



REPORT

Development Services - Planning

TO: Mayor and Members of Council

FROM: Kyle Rainbow, Director of Development Services

DATE: September 12, 2022

REPORT: DS-55/22 **FILE NO.**

SUBJECT: Township Tree Protection Bylaw – Request for Direction

BACKGROUND:

Urban forests make a notable contribution to the municipal landscape in Uxbridge, which is even more evident following the May 21 tornado and the impact on the urban forest it had. A strong urban forest has significant positive effects on societal quality of life and includes both municipal and privately owned trees.

Through Section 135 of the Municipal Act, municipalities can enact by-laws to protect City owned trees, private trees in woodlots and environmentally sensitive lands, and/or protect all trees on private lands.

Tree protection by-laws have assisted in educating the public with respect to tree protection measures as well as alternatives to tree removal and the importance of tree preservation.

The Region of Durham's Tree Conservation By-law, appended as Attachment 2, protects woodlands within the Region that are one hectare (2.5 acres) in size and greater. However, this bylaw provides no protection to trees outside of woodlands, such as those on municipal property (street trees, parks, natural areas, etc.) or on private property.

Environmentally sensitive lands and woodlands of less than one hectare can be protected by lower-tier Municipalities and many in Durham Region now have such protections in place, including Clarington, Whitby, Ajax Oshawa and Pickering. The Township of Uxbridge does not currently provide additional regulation for the

protection of privately owned trees within woodlands and environmentally sensitive lands, or outside these areas.

This report seeks direction for staff to investigate the development of a tree protection by-law and report back to Council on the appropriateness of its application in the Township.

In addition to data collected from Durham area municipalities, information has been compiled from 7 lower-tier municipal tree protection by-laws that demonstrate potentially effective models for regulation and administration of more comprehensive private tree protection on private property beyond environmentally sensitive lands and woodlands.

DISCUSSION:

Tree Protections on Municipal Property

A number of the Township's current bylaws prohibit removal of municipally-owned trees, and these trees are generally well protected. However, there is no single bylaw that identifies the protections, process to apply for a permit to injure or remove a Township-owned tree, compensation plantings required when done, etc.

Staff propose this as an initial phase of the tree protection as instances where a Township-owned tree needs to be removed generally already involve staff from Development Services, Public Works, Parks and/or Legislative Services. Staff resources are already involved and formalizing the policy around these removals may actually reduce time spent on these applications.

Protection of Trees within Small Privately Owned Woodlands and Environmentally Sensitive Areas

The Regional Woodland By-law was passed by Durham Regional Council on July 29, 2020, replacing the previous Regional Tree Conservation Bylaw.

The By-law applies to Woodlands within the Region that are one hectare (2.5 acres) in size and greater, excluding those woodlands that are less than one hectare.

Under the Regional By-law, it should also be noted that the term "Woodlands" does not include orchards, tree nurseries, Christmas tree plantations, fence rows, or land previously cleared for agricultural purposes, but which has become overgrown with scrub and/or small trees, and is intended to be used again for farming.

In 2008, changes in the size of woodlands protected by the Regional By-law reduced the level of protection for smaller locally significant woodlands less than 1 hectare (2.5 acres) in size. These smaller woodlands were protected through the previous Regional Tree By-law 148-91, and in some cases are now protected by lower-tier Municipalities.

Within the Region of Durham, Clarington, Whitby, Ajax and Pickering all have By-laws to protect small woodlands and environmentally sensitive lands not covered by the Region of Durham Woodland By-law.

The Township of Uxbridge does not currently regulate the protection of privately owned trees in woodlands and environmentally sensitive lands. In the case of subdivision development, significant trees and woodlands are protected where possible through the development review process.

Should Council wish to pursue the regulation of privately owned trees in environmentally sensitive lands and woodlands less than 1 hectare in size, the implementation of such a By-law would require additional resources to administer an application and permit process, as well as conduct inspections and monitoring.

Protection of Trees Within All Private Property

Several municipalities in Ontario have chosen to enact by-laws with greater restrictions on private tree removal extending beyond protection of trees in environmentally sensitive lands and woodlots.

Generally, the intent of comprehensive private tree protection by-laws is to protect significant trees situated on individual private lots. Many set a minimum size for protected trees of 20cm diameter at breast height (dbh).

Staff have investigated the status of private tree protection by-laws in Ontario and have gathered data on lower-tier municipal by-laws that demonstrate potentially effective models for regulation and administration of private tree protection.

Many municipalities, including Toronto, Mississauga, Richmond Hill, Aurora, Brampton, Kingston, and Vaughan have tree cutting by-laws that directly impact private property other than woodlands and environmentally sensitive lands. The following outlines the key elements typically associated with each by-law:

- Typically, a permit is required to remove, cut down or in any other way injure a tree of a predetermined size and species on private property anywhere in the municipality.
- Additional restrictions apply to smaller trees for several special interest areas such as properties that back onto woodlands/ravines.
- A permit is not normally required for pruning or removal of diseased, dead or hazardous trees.
- The permit may include conditions that require a replacement tree and often greater replacement ratios (ie. Above 1:1 replacement) where larger, mature tree canopy is lost.
- The application conditions may include posting notice on the resident's property.

The administration of a private tree protection by-law requires a significant amount of resources for processing applications, inspecting site and implementing permit conditions, typical municipal models demonstrate the potential for cost recovery through application fees in the range of \$200 to \$400+.

Direction to Investigate Additional Tree Protections for the Township

Staff are requesting direction to investigate if and how additional tree protections can be provided in the Township. Whether a phased approach to tree protection is appropriate, what should be protected in each phase and when implementation should begin.

To assist with the implementation of a permit system for the review and approval of applications to remove protected trees, staff would like to investigate the possibility of leveraging both recent modernization efforts with electronic building permit and planning applications, and the possibility of third-party reviewers providing expertise not available at the staff level (identification of endangered, threatened or otherwise protected tree species, invasive and native species, assessment of the general health of trees, protocols for confirming the measurement of trees, etc.). This would avoid increasing staffing cost, and ideal would operate on a cost-recovery basis through fees collected in the permit process.

Finally, staff recognize the importance of public consultation regarding the Township's tree canopy and shaping the policies that may be used to protect it. Which trees should be protected, on which properties, how permits and compensation plantings will work and the various exemptions that will be required (ie. Christmas tree farms, nurseries, agricultural uses such as maple syrup collection, etc.)

RECOMMENDATION

THAT Report DS-55/22 be received for information;

AND THAT Council direct staff to investigate whether additional tree protections within the Township are appropriate and desirable, what level of protection should be provided, whether a phased approach is appropriate, the process for permits to injure or remove protected trees, compensation levels, etc.

AND THAT Council direct staff to investigate the feasibility of adding permit applications for the injury or removal of protected trees to our existing e-permitting and approvals software,

AND THAT Council direct staff to issue an RFP to determine the cost and feasibility to engage third-party reviewers for the review and approval of such permit applications,

AND THAT Council direct that once a proposed policy framework is sufficiently developed it be circulated for public and stakeholder agency review

AND THAT Council direct that based on the outcome of the above, Staff produce a recommendation, and if appropriate, a draft tree protection bylaw for Council's consideration.

Respectfully Submitted by:

Kyle Rainbow
Director, Development Services