



**Municipality of Port Hope**

56 Queen Street  
Port Hope, ON  
L1A 3Z9

**REPORT TO:** Community Development Committee

**FROM:** Tom Dodds, Director, Community Development

**SUBJECT:** Tree Protection By-law

**DATE:** December 7, 2021

---

**RECOMMENDATION:**

That the proposed By-law to Establish Tree Protection be presented to Council for consideration and adoption.

**BACKGROUND:**

Municipalities throughout Ontario have various types of forest conservation and tree by-laws focused on: protecting the natural heritage landscape; good forestry and forest management practices. Section 135 (1) of the Municipal Act provides that a local municipality may pass a "Tree By-law" to prohibit or regulate the destruction or injuring of trees.

In December 2013, by Resolution No. 142/2013, Council endorsed the Municipal Forest Master Plan (MFMP) and directed the former Tree Advisory Committee and municipal staff to develop an action plan for each measure of success of the recommendations identified in the MFMP. The MFMP aims to achieve a balance of elements including environmental sustainability, community character, economic development, human health and overall quality of life.

The MFMP includes an Action Plan that identifies partners, progress and timelines, and resources required for implementation of each recommendation as identified in the MFMP. The Action Plan table is revised and updated regularly to ensure that planned actions are completed. The Action Plan includes an item to investigate the possibility of creating a tree protection by-law/policy that complements the Northumberland County Forest Conservation by-law.

Ongoing concerns have been expressed by some members of the public and Council about preserving and protecting trees in the Municipality, particularly those in the urban area that may be negatively impacted through development

In 2020 Council directed staff to bring forward for their consideration a Tree Protection By-law to regulate the destruction or injuring of all trees related to development requiring an approved site plan, subdivision, and/or development agreement pursuant to the Planning Act. Since then, staff has conferred with Council and Committee representatives and Municipal legal counsel on this matter. The proposed By-law has a future date of implementation identified as April 1, 2022 and is not retroactively applicable to developments currently underway or applications submitted prior to this date including the Penryn/Mason Homes Phase 5 Subdivision.

The Planning Act provides the legal framework for subdivision, consent, and site plan approvals. **Attachment A** is a draft of the Tree Protection By-law (“the By-law”) that addresses Council’s 2020 request. If approved, the proposed By-law shall apply to lands where a person makes application to the Municipality for “*Development*” as defined in the By-law. In broad terms this By-law applies to any application for subdivision development; any consent application, where the Director of Community Development determines that the development may destroy or injure of trees; and any Development requiring *site plan* approval within the Municipality’s boundaries.

A person making application for Development, as defined, may be required to submit additional information and studies relating to tree protection and incorporate the results into a Development Agreement. Once the requirements of the By-law have been met to the satisfaction of the “Director”, a Certificate of Compliance will be issued confirming the requirements of the By-law have been met.

Consent applications may or may not directly or indirectly result in the destruction or injuring of trees. Therefore, the By-law delegates to the Director discretion in determining whether the By-law applies and what information may be required as part of an application for consent.

The Municipality’s Site Plan Control By-Law 26/2008 describes the types of development that require site plan approval and how the proposed By-law applies to these matters. Refer to **Attachment B**. The proposed By-law uses the Municipality’s Site Plan Control By-Law’s legal definition of *Development* in establishing whether the proposed By-law’s site plan provisions apply. In doing so the proposed By-law aligns and is made consistent with existing provincial and municipal planning legislation and regulations.

The Site Plan Control By-Law, and it’s definition of “development” identifies for the purposes of the Tree Protection By-law the types of development are subject to tree protection. For example the siting of certain types of portable classrooms, or the construction of facilities for transportation, infrastructure and utilities uses.

The Site Plan Control By-law specifies that Municipally owned lands are exempt from the identified provisions.

The proposed By-law proposes four basic procedural steps:

1. Completing an application, receiving a formal acknowledgement of receipt of the application from the Municipality.
2. Following receipt of application, a Notice from the Municipality will be sent the applicant describing the information, regulatory and procedural requirements (if any) and related matters necessary to comply with the bylaw and receive a Certificate of Compliance.
3. Payment of administrative fee following receipt of the Notice
4. Issuance of a Certificate of Completion once Notice requirements have been satisfied.

#### **RESOURCE IMPLICATIONS:**

It is anticipated that there will be Municipal costs and resources associated with the application and enforcement of this proposed By-law. Staff resources will be required to develop and administer the application, notice and certification of compliance processes and by-law enforcement. Funding will be required to enable the Municipality to contract with its own experts to review pre-development tree inventory and site assessment reports; tree protection and landscaping, replanting and replacement plans; and environmental assessments. None of these costs have been determined at this time.

Any person who has a signed and submitted application to the Municipality for approval of Development and who has not yet received final approval may be required to submit, as part of the application, any or all of the information set out in Schedule “A” to this by-law, as determined by the Director in his or her discretion, and to pay the fee in accordance with the Municipality’s Fees and Charges By-Law in effect at the time of the application.

#### **CONCLUSION:**

The proposed By-law focuses prohibiting or regulating the destruction or injuring of trees for those lands in the Municipality, where a person proposes to develop them and requires specified planning application approvals. Once the Planning approval referenced in the by-law are approved and relevant conditions met, the permit requirements are considered satisfied.

There has been no direct public consultation in the preparation of this by-law. The proposed By-law addresses previous Council direction. It is being recommended that Council identify April 1<sup>st</sup>, 2022, as the date when this By-law will come into force and effect in order to allow staff the time required to finalized

permitting processes. The proposed By-law does not impact or effect previously submitted development applications or those currently under review.

Staff will work to prepare a report back to Council a bylaw implementation strategy that includes a communications and operational plans, administrative procedures and any resource requirements.

Respectfully submitted,

Tom Dodds  
Director, Community Development

Attachment A: Draft Tree Protection By-law

Attachment B: By-law No. 26/2008, being a By-Law to Designate the  
Municipality of Port Hope as a Site Plan Control Area