

THE REGIONAL MUNICIPALITY OF YORK

BILL NO. 13

BYLAW NO. 2014-13

A bylaw to adopt Amendment No. 6
to the Official Plan for The Regional Municipality of York

WHEREAS the *Planning Act*, R.S.O. 1990, c.P.13, as amended, permits The Regional Municipality of York to adopt an Official Plan or amendments thereto;

AND WHEREAS Regional Council at its meeting on February 20, 2014 decided to adopt Regional Official Plan Amendment No. 6 to the York Region Official Plan – 2010;

The Council of The Regional Municipality of York HEREBY ENACTS as follows:

1. Regional Official Plan Amendment No. 6 to the York Region Official Plan – 2010 (ROPA No. 6) consisting of text and figures in the attached Schedule “A” is hereby adopted.
2. ROPA No. 6, by virtue of Ontario Regulation 525/97, is exempt from approval by the Minister of Municipal Affairs and Housing.
3. Schedule “A” shall form part of this Bylaw.

ENACTED AND PASSED on February 20, 2014.

Denis Kelly
Regional Clerk

Bill Fisch
Regional Chair

Authorized by Clause 3, Report 3, of the Committee of the Whole, adopted by Regional Council at its meeting on February 20, 2014.

**Proposed Amendment
6
to the
Official Plan
for the
Regional Municipality
of York**

AMENDMENT 6
TO THE OFFICIAL PLAN
FOR
THE REGIONAL MUNICIPALITY OF YORK

PART A - THE PREAMBLE

1. Purpose of the Amendment:

This amendment establishes specific policies to ensure the responsible management of archaeological resources, as required by Provincial policy and legislation.

2. Location:

This amendment applies throughout the Regional Municipality of York.

3. Basis:

The *Ontario Planning Act, R.S.O. 1990* identifies conservation of features of significant archaeological interest as areas of provincial interest, and requires that decisions of municipal Councils and Boards and the Ontario Municipal Board be consistent with the Provincial Policy Statement. The PPS 2005 cultural heritage and archaeology policies, the Ontario Heritage Act, and other legislation, govern the handling of archaeological resources, areas of archaeological potential and burial sites.

The PPS 2005 requires that significant cultural heritage landscapes shall be conserved, and that significant archaeological resources must be conserved prior to development and site alteration being permitted on lands containing archaeological resources or areas of archaeological potential. It also requires that where significant archaeological resources are preserved on site, the heritage integrity of the site must be maintained through any development or site alteration.

The Regional Municipality of York (York Region) recognizes the importance of protecting archaeological resources, which contribute to an understanding of the Region's heritage, identity and sense of place. These fragile, non-renewable resources have been lost at an ever-increasing rate in southern Ontario for the past 60 years, as a result of extensive land development.

Existing policies within the ROP 2010 demonstrate York Region's commitment to responsible archaeological management practices, continued dialogue with First Nations and Metis Nation representatives, and the investigation of appropriate re-interment, interpretive and commemoration strategies.

Updated policies which reflect changing provincial directions, local Official Plans, and the outcome of the Archaeological Management Plan Study are needed. This will ensure archaeological assessments are carried out at the appropriate stage or stages of the development review process so that archaeological resources can be protected in the same way that natural heritage resources are currently identified and protected through the development process.

The Policies are intended to clarify the responsibilities and processes involved in archaeological management in York Region, and to create a consistent process across the local municipalities.

PART B - THE AMENDMENT

All of the Amendment entitled PART B - THE AMENDMENT, consisting of the following Policies, constitutes Amendment 6 to the Official Plan for the Region of York.

1. That Chapter 3 Healthy Communities, Section 3.4 Cultural Heritage is hereby amended by deletion of Policies 3.4.10, 3.4.11 and 3.4.12, and renumbering of subsequent policies 3.4.13 and 3.4.14 to 3.4.10 and 3.4.11.
2. That the following section and policies be added following policy 3.4.11 (formerly policy 3.4.14):

Archaeological Resources

First Nations, Métis and European *archaeological resources* contribute to York Region's unique, local identity. They include sites that may contain scatters of artifacts, the remains of structures, cultural deposits or subsurface strata of human origin. Archaeological sites are both highly fragile and non-renewable. This Plan recognizes the importance of conserving archaeological resources and the potential to commemorate significant archaeological discoveries in recognition of their contribution to the municipality's unique community identity.

Objective

To ensure conservation of *archaeological resources* occurs *in situ* or in an alternate location by proper excavation, documentation and preservation of recovered cultural materials and site documentation, to the satisfaction of the local municipality in compliance with Provincial requirements, standards or guidelines.

It is the Policy of Council:

12. To require local municipal official plans to contain policies dealing with *archaeological resources* that require their identification, appropriate documentation and/or protection in accordance with the following:

- a. that upon receiving information that land proposed for development may include *archaeological resources* or contain an area of archaeological potential, the proponent of the development shall undertake studies by a provincially licensed archaeologist to:
- i) Complete the applicable level of *archaeological assessment* of the land in compliance with current Provincial requirements, standards and guidelines for consultant archaeologists;
 - ii) Assess the impact of the proposed development on any *archaeological resources* identified.
- b. That First Nation or Métis *significant archaeological resources* shall be considered resources that are preferably to be protected in place unless it is demonstrated that preservation *in situ* is not reasonable in the circumstances. The consultant archaeologist shall engage those First Nations or Métis with the closest cultural affiliation and in whose *traditional territories* the *significant archaeological resource* is situated to identify commemorative approaches to assist in maintaining the heritage integrity of the site.
- c. That where *archaeological resources* are documented during a Stage 2 *archaeological assessment* and found to be First Nations or Métis in origin, the proponent is encouraged, through their consultant archaeologist, to ensure that those First Nations or Métis with the closest cultural affiliation and in whose *traditional territories* the *archaeological resources* were found receive a copy of the Stage 2 *archaeological assessment* report prior to the development proceeding.
- d. That where First Nations or Métis *significant archaeological resources* are identified during a Stage 2 *archaeological assessment*, and preservation in their current location is not possible, the proponent should engage with the First Nations or Métis with the closest cultural affiliation and in whose *traditional territories* the *significant archaeological resource* is situated to address their interest in the resource and define interpretive and commemorative opportunities related to the resource.
- e. The proponent is encouraged, through their consultant archaeologist, to ensure that where a Stage 3 *archaeological assessment* of such an *archaeological resource* is being undertaken to define the nature and extent of the Resource, those First Nations or Métis with the closest cultural affiliation and in whose *traditional territories* the *archaeological resource* is located, be notified in advance of onsite assessment work.
- f. The proponent shall provide the municipality with a copy of the Provincial letters confirming that the reports have been filed into the Provincial Register.
- g. That where *significant archaeological resources* are preserved *in situ* the area subject to on-site preservation shall be excluded from the land development and the municipality shall consider regulatory tools such as zoning restrictions, designation and heritage easements or open space land dedications to protect the resources;

- h. Where human burial sites are encountered during any land-disturbing activity, all work must immediately cease and the site be secured, in accordance with legislated requirements. The appropriate provincial and municipal authorities must be notified and the required provisions under the *Funeral, Burial and Cremation Services Act, 2002*, along with other applicable protocol or policy must be followed.
13. That local municipalities encourage the communication of appropriate archaeological discoveries and/or cultural narratives to residents in development proposals through innovative architectural and/or landscape architectural design, public art, or other public realm projects.
 14. To encourage local municipalities, with the advice of a provincially licensed archaeologist and the Province, to develop a contingency plan for the protection of *archaeological resources* in urgent situations, this may include a funding resource to be accessed in emergency situations to protect *archaeological resources* that are discovered by chance or are under imminent threat.
 15. That should previously undocumented *archaeological resources* be discovered during undertaking of Regional public works, including but not limited to the construction of streets and ancillary structures, sewer and water mains and associated structures, they may be an *archaeological site* and therefore subject to Section 48 (1) of the Ontario Heritage Act. The proponent or person discovering the *archaeological resources* must cease alteration of the site immediately and engage a licensed consultant archaeologist to carry out archaeological fieldwork in compliance with Section 48 (1) of the Ontario Heritage Act.
 16. To investigate the potential for a secure re-interment site for human remains where preservation in their current location is not possible and an interpretation centre for First Nations and the Métis artifacts recovered from archaeological investigations in the Region.
 17. To review in partnership with First Nations, the Métis Nation and other stakeholders, the Archeological Management Plan on the same review schedule as this Plan to ensure that *archaeological resources* information is kept up-to date.
 18. To develop in conjunction with First Nations and Métis having *traditional territories* in or an interest in the cultural heritage of York Region, local municipalities, and the Province, a First Nations and Métis Consultation Tool.
 19. That the York Region Archaeological Management Plan and Archaeological Potential Map provide guidance on addressing the policies of this Section. New *development* and *site alteration* shall meet all items required by this Plan, and shall strive to achieve all items encouraged in this Plan.
3. That the **DEFINITIONS** section is hereby amended by the addition of the following:

archaeological assessment

A survey undertaken by a provincially licensed archaeologist to identify an *archeological site* and, to the extent required, the cultural heritage value or interest of the site and applicable mitigation measures. There are four levels of archeological assessment that are specific to the circumstances, a Stage 1, Stage 2, Stage 3 or Stage 4 archaeological assessment, each of which as required is completed by a provincially licensed archaeologist in accordance with the current Provincial requirements, standards and guidelines applicable to provincially licensed archaeologists.

archaeological fieldwork

Any activity carried out on, above or under land or water for the purpose of obtaining and documenting data, recovering artifacts and remains or altering an archaeological site and includes monitoring, assessing, exploring, surveying, recovering and excavating.

archaeological resources

Includes artifacts, archaeological sites and marine archaeological sites. The identification and evaluation of such resources are based upon archaeological fieldwork undertaken in accordance with the Ontario Heritage Act.

archaeological site

Any property that contains an artifact or any other physical evidence of past human use or activity that is of cultural heritage value or interest.

artifact

Any object, material or substance that is made, modified, used, deposited or affected by human action and is of cultural heritage value or interest.

in situ

In situ means remaining in place in the original location where something was found.

marine archaeological site

An archeological site that is fully or partially submerged or that lies below or partially below the high-water mark of any body of water.

significant archaeological resources

Resources that, in the opinion of a licensed archaeologist (and confirmed by the Province through acceptance of the archaeological assessment report into the Ontario Public Register of Archaeological Reports) meet the criteria for determining cultural heritage value or interest set out in the Standards and Guidelines for Consultant Archaeologists, as amended, and are to be protected from impacts of any sort.

traditional territories

The geographic area traditionally occupied or used regularly by a First Nation and/or their ancestors.