

<b>To:</b>	Warden Hicks and Members of Grey County Council
<b>Committee Date:</b>	February 14, 2019
<b>Subject / Report No:</b>	PDR-CW-16-19
<b>Title:</b>	Confirmation of Tree Canopy and Natural Vegetation Protection and Enhancement Policies
<b>Prepared by:</b>	Randy Scherzer
<b>Reviewed by:</b>	Kim Wingrove
<b>Lower Tier(s) Affected:</b>	All Municipalities
<b>Status:</b>	

## Recommendation

1. That a by-law be enacted by Council which confirms that the policies set out in the current and adopted County Official Plan addresses the requirements of the *Municipal Act* to establish policies to protect and enhance the tree canopy and natural vegetation within Grey County; and
2. That the County confirms that the County Forest Management By-law and the sustainable management of the County's Forests also help to protect and enhance the tree canopy and natural vegetation.

## Executive Summary

The *Municipal Act* requires that every municipality establish policies for the protection and enhancement of the tree canopy and natural vegetation within the municipality. The current County Official Plan and the new adopted County Official Plan contains policies that address this requirement through the protection of Significant Woodlands, as well as Core Areas and Linkages. The County also has a Forest Management By-law which also assists with protecting and enhancing tree canopy and natural vegetation. The County also sustainably manages over 8,500 acres of County Forests. Based on existing policies and current initiatives, it is recommended that a by-law be adopted by Council which confirms that the requirements under the *Municipal Act* have been addressed.

## Background and Discussion

Bill 68, Modernizing Ontario's Municipal Legislation Act made a number of changes to the *Municipal Act*. These changes have been phased in with certain changes being proclaimed in 2018 and some changes being proclaimed this March. One change being proclaimed this March is the requirement for

municipalities to establish policies for the protection and enhancement of the tree canopy and natural vegetation within the municipality (Section 270(1)7 of the *Municipal Act*).

The County's current Official Plan as well as the newly adopted Official Plan (pending Provincial approval) both contain policies that protect and enhance the tree canopy and natural vegetation within the County. These policies are primarily found in the Significant Woodlands section of the Official Plan's as well as the Core Areas and Linkages policies and mapping that were developed as part of the Natural Heritage Systems Study (Green in Grey). It is County staff's opinion that the policies contained in the current Official Plan and the adopted Official Plan address the requirements as per Section 270(1)7 of the *Municipal Act*. Attached is a draft by-law and schedule that contains excerpts of the Official Plan policies that help to protect and enhance the tree canopy and natural vegetation.

In addition to the policies in the County Official Plan, the County also has a Forest Management By-law (By-law 4341-06 as amended) that helps to protect the tree canopy and natural vegetation throughout the County. Later this year, staff will be bringing forward recommended changes to the Forest Management By-law in order to better align with the new policies in the County Official Plan and to clarify some of the provisions within the By-law.

The County also has over 8,500 acres of County Forests that are sustainably managed. By maintaining these Forests, the County is helping to preserve the tree canopy and natural vegetation within the County. An update to the Forest Management Plan that sets out how these forests are managed will be brought forward to Council later this year.

Based on the policies contained in the current County Official Plan and the adopted Official Plan, as well as the County's Forest Management By-law and the management of the County Forests, it is recommended that a by-law be adopted by Council confirming that these policies and initiatives address the requirements under the *Municipal Act*. County staff discussed the *Municipal Act* requirements with local municipal planners as well as with planners from other Counties and other municipalities are doing a similar approach as recommended in this Report (i.e. recognizing and confirming existing policies and initiatives that address the *Municipal Act* requirements). Attached is a draft by-law that staff recommends be endorsed by Council.

## Legal and Legislated Requirements

*Municipal Act* (Section 270(1)7)

## Financial and Resource Implications

There are no financial or resource implications regarding this proposed by-law as these policies and initiatives already exist.

## Relevant Consultation

- Internal (Planning)
- External (Local Municipal Planners)

## Appendices and Attachments

- [Current County Official Plan](#)
- [Adopted County Official Plan](#) (pending Provincial approval)
- [Forest Management By-law](#)
- [Forest Management Plan](#)
- *Draft Tree Canopy Protection and Enhancement By-law (Attached)*
- *Draft Schedule A - Tree Canopy Protection and Enhancement Policies (Excerpts from Current County Official Plan and Adopted New County Official Plan) – (Attached)*

# Corporation of the County of Grey

## By-Law XXXX-19

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A By-law to adopt a policy with respect to the manner in which the Corporation of the County of Grey will protect and enhance the tree canopy and natural vegetation in the municipality.

WHEREAS the Municipal Act, 2001, S.O. 2001, c.25 provides that every municipality shall establish policies with respect to the manner in which it will protect and enhance the tree canopy and natural vegetation in the municipality;

AND WHEREAS the tree canopy and vegetation in the County of Grey are protected by the policies in the current County Official Plan and will be further protected and enhanced by the adopted policies in the County's new Official Plan once approved by the Province;

NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF  
THE CORPORATION OF THE COUNTY OF GREY HEREBY ENACTS AS FOLLOWS:

1. That the Council of the County of Grey hereby confirms that the policies set out in Section 2.8.4 of the current County Official Plan and the policies set out in Section 7.1 and 7.4 of the adopted County Official Plan shall constitute the policy as required by Section 270(1)7 of the Municipal Act, 2001;
2. That the Council of the County of Grey also confirms that the provisions and the continued enforcement of the County's Forest Management By-law 4341-06 also helps to protect the tree canopy and natural vegetation in the County;
3. That the Council of the County of Grey also confirms that the continued sustainable management of the County's Forests also helps to protect and enhance the tree canopy and natural vegetation in the County;
4. That the Policy attached hereto as Schedule 'A' constitutes an integral part thereof;
5. That this By-law shall come into effect on XX day of XX, 2019.

ENACTED AND PASSED this XX day of XX, 2019.

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WARDEN: Selwyn Hicks

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CLERK: Heather Morrison

## Schedule A to By-law XXXX-19

### Tree Canopy and Natural Vegetation Protection and Enhancement Policies Contained in the Current County Official Plan and the Adopted New County Official Plan

#### *County Official Plan (Updated 2012)*

#### **Section 2.8 – Natural Heritage Policies**

##### **Section 2.8.4 – Significant Woodlands**

Significant Woodlands are a development constraint shown on Appendix B attached hereto and forming part of the Plan. The criteria for the identification of Significant Woodlands were developed by the County of Grey with assistance from the Ministry of Natural Resources. The identification was primarily a desk-top based Geographic Information Systems (GIS) exercise and the County acknowledges that inaccuracies or omissions in the mapping may be present. As a result site visits by qualified individuals may be required at the application stage to scope any potential studies.

In order to be considered significant a woodland must be either greater than or equal to forty (40) hectares in size outside of settlement areas, or greater than or equal to four (4) hectares in size within settlement area boundaries. If a woodland fails to meet those criteria, a woodland can also be significant if it meets any two of the following three criteria:

- (a) Proximity to other woodlands i.e. if a woodland was within 30 metres of another significant woodland, or
  - (b) Overlap with other natural heritage features i.e. if a woodland overlapped the boundaries of a Provincially Significant Wetland or an Area of Natural and Scientific Interest, or
  - (c) Interior habitat of greater than or equal to eight (8) hectares, with a 100 metre interior buffer on all sides.
- (1) No development or site alteration may occur within Significant Woodlands or their adjacent lands unless it has been demonstrated through an Environmental Impact Study, as per section 2.8.7 of this Plan, that there will be no negative impacts on the natural features or their ecological functions. The adjacent lands are defined in section 6.19 of this Plan.

Notwithstanding the above, projects undertaken by a Municipality or Conservation Authority may be exempt from the Environmental Impact Study requirements, provided said project is a public work or conservation project.

- (2) Notwithstanding paragraph (1), where it can be proven that a woodland identified as significant has ceased to exist, or ceased to exhibit characteristics of significance, prior to November 1, 2006, an Environmental Impact Study will not be required. Site photographs or a site visit by a qualified individual may be necessary to determine that a woodland no longer exists.
- (3) Notwithstanding paragraph (1), tree cutting and forestry will be permitted in accordance with the County Forest Management By-law.
- (4) Notwithstanding paragraph (1) and (3), fragmentation of significant woodlands is generally discouraged.

## *County Official Plan (adopted October 25, 2018 – pending Provincial Approval)*

### **Section 7 – Natural Grey**

#### **Section 7.1 - Core Areas and Linkages**

Core Areas and Linkages were identified in the County's Natural Heritage System Study – Green in Grey (January 2017), and are shown on Schedule C to this Plan. The intent of the Core Areas is to protect the very large natural areas in the County, while recognizing continued private ownership and encouraging landowners to continue to protect and manage these lands in an environmentally sustainable manner, including for farming and recreational purposes.

Linkages are designed to provide movement corridors for both plants and animals between Core Areas, and provide and protect biodiversity and the long-term viability of ecological systems.

- 1) Core areas are the County's largest pockets of significant natural features, and represent the best areas for interior species habitat and natural function in the County. Grey County is home to some of the largest Core Areas remaining in Southwestern Ontario. Cores Areas are crucial to the environmental health of the County, and represent an opportunity for conservation.. Within Core Areas, the County places a priority on environmental protection.

Core Areas largely overlap portions of other significant natural features including Provincially Significant Wetlands, Areas of Natural and Scientific Interest, Other Wetlands, Significant Woodlands, Significant Valleylands, Habitat of Endangered and Threatened species, Hazard lands, and Fish Habitat.

- 2) Linkages are identified to provide connectivity between Core Areas and establish a connected natural environmental system. They support natural processes that are necessary to maintain biological and geological diversity, natural functions, viable populations of indigenous species, and ecosystems. Linkages are identified based on several factors including using the areas of greatest natural cover (terrestrial and/or aquatic, as well as areas of deep interior habitat), while focusing on the shortest distance between Core Areas.

A corridor width of 200 metres was used to identify Linkages. This width was identified in Grey County based on the fact that interior habitat is generally identified as habitat 100 metres from the edge.

Linkages are not necessarily located in pristine natural environment, but partially occur through agricultural fields. This Plan does not prohibit agricultural uses and operations in these areas; the fields may provide appropriate habitat for species and/or offer opportunities for stewardship.

The boundaries of Linkages can be refined in the local official plan, but must meet the definition and criteria. Conversely, the precise location of the Linkage may be moved depending on further study.

- 3) Development proposed within Core Areas, their 120 metre adjacent lands, or Linkages will be required to undertake an environmental impact study (EIS), unless otherwise exempted by 7.11.3 of this Plan\*. This EIS will assess the natural features, their adjacent lands and their connections to other natural features. Table 10 below provides for the permitted uses in Core Areas and Linkages.

Permitted Use	Permitted in Core Areas	Permitted in Core Areas Adjacent lands	Permitted in Linkages	EIS Required*
Agricultural uses including new buildings and structures	Yes	Yes	Yes	No
Agricultural-related uses requiring new buildings or structures	No	Yes	Yes	Maybe
Home rural occupations within existing buildings	Yes	Yes	Yes	No
On-farm diversified uses requiring new buildings or structures	No	Yes	Yes	Maybe
Conservation and flood control projects	Yes	Yes	Yes	No
Forest, fish, and wildlife management	Yes	Yes	Yes	No
Transportation, utility, and service corridors as per Section 8	Yes	Yes	Yes	Maybe
Compatible recreation	Yes	Yes	Yes	Maybe
Good forestry management as defined in the County's Forest Management By-law	Yes	Yes	Yes	No
Existing uses, buildings and structures, or minor expansions thereto	Yes	Yes	Yes	No
Reuse of existing building and structures, provided the reuse will not have any additional environmental impacts	Yes	Yes	Yes	No
Existing mineral aggregate extraction operations	Yes	Yes	Yes	No
Expanded mineral aggregate extraction operations	Yes	Yes	Yes	Yes
New mineral aggregate extraction operations	No	Yes	Yes	Yes
New residential dwellings or accessory uses on existing lots of record	Yes	Yes	Yes	No

**Table 10: Permitted Uses in Core areas and Linkages**

- 4) New or significantly expanded uses, beyond those listed in Table 10, in Core Areas or Linkages will require the completion of an EIS, unless otherwise exempted by 7.11.3 of this Plan. Where a Core Area abuts a settlement area, discretion will be applied to determining whether an EIS is required.
- 5) Notwithstanding the permitted uses listed in Table 10, there may be sites where Core Areas or Linkages overlap other features such as Hazard Lands, Provincially Significant Wetlands, or Habitat of Endangered and Threatened species, and the uses listed above may otherwise be prohibited by sections 7.2, 7.3 or 7.10 of this Plan.
- 6) Notwithstanding the permitted uses listed in Table 10, where a new mineral aggregate extraction operation is proposed in a Core Area a County Official Plan amendment will be required.

- 7) Notwithstanding the EIS requirements listed in Table 10, an EIS may be required based on site specific features, or the recommendation of County, municipal, or Conservation authority staff. In some cases, the identification of a building envelope on-site by staff may negate the need for an EIS.
- 8) New non-farm sized lot creation is not permitted in Core Areas or Linkages, except for the creation of conservation lots. Lots created for infrastructure purposes may also be considered, where it can be demonstrated that there is no alternative outside of Core Areas or Linkages. The severance of a surplus farmhouse may be permitted within Core Areas or Linkages, provided no new residential dwellings are permitted on the remnant parcel.
- 9) Where possible, transportation, utility, and service corridors should avoid the Natural heritage system, especially Core Areas where possible. Transportation, utility, and service corridors include sewage, water and stormwater management systems, electricity transmission and distribution systems (e.g. hydro corridors), communications / telecommunications, transportation corridors, trails, oil and gas pipelines and associated facilities. Such corridors may be subject to the Municipal Class Environmental Assessment process. Where not avoidable, crossing of Core Areas and Linkages should be minimized, consider the shortest route across the Core Area or Linkage, and include context sensitive design, such as a narrow footprint, eco-passages, and other best management practices.
- 10) Compatible recreation means recreational uses that will not negatively impact the natural features or function of the Core Areas or Linkages and would not be in contradiction of the prohibitions listed above.

#### **Section 7.4 - Significant Woodlands**

*Significant Woodlands* mapping as shown on Appendix B was developed by the *County* of Grey with assistance from the Ministry of Natural Resources and Forestry (MNRF). The identification was primarily a desktop based Geographic Information Systems (GIS) exercise and the *County* acknowledges that inaccuracies or omissions in the mapping may be present. As a result, site visits by *qualified individuals* may be required at the application stage to scope any potential studies.

The *Significant Woodlands* layer was refined in 2017 by using data collected as part of the *Natural Heritage Systems Study – Green in Grey*, data from the MNRF and through airphoto analysis. Once the refinement occurred, it was then assessed through the original criteria used when creating the original *woodlands* layer and adjusted accordingly. This has improved the accuracy of the data; however errors and omissions could still exist.

In order to be considered *significant*, a woodland shall be either greater than or equal to forty (40) hectares in size outside of *settlement areas*, or greater than or equal to four (4) hectares in size within *settlement area* boundaries. If a woodland fails to meet the size criteria outside a *settlement area*, a woodland can also be *significant* if it meets any two of the following three criteria:

- Proximity to other *woodlands* i.e. if a woodland was within 30 metres of another *significant* woodland, or
  - Overlap with the boundaries of a Provincially *Significant Wetland* and *Significant Coastal Wetlands, Core Area, Significant Valleylands, or a Significant Areas of Natural and Scientific Interest* , or
  - Interior habitat of greater than or equal to eight (8) hectares, with a 100 metre interior buffer on all sides.
- 1) No *development* or *site alteration* may occur within *Significant Woodlands* or their *adjacent lands* unless it has been demonstrated through an *environmental impact study*, as per Section 7.11 of this Plan, that there will be no *negative impacts* on the natural features or their *ecological functions*. *Adjacent lands* are defined in Section 7 and 9.18 of this Plan.

Projects undertaken by a municipality or *conservation authority* may be exempt from the *environmental impact study* requirements, provided said project is a public work or conservation project.



- 2) Where it can be proven that a woodland identified as *significant* has ceased to exist, or ceased to exhibit characteristics of significance, an *environmental impact study* may not be required. Site photographs or a site visit by a *qualified individual* may be necessary to determine that a woodland no longer exists.
- 3) Tree cutting and forestry will be permitted in accordance with the County Forest Management By-law (or successor thereto), and guided by the policies of Section 5.5 of this Plan.
- 4) Fragmentation of *significant woodlands* is generally discouraged.
- 5) *Significant Woodlands* are not meant to include orchards, nurseries, or holiday tree plantations. Where it can be demonstrated that the mapping inadvertently mapped an orchard, nursery, or holiday tree plantation, an EIS will not be required for new *development* or *site alteration*.
- 6) Not all mapped *Significant Woodlands* are naturally occurring. In some cases, plantations have begun to transform into more naturalized woodlots, or fallow fields have over-grown to include early woodland features. Where these circumstances have occurred, an EIS may not be required for new *development* or *site alteration*, subject to the advice of a qualified professional, MNRF, *conservation authority* staff, or municipal/*County* staff. Where a *significant* amount of time has passed, and such plantation *woodlands* may now hold further natural value, an EIS may still be required.