



STAFF REPORT ACTION REQUIRED

Revisions to the Tree By-laws

Date:	November 2, 2011
To:	Parks and Environment Committee
From:	Jim Hart, General Manager, Parks, Forestry and Recreation
Wards:	All
Reference Number:	P:\2011\Cluster A\PFR\PE09-112211-AFS#14172

SUMMARY

City of Toronto Municipal Code, Chapter 813, Trees, provides for the protection of all City-owned street trees, and trees on private property having a diameter of 30 cm or greater. City of Toronto Municipal Code, Chapter 658, Ravine and Natural Feature Protection, provides for the protection of all trees and natural features in designated areas of the City. The administration of these by-laws has highlighted some areas where refinement is needed to improve their effectiveness and allow for better service to the public.

The by-laws have had a direct positive impact on the natural environment in the City. Prior to the implementation of tree by-laws, trees were often injured and removed indiscriminately, and natural areas were negatively impacted, often through ignorance. The by-laws have provided an opportunity for people to become more aware of our environment, and educated on the ways in which they can contribute to ensure trees and other features of the natural environment can be protected and successfully integrated into construction or development projects.

This report identifies changes that will harmonize language and definitions, strengthen the tree protection by-laws, and result in improved processing of applications and service to the public.

RECOMMENDATIONS

The General Manager of Parks, Forestry and Recreation recommends that:

1. City Council authorize the City Solicitor to introduce Bills amending Chapter 658, Ravine and Natural Feature Protection, Chapter 813, Trees and Chapter 441,

Fees and Charges, of the City of Toronto Municipal Code, in accordance with this report and Attachment No. 1, including such technical and stylistic amendments as deemed necessary by the City Solicitor.

Financial Impact

No financial impact is proposed.

DECISION HISTORY

At its meeting of April 29, 2011, the Parks and Environment Committee requested that during review of the by-laws that staff review the "need to change the current by-law in order to protect more private trees in the City of Toronto".

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.PE3.1>

ISSUE BACKGROUND

By-laws to protect trees as well as ravines and natural features were created with the intent of deterring unnecessary injury and destruction of trees and natural features, to protect significant trees, and to allow Urban Forestry staff to advise of alternatives to tree removal and injury. They have been used successfully as public education tools to promote maintenance of trees and natural features, to ensure the sustainability and enhancement of the urban forest, and to protect environmentally significant areas.

City of Toronto Municipal Code, Chapter 658, provides for the protection of trees of all sizes located within ravines on both City and private property, as well as important natural features. Ravine and natural feature protection areas include ravines, treed portions of the Lake Iroquois shoreline and contiguous canopy, buffer areas beyond the edges of slope features, tableland forests greater than 0.5 hectares, Environmentally Significant Areas (ESAs), Areas of Natural and Scientific Interest (ANSIs), and public golf courses near ravines. Within these areas, a permit is required prior to undertaking any work that may injure or destroy a tree, or involve placing or dumping of fill or refuse, or altering the grade of land. This by-law was last amended in May 2008.

City of Toronto Municipal Code, Chapter 813, Articles II and III provide the authority for the protection of Toronto's urban forest on both City streets and private property. The Street Tree By-law (Article II) protects all trees located on a common or public highway, road, street, or portion thereof under the jurisdiction of the City of Toronto. A permit is required prior to removal of all healthy City-owned street trees.

The Private Tree By-law (Article III) provides for the protection of trees on private property that have a diameter of 30 cm or greater measured at 1.4 metres above ground level. This by-law has been in effect city-wide since September 30, 2004. A permit is required prior to undertaking any work that may injure or destroy a tree on private property having a diameter of 30 cm or greater. Chapter 813 was last amended in January 2008.

Based on our experience in administering the by-laws for the past three years, the Urban Forestry Branch is proposing amendments to the by-laws that will add clarity and result in improvements related to overall administration, service to the public, and to the effectiveness of the by-laws.

COMMENTS

The majority of proposed by-law revisions are administrative, and include new and revised definitions, harmonization of language between the by-laws, and clarification of processes.

The by-laws protecting trees and natural land features have proven to be an effective tool in the protection, renewal and public awareness of Toronto's urban forest. Administration of the by-laws has provided valuable experience and identified several issues that need to be addressed through amendments to the by-laws. Revised by-laws will be easier to administer, resulting in fewer delays to residents and the development industry while still allowing Urban Forestry to achieve its goal of protecting and enhancing the urban forest, and educating individuals with respect to tree protection measures and alternatives to tree injury and destruction.

Size Criteria for Tree Protection

The Street Tree By-law and the Ravine and Natural Feature Protection By-law protect trees of all sizes ("the by-laws"). The size threshold of 30 cm in diameter was selected as the criteria for applicability of private tree by-laws that existed in former Toronto and Scarborough prior to amalgamation. Trees that are 30 cm in diameter and greater are significant in their contribution to the City's forest canopy. Urban Forestry has reviewed the possibility of reducing the size criteria and concluded that protecting trees of smaller diameter would create exponentially more work and would not be feasible with existing staff resources. If the threshold was reduced to 20 cm in diameter, it is estimated that submission of arborist reports and tree protection plans, as well as applications to injure or remove trees would nearly double. If a smaller size threshold was implemented for tree protection, it would greatly increase the time needed to review and process additional documents and applications, as well as reviewing development applications. To do so would greatly increase service wait times related to processing of applications, eliminate the ability to monitor tree protection requirements associated with permits that are issued, and reduce responsiveness to reported by-law contraventions. The demand would exceed Urban Forestry's ability to provide service within a reasonable and acceptable time frame. Such a revision would also necessitate a significant increase in application fees payable by homeowners, builders, and commercial, retail and residential developers. Change in the size criteria is not recommended.

By-law Contraventions

Although the by-laws are intended to be more of an educational and compliance tool, revisions are proposed that will provide a broader scope when laying charges for by-law

contraventions. It is proposed that the by-laws be amended to clarify that charges may be laid not just against a person who commits an offence, but also against a person that arranges for, or allows, or permits a by-law contravention to occur.

Urban Forestry receives numerous calls every year to report alleged by-law contraventions. Reports are investigated by Urban Forestry staff, and many inspections find that no contravention has occurred. Urban Forestry has limited resources to dedicate to the enforcement of by-law contraventions, and we are often not able to obtain sufficient evidence in a timely manner, and charges therefore cannot be filed. Even though we will continue to be challenged by insufficient resources to properly investigate the number of by-law contraventions reported every year, this proposed revision will make it easier to charge all appropriate person(s) when we can collect sufficient evidence to lay a charge.

Streamlining the Process

The proposed by-law revisions include measures aimed at streamlining the process. The practice of posting a notice of application for the injury or removal of healthy trees under the Private Tree By-law is proposed to be discontinued. It is also proposed that the General Manager of Parks Forestry and Recreation (the "General Manager") be authorized to issue permits for the alteration of grade and the injury and removal of trees to accommodate necessary works.

Eliminate the Posting of Notice of Application - Chapter 813, Article III (Private Tree By-law)

Currently under the Private Tree By-law where an application to injure or destroy healthy trees is received, Urban Forestry is required to post a notice of application at the subject site for a period of 14 days to provide the community with an opportunity to submit written objections to the application. Many residents are often dismayed to learn that even though written objections are submitted, tree removal may be supported by Urban Forestry and Community Councils. When making recommendations for permit issuance, Urban Forestry staff must use a balanced and consistent approach taking into consideration the facts of the application. Decisions to issue permits to injure or remove trees are based on many factors, including the location and condition of the tree, the expected life span of the tree, long term benefits of proposed replanting, the character of the urban forest in the area (ie. other trees in the area) and where construction is proposed, reasonable feasibility to accommodate a proposed structure and retain a tree.

The Private Tree By-law was not created to stop or discourage development, but rather to regulate the removal of trees and to encourage their protection and retention and to incorporate them into development. It is expected that property owners will make every effort to retain and protect trees where possible. There are circumstances where permits are issued where the community will benefit more in the long term from the proposed planting of replacement trees, than from retaining an existing tree. Permits are usually refused when there are reasonable alternatives to injury or removal of healthy trees.

By eliminating the need to publicly post a notice of application there, will be an improvement in efficiency. Processing time for permits should be reduced by approximately 21 calendar days, resulting in reduced delays to applicants and improved customer service. It is recommended that the process of posting a notice of application for injury or removal of healthy private trees be eliminated.

Authority to Issue Permits - Chapters 658 and Chapter 813, Articles II and III

Expanding the scope of the General Manager's authority to issue permits to injure or destroy trees will reduce the processing time for some applications. It is proposed that the General Manager be authorized to issue permits to injure or destroy trees in the following instances.

1. The day to day operations of a cemetery, specifically any work required for burials.
2. Structural repairs to underground garages.
3. Capital projects approved by City Council.
4. Utility repairs.

The current process under the Private Tree By-law requires posting of a notice of application for a period of 14 days and then consulting with the ward councillor, prior to issuing a permit for injury or removal of healthy trees in cemeteries. This process requires a minimum of 21 days and sometimes longer and presents an impractical and unreasonable delay. It is recommended that the General Manager have the authority to issue permits without posting where satisfactory replanting is proposed.

Structural repairs to underground garages can be a safety issue. There have been many instances where a parking structure is provided below ground, above which are planted trees and other landscape amenities at grade. Over time as structures age, repairs may be required to repair cracks and waterproof the structure. In many of these instances, there is no reasonable alternative to tree removal. Under the Private Tree By-law, posting of a notice of application and the consultation process results in delays for repairs of 21 days, or longer. Such delays are not practical or acceptable to people that rely on these facilities. It is recommended that where repairs are required for underground structures the General Manager be authorized to issue permits without posting and consultation where the General Manager is satisfied that there is no reasonable alternative to tree injury or removal, and where a satisfactory replanting or restoration plan is provided.

There are many instances where City Council has authorized capital or other work projects where tree protection issues have not been addressed at the outset. Where capital projects or other works have been approved by City Council, it is recommended that the General Manager be authorized to issue permits without posting and consultation provided that the General Manager is satisfied that there is no reasonable alternative to tree injury or removal, and that a satisfactory replanting or restoration plan is provided.

There are occasions where utilities within utility easements on private property require repair or replacement in order to continue delivering adequate services to residents. Easements provide the utility with the right to use and access their plant. It is proposed that where tree protection issues are encountered that conflict with the ability of a service provider to access their plant, the General Manager be authorized to issue permits without posting and consultation provided that the General Manager is satisfied that there is no reasonable alternative to tree injury or removal or alteration of grade and that a satisfactory replanting or restoration plan is provided.

Providing additional authority to the General Manager and removing the consultation and posting requirement will reduce, processing times for applications between seven (7) calendar days to three (3) months (if a report is required to Community Council).

Conclusion

The by-laws have a tremendous impact on the preservation of trees in our urban forest. They provide Urban Forestry staff, together with the private tree service industry with the opportunity to advise homeowners, developers, and builders on how best to protect trees and this has resulted in the preservation of countless trees. Where preservation is not possible, replacement planting is secured, ensuring that appropriate large growing species are planted where space permits the trees to mature to their full potential.

The revisions proposed are intended to make the by-laws easier to understand and to simplify and increase efficiencies in the processing of applications to injure or destroy trees.

CONTACT

Arthur Beauregard, Manager, Tree Protection and Plan Review, Tel: 416-392-0724,
Fax: 416-392-1915, E-mail: abeaureg@toronto.ca

SIGNATURE

Jim Hart
General Manager, Parks, Forestry and Recreation

ATTACHMENTS

Attachment No. 1 – Proposed Amendments to Municipal Code, Chapter 441, Chapter 658 and Chapter 813, Articles II & III

Proposed Amendments to Municipal Code, Chapter 658, Ravine and Natural Feature Protection

658-1. Definitions

Section No.	Action	Rationale	Amendments
658-1	Revise	Consistency with other by-laws	ARBORIST - A specialist or expert in the area of the care and maintenance of trees and includes an arborist qualified by the Ontario Training and Adjustment Board Apprenticeship and Client Services Branch, a certified arborist qualified by the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists, a registered professional forester or a person with other similar qualifications as approved by the General Manager.
658-1	Revise	Consistency with other by-laws	DESTROY – To remove, cut down or in any other way injure a tree to such an extent that it is deemed by the General Manager to be an imminently hazardous tree or it becomes necessary to remove a tree.
658-1	Revise	To clarify and provide consistency with the other by-laws	EMERGENCY WORK – Work of an urgent nature including but not limited to work associated with drain repairs, utility or structural repairs to a building, work to prevent soil erosion, slipping of soil or damage to trees.
658.1	Revise	To acknowledge another source of designation	HERITAGE TREE – A tree that has been designated under Part IV of the Ontario Heritage Act, or a tree that has been recognized as a 'heritage tree' by the Ontario Heritage Tree Program of Trees Ontario.
658-1	Revise	Consistency with PTB	IMMINENTLY HAZARDOUS TREE – A destabilized or structurally compromised tree that is in imminent danger of causing damage or injury to life or property.
658-1	Revise	Consistency with other by-laws	OFFICER –A City employee whose duties include the enforcement of this chapter, including but not limited to , the General Manager of Parks, Forestry and Recreation, the City Forester and persons holding the position of Urban Forestry Supervisor, Urban Forestry Co-ordinator, Urban Forestry Planner, Urban Forestry Planning Assistant, Urban Forestry Manager, Arborist Inspector and Arborist Foreperson
658-1	Insert New	To clarify	TERMINALLY DISEASED – Advanced and irreversible decline in tree health, that has resulted in the majority of crown die back or failure, due to a severe insect infestation or infection by a pathogen.
658-1	Revise	To clarify	TREE PROTECTION POLICY AND SPECIFICATIONS FOR CONSTRUCTION NEAR TREES.
658-2. Permit required for prohibited activities			
658-2.A.	Revise	To clarify persons responsible for allowing tree injury, destruction or removal	No person shall, on any land in a protected area, injure, destroy or remove any tree, or permit the injury, destruction or removal of any tree, unless authorized by permit to do so.

658-2.B.	Revise	To clarify persons responsible for allowing placement of fill or alteration of grade	No person shall, on any land in a protected area, place or dump fill, or refuse, or alter the grade of the land, or permit the dumping of fill or refuse, or alteration of the grade of land, unless authorized by permit to do so.
658-4. Exceptions			
658-4A(1)(2)	Revise	Consistency with other by-laws	Removal of a diseased, dead or imminently hazardous tree, certified as such by the General Manager.
658-4.A(6)	Revise	Consistency with PTB	Injury or destruction of trees on rooftop gardens or in interior courtyards having a soil depth of less than 1.5 metres above a built substructure, in solariums, raised podiums or planters.
658-6. Review of application; issuance of permits; conditions - Delete "Review of application"			
658-6.A	Revise	Consistency with other by-laws	The General Manager is authorized to issue permits to injure, destroy or remove trees; to place or dump fill or refuse and to alter the grade of land in the following circumstances:
658-6.A.(5)	Revise	To clarify	Where a plan has been prepared for ravine restoration or forest stewardship, management or enhancement, and such plan has been approved by the General Manager of Parks, Forestry and Recreation Where tree injury or destruction is in accordance with plans approved by the General Manager of Parks, Forestry and Recreation. Where the placing or dumping of fill or altering the grade is outside of the TRCA's regulated area, and is in accordance with plans approved by the General Manager of Parks, Forestry and Recreation. Where injury or destruction of trees has been ordered/approved for arboricultural management, pest management, and/or to otherwise deal with trees affected by diseases or infestations.
658-6A.(9)	Insert New	Clarifies GM's authority to issue permits for injury, destruction or removal of trees and alteration of grade to accommodate work on lands owned by the City or ABCs	On lands owned by the City, its agencies, boards or commissions, where: (a) City Council has approved work that will impact trees or alter the grade of land, and (b) The General Manager is satisfied that there is no reasonable alternative to tree removal or alteration of grade for the completion of the work, and (c) The General Manager is satisfied that the applicant has undertaken to implement satisfactory replanting and/or site restoration.
658-6A.(10)	Insert New	Authorizes GM to issue permits for injury, destruction or removal of trees and alteration of grade to accommodate	City work is required within a right-of-way of a protected area where: (a) City Council has approved work that will impact trees or alter the grade of land, and (b) The General Manager is satisfied that there is no reasonable alternative to tree removal or alteration of grade for the completion of the work, and (c) The General Manager is satisfied that the applicant has undertaken to implement

		work in Right Of Way	satisfactory replanting and/or site restoration.
658-6A.(11)	Insert New	Authorizes GM to issue permits for injury, destruction or removal of trees and alteration of grade to accommodate utility repair/replacement in utility easements	A utility easement is located within a protected area and repair or replacement of a utility is required within the easement for the provision of such utilities, where: (a) The General Manager is satisfied that there is no reasonable alternative to tree removal or alteration of grade for the completion of the work, and (b) The General Manager is satisfied that the applicant has undertaken to implement satisfactory replanting and/or site restoration.
658-6.C.	Insert New	Authority to establish expiry dates for permits Authority to approve or refuse transfer of applications or permits Authority to require renewal of permit	(a) The General Manager is authorized to establish an appropriate expiry date for a permit. (b) The General Manager is authorized to approve or refuse the transfer of an application or permit. (c) To require a new permit application for tree removal where a permit has expired, or where a transfer of application or permit is not approved by the General Manager, or where additional trees are required for removal. Upon receipt of a new application the General Manager may refuse to issue a permit or may issue a permit subject to additional or alternative conditions.
658-7. Council approved required			
658-7.B.	Revise	To clarify	The tree is healthy and the management of the tree or forest cover has not been addressed through submission of plans, to the satisfaction of the General Manager.
658-9. Power of entry; inspection powers Revise to "Enforcement; power of entry, inspection powers			
658-9.C.	Insert New	Orders to comply	C. An officer who finds a contravention of this chapter may make one or more orders requiring: (1) The contravening activity to be discontinued (under section 384(1) of the <i>City of Toronto Act, 2006</i>); or (2) Work to be done to correct the contravention (under section 385(1) of the <i>City of Toronto Act, 2006</i>). D. The order may be served personally on the person to who it is directed or by registered mail to the last known address of that person and, where the order is served by mail, the service shall be deemed to have been made on the third day after the day of mailing.

			<p>E. Where service cannot be given as required under §658-9.D, sufficient service shall be deemed to have been given by placing a placard containing the order in a conspicuous place on the property where the contravention occurred.</p> <p>F. No person shall deface, cover up or remove a placard placed under §658-9.F.</p>
658-10.1 Removal of dangerous trees			
658-10.1	Delete	Removal of dangerous trees	This is addressed in the MLS by-laws, MC Chapters 629 & 632.

Proposed Amendments to Municipal Code, Chapter 813, Article II, Trees on City Streets			
813-3. Definitions			
813-3	Insert New	Consistency with other by-laws	APPLICATION – A completed permit application form with supporting documentation as identified in the application package or requested by Urban Forestry for permission to injure, destroy or remove trees.
813-3	Revise	Consistency with other by-laws	DESTROY – To remove, cut down or in any other way injure a tree to such an extent that it is deemed by the General Manager to be an imminently hazardous tree or it becomes necessary to remove the tree.
813-3	Revise	Consistency with RNFPB	EMERGENCY WORK – Work of an urgent nature including but not limited to work associated with drain repairs, utility or structural repairs to a building, work to prevent soil erosion, slipping of soil or damage to trees.
813-3	Insert New	Consistency with other by-laws	HERITAGE TREE – A tree that has been designated under Part IV of the Ontario Heritage Act, or a tree that has been recognized as a 'heritage tree' by the Ontario Heritage Tree Program of Trees Ontario.
813-3	Insert New	Consistency with other by-laws	IMMINENTLY HAZARDOUS TREE – A destabilized or structurally compromised tree that is in imminent danger of causing damage or injury to life or property.
813-3	Revise	To clarify	OFFICER: A City employee whose duties include the enforcement of this chapter, including but not limited to , the General Manager of Parks, Forestry and Recreation, the City Forester and persons holding the position of Urban Forestry Supervisor, Urban Forestry Co-ordinator, Urban Forestry Planner, Urban Forestry Planning Assistant, Urban Forestry Manager, Arborist Inspector and Arborist Foreperson
813-3	Insert New	Consistency with other by-laws	PERMIT – a permit required under this article.
813-3	Revise	To simplify	TREE – Any tree, all or part of which is located on, above, or below a City street. Ownership and maintenance of trees which have 50 percent or more of their main stem situated on a City road allowance will be the responsibility of the City.
813-3	Revise	Consistency of document title	TREE PROTECTION POLICY AND SPECIFICATIONS FOR CONSTRUCTION NEAR TREES.
813-5. Powers and duties of General Manager			
813-5.I.	Revise	Authority to issue permits	Injure, destroy or remove, or cause or permit healthy trees located on a City

			street to be injured, destroyed or removed, where an application and the accompanying fee, have been received from an applicant. Permits for the destruction or removal of healthy trees may be subject to conditions which include payment of tree value, removal and replacement costs and the replanting of a replacement tree or trees.
813-5.J	Insert New	Expiry date for permits	To establish an appropriate expiry date for permits.
813-5.K	Insert New	Authority to approve/refuse transfer of applications and permits	To approve or refuse the transfer of an application or permit to destroy or remove trees.
813-5.L	Insert New	Renewal of permits	To require a new permit application for tree removal where a permit has expired, or where a transfer of application or permit is not approved by the General Manager, or where additional trees are required for removal. Upon receipt of a new application the General Manager may refuse to issue a permit or may issue a permit subject to additional or alternative conditions.
813-5.M.	Revise	Clarify wording	Stop any unauthorized work causing injury or destruction to a tree located on a City street- contrary to the terms and conditions of a permit issued under 813-6.B., the City's Tree Protection Policy and Specifications for Construction Near Trees or any other provision of this article or other standards established by the General Manager.
813-5.N.	Insert New	Authorizes GM to issue tree permit for City works in Right Of Way	Trees are located on a public right-of-way, and work is required within the right-of-way, where: <ul style="list-style-type: none"> A. City Council has approved work that impacts trees, and B. The General Manager is satisfied that there is no reasonable alternative to tree removal for the completion of the work, and C. The General Manager is satisfied that the applicant has undertaken to implement satisfactory replanting. D. The ward councillor has been advised that a permit will be issued.
813-5.O.	Insert New	Authorizes GM to issue tree permits for utility	Trees are located within a utility easement, and repair or replacement of a utility is required within the easement for the provision of such utilities, where:

		repair/replacement in utility easements	<p>A. The General Manager is satisfied that there is no reasonable alternative to tree removal for the completion of the work, and</p> <p>B. The General Manager is satisfied that the applicant has undertaken to implement satisfactory replanting.</p> <p>C. The ward councillor has been advised that a permit will be issued.</p>
813-6.A. Protection			
813-6.A.	Revise	To clarify	Every person doing any work on City streets, or performing work that will impact trees on City streets, shall carry out such work in accordance with this article, the City's Tree Protection Policy and Specifications for Construction Near Trees, and the terms and conditions of any permit issued under 813-6.B or any other standards established by the General Manager.
813-6.B. Injury and removal Delete this section title replace section title to read "Permit Required"			
813-6.B.	Revise and move to 813—6.B.1	Establishes Permit requirement for injury, destruction or removal of City street trees.	<p>A. No person shall injure, destroy, or remove, or permit the injury or destruction of a tree without a permit. A permit may be subject to such conditions including payment of tree value, removal and replacement costs, replanting, posting a letter of credit or alternative form of security, in a form and content acceptable to the City in an amount sufficient to cover the appraised value of the subject tree as well as removal and replacement costs, provision of a detailed tree protection plan and provision of a qualified arborist's or forester's report detailing specific arboricultural procedures to be undertaken.</p>
813-6.B.1. Permit required; applications; form and content. (New Clause)			
813-6.B.1	Insert New	Establishes Application requirements	<p>B. An applicant who wishes to remove a healthy City-owned tree shall submit to the General Manager an application on the prescribed form and shall provide the following to the satisfaction of the General Manager:</p> <ol style="list-style-type: none"> (1) The name, address and telephone number of the applicant. (2) The non-refundable application fee set out in Chapter 441, Appendix C. (3) The reason for the application. (4) A landscape plan satisfactory to the General Manager and Ward Councillor. (5) Such other information or documentation as the General Manager, acting reasonably may require. <p>C. Despite 813-6.B.1.A(2) no fee shall be payable with respect to:</p>

			<p>(1) The not-for-profit portion of housing projects undertaken by:</p> <ul style="list-style-type: none"> (a) The Toronto and Community Housing Corporation. (b) Habitat for Humanity (c) Recognized not-for-profit housing organizations including organizations providing social housing as referred to in subsection 7(1) paragraphs 1-4 of the <i>Residential Tenancies Act, 2006</i>. <p>(2) Owners living below the low-income cut off as determined by Statistics Canada.</p>
Permits to Destroy or Remove; conditions (New Section)			
	Insert New	Establishes terms and conditions for permits and for consistency with other by-laws	<p>A permit to destroy or remove trees shall be subject to the following terms and conditions:</p> <ul style="list-style-type: none"> A. Where a tree is to be destroyed or removed, replacement trees shall be planted and maintained to the satisfaction of the General Manager in accordance with landscaping and replanting plans submitted by the applicant and approved by the General Manager. B. Where replacement planting is not physically possible on site, the General Manager may: <ul style="list-style-type: none"> (1) Require replacement planting at another suitable location; or (2) Accept a cash in lieu payment in an amount equal to 120 percent of the cost of replanting and maintaining the trees for a period of two years. C. The destruction or removal shall only be carried out by an Arborist.
813-6.C. Prohibited activities			
813-6.C.(1)	Delete	Duplication of information in 813-6.B	
813-8. Offences This section to be revised for consistency with RNFPB and COTA and moved to new Article IV-Offences to deal with offences under the Street Tree by-law and Private tree by-law together-see new Article IV –Offences; Enforcement; Power of Entry; Inspection Powers			

Proposed Amendments to Municipal Code, Chapter 813, Article III, Private Tree Protection			
813-9. Definitions			
813-9	Insert New	Consistency with other by-laws	APPLICATION – A completed permit application form with supporting documentation as identified in the application package or requested by Urban Forestry for permission to injure, destroy or remove trees.
813-9	Revise	Consistency with other by-laws	ARBORIST - A specialist or expert in the area of the care and maintenance of trees and includes an arborist qualified by the Ontario Training and Adjustment Board Apprenticeship and Client Services Branch, a certified arborist qualified by the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists, a registered professional forester or a person with other similar qualifications as approved by the General Manager.
813-9	Revise	Consistency with other by-laws	DESTROY – To remove, cut down or in any other way injure a tree to such an extent that it is deemed by the General Manager to be an imminently hazardous tree or it becomes necessary to remove the tree.
813-9	Revise	Consistency with RNFPB	EMERGENCY WORK – Work of an urgent nature including but not limited to work associated with drain repairs, utility or structural repairs to a building, work to prevent soil erosion, slipping of soil or damage to trees.
813-9	Revise	To include trees recognized by the Trees Ontario	HERITAGE TREE – A tree that has been designated under Part IV of the Ontario Heritage Act, or a tree that has been recognized as a 'heritage tree' by the Ontario Heritage Tree Program of Trees Ontario.
813-9	Amend	To clarify positions of persons designated as officers for purposes of enforcement	OFFICER: A City employee whose duties include the enforcement of this chapter, including but not limited to , the General Manager of Parks, Forestry and Recreation, the City Forester and persons holding the position of Urban Forestry Supervisor, Urban Forestry Co-ordinator, Urban Forestry Planner, Urban Forestry Planning Assistant, Urban Forestry Manager, Arborist Inspector and Arborist Foreperson
813-9	Insert New	Consistency with other by-laws	PERMIT – a permit required under this article.
813-9	Insert New	To clarify	TERMINALLY DISEASED – Advanced and irreversible decline in tree health, that has resulted in the majority of crown die back or failure, due to a severe insect infestation or infection by a pathogen.
813-10. Permit required			

813-10	Revise	To clarify persons responsible for allowing tree injury, destruction or removal	No person shall injure, destroy or remove, or permit the injury, destruction or removal of any tree, including a multi-stem tree having at least one stem, that has a diameter measurement of 30 centimetres or more measured at 1.4 metres above ground level in accordance with this article, unless authorized by permit to do so.
813-11. Exceptions			
813-11. A	Revise	Consistency with definition	Removal of a terminally diseased, dead or imminently hazardous tree certified as such by the General Manager.
813-11. C	Revise	To clarify	Pruning of tree branches that interfere with utility conductors as certified by the General Manager.
813-11. D	Revise	To clarify	Emergency work as certified by the General Manager.
813-11. F	Revise	Consistency with RNFPB	Injury or destruction of trees in ravine and natural feature protection areas designated under Municipal Code, Chapter 658, Ravine and Natural Feature Protection.
813-12. Applications; form and content			
813-12.A.(2)	Revise	Location of fees in the Fees By-law has changed	delete reference to 'Schedule 8'
813-13. Powers and duties of General Manager			
813-13. F	Revise	To permit alternate methods of providing securities	Require an applicant to post a letter of credit or alternative form of security in a form and content acceptable to the General Manager to ensure compliance with conditions of permit issuance.
813-16. Issuance of Permits			
813-16.B. (6)	Insert New	Authorizes GM to issue permits for injury, destruction, removal of healthy trees in cemeteries	Injury, destruction or removal is required to permit activities associated with the day to day operations of a cemetery for the interring or disinterring of remains.
813-16.1.B to 813-16.B.(7)	Move	Authorizes GM to issue permits for injury, destruction, removal of healthy trees over underground parking structures	Trees are growing on top of underground parking structures, if removal or injury is required to facilitate repairs to the structure and a satisfactory replanting and/or tree protection plan is provided.
813-16.B.(8)	Insert New	Clarifies GM's authority	Trees are located on lands owned by the City, its agencies, boards or

		to issue permits for injury, removal or destruction of trees to accommodate work on lands owned by the City or ABCs	commissions, where: (a) City Council has approved works that will impact trees, and (b) The General Manager is satisfied that there is no reasonable alternative to tree removal for the completion of the work, and (c) The General Manager is satisfied that the applicant has undertaken to implement satisfactory replanting. (d) The ward councillor has been advised that a permit will be issued.
813-16.B.(9)	Insert New	Clarifies GM's authority to issue permits for injury, removal or destruction of trees to accommodate utility repair/replacement in utility easements	Trees are located within a utility easement, and repair or replacement of a utility is required within the easement for the provision of such utilities, where: (a) The General Manager is satisfied that there is no reasonable alternative to tree removal for the completion of the work, and (b) The General Manager is satisfied that the applicant has undertaken to implement satisfactory replanting. (c) The ward councillor has been advised that a permit will be issued.
813-16.1. Issuance of permits; notification; consultation			
813-16.1.C (1)	Delete	Removes requirement to post notice where injury, removal or destruction is required based on approved plans.	
813-17 Notice			
813-17	Delete	Removes requirement to post notice for application to injure, remove or destroy healthy trees	
813-18. Permits to destroy; conditions			
813-18.E.	Insert New	Provides authority for GM to establish expiry dates for permits	The General Manager is authorized to establish an appropriate expiry date for permits to destroy or remove trees.
813-18.F.	Insert New	Provides authority for GM to approve/refuse transfer of applications and permits	To approve or refuse the transfer of an application or permit to destroy or remove trees.

813-18.G.	Insert New	Provides authority for GM to approve or refuse renewal of permits	To require a new permit application for tree removal where a permit has expired, or where a transfer of application or permit is not approved by the General Manager, or where additional trees are required for removal. Upon receipt of a new application the General Manager may refuse to issue a permit or may issue a permit subject to additional or alternative conditions.
813-19. Permits to injure; conditions			
813-19.D.	Insert New	Provides authority for GM to establish expiry dates for permits	The General Manager is authorized to establish an appropriate expiry dates for permits to injure trees.
813-19.E.	Insert New	Provides authority for GM to approve or refuse transfer of applications and permits	To approve or refuse the transfer of an application or permit to injure trees.
813-19.F.	Insert New	Provides authority for GM to approve or refuse renewal of permits	To require a new permit application for tree injury where a permit has expired, or where a transfer of application or permit is not approved by the General Manager, or where additional trees are requested to be injured. Upon receipt of a new application the General Manager may refuse to issue a permit or may issue a permit subject to additional or alternative conditions.
813-20.1. Enforcement; Power of entry; inspection powers (New Article)			
813-20.1	Insert New Article IV consolidates offences and enforcement provisions of articles II and III under one article and updates in accordance	To permit entry on private property for purposes of inspection and enforcement. Inspection under power of entry	A. An Officer may enter upon any lands at any reasonable time for the purpose of carrying out an inspection to determine whether: (1) This chapter is being complied with. (2) The conditions of any permit issued under this chapter are being complied with. B. A person carrying out an inspection under 813-20.1.A may: (1) Require the production of documents relevant to the inspection.

			If a person fails to comply with an order to do work to correct a contravention of this chapter, an officer, or persons acting upon the officer's instructions, may enter the lands at any reasonable time for the purposes of doing the things described in the order at the person's expense.
813-23. Offences			
813-23.B.	Revise	Consistency with other by-laws	<p>A. Any person who contravenes any provision of this chapter is guilty of an offence.</p> <p>B. A director or officer of a corporation who knowingly concurs in the contravention of this chapter is guilty of an offence.</p> <p>C. A person, director or officer of a corporation convicted of an offence under this chapter is liable:</p> <p>(1) To a fine of not less than \$500 per tree and not more than \$100,000 per tree</p> <p>(2) To a special fine of not more than \$100,000 to eliminate or reduce any economic advantage or gain from contravening this chapter.</p>

Proposed Revisions to the Fees By-law, Chapter 441, Appendix C, Schedule 7 – to clarify the Fee Description					
Ref. No.	Service	Fee Description	Fee Basis	Fee	Annual Adjustment
7000	Urban Forestry	Construction Related Permit Fee - private tree	per tree	\$300	No
7001	Urban Forestry	Non-construction Related Permit Fee – private tree	per tree	\$100	No
7002	Urban Forestry	Construction/Non-construction Related Permit Fee – City- owned tree	per tree	\$300	No