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**From:** Kyle Bentley  
Director, City Development & CBO

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**Subject:** Tree Protection Project  
- Project Findings  
- File: D-1100-104

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**Recommendation:**

1. That Report PLN 23-22 of the Director, City Development & CBO, on the results of staff's investigation into the implementation of a by-law for the protection of trees, and which responds to Item 2(c) of Council Resolution #428/20, be received for information; and
  2. That Council authorize staff to undertake a process to amend the existing Tree Protection By-law 6108/03, as amended, to afford greater protection to more trees within the City of Pickering, and which will include a public engagement process, and report back to Council.
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**Executive Summary:** Report PLN 23-22 responds to Council's direction to staff to investigate the implementation of a by-law for the protection of trees and report back to Council (Resolution #428/20). This direction was the result of one of the recommendations of the Infill & Replacement Housing in Established Neighbourhoods Study (Report PLN 18-20).

Report PLN 23-22 presents the results of the investigation of the merits of implementing a tree protection by-law, that would apply to trees that are not currently protected by the City's existing Tree Protection By-law 6108/03, as amended; the Council-adopted Tree Inventory, Preservation, and Removal Compensation Requirements; the Durham Region Woodland By law 30-2020; or, the City's Ecosystem Compensation Policy in Official Plan Amendment 35 (under appeal).

Staff undertook a review of existing policies, guidelines, studies, by-laws, and other legislation in place, or underway, that relate to trees in general, and specifically within the City of Pickering (see Summary of Policy and Legislative Scan in Appendix I of Report PLN 23-22). In addition, staff reviewed tree protection by-laws from other municipalities (see Section 4 of Report PLN 23-22 and Attachment #3, Municipal Scan Summary Chart). Staff also established a Corporate Working Group (CWG), consisting of representation from the Planning & Urban Design Section, Sustainability Section, Municipal Law Enforcement, and the Engineering Services Department. The CWG met regularly to discuss the research and data collected, and the associated implications of implementing a tree protection by-law that would apply to all lands within the City of Pickering.

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The City has already undertaken a number of steps to preserve, protect, and replace trees within its jurisdiction. However, the City's existing Tree Protection By-law, Tree Inventory, Preservation, and Removal Compensation Requirements, and the recently Council approved Memorandum of Understanding for Ecosystem Compensation Implementation, establishes only partial protection for trees in the City. In particular, the City's Tree Protection By-law Screening Areas cover approximately 38 percent (8,786.85 hectares) of the total land area of the City. Other aspects of the existing by-law should be reviewed for potential areas of improvement.

Based on the project findings to date, staff is recommending that Council authorize staff to undertake a process to amend the existing Tree Protection By-law to afford greater protection to more trees within the City of Pickering, which will include a public engagement process, and report back to Council.

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**Financial Implications:** The information presented in this report does not present any financial implications to the City of Pickering. Should Council approve staff's recommendation, staff time and resources required to undertake a process to amend the existing Tree Protection By-law can be accommodated within the City Development departmental budget.

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## **Discussion:**

### **1. Purpose**

The purpose of this report is to present the results of staff's investigation into the potential implementation of a by-law for the protection of trees within the City of Pickering.

### **2. Background**

#### **2.1 Project Purpose and Initiation**

On September 28, 2020, following the consideration of Report PLN 18-20 (regarding the Infill and Replacement Housing in Established Neighbourhoods Study), Council directed staff to investigate the implementation of a by-law for the protection of trees and report back to Council (see Resolution #428/20, Attachment #1).

The purpose of this project was to investigate the merits of implementing a tree protection by-law, that would apply to trees that are not currently protected by the City's existing Tree Protection By-law 6108/03, as amended by By-laws 6191/03 and 7007/09, (see Attachment #2); the Council adopted Tree Inventory, Preservation, and Removal Compensation Requirements; the Durham Region Woodland By-law 30-2020; or, the City's Ecosystem Compensation Policy in Official Plan Amendment 35 (under appeal).

#### **2.2 Project Overview**

The Tree Protection Project (the Project) included the following elements:

- Corporate Working Group Meetings;
- Policy and Legislative Scan; and
- Municipal Scan.

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### 2.2.1 Corporate Working Group

A Corporate Working Group (CWG) was established in December 2021, and consisted of representation from the following branches in the Corporation: Planning & Urban Design Section, Sustainability Section, Municipal Law Enforcement, and the Engineering Services Department.

The CWG met regularly since December 2021 to discuss the research and data collected, and the associated implications of implementing a tree protection by-law that could potentially apply to all lands within the City of Pickering.

### 2.2.2 Policy and Legislative Scan

The Policy and Legislative Scan consisted of staff's review of existing policies, guidelines, studies, by-laws, and other legislation in place, or underway, that relate to trees in general, and specifically within the City of Pickering. An overview of the Policy and Legislative Scan is contained in Appendix I to this Report.

The outcome of the Policy and Legislative Scan identified that:

1. Individual trees within Shorelines, Stream Corridors, Wetlands, and Environmentally Significant Areas (as were shown on Schedule III of the Pickering Official Plan, Edition 5, 2008) and on lands within 30 metres adjacent thereto, are protected by the existing Tree Protection By-law. However, Schedule III was amended in subsequent editions of the Pickering Official Plan and therefore, By-law 6108/03, as amended, needs to be updated accordingly;
2. Groups of trees, that are part of an ecosystem feature or function, are protected and/or compensated for through the City's implementation of the Toronto and Region Conservation Authority's (TRCA's) Guideline for Determining Ecosystem Compensation;
3. Trees that are part of a Woodland that is greater than 1 hectare in size, are protected by Durham Region Woodland By-law 30-2020; and
4. Trees that are on lands subject to certain development applications, are protected and/or compensated for (Tree Inventory, Preservation, and Removal Compensation Requirements).

Generally, there exists good oversight, protection, and/or compensation for trees within the natural heritage system, or on lands subject to certain development applications. However, approximately 62 percent of the City's land area outside of the Tree Protection By-law Screening Areas are not protected.

Tree Protection By-laws usually require a qualified arborist to review and issue a permit for requests to remove a tree. The City's current Tree Protection By-law generates approximately 5-6 permit applications a week during the summer season. Any proposed amendments to the existing by-law could have resource implications (additional staff

time, required qualifications, and costs), that need to be considered in concert with any such proposed amendments. Further investigation is required in this regard. In addition, the City's current by-law does not address reasons for refusal of a tree removal permit application.

### **2.2.3 Municipal Scan**

The Municipal Scan consisted of staff's review of tree protection by-laws for the Town of Richmond Hill, City of London, City of Markham, City of Vaughan, City of Mississauga and City of Toronto. The Municipal Scan Summary Chart contains the key provisions related to the tree protection by-laws reviewed (see Attachment #3).

The key takeaways from the Municipal Scan are as follows:

1. The driving force behind the adoption of a tree protection by-law is to support a municipality's efforts in environmental sustainability, climate change mitigation, heat island effect mitigation, support of a healthy natural environment, and support of an aesthetically pleasing environment, that combined, will contribute to enhancing the lives of the community.
2. Generally speaking, the municipalities reviewed are satisfied with the results of implementing a tree protection by-law.
3. Some suggestions from other municipal experiences are:
  - a. Do not charge a fee for a tree removal permit or require an arborist report, in order to reduce the potential for illegal removal of trees. If it is perceived to be too expensive for a property owner to go through a legislated process to remove a tree, there is a likelihood that the process will be avoided and trees will be removed without permission.
  - b. Ensure a simplified process so that it is not cumbersome for property owners. This includes a cooperative and coordinated approach between City departments. Such an approach could lead to more buy-in from the community for the process.
  - c. Engage the community, including qualified contractors, prior to adopting a private tree protection by-law, to help determine the desire for, and parameters of, a by-law, and the associated process.
4. A concern identified with the potential adoption (or expansion) of a tree protection by-law is the cost of implementation in terms of staff resources. Based on the municipal scan, tree removal permit fees and fines do not appear to cover the staff time associated with implementation.

### **3. Project Findings**

The urban forest, and its associated tree canopy, plays an important role in climate change adaption. It cools communities, reduces the heat island effect, reduces the volume of storm water run-off, improves air quality, sequesters carbon, and contributes to an aesthetically pleasing place to live, work, play, and learn. The tree canopy also represents a defining element in neighbourhood character.

Staff's investigation identified limitations when it comes to the protection of trees within the City of Pickering, but outside of the Tree Protection Area, and not considered through draft plan of subdivision, zoning, land division or site plan approval applications, or a TRCA permit process. Any proposed amendments to the existing by-law could have resource implications (additional staff time, required qualifications, and costs), that need to be considered in concert with any such proposed amendments. Other aspects of the existing by-law should be reviewed for potential areas of improvement.

To address these limitations, Council could consider adopting amendments to the existing Tree Protection By-law, including expanding the Tree Protection Area to apply to all lands within the City of Pickering.

Staff is recommending that Council authorize staff to undertake the process to amend the existing Tree Protection By-law. That process would include drafting a proposed amendment to the Tree Protection By-law, engaging the public and stakeholders, such as arborists and tree removal contractors, for their input, and reporting back to Council on the outcome of the engagement and any additional resources that may be required to implement an expanded Tree Protection By-law.

### **4. Conclusion and Recommendation**

At the conclusion of the Infill & Replacement Housing in Established Neighbourhoods Study, staff was directed to investigate the implementation of a by-law for the protection of trees and report back to Council. This Report responds to that direction.

The CWG reviewed various policies, legislation, by-laws, and other municipal experiences with the enforcement of tree protection by-laws, and found that the City's Tree Protection By-law can be improved to afford greater protection to more trees within the City of Pickering. The CWG is recommending that a process be undertaken to amend the existing Tree Protection By-law (By-law 6108/03, as amended), which will include a public engagement process, and report back to Council.

Report PLN 23-22 was prepared in consultation with the following branches in the Corporation: Planning & Urban Design Section, Sustainability Section, Municipal Law Enforcement, and the Engineering Services Department.

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Appendix:

Appendix I – Summary of Policy and Legislative Scan

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Attachments:

1. Resolution #428/20
  2. Pickering Tree Protection By-law (By-law Number 6108/03, as amended)
  3. Municipal Scan Summary Chart
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**Prepared By:**

Original Signed By

Margaret Kish, MCIP, RPP  
Principal Planner, Policy

Original Signed By

Déan Jacobs, MCIP, RPP  
Manager, Policy & Geomatics

MK:ld

**Approved/Endorsed By:**

Original Signed By

Catherine Rose, MCIP, RPP  
Chief Planner

Original Signed By

Kyle Bentley, P. Eng.  
Director, City Development & CBO

Recommended for the consideration  
of Pickering City Council

Original Signed By

Marisa Carpino, M.A.  
Chief Administrative Officer

**Summary of Policy and Legislative Scan**

## **1. Summary of Policy and Legislative Scan**

### **1.1 City of Pickering Tree Protection By-law**

The City's Tree Protection By-law 6108/03, as amended by By-laws 6191/03 and 7007/09, was passed by Council on March 17, 2003. The purpose of the Tree Protection By-law is to prohibit and regulate the injuring, destruction or removal of trees in defined areas of the City of Pickering, and establishes a permit fee, and fines for violation of the by-law, and which clearly outlines the limited circumstances and areas where the felling of healthy trees would be permitted. Amending By-laws 6191/03 and 7007/09 address permit fees and the delineation of the Tree Protection Area respectively.

The City's Tree Protection By-law contains a schedule which identifies a Tree Protection Area which includes areas designated as Shorelines and Stream Corridors, Wetlands and Environmentally Significant Areas (identified in Schedule III of the Pickering Official Plan, Edition 5, 2008), and areas within 30 metres adjacent thereto. The City's Tree Protection By-law Screening Areas (8,786.85 hectares) cover approximately 38 percent of the total land area of the City (23,205.85 hectares). This leaves approximately 62 percent of the City's land area outside of the Tree Protection By-law Screening Areas that are not protected.

The following are exempt from the City's Tree Protection By-law:

- Areas not within the Tree Protection Area;
- Woodlots that are governed by the Regional Municipality of Durham (Regional Woodland By-law 30-2020);
- The removal of dead, dangerous, diseased or severely injured trees or stumps, in accordance with good forestry practice;
- Trees measuring less than 25 mm diameter at breast height (DBH);
- Activities undertaken by the City, the Regional Municipality of Durham, the Conservation Authorities, an electricity transmitter or distributor (for defined purposes), among others; and
- Injuring or destruction of trees imposed as a condition to the approval of a site plan, a plan of subdivision, a consent, or a development permit under the *Planning Act*, or as a requirement of site plan agreement, subdivision agreement, or development permit agreement.

Tree Protection By-laws usually require a qualified arborist to review and issue a permit. The City's current Tree Protection By-law generates approximately 5-6 permit applications a week during the summer season. Any proposed amendments to the existing by-law could have resource implications (staff time, required qualifications, and additional costs), that need to be considered in concert with any such proposed amendments. In addition, the City's current by-law does not address reasons for refusal of a tree removal permit application.

### **1.2 Durham Region Woodland By-law 30-2020**

The Regional Woodland By-law applies to Woodlands within the region that are 1 hectare (2.5 acres) in size and greater. Areas that are less than 1 hectare are the responsibility of the local area municipalities.

The Regional Woodland By-law was passed by Durham Regional Council on July 29, 2020 and is in place to prohibit or regulate the destruction or injury of trees



within the Woodlands across the Regional Municipality of Durham. The Regional Woodland By-law aims to improve and sustain healthy Woodlands and their related natural habitats and environments. The overall goal is to contribute to ecosystem health, human health, recreation, enjoyment, and quality of life through the maintenance of Woodland cover.

Woodlands do not include orchards, tree nurseries, holiday tree plantations, fence rows, or lands previously cleared for agricultural purposes that have become overgrown with scrub and/or small trees, and are intended to be used again for farming.

A permit from the Region may be required to cut down or remove trees within a Woodland and any Sensitive Natural Areas.

### **1.3 Tree Inventory, Preservation, and Removal Compensation Requirements**

On January 15, 2018, Council adopted Resolution #387/18, which authorizes the collection of fees for tree removal as a condition of a draft plan of subdivision, zoning, land division or site plan approval application. The Council adopted Tree Inventory, Preservation, and Removal Compensation Requirements is referred to here as “Tree Removal Compensation”. Revenue received from Tree Removal Compensation is applied to tree planting programs within the City of Pickering, and reduces the requirement to use other sources of funds for this purpose.

As of April 1, 2022, the values for cash-in-lieu for tree removal associated with the Tree Removal Compensation are \$550 per tree for all trees that cannot be replanted, with a cap of \$3,300 per dwelling unit, and \$8,250 per 1,000 square meters floor area, or part thereof, for industrial and commercial developments. Tree Removal Compensation is applied to the removal of all existing live trees with a caliper of 15 centimeters DBH and greater (excluding Ash trees). These fees are reviewed on an annual basis.

### **1.4 City of Pickering Urban Forest Study**

The City of Pickering Urban Forest Study, February 2012, was prepared by the Toronto and Region Conservation Authority (TRCA), in partnership with the City of Pickering. The purpose of the Study was to assess the distribution, structure and function of the urban forest, and to provide management recommendations for enhancing the sustainability of both the urban forest and the community as a whole.

A suite of tools for analysis were used to quantify the structure and function of the urban forest in the City of Pickering including the following:

- Tree Cover and Leaf Area;
- Tree and Shrub Cover by Land Use;
- Most Common Tree Species by Land Use;
- Tree Size;
- Structural Value of Trees in Pickering;
- Carbon Storage and Sequestration;
- Air Pollution Removal; and
- Residential Energy Savings.

The Study report established that the protection and stewardship of existing trees is the most effective means of achieving greater tree cover and leaf area, and that trees that grow to reach a large mature size provide the highest benefit-cost ratio with respect to

the provision of ecosystem services. Further, the Study report identified that the City's existing Tree Protection By-law protects trees in parks and designated Tree Protection Areas and that there is no by-law that regulates the destruction or injury of trees outside of these areas.

The Study concluded with 26 recommendations to assist in sustainable urban forest management, and specifically recommended that the City should develop a tree preservation by-law that protects all mature and significant trees located on private property. In addition, the Study report identified that the planting of a replacement tree(s) should be stipulated as a condition of tree removal. The replacement of trees must ensure that there is no net loss in leaf area and no significant loss in associated ecosystem services.

## **1.5 City of Pickering Official Plan**

### **1.5.1 Official Plan Policies**

Municipal official plans are the most important vehicle for achieving comprehensive, integrated and long-term land use planning, and guides all of a municipality's land use planning decisions.

The City of Pickering Official Plan (POP) provides a vision of the City, identifies how the vision can be reached, and establishes a monitoring program for checking progress and making necessary adjustments. All development in the City must conform to the Council approved official plan.

The POP promotes a complete community through policies aimed at sustaining healthy urban, rural and ecological systems, and facilitating beneficial and supportive interactions amongst these systems. Chapter 10, Resource Management, contains policies that address ensuring the protection, conservation and enhancement of the City's natural heritage features and functions, water, air, energy and other resources, as well as ensuring the protection of people and property from environmental hazards. In particular, POP policy 10.14(c) addresses the importance for Council to consider all tools available to assist with tree preservation, and the implementation of such tools where appropriate.

Chapters 9 and 14 in the POP outline detailed policies for addressing Community Design and Detailed Design Considerations to create high quality built and natural environments over the long term growth of the City. The POP supports good community design that encourages development that where possible, is properly integrated and connected to Pickering's natural features and resources, while preserving and enhancing their integrity.

The POP contains policies that encourage the protection of mature trees of aesthetic and heritage value, address increasing the tree canopy through tree planting programs to promote biodiversity, improve air quality, and reduce the urban heat island effect, address the design of streetscapes to include planted boulevards, encourage landscape design that provides shade in the summer and visual interest throughout all seasons, encourage the placement of underground utilities that supports the planting of trees and other large scale plant materials, and encourage the use of trees and shrubs in certain areas to create or reinforce a human scale that is comfortable and friendly to all users.

## **1.5.2 Ecosystem Compensation Policies**

On February 28, 2022, Council approved Official Plan Amendment 35 (OPA 35) and the draft Memorandum of Understanding Ecosystem Compensation Implementation between the City of Pickering and the TRCA.

OPA 35 added new policies to, and changed existing policies in the Pickering Official Plan with regard to ecosystem loss and compensation due to development impacts on a City-wide basis. Embedding the principle of ecosystem compensation, where all options for protection have been exhausted, in the Pickering Official Plan provides a stronger basis for collaboration between parties and achieves a consistent and transparent approach to compensation through the implementation of approved development proposals. OPA 35 has been appealed to the Ontario Land Tribunal and no date has yet been set for the hearing.

The Memorandum of Understanding for Ecosystem Compensation Implementation (Ecosystem Compensation MOU) is to administer and collect fees, and provide technical guidance regarding the interpretation and calculation of ecosystem compensation. The compensation collected will enable the replanting, restoration and/or enhancement of the natural heritage system.

Table 1 of the Ecosystem Compensation MOU clarifies the application of TRCA's Guideline for Determining Ecosystem Compensation, dated June 2018, in relation to the City's Tree Removal Compensation (previously described in subsection 1.3 above), and outlines which agency collects and administers the Ecosystem Compensation Fee by type and location of features to be removed. In particular, Table 1 ensures that there will be no overlap between the City and TRCA in the collection of compensation fees for the removal of ecosystem features or functions.

Table 1 also establishes that the implementing mechanisms for the collection of compensation fees will depend on the location (within the City of Pickering and inside or outside the TRCA regulated area), and be through a TRCA permit process, a condition of site plan approval, draft plan of subdivision, zoning, or land division.

## **1.6 Sustainability Strategic Initiatives**

### **1.6.1 City of Pickering Tree Planting Efforts**

To contribute towards a healthy environment, the City has implemented a series of initiatives to help restore and enhance the health of its urban tree canopy. These efforts are reflected through ongoing City-led programs, events, restoration projects and community partnerships.

To encourage residents to help enhance the tree canopy the City offers a Backyard Tree Planting Program in partnership with Local Enhancement and Appreciation of Forests (LEAF) and the Region of Durham, which provides residents the opportunity to add native trees or shrubs to their property at a discounted rate. The City also hosts annual tree planting events in its parks and natural areas for members of the community, as well as free native tree/shrub giveaways for residents to plant in their own backyard.

Each year, in consultation with the TRCA, the City identifies high priority planting areas within its natural areas that have been negatively impacted by invasive species, wildlife, natural degradation, and other factors. Planting efforts are then prioritized and undertaken in these areas. The City also partners with local businesses, organizations and other community groups to help enhance and restore these high-priority areas through tree/shrub plantings.

These restoration efforts are in addition to the City's annual tree planting program whereby trees and shrubs are added to the City's parks and boulevards to help increase tree canopy and shade opportunities around play-units and walkways, and to address the impact of invasive species.

### **1.6.2 Pickering's Sustainable Development Guidelines and Integrated Sustainable Design Standards**

The City's current draft Sustainability Guidelines, adopted in 2007, and Seaton Sustainable Placemaking Guidelines, incorporate optional measures to address tree preservation and protection through the development and re-development application process.

The City of Pickering is developing new Integrated Sustainable Design Standards for all new development in the city to replace the 2007 Sustainable Development Guidelines. Developing a new set of standards will allow the City to review development through a lens that includes modern green best practices and technology.

A recent survey that was conducted as part of the update process for these guidelines found that trees emerged as one of the top three priorities for Pickering's residents. The new Integrated Sustainable Design Standard, anticipated to be brought forward to Planning and Development Committee and Council in June 2022, is expected to maintain or further enhance existing provisions related to trees, and support or align with the other ways in which the City addresses tree protection. However, this anticipated support would be limited to review through planning application processes.

## **1.7 Infill & Replacement Housing in Established Neighbourhoods Study**

### **1.7.1 Infill Study Background**

In September 2017, Council directed staff to undertake an Infill & Replacement Housing in Established Neighbourhoods Study (the Infill Study). The Infill Study recommendations provided direction on the future evolution of the City's identified Established Neighbourhood Precincts so that neighbourhood precinct character is properly considered through the development and building approval processes for infill and replacement housing.

Following the conclusion of the Infill Study in September 2020, Council authorized staff to initiate the Official Plan and Zoning By-law Amendment processes (Files: OPA 20-006/P and A 11/20) to implement the recommendations of the Infill Study, adopted Urban Design Guidelines for Infill & Replacement Housing in Established Neighbourhood Precincts, and directed staff to investigate the implementation of a by-law for the protection of trees on private property and report back to Council (see Resolution #428/20, Attachment #1 to Report PLN 23-22).

The Official Plan and Zoning By-law Amendment processes related to the Infill Study were completed with Council's adoption of Official Plan Amendment 40 (OPA 40) and Zoning By-laws 7872/21, 7873/21, and 7874/21, which were further amended through Zoning By-laws 7900/22, 7901/22, and 7902/22 (File: A 12/21). OPA 40 and all associated Zoning By-laws have been appealed to the Ontario Land Tribunal. No hearing dates have yet been set by the Ontario Land Tribunal for these appeals.

OPA 40 strengthens policies for established neighbourhood in the Pickering Official Plan including the requirement that new development complements and is compatible with the character of the Established Neighbourhood Precinct, and encourages the preservation of existing mature trees (OPA 40, policy 3.9 (f)(vii)).

A recurring theme of the feedback received throughout the Infill Study, and prior to the Infill Study during the Focus Group Sessions held with the public in May 2017, related to the loss of mature trees as a result of new infill and replacement dwelling construction.

Comments from the May 2017 Focus Group Sessions included the following:

- Tree-lined streets add to the character of neighbourhoods;
- Mature trees should be protected; and
- Mature trees, natural areas and spaces between houses are important.

The Infill Study feedback supported the protection of trees on private property.

### **1.7.2 Infill & Replacement Housing in Established Neighbourhoods Urban Design Guidelines**

Urban design guidelines provide detailed design direction that implements a municipality's vision of the community, or a neighbourhood, as directed by the policies in an official plan and the performance standards in a zoning by-law. Urban design guidelines are intended to help refine the sense and character of a place through design principles. Urban Design Guidelines are not intended to be prescriptive or site-specific, and are not a requirement for development approval.

On October 25, 2021, Council adopted the Urban Design Guidelines for Infill & Replacement Housing in Established Neighbourhood Precincts, August 2021 (Infill UDGs). These Infill UDGs are consistent with OPA 40, Informational Revision 28, and the associated Infill Study Zoning By-law Amendments to By-laws 2511, 2520, and 3036.

The Infill UDGs address elements in the public realm that contribute to neighbourhood character. In the case of the City's established neighbourhoods, private landscaping in front yards including mature trees, and street trees, contribute to the overall character of the neighbourhoods. In order to help maintain and enhance the character of the public realm, landscaping, preservation of existing trees, and tree planting are encouraged. In particular Section 4.1 of the Infill UDGs states that existing mature trees should be preserved whenever possible, and that native tree species that are drought and salt tolerant and disease resistant should be chosen.

Legislative Services Division  
Clerk's Office

**Directive Memorandum**

October 2, 2020

To: Kyle Bentley  
Director, City Development & Chief Building Official

From: Susan Cassel  
City Clerk

Subject: Direction as per Minutes of the Meeting of City Council held on  
September 28, 2020

Director, City Development & CBO, Report PLN 18-20  
Infill and Replacement Housing in Established Neighbourhoods Study  
- Planning Recommendations Report (Phase 3 Report)

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**Council Decision**

**Resolution #428/20**

1. That the Infill and Replacement Housing in Established Neighbourhoods, Planning Recommendations Report, prepared by SGL Planning & Design Inc., dated August 2020, as contained in Attachment #1 to Report 18-20, be endorsed;
2. That, in accordance with the recommendations in the Infill and Replacement Housing in Established Neighbourhoods, Planning Recommendations Report, prepared by SGL Planning & Design Inc., dated August 2020, City staff;
  - a) be authorized to initiate the recommended Official Plan and Zoning By-law Amendment processes;
  - b) be authorized to undertake the necessary steps to implement the recommended by-law to restrict the width of driveways in the public right-of-way; and,
  - c) be directed to investigate the implementation of a by-law for the protection of trees on private property and report back to Council in mid 2021.
3. That Council adopt the Urban Design Guidelines for Infill and Replacement Housing in Established Neighbourhood Precincts contained in Appendix B of the Infill and Replacement Housing in Established Neighbourhoods, Planning Recommendations Report, prepared by SGL Planning & Design Inc., dated August 2020.

Please take any action deemed necessary.

Susan Cassel

Copy: Interim Chief Administrative Officer

## Appendix E



### OFFICE CONSOLIDATION

### TREE PROTECTION BY-LAW

### BY-LAW NUMBER 6108/03

Passed by Council on March 17, 2003

#### Amendments:

|                |                  |                              |
|----------------|------------------|------------------------------|
| By-law 6191/03 | October 14, 2003 | Section 4(b) - Fees          |
| By-law 7007/09 | Dec. 21, 2009    | Section 1(e)<br>Schedule "A" |

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### THE CORPORATION OF THE CITY OF PICKERING

### BY-LAW NUMBER 6108/03

Being a by-law to prohibit and regulate the injuring, destruction or removal of trees in defined areas of the City of Pickering.

WHEREAS pursuant to Section 135(1) of the Municipal Act, 2001, S.O 2001, c. 25, as amended, a local municipality may prohibit or regulate the destruction or injuring of trees; and

WHEREAS the Council of the Corporation of the City of Pickering passed Resolution #125/02 on November 4, 2002 that directs staff to prepare a by-law that would require residents backing onto watercourse ravine areas to obtain a permit for felling healthy trees and that said by-law include a permit fee and fines for violation of the by-law and that the by-law clearly outline very limited circumstances where the felling of healthy trees would be permitted; and

WHEREAS Schedule III to the City of Pickering Official Plan has identified shoreline and stream corridors, wetlands and environmentally significant areas;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PICKERING HEREBY ENACTS AS FOLLOWS:

## **DEFINITIONS**

1. In this by-law:

- a) “City” shall mean the Corporation of the City of Pickering;
- b) “Clerk” shall mean the Clerk for the Corporation of the City of Pickering or his designate;
- c) “Council” shall mean the Council of the Corporation of the City of Pickering;
- d) “dbh” shall mean the diameter of the stem of a tree measured at a point that is 1.5 metres above ground;
- e) “Tree Protection Area” includes areas designated as Shorelines and Stream Corridors, Wetlands and Environmentally Significant Areas and areas within 30 metres on lands adjacent thereto as set out in Schedule “A” attached hereto.
- f) “Good Forestry Practice” shall mean the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and which minimize detriments to forest values including significant ecosystems; important fish and wildlife habitat; soil and water quality and quantity; forest productivity and health; and the aesthetics and recreational opportunities of the landscape. Good forestry practice shall also include the cutting and removal of severely damaged, diseased and insect infested trees which must be removed in order to prevent contamination or infestation of other trees, or which no longer contribute to the achievement of forest values;
- g) “Officer” shall mean a person assigned by the Clerk to enforce the provisions of this by-law;
- h) “Owner” shall mean the registered owner of land, or their agent, or anyone acting under the direction of the owner or their agent; and
- i) “Site” shall mean the area of land containing any tree(s) proposed to be injured, destroyed or removed.



## EXEMPTIONS

### 2. The provisions of this by-law do not apply:

- a) to activities or matters undertaken by the City, the Regional Municipality of Durham, or a local board thereof;
- b) to lands owned by, regulated by or to activities or matters undertaken by the Toronto and Region Conservation Authority or the Central Lake Ontario Conservation Authority;
- c) to activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*;
- d) to the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- e) to the injuring or destruction of trees imposed as a condition to the approval of a site plan, a plan of subdivision or a consent under Section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- f) to the injuring or destruction of trees imposed as a condition to a development permit authorized by regulation made under Section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;
- g) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that Section;
- h) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- i) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
  - i) that has not been designated under the *Aggregate Resources Act* 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*;
- j) trees measuring less than 25 millimetres dbh;

- k) in areas that are not defined as a “Tree Protection Area” by this by-law;
- l) to activities or matters prescribed by regulations pursuant to the *Municipal Act, 2001*;
- m) to the removal of dead, dangerous, diseased or severely injured trees or stumps, in accordance with good forestry practice;
- n) to woodlots that are governed by By-law Number 148-91 of the Regional Municipality of Durham or its successor.

## **PROHIBITIONS**

- 3.
  - a) Unless otherwise exempted by this by-law, no person shall injure or destroy a tree in a Tree Protection Area without a permit issued under this by-law.
  - b) Where a permit has been issued pursuant to this by-law, no person shall injure, destroy or remove a tree except in accordance with the plans, conditions and any other information on the basis of which a permit was issued.

## **REQUIREMENTS FOR AN APPLICATION**

- 4.
  - a) Unless otherwise exempted by this by-law, every person who intends to injure, destroy or remove a tree within an Tree Protection Area by cutting, burning, bulldozing, lacerating, chemical application or any other means, shall apply for and obtain a permit.
  - b) A person applying for a permit to injure, destroy or remove a tree shall submit a completed application form, along with the required plans, information and fee of \$100.00 to the Clerk.
  - c) Applications shall be made on a form approved by the Clerk.

## **REQUIREMENTS FOR ISSUANCE OF PERMIT**

- 5. The Clerk shall issue a permit where:
  - a) the applicant has fulfilled all requirements of this by-law;
  - b) the proposed activity is associated with an existing use of the property including ongoing silviculture practices and selective thinning or harvesting of plantations, in accordance with good forestry practice;
  - c) the Clerk is satisfied that the proposed activity:

- (i) will not interfere with natural drainage processes;
  - (ii) will not result in soil erosion, slope instability or siltation in a watercourse;
  - (iii) will not have a significant impact on any healthy vegetation community within, and adjacent to the subject site;
  - (iv) will not have a significant impact on any fish or wildlife habitat within, and adjacent to the subject site;
- d) the owner, if required, enters into an agreement which may be registered on title in the subject lands containing such conditions as the Clerk considers necessary to ensure that the proposed activity will be undertaken in accordance with the approved plans and information. Such an agreement may contain a provision requiring the applicant to post with the City security in an amount determined by the Clerk to ensure performance of the obligations under the agreement;
  - e) the Clerk may impose conditions to a permit as in the opinion of the Clerk are reasonable, to ensure that the proposed activity is consistent with the provisions of paragraphs 5(a) to 5(d) above;
  - f) where silviculture or harvesting activity is proposed within a woodlot, one permit may be issued to authorize activity for an extended or ongoing period of time, on the basis of an acceptable forestry management plan;
  - g) the Clerk may refer any application, associated plans and information to municipal staff, public agency, advisory body and/or other qualified professional for comment prior to making a decision; and
  - h) A permit issued pursuant to this by-law shall be valid to the expiry date as specified on the permit by the Clerk.

## **APPEALS**

- 6. An applicant for a permit pursuant to this by-law may appeal to the Ontario Municipal Board:
  - a) if the Clerk refuses to issue a permit, within thirty (30) days after the refusal;
  - b) if the Clerk fails to make a decision on an application, within forty-five (45) days after the application and required plans and information are received by the Clerk; or,
  - c) if the applicant objects to a condition in the permit, within thirty (30) days after the issuance of the permit.

## **ADMINISTRATION**

7.
  - a) The administration and enforcement of this by-law shall be performed by the Clerk and by such persons assigned by the Clerk.
  - b) If after inspection, the Clerk or Officer is satisfied that a contravention of this by-law has occurred, the Clerk or Officer may make an order requiring the person to stop the injuring or destruction of trees and the order shall contain particulars of the contravention.
  - c) A person to whom an order has been made pursuant to this by-law may appeal the order to the Council by filing a notice of the appeal to the Clerk within thirty (30) days after the date of the order.
  - d) As soon as practicable after a notice of appeal is filed, the Council shall hear the appeal and may confirm, alter or revoke the order.
  - e) The decision of Council under subsection 7(d) of this by-law is final.

## **ENFORCEMENT**

8.
  - a) Any person who contravenes any provision of this by-law or any order issued pursuant to this by-law is guilty of an offence and on conviction is liable:
    - (i) on a first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and
    - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.
  - b) If a person is convicted of an offence for contravening this by-law or an order made under Section 7(b) of this by-law, in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

By-law read a first, second and third time and finally passed this 17th day of March, 2003.

(signed) Wayne Arthurs  
Wayne Arthurs, Mayor

(signed) Bruce Taylor  
Bruce Taylor, City Clerk

# Tree Protection By-law Municipal Scan Summary Chart

Attachment #3 to Report #PLN 23-22

| Municipality   | Richmond Hill  | London                    | Markham              | Vaughan         | Mississauga          | Toronto               |
|--|--|---------------------------|----------------------|-----------------|----------------------|-----------------------|
| <b>Date By-law Adopted</b>                           | Mar. 19, 2007  | Aug. 30, 2016             | Jun. 24, 2008        | Apr. 6, 2018    | Dec. 12, 2012        | Feb. 21, 2005         |
| <b>Last Amended</b>                                  | Under Review   | Dec. 21, 2021             | May 9, 2017          | Nov. 17, 2020   | Mar. 1, 2013         | Dec. 10, 2015         |
| <b>Staff Resources<sup>1</sup></b>                   | 1 ISA <sup>2</sup> /TRAQ <sup>3</sup><br>1 MLEO <sup>4</sup> | 2 ISA<br>1 Forest Planner | 2 ISA/TRAQ<br>1 MLEO | 3 ISA/TRAQ      | 1 ISA/TRAQ<br>2 MLEO | 10 ISA/TRAQ<br>6 MLEO |
| <b>Application Fee</b>                               | \$160 + HST  | \$0                       | \$0                  | \$70 + HST      | \$375 + HST          | \$100 + HST           |
| <b>Number of Applications<sup>5</sup> (2021)</b>     | 490  | 458                       | 723                  | 406             | Not Available        | 2,840                 |
| <b>Number of Permits Granted<sup>6</sup> (2021)</b>  | 317  | 432                       | 486                  | 332             | Not Available        | 2,272                 |
| <b>Fines(\$/tree)<sup>7</sup></b>                    | \$300-\$100,000  | \$500-\$100,000           | \$300-\$100,000      | \$250-\$100,000 | \$2,500-\$100,000    | \$500-\$100,000       |
| <b>Replanting/Cash-in-lieu (\$/tree)<sup>8</sup></b> | \$547.00   | \$350.00                  | \$600.00             | \$550.00        | \$589.44             | \$583.00              |
| <b>Arborist Report Required<sup>9</sup></b>          | Yes  | Yes                       | No                   | Yes             | Yes                  | Yes                   |
| <b>Size of Regulated Tree (DBH-cm)<sup>10</sup></b>  | 20+ cm   | 50+ cm                    | 20+ cm               | 20+ cm          | 15+ cm               | 30+ cm                |

<sup>1</sup> "Staff Resources" refers to the number of full time staff dedicated to enforcing the tree by-law

<sup>2</sup> "ISA" stands for International Society of Arboriculture

<sup>3</sup> "TRAQ" stands for Tree Removal Assessment Qualification

<sup>4</sup> "MLEO" stands for Municipal Law Enforcement Officer

<sup>5</sup> "Number of Applications" refers to the number of tree removal applications received in 2021

<sup>6</sup> "Number of Permits Granted" refers to the number of permits granted to remove trees in (year)

<sup>7</sup> "Fines" refers to the dollar amount of fines established in the tree by-law for illegal removal of one tree

<sup>8</sup> "Replanting/Cash-in-lieu (\$/tree)" refers to whether or not a municipality has a requirement in their by-law to replace a removed tree, or provide cash-in-lieu of replacing a removed tree, and how much the cash-in-lieu of replanting is in dollars per tree

<sup>9</sup> "Arborist Report" refers to whether or not the municipal by-law and permitting process requires the submission of an Arborist Report for review by the municipality. The cost of an arborist report can range from \$250+HST to \$10,000+HST or more depending on the scope of work

<sup>10</sup> "Size of Regulated Tree (DBH)" refers to the size of the trees that are regulated based on the diameter at breast height (DBH) in centimeters (cm)