93	I support the exemption for contaminated sites.	Acknowledged.
94	<p><b>Development Process “Protections”</b> Having been involved in reviewing and commenting on numerous development approval processes it was amusing to read that under “What Is Protected and How” that the development approval process legislated through the Planning Act is listed as one of two ways woodlands are protected. I have yet to see any environmental study completed as by the developers’ consultants that actually result in the protection of anything. Instead they catalogue all that will be destroyed and then either makes excuses why it won’t matter or suggest virtually useless mitigation measures. The truth of this is borne out by the well documented continued and accelerating losses to the Region’s natural forests, wetlands and waterways. As evidence refer to years of Watershed reports generated by the Niagara Peninsula Conservation Authority.</p> <p><b>Minimum Size</b> Tightening up of the language is good and defining the minimum size to .2 hectares is good.</p> <p><b>Administration and Enforcement</b> As up until now the NPCA has done a poor job of both administration and enforcement of the bylaw, I have no issue with the Region taking over these tasks as long as the Region has the budget, qualified staff and commitment to handle the job.</p> <p><b>Advisory Committee</b> I have no issues with removing the requirement for the Advisory Committee especially since advisory committees’ positions tend to be filled from the ranks of groups that have little interest in protecting the environment.</p> <p><b>Tree Savings Plans</b></p>	Acknowledged

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	It's an improvement that Tree Saving Plans must be prepared by a qualified member of the Ontario Professional Foresters Association or a Certified Arborist. The updates to the "Good Forestry Practices Permit" section is also appreciated.	
95	I think the existing by-law is in pretty good shape – great to see this initiative moving forward and tweaks are positive.	Acknowledged.
96	I support rewording of the by-law title to be clearer.	Acknowledged.
97	There will be added clarity in decisions if the Region takes over enforcement.	Acknowledged.
98	<p>I am an independent commentator. All the words and ideas herein contained are my own and are not meant to be reflective of any organization or committee that I may now or ever have served on. Our family farms. We have a woodland that we value highly.</p> <p>Since the beginning of Bylaws regulating woodlands Niagara Region has worked with an Advisory Committee who helped in the creation of the original circumference limit Bylaw, then a Bylaw under the Municipal Act, and an amended Bylaw to be delegated to the NPCA while at the Region. The Committee continued at the NPCA.</p> <p>At the Region the Committee was in a position of trust and responsibility. The Region provided all the information they needed to do their jobs and be helpful. The Committee was promised that if they came to work with NPCA that there would be an important role for them to play. They soon found that they were not in "Kansas anymore" as routine information including what was public was not available. The Committee rarely met and fell into disuse.</p> <p>The Bylaw process at the Region was very transparent. It was more secret at the NPCA. The NPCA did hire good Staff. He was well received in the rural and agricultural community and was easy to work with and was tough on those who</p>	<ul style="list-style-type: none"><li>• <b>The addition of an exemption to remediate contamination is good. Is a requirement to reforest being considered?</b> <i>In situations when contamination needs to be remediated we work closely with the Ministry of Environment, Conservation and Parks (MECP) to determine what the remediation will look like and what the end state of the land will be, including exploration of restoration opportunities.</i></li><li>• <b>Can the performance and conduct of Foresters be regulated in a Woodlands Bylaw?</b> <i>The professional conduct of foresters is regulated by the Professional Foresters Act (2000).</i></li><li>• <b>The exemption for hedgerows less than 20 meters wide is good. Would this apply if it was a wetland or if it is contiguous to a woodland?</b> <i>If a hedgerow is adjacent or within a wetland, there are other regulations in place to protect these features. Hedgerows that are contiguous to woodlands are evaluated on a site by site basis.</i></li><li>• <b>The Municipal Act states very clearly that the Upper Tier Municipality regulates woodlands over 1 hectare in size, Lower tier Municipalities are attempting to regulate trees in woodlands as defined using their Property Standards Bylaw and are issuing Orders under the Building Code to cut trees with no regard for the time of year or conditions in the woodland and placing time deadlines on the work that cannot be reasonably met. This can result in unnecessary damage to the woodland or the PSW that woodlands usually are. What can the Region do to prevent this inside or outside the Bylaw? Could there be something put into the Bylaw?</b> <i>As per the Municipal Act, the Region only has the ability to regulate trees in woodlands 1 hectare (2.47 acres) or more in size. Woodlots less than 1 hectare are the responsibility of the local municipality. PSWs are regulated by the NPCA. If there is something that you have observed that seems amiss, please reach out to the NPCA directly (<a href="mailto:info@npca.ca">info@npca.ca</a> or 905-788-3135).</i></li></ul>

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	<p>contravened Bylaw Requests to revive the Committee were not successful and there was real concern that pushing the issue might get a good Bylaw Officer fired. They did that a lot at the Conservation Authority.</p> <p>There is nothing irregular or unusual about an Advisory Committee in a Niagara Region Woodlands Bylaw. The contributions of a diverse group of Stakeholders have been a valuable part of the Bylaw since the beginning, could have been at the NPCA, and can be again at the Region. Why is there so much disdain and hate from Staff on this issue?</p> <p><b>Summary of Recommendations</b> Reinstate the Advisory Committee and use language that insure the Committee will meet regularly and play an important role. It is good that enforcement is returning to the Region. The Regional Forester must be a full time employee of the Region. To avoid conflict of interest the Regional Forester should be prohibited from developing Forestry Management Plans for anyone within Niagara Region. This should be stated within the Bylaw. It is good that existing exemptions are being maintained. The addition of an exemption to remediate contamination is good. Is a requirement to reforest being considered? Section 5.1.a should remain as is. This was done because there was a lack of Foresters available to write Forestry Management Plans. There is no reason to believe this has changed. Can the performance and conduct of Foresters be regulated in a Woodlands Bylaw? The exemption for hedgerows less that 20 meters wide is good. Would this apply if it was a wetland or if it is contiguous to a woodland? The name change to Woodlands Bylaw is good. Tree Savings Plans should remain within the Bylaw. The Prohibition on tree cutting during Bird and Bat</p>	

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	<p>breeding season is opposed. Breeding Birds and Bats will not be in every woodland. Trees need to be cut when conditions are good to avoid damage to the woodland. Further the Region already has the ability to place conditions on any Permit.</p> <p>The Region should not go below .5 hectares for woodlands delegated by a Lower Tier Municipality. The Municipal Act states very clearly that the Upper Tier Municipality regulates woodlands over 1 hectare in size, Lower tier Municipalities are attempting to regulate trees in woodlands as defined using their Property Standards Bylaw And are issuing Orders under the Building Code to cut trees with no regard for the time of year or conditions in the woodland and placing time deadlines on the work that cannot be reasonably met. This can result in unnecessary damage to the woodland or the PSW that woodlands usually are. What can the Region do to prevent this inside or outside the Bylaw? Could there be something put into the Bylaw?</p>	