



Guidelines for **Normal Farm Practices**

A Compendium to the
Halton Region Tree By-law (121-05)

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The Regional Municipality of Halton

Tel: 905-825-6000

Toll Free: 1-866-442-5866

TTY: 905-827-9833

Fax: 905-825-8822

www.Halton.ca

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Introduction

As stated in the Region's Official Plan, it is Regional Council's objective to recognize, protect and promote agriculture as an important industry in Halton and to support its farmers in maintaining this vital land resource. On October 5, 2005, Halton Regional Council adopted a new Tree By-law (By-law 121-05) under the authority of Section 135 of the *Municipal Act, 2001*.

In extensive consultations with all stakeholders during the development of the Tree By-law, a number of concerns were expressed by the agricultural community about the potential for the By-law to impact those routine agricultural operations which by virtue of their nature, may involve the removal of trees. As a result of these concerns, Section 4(k) of By-law 121-05 was introduced which exempts activities resulting in the injury, destruction and removal of trees that are carried out as part of a "Normal Farm Practice" in the Rural areas of Halton.

Normal Farm Practice

Section 1(l) of the Region's Tree By-law defines *Normal Farm Practice* as follows:

"Normal Farm Practice" means a practice that:

- i) *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*
- ii) *makes use of innovative technology in a manner consistent with proper advanced farm management practices.*

Whether a farm practice is a Normal Farm Practice shall be determined in accordance with the provisions of the Farming and Food Production Protection Act, including the final arbitration on Normal Farm Practices by the Farm Practices Protection Board under the Act. To assist in the interpretation of Normal Farm Practices, Regional Council may, with input from Halton Agricultural Advisory Committee, establish a protocol defining such Practices as they relate to the injury or destruction of trees. An Officer is responsible for the interpretation of the protocol.

Accordingly, it is not the intent of the Tree By-law to interfere with existing agricultural operations however, there is a need to ensure consistency when balancing the needs of the farming community and ensuring the intent of the Tree By-law is not undermined.

Application of these Guidelines

These guidelines do not constitute an official part of the Tree By-law. Their intent is to complement the definition of "Normal Farm Practice" by identifying a series of specific agricultural practices that have been conventionally accepted as "normal farm practice". The guidelines have been developed by Region staff in consideration of comments received during the By-law consultation process and with input from the Halton Agricultural Advisory Committee (HAAC). They have been designed to serve as a reference to farmers concerned about the interpretation of the By-law and their daily activities. They are also intended as a reference for the Region's Tree By-law Officer and outline a process for dispute resolution in the event of disagreement between the Tree By-law Officer and the landowner as to what constitutes a "normal farm practice". As the Tree-By-law outlines a number of exemptions for personal use and other activities, these guidelines should be read in conjunction with By-law 121-05. These guidelines may be amended from time to time as circumstances warrant.

Agricultural Operations

In determining whether a practice qualifies as a *normal farm practice*, consideration must first be given to the definition of agricultural operation which serves as the base reference. The *Farming and Food Protection Act, 1998*, defines “agricultural operation” as follows:

“Agricultural Operation” means:

An agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward.

The Act further defines agricultural operations to include, but not limited to, the following:

- ? Draining, irrigating or cultivating land;
- ? Growing, producing or raising livestock, poultry, ratites, fur-bearing animals, cultured fish, deer and elk, game animals and bird;
- ? The production of agricultural crops, greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, tree and turf grass and the production of eggs, milk and cream;
- ? The operation of agricultural machinery and equipment and activities that are a necessary but ancillary part of an agricultural operation such as the movement of transport vehicles for the purposes of the agricultural operation.

Expansion of Existing Agricultural Operations

Removal of trees in Woodlands and Greenlands for the purpose of creating new agricultural fields or pastures, including new agricultural fields that are adjacent to existing agricultural fields, is **not** considered a “normal farm practice,” and not exempt from the provisions of the By-law. Any tree removal for the expansion of agricultural fields must receive Special Council approval as described in Section 7 of By-law 121-05.

Normal Farm Practices

On the basis of the above definitions and as they relate to existing agricultural lands, the following activities, which by virtue of their nature may involve the injury, destruction or removal of trees, shall be considered as “normal farm practice” when conducted as part of an agricultural operation. Please note that these guidelines generally apply only to tree-removal activity in **Rural** areas. Please see the following section for requirements in the Urban areas of Halton Region.

Practice	Description
Cultivation and Maintenance of Established Farm Fields	Removal of trees and seedlings which have established themselves on existing agricultural fields, particularly along the edge of woodlands may be removed for the cultivation of agricultural crops including activities such as plowing, tilling, seeding, harvesting and the maintenance of fields. This includes trees and seedlings that fall under the drip-line/canopy cover of trees along the woodland edges of existing agricultural fields.
Preparing for Cultivation on Fallow Lands	Removal of trees and seedlings to clear and maintain lands that have been left fallow. Lands left in fallow for extended periods of time may through natural succession establish trees and seedlings to the extent of meeting the By-law definition of “Woodlands”. In such cases, these fallow lands will be assessed on an individual basis under the premise of their return to productive agricultural use.

Practice	Description
Maintaining Pasture Lands	Removal of trees and seedlings to maintain pasture lands.
Reasonable Livestock Grazing in Woodlands	Removal of trees and seedlings by farm animals grazing in woodlands or along the edges of woodlands. Livestock grazing in woodlands can be considered a normal farm practice provided that reasonable steps are undertaken to prevent over-grazing that would significantly impair the quality of the woodland.
Provision of Reasonable Access to Agricultural Fields.	Removal of trees and seedlings to provide farm machinery access to agricultural fields surrounded by woodlands or where no other reasonable access route exists. Consultation with the Tree By-law Officer is required prior to commencing tree clearing for this purpose.
Fence Maintenance	Removal, by a landowner, of trees necessary for replacing, repairing or maintaining fencing for agricultural purposes on their own property.
Operation of Farm Machinery	Removal of trees and seedlings outside agricultural fields resulting from the reasonable movement of farm machinery employed to conduct agricultural operations. This includes the maintenance of access roads and laneways.
Construction, re - construction or relocation of farm buildings	<p>In nearly all instances construction of farm buildings requires a building permit under the <i>Building Code Act</i>, and in many cases, approval under the <i>Planning Act</i> for zoning compliance including variances to existing zoning regulations. The Tree By-law does not override the planning process and where building and planning approvals have been granted, tree removal is exempt from the provisions of the By-law.</p> <p>Regional staff will however, comment as necessary on planning applications in accordance with the land use policies of the Regional Official Plan or as requested by the local municipality to review any building permit application.</p>

Normal Farm Practice on Lands within the Urban Area

Lands in the urban area means land defined as such in the Regional Official Plan. As these lands are intended to accommodate future urban uses, tree removal requires special consideration to prevent the circumvention of the planning process. Accordingly, a harvesting permit is required for all tree removal for “Own Use” and “Normal Farm Practice” activities on future urban land, even if the land is currently being used for agricultural purposes.

The Urban Area provisions do not imply that agricultural operations and the practices described in these guidelines will not be considered in the permit review process. The Tree By-law Officer may waive certain information requirements prescribed in the By-law for “Own Use” and “Normal Farm Practice” activities. The purpose of these special provisions is to ensure that exemptions sought under the auspices of “normal farm practice” in the Urban Area are properly evaluated.

Requesting a Peer Review:

Each individual farmer and agricultural operation may have specific circumstances and encompass practices that may fall within a wider definition of “normal farm practice”. Because of this diversity, these guidelines are not intended represent an exhaustive list of practices or be applicable to all agricultural operations.

Figure 1 on the following page illustrates the general process for the administration of the Tree By-law as it relates to “normal farm practice”. It is expected that the vast majority of agricultural operations will clearly fall under the practices described in these guidelines.

Where a By-law Officer is of the opinion that a farm practice does not represent “normal farm practice”, the Officer will consult with the farmer to provide guidance on the provisions of the By-law. Where there is a dispute in the interpretation of “normal farm practice”, the farmer may choose to make a permit application under Section 6 (Tree Harvesting Permit) to conduct tree harvesting in accordance with good forestry practice, or seek a Special Council Permit approval under Section 7 of the By-law.

Alternatively, the farmer may request a peer review of the matter to be undertaken by the Halton Agricultural Advisory Committee (HAAC). Upon hearing the positions from the landowner and the Tree By-law Officer, HAAC will advise Regional staff of their recommendation, however, the determination of whether the proposed activity constitutes a “normal farm practice” will be made by the Tree By-law Officer. The purpose of this review is to assist Region staff when uncommon circumstances arise while affording farmers an opportunity for a peer review.

In exceptional circumstances, the farmer or the Region may also initiate a review by the Normal Farm Practices Protection Board (NFPPB) for mediation of the matter. All Hearings requested of the NFPPB must have first undergone an alternative dispute resolution process such as that described above, to be initiated by the landowner. Should a farmer seek mediation by the NFPPB, Regional staff will assist in the procedural and administrative components of the process to establish a Hearing date. The decision of NFPPB is final and binding.

Summary

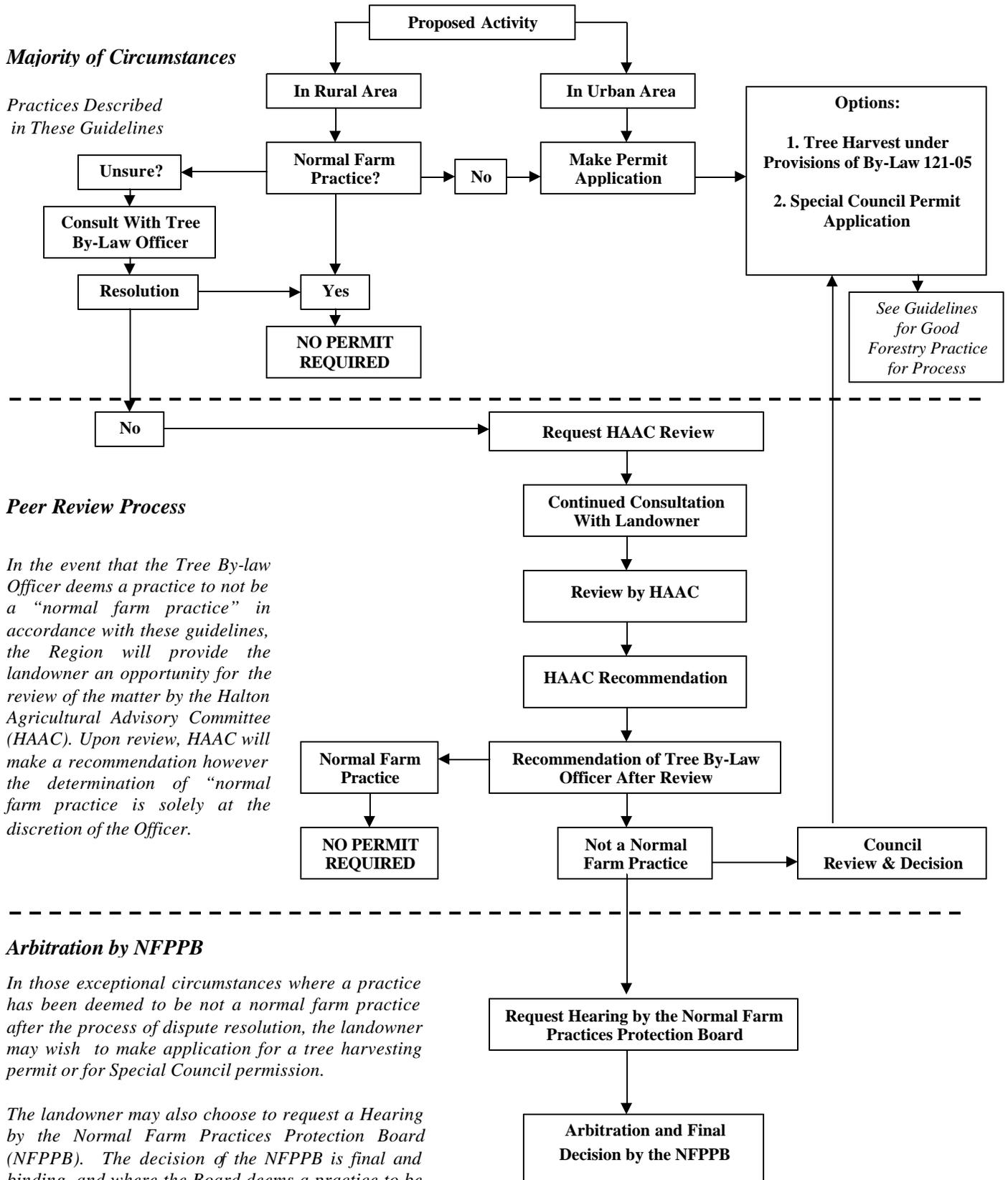
It is the position of the Region that agricultural activities, woodland protection and good forestry practice can co-exist in Halton. While farmers are obliged to ensure that all activities resulting in tree injury or destruction are done so in accordance with the Tree By-law, the Region’s primary role in administering the Tree By-law is to assist landowners by providing education and guidance. It is also the obligation of the Region to ensure fairness and a level playing field for all farmers who practice good land stewardship.

In the development of the Tree By-law, common understanding with the agricultural community was reflected in supplementary notes that were communicated to Regional Council during their consideration of the By-law. To ensure this understanding perseveres, these supplementary notes have been appended to these guidelines (Appendix A).

For More Information:

Halton Region
905-825-6000
Toll Free: 1-866-4HALTON
TTY: 905-827-9833
Web: www.halton.ca
E-Mail: stewar_dship@halton.ca

Figure 1. Review Process for Determining Normal Farm Practices



APPENDIX A

Supplementary Notes to Halton Region Tree By-law

Prepared by Regional staff in consultation with Halton Agricultural Advisory Committee

In developing the Tree By-law, Regional staff came to some common understanding with the farming community in Halton, as represented by the Halton Agricultural Advisory Committee, on the intent and application of certain parts of the By-law. This general understanding, which is better stated outside the legal constraints of the By-law, is reflected in the following notes. These notes are intended to assist in the application of the Tree By-law, to provide background on the development of the By-law, and to guide the training of the By-law Enforcement Officers. They, however, have no effect on and do not bind the Region in the legal application and enforcement of the By-law.

1.	General	In the implementation of the By-law, education based on a broad-based Stewardship Program should come before regulation. An Officer is expected to exercise discretion in pursuing infractions under the By-law.
2.	General	When laying charges, the Region will determine the culpability of all parties involved and proceed accordingly. The case has to be proven before a court of law.
3.	General	The introduction by the Region of the Stewardship Program with financial incentives to promote professional oversight of Forestry Management is viewed by both Regional staff and the farming and rural community as an important and even essential complement to the Tree By-law. Working together, the By-law and Program will further the Regional Official Plan objective of protecting and enhancing the natural heritage system. Public investment into the Program is therefore justified for the public good.
4.	Section 1)u)	The definition of a Tree only refers to live tree. Dead trees are therefore not regulated by the By-law.
5.	Section 1)w), second iii)	A plantation may be certified by the Region at the request of the property owner at any time. Once certified, the plantation is recognized as such provided that it is maintained as a plantation or the property remains in the ownership of the original owner who received the certification or his/her heirs or subsequent heirs.
6.	Section 1)w), last paragraph	It is not the intent of the By-law to prevent landowners from maintaining the existing edge of a Woodland by removing seedlings up to 0.5m tall.
7.	Section 2)b)	The By-law is intended to apply to all four Local Municipalities in Halton, upon delegation of the necessary authority from the Municipalities to the Region. It is the expectation of the farming and rural community in Halton that the Regional By-law is the only applicable tree by-law outside the Urban Areas in Halton.
8.	Section 2)b)iii)	Boundaries of Greenlands are not precise and the Region will endeavour to communicate to landowners how to recognize Greenlands on their properties and to provide appropriate mapping and other information.
9.	Section 4)k)	If the Region initiates legal proceedings on an infraction based on non-compliance with the Normal Farm Practices exemption, HAAC will be advised of such proceedings and will be consulted.
10.	Section 5a)iii)	The density criterion under Own Use provision does not mean that a tree at the edge of a Woodland may never be removed.
11.	Section 5)b)	The Region will approve submitted Forest Management Plans in a timely fashion and keep copies on file for on-going reference.
12.	Section 6)a)	Harvesting trees based on a properly prepared prescription (without a Forest Management Plan) is intended to be a relatively expeditious process with a short review and possibly a site inspection by the Officer. A permit may be granted on the spot. The landowner, however, should recognize the merit of using professional help in preparing the prescription.

		A prescription prepared by a landowner without proper training in Forestry Resource Management or Good Forestry Practices may only delay the process. For very small scale harvesting, the Region may be able to provide free tree marking services if resources permit.
13.	Section 6)a)vi)	It is not the intent of the Region to withhold the issuance of Harvesting Permits in Urban Areas to allow Woodlands to grow into fields or open areas, unless such fields or open areas are so designated for regeneration.
14.	Section 7)	The issuance of Special Council Permits is at the sole discretion of Regional Council. Council may waive fees and vary conditions for the Permits.
15.	Section 11)	In entering private properties for the enforcement of the By-law, an Officer will take reasonable measures to seek permission from the landowner first and will respect and abide by measures to protect biosecurity on farms.