




All About Tree By-Laws

September 15, 2011

Ontario East Municipal
Conference



Outline

- Background – Kingston's Tree By-Law
 - Background – Tree By-Laws in Ontario
 - Legislative Authority
 - Types of Tree By-Laws
 - Basic Template of a Tree By-Law
 - Kingston Tree By-Law
 - Lessons Learned
 - Resources
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Background

- October 2003:
Concerns raised about tree removal prior to planning applications.
- Staff were directed to investigate the feasibility of implementing a Tree By-Law.



Examples of Tree Removal



Cataraqui Woods Drive



Examples of Tree Removal



Gardiners Road




Background (Cont'd)

- June 2005: Proceed with a by-law to include the urban area and some rural land uses.
 - Intent: Prevent removal of trees before completion of the planning process.
 - By-law would not apply to existing residential properties or heritage trees.
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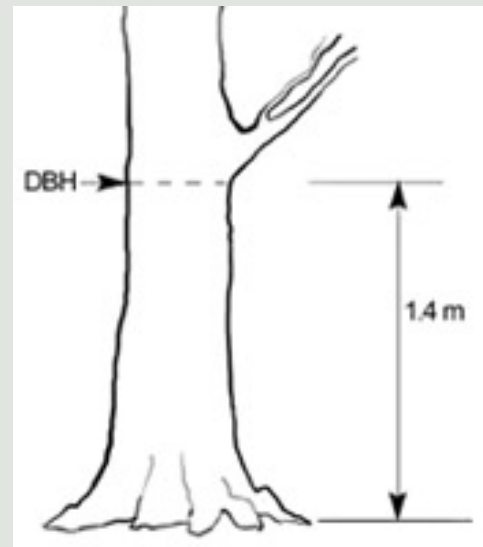


Background (Cont'd)

- November 2005 – Presentation of the draft Tree By-Law to Planning Committee; passed by Council.
 - Year and a half spent implementing and administering the by-law.
 - Revised Tree By-Law passed September 2007.
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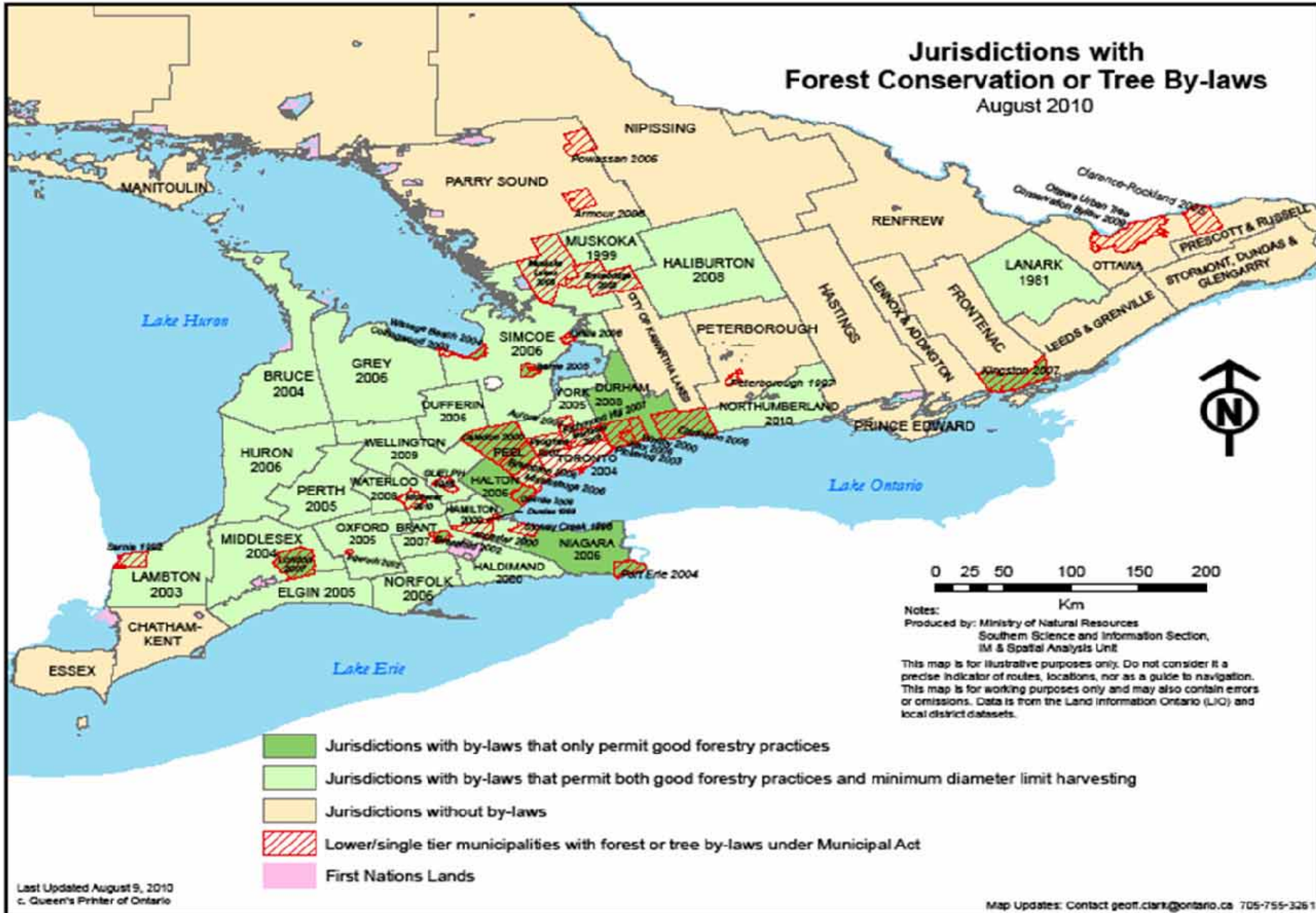
Tree By-Laws in Ontario

- Over 60-year history in Ontario;
- Many by-laws based on diameter-limit cutting (DBH);
- Cutting according to good forestry practices now encouraged.





Jurisdictions with Forest Conservation or Tree By-laws

August 2010





Legislative Authority

- Section 135 of the *Municipal Act* permits a municipality to prohibit or regulate the destruction or injury of trees.
 - Upper tier – May pass a by-law regulating trees in woodlands (defined as one hectare or more in area).
 - Lower tier – May pass a by-law regulating trees not covered by the upper tier by-law.
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Legislative Authority (Cont'd)

- Other provisions of the *Municipal Act* Re. tree by-laws:
 - Requiring a permit;
 - Conditions to a permit;
 - Professional qualifications;
 - Exemptions; and,
 - Fines.





Municipal Act Exemptions

- Municipalities and their boards;
 - *Crown Forest Sustainability Act*;
 - Surveying (under *Surveyors Act*);
 - Subdivision or site plan agreement;
 - Development permits;
 - *Electricity Act*; and,
 - Pits and quarries.
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Types of Tree By-Laws

- Will depend on municipal structure: upper, lower or single tier.
- Public Tree By-Laws
- Private Tree By-Laws:
 - Forest Conservation
 - Individual Tree Protection
 - Heritage Tree



Tree By-Law Template



- Templates available for Forest Conservation By-Law & Tree By-Law for trees outside woodlands.
- www.ontariowoodlot.com





Tree By-Law Template (Cont'd)

- Definitions
 - Application
 - Exemptions
 - General Prohibition
 - Application Process
 - Appeals
 - Order to Discontinue
 - Work Order
 - Service of an Order
 - Remedial Action
 - Enforcement
 - Penalty
 - Administration
 - Schedules
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Kingston Tree By-Law

- Application
 - Endangered Species Act (provincial);
 - Species at Risk Act (federal);
 - Distinctive Trees (as defined in the by-law);
 - 15 cm DBH or greater;
 - Municipal trees;
 - Tree Preservation and Protection Plan
 - EPA and Open Space; and,
 - Commercial harvesting on 1 ha or more.
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Kingston Tree By-Law (Cont'd)

- Exemptions:
 - Pruning;
 - Removal of dangerous, dead, diseased or severely injured trees or branches;
 - Residential lots;
 - Trees located in a building, solarium, rooftop garden, or interior courtyard;
 - Installation or maintenance of utilities, driveways, and access routes;
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Kingston Tree By-Law (Cont'd)

- Exemptions (Continued)
 - Personal use;
 - Normal farm practices;
 - Orchards, tree farms, and plant nurseries;
 - Land covered by a Forest Mgmt Plan; and,
 - Existing cemeteries and golf courses.
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Kingston Tree By-Law (Cont'd)

- Planning & Development
 - Receive applications and fees, and issue decisions and permits.
 - Public Works - Forestry
 - Provide technical review and recommendations on applications.
 - By-Law Enforcement
 - Responsible for inspections, serving orders and laying charges.
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Lessons Learned



HikingArtist.com

Public Consultation



- Pros
 - Community buy-in;
 - By-law tailored to specific needs of community.
- Cons
 - Additional tree removal before by-law is passed.

Pro-active vs. Re-active

- Tree by-laws are often a reaction to tree removal.
- Pro-active = comprehensive policy and tree program.



Public vs. Private



- Separating public and private trees into 2 by-laws allows for more clarity in interpretation, especially for exemptions.

Urban vs. Rural



- Different issues and environments may require separate by-laws.

Agricultural Exemption

- Normal Farm Practices
- Exemption in Kingston by-law modified so that it couldn't be abused in the urban-rural fringe.



Dead, Diseased or Dangerous



- Exemption modified to require a letter from a certified arborist.
- What if the letter is more expensive than the permit?

Public Education



- To be effective, the public needs to be educated about the tree by-law.

Trees & the Green Energy Act

- Planning Act doesn't apply to renewable energy projects.
- Exemption in the Municipal Act for transmitters and distributors under the Electricity Act.



Green Energy Act (Cont'd)

- Proponents of renewable energy projects are considered "generators".
- For large-scale renewable energy projects, other municipal by-laws apply, including tree by-laws.





Resources & Contact Info

- Tree By-Law Info Package & Templates:
www.ontariowoodlot.com
 - Ontario Urban Forest Council, including Ontario Heritage Tree Alliance:
www.oufc.org
 - ISA: www.treesaregood.com
 - Kingston: www.cityofkingston.ca/trees
 - Sonya Bolton – (613) 546-4291, ext. 3237
sbolton@cityofkingston.ca
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