
Subject: Initiation of a Woodland Bylaw Review

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 20, 2019

Recommendations

1. That Report PDS 13-2019 **BE RECEIVED** for information; and
2. That staff **BE DIRECTED** to engage the Local Area Municipalities, Niagara Peninsula Conservation Authority (NPCA), Niagara North Federation of Agriculture, Niagara South Federation of Agriculture, Niagara Woodlot Association, Niagara Home Builders Association, Niagara Construction Association and Niagara Parks Commission.

Key Facts

- The purpose of this report is to inform Committee of the initiation of the Woodland Bylaw Review project.
- Section 135 (2) of the Municipal Act enables Regional Council to prohibit or regulate the destruction or injuring of trees in woodlands as defined in the Forestry Act larger than one hectare in size.
- Niagara Region currently has such a bylaw titled: Tree and Forest Conservation Bylaw (30-2008).
- The Niagara Peninsula Conservation Authority (NPCA) has been administering the current Tree and Forest Conservation Bylaw, on the Region's behalf, since a Service Level Agreement was approved in August 2008.
- The bylaw is 11 years old. This review will consider legislative changes, alignment between the bylaw and the Regional Official Plan, best management practices and operational needs.

Financial Considerations

Financial costs of undertaking the review internally can be accommodated through the proposed 2019 Planning and Development Services Operating Budget.

Analysis

Background

Section 135 of the Municipal Act allows municipalities to prohibit and regulate the destruction or injuring of trees through enacting tree bylaws. Upper-tier municipalities may enact such a bylaw for trees in woodlands as defined in the Forestry Act that are greater than one hectare. Local municipalities may also enact such a bylaw for individual trees and trees within woodlands that are less than one hectare. The Act also provides upper-tier and local municipalities with the option to delegate all or part of their power to pass such by-laws to each other, with agreement.

Niagara Region's Tree and Forest Conservation Bylaw (30-2008) has been in place since 1981. The most recent update to the bylaw occurred in 2008 in response to changes to the Municipal Act, a request for amendments to the bylaw from the Township of West Lincoln, as well as to facilitate the transfer of responsibilities for enforcement of the bylaw to the NPCA (see Report DPD 133-2007 and CAO 4-2008).

As a result, the administration and enforcement of the bylaw was delegated to the NPCA and a Service Level Agreement was developed in August 2008. Annual Reports are prepared to inform Council of the activities undertaken throughout the year by the NPCA to provide Good Forestry Practices, educate the public, and enforce the provisions of the bylaw.

Unique to Niagara's Bylaw is the inclusion of a Tree and Forest Conservation By-law Advisory Committee with the purpose of providing advice on matters of tree and forest conservation. Prior to the 2008, the advisory committee provided advice to staff and the former Planning and Public Works Committee. With the changes in administration and enforcement, the decision was made to establish a direct relationship between the advisory committee and the NPCA. However the committee has not met since April 2013.

The Tree and Forest Conservation Bylaw (30-2008)

The current bylaw regulates the destruction or injury of trees within woodlands that are greater than one hectare. The intent of the existing bylaw is to encourage the conservation and improvement of woodlands in Niagara through Good Forestry Practices. The bylaw prohibits the clearing of woodlands except under specific circumstances and requires landowners to follow Good Forestry Practices when harvesting trees. This is done by requiring landowners to submit a forest management plan or a silvicultural prescription prepared by a Registered Professional Forester (or a member of the Ontario Professional Foresters Association) to obtain a permit.

Additionally, Grimsby, Niagara-on-the-Lake, Niagara Falls and West Lincoln have delegated their authority to regulate trees in woodlands less than one hectare to the Region, as per the Municipal Act, s. 135 (10).

Initiation of Woodland Bylaw Review

The Regional Municipality of Niagara is currently undertaking a comprehensive review of the Region's Official Plan. Through the initial stages of the Region's Official Plan review, and based on previous discussions with the NPCA, the need to review the bylaw was identified. In 2014, for example, the Annual Report by the NPCA identified the need to revise the bylaw to update and improve the language to current best management practices/standards.

As detailed in Appendix 1: Project Scope Outline, the objective of this review is to ensure consistent service delivery and application of the bylaw across the Region. The review will consider changes to Provincial legislation, alignment between the bylaw and the current Niagara Region Official Plan policies, current best management practices, and opportunities for enhancements and efficiencies in processes for administration and enforcement.

As part of the review process, public engagement will occur and will at minimum include Local Area Municipality representatives, the North and South Federations of Agriculture, the Niagara Woodlot Association, the logging industry, the Niagara Parks Commission, the Niagara Homebuilders Association, the Niagara Construction Association and the public.

It is anticipated that the review will conclude by the end of 2019, at which time a summary of the review and any recommended changes to the bylaw will be presented for Council's consideration.

Alternatives Reviewed

The option of postponing the review of the bylaw until the Regional Official Plan review has concluded was considered, but is not recommended. The Regional Official Plan review is a multi-year project, and there are items that require immediate attention such as ensuring the language of the bylaw aligns with current best management practices, as identified in 2014. In addition, recent changes to the Municipal Act (more particularly section 270 which introduced the requirement for municipalities to adopt a policy addressing the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality) warrant consideration through a review of comparator municipalities.

In 2018, the responsibility for plan review and technical clearance for the natural environment policies of the Regional Official Plan (Chapter 7) returned to the Region.

Furthermore, the MOU between the Region and local area municipalities is currently being updated (see report PDS 4-2019). A review of the bylaw is timely to ensure administration and enforcement requirements remain clear.

Postponing the review could result in an extended period with an out of date bylaw, and may result in issues with interpretation and enforcement. Given the aforementioned changes, and considering there has been no review of the bylaw since its approval in 2008, the option to move forward with the review immediately is prudent and responsible.

Relationship to Council Strategic Priorities

“Doing Business Differently” and “Advancing Organizational Excellence” are strategic priorities of Council. The review will identify opportunities for continuous improvement and ensure consistent service delivery and application of the bylaw across the Region.

Other Pertinent Reports

- PDS 2-2019 Environmental Planning Function Overview
- PDS 4-2019 Memorandum of Understanding for Planning Function and Services between Niagara Region and Local Area Municipalities
- PDS 10-2019 Update on Natural Environment Work Program – New Regional Official Plan
- CAO 4-2008 Tree and Forest Conservation By-law Amendments
- DPD 133-2007 Tree and Forest Conservation Bylaw Amendments
- Service Level Agreement Tree and Forest Conservation By-Law August 2008

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Appendices

Appendix 1	Tree and Forest Conservation Bylaw (30-2008)
Appendix 2	Project Scope Outline