



Staff Report

Planning and Development Services – Planning Division

Report To: Committee of the Whole
Meeting Date: May 6, 2019
Report Number: PDS.19.44
Subject: Tree Protection Options and Next Steps Update
Prepared by: Travis Sandberg, Planner I

A. Recommendations

THAT Council receive Staff Report PDS.19.44, entitled “Tree Protection Options and Next Steps Report”;

AND THAT Council direct staff to provide notice to the public regarding the proposed amendments to the current Municipal Tree Preservation By-law No. 2010-68, in order to extend the scope of the existing By-law to include trees on private lands in order to provide interim regulations for the injury or destruction of trees within the Municipality;

AND THAT Council provide direction to Staff with respect to the preferred long-term approach to tree preservation and enhancement in Municipality, through selection of Approach 1, 2, or 3, of this report and further direct Staff to prepare a follow-up report detailing the project plan to pursue the preferred long-term approach, including public consultation and stakeholder meetings.

B. Overview

Staff have completed a jurisdictional review of various upper-tier and lower-tier municipal approaches to tree protection and provide recommendations for Council to consider in order to further enhance and improve the existing tree preservation and enhancement policies and by-laws of the Municipality.

C. Background

As a result of the implementation of amendments to Section 270 of the *Municipal Act, 2001*, Council has expressed its desire to improve and broaden the existing Municipal Tree Preservation By-law in order to further protect and enhance the tree canopy and vegetation within the Municipality. Staff have conducted a multi-jurisdictional review of various upper-tier and lower-tier governmental approaches to tree protection and have compiled recommendations for Council consideration:

- 1) Pursue immediate interim measures to enhance existing protections in the short-term;
- 2) Consider and direct Staff regarding potential long-term approaches:
 - a) Approach 1: Town and County Coordinated By-laws;
 - b) Approach 2: Municipal Tree Preservation By-law; or
 - c) Approach 3: Comprehensive Municipal Site Alteration By-law

D. Analysis

A summary of the multi-jurisdictional review of various tree preservation/retention By-laws is included as Attachment 1 to this report. As a result of the jurisdictional review, Staff recommend a two staged approach for strengthening the current tree retention and enhancement policies in the Municipality. The first stage involves amending the current By-law in order to include interim protection for tree on privately owned lands. With the stop-gap measures in place, Staff may complete a broader public consultation process into the preferred policy approach for tree protection in the Municipality. In this regard, three long-term policy approaches are provided below for Council's consideration and direction.

Interim measures to enhance existing protections in the short-term

Through review of the current County of Grey Forest Management By-law No. 4341-06 ('the County Forest By-law') and Town of The Blue Mountain Tree Preservation By-law No. 2010-48 ('the Municipal Tree By-law'), it has been determined that a shortfall exists with respect to tree protection within the Municipality. More specifically, the current in-force By-laws collectively protect the destroying or injuring of trees which are:

- a) Located within a 'Woodland', as defined by the County Forest By-law, which generally pertains to land that is a minimum one (1) hectare in area and contains a specified number of trees;
- b) Located on municipally owned lands; and/or
- c) Identified on a Tree Retention Plan.

This recommendation proposes various amendments to the existing Municipal Tree By-law in order to provide interim, short-term, protections to trees which do not currently fall within the scope of either of the current County or Municipal By-laws. The intent of the amendment is to extend tree protection under the Municipal By-law to larger privately owned parcels of land located outside of residential plans of subdivision which do not currently meet the threshold for protection under the County Forest By-law. This will help to preserve trees on these larger land holdings without encumbering smaller lot owners with permit requirements for removal of trees on smaller low-density residential lots. A more comprehensive review and consultation process can unfold in order to develop appropriate long-term policies for the protection and enhancement of the tree canopy within the Municipality.

Should the proposed amendments to the current by-law be enacted by Council, then all trees within the Municipality located on privately owned lands which are a minimum of 0.5ha in area, and do not contain "woodlands" as defined by the County Forest Management By-law, will be

required to obtain a 'permit' from the Town prior to removal. As a result, any parcel of land which is 0.5ha in area will be subject to a tree preservation by-law. Similar to many other municipal jurisdictions, the administration and issuance of a 'permit' is at the sole discretion of the Director of Planning and Development Services, whom may request any additional/supporting information, as necessary, prior to issuing written approval to remove a tree. Supporting information may include, but is not limited to, the provision of an arborist' report prepared by a qualified professional. For the purpose of this recommendation, a proponent would submit a formal application and supporting information to the Director for review and consideration. If deemed appropriate, then the Director may issue written authorization for the removal of the tree.

In order to implement the "Stop-Gap" protections, the following amendments to the Town's Tree Preservation By-law No. 2010-68, are required:

- a) The following definitions to be inserted under Section 1 '*Definitions*' of By-law No. 2010-68:
 - i) "**Permit**: means the written authorization of the director to destroy or injure trees, with or without conditions, at the sole discretion of the Director.
 - ii) "**Diameter**: refers to the diameter of the stem of a tree at a height of 1.37m from the ground, in accordance with the Forestry Act, R.S.O. 1990, c. F26";
- b) The following clauses to be inserted under Section 2 '*Application of By-law*' of By-law 2010-68:
 - i) "c) No person shall, within the boundaries of the Municipality, destroy or cause to be destroyed or injured any tree that is located on a lot with a minimum area of 0.5ha, without first obtaining a Permit pursuant to this By-law."
 - ii) "d) A Permit pursuant to this By-law shall generally not be issued to injure or destroy the following trees:
 - (i) Trees located on lands designated in the Official Plan as:
 - 'Future Secondary Plan Area';
 - 'Special Study Area';
 - 'Escarpment';
 - 'Wetlands';
 - 'Hazard Lands';
 - 'Major Open Space';
 - Areas identified as containing Provincially Significant Areas of Natural and Scientific Interest; and
 - Other areas identified as potentially containing significant or sensitive natural heritage features.
 - A Permit may be issued to remove or injure trees in the above designations, subject to the provisions of appropriate studies, such as a Certified Arborist Report, Environmental Impact Study, or any other report that the Director deems necessary.

extends protection to privately owned lands. Through the development of a new By-law, tree protection policies can be modernized to include such matters as:

- Implementation of a long-term, formal permit system for tree removal;
- Specific protection policies for development versus non-development parcels;
- Enhancement and replacement provisions;
- Appropriate exceptions to the Permit requirements.

With this approach, the Municipality will remain reliant on the County Forest Management By-law and will be responsible for developing, implementing, and enforcing a tree preservation/enhancement by-law for all lands that are not subject to the County by-law and satisfy the established minimum lot size.

Class 3 Public Notice in accordance with the Town of The Blue Mountains Policy Procedure POL.COR.07.03, would be required prior to the implementation of any By-law changes, which includes a minimum 21-days of notice of proposed changes to the By-law prior to them being considered by Council.

Approach 2: Municipal Tree Preservation By-law

The second long-term policy approach involves developing a new comprehensive Municipal Tree Preservation By-law. The new municipally enforced by-law would be extended to include trees which are within Woodlands, as defined by the County Forest Management By-law, and would no longer rely on the County By-law for the protection of any trees in the Town. Policies may be included to address tree removal, protection, replacement and enhancement, as well as penalties for non-compliance.

In order to implement this approach, the first step would be to formally request delegated authority from the County of Grey, in accordance with Section 135(8) of the Municipal Act, 2001, in order for Council to be able to legally pass a By-law respecting the destruction of injuring of trees in woodlands, as defined by Section 135(3) of the Act.

Once delegated authority is obtained, the Town would be solely responsible for developing, implementing, and enforcing a comprehensive by-law. Class 3 Public Notice in accordance with the Town of The Blue Mountains Policy Procedure POL.COR.07.03, would be required prior to the implementation of any By-law changes, which includes a minimum 21-days of notice of proposed changes to the By-law prior to them being considered by Council. It is recommended that a Public Open House also be scheduled to obtain feedback from the public prior to a Draft By-law being prepared.

Approach 3: Comprehensive Municipal Site Alteration By-law

The third long-term policy approach involves developing a comprehensive site alteration by-law which can be applied to all lands within the Municipality. The by-law would update and consolidate all by-laws pertaining to site alteration, such as those pertaining to grading and placement of fill and tree preservation, into one comprehensive *Site Alteration By-law*. The

resulting by-law would apply to all lands within the municipality regardless of size, with appropriate exceptions included as necessary.

In order to implement this option, the first step would be to formally request delegated authority from the County of Grey, in accordance with Section 135(8) of the Municipal Act, 2001, in order for Council to be able to legally pass a By-law respecting the destruction of injuring of trees in woodlands, as defined by Section 135(3) of the Act.

Once delegated authority is obtained, the Town would be solely responsible for developing, implementing, and enforcing a comprehensive by-law. The By-law would include matters pertaining to grading, fill, tree removal, tree protection and enhancement/replacement, and would also outline any permit systems or penalties for non-compliance.

Class 3 Public Notice in accordance with the Town of The Blue Mountains Policy Procedure POL.COR.07.03, would be required prior to the implementation of any By-law changes, which includes a minimum 21-days of notice of proposed changes to the By-law prior to them being considered by Council. It is recommended that a Public Open House also be scheduled to obtain feedback from the public prior to a Draft By-law being prepared.

Conclusions

Each of the three (3) long-term policy approaches require extensive community and stakeholder engagement. Upon receipt of direction pertaining to the Council-preferred option, Town Staff will prepare a follow-up report outlining the project plan, timing, and required resources to complete the initiative and implement the preferred approach.

E. The Blue Mountains Strategic Plan

Goal #3: Support Healthy Lifestyles
Objective #1 Promote the Town as a Healthy Community

F. Environmental Impacts

No direct environmental impacts are anticipated as a result of this report. The impacts of any future draft by-laws will be evaluated appropriately.

G. Financial Impact

No direct financial impacts are anticipated as a result of this report. The impacts of any future draft by-laws will be evaluated appropriately.

H. In consultation with

- The County of Grey;
- Grey Sauble Conservation Authority.

I. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre at this time.

J. Attached

1. Attachment 1 – Jurisdictional Review
2. Attachment 2 – Tracked Changes for Amending By-law

Respectfully submitted,

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<u>Jurisdiction</u>	<u>By-law Number</u>	<u>Upper/Lower Tier By-law</u>	<u>Scope/Application of By-law</u>	<u>Permit System</u>	<u>Administrator of Permits</u>	<u>Additional Prohibitions</u>	<u>Exemptions from By-law</u>	<u>Trees Not within Scope of By-law</u>
County of Grey	Forest Management By-law 4341-06	Lower Tier: TBM Tree Preservation By-law 2010-68	Applies to all Woodlands within the County. Woodland defined as: <i>Land that is one (1) ha or more in area with at least:</i> <i>(i) 1000 trees, of any size, per ha;</i> <i>(ii) 750 trees, measuring over five (5) cm in DBH;</i> <i>(iii) 500 trees, measuring over twelve (12) cm in DBH;</i> <i>(iv) 250 trees, measuring over twenty (20) cm in DBH.</i>	Yes	Officer, as designated by Council	<ul style="list-style-type: none"> - No harvesting or destroying trees within a woodland that may result in reducing the Basal Area of the woodlands or in the de-classification as a woodland; - General prohibition on harvesting trees within a Conifer Plantation or a Sensitive Natural Area; - All trees must be marked prior to removal; 	<ul style="list-style-type: none"> - Standard exemptions in accordance with Section 135(12) of the <i>Municipal Act</i>; - Where an exemption has been granted by Council; - Removal to erect a building or structure subject to a building permit. No trees shall be removed beyond 15m from the outer edge of the building; - Removal to install a driveway; - Where the Owner has been the registered owner for at least two-years; - Removal pursuant to a legally binding contract; - Destruction as an integral component of an active farm operation. 	Trees which are not within located within woodlands, as defined by the By-law (i.e. within woodlots that are less than 1.0ha in area, or not in a woodlot)
Town of the Blue Mountains	Tree Preservation By-law 2010-68	Upper Tier: County of Grey Forest Management By-law 4341-06	Applies to all trees identified for preservation under a tree preservation plan and any tree located on lands owned by the Municipality	Yes	Director of Planning and Building Services, through delegated authority of Council	None.	<ul style="list-style-type: none"> - Standard exemptions in accordance with Section 135(12) of the <i>Municipal Act</i>; - Regular maintenance in accordance with good arboriculture practice; - Removal of dead, diseased, or hazardous trees, when approved by the Director; - Removal of a damaged tree, when approved by the Director; - A tree removed in compliance with a tree preservation plan; - A tree on land subject to an approved woodland management plan; - Destruction as an integral component of an active farm operation; 	Trees located on private lands which are not subject to a tree preservation plan or the County of Grey Forest Management By-law (i.e. that are not located within a woodland which is 1ha or more in area)

Town of The Blue Mountains: Proposed "Stop-Gap"	Tree Preservation By-law 2010-68, as amended	Upper Tier: County of Grey Forest Management By-law 4341-06	Applies to all trees identified for preservation under a tree preservation plan, any tree located on lands owned by the Municipality, and trees located on privately owned lots which are a minimum of 0.1ha in area	Yes	Director of Planning and Building Services, through delegated authority of Council	No injuring or destroying of trees on municipal lands or on lands that are a minimum 0.1ha in area, without obtaining a permit	<ul style="list-style-type: none"> - Standard exemptions in accordance with Section 135(12) of the <i>Municipal Act</i>; - Regular maintenance in accordance with good arboriculture practice; - Removal of dead, diseased, or hazardous trees, when approved by the Director; - Removal of a damaged tree, when approved by the Director; - A tree removed in compliance with a tree preservation plan; - A tree on land subject to an approved woodland management plan; - Destruction as an integral component of an active farm operation; - When clearing four or less trees simultaneously, measuring between fifteen (15) cm and thirty (30cm) DBH - Tree measuring less than fifteen (15) cm DBH; - Any tree which is subject to the County of Grey Forest Management By-law No. 4341-06 	Trees located on any lot (public or privately owned) which is less than 0.1ha in area.
Town of Collingwood	Tree By-law 2012-84	None. Full delegated authority from Simcoe County as per Section 135(8) of <i>Municipal Act</i>	Applies to the following trees located on land that is <u>0.5ha or more</u> in area: (i) Five or more trees simultaneously, or the fifth within a calendar year, measuring between fifteen (15) cm and thirty (30) cm DBH; (ii) A tree measuring thirty (30) cm DBH or greater; (iii) Trees on municipal property; (iv) Trees located in a woodland (Woodland	Yes	Director of Planning Services, through delegated authority of Council	A Permit pursuant to the By-law, will generally not be issued for: <ul style="list-style-type: none"> - Trees located on lands designated as Env. Protection, Recreation, or Rural, in the Official Plan; - Trees identified for preservation on an approved tree retention plan; - Trees located on lands where there are no development applications under active review by the municipality; - Trees on lands subject to review for Draft Plan of Subdivision which have not been draft approved; 	<ul style="list-style-type: none"> - Standard exemptions in accordance with Section 135(12) of the <i>Municipal Act</i>; - When clearing four or less trees simultaneously, measuring between fifteen (15) cm and thirty (30cm) DBH; - Tree measuring less than fifteen (15) cm DBH; - Regular maintenance in accordance with good arboriculture practice; 	Trees located on any lot (public or privately owned) which is less than 0.5ha in area

			definition is the same as the County of Grey)			<ul style="list-style-type: none"> - Trees on lands subject to an application to amend the Official Plan, Zoning By-law, or for site plan approval, which has not been granted final approval; - Endangered, threatened, or at risk tree species; - Where approval would contravene the <i>Migratory Birds Act</i> or the <i>Species at Risk Act</i>; - The removal of a historically designated tree; - Destruction of a tree not in accordance with good forestry practices; 	<ul style="list-style-type: none"> - Removal of dead, diseased, or hazardous trees, or invasive species; - A tree on land subject to an approved woodland management plan; - Destruction as an integral component of an active farm operation; 	
Town of Wasaga Beach	Tree By-law 2017-71	None. Full delegated authority from Simcoe County as per Section 135(8) of <i>Municipal Act</i>	<p>Applies to the following:</p> <ul style="list-style-type: none"> (i) Trees located within a woodland (Woodland definition is the same as the County of Grey); (ii) Trees located on lands designated as Natural Heritage System in the Official Plan; (iii) All lands within the Town where the parcel is 1.0ha in area or greater; (iv) On all lands zoned Commercial, as per the Town Zoning By-law. 	Yes	Municipal Clerk, through delegated authority of Council	<p>Permit will not be issued where:</p> <ul style="list-style-type: none"> - An application has not been submitted or a report, as required by the Clerk, has not been provided; - Permit would result in the removal of an endangered, threatened, or at risk tree species; - Permit would result in the removal of a historically designated tree; - Flood, erosion, or ecological integrity of the area would be negatively affected; - The permit is not in keeping with the intent and purpose of this By-law; - Result in de-classification of a woodland; - No permits will be issued or in effect during the period of April 15 to July 31, annually, due to bird nesting (<i>Migratory Birds Act</i>) 	<ul style="list-style-type: none"> - Standard exemptions in accordance with Section 135(12) of the <i>Municipal Act</i>; - Removal of dead, diseased, or hazardous trees, or invasive species; - Personal harvest of fire wood within a woodland to a maximum of 20 face chords annually; - Removal to erect a building or structure subject to a building permit or driveway; 	Trees located on privately owned non-commercial lands which are less than 1.0ha in area.
City of Owen Sound	By-law 1994-020	Upper Tier: County of Grey Forest Management By-law 4341-06	Applies to all trees located on lands owned by the Municipality	Yes	Municipal Arborist and designate thereof	None	<ul style="list-style-type: none"> - Standard exemptions in accordance with Section 135(12) of the <i>Municipal Act</i>; - Following persons may remove, prune, or otherwise disturb a tree on municipal property: <ul style="list-style-type: none"> i. PUC General Manager ii. City Engineer iii. Parks Manager iv. Works Superintendent v. Bell Canada vi. Union Gas 	Trees located on privately owned lands

	Residential Tree Preservation Policy	Note: This is a policy, not By-law	Applies to lands subject to review of a residential development application. Pertains to retention of existing trees through development review.	No	Planning Services through the review of Development Applications	<ul style="list-style-type: none"> - Trees on steep slopes in hazard areas, ravines and un-developable areas shall be retained; - Trees within a proposed residential development shall be retained where the species is consistent with the guidelines and is unique in terms of age, size, or historical importance; - Where a tree would normally be retained, it may be removed provided a minimum of two trees are planted for each lost; - Tree removal is not permitted prior to approval of a tree retention plan. 	None.	Individual trees on existing lots of record under private ownership.
City of Barrie	Municipal Tree By-law 2014-116	Upper Tier: County of Simcoe Forest Conservation By-law No. 5635	Applies to all public trees within the boundary of the Municipality	Written approval from Director	Director of the Operations Department	<ul style="list-style-type: none"> - No removal of trees which are subject to the <i>Endangered Species Act</i> or are historically designated; - Trees may not be removed which negatively affect flood or erosion control or ecological integrity of protected areas; 	Standard exemptions in accordance with Section 135(12) of the <i>Municipal Act</i> ;	All trees on privately owned lands within the Municipality
	Private Tree By-law 2014-115	Upper Tier: County of Simcoe Forest Conservation By-law No. 5635	Applies to all trees in woodlots within the boundary of the Municipality with an area of 0.2ha or greater	Yes	Designated Department Head or Officer	None.	Standard exemptions in accordance with Section 135(12) of the <i>Municipal Act</i> ;	All trees on privately owned lands which are below 0.2ha in area
	Tree Protection Manual	Note: This is a policy, not a By-law	Applies to all trees within the Municipality. Provides minimum standards for tree preservation, removal, and replacement	n/a	Designated Department Head or Officer	None.	None.	None.

**THE CORPORATION OF
THE TOWN OF THE BLUE MOUNTAINS**

BY-LAW NO. 2010- 68

**Being a By-law to prohibit and regulate the destruction or injuring of
certain trees in The Town of The Blue Mountains**

WHEREAS, Section 135 of the *Municipal Act*, R.S.O. 2001, c. 25, provides Council with the authority to pass by-laws for prohibiting or regulating the destruction or injury of trees and to require that a permit be obtained for the injuring or destruction of trees specified in the By-law and prescribing fees for the permit, and prescribing conditions under which a permit may be issued;

NOW THEREFORE, the Council of The Corporation of The Town of The Blue Mountains enacts the following:

1. DEFINITIONS

In this By-law,

- a) "certified arborist" means an arborist certified by the Certification Board of the International Society of Arboriculture;
- b) "destroy" means the injuring or removal of trees by cutting, burning, uprooting, chemical application or other means;
- c) "Diameter" refers to the diameter of the stem of a tree at a height of 1.37m from the ground, in accordance with the Forestry Act, R.S.O. 199, c. F26;
- e)d) "Director" means the Director of Planning & Building Services for the Municipality or his or her designate;
- e)e) "farm operation" means an agricultural or horticultural operation that is carried on in expectation of gain or reward, and includes the cultivation of land, the raising of livestock and poultry, the production of agricultural crops and maple syrup production;
- e)f) "forest technician/technologist" means a graduate of a post-secondary school forestry and/or ecology based program;
- f)g) "forestry consultant" means a forest technician, a forest technologist, a forest/wildlife ecologist, a managed forest plan approver, or a professional forester;
- g)h) "good forestry practice" means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the woodlands and the environmental conditions under which it is being applied and which minimize detriments to woodlands values, including: significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, woodlands productivity and health, and the aesthetic and recreational values of the landscape and includes the cleaning and thinning of trees for the purposes of stimulating tree growth and improving the quality of the woodlands without permanently breaking the canopy; the cutting and removal of hazardous, severely damaged, diseased and insect-infested trees in order to prevent injury, damage, contamination or infestation of other trees; and the cutting or removal of trees which no longer contribute to the achievement of woodlands values;
- h)i) "harvesting" means the destruction of trees and may be either a single cut or a series of cuts, and shall include logging;
- h)j) "hazardous tree" means a dead or severely damaged tree that may pose a danger to persons or property;
- k) "infestation" means infestation as defined in The Forestry Act, R.S.O. 1990, cF26, as amended;
- l) "injure" means to do harm, damage, or impair;
- m) "landscape architect" means a graduate of a post secondary school landscape architect program and who is a member of The Ontario Association of Landscape Architects;
- m) "Municipality" means The Corporation of The Town of The Blue Mountains;
- n) "officer" means an individual appointed by By-law for the administration and enforcement of this By-law;
- o) "owner" means the person having the right, title, interest or equity in land;
- p) "Permit" means the written authorization of the director to destroy or injure trees, with or without conditions, at the sole discretion of the Director.
- p)q) "person" means an individual, a corporation and the heirs, executors, administrators, or other legal representatives of a person to whom the context can apply according to law;

- q)r) "professional forester" means a professional forester as defined in the Crown Forest Sustainability Act, S.O., 1994;
- r)s) "tree" means any species of single-stemmed perennial woody plant, which has reached or can reach a height of at least 4 metres at physiological maturity;
- s)t) "tree farm" means land where trees are grown and maintained for sale;
- t)u) "tree preservation plan" means a plan prepared by an arborist, a landscape architect, a forest technician, a forest technologist, a forest/wildlife ecologist, a managed forest plan approver, or a professional forester which determines trees to be preserved through an assessment process which identifies trees, shrubs and other specific areas of natural habitat and their ecological function or importance, and determines the impacts of development on the trees, shrubs, and other specific areas of natural habitat and their ecological function or importance and such plan shall determine mitigation measures and measures to protect and manage trees to be preserved and proper practices to remove trees to be destroyed;
- u)v) "woodlands or forest management plan" means a plan for a woodlands prepared according to guidelines set by the Ministry of Natural Resources or other recognized guidelines, which set out objectives and management practices to ensure the sustainability of the woodlands, and approved by a forestry consultant.

2. AREA OF APPLICATION OF BY- LAW

- a) 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.
- b) 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.
- c) No person shall, within the boundaries of the Municipality, destroy or cause to be destroyed or injured, any tree that is located on a lot with a minimum area of 0.5ha, without first obtaining a Permit pursuant to this By-law
- d) A Permit pursuant to this By-law shall generally not be issued to injure or destroy the following trees:
- i) Trees located on lands designated in the Official Plan as:
- Future Secondary Plan Area;
 - Special Study Area;
 - Escarpment;
 - Wetlands;
 - Hazard Lands;
 - Major Open Space;
 - Areas identified as containing Provincially Significant Areas of Natural and Scientific Interest;
 - Other areas identified as potentially containing significant or sensitive natural heritage features.
 - A Permit may be issued to remove or injure trees in the above designations, subject to the provisions of appropriate studies, such as a Certified Arborist Report, Environmental Impact Study, or any other report that the Director deems necessary.
- ii) Trees identified for preservation in an approved Tree Preservation and Retention Plan;
- iii) Trees located on lands where there is no active development application under review under review by the Municipality.

3. EXEMPTIONS

Section 2 of this By-law does not apply to,

- a) activities or matters undertaken by the Municipality or the County of Grey or any local board thereof;
- b) activities or matters undertaken by a conservation authority as defined by the

Conservation Authorities Act;

- c) activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act, 1994*;
- d) the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying of his or her agent, while making a survey;
- e) the injuring or destruction of trees imposed as a condition to the approval of a site plan, a plan of subdivision or a consent under Section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- f) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- g) the maintenance of a tree in accordance with good arboriculture practice;
- h) the removal of a dead, diseased or hazardous tree when certified as such by an individual designated or approved by the Director;
- i) 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;
- j) a tree injured or destroyed in compliance with a tree preservation plan approved by the Director;
- k) 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; ~~and~~;
- l) the destruction of trees occurring as an integral component of an active farm operation;
- l)m) A tree may be injured or destroyed, without the issuance of a permit, where:
 - i) The applicant proposed to injure or destroy four (4) or fewer trees simultaneously, each with a diameter between fifteen (15) cm and thirty (3) cm;
 - ii) The tree has a diameter of less than fifteen (15) cm.
- m)n) Any tree which is subject to the County of Grey Forest Management By-law No. 4341-06

4. ADMINISTRATION

The Director is responsible for the administration of this By-law and is hereby delegated the authority to receive applications and the required fees, if applicable, and to issue permits and/or approvals and to attach conditions thereto in accordance with this By-law.

5. ENFORCEMENT

An officer may, during daylight hours and upon producing a certificate of designation, enter and inspect any land to which this By-law applies. An Officer may, in carrying out an inspection, be accompanied by an assisting person.

6. PENALTIES FOR NON-COMPLIANCE WITH BY-LAW

- (1) Any person who contravenes any provision of this By-law or an order is guilty of an offence and on conviction is liable,
 - a) on a first conviction, to a fine of not more than \$10,000.00 or \$1,000.00 per tree, whichever is greater; and
 - b) on any subsequent conviction, to a fine of not more than \$20,000.00 or \$2,500.00 per tree, whichever is greater.
- (2) Where a person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed by the By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted or any other person.
- (3) Where a person is convicted of an offence under this By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to replant or have replanted such trees in such manner and within such a period of time as the court considers appropriate,

including any silvicultural treatment necessary to re-establish the tree or have the tree re-established.

7. SHORT TITLE

This By-law may be referred to as 'The Tree Preservation By-law'.

8. VALIDITY OF THE BY-LAW

Where a court of competent jurisdiction declares any section or part of a section of this By-law to be invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

9. EFFECTIVE DATE OF BY-LAW

This By-law shall come into force and take effect on the day of the passing thereof.

Enacted and passed this day of October, 2010.

Minimum Lot Size Mapping Review

In preparation of the recommendations presented in Staff Recommendation Report PDS.19.44, Planning Staff completed a mapping review exercise in order to determine an appropriate lot size threshold for the purpose of administrating the proposed amendments to the Municipal Tree Preservation By-law. Staff mapped the effect of setting a minimum lot size of 0.5ha for properties to be subject to the tree preservation policies, which is consistent with other municipal tree protection policies. The resulting map, as included below as Figure 1, highlights all lands which are 0.5ha or greater within the Municipality. All lands highlighted in green would meet the minimum size requirement to be subject to either the existing County of Grey Forest Management By-law or the proposed amended Municipal Tree Preservation By-law. As further detailed by Figure 2 and Figure 3, a 0.5ha property size threshold would encompass the majority of larger private land holdings within the urban areas of the Town, while exempting the average low-density residential lot. In doing so, the properties which have higher potential to contain significant or large tree stands are included under the authority of either the County of Grey Forest Management By-law or the amended Municipal Tree Preservation By-law.

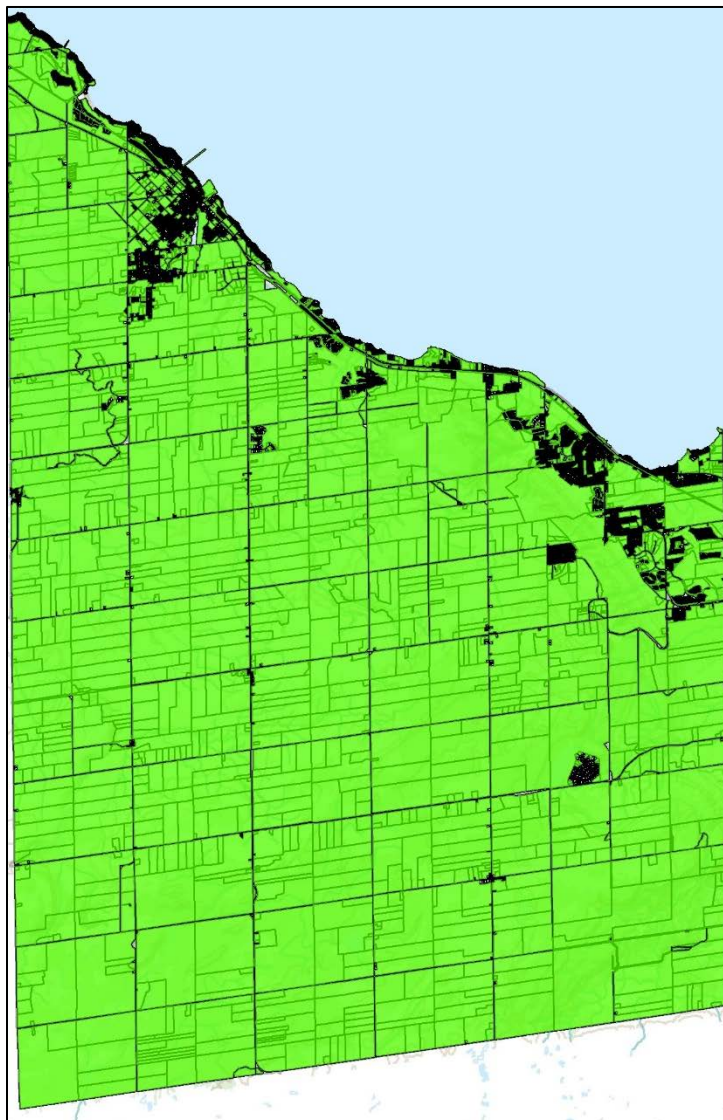


Figure 1: Properties within the Town of The Blue Mountains which are minimum 0.5ha in size are shown in green.

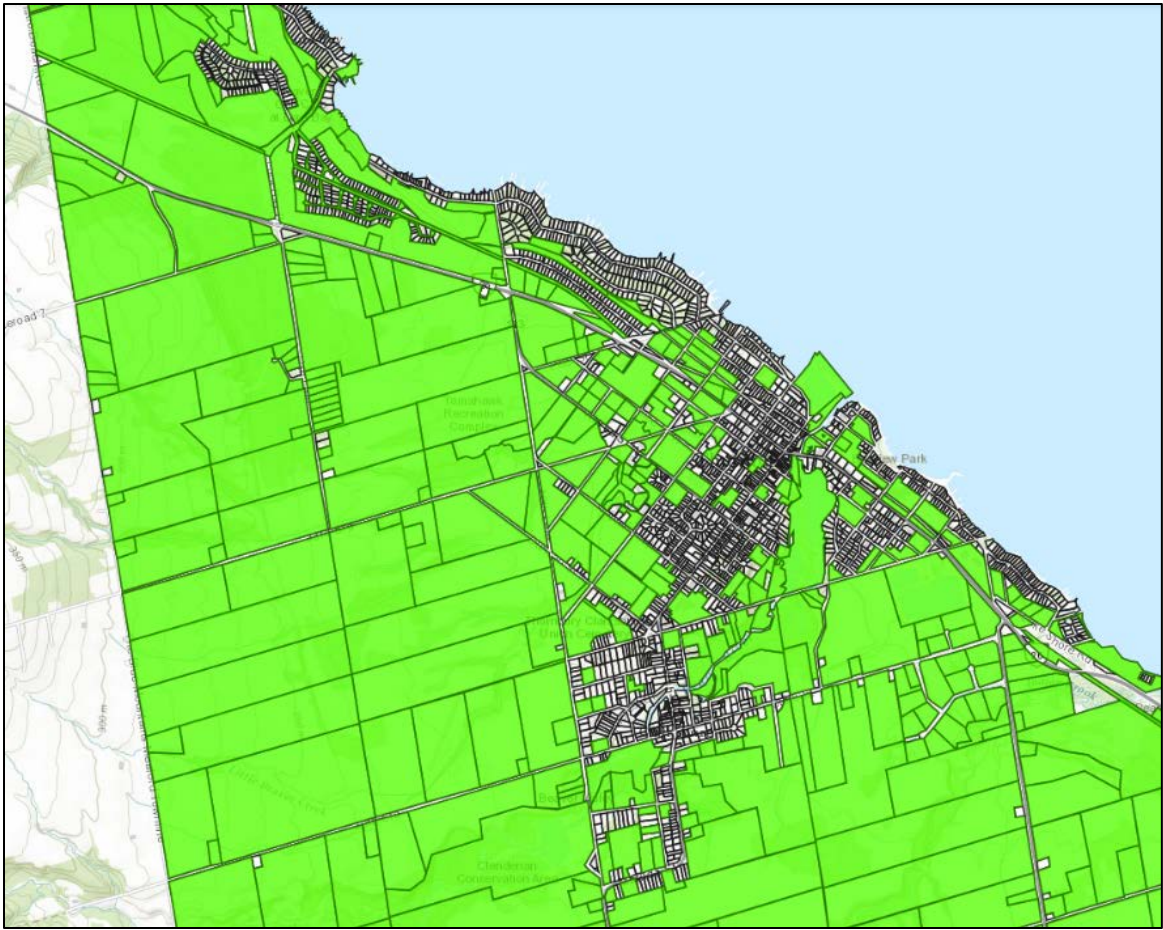


Figure 2: Properties within the Town of Thornbury and the Village of Clarksburg which are minimum 0.5ha in size are shown in green.

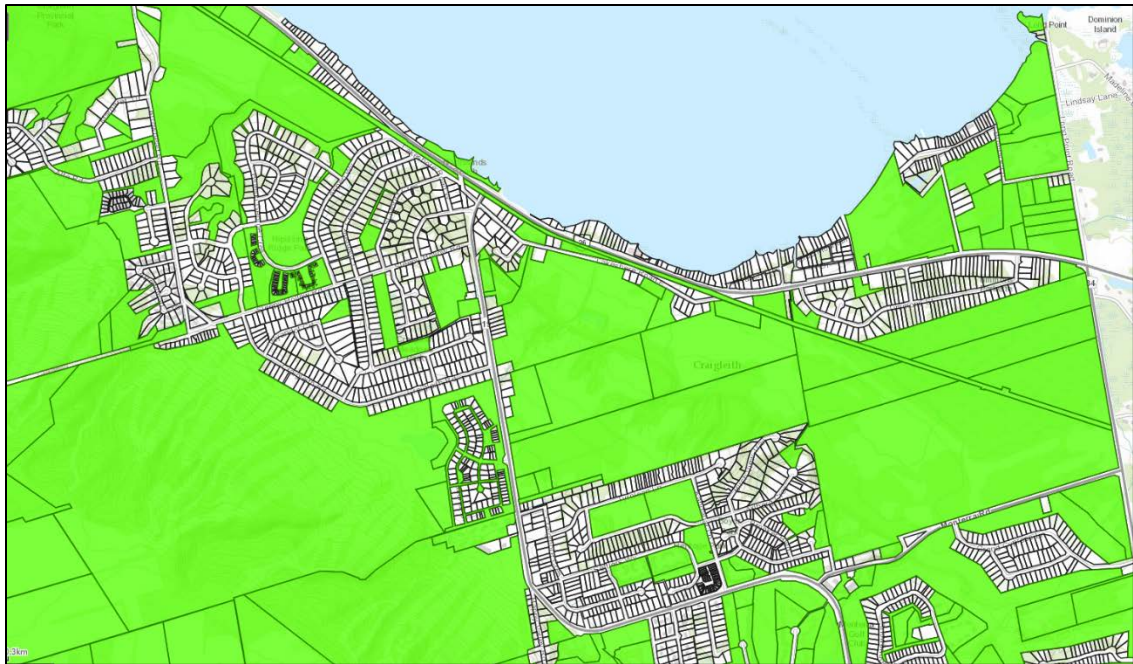


Figure 3: Properties within Village of Craigeith and surrounding areas which are minimum 0.5ha in size are shown in green.