



Staff Report

Legal Services – By-law

Report To: COW-Finance, Admin, Fire, Legal, Community Services
Meeting Date: September 11, 2023
Report Number: FAF.23.135
Title: Update on Appeal Process for Abandoned Orchards
Prepared by: Debbie Young, Interim Manager of By-law and Licensing

A. Recommendations

THAT Council receive Staff Report FAF.23.135 entitled “Update on Appeal Process for Abandoned Orchards”;

B. Overview

At the request of the Committee of the Whole, Staff was directed to provide a report on the appeal process for abandoned orchards. This report will outline the required appeal process.

C. Background

Staff have implemented a process to deal with abandoned orchards as follows:

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 officers will take the necessary steps to charge the owner under the *Provincial Offences Act*, contrary to the *Weed Control Act*.

If an appeal to the order is filed, the following process will be implemented:

1. The property owner may make an appeal of the order in writing within 7 days after service of the Order to the Chief Inspection for the Ontario Ministry of Agriculture, Food and Rural Affairs (“OMAFRA”) and provide reasons for the appeal.
2. The appellant, the inspector (by-law officer), and any other persons as the chief inspector may specify are parties to the appeal.
3. The chief inspector may, in the presence of the parties or after affording them an opportunity to be present, view and examine the land in relation to which the order is made and may base his or her decision upon the evidence adduced by the parties and on the view and examination.
4. After hearing an appeal, the chief inspector may confirm or revoke the order or may make a new order in its place.
5. The chief inspector’s order shall be serviced in accordance with the Weed Control Act.
6. The chief inspector’s order may be appealed to the Divisional Court within thirty days of its making.

D. Analysis

If a resident does not comply with the terms of the Order implemented by the by-law officer and placed on the property, the resident may be charged under the Provincial Offences Act. Once an appeal process has been completed and if there is confirmation of the Order by a chief inspection from OMAFRA or a confirming finding by the court, Section 427 (3 and (4) of the *Municipal Act 2001*, S.O. 2001, c. 25 provides the Town to have the required work completed on the property and subsequently authorizes the costs to be added to the property tax roll.

E. Strategic Priorities

1. Communication and Engagement

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

2. Organizational Excellence

We will continually seek out ways to improve the internal organization of Town Staff and the management of Town assets.

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

N/A

G. Financial Impacts

There are no financial impacts to residents as any costs incurred during this process are captured by the property owner by being placed on their tax roll account.

H. In Consultation With

Ryan Gibbons, Director of Community Services

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 is required. However, any comments regarding this report should be submitted to Debbie Young, Interim Manager of By-law and Licensing bylawadmin@thebluemountains.ca.

J. Attached

N/A

Respectfully submitted,

Debbie Young
Interim Manager of Bylaw and Licensing

For more information, please contact:
Debbie Young 519-599-3131 ext. 242
bylawadmin@thebluemountains.ca

Report Approval Details

Document Title:	FAF.23.135 Update-on-Appeal-Process-for Abandoned-Orchards.docx
Attachments:	
Final Approval Date:	Aug 28, 2023

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

Ryan Gibbons - Aug 28, 2023 - 9:15 AM

Report Approval Details

Document Title:	FAF.23.135 Update-on-Appeal-Process-for Abandoned-Orchards.docx
Attachments:	
Final Approval Date:	Aug 28, 2023

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

No Signature - Task assigned to Ryan Gibbons was completed by workflow administrator Debbie Young

Ryan Gibbons - Aug 28, 2023 - 9:27 AM