



Staff Report

Planning and Development Services – Planning Division

Report To: Committee of the Whole
Meeting Date: January 14, 2019
Report Number: PDS.19.06
Subject: Bill 68 – Municipal Act Changes and Requirement for Municipal Tree Canopy Policies
Prepared by: Travis Sandberg, Planner I

A. Recommendations

THAT Council receive Staff Report PDS.19.06, entitled “Bill 68 – Municipal Act Changes and Requirement for Municipal Tree Canopy Policies” for information purposes;

AND THAT Council direct Staff to investigate potential approaches to further enhance/implement/improve the existing policies and bylaws regarding tree preservation and tree canopy enhancement;

AND THAT Council direct Staff to bring an Options Update and Next Steps Report to Council for future consideration prior to proceeding with a formal public engagement initiative;

B. Overview

This report provides an outline of Ontario Bill 68, titled *Modernizing Ontario’s Municipal Legislation Act, 2016*, as it relates to the requirement for all municipalities to adopt and maintain policies to protect and enhance the tree canopy and natural vegetation within their communities. As proclaimed by the Lieutenant Governor, Ontario municipalities have until March 1, 2019, to adopt such policies.

C. Background

Bill 68, entitled *Modernizing Ontario’s Municipal Legislation Act, 2016*, received royal assent on May 30th, 2017. This bill introduced a series of reforms to the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act*, and the *Municipal Elections Act, 1996*.

Of the various reforms introduced, an amendment to Section 270 of the *Municipal Act, 2001*, has the effect of requiring all municipalities to adopt and maintain policies with respect to the protection and enhancement of the tree canopy and natural vegetation in the municipality.

This section of Bill 68 comes into force and effect on March 1, 2019. Specifically, Section 270 requires that:

270(1) *A municipality shall adopt and maintain policies with respect to the following matters...*

7. *The manner in which the municipality will protect and enhance the tree canopy and vegetation in the municipality.*

D. Analysis

The Town of The Blue Mountains currently has four policy tools in place pertaining to the protection and preservation of the tree canopy within the municipality:

- The Town of The Blue Mountains Official Plan, 2016;
- Town of The Blue Mountains Sustainable Path, 2010;
- The Town of The Blue Mountains Tree Preservation By-law, 2010-68; and
- County of Grey Forest Management By-law, By-law No. 4341-06.

Town of The Blue Mountains Official Plan, 2016

Section D8.2 of the Official Plan, entitled *Tree Canopy*, provides general policy direction for the protection and enhancement of the tree canopy within the municipality. It is a policy of the Municipal Official Plan to:

- Encourage the planting of native or non-native non-invasive tree species and vegetation that are resilient to climate change and provide high levels of carbon sequestration, particularly through new development and on municipally-owned land;*
- Implement measures to protect, enhance, and expand the tree canopy, including but not limited to:*
 - Requiring tree planting in areas of extensive surface parking; and*
 - Promoting development that maximizes areas for tree planting.*
- Consider the establishment of a forest resource stewardship strategy and plan;*
- Require reimbursement, in the form of new trees or financial compensation, for all healthy trees proposed to be removed in development applications, based on the findings of a Tree Inventory and Preservation Plan; and*
- Encourage tree planting by local residents and organizations, and educate residents about the benefits of planting trees on their property and the environmental impact of removing trees.*

The policies of the Official Plan are generally implemented through specific land use designation policies, i.e. 40% open space requirement for new development in the *Residential Recreation Area*, and through implementation of development specific tree inventory and landscape plans. Otherwise, there are currently no By-laws or programs in place to provide for

specific requirements with respect to tree replacement, reimbursement, or preservation. Additionally, there are currently no forest stewardship programs yet established in the Town.

While the existing policies appear to satisfy the requirements of Bill 68, Council may consider to further enhance and strengthen them through further consideration of enactment of additional by-laws, programs, or other municipal initiatives.

Town of The Blue Mountains Sustainable Path, 2010

The Town of The Blue Mountains Sustainable Path, 2010, is a resource document intended to provide direction for all community partners in developing and implementing their own plans and policies for sustainability, and to serve as an overarching framework within which decisions are made. Within the document are various goals and strategies for achieving sustainability. One goal is to “*achieve long-term conservation of existing forest resources for future generations*”. This goal aims to encourage and enhance the protection of forest lands through:

- The establishment of a forest resource management strategy and plan;
- The protection of woodland and forest resources from incompatible adjacent uses;
- Reduce development pressure by directing development away from forested areas;
- Avoid fragmentation of forest habitat;
- Support reforestation efforts;
- Encourage partnerships and support the efforts of agencies involved in the management and preservation of forested ecosystems;
- Incorporate forest management strategies into the natural heritage strategy;
- Support conservation programs to reforest privately held forest lands; and
- Develop tree protection, replacement and enhancement policies and by-laws in urban areas.

Many of the initiatives of the Sustainable Path, 2010, are reflected in the 2016 Official Plan, including the general intent to preserve and enhance tree canopy, and the direction to protect woodland resources. General land use designations and good planning provide some protection of such resources from incompatible land uses, however, as noted above, there remains no specific requirements or regulations pertaining to the removal or replacement of mature trees on privately owned lands within the Municipality. Council may consider strengthening and further implementing the policies of the Sustainable Path and the Official Plan through additional by-laws, programs, or other municipal initiatives.

County of Grey Forest Management By-law, By-law No. 4341-06

The County of Grey Forest Management By-law aims to promote sustainable forest management practices and prohibits and regulates the destruction or injuring of trees in woodlands within the County. This By-law is currently the only enforceable By-law pertaining to tree cutting on private lands within the Town of The Blue Mountains. For the purpose of the By-law, “*woodlands*” are defined as:

1. (bb) ... *land that is one hectare or more in area with at least:*

- i) 1000 trees, of any size, per hectare;
- ii) 750 trees, measuring over five (5) centimetres/1.96 inches, in Diameter at DBH, per hectare;
- iii) 500 trees, measuring over twelve (12) centimetres/4.72 inches, in Diameter at DBH, per hectare;
- iv) 250 trees, measuring over twenty (2) centimetres/7.87 inches in Diameter at DBH, per hectare;

But does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees.

The By-law establishes a general prohibition on the harvesting, destruction, or injury of trees within woodlands by any person, except under specific circumstances. This upper-tier by-law is the only 'tree cutting' by-law currently enforce within the Municipality which can be applied to privately owned lands unless under review of an application for development. This program captures large woodland areas and does not apply to any tree stand that is under 1ha in size, leaving any property under this size exempt from the scope of the By-law. Council may consider implementing a municipal by-law to further enhance tree protection on privately owned lands and/or for woodlands under 1ha in size

The Town of The Blue Mountains Tree Preservation By-law, 2010-68

The Town of The Blue Mountains Tree Preservation By-law 2010-68 (please refer to Attachment 1), prevents the removal or damaging of any trees in any of the following two scenarios:

- Where a tree is identified as a tree for preservation on a tree preservation plan or an area of tree preservation forming part of, or referenced, in an agreement entered into with the municipality
- Where a tree is located on land owned, controlled or managed by the municipality of the County of Grey or any local board thereof.

Otherwise, there are no municipal controls in place to regulate the cutting of trees on privately owned lands nor are there any specific guidelines or regulations for the replacement or reimbursement of trees removed through a development application. Council may consider strengthening the implementation of the direction of the Sustainable Path, 2010, and the 2016 Official Plan through enactment of additional by-laws or initiatives in order to further protect and enhance the tree canopy and natural vegetation within the municipality.

Considering the Official Plan policies that have been adopted and are currently in effect, it appears the Town of the Blue Mountains has met the minimum requirements of Section 270(1) of the *Municipal Act*. However, while there is no imminent need to adopt a new policy by March 1, 2019, privately-owned woodlots under 1 hectare in size are not protected within the current regulatory regime except for those that may be involved in a Planning Act application.

Considering the intent of the Official Plan policies, as well as the pertinent goals and objectives of the Town's Sustainable Path, there may be value in the Town exploring updated methods and approaches that balance tree preservation and canopy enhancement with sustainable

development. This would require further research by staff and engagement with various stakeholders including regulatory authorities, the County of Grey, members of the public, and the development industry.

E. The Blue Mountains Strategic Plan

Goal #1: Create Opportunities for Sustainability

Goal #2: Engage Our Communities & Partners

Objective #3 Strengthen Partnerships

Goal #3: Support Healthy Lifestyles

Objective #1 Promote the Town as a Healthy Community

Objective #4 Commit to Sustainability

F. Environmental Impacts

As this report is for information purposes, there are no direct environmental impacts as a result.

G. Financial Impact

There are no financial impacts anticipated as a result of this report.

H. In consultation with

No additional consultation has occurred in the preparation of this information report.

I. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required.

J. Attached

Nil.

Respectfully submitted,

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