

Town of Fort Erie

Tree by-law 33-2024 Update

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Open House Presentation

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Why Update the By-Law?

After implementing the Tree By-law for the first year there are several issues that have come to the forefront that require amending.



Snapshot of changes:

- New clause addressing tree stump removal
- Further definitions to provide more clarity to permit applicants
- Addition of definitions for Tree Protection Zones and reference to the Tree Preservation and Replacement Guide
- Addition of an Imminent Threat Clause to remove trees prior to the issuance of a permit in emergency situations
- Changes to compensation ratios for development

Tree Conservation



It is important to conserve the tree canopy in Fort Erie for the following reasons:

- Protect habitat for wildlife, deer, bats, birds, ect.
- Carbon sequestering (Climate change)
- Shade to reduce urban heat island effect
- Increases urban biodiversity
- Regulates water flow and improves water quality
- Enhances the natural beauty of the Town
- Improves physical and mental health

Proposed Changes

Change - Definitions	Change
Arborist	Means an arborist qualified by the Ontario Ministry of Training, Colleges and Universities, a certified arborist with the International Society of Arboriculture; a consulting arborist registered with the American Society of Consulting Arborists; or a Registered Professional Forester or equivalent to the Satisfaction of the Director of Planning
Cash-in-lieu Payment	Means that for every replacement tree not planted, a cash-in-lieu amount will be collected. Each replacement tree is \$1000.00 per tree, per the Town's Fees and Charges By-law. The Town reserves the right to replant trees at their own discretion on Public lands.

Proposed Changes

Change - Definitions	Reasoning
Imminent Threat	Means a threat that could significantly affect the existence or function of a person or property. For example, after a severe storm a tree that is unstable may fall on a habitable dwelling and be considered an imminent threat.
Landscape Plan or Planting Plan	Means a plan that defines where replanting compensation trees take place on a property. All landscape plans must be prepared under the guidance of a Landscape Architect registered as a full member in good standing with the Ontario Association of Landscape Architects and/or equivalent and must conform to the Arborist Report/tree preservation plan.

Proposed Changes

Changes - Definitions	Reasoning
Natural Heritage System – Further wording adding	Is made up of natural features such as wetlands, woodlands, valleylands, area's of natural and scientific interest, wildlife habitat, linkages, buffer setbacks to environmental features and supporting features and enhancement areas. If trees are located on lands that have been identified on lands that have been identified on the Town of Fort Erie's Natural Heritage System, those trees will be considered to be within the Town's Natural Heritage System. This applies to both Urban and Rural lands. This clause has been further defined to provide clarity on how trees are reviewed on lands that are identified as part of the Natural Heritage System.
Tree Preservation and Replacement Guide	Means a guide that uses plain language in an effort to help individuals understand that By-law 33-2024 and its requirements; however does not replace technical advice that can be provided by a qualified person which may be a requirement to support the permit application. This clause has been added to recognize the Tree Preservation and Replacement Guide to assist applicants with permit applications.

Proposed Changes

Changes - Definitions	Reasoning
Tree Protection Zone	Is measured from the outside of the base of the tree trunk. The distance measured from the trunk varies depending on the tree's diameter. Generally, the zone required expands with the DBH of the tree, and ranges from 1.8m from the trunk of a smaller tree to 6.0m or larger for trees with a DBH of 100cm or greater.
3. Scope	3.1 a) To Trees greater than or equal to 10cm within the Natural Heritage System
5. General Prohibitions	5.11 – No person shall fail to replant a replacement tree or pay cash-in-lieu as directed in an order or permit condition. 5.12 – No person shall tamper with a tree stump or remove a tree stump of a regulated tree without a tree permit.

Proposed Changes

Changes – 6. Exceptions	Reasoning
Imminent Threat	6.1 a) Imminent threat to human health or property: means a threat that could significantly affect the existence or function of a person or property. For example, after a severe storm a tree that is unstable could fall on a habitable dwelling would be considered an imminent threat.
Invasive Species	6.1B) There may be some instances where an invasive species tree may require compensation, in some circumstances some invasive species (not all) can provide a large canopy cover and habitat to bird and bat species. Invasive species listed in 6.1c) will be evaluated on site specific basis.

Proposed Changes

Changes – 6. Exceptions	Reasoning
Invasive Species	6.1 b) The injury or destruction after review and approval to the satisfaction of the Director of Planning of any of the following invasive species including: i. Morus alba (White Mulberry) ii. Rhamnus cathartica (Common Buckthorn) iii. Rhamnus frangula (Glossy Buckthorn) iv. Alnus Glutosina (Black Alder) v. Ailanthus Altissima (Tree of Heaven) vi. Acer platanoides (Norway Maple) vii. Acer negundo (Manitoba Maple) viii. Aesculus hippocastanum (Horse Chestnut) ix. Betula pendula (Silver birch or White birch) x. Elaegnus angustifolia (Russian Olive) xi. Elaegnus umbellate (Autumn Olive) xii. Picea abies (Norway Spruce) xiii. Pinus sylvestris (Scots or Scotch Pine) xiv. Populas alba (White Poplar) xv. Robinia pseudoacacia (Black Locust) xvi. Ulmus pumila (Siberian Elm)

Proposed Changes

Changes – 8. Permit Issuance	Reasoning
8.2	Following the receipt of a complete application the Director of Planning shall consider the following criteria in approving or refusing a permit: a) Condition of the tree (such as, but not limited to diameter, height, health as assessed by an Arborist, and structural integrity). b) Location of the Tree c) Species of the Tree d) Crown Coverage of the Ground e) The protection of ecological systems and their functions, including the protection of native flora and fauna. f) Erosion and Sedimentation of watercourses and flood control g) Impacts on surrounding properties
9. Permit Conditions	d. The minimum tree replacement size is a 50mm caliper deciduous tree, or one hundred and fifty (150) cm centimeter height coniferous tree in a 5-gallon container or balled and bur lapped in a wire basket.

Proposed Changes

Changes – 11. Permit Refusal	Reasoning
Addition of q. r. s. t. clauses	q. When a tree has been determined to be a public tree and it has not been determined to be dead, a hazard or part of an Approved Planning Act Application or Building Permit. r. Staff determine that none of the criteria in Section 8 applies to the permit. s. When a permit has been inactive for a period of 6 months. t. When a Planning Application is applied for concurrently with the Tree Permit, the Tree Permit will be cancelled.

Proposed Changes

Changes – 12. Order to Discontinue Activity	Reasoning
12.2	An order is issued under this By-law may be served personally by way of mail and/or by electronic mail, service shall be deemed to be immediate on the person to whom the order is directed to the last known address and/or electronic email address of:
13. Order to Comply	13.5 Where a contravention of this By-law has occurred, the Officer may issue an Order to Comply requiring the property owner to rehabilitate the land to previous condition prior to work commencing, or to plant, replant or replace any Trees. Alternatively, payment of cash-in-lieu at \$1000.00 per tree to be replanted per Schedule B can be ordered.

Proposed Changes

Changes – 16. General	Reasoning
16.8	This revised By-law will come into effect on the 12th day of April, 2025 Revised to reflect when the report will be going to Council for approval.
16.9	This by-law does not apply to trees that have been previously approved to be removed by a building permit, site plans, minor variances, consents, approved subdivisions, approved plan of condominiums, zoning by-law amendments, official plan amendments, or development agreements approved on or before March 18, 2024. Minor wording revision – the previous wording was confusing.

Proposed Changes

Changes – Schedule A	Reasoning
Tree Stumps	Column 1. Tampering with a trees stump to destroy evidence to injure or destroy a tree without a permit. Section 5.1a) Penalty Tier 1 - \$4500 Penalty Tier 2 - \$9000 Penalty Tier 3 - \$10000
Schedule B	As a Condition to a Permit that has been issue for a Tree located on a residential property where there is an occupied dwelling or a single detached dwelling that has been approved by a building permit, the permit holder will be required to replace the tree at a 1:1 ratio. Any other permit holder who will be applying for a Minor Variance, Consent or any other relevant Planning Application will be subject to the replacement ratios depicted in Table B.1

Proposed Changes

Changes – Schedule B	Reasoning
	Developers who are applying for an Official Plan Amendment, Zoning By-law Amendment, Site Plan Control, or a Commercial or Industrial Development (Building Permit) will be subject to the replacement ratios depicted in Table B.2

Proposed Changes

Table B.2	
Diameter at Breast Height	Number of Replacement Trees
12.5 – 24	1
25 -34	1
35 -44	2
45 -54	2
55-64	2
65-74	3
75-84	3
84-95	4
95-104	4
105-114	4
>115	5

Proposed Changes

Table B.2	Reasoning
OPA/ZBA/Site Plan Control and Industrial and Commercial Building Permits	A maximum of \$250,000.00 cash in lieu per 5.5 Hectare site. Any site over 5.5 Hectares will be assessed on a graduated scale ie. \$50,000.00 per additional hectare. Enhancements will be factored into the tree calculation. Should it be determined by an Arborist that the tree is dead, diseased or hazardous, the tree replacement ratios outlined above do not apply. Should an Officer determine a contravention of the By-law has occurred, an Order to Comply may be issued and in such case the replanting of the trees is required at a ratio depicted within Table B.1

Proposed Changes

Table B.3	List of Preferred Trees for Planting	
Balsalm Poplar	Eastern White Cedar	Red Maple
Basswood	Eastern White Pine	Red Oak (upon approval)
Bitternut Hickory	Ironwood	Sycamore
Black Cherry	Largetooth Aspen	Tamarack
Black Walnut	Pawpaw	Trembling Aspen
Blue-Beech	Pin Cherry	Tulip Tree

Proposed Changes

Security Deposits	Reasoning
	A security deposit per tree (for owners who are individuals) required for each Replacement Tree to be planted and can be found in the Town of Fort Erie Consolidated Fee Schedule. The Security deposit will be refunded once a final inspection of the replacement plantings is complete. The deposit will be held for a two year maintenance period.
	A security deposit per tree (for owner who are corporations) is required for each replacement tree to be planted and can found in the Town of Fort Erie Consolidated Fee Schedule. The Security deposit will be refunded once a final inspection of the replacement plantings is complete. The deposit will be held for a two-year maintenance period. A secured line of credit can be used.