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## **Private Tree Protection By-law Amendment and Update Staff Report to Council**

Report Number: 2023-32

Department(s): Parks and Facility Services

Author(s): Jeff Payne, Commissioner, Community Services

Meeting Date: May 29, 2023

### **Recommendations**

- 1 That the report entitled Private Tree Protection By-law Amendment and Update dated May 29, 2023 be received; and,
2. That proposed amendments to the Private Tree Protection By-law adopted; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

### **Purpose**

The purpose of this report is to provide Council with an update on the Private Tree Protection By-law after one full calendar year of the by-law being in place. The report will identify process improvements that are being implemented as well as some minor changes to the wording of the by-law.

### **Background**

The trees that comprise the Town's tree canopy (on both public and private land) are valuable assets that benefit the broader community through the avoidance of:

- 200,000 cubic meters of water runoff;
- the removal of 40 tonnes of air pollution annually; and
- the storage of over 35 tonnes of carbon.

Private Tree Protection By-law Amendment and Update

Trees also provide important natural habitat, food and shelter for wildlife in addition to helping to mitigate the impacts of heat on the community by reducing temperatures significantly compared to areas that do not benefit from tree coverage (known as heat islands). A healthy tree canopy is a measure of a community's commitment to the local environment, sustainability and quality of life for all residents.

Trees are under increasing stress because of climate change, invasive species, pollution and human activity. Trees can be very susceptible to factors that can cause rapid decline and death (like the impacts of an ice storm or an insect like the Emerald Ash Borer). When you consider a tree as a 'natural asset' you also appreciate that unlike other municipal assets (roads, pipes or buildings) you cannot simply replace or repair a tree, once a tree is gone – it is gone. A fully grown mature tree takes decades to grow and therefore should benefit from special consideration and protection.

In recognition of the importance that the community places on trees, the Private Tree Protection By-law was enacted on February 10, 2022 and required residents to obtain a permit for removing trees on their property that have a diameter greater than 20 centimeters (8 inches) measured at 1.4m (4.5 ft) above ground.

It was also important to ensure that trees do not represent a health and safety risk (hazard) and that provisions exist to address dead or dying trees. In addition, there can also be reasonable situations that may require tree removal. To this point the by-law further defines three permit categories along with associated fees, which provide authorization to remove privately owned trees;

- Dead, Dying, or Hazardous
- General/Standard Tree Removal
- Trees causing property damage

A transition period of four months was implemented where fees and compensation obligations were waived in order to provide time for the Town to communicate the new by-law and associated requirements with the public and arborist community.

Council requested that staff return to present results and learnings following one year of operation. It is important to note this report includes data from the four-month transition period, there were no fees applied during the transition period.

## **Discussion**

In 2022, the Town received a total of 195 applications which resulted in 288 trees removed with permits. On average, the permit to remove trees was issued within 21 days of the application being received. Applications requiring no clarification or completion of missing information resulted in an average of a 15-day turnaround.

The chart below summarizes the permit requests and category of application received in 2022.

Key Performance Indicator	February - June	July - December	Total
Total Applications Received	120	75	195
Standard Application	53	26	79
Dead/Dying/Hazardous Application	62	48	110
Property Damage Application	5	1	6
Fees Collected*	\$0.00	\$4300.00	\$4300.00
Compensation Collected*	\$0.00	\$3300.00	\$3300.00
Total Trees Removed	195	93	288

\*Note: fees were applied starting July 2022

Staff review of feedback received and errors observed regarding the application/ approval process has highlighted opportunities to improve the administrative process. Feedback has been summarized into four main categories:

- Definition of a dead/dying/hazardous tree required clarification;
- Confusion regarding which form to complete for the type of work required;
- Clarity of permitting requirements during an emergency response resulting from weather related events; and
- Requirement for inclusion of an arborist report for a tree removal.

Following a comprehensive internal review along with a municipal scan across 20 municipalities, staff have identified opportunities to improve our resident experience through simplifying the administrative process in the following areas:

- Updated website – a refresh of the website has resulted in clarifying language and definitions. In particular, the definition of Dead/Dying has been clarified to reflect 70% of the canopy/crown has declined. This eliminates confusion or debate based on degree of decline.

Redesigned application form – the form has been combined into a single application form which will eliminate delays and frustrations caused by having to resubmit. The application form now includes an attestation from the owner and/or abutting owner (depending on the circumstance). Staff have also made the new single intake online form more user friendly (fillable PDF).

- To further support the Private Tree Protection By-law application process, a comprehensive guide has been created which educates the reader on the importance of tree protection as well as on items such as how to measure accurately the diameter of the tree and proper pruning technique. In addition, the FAQ and definitions section has been revised.
- A process for fast tracking trees that are damaged during a weather event or are imminently hazardous (can cause injury/damage if not attended to immediately) has been created which simply requires the homeowner to submit an email with accompanying photos, approval will be provided by email in these situations.
- Arborist reports will not be required where a homeowner applies with appropriate supporting documentation and the tree meets the dead/dying criteria (70%) or emergency hazardous conditions.
- The requirement for an Arborist report will remain for applications involving healthy tree removal and for less obvious hazardous tree assessment. It will also exist as an option for the homeowner to appeal should they not agree with the Town assessment of their application.
- In cases where an independent arborist report supports the original application that the tree is dead/dying, there will be no permit fees applied. Should the report not support the claim (not meeting the 70% threshold or imminent hazard), the established tree removal process and applicable permit fees will be applied.

There is a recommended change to the by-law itself. The original by-law did not specifically address circumstances involving significant weather events that may impact the Town. Examples of this might include localized or Town wide wind damage or ice damage to trees. An exception has been created for these circumstances. This amendment will require Council approval to amend the by-law. The amending by-law is attached for reference.

## **Conclusion**

The Town of Newmarket Private Tree Protection By-law reflects the importance that the community places on a thriving natural environment that includes a healthy tree canopy. Trees are important natural assets and should be protected except where a tree presents a health and safety risk.

The first year of administering the Private Tree Protection By-law process has provided staff an opportunity to analyze results and identify program amendments to enhance the permit application process. The creation of a tree protection guideline document will aide property owners in understanding the process and requirements which will further assist in ensuring a consistent application.

The Town of Newmarket website has been updated with the new/revised information and a communication plan is being developed to promote and educate the community on an ongoing basis regarding the Private Tree Protection By-law through social media.

## **Business Plan and Strategic Plan Linkages**

The Private Tree Protection By-law aligns with Council's Strategic Priority of Environmental Stewardship in its fight against climate change and achieve the goal of a 35% tree canopy coverage by 2051 for the Town.

## **Consultation**

A municipal scan of 20 municipalities (Ontario, Saskatchewan, B.C.) was conducted to review and inform the guidelines and definitions used in the permit process. Staff has also consider feedback from a wide range of stakeholders to improve the processes based on the first year of experience with the by-law implementation.

## **Human Resource Considerations**

There is no impact.

## **Budget Impact**

At this time there are no budget impacts. Staff will continue to monitor the program and will report as required.

## **Attachments**

Private Tree Protection By-law Amended

## **Approval**

Kristi Carlen, Director Parks and Facility Services

Jeff Payne, Commissioner, Community Services

## **Contact**

Jeff Payne, Commissioner, Community Services