

Staff Report to Council

Title: Tree Ad Hoc Committee
Recommendations – Policy and
Private Tree By-law

Report Number: CAO General-2024-09

Director: Chief Administrative Officer

Manager: Manager.

Meeting Date:
Wednesday, April 10, 2024

Date to be considered by Council:
Wednesday, May 8, 2024

Recommendation:

Recommendation One: That Council direct staff to prepare a by-law to adopt the draft Tree Canopy and Natural Vegetation Policy as recommended by the Ad Hoc Committee on the May 8, 2024 agenda.

Recommendation Two: That Council direct staff to place the draft By-law to Regulate Native Trees on Private Property on the May 8, 2024 agenda.

Executive Summary:

The Tree Ad Hoc Committee is making recommendations to support both a policy related to tree canopy and natural vegetation, and a by-law to regulate native trees on private property. The policy tools are being recommended to help support the overall protection and enhancement of tree canopy within the community, through measurement and reporting, education and awareness, specific programs, and regulation. The regulation of trees on private property being recommended focuses on native species and is putting forward an approach that provides multiple exemptions to the regulation.

Strategic Priorities:

B.6-Protect and preserve our environment

Financial Considerations:

New financial and human resources will be required to support costs associated with:

- Replacement for all tree removals on municipal property at a ratio of 2:1, including both the cost of the additional trees and staff resources required to enact the change, including tracking of trees and replacement.
- Development of new communications materials related to both the new policy to increase education and awareness about the importance of tree canopy and natural vegetation, highlighting the benefits and providing guidance on how individuals and communities can contribute to preservation and enhancement.
- Human resources to assist with collaborations with local schools, community organizations, and environmental groups to promote environmental education and engage residents in tree planting and conservation initiatives.
- Human resources to establish a monitoring and reporting framework to assess the progress of tree canopy and natural vegetation initiatives, track the implementation of the policy, and identify areas for improvement. It is anticipated that GIS available mapping layers will provide information to help establish a baseline of tree canopy and track progress over the course of years.
- inform the public and promote the effectiveness of information as a policy instrument, as well as information about the new regulation

Initiative	Estimated Cost
Communications materials related to policy and by-law (e.g. website and social media)	Approximately \$5,000-\$7,500
Communications materials related to education and awareness programs and campaigns to increase awareness of the importance of tree canopy and natural vegetation	Approximately \$5,000
Proactive measures to prevent the introduction, control the spread, and manage the eradication of designated noxious weeds	Dependent on the invasive species. Currently, the municipality appoints the County of Bruce's weed inspector to serve in that capacity for the Municipality of Kincardine.
Tree replacement	Current operations and parks and recreation budgets related to tree replacement will be expected to increase in order to replace trees on 2:1 basis.
Enforcement	Dependent on requirement for administrative and legal support.

At the time of this report and draft policy proposal, there is an expectation that there will be opportunities to reduce some costs by working with volunteer groups to help with the planting of new trees on some municipal properties (e.g. tree planting in parks) to assist with the

replacement of 2:1 for municipal trees that are removed. If that is not possible, the costs associated with the human resources required to plant trees on a 2:1 basis will increase.

Monitoring of the policy and by-law implementation is required to help inform potential future human resource needs and will be proposed through budgets.

Policy:

Section 270(1)(7) of the *Municipal Act, 2001, S.O. 2001, c25* requires all municipalities to adopt and maintain a policy setting out the manner in which a municipality will protect and enhance the tree canopy and natural vegetation.

Context and Background Information:

In 2021, the Municipality adopted a policy related to trees on municipal property. The policy includes an application process for removal, and guidelines for pruning and replacement of trees on municipal property.

In 2021-2022, the Municipality consulted the public and gathered information related to options for regulating trees on private property. A draft private tree preservation by-law was presented to council in 2022, and due to timing related to the new council term the draft by-law was referred to the incoming council for its consideration.

In June 2023, Council struck a Municipal Tree Canopy and Natural Vegetation Ad Hoc Committee to offer advice and recommendations related to trees and natural vegetation within the municipality.

Ad Hoc Committee Activities

The ad hoc committee's objective has been to consider and develop overall goals related to tree canopy and natural vegetation and use policy tools to help protect and expand the tree canopy.

The ad hoc committee had 13 scheduled meetings and has undertaken the following work:

- Review of draft private tree by-law recommended during previous term of council.
- Review of background and history related to community feedback on tree protection and development.
- Review of policy options related to enhancement and protection of tree canopy and natural vegetation within the municipality.
- Review of the legislative and policy framework in Ontario related to tree by-laws within a two-tier governance structure.
- Review of County of Bruce Forest Conservation By-law and forestry management program.
- Review of other tools to protect trees (e.g. site alteration by-laws, environmental impact studies, tree preservation plans).
- Review of tools to protect trees relative to the development cycle.
- Review of mandatory exemptions identified under s. 135 of the *Municipal Act, 2001*, related to activities which cannot be subject to a municipal by-law to prohibit or

regulate the destruction or injuring of trees (e.g. the *Act* confirms that a by-law cannot apply to injury or destruction of trees as part of an approved site plan, plan of subdivision, consent application, development permit; nor the establishment of a pit or quarry).

- Review of current Official Plan and other planning documents prepared for the municipality related to natural environment.
- Review of Ontario Woodlot Association Tree Conservation By-law Template.
- Review of other Ontario municipalities' by-laws regulating injury and destruction of trees on private property.
- Review of policy options to ensure compliance with legislated requirement.
- Undertook exercise related to problem definition/issue identification, application, exceptions, prohibition, and processes, to assist in the development of a draft private tree by-law.
- Review of comments and recommendations from legal counsel regarding draft private tree by-law.

Ad Hoc Committee's Approach to Address Interrelated Set of Issues Related to Trees

Through the draft policy and draft by-law, the ad hoc committee is recommending an approach that incorporates a variety of available instruments to address the problem, or perceived problems, related to tree removals on private property, development, and supporting the protection and enhancement of tree canopy within the municipality.

The draft policy identifies current and proposed practices to help educate and inform the public about the benefits of preservation and enhancement of the tree canopy and natural vegetation. The draft policy also identifies current and proposed practices to incentivize the public to assist in enhancing the tree canopy. As well, the draft policy lays out a framework for responsibilities that the municipality will support through existing practices and the implementation of new responsibilities for the benefit of the overall community.

The draft by-law to regulate trees on private property has been developed to ensure compliance with the legislative framework, with a focus on native trees specifically. Part of the rationale for focusing on native trees is due to their connection to supporting habitat for wildlife and supporting our local ecosystems. Native trees are generally simpler to grow and care for, as they are well adapted to the local climate and soil. Additionally, with a focus on native trees it reduces the administrative requirements for the municipality.

Draft Tree Canopy and Natural Vegetation Policy

The draft policy includes the general procedures for tree canopy preservation and enhancement, natural vegetation conservation, education and awareness requirements, acknowledgement that to support the overall goals it will require policy integration internally and collaboration with other bodies. The policy identifies the need to establish monitoring and reporting to assess progress. Funding and resource requirements are noted at a high level.

The draft policy recognizes several existing municipal initiatives that are already underway which support tree canopy coverage and maintenance of the natural vegetation in the community, including:

- Phragmites maintenance program
- Tall tree sale
- Downtown tree planting
- Noxious weeds management
- Tree removal and replacement on municipal property (currently, the municipality replaces municipal trees 2:1 for live trees removed in parks, open spaces; the new approach would replace live or dead/dying trees at the 2:1 ratio)

The draft policy includes a section related to tree removal for development where trees are cleared prior to the submission of a building or planning application. The draft policy requires that the property owner will be required to undertake remediation through components of either a site plan control agreement or a subdivision agreement.

Draft By-law to Regulate Native Trees on Private Property

The draft by-law lays out the director responsible for administration of the by-law (Director of Infrastructure and Development) and the specific trees that the by-law applies to within the municipality (native trees on private lands with a diameter at breast height (DBH) of 10 cm or greater).

The by-law identifies what constitutes a native tree (Schedule A). If a tree on private property is not one of the listed trees (e.g. Norway Maple) then the by-law does not apply, even if the tree is at a DBH of 10 cm or greater.

The draft by-law identifies prohibitions related to destruction or injuring, unless exempted by the by-law or in accordance with the proposed permission process.

The draft by-law further identifies several exceptions to the application where a property owner would not have to apply for a permit related to a native tree, where it is permitted to be insured or destroyed and meets one of the listed conditions. Examples include:

- Land is zoned for agricultural use and injury, or destruction is for use in accordance with Normal Farm Practices, with some criteria (e.g. less than 20 cm DBH and not on lands designated in Environmental Protection)
- Tree is an immediate hazard to people/property confirmed by the Director.
- Tree is dead, dying, diseased, or severely injured.
- Tree is being used for personal use.
- A building permit has been issued where the tree is required to be removed.
- The tree is removed to provide access to an Additional Residential Unit (ADU).
- The tree is located on a residential property (as per zoning), with an existing dwelling, that is within an area of less than or equal to 0.5 hectares, provided that native tree is of a DBH of less than 20 cm.
- Tree is part of an existing cemetery.

The draft by-law also includes all legislated mandatory exemptions (e.g. injuring or destruction of trees by transmitter or distributor under the *Electricity Act* for the purpose of constructing and maintaining a transmission system or distribution system).

Consultation Overview:

A community consultation through a survey related to trees was undertaken in 2022, no new consultation was undertaken by the ad hoc committee.

Origin:

Council directed an ad hoc committee be formed to develop a policy on protection of tree canopy and natural environment and review draft private tree by-law recommended by previous term of council.

Implementation Considerations:

Measurement of tree canopy will be required to assist in the monitoring and reporting on whether the recommended approaches are effective. It is anticipated that GIS mapping will be used to establish a baseline and then evaluated on a periodic basis to match when aerial photography is updated.

Operations staff anticipate using the existing work order system to track the number of trees removed along the roadsides. Parks and Recreation staff anticipate manually tracking the number of trees removed within public open spaces (e.g. parks) and then using the work order system once it is implemented within the department. This information will be collected by each division to inform the departmental budget.

A tree enhancement plan may be required to support the planting of trees in areas where there are ageing trees, in order to be proactive as trees age and die. Such a plan may require removal of aged trees to prevent damage to infrastructure, persons, property.

Semi-annual updates from Community Services and Infrastructure and Development will be included in the quarterly update for reporting on the monitoring.

If the draft by-law is adopted as accepted, it is recommended that the effective date be in Q3 to allow the Infrastructure and Development Department time to develop necessary educational materials for the public to understand the application and exceptions, and to develop the forms and internal processes.

Risk Analysis:

There are, and will be, impacts to trees and vegetation as a result of invasive species and climate change (e.g. Emerald Ash Bore and Asian Long-Horned Beetle) which require mass tree removals. Removal of the trees may provide exposure to a forest floor which allows natural growth of native species to be accelerated. Replacement on a two to one basis in such situation may be cost prohibitive.

The current budget does not provide for funds to replace dead/dying trees on municipal properties, whether roadside clearing or within open public spaces, on a two-to-one basis. The operating budgets for both Community Services and Infrastructure and Development will

require increases to support both the policy and the by-law to regulate injury and destruction of trees on private property.

Attachments: Draft Tree Canopy and Natural Vegetation Policy
Draft Trees on Private Property By-law

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