

Additional Information - Tree Removal Permit Appeals - Delegation to Community Council

Date: May 10, 2022

To: City Council

From: General Manager, Parks, Forestry and Recreation

Wards: Ward(s) affected or All

SUMMARY

This report provides supplementary information for consideration on delegating final decision making on all tree removal permit application appeals to Community Council under Municipal Code, Chapter 27, Council Procedures, Chapter 813 Trees and Chapter 658 Ravine and Natural Feature Protection.

RECOMMENDATIONS

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

1. City Council receive this report for information.

FINANCIAL IMPACT

There are no financial impacts resulting from the adoption of the recommendations in this report. No additional funding associated with this initiative in current and future years are required.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

DECISION HISTORY

At its meeting on February 5, 6, 7, and 8, 2007, City Council considered Item 2007.EX2.5, and delegated final decision making to Community Councils on some routine local matters, subject to the necessary statutory powers being in effect, to

improve local decision-making. Exemptions issued under Chapter 813, Trees were not recommended for delegation to Community Council at that time.

<https://www.toronto.ca/legdocs/mmis/2007/cc/minutes/2007-02-05-cc02-mn.pdf>

<https://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-586.pdf>

COMMENTS

The urban forest is comprised of trees along streets, in parks, ravines and natural areas, on private property and in landscaped open spaces, throughout the city of Toronto. Trees, provide shade, energy savings, wildlife habitat, and improve air quality through removal of carbon dioxide and airborne pollutants. The City of Toronto has long recognized the importance of urban trees and the benefits they provide. In 2021, City Council reaffirmed Toronto's canopy cover target of 40 per cent by 2050 to align with the City's TransformTO Net Zero Strategy.

The intent of the City's tree by-laws are to regulate tree injury and removal, protecting trees from unnecessary injury or removal, while promoting maximum tree protection and compensation, including replacement planting. *Municipal Code Chapter 813, Trees Article II* protects trees of all sizes on public property. *Municipal Code Chapter 813, Trees Article III* protects privately owned trees with 30 cm diameter-at-breast-height (DBH) or greater. *Municipal Code Chapter 658, Ravine and Natural Feature Protection* protects trees of all sizes within the regulated area, including private property. Application of the by-laws are equitably applied across the city to protect and enhance the urban forest regardless of administrative boundaries, such as wards.

Property owners can apply for a permit to remove or injure protected trees under the provisions of the tree by-laws. Property owners can appeal to the appropriate Community Council following an Urban Forestry decision to deny the permit for removal or injury.

When an appeal is made to Community Council, Urban Forestry prepares a staff report making recommendations to Council. At the Community Council meeting, members of the public, including the applicant have an opportunity to provide information further to the permit request. Community Council makes a recommendation to either deny the request for permit (support staff recommendations) or approve the request for permit (amend staff recommendations), and the report then proceeds to City Council for a final decision.

Tree By-law Appeal Staff Report Volume and Outcomes, 2017 to 2021

Between 2017 and 2021, there were 129 tree by-law appeal staff reports before Community Council. This number represents less than 1 per cent of all tree permit applications received by Urban Forestry during this time. Table 1 provides a summary of the number of appeals submitted to each Community Council between 2017 and 2021.

The majority of tree by-law appeals (85 per cent) were associated with applications where trees were perceived as a nuisance (e.g., shade, property maintenance, undesirable species). The remaining 15 per cent were applications related to construction-related purposes (e.g., approvals related to Planning and/or Committee of Adjustment, pools or landscape construction).

The ownership of the trees subject to appeal were 80 per cent privately-owned trees, 18 per cent City-owned trees and 2 per cent City/private (boundary trees).

Table 1: Number of Appeals to Community Council 2017 - 2021

Community Council	2017	2018	2019	2020	2021	Total
North York	16	6	9	12	11	54
Toronto & East York	7	7	4	6	10	34
Etobicoke York	11	2	2	5	5	25
Scarborough	10	1	2	3	0	16
Total	44	16	17	26	26	129

Of the 129 tree by-law appeal staff reports during this time frame, Community Council adopted the staff recommendations to deny tree removal in 91 tree by-law appeal staff reports (or 82 per cent). A total of 17 tree by-law appeal staff reports (or 15 per cent) were amended by Community Council to allow tree removal. A total of 18 tree by-law appeal reports were either deferred or referred back to staff, and a total of 3 tree by-law appeal staff report were submitted without recommendation. Table 2 provides a breakdown of the appeal outcomes by Community Council between 2017 and 2021.

Table 2: Summary of Appeal Outcomes by Community Council between 2017 and 2021

Community Council	Total Staff Reports 2017-2021	Adopted staff recommendation	Amended staff recommendation	Without recommendation	Deferred or referred back to staff
North York	54	38 (70%)	7 (13%)	2 (4%)	7 (13%)
Toronto & East York	34	29 (85%)	0%	0%	5 (15%)
Etobicoke York	25	10 (40%)	10 (40%)	1 (4%)	4 (16%)
Scarborough	16	14 (87%)	0%	0%	2 (13%)

Of the 129 reports, where 18 were deferred or referred, a total of 111 tree by-law appeal staff reports proceeded to City Council. Of the 17 amended tree by-law appeal staff reports by Community Council, 8 (or 47 per cent) were subsequently overturned, and City Council adopted the original staff recommendations (denied tree removal).

Between 2017 and 2021, City Council adopted staff recommendations in tree by-law appeal staff reports 89 per cent of the time.

Delegation to Community Council

A 2007 report, *Delegation of Certain Matters to Community Councils*, prepared by the City Manager for the Executive Committee, outlined that overall exemptions issued under the City's Tree By-law have broad City-wide policy implications that need to be balanced with the more routine approval of individual tree exemptions applications. It was determined that issues related to trees should be coordinated with the broader Council priorities of the development of a comprehensive climate change plan and improving the City's tree management and care program. Additionally, it was also determined that exemptions to the City's tree by-law were to be coordinated with Council's powers and duties related to development applications and official plan amendments to ensure that Community Councils do not limit City Council's powers on subsequent planning-related matters. The report recommended that the delegated authority to act with respect to the Matters "applies only when such Matters, in the opinion of the City Manager, do not have City-wide significance and do not affect more than one Community Council."

Delegating final decision making on all or certain types of tree bylaw appeals to Community Council would require a two-thirds majority vote of City Council in order to

amend Municipal Code Chapter 27, Council Procedures. Amendments to the City's tree bylaws, Municipal Code Chapter 813, Trees, and Municipal Code Chapter 658, Ravine and Natural Features, would also be required. These amendments would be solely related to where final decision making on appeals occurs, and would not impact the current protections afforded to bylaw protected trees.

CONTACT

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SIGNATURE

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ATTACHMENTS
