

Comments Received on the Private Hamilton Tree and Woodland Conservation By-law (Fall 2008)

(Note that references to Sections in the By-law are based on the By-law shown in Appendix “A”).

#	Agency-Individual	Date	Comments	Staff Response	Action Taken
1.	Urban Resident	June 4, 2008	Setting a 2.5 cord cutting limit would greatly increase the amount of fuel oil we will have to use and increase our carbon footprint. How would this limit be enforced? Would I be fined if found with more than 2.5 cords in my possession? What if the wood is purchased elsewhere? What if the wood is from previous years? What if the wood is from deadfall?	The limit for wood for your own use is set at 2.5 cords <u>per hectare</u> per year. This seems to be a reasonable amount of wood to harvest for a landowner’s own use. This by-law will most likely be enforced through complaints. The intent of this section of the by-law is to ensure that landowners who harvest wood are not clear cutting sections of their woodland. Harvesting wood for own use implies that the landowner will remove individual deadfall, diseased, hazardous, and other trees throughout their woodlot using good forestry practices.	No change required.
2.	Urban Resident	June 4, 2008	The limit is totally independent on the size of the woodlot. There is no distinction made between the owner of a 2-hectare woodlot and one with a 60-hectare woodlot.	The limit is stated as 2.5 cords per hectare, so a landowner with a 60 hectare woodlot could harvest more than a landowner with a 2 hectare woodlot.	No change required.

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3.	Urban Resident	June 4, 2008	The limit makes no distinction between native and invasive tree species, nor does it take into account wood from diseased trees. There is no distinction between cultivated and naturally occurring trees.	The section on limit of own use cutting does not specify this, but the by-law does. To understand this, it is important to read the entire by-law from start to finish. Diseased trees can be removed without a permit and certain non-native species are exempted from the by-law.	No change required.
4.	Urban Resident	June 4, 2008	Will this by-law force me to go through the extra expense of hiring professional arborists or foresters to cut down Manitoba Maples? Who benefits from this by-law? The professional consultants do for sure.	Manitoba Maples (and certain other invasive, non-native species) are exempted from the by-law, so a permit is not needed to remove them. The City is enacting the by-law because it believes that it is needed to protect the City's valuable trees and forests, not to generate revenue for consultants.	No change required.
5.	Urban Resident	June 4, 2008	What ever happened to "best practices"? With amalgamation, the citizens of the new City were promised the best practices of the old communities. Just decide which (former) municipality had the best by-law and adopt it City-wide.	Staff has included the best features of each former municipal by-law in this new by-law. The intent was to capture what was important to the former municipalities and to balance urban and rural needs, which has been very challenging. Each of the by-	No change required.

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				<p>laws of the former municipalities had positive and negative aspects and all needed to be updated based on changes to the <u>Municipal Act</u>. It is not as simple as picking the best by-law; this exercise has presented an opportunity to craft a by-law that incorporates ‘best practices’ of all by-laws.</p>	
6.	Urban Resident	September 12, 2008	<p>I could not find any section in the <u>Municipal Act</u> that would allow the City to enter private property to enforce this by-law.</p>	<p>Section 436 of the <u>Municipal Act</u>, 2001 authorizes entry and is reflected in the draft by-law, as required, in ss. 37, 38, and 39.</p>	<p>No action required.</p>
7.	Urban Resident	September 12, 2008	<p>Government is too big now, why get involved in private matters? I cannot understand if a homeowner plants a tree at his expense on his own property and 20 years later, it becomes too big and a nuisance and the owner is too old to clean up the leaves, why he cannot cut it down without first obtaining approval and paying for a permit. To me this is just another tax grab. Please have the City look after public matters and leave private matters to private homeowners.</p>	<p>The City does not intend this by-law to interfere with how landowners manage their private property. In both urban and rural areas, trees and woodlands are a valuable resource which benefits the entire community. There is a by-law which regulates trees on publicly-owned property, but this only represents a portion of the trees and woodlands in Hamilton. Additional regulations are needed to protect tree cover</p>	<p>No action required.</p>

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				on private property which benefits us all.	
8.	Rural Resident	September 15, 2008	Trees are a cash crop/resource for farmers and the management of their woodlot is no-one’s business but theirs.	The City recognizes that this is an important source of income for rural landowners. It simply wants to ensure that forests are managed sustainably so they remain healthy in the future.	No action required.
9.	Rural Resident	September 15, 2008	It is easy to read between the lines and see yet another TAX GRAB being hatched on this already OVERTAXED area.	Permit fees have been set to recover staff administration costs. The City is enacting the by-law because it believes that it is needed to protect the City’s valuable trees and forests, not to generate revenue.	No action required.
10	Rural Resident	September 15, 2008	The City of Hamilton has been very negligent over the years in their own responsibility towards tree cutting. Concessions are lined with hundreds of DEAD or DYING trees that pose a clear danger to motorists, cyclists, power and communications lines and pedestrians. Clean up your own backyard and leave ours alone.	In the rural areas, Forestry staff responds on a complaint basis. There is no grid trimming program in place for rural areas. If an investigator responds to a residents' concern over a dead tree, and there is a row of trees in proximity that require attention, all of these will be addressed when a crew is on site.	No action required.

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11	Public Information Centre in Beverly	September 18, 2008	This by-law should have happened a long time ago. Trees convert CO ₂ to oxygen. The leaf area of a tree (rather than the trunk diameter) should determine whether a tree is protected or not.	Agree that tree canopy is the ‘working’ area of the tree, which provides air quality benefits. However, dbh is the standard measurement used by arborists and foresters for trees and is easier for a homeowner to measure than tree canopy.	No action required.
12	Public Information Centre in Beverly	September 18, 2008	This proposed by-law contradicts best practices identified by the province. Farmers are good stewards of the land, we do not need to be babysat.	Staff agrees that farmers are good stewards of their land. The majority of rural landowners are responsible with how they manage their forests. We know farmers plant more trees than they remove. However, by-laws are required to provide the City with recourse if a violation occurs. The proposed by-law also consolidates existing by-laws, so there is one City-wide by-law.	No action required.
13	Public Information Centre in Beverly	September 18, 2008	Can cutting down one tree in a woodland be considered a commercial harvest if the tree is sold? We must make clear what is considered a commercial harvest.	The City is not concerned with the removal of a single tree in a forest. We are more concerned with ensuring commercial harvests, which typically involve the removal of many trees, are carried out using good forestry practices.	No action required.

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14	Public Information Centre in Beverly	September 18, 2008	The City has too many by-laws; most of them are not enforced.	Generally, by-laws are enforced on a complaint basis. That does not mean that by-laws should not be enacted. Staff reports to complaints from neighbours and passers-by with respect to possible violation.	No action required.
15	Public Information Centre in Beverly	September 18, 2008	A definition of what makes a hazardous tree should be included in the by-law.	Section 8(k) indicates what a hazardous tree is.	No action required.
16	Public Information Centre in Beverly	September 18, 2008	If a professional forester has set a harvest plan, we should not need a permit to harvest. We should not have to pay to harvest our crops.	Staff assumes this is referring to the Managed Forest Tax Incentive Program (MFTIP) with the Province. MFTIP does not conflict with municipal by-laws (there is no duplication) because MFTIP is considered an overarching management plan and does not contain specific harvest plans. When the landowner is ready to harvest a woodland according to the objectives in the MFTIP plan, the municipality (not the Province) is responsible for approving these plans under their by-law.	No action required.

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17	Public Information Centre in Beverly	September 18, 2008	Section 19 of the by-law deals with Committee members. People from rural areas should comprise at least half of the committee so that farmers have their views represented.	Staff agrees that one member should be a farmer, who would understand rural issues.	Composition of Tree Permit Committee (Section 19) was changed to include the requirement that one farmer sit on the Committee.
18	Public Information Centre – Stoney Creek	September 23, 2008	Concerns with hazardous trees. If a tree is hazardous, the landowner will not want to wait for permission from the City to have it removed, because it could fall on someone or something.	Agree that this is an issue. In some cases, the removal of a hazardous tree must be done quickly. However, this was included because staff felt a need to confirm that the tree is indeed hazardous, so that this is not used as an excuse by a landowner wishing to remove a healthy tree. Staff has re-worded the exemption.	Reference in Section 8(k) to having an arborist or RPF certify that the tree is hazardous was removed.
19	Public Information Centre – downtown Hamilton	September 30, 2008	Are there any conflict resolution mechanisms in the by-law if a tree is located on a property line?	The by-law does not deal with boundary trees. The ownership of boundary trees is dealt with under s.10 of the <u>Forestry Act</u> , but there is no conflict resolution mechanism in the Act.	No action required.

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				<p>Boundary trees</p> <p><u>10. (1)</u> An owner of land may, with the consent of the owner of adjoining land, plant trees on the boundary between the two lands. 1998, c. 18, Sched. I, s. 21.</p> <p>Trees common property</p> <p><u>(2)</u> Every tree whose trunk is growing on the boundary between adjoining lands is the common property of the owners of the adjoining lands. 1998, c. 18, Sched. I, s. 21.</p> <p>Offence</p> <p><u>(3)</u> Every person who injures or destroys a tree growing on the boundary between adjoining lands without the consent of the land owners is guilty of an offence under this Act. 1998, c. 18, Sched. I, s. 21.</p>	

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20	Public Information Centre – downtown Hamilton	September 30, 2008	Would a circulation to neighbours be required when someone applied for a permit to remove a tree?	No circulation is required.	No action required.
21	Public Information Centre – downtown Hamilton	September 30, 2008	Public education is needed for residents, arborists, and foresters when the by-law is passed.	Agreed. The City should develop workshops, brochures, and web site information.	In the future, staff will develop a strategy to publicize the by-law.
22	Public Information Centre - Dundas	October 2, 2008	40 cm trees are too small to protect; we should be regulating the larger ones.	Staff believes that a 40 cm dbh tree is a sizable tree, with a well-established canopy that should be protected.	No action required.
23	Public Information Centre – Dundas	October 2, 2008	All trees should be regulated, even those under 40 cm. You are protecting large trees but not small ones; we should be protecting the small ones.	Many landowners want the ability to manage trees on their property and regulating very small trees would unduly restrict them. It is larger trees which have the well-established canopy which, if they were removed, would most affect community aesthetics and health.	No action required.

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24	Public Information Centre – Dundas	October 2, 2008	I would suggest the by-law defines what constitutes an orchard in the rural area.	An orchard is generally recognized as a group of cultivated fruit trees. These are exempt in rural areas (not included in the definition of a ‘woodland’). However, individual fruit trees which attain the minimum dbh would be regulated in the urban area.	No action required.
25	Public Information Centre - Dundas	October 2, 2008	Is there any way to notify neighbours before issuance of a permit?	No circulation is required to notify neighbours before a tree is going to be cut.	No action required.
26	Rural Resident	October 7, 2008	Concerned about government regulation of private property owners. Although the by-law had flexibility to address landowners’ reasons for removing a healthy tree, I am concerned that enforcement staff would not be flexible, use no discretion or common sense when enforcing the by-law (i.e. the tree is healthy so you can’t cut it down, even though there may be other considerations, such as too close to a fence, ugly tree).	These situations will be assessed individually. Enforcement officers will consider the homeowner’s circumstances when determining whether to issue a permit.	No change required.
27	Municipal Heritage Committee	October 23, 2008	The exemption for trees within 7 metres of the edge of an occupied building should be reduced.	Agreed. The distance from the edge of the building will be 3 metres, to account for smaller lot sizes.	Section 8(m) was revised to state: “the injuring or

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					destruction of a tree with its trunk or trunks entirely located within 3 metres of the outer edge of an occupied building.
28	Municipal Heritage Committee	October 23, 2008	Concerned that utilities can cut trees along the street without any notification to landowners.	Trimming and cutting trees by utility companies is exempt from the by-law and is done for safety reasons.	No action required.
29	Rural Resident	October 24, 2008	Ordinary residential properties should be excluded from this by-law, to allow homeowners the ability to plant and remove trees as they see fit, without interference and unnecessary cost to them. An ordinary residential property might be considered one acre or less in size.	Staff does not agree that the by-law should regulate trees growing on properties of a certain size. This has no relationship to the ecological value of the trees or woodlands and is not a fair way of implementing the by-law.	No action required.
30	Rural Resident	October 24, 2008	I have spoken with more of my neighbours. They also feel that this tree cutting by-law is unnecessary.	Tree cutting by-laws are needed because they provide a means for the City to protect and replant trees. Staff agrees that the majority of Hamilton residents are very responsible with the trees on their property.	No action required.

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31	Rural Resident	October 24, 2008	By the way, they had no knowledge of this new by-law. (Democratic?)	Four Public Open Houses were held on September 18, 23, 30, and October 2, 2008. They were advertised in the Spectator, and local papers. A notice was also posted on the City of Hamilton’s web site. This is the standard notification method for Open Houses.	No action required.
32	Councillor	October 29, 2008	I would like to see urban trees protected with a 12 inch (30 cm) dbh as is the case in Toronto.	Staff believes that a 16 inch (40 cm) dbh tree is a reasonable size to regulate because it balances tree protection, landowner rights for managing the trees on their property, and enforcement requirements.	No change required.
33	Councillor	October 29, 2008	I believe that some non-native trees should be protected where they perform a valuable tree canopy function in the city (i.e. Norway Maples).	Staff agrees that Norway Maples and other exotics do perform valuable functions in the urban area. However, they are also highly invasive in natural areas, short-lived, and susceptible to disease. Staff recommends that Norway Maples remain an unregulated species.	No change required.

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34	Councillor	October 29, 2008	It seems that rural “heritage” or “specimen” trees remain unprotected – they should have protection as they do in the City.	Agree that there is a slight gap in the by-law relating to heritage tree protection. To protect heritage trees, they must be identified. This will require that staff develop (through research and public consultation) criteria for identifying heritage trees. It may also involve compiling a list of heritage trees in Hamilton. Since this process is expected to take some time (at least one year), staff propose that this by-law proceed through the approval process without the heritage tree component, so that tree protection is in place and the by-law is not delayed. Staff will begin the process of identifying heritage trees later. This section will be added to the by-law when it is completed.	No change required at this time. Starting in 2010, staff will prepare criteria for identifying heritage trees. The by-law can then be revised to include additional protection for heritage trees when this process is complete.
35	Councillor	October 29, 2008	I would suggest that the City, utilities, etc only be exempted when there are emergency reasons for moving quickly; otherwise, they should be subject to the by-law like everyone else; too often we exempt ourselves from our own rules.	Generally, the City and utilities follow the requirements of the by-law. This exemption is standard. The exemptions for the municipality and electrical utility are mandated by statute – s. 135(12)(a) and (f) of the	No change required.

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				<p><u>Municipal Act</u>, 2001. With respect to utilities generally, 8(g) of the draft by-law is limited to “constructing or maintaining the public utility”.</p>	
36	Staff meeting	October 30, 2008	Is the by-law applicable law for building permits?	<p>No, the by-law is not applicable law, and a building permit cannot be refused on the basis that the proposed building, construction, or demolition would contravene the by-law. However, the legal requirements of the by-law still have to be met. If trees are protected by means of a Tree Protection Plan that forms part of a site plan, then approval of the Tree Protection Plan would be applicable law.</p>	No action required.
37	Staff meeting	October 30, 2008	What about trees that are causing problems with house structure or services – will people be allowed to remove these? Shouldn't the City allow people to remove trees if they are impacting infrastructure?	<p>These situations will be assessed individually. Enforcement officers will consider the homeowner's circumstances when considering whether to issue a permit. A landowner can appeal a decision of the enforcement officer and Section 27 (b) and (c) allows consideration of</p>	No change required.

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				“unusual hardship of the owner” and “circumstances and facts raised by the evidence of the parties”.	
38	Staff meeting	October 30, 2008	Issue of trees growing on one person’s property and overhanging another neighbour’s. Landowner who owns tree does not want to prune it. Neighbour wants tree trimmed and landowner does not.	The by-law does not regulate this situation. This is a civil matter between the two neighbours.	No action required.
39	Dundas Valley Tree Keepers	October 31, 2008	We feel the 40 cm dbh should be decreased to 20 cm dbh. Other factors need to be taken into account, for instance, the total height of the tree in question.	Staff feels 20 cm is too small to regulate. It is too restrictive for landowners who wish to manage their trees and will require substantial increases to staff resources to process permits. Accordingly, 40 cm dbh standard should be retained.	No action required.
40	Dundas Valley Tree Keepers	October 31, 2008	There are some native species that should require a permit regardless of diameter, for example, cucumber trees.	These native species are already protected through the new <u>Endangered Species Act</u> (2007), which requires that the Minister of Natural Resources issue a permit if any landowner proposes to remove a rare tree of any size. The City does not wish to duplicate this process. Also, Section 15(b) of the draft	No action required.

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				by-law allows the City to not issue a permit if a tree is a locally rare species. Staff believes rare trees are adequately protected through the <u>Endangered Species Act, 2007</u> and the by-law.	
41	Dundas Valley Tree Keepers	October 31, 2008	Under the list of exemptions, section 2c (ii), we would like the list expanded to include invasive trees, such as tree of heaven. As well, the species of poplar may need to be re-defined as some poplars are invasive and others are not – invasive hybrids should be exempt but not native species such as Bigtooth Aspen, Eastern Cottonwood and Trembling Aspen.	Staff agrees that many species of native willows and poplars should be protected. Native poplar and willow trees are important parts of successional and riparian habitats.	Section 2(c) (ii) changed to remove willow and poplar species, and added Tree of Heaven (<i>Ailanthus altissima</i>) which is considered a problem invasive species in Hamilton.
42	Dundas Valley Tree Keepers	October 31, 2008	We want to see the creation of a “heritage trees” definition. The Dundas Tree by-law covers trees that have “individual significance” as well as those that “contribute to flood and erosion control” and includes a criterion for “general desirability” of the tree. Perhaps	Staff agrees that heritage trees are an important aspect of any tree by-law and should be protected. Originally, staff had hoped that the blanket regulation of 40 cm dbh trees in the urban area would protect	No change required at this time. Starting in 2010, staff will prepare criteria for identifying

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			some or all of these elements can be incorporated into the draft by-law.	heritage trees. There are some gaps in the by-law application (i.e. rural heritage trees, urban trees that may be important to the community, but are less than 40 cm dbh). To resolve this, staff proposes to develop a list of specific heritage trees in the future. This list can be revised from time to time.	heritage trees and will revise the by-law to include additional protection for heritage trees when this process is complete.
43	Dundas Valley Tree Keepers	October 31, 2008	Expanding the definition of the “exemptions – not requiring a permit”. For example, if a septic tank needs to be installed, this could be exempted from the by-law. Also, under the same heading, 8(n), trees located 7 metres from an occupied building. We feel that this distance is quite large, especially given the small size of many front yards and suggest decreasing the length to 4 metres.	<p>Staff does not consider this an issue, as septic tanks are mostly installed in the rural area, where individual trees are not regulated.</p> <p>Under Section 8(n), staff agree that 7 metres is too great a distance, especially given the smaller lot sizes that are inevitable as part of intensification targets in the urban area. Staff proposes reducing it to 3 metres from the edge of an occupied building.</p>	Section 8(n) was revised to state: “the injuring or destruction of a tree with its trunk or trunks entirely located within 3 metres of the outer edge of an occupied building.

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44	Dundas Valley Tree Keepers	October 31, 2008	We are concerned about the dissemination of the new by-law. As it stands now, some members of the Tree Keepers were not aware that the Dundas tree by-law existed and we are concerned that other residents will also be uninformed about the new by-law, once it has been created.	Agree that there needs to be an education and awareness campaign to publicize the new by-law when it is enacted. This could consist of workshops, brochures, web site information, posters in public places, and media coverage.	Staff to prepare an education and awareness strategy for the by-law.
45	Anonymous	November 2, 2008	Section 2(c), the 40 cm diameter should be reduced to somewhere between 20-30 cm.	Staff feels 20 cm is too small to regulate. It is too restrictive for landowners who wish to manage their trees and will require substantial increases to staff resources to process permits. The 40 cm dbh regulation is a reasonable balance of tree protection, landowner rights, and enforcement costs.	No action required.
46	Anonymous	November 2, 2008	Section 8(c), why are surveyors exempt?	This is a standard exemption in many tree cutting by-laws under the <u>Municipal Act</u> . The exemption for surveyors is mandated by statute s. 135(12)(c) in order to allow them to complete a survey.	No action required.

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47	Anonymous	November 2, 2008	Section 8(j), ii, 2.5 cords per hectare is not very much wood. This amount should be increased.	The 2.5 bush cords per hectare limit for harvesting for your own use was derived from public consultation and follows Region of Halton’s by-law. It is intended to provide a limit on harvesting for own use, so that this provision cannot be abused. No one has provided a suggestion or justification for a larger amount of wood per hectare, so staff proposes no increase.	No action required.
48	Anonymous	November 2, 2008	Sections 13, 14, and 15, the word destruction in many places should be replaced with “harvest”. Destruction implies a little bias in the by-law.	The word ‘destruction’ is routinely used in tree cutting by-laws. ‘Harvest’ is not the most suitable word because not all trees are being used after they are cut. There is no intent of bias in the use of the word ‘destruction’. The authority under s. 135(1) of the <u>Municipal Act, 2001</u> is “to prohibit or regulate the destruction or injuring of trees.”	No action required.

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49	Anonymous	November 2, 2008	Section 19(b), the Committee should have one or two woodland owners as sitting members.	This is a good suggestion and would improve the function of the Tree Permit Committee by providing representation of rural woodlot owners.	This section of the by-law has been revised to require one member of the three-person Tree Permit Committee to be a farmer.
50	Anonymous	November 2, 2008	The permit fee is too high and do we need a fee at all?	Permit fees are based on cost recovery for staff time needed to administer the by-law. They have been set as low as possible and reflect the different amounts of staff time needed to process permits.	No action required.
51	Staff person	November 3, 2008	Overall, I think the by-law captures the major points the Province was contemplating at the time I reviewed these types of by-laws (i.e. permit, reference to ANSIs, PSWs, fines, area of application).	N/A.	No action required.
52	Staff person	November 4, 2008	We would recommend restating the definition of a “landscape architect” as a person who is a full member in good standing with the Ontario Association of Landscape Architects”.	Agreed.	Definition of a Landscape Architect changed to state, “in good standing”.

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53	Ward 11 Meeting	November 4, 2008	Are search warrants required for City enforcement staff to enter private property? Concerned about the power of staff.	No search warrants are required. If an enforcement officer receives a complaint and has reason to believe there is a violation, he may enter a property to investigate. Staff tries to contact the homeowner before they arrive. Section 436 of the <u>Municipal Act, 2001</u> authorizes entry and is reflected in the draft by-law, as required, in ss. 37, 38, and 39.	No action required.
54	Ward 11 meeting	November 4, 2008	Concerned about permit fees – should not be charging them; they are too high.	Permit fees are based on cost recovery for staff time needed to administer the by-law. They have been set as low as possible and reflect the different amounts of staff time needed to process permits.	No action required.
55	Ward 11 Meeting	November 4, 2008	There should be some direction in the by-law that native trees should be used for replanting.	While staff agrees with this, Official Plan policies and the Tree Protection Guidelines already state that native species should be replanted wherever possible.	No action required.

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56	Rural Resident	November 25, 2008	Concerned about ability of landowners to manage their trees on their property. He has fruit trees and he wants to be able to remove Black Walnut which inhibit the growth of these trees. Landowners should have the ability to remove trees they have planted if they no longer desire the tree when it gets bigger. Cannot afford permit fees.	Staff has tried to balance tree protection with the landowner’s right to manage trees on their property. By setting the dbh for regulated trees at 40 cm, staff believes that this gives landowners an opportunity to manage trees on their property even when they are relatively mature. Permit fees have been kept as low as possible, but are set to recover costs for staff administration and enforcement.	No action required.
57	Hamilton-Halton Homebuilders Association (HHHBA)	December 15, 2008	Definition of Woodlands, Section 1(z) – Based on the definition of woodland, can it be deduced that if there were 675 trees with diameter of over 5 cm per hectare, of which there were less than 500 trees over 12 cm diameter and less than 250 trees over 20 cm diameter, that this would not constitute a woodland and the by-law would then only apply to single trees with a dbh of 40 cm or more.	This interpretation is not correct. The woodland definition applies to groups of trees (woodlands) with an area of 0.2 ha (urban) or 1.0 ha (rural). The densities and dbh measurements in the definition are derived from the <u>Municipal Act</u> , and are meant to be used as a general guideline for what constitutes a woodland. There is always variation in ecological systems. If the density does not exactly match the definition, but <u>generally</u> does, it would still be considered a woodland and would be	No action required.

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				regulated under the by-law.	
58	HHHBA	December 15, 2008	Exemptions not requiring permit – Section 8(a), “activities or matters undertaken by the City, a local board, or a Conservation Authority”. Understand that this is a private property by-law and that Section 1.0 of TPP refers to public land by-law for lands owned by City. Does public by-law also regulate boards and agencies?	No, the public by-law does not regulate boards and agencies.	No action required.
59	HHHBA	December 15, 2008	In Section 18, “where the planting of replacement trees is not possible on the land, the Manager may impose conditions on the permit requiring that: (a) replacement trees be planted on other suitable land.” Can we assume that the choice of lands would be through a negotiated process? (b) “an amount be paid equaling 120% of the cost of replanting and maintaining the trees for a period of two years”. What is the justification for 20% more than actual cost?	(a) Yes, the choice of lands for replanting would be through a negotiated process. (b) The ability for a municipality to require replacement plantings is under the authority of Section 135(7) of the <u>Municipal Act</u> . The requirement for 120% of the cost of replanting will be removed from the by-law.	Section 18 was changed to remove requirement for 120% of the cost of replanting and replacement. It now requires compensation that is equal to the cost of replanting and maintenance for a period of 2 years.

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60	HHHBA	December 15, 2008	<p>Given that Planning development applications are exempt from requiring a permit and are regulated through the Planning approvals process as per conditions in a Tree Protection Plan, it is unclear how the by-law officer interfaces with the development process. This needs to be clarified as the by-law is directed more to the application issuance and enforcement of a tree cutting permit, which is separate from the development process.</p>	<p>The by-law officer would be responsible for processing permits for commercial forest harvests and removal of individual trees when there is not a <u>Planning Act</u> application (e.g. removal of a tree which is hazardous on private property). Where the owner has made a <u>Planning Act</u> application and wishes to remove trees, he/she would have to go through the Tree Protection Plan process outlined in the Tree Protection Guidelines. This process is outlined in the Sections 8(d) and 8(e). A staff person would review the Tree Protection Plans and would work with the enforcement officer as required (i.e. when there is a violation).</p>	<p>No change required.</p>

#	Agency-Individual	Date	Comments	Staff Response	Action Taken
61	Landmart Homes	December 16, 2008	Will any owner who wishes to cut down a tree on private lands be required to obtain a permit under the proposed by-law? If a permit is required, then Clause #9 on page 11 is contrary to Clause #2 on page 8. It appears in Clause #9 that the cutting of any tree requires a permit, therefore the criteria under Clause #2 is redundant.	No, not everyone who wishes to cut a tree is required to get a permit. The by-law only applies to trees which meet the criteria in Section 2. If they do not meet these criteria, then the by-law does not apply and no permit is required. Also, certain situations are exempt from the By-law (Section 8).	No change required.
62	Urban Resident		Worried that by-law would not allow him to remove a tree growing too close to his home.	Section 8(n) has an exemption for trees growing within 7 metres of an occupied building. This distance will be changed to 3 metres, to account for the trend toward smaller lots.	Section 8(n) was revised to state: “the injuring or destruction of a tree with its trunk or trunks entirely located within 3 metres of the outer edge of an occupied building.