

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2022-0076

**FOR THE CONSIDERATION OF
COUNCIL**

September 28, 2022

SUBJECT: TOWN TREE CUTTING BY-LAW FILE NO. 05.269

1. RECOMMENDATION:

1. That Council receive Report No. DS-2022-0076 prepared by the Planning Policy Division, Development Services Department dated September 28, 2022 regarding a Town Tree Cutting By-law.
2. That Council provide direction on whether to continue with the advancement of a Town Tree Cutting By-law.
3. That in the event Council directs the advancement of a Town Tree Cutting By-law, that Council provide direction on a preferred approach to the By-law and that Staff return with a report on a Draft By-Law inclusive of information on required resources and other matters related to the administration and enforcement of the Draft By-law, in the first quarter of 2023.

2. PURPOSE:

To present more detailed information on the development of a local municipal (i.e. Town) Tree Cutting By-Law, along with options in terms of the approach and scope the By-law could take, and to seek direction from Council on the preparation of a Draft Town Tree Cutting By-law.

3. BACKGROUND:

Staff Report No. DS-2022-0060 dated July 13, 2022 on the Town's Tree Preservation and Compensation Policy (OID-01) provided some general background information on Tree Cutting By-laws and indicated that Staff would return to Council with the present report providing additional information and options for Council consideration.

The York Region State of the Forest Report on Canopy and Woodland Cover (2021), estimates the Town of Georgina's canopy cover (area of land under each tree canopy) at 44.4%, the highest of all York Region Municipalities. Of this, 34.8% of the tree canopy was identified as woodland cover (area of land under heavily treed areas that are 0.2 hectares in size and greater). The Region's recommended goals for Georgina for 2051 is a canopy cover is 46-47% and a woodland cover of 39-40%.

The Town of Georgina's Official Plan notes that "the natural environment is one of Georgina's greatest assets." One of the Guiding Principle and Objectives in the Plan underlines the importance of tree protection in Section 2.2.4.7 where it states:

"To ensure the conservation, preservation and maintenance of trees and tree-covered lands as a natural resource, as being essential to the preservation of wildlife habitat, water conservation, complementary outdoor recreation activities and a sustainable natural environment that is important to human health."

The Keswick Secondary Plan (Section 13) and The Sutton/Jackson's Point Secondary Plan (Section 13) both identify the need for tree preservation associated with development applications and sets out requirements as part of the development application approval process in order to maintain and enhance the extent of canopy cover.

An important goal of tree preservation is related to the ability of trees and forests to sequester carbon and remove carbon dioxide from the environment. Carbon dioxide is a greenhouse gas produced by burning fuel such as oil and gas in engines and buildings. Carbon dioxide and methane in the atmosphere acts to trap heat that would otherwise dissipate outwards towards the sun. As more greenhouse gas is produced in the atmosphere more heat has been trapped. This is called the 'Greenhouse Effect' which is affecting our weather patterns, climate and environment in many ways.

Trees absorb carbon dioxide through their leaves every day because they use it to grow, and scientists believe that planting more trees and retaining as much of our tree canopy as we can, will reduce the amount of carbon dioxide in the environment.

Forests store carbon in trees and in soil, and the amount of carbon that can be stored and the rate depends on many factors including growth characteristics of trees, conditions for growth, type of soil, density of tree wood, and tree age.

It is generally accepted that larger-sized trees provide more benefit to the environment and wildlife habitat through their larger canopies, and root systems. Larger and older trees have sequestered more carbon in their roots, branches and wood. However, young to medium-aged trees grow faster and sequester more carbon in the growth process. Tree growth between the ages of 20 and 50 years tends to have the greatest amount of carbon sequestering.

It appears through preliminary research that tree size/age is one of the more important considerations for tree retention. Trees of different sizes could be protected for different reasons.

Trees on private property in Georgina that are within a woodlot over a 0.5 acre in size are protected by York Region's Forest Conservation By-Law. Trees that are not within a woodlot or in a woodlot under 0.5 acres in size can be removed without a permit/municipal approval or compensation, unless the lands containing the trees

are subject to a development application which triggers the application of the Town's Tree Preservation and Compensation Policy.

At the June 8, 2022, Council meeting under "Other Business", Councillor Sebo raised concerns regarding the removal of several large, mature oak trees on private property in Jackson's Point. Staff noted that the Regional Forest Conservation By-Law and the Town's Tree Preservation and Compensation Policy would not apply to protect trees in this situation. Staff indicated that a report would be prepared on a municipal Tree Cutting By-Law for private property not covered by the Region's By-law, in the fall of 2022.

The Town's Tree Preservation and Compensation Policy was approved by Council on July 13, 2016. The Tree Policy establishes the Town of Georgina's requirements for the preservation, protection and enhancement of trees over 20cm DBH (diameter at 1.4 meters from the ground) on private property associated with most Planning Act development applications.

On July 13, 2022, Council considered Report No. DS-2022-0060 and approved a Work Plan to review and update the Tree Policy. Included in that report was initial background information on Tree Cutting By-laws in Ontario municipalities.

4. ANALYSIS:

4.1 Purpose of Tree Cutting By-laws

Tree Cutting By-Laws for private property are used by municipalities to sustain and promote environmental and social benefits to the community, to regulate or prohibit the injury or destruction of trees, to require a permit for the removal of trees, to impose conditions on permits and to provide for a system of fines and other enforcement orders.

The goal of Tree Cutting By-Laws are generally to maintain and increase tree and woodland canopy coverage. This includes:

- Protecting and enhancing the environment.
- Reducing the effects of climate change through carbon sequestering.
- Offsetting impacts from land development.
- Supporting a progressive stance for tree protection with the municipality.
- Improving public health through psychological benefits, provision of shade and opportunities for outdoor activities.
- Reducing costs through erosion and flood control.

4.2 Other Municipal Approaches

Research on various tree protection measures by municipalities and other governing authorities in Ontario was undertaken by Staff. Most municipalities in Ontario that have tree protection measures in place for privately-owned properties, have passed Tree Cutting By-laws.

York Region is made up of nine local municipalities. Five of these municipalities have passed Tree Cutting By-Laws. These include:

Vaughan, Markham, Aurora, Richmond Hill and Newmarket

An additional twelve Ontario municipalities outside of York Region have Tree Cutting By-Laws, including:

Ajax, Burlington, Cambridge, Collingwood, Guelph, London, Mississauga, Niagara-On-The-Lake, Oakville, Ottawa, Stratford and Toronto

Generally speaking, the municipalities that have a Tree Cutting By-law in place are typically more urbanized, have large or rapidly growing populations, and/or are tourist destinations. These characteristics motivate tree protection to preserve the aesthetic quality of a municipality as well as to protect the environment and address climate change.

The municipalities of Bradford/West Gwillimbury and East Gwillimbury are located close to Georgina, and share characteristics with Georgina that include a significant portion of rural and agricultural lands, with a growing population and increased urban development. Both of these municipalities have staff currently working on the development of a Tree Cutting By-Law to protect trees on private property.

Attachment 1 provides information on the approach/scope of Tree Cutting By-laws of a number of municipalities from across the Province.

The following is a summary of trends on observed municipal approaches:

- Nature of Tree Protection: prohibits the removal and/or damage that will cause the tree to deteriorate, die or become hazardous.
- The Size of Trees Protected: generally protects trees that are 20 cm and greater in diameter at 4 feet off from the ground.
- The Species of Trees Protected: typically includes Native and Exotic species and the exclusion of nuisance or invasive species.
- The Condition of Trees Protected: typically excludes a tree that is in a poor, dead or hazard-rated condition.

- The Property Type Affected by the By-Law: is private property that excludes certain types of property use such as golf courses, cemeteries, tree nurseries, hydro right-of-way.
- The Location of Protected Trees: generally involves all locations including clusters, woodlots and woodlands but excluding rooftops, courtyards, interior landscapes.
- Rejection of a Tree Removal Application: occurs under circumstances where trees are vital to provide erosion or flood control, trees with assigned protected designations such as Heritage, Endangered, Special Status (historical, celebration, commemorative), where trees are an important resource for environmentally protected areas.
- Boundary Trees on Neighbouring or Shared Property: elicit a requirement for proof of written consent from owners of all Boundary tree (trees shared or on adjacent property) owners for tree removal or damage.
- Permit Application/ Fees: range from \$25.00 to \$824.00 per tree. The City of Markham does not charge a permit application fee to encourage residents to apply for permits.
- The Compensation for Tree Removal by Tree Replacement: is typically calculated based on diameter size of tree removed.
- Compensation from Tree Removal by Cash-in-Lieu: is either determined by appraisal or a set value. The average cost to install a new tree at 60cm caliper size with a two year warranty is \$550.00 per tree.
- Tree Protection Securities: are taken by municipalities to ensure that replacement trees are planted and remain in good health and/or to ensure that existing trees are protected during construction. In residential applications for tree removals, securities are not always taken, and penalties would be enforced for non-compliance. When a security is taken, the value typically reflects values assigned under cash-in-lieu replacement requirements.
- Staff Resources: usually include a Manager or Director to oversee the program, an Administrative staff member to process permits and other paperwork, a Forestry Staff (Arborist) member to undertake site inspections and permit approvals, and a By-Law Officer for enforcement.
- Penalties: for violating the By-Law includes fines that ranged from \$500.00 per tree or occurrence up to \$100,000.00. Special fines were also common, where financial gain occurs from unpermitted tree removals.

4.2.1 Typical Municipal Permit Process

A Tree Cutting By-Law typically has the following permit process related to proposed tree removal:

1. Application submission and application fee and/or permit fee

Submission documents: Tree Report, Tree Management Drawing, Tree Replacement Drawing/Landscape Plan, Compensation Calculations

Submission to: Responsible Department

Review by staff for permit approval in office and on site

Review by: Staff Arborist

Reviews include: Site visit to verify application, Document reviews

2. Permit issue or denial

Issued by: Responsible Department

Documents: Permit paper (permit to be visibly posted on site), acceptance and receipt of cash-in-lieu or tree security, letter of undertaking noting conditions for permit

Appeals: 1st. Director/Manager 2nd. Council

3. Inspection review by Town

Review by: Staff Arborist

Reviews include: Site visit to verify permit conditions being met during construction, post-construction, and to confirm tree health for security release as warranty visit

4. Fines and/or Permit revocation for By-Law violations

Inspection By: By-Law Enforcement Officer

Permit Revocation By: Responsible Department

Fines By: By-Law Enforcement

Documents: Letter of Revocation, Fine Letter

Appeals: 1st. Director/Manager 2nd. Council 3rd. Court system

4.3 Possible Tree Cutting By-Law Options

Staff have prepared three Tree Cutting By-Law options for consideration that would protect trees on private property that are not currently protected under the Regional Forestry By-Law and the current Tree Preservation and Compensation Policy.

The options differ by size of tree protected, but all pertain to protecting trees from damage on private property.

All options generally include:

- Protection of all tree species excluding nuisance or invasive species, while endangered trees of any size would be protected.
- Protection of trees by health and structural condition that excludes a poor, dead or hazard-rated tree condition.
- Protection of trees in all growing conditions including growing individually, In clusters, woodlots, woodlands but excluding rooftops, courtyards or, interior landscapes.
- Protection of trees on all types of private property but excluding certain property uses such as golf courses, cemeteries, tree nurseries, hydro right-of-ways.
- Conditions of discretionary rejection of applications for removal including: Where trees are vital to provide erosion or flood control, trees with assigned protected designations, where trees are an important resource for environmentally protected areas.
- A requirement for proof of written consent from all boundary tree (trees shared or on adjacent property) owners for tree removal or damage.
- Permit application fees.
- A requirement for compensation for tree removals based on size of tree removed by either new tree planting or cash-in-lieu.
- Tree security payment to ensure compliance with new tree planting.
- A system for enforcement including penalties and fines.

Attachment 2 provides examples of trees corresponding to the Options and their relative sizes.

4.3.1 Option One - 'Protecting Large Trees'

Under this option, only 'large-sized' trees that are typically approaching or are in the final third of their life expectancy would be protected. This option targets trees that have already sequestered large amounts of carbon and may have heritage value and are providing excellent bio-aesthetic value to the habitat due to their size. The By-Law would apply to trees sized at 70 cm diameter at breast height (dbh) (diameter measured at 1.4m off the ground) or greater on private property.

4.3.2 Option Two - 'Protecting Medium-sized to Large Trees'

Under this option, trees that are considered 'medium' in size and larger trees, that are typically in or approaching the second third and last third of their life expectancy would be protected. These targeted trees are those that have already sequestered large amounts of carbon and faster growing trees that sequester more carbon due to their growth rate. All trees provide value to the surrounding habitat. The By-Law would apply to trees sized at 30cm dbh or greater on private property.

4.3.3 Option Three - 'Protecting Most Trees'

Under this option, a wider variety of tree sizes would be protected. This option targets trees that are in the first third of their life expectancy and older. It would protect larger trees have already sequestered large amounts of carbon and a greater range of younger, faster growing trees that sequester more carbon due to their growth rate. All trees provide value to the surrounding habitat. The By-Law would apply to trees sized at 15cm dbh or greater on private property.

4.3.4 Boulevard Tree Protection:

Currently, the Town does not have a by-law to protect trees on the municipal boulevards and right-of-ways. This should be addressed either in the context of the current By-law exercise or through a separate by-law.

4.3.5 Summary:

Each option presents pros and cons in terms of potential effects to the community, tree canopy coverage and Town resources.

Larger and older trees have sequestered more carbon over time, and typically provide a greater canopy for more environmental benefits. They also can be more significant

from a cultural and historical perspective. As the trees are usually older trees, they are often in the last part of their life stage. Option One which protects larger trees sized at 70cm dbh or larger will have less of an impact on the Staffing budget as there are less of these trees in the community. It is possible that administration of a By-law under Option One could be managed by existing staff resources.

Medium-sized trees at 30cm dbh represent both older trees of fast-growing species such as the Silver Birch and younger trees of slower-growing species such as the Oak tree. Should this size of tree not be protected, it is possible that faster-growing tree species may not have the opportunity to reach larger sizes and the populations of these species could be at a greater risk of decline. Trees in this size category are growing faster than larger trees and tend to sequester more carbon from their growth process. This size class and larger is protected by Option Two, and it is anticipated that increased resources will be needed to administer for Option Two.

Smaller-sized trees at 15cm dbh tend to represent younger trees of all species. They are growing faster than larger trees and sequester more carbon from their growth processes. Option Three protects trees of this size class and larger. Option Three is anticipated to require the greatest amount of activity and additional resources would be required to administer a by-law that implemented this option.

The majority of municipalities in Ontario with Tree Cutting By-Laws protect trees sized at 20cm dbh and larger. Staff recommend that Option Two be endorsed by Council as a means by which to achieve a balance of reasonable and appropriate tree protection that ensures a range of tree inventory at variable stages of size and maturity.

4.4 By-law Implementation/Enforcement:

Planning Policy Staff have conducted initial discussions with staff from the By-law Services and the Forestry Divisions on the general scope, and administration of a potential tree cutting by-law. The resources needed/costs of implementing a tree cutting by-law depends on the scope and applicability of the by-law itself and the extent of community acceptance. Like most municipal by-laws, a tree cutting by-law would be enforced largely on a complaint basis. They are best supported by a communications program that informs residents of applicable permit requirements and the overall community benefits of the By-law.

A Tree Cutting By-Law would be implemented by a permit process and enforced through By-Law Enforcement Services supported by an Arborist in the Development Services Department or Operations and Infrastructure Department. Specific administrative roles, responsibilities, fees, forms and process mapping is required in collaboration with affected Departments.

Once Council provides specific direction on the scope and direction of a Tree Cutting By-law, Staff will return with a report outlining the associated cost and implementation implications.

5. RELATIONSHIP TO STRATEGIC PLAN:

This Report addresses the priority of “Promoting a High Quality of Life” within the 2019-2023 Strategic Plan. It is within the context of Building a Healthy, Safe and Accessible Community and Promoting Responsible Growth.

6. FINANCIAL AND BUDGETARY IMPACT:

The Financial and Budgetary Impacts associated with the implementation of a Tree Cutting By-Law are variable and depend on the scope and content of a By-Law approved by Council.

7. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

There are no public consultation and notice requirements associated with this report. However, Staff recommend that should Council decide to proceed with the preparation of a Draft Tree Cutting By-law, that a public consultation program be undertaken to solicit comments from the public and other stakeholders on the Draft By-law to help finalize a proposed By-law for Council’s consideration of adoption.

8. CONCLUSION:

The recommendations in this report seek Council’s direction on whether to proceed with the preparation of a Tree Cutting By-law and its scope. Should Council direct the preparation of said By-law, then Staff propose to return in Q1 of 2023 with a more detailed report presenting a Draft By-law and more information concerning By-law administration and enforcement and related financial/budget implications.

APPROVALS

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Recommended By:	Harold Lenters, M.Sc. (Pl.), RPP. Director of Development Services
Approved By:	Ryan Cronsberry, Chief Administrative Officer

Attachments:

Attachment 1 - Chart Summary of Criteria under Existing Private Tree Protection By-Laws in Ontario.

Attachment 2 - By-law Options /Tree Sizes.