

Municipal Tree By-law Update

JOINT SAC/AAC COMMITTEE MEETING



January 13, 2022

Project Path and History

- Municipal Tree By-law 2010-68: Currently applies to Town Owned lands and lands subject to an approved tree preservation plan/development agreement
- January 14, 2019: Initial staff report regarding changes to Bill 68 and the requirement for Municipal Tree Canopy Policies was presented to the Committee of the Whole
- Jan. 30, 2019: Council direction to Staff to investigate enhancements to existing By-law
- May 6 2019: Follow-up Options Report presented to Council
- May 13, 2019: Council direction to Staff to proceed with Public Notice for changes to the By-law, refer determination of long-term solutions to Sustainability Advisory Committee
- July 3, 2019: Public Meeting regarding proposed updates to By-law 2010-68
- December 2, 2019: Council direction to Staff to complete additional Public Consultation
- Spring/Summer of 2021: public open house, public survey, updates to advisory committee
- September 7, 2021: Council direction to complete additional consultation with AAC and SAC



Project Path and History

- As a result of the survey and additional public comments received through the public Open House, Staff note the following emerging trends (outlined in detail in Staff Report PDS.21.080):
 - i. General Support for a Tree By-law to apply to private properties.
 - ii. Slightly more support for the application of a tree by-law in the Settlement Area versus the Rural Area. General trend of concerns regarding development related clear-cutting but to permit removal of a small number (or individual) trees on private property without permission.
 - iii. Strong support for financial compensation for unauthorized tree clearing.
 - iv. General support to develop an Urban Forest Strategy, but limited support for additional full-time staff to oversee/implement.





Project Path and History

The Town of Blue Mountains, Council Meeting
Council Meeting

Date: Tuesday, September 7, 2021

Moved by: Councillor Hope

Seconded by: Councillor Uram

THAT Council receive Staff Report PDS.21.080, entitled "Tree By-Law Update and Directions Report";
AND THAT Council direct Staff to implement Option 2, in consultation with the Agricultural Advisory Committee and Sustainability Advisory Committee, as outlined in Staff Report PDS.21.080, which includes the following:

1. Direct Staff to complete housekeeping updates to Municipal Tree Preservation By-law 2010-68, as necessary, to ensure coordination with any updates completed by the County of Grey regarding County Forest Management By-law 4341-06, as amended;
2. To also include in the update to the Municipal Tree Preservation By-law 2010-68, provisions that controls tree clearing, prior to development applications and pursue the following objective and/or exemptions:
 - Apply the Town's Tree Preservation Bylaw inside the Settlement Areas of the Town only (as defined in the County of Grey Official Plan)
 - Require a permit for tree removal on parcels with a minimum of 0.5 ha when
 - A. When the applicant proposes to destroy five (5) or more trees simultaneously or in a given calendar year, regardless of diameter; and
 - B. When the applicant proposes to destroy a tree with a minimum diameter of thirty (30) cm or more."
 - Only allow permits in certain Official Plan land use designations, when supported by appropriate studies and reports, such as a Certified Arborist Report, Environmental Impact Study, or any other report that the Director deems necessary:
 - To pursue additional exemptions to the By-law:
 - A. Land parcels which are less than 0.5ha in size";
 - B. The removal of a tree that necessitates removal as a result of being considered locally as an invasive species, diseased, dead, or a hazard to life or property
 - C. 4 or fewer trees a certain size can be removed
3. To consider the development of a Comprehensive Tree Canopy Strategy in conjunction with the planned Natural Heritage Study (subject to Budget 2022 Approval) and Integrated Community Sustainability Plan



DRAFT Tree By-law (2022)

- Key Changes:
 - Applies to privately owned properties within Settlement Area Only (min. 0.5ha)
 - Continues to apply to all Town owned lands, regardless of location
 - Continues to apply to properties subject to a development agreement/approved tree preservation plan
 - Includes various exemptions, as prescribed by the *Municipal Act*, and as gleaned from review of 'best practices' and from public comment
 - Outlines Application Requirements and establishes Criteria/Conditions of Permit Issuance
 - Outlines Enforcement, Penalties, and Compensation for Non-Compliance
- Rationale for changes based on public input, comments from Council and Committees, and the review of numerous municipal tree by-laws and best practices throughout the Province, as well as Provincial Acts;



DRAFT Tree By-law (2022) – Area of Applicability

2. AREA OF APPLICATION OF BY- LAW

2.1 Applicability- This By-law applies to the following lands:

a) Town Owned Lands - Despite Section 3.2(a) no person shall, within the boundaries of the Municipality, destroy or cause to be destroyed any tree that is located on land owned, controlled or managed by the Municipality or the County of Grey or any local board thereof without first obtaining the written authorization of the Municipality or the County of Grey or the local board.

a)b) Tree Preservation Plans - No person, shall, within the boundaries of the Municipality, destroy or permit or cause to be destroyed any tree that 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, unless supported by appropriate studies and reports, such as a Certified Arborist Report, Environmental Impact Study, or any other report that the Director deems appropriate.

c) Settlement Area

i. On a parcel of land with an area of 0.5 hectares (ha) or more within the Settlement Area, as outlined on Schedule "A" and subject to the Exemptions outlined in Section 3, no person shall injure or destroy or cause or permit the injury or destruction of trees without first obtaining a Permit pursuant to this By-law in the following cases:

a. When the applicant proposes to destroy five (5) or more trees simultaneously or in a given calendar year, each with a diameter between fifteen (15) cm and thirty (30) cm;

b. A tree with a diameter greater than thirty (30) cm;

2.2 A Permit pursuant to Section 2.1 of this By-law shall not be issued to destroy trees located on lands unless supported by appropriate studies and reports, such as a Certified Arborist Report, Environmental Impact Study, or any other report that the Director deems appropriate.

2.3 This By-law is a component of the municipality's development review and approval process. An application for a Permit may be processed and considered concurrently with a development related application submitted pursuant to the *Planning Act* and a Permit pursuant to this By-law may be issued prior to the granting of approval of the *Planning Act* application at the Director's discretion, where the issuance of a permit would not otherwise prejudice a decision on the *Planning Act* application.

Commented [A8]: See Settlement Area definition provided in Part 1(t) above. Residential lots within existing plans of subdivision are generally less than 0.5ha (1.2ac) in size. The 0.5ha minimum size captures larger parcels of land generally located outside of existing plans of residential subdivision, wherein lot sizes are typically less than 0.5ha in area. This size threshold is consistent with best practices and matches that which is applied in the Town of Collingwood Tree By-law BL2012-084.

Commented [A9]: Size/range of trees based on Best Practices as result of jurisdictional review



DRAFT Tree By-law (2022) – Exemptions

2.3. EXEMPTIONS

3.1 A tree may be injured or destroyed, without applying for a Permit from the Town, where:

- a) The tree is located on a Lot which is less than 0.5ha in size;
- b) The tree is located on lands located outside of the Settlement Area, as outlined on Schedule "A", and/or within the Hamlet Area, Agricultural, Special Agricultural, Rural, Rural Employment, and Mineral Resource Extraction Area designations of the Town of The Blue Mountains Official Plan, as amended.
- c) Any tree which is subject to the County of Grey Forest Management By-law No. 4341-06;
- d) Any tree which is subject to the Development Control policies of the Niagara Escarpment Plan, as amended.
- e) Any Tree which is located within an area regulated by a Conservation Authority under Ontario Regulation 151/06, as amended.
- f) The applicant proposes to injure or destroy four (4) or fewer trees simultaneously or in a given calendar year, each with a diameter between fifteen (15) cm and thirty (30) cm; or
- g) The tree has a diameter of less than fifteen (15) cm.
- h) The cutting of firewood for personal use to a maximum volume of twenty-five (25) Stacked Cubic Metres per calendar year;
- i) The injury or destruction as necessary to clear land in accordance with a normal farm practice conducted by a farm operation for its own agricultural activity;
- j) The maintenance of a tree in accordance with good arboriculture practice;
- k) The removal of a dead, diseased or hazardous tree when certified as such by an individual designated or approved by the Director;
- l) The removal of a tree that necessitates removal as a result of being considered locally as an invasive species;
- m) The removal of a damaged or destroyed tree, when certified as such by an individual designated or approved by the Director, where the removal is in the interest of public safety, health or general welfare following any man-made or natural disasters, storms, high winds, floods, fires, snowfall or freezes;
- n) A tree injured or destroyed in compliance with a tree preservation plan approved by the Director or otherwise approved and recognized in an executed Development Agreement;
- o) A tree on land covered by a woodlands management plan approved by a forestry consultant, a copy of which has been submitted to the Director, provided such work is undertaken in accordance with good forestry practice and the woodlands management plan;

Commented [A10]: This exemption allows for a maximum of 25 stacked cubic metres (appx. 7 cords) of firewood for personal use per year without a permit from the Town. This is consistent with other Municipal Tree By-laws, such as the Town of Wasaga Beach, which generally permit 20 face cords per year (approx. 25 stacked cubic metres). Additional wood may be harvested for personal use, subject to obtaining a permit from the Town.

A typical large open fireplace burns approximately 3.6m³ (1 cord) every seven days. A typical non-catalytic woodstove will use 3.6m³ every 30 to 60 days. A high efficiency catalytic woodstove can use 3.6m³ in one season.

Commented [A11]: Notwithstanding the applicability provisions outlined under Section 2, this additional exemption provides exemption under this By-law for existing agricultural uses located within the Settlement Area.

Exemptions under Part 3.2 are Statutory Exemptions per *Municipal Act



DRAFT Tree By-law (2022) – Application

4. PERMIT APPLICATION

Commented [A13]: Outlines minimum permit application requirements

4.1 An Owner who applies for a Permit shall submit the following, as part of a complete application:

- a) A completed Application Form;
- b) Payment of the required fees in accordance with the Town of The Blue Mountains Fees and Charges By-law, as amended;
- c) A report prepared by a landscape architect or a qualified forestry consultant which will provide a general visual assessment and categorization of the existing trees, set forth the reasons for the proposed destruction of the tree(s), shall confirm that endangered, threatened, or at risk species are not present, and shall include recommendations for preservation and protection of any trees to be retained;
- d) Any other technical reports or studies as deemed necessary and appropriate by the Director;
- e) The Director shall have the option of not requiring the report noted in Section 5.1(c) in special circumstances to be determined at their sole discretion; and
- f) Following receipt of an application, the Director or their designate may enter and inspect the lands upon which the tree is located and the submitted of the application shall be deemed permission to so enter and inspect.



DRAFT Tree By-law (2022) – Permit Issuance

5. PERMIT ISSUANCE

Commented [A14]: Establishes criteria for the approval/refusal of a Permit Application

- 5.1 A Permit shall not be issued unless the Director is satisfied that the injury or destruction of a tree will not result in:
- a) Soil erosion or slope instability including impacting existing flood control measures;
 - b) Blockage of a watercourse or interference with natural drainage processes;
 - c) Siltation in a watercourse;
 - d) Pollution of a watercourse;
 - e) Significant impact on any healthy vegetation community within, or adjacent to the subject site; or
 - f) Significant impact on any fish or wildlife habitat within, or adjacent to, the subject site.
- 5.2 The Director shall review the complete Application and may:
- a) Issue a Permit;
 - b) Issue a Permit with conditions; or
 - c) Refuse to issue a Permit
- 5.3 The Director may confer with such persons, staff, qualified professional, and agencies as they consider necessary for the proper review of the Application.
- 5.4 A Permit shall not be issued where:
- a) An application for a plan of subdivision or consent related to lands on which the tree is located has been submitted to the municipality and has not received draft approval unless otherwise permitted per Section 2.3;
 - b) An application to amend the Official Plan, for re-zoning, or for site plan approval related to the lands on which the tree is located has been submitted to the municipality, and has not received final approval unless otherwise permitted under Section 2.3;
 - c) Trees that are listed as endangered, threatened, or at-risk species in the *Endangered Species Act*, R.S.O., 1990 or the *Species at Risk Act*, 2002;
 - d) Where approval would be in contravention of the *Migratory Birds Act*, 1994;
 - e) The Permit would result in the destruction of a Designated Tree; or
 - f) The destruction of a tree will not be in accordance with good arboricultural and forestry practices, as determined by the Director.



DRAFT Tree By-law (2022) – Terms and Conditions

6. TERMS AND CONDITIONS OF A PERMIT

6.1 The Director may impose conditions on a Permit that in their sole discretion are reasonable. Without limiting the generality of the foregoing, the following conditions may be imposed:

- a) Any conditions in accordance with good arboricultural and forestry practice, and established silviculture;
- b) Measures to be implemented to protect the retained trees during construction, including if applicable, directional boring, and the length of time that the Permit is valid for;
- c) The requirement to prepare a Tree Preservation and Protection Plan in accordance with Schedule 'A', which must be approved and implemented as a condition of the Permit;
- d) To require the destruction or injury to the tree to occur in a safe and appropriate manner and within a specified time frame;
- e) A requirement to plant a replacement tree in accordance with Section 7.3 of this By-law; and
- f) Where the destruction or injury of a tree is not conducted as part of, and in accordance with, a Site Plan Agreement, a Subdivision Agreement, or a Condominium Agreement, the Owner may be required to:
 - I. Enter into an agreement regarding the conditions as set out in 7.1(a) to (e) above this section which form part of the Permit; and
 - II. Register the agreement on the title to the lands affected by the Permit.

6.2 A copy of the Permit shall be posted on the property prior to the commencement of any injury or destruction of any tree allowed by the Permit. In a conspicuous place on the subject property that is adjacent to a public road and visible to all persons or at such other location deemed appropriate.

6.3 Where a Permit requires the planting of replacement trees, the Director may impose conditions on the Permit that in their sole discretion are reasonable. Without limiting the generality of the foregoing, the following provisions related to the replacement tree may be imposed:

- a) The species, size, number, and location of the replacement tree;
- b) The date by which any replacement tree is to be planted;
- c) The maintenance and care of any replacement tree shall be determined by the Director in consultation with a landscape architect or qualified forestry consultant;
- d) Where removal involves a distinctive tree, the replacement tree shall be equal to the net Diameter of the removed tree, either as a single tree or multiple trees, and shall include the same species, where appropriate and commercially available;
- e) The maintenance and care of a replacement tree including the deposit of security in the form of a letter of credit, cash or certified cheque, in an amount to be determined by the Director to guarantee, for a specified period of time, the cost of maintaining or replacing a replacement tree;
- f) Replacement trees are to be maintained and protected in accordance with good arboricultural and forestry practices by the Owner or person responsible for the injury or destruction, for a minimum period of two (2) years after planting;
- g) Replacement trees shall be subject to the following locational priorities:
 - I. The first and highest priority shall be to plant the replacement tree on the property where the tree was destroyed; and
 - II. The next highest priority shall be to plant the replacement tree on another site(s) in the municipality for the purpose of general reforestation.



DRAFT Tree By-law (2022) – Compensation

10. COMPENSATION

10.1 The Director shall calculate the compensation for the injury or destruction of a tree required as a condition of a Permit, or required as a condition of an Order issued under this By-law, as follows:

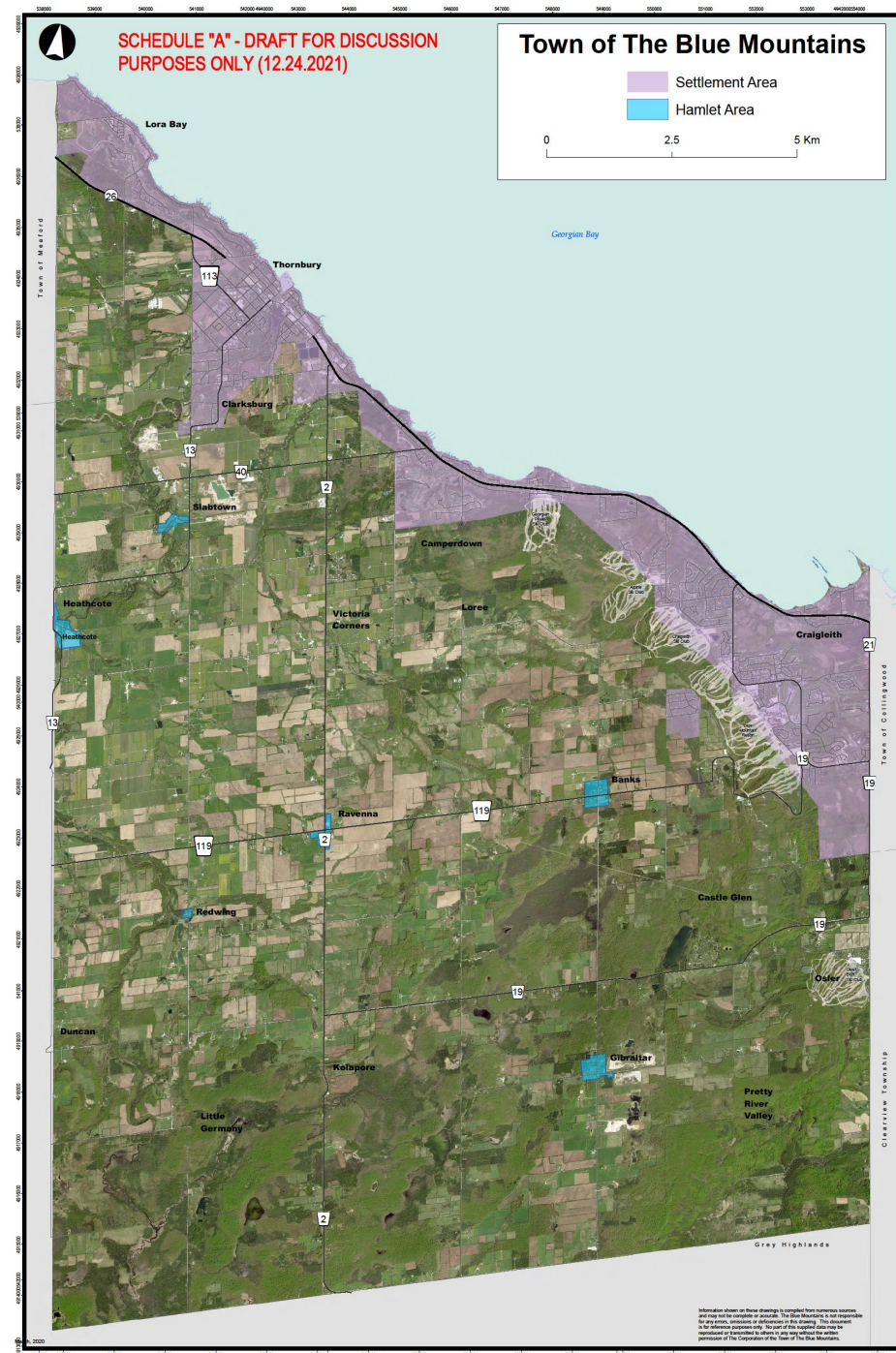
- a) The value of any tree that is injured or destroyed shall be determined using the International Society of Arboriculture Trunk Formula Method.;
- b) The value of the tree injured or destroyed, as calculated pursuant to Section 10.1.a), shall be used to determine the number, species, and size of the replacement tree that shall be planted by the permit holder or person responsible for the injury or destruction, as the case may be. The Director shall make this determination in consultation with a qualified forestry consultant and their decision to the number, species, and size of replacement tree shall be final.
- c) The provisions of Section 7.3, with necessary modifications, shall apply to replacement trees planted in accordance with this Section.

Commented [A17]: Additional provisions related to Compensation included per comments received from Sustainability Advisory Committee and the public. Compensation is consistent with best practices and mirrors that established in the Town of Collingwood Tree By-law BL2021-084.



DRAFT Interactive Map:

<https://thebluemountains.maps.arcgis.com/apps/webappviewer/index.html?id=7320138d48c94d2494efc0547fe27ae5>



Next Steps

