



STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG

Community Services, Protection, and Economic Development Standing Committee

Report to: Mayor, Deputy Mayor, and Councillors
From: Brian Geerts; Director, Community Services
Standing Committee Date: June 5, 2024
Report Number: COMM-2024-015
Council Meeting Date: June 26, 2024
Subject: **Tree Bylaw Update**

If you require this information in an alternate format, please contact the Accessibility Coordinator at accessibility@cobourg.ca or at 905-372-4301

1. Recommendation:

THAT Council receive this report for information purposes.

2. Executive Summary:

During the development process on sites that are in a natural state, tree removal is a common part of preparing the land for development. This work typically happens very early in the development process. The Province of Ontario has many relevant pieces of legislation related to the environment and development; the Municipal Act, the Planning Act, and the Forestry Act are commonly referenced during changes in land use from a natural state to a developed state. All acts of the province are active unless replaced or rescinded, but each has a certain scope or boundary to its application. Once a property has entered one of the development processes outlined in the Planning Act, that Act has many mechanisms to coordinate the inventory, management, and protection of natural assets. Prior to any of those processes starting, the Municipal Act and others are still in effect. The Town of Cobourg has a Tree Bylaw (020-2006) that regulates tree removal on private lands under the authority of the Municipal Act.

3. Background

Tree Preservation Bylaw – 020-2006

Amendment #1: 048-2009

Amendment #2: 058-2017

4. Discussion:

Municipal Tree Bylaws form part of the lattice of legislation that protect environmental features in Ontario. Section 135 of the Municipal Act delegates authority to Municipalities to make bylaws related to the destruction or injuring of trees:

“Municipal Act, RSO 2001 – Section 135: Tree by-laws

135 (1) Subject to subsection (4) and without limiting [sections 9, 10](#) and [11](#), a local municipality may prohibit or regulate the destruction or injuring of trees. [2006, c. 32, Sched. A, s. 71 \(1\).](#)”

The Forestry Act also protects trees in Ontario but focuses more on large tracts of land and forested areas. Portions of the Forestry Act relate to individual trees including important case law related to property boundary trees. Tree Bylaws under the Municipal Act are typically created in response to development pressures in a municipality, and use a few common mechanisms to protect trees:

- Protect individual trees as defined in a specific way
- Protect designated forest areas or trees on properties of a defined size, or
- A mix of these approaches.

Development of a Tree Bylaw includes local decision-making on key elements that ensure the bylaw can be applied consistently and accurately:

- Definitions: Consistent terms and specific definitions are key. It is common for tree bylaws to define more specifically what a “Tree” is and how it is confirmed or determined in the field.
- Prohibition: As bylaws regulate human behaviours, the Prohibition makes clear which behaviours are regulated by the bylaw.
- Exceptions: Other legislation empowers people to injure or remove trees under certain circumstances; these exceptions are typically listed: eg: those engaged in cadastral surveying are allowed to injure or destroy trees if required to complete their work; Normal Farm Practices are permitted, etc.
- Process: Typically a permit process is outlined in the bylaw to ensure a fair and transparent process to allow for tree injury or removal in approved circumstances.

Cobourg's Tree Preservation Bylaw: 020-2006

Cobourg's Tree Preservation Bylaw is founded on the "Area Protection" mechanism, as seen in the General Prohibition:

3.1 ..."No person shall injure or destroy any Tree in a Designated Area within the Town of Cobourg"

This prohibition rests on 4 key definitions:

- Injure
- Destroy
- Tree
- Designated Area

Of special note, is the definition of "Tree":

2.1(t) "Tree" shall mean any woody stemmed plant that has reached the height of 4.5 meters (15 feet) above the ground with a minimum diameter of 75mm (3 inches) at a point 1.5 meters above the ground"

Any woody plant that could be greater than 4.5 meters above the ground or 75mm in diameter in the future does not become a "Tree" regulated by the bylaw until both of these thresholds have been met or surpassed.

The definition of "Designated Area" is also key for reliable interpretation of the bylaw:

2.1(e) "Designated Area shall mean:

- (i) lands located within 6 feet (1.8m) of the boundary line of any municipal road allowance in the Town of Cobourg
- (ii) any lot in the Town of Cobourg that has an area of 2 acres (0.8 hectares) or more, or
- (iii) lands that are owned by the Town which are subject to a moratorium on tree removal.

Section 2.1(e)(iii) is not relevant as the Town of Cobourg and its Local Boards are exempt from Cobourg's own bylaw as per section 4.1(a). Both sections 2.1(e)(i) and 2.1(e)(ii) are frequently used definitions in development scenarios.

5. Financial Impact and Budget

There are no specific financial impacts related to this report. Inspection, monitoring, and reporting are services provided within the Forestry section of the Community Services Division. Bylaw enforcement, when required, is supported by the Bylaw Division.

6. Relationship to Council's Strategic Plan Priorities 2023 to 2027 and beyond:

☒ Thriving Community

Give us a place for all to enjoy.

☐ Service Excellence

Click or tap here to enter text.

☒ Sustainability

Take care of what we have in ways that are adaptive, resilient, clean, green, and beautiful.

7. Public Engagement:

This report was posted publicly as part of the Council Agenda process.

8. Attachments:

Bylaw 020-2006

Bylaw 048-2009

Bylaw 058-2017

Report Approval Details

Document Title:	Tree Bylaw Update.docx
Attachments:	- Tree Preservation Bylaw 020-2006.pdf - Tree Preservation Amend 043-2009.pdf - Tree Preservation Amend 058-2017.pdf
Final Approval Date:	May 27, 2024

This report and all of its attachments were approved and signed as outlined below:

Tracey Vaughan, Chief Administrative Officer - May 27, 2024 - 4:58 PM