



## Council Report

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**Report Number:** LGL2023-012  
**Meeting Date:** September 24, 2024  
**Title:** Tree Preservation By-laws  
**Description:** Proposed By-law for the Preservation of Trees in the context of development & Proposed By-law for the Preservation of Tree Canopy in ownership of the City of Kawartha Lakes  
**Author and Title:** Robyn Carlson, City Solicitor

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### Recommendations:

**That** Report LGL2024-010, Tree Preservation By-laws, be received;

**That** a proposed City Tree Canopy Preservation By-law, attached in Appendix A (which is inclusive of amendments pursuant to public feedback) be approved and that the necessary by-law be brought forward for adoption;

**That** the proposed Tree Preservation on Private Property By-law be narrowed in scope to apply only to development applications pursuant to the Planning Act, and amended as more specifically set out in this report as a result of public feedback, and that a revised By-law be presented to Council for its consideration by the end of Q4, 2024;

**That** Staff be instructed to review and report back to Council on recommended actions for the protection of the urban tree canopy by the end of Q4 2025;

**That** Staff be instructed to review and report back to Council on recommended actions for woodlot conservation in consultation with the Ontario Woodlot Association by the end of Q4 2025; and

**Department Head:** \_\_\_\_\_

**Financial/Legal/HR/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

**That** Staff investigate potential partnerships with Fleming College with respect to implementation of tree preservation efforts and report back to Council by the end of Q4 2025.

## **Background:**

This report introduces two by-laws for the protection of trees: The first proposed by-law protects trees on City property. The second proposed by-law protects trees on privately owned property.

The proposed by-law to regulate the destruction or injuring of trees on City property by members of the public was first introduced to Council on July 19, 2022 in draft form, for consideration. Council directed that the draft by-law be referred to the City's Environmental Advisory Committee and to the Williams Treaties First Nations, for consideration and comment, and for the revised by-law to return to Council:

### **CR2022-264**

**Moved By** Councillor Yeo

**Seconded By** Deputy Mayor Richardson

**That** Report LGL2022-013, **Tree Preservation By-Law - City Property**, be received;

**That** an interest-bearing reserve be established for the preservation of existing tree canopy and hedgerows within the City of Kawartha Lakes, called the "Tree Canopy Reserve";

**That** \$192,720.00, obtained by the City for tree preservation associated with the development of a portion of Wild Turkey Road, between Gray Road and Ballyduff Road, to access wind turbines, be removed from the Contingency Reserve (1.32090) and placed into the Tree Canopy Reserve;

**That** a proposed Tree Preservation By-law as at Appendix A be advanced to the Environmental Advisory Committee and the Williams Treaties First Nations and, inclusive of comments from these entities, to Council for approval; and

**That** the Consolidated Fees By-law 2018-234 be amended to incorporate the fees introduced in the Tree Preservation By-law, once approved by Council.

**Carried**

Staff met with the City's Environmental Advisory Committee, which was supportive of the By-law but wanted to see a by-law protecting trees on private property along shorelines, in furtherance of the recommendations in the Lake Management Plans.

Accordingly, a by-law to protect trees on private property along shorelines was drafted and advanced to Council on November 7, 2023 per Council Report LGL2023-012. A copy of that Report, and proposed by-laws is attached as Appendix D. On November 7, 2023, Council passed the following resolution:

**CW2023-256**

**Moved By** Councillor Yeo

**Seconded By** Councillor McDonald

**That** Report LGL2023-012, Tree Preservation By-Laws, be received;

**That** a proposed Tree Preservation on Private Property By-law, provided in Appendix A be advanced to the Kawartha Lakes Environmental Advisory Committee, the Kawartha Lakes Agricultural Development Advisory Committee, the Williams Treaties First Nations, and the public via Jump In survey, for consideration and consultation, and following receipt of input, return to Council for approval with recommended amendments as appropriate;

**That** a proposed City Tree Canopy Preservation By-law, provided in Appendix B be advanced to the Williams Treaties First Nations for consultation and, following receipt of input, return to Council for approval with recommended amendments as appropriate;

**That** the Consolidated Fees By-law 2018-234 be amended to incorporate the fees introduced in the Tree Preservation By-laws, when in their final form and once approved by Council;

**That** the costs associated with a new Environmental Officer and City Arborist, and additional fleet vehicle, be included in appropriate 2025 Budget(s); and

**That** these recommendations be brought forward to Council for consideration at the next Regular Council meeting.

**Carried**

*Results of Consultation with the Agricultural Development Advisory Committee*

The author of this Report attended the Agricultural Development Advisory Committee meeting held on October 27, 2023, to overview the proposed Private Lands Tree Preservation By-law and obtain comment. The Committee had several interesting proposed amendments that were accepted by the author and placed into the by-law attached to Report LGL2023-012:

- An exemption should be made for septic installation/ repair within 30 metres of shorelines, to encourage septic rehabilitation (which will improve phosphorous loading into lakes and rivers);
- An exemption should be made for removal of buckthorn; an invasive species; and
- A broadening of the exemptions relating to agriculture, to allow hobby farms and managed wootlots to be included in the exemptions.

The Committee also recommended that the threshold relating to property size be increased from “greater than 0.5 hectares” to “greater than 5 hectares”, to capture all subdivision and condominium development but not to impact a great number of large shoreline residential property owners. This option was placed into the “Alternatives” section of Report LGL2023-012, for further consideration and was adopted by the author of this report following further review of the matter.

The author of this Report returned to the Committee on April 11, 2024, to provide an update and obtain further and fulsome comments to draft. The Committee was of the opinion that the by-laws as presented protect the interests of the agricultural community.

#### *Results of Consultation with Williams Treaties First Nations*

The City sent a copy of the proposed by-laws to each of the Williams Treaties First Nations, and to the Metis Nation of Ontario (Peterborough and District Office) and an invitation to discuss. No responses were received, with the exception of Beausoliel First Nation, which sought and received clarification as to how larger development will be impacted by the private lands tree by-law.

#### *Results of Public Outreach*

The City conducted engagement with the public via survey on its Jump In website, and as well responded to emails received by [treebylaw@kawarthalakes.ca](mailto:treebylaw@kawarthalakes.ca).

The survey results are attached as Attachment E. The by-law responses are attached as Attachment F.

Responses were obtained from tree experts, such as registered professional foresters and certified arborists. Fleming College’s experts reached out to provide assistance and to collaborate their programming with this programming. As a result of this feedback, it was determined that the Private Lands Tree by-law as originally presented to Council would require amendment with respect to the minimum size of replacement trees. Specifically, in order to increase the rate of transplant survival the replacement sizes

should be lowered to a minimum of 40 mm, or 4-foot conifer, and the option to plant apple or pear trees should be added. Doing this will increase the number of different species of trees planted, which promotes biodiversity. This would reduce costs and make compliance more achievable.

A further amendment is required to the Species at Risk exemption. Examples should be included and the Ministry of Environment, Conservation and Parks referenced in place of the Ministry of Natural Resources, Conservation and Forestry.

The public was largely not in support of regulating tree cutting on privately owned lands unless in the context of development (i.e. subdivision). However, the public did indicate that further review should occur with respect to protection of the urban tree canopy as well as with respect to woodlot conservation.

## **Rationale:**

### **Amendments to draft City-owned Tree By-law & draft Privately-owned Tree By-law**

As a result of engagement to date, the author of this report recommends the following amendments to the Tree Preservation By-law for City-owned Trees, as well as to the Tree Preservation By-law for Privately-owned Trees applicable to multi-residential development (i.e. subdivisions and plans of condominium):

- A payment of \$1,500 per mature healthy native tree removed, in place of \$1,700;
- A cap of \$250,000 to be paid per development; and
- An exemption to development that has obtained draft plan of subdivision approval, site plan approval, plan of condominium approval or consent to severance,

to ensure that the by-law does not prohibit development of this nature.

Otherwise, the impact of the by-laws on development was largely not contentious by the general ratepayer. The development community would prefer that they pay nothing, and a senior housing developer preferred an exemption for senior's housing, but this recommendation of a financial cap does allow money from tree loss to be used to fund tree canopy creation elsewhere, while not prohibiting development. The existing proposal provides an exemption for affordable housing.

## **Amendments to draft Privately-owned Tree By-law**

As a result of public consultation, this report also recommends the following amendments to the draft Tree Preservation By-law for Privately-owned Trees applicable to individual and infill residential development (i.e. consents to sever 1 residential lot into 2 lots; and building permits for single family dwellings):

- A payment of \$375 per mature healthy native tree removed, in place of \$1,700 for properties greater than 0.5 ha (so that, regardless of property size, the same payment applies);
- A cap of \$5,000 to be paid per development; and
- An exemption to development that has obtained consent for severance, to ensure that the by-law does not prohibit development of this nature.

Finally, this author recommends that the private lands by-law be reduced in scope to only impact development, given the public concern with regulating tree removal in a non-development context.

## **City Tree Preservation By-law – purpose and overview**

The purpose and effect of the proposed Tree Preservation By-law is to offset tree removal from City property in certain circumstances with tree planting and naturalization elsewhere in the municipality. The proposed City Tree Preservation By-law does not regulate tree cutting on privately owned property.

The City Tree by-law governs how the City treats its own trees on:

- treed road allowances, which shouldn't impact farmers unless they are looking to construct a road. Road construction is largely governed by the Environmental Impact Assessment process from a process and cost perspective;
- open space water access blocks, which shouldn't impact farmers. Members of the public are already prohibited from cutting down trees on these open space blocks without City approval, so the only change introduced by the City Tree By-law would be that the By-law expressly does not permit private individuals from cutting down trees on water access blocks; and
- shoreline road allowances (with or without a road). The City already prohibits tree cutting by private interests in these locations, per the Encroachment By-law and Docking Policy, so the only change introduced by the City Trees By-law is to the fines related to an offence.

The proposed City Tree Preservation By-law does not permit members of the public or any other entity from cutting down City-owned trees on shoreline road allowances, for the purpose of improving sight lines to the water or from cutting down City-owned trees on City-owned waterfront blocks that are held for the purpose of water access.<sup>1</sup>

The Tree Preservation By-law does permit a member of the public, a developer, a telecommunications provider, or a utility provider to remove trees from a road allowance for the purpose of development, construction on or vehicular access to private property, or for the purpose of installing transmission / distribution lines in the road allowance. In the case of road construction by a property owner, however, the property owner will compensate the City for the necessary tree removal. Telecommunication entities and utility companies are exempt from the permitting requirement.<sup>2</sup>

Tree removal in the context of an entrance permit to permit a new driveway entrance to an existing roadway is exempt from the permit requirement.

The City Tree Preservation By-law does not permit the creation of new roads for personal development/ development of privately-owned property in the Oak Ridges Moraine Conservation Area or in lands zoned for environmental protection. The City Tree Preservation By-law does permit the creation of new access roads for telecommunications and utility infrastructure in environmentally-sensitive lands.<sup>3</sup> Accordingly, the City Tree Preservation By-law is consistent with the zoning provisions of the City's Oak Ridges Moraine Zoning By-law and the Electricity Act, and respects the federal jurisdiction over telecommunications.

Trail creation, by a hiking association or snowmobile association for example, is not permitted by virtue of this by-law. This does not change the status quo. Accordingly, such requests will need to be considered in light of the City's Trails Master Plan and established approval processes.

### **Costs to the developer**

For the removal of every mature tree from City property, the person removing the tree will provide the City with \$1,500. This cost recovery is not unprecedented in the case of development in the City: In the case of the Sumac Ridge Wind Energy Project off of Ballyduff Road in 2016, this compensation ratio, at \$1,300 per tree based on the 2016

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<sup>1</sup> Sections 3.04 and 3.05 of the proposed By-law give priority to naturalization of shorelines.

<sup>2</sup> They enter into municipal consent agreements with the City.

<sup>3</sup> This does not result in the creation of roadways that are assumed for maintenance purposes by the City.

cost of mature saplings, net the City \$192,720. The monies were used to fund hedgerow installation in roadways in the Oak Ridges Moraine, to protect driver safety from blowing snow while improving vegetative cover in the Moraine.

Funds recovered under this by-law will likewise be used to protect driver safety by the installation of hedgerows adjacent to roadways where drifting snow is an issue throughout the City. When the program is complete, future funding will be earmarked for other tree canopy and vegetation maintenance and creation projects. As a Council resolution is required to remove funds from a Reserve, Council and the public will receive further details at the time that monies are being proposed to be removed from the Reserve for use.

Pursuant to Master Framework Development Agreements signed with the developers that have achieved Ministerial Zoning Orders in Lindsay, these developments will compensate the City at \$1,500 per mature tree removed.

### **Draft Private Tree Preservation By-law - purpose and overview**

The overall purpose of this by-law is to encourage growth and development in a manner that minimizes negative impact on existing tree cover.

This by-law proposes that developers that do not have existing permissions from the City for development (i.e. approval for draft plan of subdivision, consent to sever property, condominium approval, or site plan approval) are required to apply for and obtain a permit to cut mature trees. The proposed By-law is found at Appendix A.

The by-law requires the payment of \$375 per healthy mature tree removed<sup>4</sup> in the context of a consent to sever a lot, to an upset limit of \$5,000. For tree removal on property in the context of subdivision, site plan application or plan of condominium, the by-law requires a payment of \$1,500 per healthy mature tree removed.

The payment for healthy tree removal on property in the context of subdivision development is pursuant to precedent in the City: The City has negotiated Framework Development Agreements with the developers within the Town of Lindsay that have obtained Ministerial Zoning Orders from the province. These Agreements provide that the developer will make a payment of \$1,500 for every healthy mature tree removed. In the case of the only development to proceed to draft plan of subdivision approval as of the date of this report, the Gateway development at the Southeast corner of the Town of Lindsay, at the corner of Highway 7 and Lindsay Street South, this has net the

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City \$136,500 in payment to the Tree Canopy Reserve. This payment is in addition to the existing requirement to ensure one tree is planted for each lot created in the subdivision. This payment, once received at the time of the registration of the plan of subdivision, will fund the aforementioned hedgerow project, subject to future Council approval.

Exemptions to the by-law exist for agricultural operations, forestry operations, cemetery operations, golf clubs, orchards, tree nursery businesses, affordable housing development<sup>5</sup>, and building permit related to a single family dwelling or commercial or industrial use on an existing lot.

Payment for tree removal will be placed into the Tree Canopy Reserve and earmarked for maintaining and improving the amount of tree and vegetative cover within shorelines and environmentally protected areas elsewhere in the City, when funds are received from tree removal within shorelines or environmentally protected areas. When funds are received from development outside these sensitive areas, they will be placed within the Tree Canopy Reserve to allow Council to fund tree and/or hedgerow planting initiatives elsewhere in the municipality.

This By-law will not apply to:

- the individual property owner cutting down a tree to get better water views from an existing residential property,
- an owner of vacant property clearing land for installation of a building, driveway, and/or accessory building (garage),
- an owner with a home on a piece of property greater than 0.5 hectares in size wishes to cut down a mature tree on their property,

### **Other Alternatives Considered:**

None.

### **Alignment to Strategic Priorities:**

This report aligns with the City's strategic priority of a Healthy Environment and is in support of the City's Council-adopted Healthy Environment Plan 2019 and Lake Management Plans.

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<sup>5</sup> The by-law provides an exemption for affordable housing developments of the Kawartha Lakes Haliburton Housing Corporation and Habitat for Humanity. Other housing developments must proceed through the existing municipal incentivization process for affordable housing developments, in order to have these fees waived.

## **Financial/Operation Impacts:**

### **City-owned Tree Preservation By-law**

There is no impact to the entrance permit process, administered by Public Works, as tree removal in the context of entrance permits is exempt from the by-law.

Currently, the City has control over members of the public cutting down trees on City property by virtue of common law (the decisions of the courts), in relation to the rights of a property owner, which rights are civil or are prosecuted in the Ontario Court of Justice via the Trespass to Property Act. The City began regulating unauthorized tree removal in 2018 via Council approval of the Encroachment By-law 2018-017. At which time, additional funds were added to the Municipal Law Enforcement Office operating budget, and staff recommended additional staffing in that Division back in 2018.

Accordingly, there is no additional work contemplated for the Municipal Law Enforcement Office of the City as a result of this proposed by-law; only the tool for enforcement changes.

What this proposed by-law does, however, is provide a framework for the City's approval or denial of a request to cut trees on City property. The by-law proposes that requests from the public to cut down trees on City road allowances will go to Parks and Recreation (the Environmental Officer and City Arborist) via the email address "[treebylaw@kawarthalakes.ca](mailto:treebylaw@kawarthalakes.ca)".

It may be that persons with City-owned shoreline road allowance adjacent to their property may seek a permit to cut down trees on the shoreline road allowance to improve the view from their property to the water. Currently, the City licenses private use of City-owned shoreline road allowance specifically for docking, via the Encroachment By-law 2018-017 and the Council-approved Docking Policy. The Docking Policy CP2021-047 stipulates that private docking on City-owned land is permissible in certain instances, as set out in that Policy. A condition of the licenses permitting docking on City-owned land is that no tree removal can occur. Accordingly, the proposed City-owned Tree Preservation By-law is consistent with the administration of the Docking Policy, in that the City-owned Tree Preservation By-law only allows for tree removal for the purpose of road construction; not to improve sightlines on private property to waterbodies over unimproved shoreline road allowance, and not to allow for tree removal on blocks of shoreline property owned by the City for the purposes of water access. The City-owned Tree Preservation By-law indicates that persons making an application with respect to tree removal on a shoreline road allowance, for the

purpose of sight lines, will be directed to the Land Management Team. The Land Management Team, constituted per the Council Policy CP2018-007, is entirely comprised of Staff that meets regularly for decision-making purposes with respect to potential recommendations to Council for sale of shoreline road allowances. The City-owned Tree Preservation By-law indicates that persons making an application with respect to tree removal on a water access block will be denied. Accordingly, there is no operational impact with respect to these situations.

The net financial impact of the City-owned Tree Preservation By-law is that tree removal in the context of construction of a road on City-owned road allowance will now be compensated for by the developer. The compensation, at \$1,500 per healthy mature tree, will allow for the City to add tree cover and hedgerows to property elsewhere in the municipality. Preference will be to fund identified revegetation projects on City-owned land.

### **Private Tree Preservation By-law**

With the narrowed scope proposed by this report, this by-law can operate using the 1 Environmental Officer (position vacant, budgeted for in the 2024 budget, and is part of the Planning Department) and 1 Arborist (position filled in 2024; position is part of the Community Services Department) existing within the City Staffing Organizational Chart.

### **Attachments:**

Attachment A – City-owned Tree Preservation By-law



Tree By-law - City  
Owned Property.doc

Attachment B – Report LGL2023-012



LGL2023-012 Tree  
Preservation By-laws.c

Attachment C – Survey Results



Attachment C -  
Survey Results.docx

Attachment D – Responses to [treebylaw@kawarthalakes.ca](mailto:treebylaw@kawarthalakes.ca)



LGL2024-010  
Attachment D - Respo

## **Consultations:**

Representatives from Fleming College, Forestry Program  
Kawartha Lakes Environmental Advisory Committee  
Kawartha Lakes Agricultural Development Advisory Committee  
Williams Treaties First Nations  
Metis Nation of Ontario (Peterboro & District)  
Members of the Public (via Jump In survey and email submission)

**Department Head email:** [rcarlson@kawarthalakes.ca](mailto:rcarlson@kawarthalakes.ca)

**Department Head:** Robyn Carlson