



THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE

Subject: Municipal Tree Policy

Director: Infrastructure & Development

Manager: Environmental Services

Report Number: Environmental Services-2022-11

Meeting Date: Monday, July 11, 2022

Recommendation:

THAT Council receive report Environmental Services-2022-11 for information;

AND FURTHER THAT Staff be directed to bring back a final draft Tree Preservation By-law for Council's consideration at the September 12, 2022 meeting.

Date to be considered by Council: Monday, September 12, 2022

Report Summary:

At the March 14, 2022 Meeting, Council received report Environmental Services-2022-01. From the information brought forward from staff within this report, Council directed staff to investigate opportunities to strengthen private tree protection and bring back a policy for consideration. The attached draft Tree Preservation By-law was created to assist the public and enable the Municipality to manage tree retention and protection effectively on lands greater than 0.5 hectares and development lands. It is intended to provide a consistent approach in processing applications, enforcing the By-law, and protecting and managing healthy trees within the Municipality.

Origin: Council Resolution #14/03/22

Existing Policy: N/A

Background/Analysis:

Staff have investigated opportunities for a private tree retention policy. Municipalities are granted the specific authority to regulate tree and forest preservation under section 135 of the Municipal Act, 2001. Bill 68 came into effect on March 1, 2019 and more specifically Section 270 requires that: A

Municipality shall adopt and maintain policies with respect to the manner in which the Municipality will protect and enhance the tree canopy and natural vegetation in the Municipality. The Municipality does have policies in place related to public lands only; By-law 2021-140 regulates planting, maintenance and preservation of trees on or affecting Municipal property and Policy PR 3.1 - Municipal tree policy (applications for municipal tree removal pruning and replacement guidelines).

To aid the Municipality in preparation of a policy, a Tree Preservation Policy and By-law Community Survey was conducted. The Municipality saw 798 responses; the results of the survey are appended to the report. The feedback from the community is mixed on private tree protection; with many having concerns over tree management on private property unless related to development. The general feedback indicated people did not want the average residential property to be captured within such a policy. The draft policy is set to look at healthy trees in a capacity of five or more in a calendar year of a specific size to offset those concerns.

The draft policy aligns and builds off framework from the 2009 Natural Heritage Study surrounding Tree retention, preservation, protection, mitigation and compensation. In discussion with MHBC whom completed our recent Official Plan (OP) update, they have confirmed that they were not directed nor requested to include / exclude any aspect of the 2009 Natural Heritage Study within the OP update. The policies developed and refined by MHBC were based on Provincial requirements, their experience and current best practices. Specifically related to the tree retention guidelines, they are beyond what is expected within a broader planning document such as an OP. Further noted, they indicated that this does not preclude a Municipality to pass specific guidelines or internal policies with respect to tree preservation and clearing.

Through additional discussion with Bruce County Planning, there are areas within the current OP containing policies that identify a municipal desire for mature vegetation / tree protection. The policies do not define mature vegetation nor outline specifics relating to tree size, species type, woodland size, etc. This allows flexibility, opportunity for negotiation, and implementation of best practices based on site-specific circumstances. If Council desired stronger or more specific language, it may trigger an OP amendment. OP policies would only come into play when there are Planning Act applications. To assist with situations where landowners may remove trees or woodlands in advance of submitting Planning Act applications, a private tree preservation by-law would be required. The Municipality could also consider the development of Tree Protection, Retention and Replacement guidelines for all development applications per Policy H13.

In order to give Council appropriate time to hear from the community, along with engagement of the Municipal team and external stakeholders such as Bruce County Planning, SVCA, the Province of Ontario, and legal; staff are suggesting that the policy come back at the September 12th meeting for consideration. Best practices reviewed by other communities involved public open house's which

Council may wish to consider. Any changes can be considered over the period the draft policy is made public to enable Council in making an informed decision.

To reflect and recuperate the fees/charges associated with the administrative work dedicated to each application, the Municipality has opted to include an application fee of \$824.00 for lots that are 0.5 to 2 hectares in size and an application fee of \$1,117.00 for lots that are greater than 2 hectares. In addition to the application fee, applicants will be required to pay a \$829.00 contingency deposit with their application. Cash-in-lieu fees may also be feasible, these fees are established using a standardized formula to determine the value of replacement plantings. This fee is determined upon the cost to purchase, plant and tend to the new planting.

The draft By-law would be enforced through the Provincial Offences Act by an Officer of the Municipality. The Municipality will apply for the set fines through the Ministry of the Attorney General once the By-law has been approved. These fines have been created to assist with the regulation and enforcement of this By-law. Set fines range from \$250-\$500 depending on the offence.

Integrated Strategy 2020 – 2025: Community Wellbeing – Goal CW 3: Manage the planting, pruning and removal of trees located on Municipal owned property to preserve and enhance the urban and rural tree canopy.

Financial Implications: N/A

Attachments:

1. Tree Preservation Policy and By-law Community Survey
2. Draft Tree Preservation By-law

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Submitted by: Adam Weishar, Director of Infrastructure & Development