



## REPORT FOR ACTION

# Impact of Enforcement Actions and Revisions to the Tree By-laws

**Date:** December 12, 2017

**To:** Parks and Environment Committee

**From:** General Manager, Parks, Forestry and Recreation

**Wards:** All

## SUMMARY

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*City of Toronto Municipal Code, Chapter 813, Trees, Article II (Street Tree By-law) and Article III (Private Tree By-law) provide protection for trees of all diameter sizes located within the City road allowance and trees measuring 30 centimetres (cm) in diameter or greater situated on privately-owned property respectively. City of Toronto Municipal Code, Chapter 658, Ravine and Natural Feature Protection provides for protection of all trees and natural features in designated areas of the city. Collectively these by-laws are referred to as the City's tree by-laws.*

Revisions to the tree by-laws were approved by City Council at its December 9 and 10, 2015 meeting. These revisions included measures to improve by-law enforcement, processing of applications involving shared or boundary line trees, requirements for posting of notice and other administrative changes required to improve by-law consistency, effectiveness, transparency and to reduce service delays.

This report provides an update on the impacts of these revisions, including improved consistency and impacts on permit wait times, enforcement actions, and the integration of tree removal requests with the City's planning process, while highlighting improvements to Urban Forestry service standards.

## RECOMMENDATIONS

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

1. The Parks and Environment Committee receive this report for information.

## FINANCIAL IMPACT

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There are no financial implications resulting from the adoption of this report.

## DECISION HISTORY

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At its meeting of December 9 and 10, 2015, through item PE8.5, "Revisions to the Tree By-laws", City Council requested the General Manager, Parks, Forestry and Recreation to report back in 2017 on the impact of the revisions to the Tree By-laws; such report to include the impact on permit wait times, on enforcement actions and the integration of tree removal requests with the planning process and to include recommendations on improvements to Urban Forestry service standards. City Council also directed the General Manager, Parks, Forestry and Recreation, in consultation with the Chief Planner and Executive Director, City Planning and the Chief Building Official and Executive Director, Toronto Building, to develop and implement a plan to better integrate tree protection into the development review process.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PE8.5>

At its meeting of October 19, 2016, the Parks and Environment Committee, through item PE14.3, "Improving Enforcement of the City's Tree By-laws", requested the General Manager, Parks, Forestry and Recreation to include, as part of the report back in 2017 on the impact of the 2015 revisions to the Tree By-laws, options for further improvements to enforcement.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PE14.3>

At its meeting of December 13, 2016, City Council adopted item MM23.17 entitled, "Lack of Protection of City Trees" which requested the General Manager, Parks Forestry and Recreation to report to Council through the Parks and Environment Committee on a plan to ensure proactive and effective protection of City trees during construction.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.MM23.17>

## COMMENTS

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In 2015 City Council approved a motion to amend *Municipal Code, Chapter, 813, Trees, Article II and Article III*, and *Municipal Code, Chapter 658, Ravine and Natural Feature Protection* known as the Street Tree By-law, Private Tree By-law and the Ravine and Natural Feature Protection By-law, respectively. The by-law amendments enhanced enforcement abilities, facilitated the issuance of permits and included new procedures related to boundary trees. The amendments also clarified processes and added new revised definitions providing consistency between the by-laws. The amendments were proposed to provide mechanisms to improve customer service, improve response times, enhance transparency and consistency, and strengthen the by-laws.

### **By-law Consistency and Impact on Permit Wait Times**

Urban Forestry has experienced annual increases in the number of permit applications received over the last several years. Between 2011 and 2016, Urban Forestry experienced a 62 per cent increase in the number of permit applications received city-wide. In response to the increase in work volume, by-law revisions were proposed to

streamline application processing, expedite staff response times and improve efficiency. These amendments included:

- *Boundary and Neighbour Trees Definitions:* definitions were provided within the by-laws along with the establishment of a standard process for dealing with applications involving trees situated on property boundaries or neighbouring properties. These efforts clarified the City's procedures and made the application process more consistent, transparent and improved customer service. New fees for applications involving private neighbour, boundary and suspected boundary trees were also established in consideration of the additional staff time required to review and process these applications.
- *Security Deposits for Street Trees:* amendments were made to the Street Tree By-law to specifically reference the collection of tree protection guarantees when work may injure street trees. Previously, the collection of tree protection guarantees was achieved through a staff-generated policy. Through these amendments staff are now able to reference the Street Tree By-law when responding to inquiries and identify that these requirements have been approved by City Council. The result is improved transparency, consistency and staff efficiency.
- *Delegation of Authority to Issue Permits:* Urban Forestry was provided with the ability to issue permits to injure or destroy trees when required to facilitate "as-of-right" construction and when trees are specifically identified for injury or removal on plans approved by the Ontario Municipal Board, City Council or a final and binding decision of the Committee of Adjustment. This avoids subjecting property owners to the undue delay of having to appeal to City Council to remove healthy trees in conflict with approved plans. This amendment also avoids putting various City divisions in conflict with one another and has resulted in improved staff efficiency and permit processing time.
- *Elimination of the Posting of Notice of Application for Tree Injury:* this amendment removed the requirement to post notice of application for tree injuries. The decision to issue an injury permit is based on a technical assessment by Urban Forestry and staff only approve an injury when the tree is expected to survive in good condition after the injury takes place. Eliminating the need to post for tree injuries improved efficiency by reducing application processing time resulting in reduced delays to applicants, thus improving customer service while preserving valuable trees. Since this change no negative feedback has been received.
- *Posting of Permits:* amendments were made to require the posting of tree permits on site. This practice improved transparency and efficiency by notifying the public that a permit has been issued and reduced the number of "false alarm" by-law contravention calls saving staff time and allowing for more efficient use of resources.

These changes added clarity to current practices, reduced delays in service delivery, and improved overall customer service. As a result of the above-noted by-law amendments, Urban Forestry has been able to improve application response times by

253 per cent from an average of 7.7 weeks in 2015 (pre-revisions) to 2.61 weeks in 2016 and now 2.18 weeks as of June 30, 2017.

## **Enforcement**

In 2013, City Council set the target of increasing Toronto's tree canopy to 40 per cent. One of the fundamental components of the plan to achieve this goal is the protection of existing natural resources. To assist in enforcing the City's tree by-laws, Urban Forestry established a contravention inspection fee, which was approved through the 2015 Parks, Forestry and Recreation Operating Budget. The by-law revisions made in 2015 included adding specific reference to the fee within the tree by-laws.

The contravention inspection fee was established to cover the costs associated with effectively enforcing the tree by-laws. The collection of fees serve as a deterrent and make the contravention inspection process more equitable and efficient. Contravention inspection fees are only imposed where: the contravention has resulted in tree destruction or injury, the injury is significant enough to require correction, or multiple technical contraventions have occurred.

While most individuals respect and follow the tree by-laws, numerous contraventions are reported and investigated each year. Between 2011 and 2016, the number of complaints reported under the tree by-laws increased by 71 per cent city-wide. In 2016 only 52 per cent of alleged contraventions were being investigated with an average staff response time of 43 days. By hiring additional staff (funded through the collection of contravention inspection fees) 89 per cent of complaints were investigated with an average response time of eight days as of June 30, 2017. This represents a 71 per cent increase in responsiveness and an 82 per cent reduction in wait time compared to 2016.

Urban Forestry continues to strive for improvement and predicts that service levels by the end of 2017 will result in 90 per cent of reported by-law contraventions being investigated with an average response time of six days. This is proposed to continue into 2018 with 95 per cent of contraventions being investigated within an average response time of three days.

## **Integration with the Planning Process**

Urban Forestry staff work with City Planning through the development review process, reviewing and commenting on applications for: Site Plan Control, Draft Plan of Subdivision, Official Plan Amendment, Zoning By-law Amendment, and submissions to the Committee of Adjustment. Staff review and comment on issues associated with the City's tree by-laws. On average (since 2014) Urban Forestry staff have responded to 1,105 development circulations per year, meeting first circulation deadlines 87 per cent of the time.

The existing planning process incorporates trees and development application review using a "parallel process." As outlined in the *Toronto Development Guide* (December 2011), the parallel process is when City Planning reviews a site plan application submission and Parks, Forestry and Recreation also reviews the application under the

City's tree by-laws. These roles are carried out simultaneously to ensure that trees and ravine areas are properly protected and if required, approvals to injure or destroy trees have been obtained prior to issuance of the Notice of Approval and commencement of construction.

In addition to the parallel process, the by-law revisions made in 2015 provide Urban Forestry with the authority to issue permits to injure or destroy private trees when required to facilitate "as-of-right" construction and when trees are specifically identified for injury or removal on plans approved by the Ontario Municipal Board, City Council or a final and binding decision by the Committee of Adjustment. Prior to the proposed by-law changes, the Private Tree By-law required posting a notice of application for a period of 14 days and consultation with the ward councillor on the proposed landscape or tree protection plan, prior to issuance of a permit for injury or removal of healthy trees, required to facilitate "as-of-right" construction. This process required a minimum of 21 days and presented an impractical and unreasonable delay. This change has improved customer service by reducing average processing times for these applications by an estimated three to four weeks while maintaining current levels of tree protection.

Urban Forestry continues to consult with City Planning through the Developing Toronto Steering Committee and associated working group. This forum ensures Urban Forestry is engaged and current with respect to the City's development review process and provides an opportunity to voice concerns.

## **CONTACT**

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## **SIGNATURE**

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