



Staff Report

Legal Services – By-law

Report To: COW-Finance, Admin, Fire, Legal, Community Services
Meeting Date: August 14, 2023
Report Number: FAF.23.125
Title: Report on the process to identify an Abandoned Orchard
Prepared by: Debbie Young, Interim Manager of By-law & Licensing

A. Recommendations

THAT Council receive Staff Report FAF.23.125, entitled “Report on the process to identify an Abandoned Orchard”;

AND THAT Council receives for information only the process to identify an Abandoned Orchard and the Town’s requirements under the Weed Control Act.

B. Overview

This report will outline the process of identifying abandoned orchards in the area and the Town’s requirements and/or responsibility to deal with abandoned orchards.

C. Background

The Abandoned Orchard Act was repealed in 1997 and now falls under the Weed Control Act, R.S.O. 1990 c. W.5, as amended. The Town’s current Abandoned Orchards By-law 2003-38 authorizes an “inspector” which is identified as a Weed Inspector appointed by by-law, to provide an opinion on an orchard to determine whether it is an “Abandoned Orchard”. By-law officers that are appointed as Weed Inspectors for the Town are not trained on how to determine if an orchard should be identified as Abandoned.

The Town no longer has an Abandoned Orchard Committee and does not currently have a process in place to deal with Abandoned Orchards. It is staff’s position that the Town’s Weed inspectors are not qualified and do not have the expertise to make this determination and are reluctant to do so given the potential expenses associated with an abandoned orchard.

D. Analysis

Staff have conducted some research and investigation into how to identify an Abandoned Orchard and after having discussions with the Ontario Ministry of Agriculture, Food and Rural Affairs (“OMAFRA”), it has been determined that the process to identify an Abandoned Orchard is not a service that is provided by OMAFRA, but can be conducted by an independent

consultant, experienced in the OMAFRA requirements, and with expertise in orchards. Staff have reached out to an independent consultant to discuss this and the possibility of assisting the Town's Weed Inspectors by providing expert advice on the determination of whether an orchard is deemed "Abandoned".

Staff believe that it is in the best interest of the Town to move forward with a third-party independent certified consultant to assist in responding to the complaints received. Staff are proposing the following steps take place in relation to Abandoned Orchards:

1. Complaint is received and documented.
2. By-law Officer attends at property and take photographs.
3. Contact with Independent Certified Consultant to make arrangements for a visit. It appears that the approximate cost is between \$350 to \$400 per complaint which includes review and attend at property, travel time, provide report and recommendations.
4. By-law would then place an order on any property that is deemed to be an Abandoned Orchard. under the Town's Abandoned Orchard By-law 2003-38.
5. By-law to follow up until completion under order and close file.
6. All information, documents, reports, and photographs to be uploaded into CityView.
7. If the order placed on the property is not complied with by the owner, By-law officer's will take the necessary steps to charge the owner under the Provincial Offences Act, contrary to The Weed Control Act.

Staff anticipate increased institutional knowledge with respect to abandoned orchards as By-Law Officers work with the Certified Consultant which should result in a more efficient process and the ability to utilize more discretion.

E. Strategic Priorities

1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders

3. Community

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

4. Quality of Life

We will foster a high quality of life for full-time and part-time residents of all ages and stages, while welcoming visitors.

F. Environmental Impacts

Unknown at this time.

G. Financial Impacts

\$350 - \$400 per file.

Historically there has been less than 1 (one) complaint per year regarding abandoned orchards. This year the Town has received 7 (seven) complaints.

H. In Consultation With

Ryan Gibbons, Director of Community Services

OMAFRA – Ontario Ministry of Agriculture, Food and Rural Affairs

I. Public Engagement

The topic of this Staff Report has not been the subject of a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required.

Any comments regarding this report should be submitted to Debbie Young, Interim Manager of By-law & Licensing bylawadmin@thebluemountains.ca.

J. Attached

1. Abandoned Orchards By-law 2003-38

Respectfully submitted,

Debbie Young
Interim Manager of By-law & Licensing

For more information, please contact:
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Report Approval Details

Document Title:	FAF.23.125 FYI Report on the process to indentify an Abandoned Orchard .docx
Attachments:	- Attachment 1 - By-law 2003-38 Abandoned Orchards.pdf
Final Approval Date:	Aug 4, 2023

This report and all of its attachments were approved and signed as outlined below:

Ryan Gibbons - Aug 4, 2023 - 11:55 AM