

County Council Draft Shoreline Preservation By-law

Questions and Answers:

1. What happens to existing structures within the 30 m? Want to rebuild a deck, do I need a permit?

A: Structures that are legal non complying/non-conforming can be rebuilt with a building permit and will need to adhere as best they can to the proposed by-law. Municipal and County staff will encourage alternate locations set further back. This would be a situation where a property owner could use the self-assessment/registration and as long as they meet the exemptions would not require a County Work Permit.

2. Shoreline erosion structure maintenance, can an owner repair without a permit?

A: Where a property owner has existing rock walls, armor stone, rip wrap, etc. in water and had a work permit from MNRF yes they can replace or repair without a County Work Permit. Any additions or extensions may require MNRF approval. MNRF has additional guidance for property owners to remove structures and re-naturalize their shorelines where these rock structures are in place. In the past they were thought to prevent erosion however today it is known in most cases they cause more damage; to adjacent shorelines and have negative impact on in water ecosystems.

If new work is being completed on shore land above the existing structure they should contact the County.

3. Drainage patterns, can an owner maintain or do they need a permit? What is the trigger for a permit?

A: Generally, where there is no alteration to the location and no material being added or removed, no County Work Permit would be required. Evaluation would be site specific and based how much soil is being moved/removed, alterations proposed, slope, etc. Where a property owner completes the self-assessment and do not meet the exemptions or if they have questions they can contact the county.

4. Need to define what 'reduce airborne pollution' means.

A: This section has been removed from the proposed by-law at the direction of County Council. The associated section was 'Noise, vibration, odour and dust'.

5. Please clarify the process for this by-law vs planning applications.

A: The two processes work together toward the protection of existing natural shorelines. The approval process under the Planning Act is guided by the Official Plan, which currently has requirements for 30 m setback, shoreline tree protection and in

many cases requires an Environmental Impact Study to ensure the proposed development or site alteration has no negative impact on the water.

Not every site alteration requires Planning Act approval, which is why Site Alteration is found in section 142 of the Municipal Act. Where an owner of existing developed property wants to create a path from their dwelling to the shoreline or create a play area for children, etc. they would use the County self-assessment tool, and if their work meets the exemptions the work could be completed, without a permit. Where a property owner is completing significant site alteration, bringing in soil, removing soil, changing the topography, adding a lift system to get up and down the terrain, they would require a consultation and likely a County Work Permit.

6. How do we ensure that the building permit and this permit are seamless? We don't want residents running around between offices.

A: The County will work with local municipalities to create a 1 stop shop between the processes. The county will also have online resources for those not requiring a building permit. Step one will be including the application form through building departments where the by-law may apply to a project. Step two will include direct submission and review by the County in association with the Building Permit to ensure consistent timelines and inspections.

7. County needs to identify which local by-laws need to be repealed because of this. As well the locals need to work together to identify which by-laws need to be updated outside of this process so all are consistent across the County.

A: County will do this as part of the delegation of authority process, however at the direction of County Council most overlap has been removed (Clean and Clear, Noise, Odour, etc). It is not anticipated that any local municipal by-laws will now need to be repealed as a result of the County Shoreline Preservation By-law. The local by-laws, updates and review cycles are outside of the scope of the County By-law process.

8. Can people cut their grass, whipper snip, pull weeds? What is the definition of natural vegetation? Can a property owner remove some natural vegetation and replace with others? There is a concern with the undesirable native plants, such as ragweed or horse tail, - how do we reconcile the removal of native but invasive plants from existing landscaping?

A: Yes property owners can continue to cut their grass and maintain their waterfront yard. All property owners will be encouraged to replace grass to the shoreline over time through re-naturalization. Guidance and resources are available to provide support of this process.

The definition of natural vegetation has been updated in the draft by-law.

Property owners need to be careful about what is perceived to be weeds, as some native species are beneficial and should remain regardless of human preference.

Ragweed and Horse Tail are not listed as invasive species. Removal of in water weeds is outside of the jurisdiction of this by-law, MNRF is the authority.

Further when landscaping exotic and non-native plant species can add beauty and variety to your garden and are sold in many garden centres. But property owners need to be careful as some species can become invasive if they escape to our natural waters or woodlands. It is recommended that within the 30m setback, even within the 25% allowance, property owners should use/preserve native plants.

For vegetative alteration of a waterfront property owners should refer to the following:
<https://www.ontario.ca/page/remove-invasive-aquatic-plants>

You do **not** need a work permit from the County or under the *Public Lands Act*, if you can follow **all** of these rules. You:

1. are the waterfront property owner or conducting work on behalf of the property owner
2. minimize the removal of native aquatic vegetation (e.g., wild rice)
3. dispose of the plants/material you remove on dry land to prevent it from re-entering the water
4. use, operate or store any wheeled or tracked machinery/equipment on dry land, or on a barge or vessel
5. only use mechanical devices (e.g., rake, cutter bar) or your hands to remove plants, and do not dredge the bed of the waterbody
6. do not carry out work during fish spawning season or during the time of other critical fish life stages, as set out in the In-water Work Timing Window Guidelines

The rules apply to these plants only (by common name):

- Brazilian Elodea
- Curly-Leaved Pondweed
- Eurasian Water-Milfoil
- Eurasian and Northern Milfoil hybrid
- European Frog-Bit
- European Lake Sedge
- European Water Chestnut
- Fanwort
- Flowering Rush
- Hydrilla
- Parrot Feather
- Phragmites (European Common Reed)
- Purple Loosestrife
- Rough (Great) Manna Grass
- Yellow Iris
- Water Hyacinth
- Water Lettuce
- Watermoss-Salvinia species
- Water Soldier

9. If someone wants to remove Goldenrod from the shoreline and replace it with CHA's recommended plants, do they need a permit for that or is that "minor landscaping". Where do "minor landscaping" and retention of native plants collide?

Goldenrod is a native plant that is found throughout Ontario and there are many species, some of which are listed as Species at Risk (both endangered and threatened). The habitat is varied but it is primarily found in moist or dry fields and meadows, edges

of forests, swamps, clearings, orchards and compost piles. It is less likely to be found adjacent to ponds, streams and lake shorelines. It is less likely property owners will have this plant in the 30 m shoreline area, however if they do they should check to identify it on the provincial register.

Goldenrod is commonly accused of being the cause of hay fever allergies for many people. Ragweed is the usual culprit, but it has inconspicuous flowers whereas Goldenrod, which flowers at the same time, has highly conspicuous flowers and gets the blame.

In all cases of native and natural species the County should recommend maintenance of existing species, regardless of human preference. Once established, the roots and plant support critical habitat, stabilize soil and filter pollutants. Removal of one species for another may cause greater harm. Site alteration should be focussed to the 25% area allowed by the by-law on any property. The remainder should be left in a natural state.

Minor landscaping would include yard maintenance activities; creation of a path within the 25% area of the shoreline, even native flower beds would be permitted. Landscaping that does not alter the topography or change the flow of surface water would be minor landscaping.

10. Do owners need to hire a professional to identify what is natural along the shoreline?

A: There are numerous resources available to assist property owners with identification, including applications for personal devices and web tools from the province. The county will include links to these resources as part of their Shoreline Resources page. If a property owner wishes to hire a professional they may.

11. Language of “no person shall remove, destroy or injure any natural or native vegetation” is very strong, can it be removed or softened?

A: As with all by-laws the language is what outlines the by-law and is specific to ensure that it is clear and enforceable. This specific language is the key component to the site alteration portion of the by-law and is in addition to the tree protection language to support the site alteration parameters. This language is needed to remain to provide the clear direction, make enforcement possible (tickets, work orders) and defence before the courts when required.

12. Will local by-law enforcement officers have the authority to enforce the County Shoreline Preservation by-law?

A: It is recommended that local municipal by-law enforcement staff should not be enforcing the County Shoreline Preservation by-law. To ensure consistent application, enforcement and guidance to property owners' only County staff, trained and familiar

with the by-law, should be communicating with property owners, reviewing applications for permits and issuing work orders or tickets.

13. Regarding Hazard Lands, wetlands, how do these areas get identified. Where does shoreline protection end and public health and safety begin, which takes precedent?

A: Hazard lands, specifically flood prone areas, and wetlands are identified in the County OP and local Official Plans. The Community GIS will continue to be updated with the most up to date information, as it becomes available, and is easy to access on our County website. The GIS can be used to outline a property, be printed and drawn on, or for those who are more technically able there are tools that can be used for electronic measuring and drawing.

Shoreline protection and public health and safety should be viewed as mutually beneficial. Protection of shorelines supports protection of public health and safety. Examples: Flood mitigation, property protection, water quality, environmental protection, slope stabilization.

14. Clarification required regarding the weather statement, wind warning, do contractors just pick up and go home?

A: This is a minor issue of liability for the County. It is best for the County to be consistent with the legislation and include a statement which directs 'do not work under these conditions'. If someone does and there is damage to the property, shoreline, lake or worker injury occurs, the County by-law included language directing not to work in these conditions. The County will not be checking during the event, it is the responsibility of the property owner or firm to ensure worker safety and compliance with the by-law.

15. How will a property owner know if there is fish habitat?

A: As noted above the Official Plan schedules include this information. The County will include update information as it becomes available, usually at the time of Official Plan update. Critical fish habitat is available on the County GIS, where known.

16. Who determines what a negative impact is and what contamination is?

A: These are defined in the Natural Heritage Reference Manual, Official Plans, and legislation.

Soil is an important resource, especially across the shield. The protection and conservation of soil is a valuable component of maintaining the environment for present and future generations. The province encourages the beneficial reuse of excess soil in a manner promoting sustainability and the protection of the environment. The best practices described within the Environmental Protection Act are intended to assist those managing excess soil, particularly when the soil may be affected by contamination, in preventing and mitigating the potential for adverse effects. Those managing excavated

soil or excess soil must ensure that the management does not result in the discharge of a contaminant into the natural environment that causes or may cause an adverse effect.

If, at any time, the management of excavated soil or excess soil causes an adverse effect, such as odour, litter, dust, noise, or other impacts to the natural environment or water quality, appropriate preventive and remedial actions should immediately be taken to alleviate the adverse effect or impact. Until these issues are addressed, the owner/operator may need to suspend all soil management activities, including soil excavating, transporting or receiving.

Professional expertise and judgment will be necessary to inform the assessment and the extent of testing to be undertaken including a reasonable identification of potential contaminants based reviewing the history and conditions of the sites. *Ontario Regulation 153/04* sets out soil standards which apply when a Record of Site Condition (RSC) is being submitted for filing.

17. What happens to existing uses on the waterfront, through license of occupation, etc?

A: LOC may be county or municipal issued. If they are over or under a municipal Shore Road Allowance it is the responsibility of that municipality to review, enforce, etc. If a municipality owns the shoreline or waterfront it is a great opportunity to allow and require shoreline vegetation to grow back. In most cases a municipality may own 15 m to 20 m of land from the high water mark back (there are some cases where 60 m is owned). There is a need to educate property owners that they may not own their shore road allowance and if it is municipal they should ensure that no structures or tree cutting or site alteration occurs. Further, municipalities should be encouraged not to sell their shore road allowance, and if and when they do (to assist with increasing lot area) there should be a clause requiring it to be maintained in a natural state, that it is not to be used for development purposes.

18: Can additional rocks be added to retaining wall – if it existed?

A: Yes, this is addressed by MNRF and will be included in a quick facts from the County.

19. Does the approval go to Council based on Scope of the project?

A: It is recommended that staff (Director) be delegated authority, as timing will be critical and having to go to council for approval would not be expedient. Council may be included as an option in specific circumstances, such as where an application is denied. Recommend the process be utilized for a construction season before this is reviewed further.

20. Concern about workload, director cannot be reviewing these? What about enforcement, administration, etc?

A: The Director of Planning will not be reviewing every application, they will be available for direction as/where required. 2 staff are recommended to be hired, trained and the staff will be required to review applications, maintain administrative processes, provide customer service, conduct site visits and enforce. Job descriptions to be created in association with Human Resources.

21. Need a quick list process, to identify who needs what and when – MNR or CA process similar, no need to reinvent the wheel.

A: Yes staff created a self-assessment tool similar to others currently in use. Once direction on the contents of the by-law are created for public consultation the tool will be updated. If work is within the 25% development area of the shoreline and is listed as a Type A, no permit is required. May wish to consider a self-registration process, also included for consideration.

22. Many trail signs are placed on trees in the forest, are we suggesting this is no longer allowed and if so municipalities should not be exempt.

A: The use of nails or screws should be discouraged. Signs may be placed on trees in a safe yet secure way which does not harm the tree. County Council may direct municipalities can be removed from the exemption.

23. How do staff identify areas which are impacted by flooding or wetlands to ensure consistent application of the prohibition that now site alteration will be permitted in these areas?

A: These areas are in Official Plan documents, schedules and on the Community GIS.

24. Item 11 b) what is the legacy of existing shoreline alteration – can a person maintain landscaping they have done or not done? How do we have property owners re-naturalize?

A: The by-law is 'go forward'.

There is an option to promote naturalization. If County Council directs the by-law can require that when work is being completed (with or without a permit) naturalization of 25% or 50% must also be completed. This would require a property with less than the 75% natural shoreline to move towards this goal. The by-law does not currently include this requirement, however a number of public comments have suggested this as a requirement they would like the by-law to have.

25. Please clarify what replacement fill is and the amount allowed or when a permit is required, provide an amount.

A: This has been included in the draft by-law. Fill may be brought in to establish a finished grade during construction, or may be soil used when naturalization is being

completed. Fill material must not include debris, glass, old or decaying lumber or materials from construction/demolition. It must be clean soil/rock material and appropriate for the intended use. Material and condition is regulated through Ontario Regulation 153/04.

The amount is outlined in the by-law as requiring a permit when equal to or greater than 5 metric tons. The weight of material used will depend on the density; soil and rock are very different. General rule to be promoted is if there is greater than half a dump truck load of material you should contact the County.

26. What happens if damage or removal is done by people renting the property?

A: The property owner is responsible.

27. Please provide a clear definition of “Larger Project”. What is the definition of "larger" and is there room for further clarification?

A: If work will result in greater than a 15% (cumulative) reduction in shoreline vegetation and the movement of more than a half dump truck of soil/material property owners should contact the county. We will work with property owners to determine if a permit is required.

Before contacting the county property owners will be able to review the self-assessment list as well which will guide them.

The site alteration allowed without a permit would be ‘minor’ or ‘small’. Site alteration where a permit is required, but where no lot grading or installations are occurring would also not meet the ‘larger’ test.

In the context of the by-law a ‘larger’ development would be where lot grading, storm water management or installations are required (chair lift as an example) and site alteration between 15% - 25 % of the total shoreline. The site alteration would require removal of soil or the placement of soil, water and drainage management and potentially engineered stabilization (steep slopes). It is anticipated that less than 5% of permits will fall into the larger site alteration category.

28. Are there incentives that could be used to get people to naturalize their shorelines? Is this the place?

A: As noted above County Council could direct that naturalization be built into the by-law as a requirement. There are no incentives currently under the Municipal Act. Once the by-law is in place, it could be determined if there is a need for incentives which are available under the Planning Act. This by-law could work together with incentive programs through the land use planning process.

29. How do property owners figure out measurements? Do they have to hire a surveyor?

A: The County GIS can be used. In addition, the Ontario Land Registry has information available through the ONLAND system. No surveyor is required, however may be preferred by the property owner depending on the extent of the proposed development.

30. Can we utilize a process similar to MNRF where a property owner self-assess if they need a permit, notify the County of work and understand that staff may do a site visit to confirm?

A: Yes. See attachments for self-assessment and reporting process.

31. Is there an opportunity for local contractors to be accredited, where work done by those who meet our criteria have an expedited permit process?

A: Once a by-law is in place this is something staff could review at County Council direction, based on the types of permits received, to determine if this is a process that could be incorporated.

32. What if a permit expires because of inaction by another agency? Does the property owner get penalized?

A: After reviewing the contents of the proposed County Shoreline By-law, and associated permit process it is determined the only overlap will occur where the Crowe Valley Conservation Authority has authority. Overlap does not mean conflict or dual permitting. The items the County is proposing to be included in the draft By-law compliment and support the work the CA is involved in now. They are aware of the proposed by-law and we will work to create a seamless process in the CA area once a by-law is finalized. No other authority or permit process should hold up or delay the County permit. The spheres of jurisdiction are very clear.

Where a conflict occurs with another agency, the greater authority will prevail. The County should not penalize property owners in situations where it is clear another agency is delayed as part of the process.

33. How does the County know when work is done without a permit?

A: This would be the same as with the current Shoreline Tree Preservation by-law – complaints, neighbours, building officials, etc. The County will have staff available to follow up when notified of possible work along the Shoreline. We will have an internal database to track properties and will provide a posting, similar to the building permit, so it is visible to onlookers where a permit have been issued. Self-assessment and registration will also be helpful to staff.

34. Does a property owner need drawings by a qualified professional?

A: No.

35. Definition of good arboriculture practice – where is this from.

A: The definition is taken from our current by-law, there is no change in language. The definition has been in place since 2009.

36. How does the average property owner know where the high watermark is? Do they need a surveyor?

A: The majority of property owners looking to complete work do not need a surveyor. Documents are available and easily accessible. County Council may wish to have the conversation about making the SCOOP available on the Community GIS, to help provide visual assistance.

Important information a property owner will need to know before any project – with or without a permit - is if they own the Shore Road Allowance and where their property boundaries are.

37. Within the definition of ‘Natural drainage course’ – can marsh be added?

A: A marsh is different than the other features listed in this definition and would be captured separately for protection or setbacks. A marsh is not a drainage course, and truly ‘swamp’ should be removed from this definition as well. There are 4 types of wetlands in Ontario:

- swamps, which are dominated by trees or shrubs.
- marshes, which usually have open areas of water with floating plants, like water-lilies and emergent plants (standing above the water) like cattails.
- bogs are peat-covered areas low in nutrient and strongly acidic.
- fens are also often found on peat, but are less acidic and richer in nutrients than bogs.

All wetlands are captured and protected outside of this definition.

38. If my project is small vs a large project can the application have less info required?

A: The contents of the application is legislated. If the project is small, it may be exempt so no permit required. Using the self-assessment checklist will be helpful for property owners.

39. Is there a way to implement a two-tiered system of registration vs. permit.

A: Yes. See attached proposed process

40. Is there an opportunity for an applicant to appeal the decision to Council?

A: This option could be considered in future if there are large number of permits being refused. The action would be a report to County Council identifying what the requested

non-compliances are and is there a way to address it in the by-law. This would be a discussion with County Council if there were large number of applications for work outside the scope of the by-law.

41. Is there any opportunity to include a plan to remediate already over developed properties?

A: For Council consideration – yes. The By-law could include the requirement that for work on properties lacking 75% natural vegetation a natural vegetation area is required to be added as part of the development – regardless of a permit being required or not.

42. Inherent in broader understanding of the draft by-law that hard escaping and lawns-to-the-lake are undesirable, but is there anywhere where we can say that more definitively?

A: The definition of ‘landscaping, minor’ does discourage the planting or creation of lawns. It is recommended that the supporting materials, guide documents and site plan examples make this clear.

43. Since County Council asked that the ‘Clean and Clear’ section be removed from the draft Shoreline By-law, can we reaffirm the commitment of the municipalities to collectively review their own bylaws to ensure that we are doing right by that decision?

A: The local municipal councils may wish to move forward on a collaborative initiative.

44. Page 3: removal of protecting and enhancing aesthetic values, and minimizing stress on watercourses?

A: County Council asked that this section be more focussed therefore the list was scaled back, while maintaining the purpose clearly. If County Council wishes these items to be returned to the list they can be added.

45. Page 8: The definition of industrial waste be removed because of the clean and clear part, but is there somewhere we can continue to ensure that none of the stuff runs into the water, or is this covered?

A: The definition of ‘industrial waste’ has been removed from the draft by-law based on County Council comment. The requirement for clean fill and/or soil is still included, as is proper treatment of industrial sewage and runoff.

46. Page 15: Is this the eavestrough question? Will a property owner need a permit for eaves trough installation or any other foundation run-off strategies?

A: Item h) does address that existing drainage is to be maintained, as well as approved drainage which would have been part of the construction plan (lot grading and drainage). With regard to the eavestrough question it is unlikely that a property owner will be getting a permit from the County for their eavestrough discharge as long as the property owner is in compliance with the *Drainage Act*. It is recommended that property owners divert downspouts into screened rain barrels to reduce on site erosion. While the requirements of the legislation are lengthy a summary is provided:

Surface water naturally flows downhill using whatever path it chooses. If someone takes some action to concentrate the flow of surface water, this water is called "collected surface water". If you collect surface water, you have an obligation to discharge that water where it will not cause problems to downstream property owners.

Examples of collected surface water include:

- artificial ditches;
- drainage from eavestroughs and downspouts;
- water collected from the roofs of greenhouses;
- discharge from storm water management ponds;
- street curbs and gutters;
- agricultural tile drainage systems;
- road crossings.

47. Page 17: What happens when there was no permit for development historically on a property?

A: There are many properties in the County that were built prior to the Planning Act or without a Building Code permit. When shoreline site alteration is proposed the by-law outlines the best practices and if directed by Council it could include re-naturalization requirements. Each property will be required to be reviewed on its own merits/situation and County staff will be available to work with property owners.

48. Page 18: 5 m has been reduced to 3 m, can this be explained please? Building code says 2 ft of backfill 3 m is even much 1 m would be enough.

A: Yes, Building Code is 2ft. The draft by-law was changed to 3 m, as 5 m was seen as much too far, and the 3 m matches the tree cutting portion of the by-law. County Council could direct that the 3 m remain for trees but for natural vegetation it be reduced to the 2 ft to match the Building Code.