

Parks, Recreation and Culture Report PRC2024-09

To: Committee of the Whole Council
Date: September 24, 2024
Subject: Draft Tree Protection By-law and Public Consultation Update
Origin: Parks, Recreation and Culture – Parks Branch

Recommendations

1. **That** Parks, Recreation and Culture Report PRC2024-09, dated September 24, 2024, entitled “Draft Tree Protection By-law and Public Consultation Update” be received; and
2. **That** Council approve the enactment and implementation of the Tree Protection By-law as presented in this report; and
3. **That** Council approve initial funding for arborist services for the remainder of 2024 to a maximum of \$35,000 and that staff include a request for contract arborist services in the 2025 budget.

Purpose

The purpose of the report is to update Council on the public consultation process for the Draft Tree Protection By-law, and to inform Council and the public of proposed changes to the Draft By-law and seek Council approval to enact the Tree Protection By-law and arborist services to implement the Tree Protection By-law.

Background

Currently, the Town does not have a Tree Protection By-law protecting the valued tree canopy located on private property. At the May 1, 2018, Council meeting of the Town-wide Zoning By-law review process, gaps were identified within the Municipality’s ability to protect natural heritage areas and significant tree canopies on private property. Council identified the ecological, aesthetic, and financial value of trees. At this meeting, Council directed Town staff to prepare a report to Council presenting options for a Tree

Protection By-law which considers Municipal best practices and innovative approaches to the preservation of trees as a part of our natural heritage.

On October 13, 2021, at the Special Meeting of Council, Parks staff presented preliminary information regarding tree preservation, property standards, tree assessment methods including best practices within York Region lower tier municipalities. The intent of this presentation was to provide Council with information on the Town's current approach to tree preservation/protection, background information on private tree By-laws including terminology.

Draft Tree Protection By-law with a goal to maintain EG as a Green Municipality

Since the completion of the York-Durham Sewage System (YDSS) in 2016, the Town's recently constructed residential and business developments based on growth targets have resulted in increased pressures on tree canopy and health which include the following:

- Increased tree removals within private lands identified for future growth.
- No legal protection of private trees outside of the Lake Simcoe Region Conservation Authority (LSRCA) regulated or York Region Forest By-law areas.
- Negative impacts to natural heritage systems and woodlot health have increased with developments encroaching closer to environmental areas.
- Tree compensation requires a robust legal mechanism to ensure a sustainable tree canopy is maintained through planting replacements or monetary payment.

Implementation of tree maintenance programs ensures the success of the Town's growing urban tree inventory. The Town's tree inventory has tripled from approximately 7485 trees in 2013 (Davey Resource Group Inventory) to an estimated 26,200.

Analysis

Creating a Draft By-law with Public Input

Town staff sought resident input and feedback for potential modifications to the Draft By-law at three public Open Houses between January 24th, 2024, to February 28th, 2024.

Public Open Houses

Three Public Open Houses were completed providing residents the opportunity to review the Draft by-law and speak one-on-one with Town staff to address their questions and concerns.

1. Holland Landing Community Centre, January 24th, 5 to 8 p.m.
2. Mount Albert Community Centre, February 8th, 5 to 8 p.m.
3. Civic Centre, Wednesday February 28th, 5 to 8 p.m.

Open Houses were advertised on the Town's website, Social Media Channels and Curbex roadside signage at the following key locations throughout EG:

- i. Yonge St. & Hwy 11 – S/E corner
- ii. Green Lane & Leslie St. – N/E corner
- iii. Yonge St. & Queensville Sdrd – N/W corner
- iv. Millenium Park, 51 Albert St. – S/W corner

The Town's website provided highlights about the Draft By-law including listed exemptions, a link to the full Draft By-law and a copy of the presentation slides from the Open Houses.

Residents were able to submit their feedback via paper copy or to the project team via email directly through the Town's website. As of September 2024, all information is still available on the website and the feedback form is still active.

Extensive Outreach and Consultation with The York Region Federation of Agriculture to Ensure Good Farming Practices

Town staff conducted numerous meetings with the York Region Federation of Agriculture and local East Gwillimbury farmers to ensure the Draft By-law provided provisions for good farming practices.

Feedback Received

Twenty-eight residents attended the public Open Houses, and eight residents submitted written feedback. The main concern residents identified was their ability to continue to maintain their properties without requiring a permit. Most of the circumstances residents identified were included within the exemptions section of the Draft By-law, or were concerns related to residents with woodlots or woodlands, which would be covered by the York Region By-law.

Some residents expressed concern regarding the proposed minimum 0.2 ha property size requirement for application of the by-law and wanted it to be expanded to all private properties within EG to ensure that large mature trees are protected on smaller properties as they provide environmental, health, and aesthetic value to their communities as well as substantial canopy cover. This concern was specifically expressed by residents in River Drive Park community and Holland Landing village core.

Modifications and Updates to the Draft By-law. Protecting the Tree Canopy while ensuring Private Property Owners have the Ability to Maintain their Property

After receiving and analyzing public feedback and upon further staff review of the Draft By-law several updates were completed, which are summarized below:

- i.) Formatting improvements
 - a. Re-organization of Sections to improve readability, flow, and clarity.
 - b. Terms defined in Section 1, have been highlighted in bold throughout the document.
 - c. Removed redundant information/clauses.
 - d. Provide clarity between activities that do and do not require a permit
 - i. Activities listed under Section 6.0 Exemptions will not require a permit.
 - ii. All other activities will require a permit and will be required to submit a permit application.
- ii.) Updated Section 2.0, Application of the Bylaw, to encompass all private properties within the geographic limits of the Town for trees equal to or greater than 20 cm DBH (Diameter at Breast Height).
- iii.) Added clause (c) to S.3.1 to include the prohibition of injury or destruction of replacement plantings until they reach a size when a permit would be required.
- iv.) Added a new clause S.6.1 (a), to exempt the removal of up to three (3) live, healthy trees that do not individually exceed 30cm DBH.
- v.) Removed clause 5.1 (a), related to “any trees within a street or property owned by the Town” included as an exemption, as this could be misinterpreted that residents can remove Town owned boulevard trees.
- vi.) Removed clause 7.3 (b) related to cutting of trees for “Owner’s Personal Use,” up to 10 Cords of wood within a 12-month period. It was determined this is only a sustainable practice if done within a managed forest, which would be properties that fall under the York Region By-law and mitigation of removal risk for properties not within the York Region By-law jurisdiction
- vii.) Provision for good farming practices including priority equipment access to farmland and potential hedgerow removal process for farming purposes
- viii.) An Administrative process for appeals to the By-law or any provisions under the By-law shall be provided by the Town.

The revised Draft Tree Protection By-law is provided in **Attachment 1 – Draft Tree Protection By-law**.

Initial Implementation and Ability to Evolve Over Time

The Draft Tree Protection By-law provides initial conditions for implementation. Town staff will continue to monitor resident and business feedback, and input related to the

implementation of the By-law and any potential adjustments by way of an amendment to the By-law that may be required over time. Any amendment to the By-law would require a report to Council and Council approval.

Financial Implications

In order to implement the Draft Tree Protection By-law, Arborist services will be required for administration, public consultation, inspection and enforcement. This work will encompass the following:

- Maintaining the Town GIS based tree inventory
- Responding to resident's tree related service requests
- Reviewing Tree Protection Plans related to development of site plan reviews.
- Conducting risk/health assessment, hazard identification and pruning.
- Overseeing the administration and scheduling of work related to the Tree Maintenance and Removal contract with the Town's external contractor for block pruning, hazard removal, stumping and emergency works.
- Managing the Town's tree planting program including boulevard trees and tree canopy off-setting.

Estimated Operating Costs

- Cost impact including arborist services in the amount not to exceed \$35,000 will be required for initial implementation of the Tree Protection By-law for the remainder of 2024.
- Costs including contract staff salary and equipment is estimated at \$100,000 for on-going implementation of the Tree Protection By-law in 2025. A request for funding will be included with the 2025 Budget.

The funding source for the 2024 and 2025 budget requests will be provided by the Tree Planting and Protection Account.

As canopy cover provides important ecological services, health and aesthetic benefits to all Town residents, Staff recommend there is no permit fee associated with applications. Staff recognizes the importance of residents following the proper process of adherence to the by-law and that permit fees associated with this process would pose a significant barrier to participation. Education and outreach and working collaboratively with landowners to ensure the proper process is followed and that compensation plantings occur when canopy loss cannot be avoided, should be the main objective.

Legal and By-law Support

It is also anticipated that support will be required from Legal and By-law branches to enforce stop work orders and represent the Town when taking legal action against landowners who are in noncompliance of the Draft Tree Protection By-law. Further information is required on previous case law examples for time and costs associated with court prosecutions.

Need For Public Consultation

This report is presented in public session.

In Q1-2022, Parks staff presented a Draft Tree By-law to the East Gwillimbury Environmental Advisory Committee (EAC) for their review and comment. EAC provided feedback on April 8, 2022, and updates to the draft By-law were completed and presented back to EAC in December 2022.

Staff underwent a comprehensive Communications Strategy in Q1 2024 including Public Information Sessions and posting to the Town website and Social Media channels to obtain resident feedback on the proposed draft By-law.

Staff also met with representatives from the York Federation of Agriculture on four separate occasions to discuss the Draft By-law, receive comments and provide updates on proposed changes.

Alignment to Strategic Plan

Responsible Growth

Environmental Stewardship

Strategic Priorities:

“Ensure development occurs in an intentional, sustainable fashion, with a focus on preserving the Town’s cultural heritage and environmental features.”

“Support the stewardship, preservation, conservation, and enhancement of the natural environmental of East Gwillimbury.”

“Develop and implement policies that supports environmental sustainability and best practices.”

“Develop and implement programs and policies that support climate change adaptation, mitigation, and resiliency.”

Key Deliverables:

“Strengthen EG’s tree preservation and protection program.”

Conclusion

Staff seeks Council approval and enactment of the Tree Protection By-law as presented and approval of funding to support the implementation of the By-law.

Appendices

Appendix 1 – Updated Draft Tree Protection By-law with Schedule A – Invasive Species

Approval

Report Authors:

Brittany Ballagh
Parks Supervisor
Parks, Recreation and Culture

Frank Mazzotta
Manager of Parks Development and Operations
Parks, Recreation and Culture

This report was reviewed and recommended by:

Aaron Karmazyn
General Manager
Parks, Recreation and Culture.

This report was approved by:

Meeta Gandhi
General Manager, Corporate Services
Acting Chief Administrative Officer

The Corporation of the Town of East Gwillimbury

By-law 202X-XX

Being a By-law to Prohibit or Regulate the Injuring or Destruction of Trees on Private Property in the Town of East Gwillimbury

Whereas section 8(1) of the Municipal Act, 2001, 5.0. 2001, c. 25, as amended (“Municipal Act, 2001”) provides that the powers of a municipality under any act shall be interpreted broadly so as to confer broad authority on a municipality to enable it to govern its affairs as it considers appropriate;

AND WHEREAS section 11(2)5 of the Municipal Act, 2001 provides that a local municipality may adopt by-laws for the economic, social and environmental well-being of the municipality;

AND WHEREAS section 11(3)5 of the Municipal Act, 2001 provides that a local municipality may pass a by-law in the areas of culture, parks, recreation and heritage;

AND WHEREAS without limiting the broad municipal powers, section 135 and sections 139 to 141 of the Municipal Act, 2001 provide municipalities with further authority to regulate and prohibit the destruction or injuring of trees;

AND WHEREAS section 429(1) of the Municipal Act, 2001 provides that a municipality may establish a system of fines for a by-law passed under this Act;

AND WHEREAS section 436 of the Municipal Act, 2001 provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law or an order made pursuant to the by-law;

AND WHEREAS section 444 of the Municipal Act, 2001 provides that a municipality may make an order to require a Person to discontinue contravening a by-law and to do the work required to correct the contravention;

AND WHEREAS section 445 of the Municipal Act, 2001 provides that a municipality may make an order requiring a Person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS section 446 of the Municipal Act, 2001 provides that a municipality may proceed to do things at a Person's expense which that Person is otherwise required to do under a by-law but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS Council may also require that a Permit be obtained for the injury or destruction of trees within the Town of East Gwillimbury, and may prescribe the fees for the Permit, then circumstances under which a Permit may be issued, and the conditions to such a Permit;

AND WHEREAS the Council of The Corporation of the Town of East Gwillimbury recognizes the ecological and aesthetic value of trees and is desirous of managing the Injury and Destruction of Trees.

SECTION 1.0 — DEFINITIONS

In this by-law, the following definitions apply:

“Administrator” means the individual employed by the Town of East Gwillimbury who is responsible for the administration of this by-law;

“Agricultural Operation” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried out with the expectation of gain or reward;

“Applicant” means the person who submits an application to the Town of East Gwillimbury for a tree permit or a distinctive tree permit, as applicable;

“Arborist report” means a report prepared and signed by an arborist, which includes details on the species, size, health, location of a Tree to be Destroyed, Injured or removed, and an assessment of the structural integrity of the subject Tree using the “Tree Risk Assessment, Best Management Practices”, Companion publication to ANSI 300 part 9, standard practices, ISA, as may be amended or replaced;

“Dead,” “Dying” or “Diseased Tree” means a tree with no living tissue, a tree where seventy (70) percent or more of its crown is dead or a tree infected by a lethal pathogen, as certified by a Qualified Person;

“Designated Official” means an individual appointed by the Town to enforce the provisions of this By-Law, and includes a municipal by-law enforcement officer;

“Destroy” or “Destruction” means to cause directly or indirectly, the removal, ruin, uprooting or death of a Tree whether by accident or by design, and includes the removal, ruin, uprooting or death of a Tree caused by any one or more of the following activities:

- (a) removing, cutting, girdling, or smothering of the Tree or roots;
- (b) interfering with the water supply;
- (c) setting fire to a Tree;
- (d) the application of chemicals on, around, or near the Tree;
- (e) compaction or re-grading within the tree protection zone up to any existing paved surfaces;
- (f) damage caused by new development or construction related activities including driveways;
- (g) storing any materials within a tree protection zone; or
- (h) neglect.

“Emergency Work” means any work required to be carried out immediately in order to prevent imminent danger to life, health or property from natural events (including lightning, wind, hail or an extreme snow event) or unforeseen circumstances (i.e. automobile accidents), and includes work of an urgent nature which can be associated with drain repairs, utility repairs or structural repairs to a building, and work required to prevent soil erosion, slipping of soil or damage to Trees;

“Diameter or DBH” means the diameter at breast height, measured outside the bark, of the stem or trunk of a Tree, and shall be measured at a point 1.37 meters above the existing grade of the ground adjoining its base or, where there are multiple stems to a Tree, means the total of diameter of all stems at a point 1.37 meters above the existing grade, or alternate methods approved by the Designated Official;

“Good Arboricultural Practice” means the proper implementation of removal, renewal and Maintenance activities known to be appropriate for individual Trees in and around urban areas to minimize detrimental impacts on urban forest values, and includes pruning of Trees to remove dead limbs, maintain structural stability and balance, or to encourage their natural form, provided that such pruning is limited to the appropriate removal of not more than one third of the live branches or limbs of a Tree, but does not include pruning to specifically increase light or space;

“Government Body” means the Town of East Gwillimbury, Regional Municipality of York, a Conservation Authority established under provincial legislation and any Ministry or agent of the Federal or Provincial government;

“Hazard Tree” means a Tree that is severely damaged to the extent that it poses an immediate safety threat to Persons or property;

“Hoarding” means a fence or similar structure used to enclose a portion of a property to protect an existing Tree(s) or other vegetation;

“Injure” or **“Injury”** means to cause, directly or indirectly, whether by accident or design, lasting damage or harm to a Tree, and includes any damage or harm to a Tree caused by one or more of the following activities:

- (a) removing, cutting, girdling, or smothering of the Tree or roots;
- (b) interfering with the water supply;
- (c) setting fire to a Tree;
- (d) the application of chemicals on, around, or near the Tree;
- (e) compaction or re-grading within the tree protection zone up to any existing paved surfaces;
- (f) damage caused by new development or construction related activities including driveways;
- (g) storing any materials within a tree protection zone; or
- (h) neglect.

“Lot” means a parcel of land having specific boundaries which is capable of legal transfer;

“Maintenance” includes all work or operations related to trimming, Pruning, spraying, injecting, fertilizing, treating, cabling and bracing a Tree in accordance with Good Arboricultural Practice;

“Normal Farm Practice” means a practice, as defined in the Farming and Food Production Protection Act, 1998, SO 1998, c. 1, that is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar Agricultural Operations under similar circumstances or a practice which makes use of innovative technology in a manner consistent with proper advanced farm management practices;

“Nursery” means property on which the principal business of selling plants, shrubs, and Trees occurs;

“Permit” means a Permit issued under this by-law to Injure or Destroy a Tree on private property within the Town;

“Person” means any individual, public or private corporation, partnership, association, firm, trust, public agency, municipality, or other entity and includes any legal representative(s) acting on behalf of or under the authority of such an entity;

“Personal Use” means the utilization of a Tree, Trees or Tree sections Destroyed or Injured and collected solely for the Owner’s use (e.g., fuel wood) and includes the accessory sale of no more than three (3) Cords of wood within a consecutive period of twelve (12) months;

“Private Property” means any property not owned by the Town;

“Pruning” means the removal, as appropriate, of not more than one-third of the live branches or limbs of a tree in accordance with Good Arboricultural Practice;

“Qualified Person” means an individual with qualifications and/or credentials related to a field of study and who is therefore appropriate for conducting a study and/or providing an expert opinion that has been required by the Town. The qualifications and credentials of the Qualified Person must be to the satisfaction of the Town, or where appropriate, may be defined by relevant legislation, regulations and standards;

“Replacement Tree(s)” means a tree(s) that is required under this by-law to replace an existing Tree that is approved for Destruction;

“Replacement Tree Planting Fund” means the fund set aside for the purpose of planting Trees in locations within the Town other than the Lot where a Tree has been Injured or Destroyed;

“Town” means The Corporation of the Town of East Gwillimbury, or where the context requires the geographical jurisdiction of the Town of East Gwillimbury;

“Tree” means any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 metres at physiological maturity;

“Tree Permit” means the formal written approval from the Administrator to Destroy or Injure Trees, with or without conditions;

“Order” means an order issued pursuant to this by-law to stop the Injury or Destruction of Tree(s);

“**Owner**” means the registered Owner of a Lot, and his or her respective successors and assigns, or his or her agent;

“**Woodland**” means land at least 1 hectare in area and with at least

- (a) 1000 trees, of any size, per hectare;
- (b) 750 trees measuring over five (5) centimetres DBH per hectare;
- (c) 500 trees measuring over twelve (12) centimetres DBH per hectare; or
- (d) 250 trees measuring over twenty (20) centimetres DBH per hectare;

but does not include a nursery, a cultivated fruit or nut orchard, or a plantation established for the purpose of producing Christmas trees or nursery stock;

“**Woodlot**” means land at least 0.2 hectare in area and no greater than 1 hectare in area, with at least:

- (a) 200 trees of any size, per 0.2 hectare;
- (b) 150 trees, measuring over five (5) centimetres DBH, per 0.2 hectare;
- (c) 100 trees, measuring over twelve (12) centimetres DBH, per 0.2 hectare; or
- (d) 50 trees, measuring over twenty (20) centimetres DBH, per 0.2 hectare; but does not include a cultivated fruit or nut orchard, or a plantation established and maintained for the purpose of producing Christmas trees or nursery stock.

SECTION 2.0 — APPLICATION OF BYLAW

2.1 This by-law shall apply to all **Trees** equal to or greater than 20cm **DBH** on **Private Properties** within the geographic limits of the **Town**.

2.2 Despite subsection 2.1, the provisions of this by-law do not apply to any **Woodland** with an area of 1.0 ha or greater or to any **Woodlot** with an area of 0.2 ha up to 1.0 ha within the **Town**, in accordance with Regional Municipality of York Forest Conservation Bylaw 2013-68.

SECTION 3.0 — PROHIBITIONS

3.1 No **Person** shall **Injure** or **Destroy** a **Tree** or cause the **Injury** or **Destruction** of a **Tree**:

- (a) Unless exempted by Section 6 of this by-law, or

(b) Unless in possession of a **Tree Permit** issued under this By-Law and in accordance with its terms and conditions

(c) that has been planted as a **Replacement Tree(s)** as per the conditions of a **Tree Permit**, until such time as the **Replacement Tree(s)** reach a size equal to or greater than 20cm DBH and a **Tree Permit** for their **Injury** or **Destruction** has been granted.

3.2 No **Person** shall:

(a) Contravene the terms or conditions of a **Tree Permit** issued under this by-Law, or

(b) Fail to comply with an **Order** issued under this by-Law.

SECTION 4.0 — ADMINISTRATION

4.1 The **Administrator** of this by-law is responsible for the administration of this by-law and is hereby delegated the authority to review applications for **Permits**, issue **Permits**, refuse **Permits** and include conditions of **Permits**.

SECTION 5.0 — ENFORCEMENT

5.1 For the purposes of conducting an inspection to determine compliance with this by-law, an **Order**, a **Permit** or any condition of a **Permit**, the **Designated Official** may, upon producing the appropriate identification, at any reasonable time, enter and inspect any private lands or property, to determine whether the provisions of this by-law, an **Order** issued under this by-law, or a **Permit** or condition of a **Permit** issued under this by-law, have been complied with.

5.2 No **Person** shall obstruct the **Administrator** or a **Designated Official** who is carrying out an inspection pursuant to this by-law. Any **Person** who obstructs the **Administrator** or **Designated Official** is guilty of an offence.

SECTION 6.0— EXEMPTIONS, NO PERMIT REQUIRED

6.1 Despite Section 2.1 and 2.2 of this by-law, this by-law does not apply to the following:

- (a) With express written permission from the **Town's Designated Official**, removal of up to three (3) live, healthy **Trees** that do not individually exceed 30cm **DBH**;
- (b) the **Injury** or **Destruction** of a **Tree(s)** as part of **Emergency Work**;
- (c) the **Pruning** or **Maintenance** of any **Tree(s)** carried out in accordance with **Good Arboricultural Practice**;
- (d) the **Injury** or **Destruction** of, or where specifically noted in the following clauses, the **Maintenance** of any **Tree** that:
 - I. is a **Dead, Dying or Diseased Tree**, as defined in this by-law;
 - II. is a **Hazard Tree**, as defined in this by-law;
 - III. is an invasive species as identified in Schedule A of this By-Law.
 - IV. **Tree(s)** that are causing, or are likely to cause, structural damage of load-bearing walls
or other structures as determined by a **Qualified Person**
 - V. is a **Tree** with a **diameter** of less than 20cm **DBH**;
 - VI. is required under an **Order** under any Property Standards By-law of the **Town**;
 - VII. requires the **Pruning, Maintenance** or removal of branches or limbs, where the branches or limbs interfere with existing utility conductors, buildings or structures, provided such activities shall be carried out in accordance with **Good Arboricultural Practice**;
 - VIII. is a **Tree** in a **nursery** or cultivated orchard, provided that it is a **Tree** devoted to the **nursery** or orchard business and maintained for sale or propagation of **Trees** or fruits for sale;
- (e) the **Tree** is located within a building, a solarium, a rooftop garden or an interior courtyard;
- (f) where an **Owner** is complying with the requirements of an approved Province of Ontario Forest Management Plan that specifically encompasses the **Owner's Lot**.

(g) as a result of activities or matters undertaken by a Governmental Body or a school board for the construction of a school building or part thereof;

(h) activities or matters are undertaken by a license issued under the Crown Forest Sustainability Act, 1994, S.O. 1994, c. 25, as amended;

(i) the **Injury** or **Destruction** of any **Tree** located within a waste disposal site as defined in Part V of the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended;

(j) **Trees** are **Injured** or **Destroyed** by a **Person** licensed under the Surveyors Act, R.S.O. 1990, c. S.29, to engage in the practice of cadastral surveying, or his or her agent while making a survey;

(k) **Trees** are **Injured** or **Destroyed** by a transmitter or distributor, as those terms are defined in section 2 of the Electricity Act, 1998, S.O. 1998, C. 15, Sched. A, for the purpose of constructing or maintaining a transmission system or distribution system, as defined in the Electricity Act, 1998, as amended;

(l) The **Injury** or **Destruction** of a **Tree(s)** undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act, R.S.O. 1990, c. A.8;

(m) The **Injury** or **Destruction** of a **Tree(s)** undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land that:

I. that has not been designated under the Aggregate Resources Act, R.S.O. 1990, c. A.8, or a predecessor of that Act, and

II. on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the Planning Act, R.S.O. 1990, c. P.13;

(n) The **Injury** or **Destruction** of a **Tree(s)** that are protected under the Endangered Species Act, 2007, S.O. 2007, c. 6, for which the landowner has obtained approval from the Ontario Ministry of Natural Resources and Forestry to remove the **Tree(s)**;

SECTION 7.0 – PERMIT

- 7.1 Except where otherwise stated in this by-law, an **Owner** who intends either himself, herself or through an authorized representative or agent to **Injure** or **Destroy a Tree** is required to apply for a **Permit** and shall submit:
- I. a completed **Permit** application to the **Designated Official** in the form provided by the **Town**.
- 7.2 In circumstances where Agricultural Operations require urgent equipment access to farm property as part of their **Normal Farm Practices**, a permit application is required to be submitted within 72 hours and shall include photographic documentation of each tree removed.
- 7.3 Permit applications for hedgerow removals require an initial visual assessment by the **Designated Official**. An arborist report and compensation may still be required.

7.4 PERMIT APPLICATION REQUIREMENTS

- (a) a report by a **Qualified Person** in support of a **Permit** application may be required by the **Designated Official** as a condition of approval, but is not required as part of the initial **Permit** application;
- (b) where the base of the trunk of a **Tree** is shared between property lines, a **Permit** application shall include the written permission of the adjacent property **Owners**;
- (c) an **Owner** of lands used for a cemetery, golf course, or similar commercial or institutional use, may file an application for a **Permit** for approval of a tree management plan and in support of a **Permit** application shall submit a tree management plan, prepared by a **Qualified Person**, in accordance with **Good Arboricultural Practice**, which at a minimum shall itemize the existing number, species, location and condition of all **Trees** on the lands and the proposed management schedule related to **Pruning, Maintenance, Destruction** and removal requirements for a period of specified years;
- (d) a **Permit** application may be submitted in person, electronically through the **Town's** website or by pre-paid first-class mail to the **Administrator**.

7.5 ISSUANCE OF A PERMIT

The following provisions apply to the issuance of **Permits**:

- (a) Following receipt of a **Permit** application, the **Administrator**, or any **Person** acting under the **Administrator's** instructions, may inspect the lands and **Tree(s)** to determine whether or not a **Permit** should be issued;
- (b) When granting a **Permit**, the **Administrator** may include terms or conditions, including but not limited to a qualified **Arborist Report**, replacement plantings and/or cash in lieu compensation, grading plans, surveys, etc.
- (c) The **Administrator** may issue a **Permit to Injure or Destroy a Tree** where the **Administrator** is satisfied that:
 - I. the application satisfies the requirements of this by-law;
 - II. the application is to permit the establishment or extension of a building or structure which requires the **Tree(s)** to be removed for the proposed works authorized under a municipal building permit and there is no reasonable alternative to the **injury** or **destruction** of the **Tree(s)**;
- (d) The **Administrator** may issue a **Permit** for a tree management plan sought under clause 7.4
 - (c) where the **Administrator** is satisfied that:
 - I. the application satisfies the requirements of this by-law;
 - II. the proposed schedule for the **injury** or **destruction** of **Trees** as set out in the plan represents **Good Arboricultural Practice**;
 - III. the proposed schedule for the **injury** or **destruction** of **Trees** as set out in the plan does not contravene the general intent of this by-law.
- (e) The **Administrator** may issue a **Permit** subject to conditions which may include but are not limited to any one or more of the following:
 - I. the requirement for a **Replacement Tree(s)**,
 - II. satisfactory plans for Tree preservation and planting, and
 - III. **Hoarding** to be provided around a **Tree(s)** not subject to **Injury** or **Destruction**, and plans indicating the location and type of **Hoarding** to the satisfaction of the **Administrator**.

- (f) Where the planting of a **Replacement Tree(s)** has been imposed as a condition, the **Administrator** may require any one or more of the following:
- I. The **Replacement Tree(s)** rate is based on the **Town's Fees By-Law 2015-078 Schedule L**,
 - II. the **Replacement Tree(s)** be located on the same **Lot** in a location, size, and/or species to the satisfaction of the **Administrator**,
 - III. a planting plan be filed to the satisfaction of the **Administrator**;
 - IV. a written undertaking by the **Owner** to carry out the replacement planting;
 - V. monies or a letter of credit in a form satisfactory to the **Administrator** be delivered to the **Administrator** to cover the costs of the **Replacement Tree(s)**, and the **Maintenance** of the **Tree(s)** for a period of up to two (2) years; or
 - VI. payment of each **Replacement Tree** not planted on the **Owner's Lot** be made into the **Town's Replacement Tree Planting Fund** as per the **Town's Fees By-Law 2015-078 Schedule L**.
- (g) A **Permit** shall be valid for a maximum of:
- I. one (1) year from the date of issuance.
 - II. the duration of the approved Tree Management Plan, prepared by a **Qualified Person** as set out in S.7.4 (c).

7.6 REFUSAL OF A PERMIT

7.6.1 The **Administrator** may refuse to issue a **Permit** to remove a **Tree** where any one or more of the following applies:

- (a) where the application for a **Permit** is incomplete; or where an **Arborist Report** is required or requested by the **Administrator** or **Designated Official** in support of the **Permit** application and the report has not been provided;
- (b) the information received from the **Owner** is false or incorrect;
- (c) where an application for rezoning, a consent, a minor variance, a plan of subdivision or a site plan to the land on which the **Tree** is located has been submitted to the **Town** but has not received final approval;

(d) where the **Tree** is an endangered, threatened, or special concern **Tree** species as defined in the provincial Endangered Species Act, 2007, S.O. 2007, c. 6, as may be amended or replaced from time to time;

(e) where the **Tree** belongs to a **Tree** species of special concern, as defined in the Species at Risk Act, 2002, S.C. 2002, c. 29, as may be amended or replaced from time to time;

(f) the **Injury** or **Destruction** of a **Tree(s)** can be avoided, or ought to be avoided, as confirmed by the **Administrator**;

(g) where environmentally sensitive areas, ecological systems, natural landforms or contours will not be adequately protected and preserved;

(h) the **Injury** or **Destruction** of a **Tree(s)** will negatively impact erosion or flood controls; or

7.6.2 If the **Administrator** refuses to issue a **Permit**, he or she shall advise the **Owner** and provide the **Owner** with written reasons for the refusal.

7.7 PERMIT REVOCATION

7.7.1 The **Administrator** may revoke a **Permit** at any time, for one (1) or more of the following reasons:

(a) the **Permit** was issued because of mistaken, false, or incorrect information received from the **Owner**;

(b) the **Owner** has failed to comply with any conditions attached to the **Permit**;

(c) the **Owner** has failed to comply with any **Order** issued under this by-law; or

(d) the **Owner** has failed to comply with any of the provisions in this by-law.

7.7.2 the **Permit** holder of a revoked **Permit** shall immediately cease or ensure the immediate cessation of all the activities for which a **Permit** has been issued upon revocation of the **Permit**.

7.7.3 where a **Permit** holder of a revoked **Permit** has **Injured** or **Destroyed** any **Tree** under the revoked **Permit**, the **Permit** holder may be ordered to replace the **Tree** at the expense of the **Permit** holder.

7.7.4 If the **Permit** holder fails to comply with an **Order** made under Section 9.1 the **Town** may replace the **Tree** and use any securities posted by the **Permit** holder under the revoked **Permit** to pay for any costs associated with carrying out the work

7.7.5 If the costs incurred by the **Town** in carrying out any work under Section 9.0 are greater than the securities posted by the **Permit** holder under the revoked **Permit**, any costs not covered by the securities shall be a debt owed by the **Permit** holder to the **Town** and the **Town** may recover the costs of carrying out the work by adding the costs to the tax roll of the property in question and collecting them in the same manner as property taxes.

7.7.6 A **Permit** is the property of the **Town** and is not transferable unless otherwise authorized by the **Administrator**.

SECTION 8.0 — ORDERS

8.1 Where the **Designated Official** is satisfied that a contravention of this by-law has occurred, the **Designated Official** may issue an **Order** requiring the **Person** who contravened the by-law, or who caused or permitted the contravention, or the **Owner** or occupier of the land on which the contravention of the by-law occurred, to discontinue the contravening activity;

(a) The **Order** shall set out:

- I. the name of the **Owner**, the municipal address and the legal description of the land or property that is the subject of the contravention;
- II. reasonable particulars of the contravention;
- III. what the **Owner** or any other **Person** must do to rectify the contravention;
- IV. a statement that if the work is not done in compliance with the **Order** within a specified time period, the **Town** may have the work done at the expense of the **Owner** or other **Person**;
- V. the date and time by which the **Order** must be compliance with;
- VI. information regarding the **Town's** contact **Person**.

- 8.2 The **Order** may require that any **Injured** or **Destroyed Tree** be replaced on the property with a **Replacement Tree**, and further specify the species and location of any **Replacement Tree**.
- 8.3 Where the **Designated Official** determines that an **Injured** or **Destroyed Tree** cannot be replaced on the property, the **Designated Official** may order that the **Replacement Tree** be located on **Town** property in an area to be determined by the **Designated Official** or that payment in lieu of the **Replacement Tree** be provided to the **Town's Replacement Tree Planting Fund**.
- 8.4 An **Order** issued under Section 8.1 may be served personally by the **Designated Official**, may be posted in a conspicuous place on the property where the contravention occurred or may be sent by registered mail to the **Person** contravening the by-law.
- 8.5 Where an **Order** under this by-law is served personally by the **Designated Official**, it shall be deemed to have been served on the date of delivery to the **Person** or **Persons** named.
- 8.6 The posting of the **Order** on the affected lands shall be deemed to be sufficient service of the **Order** on the **Person** to whom the **Order** is directed on the date it is posted.
- 8.7 Where an **Order** issued under the by-law is sent by registered mail, it shall be sent to the last known address of:
- (a) the **Applicant**;
 - (b) the **Owner**; or
 - (c) the **Person** or company retained to undertake the **Injury** or **Destruction** and shall be deemed to have been served on the fifth day after the **Order** is mailed.
- 8.8 If a **Person** fails to comply with an **Order** issued pursuant to Section 9.1 of this by-law, the **Town** may enter the lands at any reasonable time for the purposes of doing the things described in the **Order** at the **Person's** expense.
- 8.9 If the **Town** enters on the lands and completes the work, the **Town** may recover its costs to complete the work from the **Person** named in the **Order** by drawing upon the financial security, or by action, or by adding the costs to the tax roll and collecting them in the same

manner as property taxes. Costs owing to the **Town** will accrue at a rate of fifteen (15) percent annually and may also be registered as a lien against the property subject to the **Tree Permit**.

SECTION 9.0 — PENALTY

- 9.1 Any **Person** who contravenes any provision of this by-law or an **Order** issued pursuant to Section 9 of this by-law is guilty of an offence.
- 9.2 All contraventions of any provision of this by-law or an **Order** issued under Section 9 of this by-law are designated as multiple offences and continuing offences, pursuant to subsection 429(2) of the Municipal Act, a multiple offence is an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of a by-law and, for greater certainty, when multiple **Trees** are **Injured** or **Destroyed** the **Injury** or **Destruction** of each **Tree** is a separate offence
- 9.3 Any **Person** who contravenes any provision of this by-law or an **Order** is guilty of an offence and is liable:
- (a) on a first conviction, to a fine of not less than \$250 to no more than \$25,000; and
 - (b) on any subsequent conviction, to a fine of not less than \$500.00 to no more than \$50,000.
- 9.4 Notwithstanding section 9.3 where the **Person** convicted is a corporation, it is liable:
- (a) on a first conviction, to a fine of not less than \$5,000 to not more than \$50,000; and
 - (b) on any subsequent conviction, to a fine of not less than \$10,000 to not more than \$100,000.
- 9.5 A special fine may be imposed, in addition to a fine under section 10.3 to 10.4, in circumstances where there is an economic advantage or gain from the contravention of

this by-law or an **Order** under Section 9 of this by-law, and the maximum amount of the special fine may not exceed \$100,000.

9.6 If a **Person** is convicted of an offence for contravening the provisions of this by-law, or an **Order** under Section 9 issued pursuant to this by-law, the Court in which the conviction has been entered may **Order** the **Person** to correct the contravention, which may include but is not limited to:

(a) Planting **Tree(s)** in such manner and within such time period as the Court considers appropriate, such as replacement of a comparable species and/or payment of the **Tree(s)** amenity value as determined by the **Designated Official**.

SECTION 10 — SEVERABILITY

10.1 If a court or tribunal of competent jurisdiction declares any provision, provisions, or part of a provision of this by-law to be illegal or unenforceable for any reason, such provision, provisions or part of a provision shall be severed, and all other provisions of this by-law shall be deemed to be separate and independent therefrom and shall be valid and enforceable to the fullest extent permitted by law.

SECTION 11 — IN FORCE

11.1 This by-law shall come into force and take effect on the date it is passed.

ENACTED and PASSED this ___ day of ___, 2024.

Virginia Hackson, Mayor

Tara Lajevardi, Municipal Clerk

Schedule A – Invasive Species

Invasive Species as per the Ontario Invasive Plant Council:

- Autumn Olive
- Black Locust
- Buckthorn
- European Black Alder
- Invasive Honeysuckles
- Manitoba Maple
- Norway Maple
- Scots Pine
- White Mulberry