



City of  
**Peterborough**

---

**To:** **Members of the General Committee**

**From:** **Cynthia Fletcher,  
Commissioner of Infrastructure and Planning Services**

**Meeting Date:** **March 4, 2019**

**Subject:** **Report IPSIM19-007  
Revisions to Tree Conservation By-law 17-120**

---

## **Purpose**

A report to update the existing Tree Conservation By-law to conserve and maintain the City's tree canopy.

## **Recommendations**

That Council approve the recommendations outlined in Report IPSIM19-007 dated March 4, 2019, of the Commissioner of Infrastructure and Planning Services, as follows:

- a) That the By-law 17-120 being the By-law to Regulate the Removal and Replacement of Trees in the City of Peterborough, entitled the Tree Conservation By-law be repealed;
- b) That the new Tree Conservation By-law, attached as Appendix A to report IPSIM19-007 be approved; and
- c) That Staff continue with public education and consultation on the Tree and Woodland Conservation By-laws.

## Budget Implications

There are no Budget implications to the acceptance of this report.

## Background

The adoption of the City's Urban Forest Strategic Plan (UFSP) in June of 2011 (Report USPW11-008) and the five year update approval in June of 2016 (Report USDIR16-007) identified the need to preserve and protect the health of the urban forest and prevent unnecessary damage or removal. The Tree and Woodland Conservation By-laws, were adopted by Council (Report USDIR17-008) to achieve this objective. Recitals of significant importance to the current By-Law include;

- D. City Council in recognition of the environmental, aesthetic value and public health benefits of trees wishes to conserve and protect trees within the City by regulating the destruction and injury of trees located on private property.
- E. The City's 2016 Urban Forest Strategic Plan update identified that approximately 28% of the tree canopy within the City is currently unprotected and City Council has determined that regulating and prohibiting the destruction and injury of trees is a matter respecting the economic, social and environmental well-being of the municipality.
- F. City Council has determined that conserving Trees is a matter respecting the economic, social and environmental well-being of the municipality.
- G. City Council has determined that it is desirable to enact a tree conservation by-law for the purpose of achieving the objectives of the City's Urban Forest Strategic Plan, which objectives include no net loss of tree canopy and using good arboricultural practice to prolong the life of trees.
- H. City Council recognizes that regulating the injury and/or removal of trees within the City will help the City achieve the objectives of the City's Urban Forest Strategic Plan, which objectives include no net loss of tree canopy and using good arboricultural practice to prolong the life of trees.
- I. City Council recognizes that, in some circumstances, a Hazardous Tree can be made safe and have its life prolonged through pruning and other good arboricultural practices.

Through the adoption of The Tree Conservation By-Law, staff committed to reporting back to Council in the spring of 2019 on the By-Law with any changes that may be required to the by-law.

## **Current By-Law Administration**

### **Progress**

Since the adoption of The Tree Conservation By-Law and The Woodland Conservation By-law in October 2017, the Urban Forest Division has processed over 1100 applications in the 16 months that followed. The majority of the applications submitted were under the Tree Conservation By-law 17-120. It is known that 71% of the urban forest canopy is within private ownership. The large number of applications received reflects the volume of tree removals and pruning carried out on private trees. This volume supports the need for regulation in the City if it is to achieve the UFSP objective of no net loss of canopy.

Some simple statistics on the applications received over the 16 month period are provided below.

### **Overall Applications**

- 1143 applications submitted under The Tree Conservation By-Law;
- 20 applications submitted under The Woodland Conservation By-Law;

### **The Tree Conservation By-Law**

- Approximately 41% of applications were to prune a healthy tree which included approximately 953 trees;
- Approximately 21% of applications were to remove a dead or dying tree which included approximately 522 trees;
- Approximately 18% of applications requested the destruction of a healthy tree which included approximately 450 trees;
- 2061 trees impacted through the By-Law;
- 194 applications are currently on-hold, lapsed or for work to City trees
- 53 applications to injure or destroy approximately 116 Ash Trees;
- 1 application denied for the destruction of 1 healthy tree;
- 34% of applications submitted by homeowner;
- 66% of applications submitted by Contractors;
- \$19,650 collected through the By-Law, which comprises \$14,650 permit fees and \$5000 compensatory planting to be carried out by the City;

## Looking Back

A period of adaptation is to be expected as the process of regulation does create an extra step in the arborist's business process and the home owner's management of their trees. However, some of the arborists have noted increases in business since the introduction of the by-laws and recognize that, in the future, the emphasis will move toward a broader spectrum of tree management.

Public and industry education and consultation has been undertaken since the introduction of the by-laws and is on-going. The process of regulation via the application and permitting process has given staff an unprecedented opportunity to meet with nearly 1200 tree owners to talk about the benefits of trees and the purpose of the By-Laws. The response and feedback from these interactions has been overwhelmingly favourable. With people seeing the need to protect and sustain the urban forest, staff has noted many instances of trees being retained and pruned rather than being removed following these discussions.

The past 16 months delivered interesting challenges for the Urban Forestry Division. Following the adoption of the By-Law, City staff was unsure what to expect regarding the magnitude of applications. The resulting 1143 applications proved to be a test in various areas. The list below provides some of the most challenging situations faced by Staff.

- The magnitude of applications received and timing thereof
- Resource requirements
- Missing and/or incorrect details on applications
- Agreement on permit fee/s and replant conditions for healthy tree removal
- The workload resulting from 2 windstorms during the spring of 2018

With staff facing the above difficulties it is expected that Arborist contractors/businesses would have experienced some challenges as well. To understand the concerns of the forestry businesses working in the City, staff invited each company to meet "one-on-one" to offer feedback on the By-Law and the process. These meetings were followed by a group session to discuss the results of the individual meetings. From this process City staff had the opportunity to better understand the industry's business process and workflows. The most common concerns received were;

- Extended processing times
- Difficulties with the application form
- A streamlined permitting process requested for pruning
- Difficulty in obtaining signatures of owner/s of trees (e.g. rental properties)
- A quicker process or exemption for ash tree removals is required
- City needs to undertake more consultation and public education on trees

## Looking Forward

To address concerns identified by staff and the forestry industry, several changes have either been implemented or are in the process of working through procedural changes to resolve these concerns. Examples of modification include;

- The introduction of an 18 month contract position to focus on the administration and regulation of the By-Law and reduce processing times;
- Utilizing software already owned and licensed by the City to administer and regulate the By-Law replacing the paper/spreadsheet approach. This new software can provide for notifications when applications have been submitted to the City for extended periods of time;
- Revisions to areas of the By-Law to streamline process such as;
  - Introduction of a written approvals for removing high risk trees, dead trees, ash trees and tree pruning
  - Exemptions for fruit trees and hedges
  - Improved guidelines when applying for and completing a permit application
- Introducing an application fee for more than 10 trees for one municipal address in any one calendar year to partially recover the staff costs required in processing the larger applications. Analysis of the applications received to date shows this will affect very few applicants and is projected to generate less than \$3000.00 annually.

## Proposed By-Law Amendments

Using the feedback received from applicants, arborists and the public in general, highlights of the proposed by-law amendments are as follows:

- Updated recitals to more clearly reflect the purpose and intent of the by-law
- Revised and additional definitions for greater clarity
- Define and exempt hedges and small fruit trees
- Revised detail concerning high risk trees (formerly hazard trees)
- Introduction of a written approvals process for pruning healthy trees or removing ash trees, dead trees and high risk trees
- Clarify and strengthen the protection of replacement trees
- Improved guidance for applicants and requirements of any supporting information
- A time limit for applications “on-hold”
- Fee for applications that include more than 10 trees in any one calendar year excluding emergency work to storm-damaged trees

## **Injury to trees**

Tree injury, specifically tree pruning is a permitted injury within the By-law through the mechanism of Good Arboricultural Practice when undertaken by an Arborist. Specifically, this is to ensure that appropriate pruning operations are undertaken to trees without detriment to their long-term health and sustainability while promoting improved standards of tree care in the urban forest.

This is underpinned by the strategic Objective 2 within the UFSP being “To maximize the benefits of the urban forest for the well-being of the community”. However to address the concerns reported by both the City and forestry industry, the City has revised the By-Law. The amendment proposed will allow an arborist or owner to submit a request to prune a tree, provide the required detail and staff to respond with a written approval as opposed to a full application and permit. This change will move the process quicker while maintaining the regulatory control to protect unnecessary damage to the urban forest. The removal of ash trees and pruning fruit trees is also included within this expedited process.

Of course, tree Injury includes a great deal more than pruning. One of the principal benefits of including Injury within the By-law is to regulate the harmful damage caused to the below ground parts of the tree; root damage through soil compaction being the most common type of injury. Many of the proposed amendments to the By-law have revised and added new definitions to provide clarity concerning tree health, high risk trees and the requirements of a tree report. Hedges are also defined and exempted addressing public feedback from the past 16 months.

## **Denials**

The By-law does allow for a permit to be denied where staff, and ultimately an appeal committee, considers the destruction of a perfectly healthy tree providing substantial benefits to the urban forest should not be permitted. The Tree and Woodland Appeals Committee includes, where possible, a Forester, an Arborist and a third member duly appointed by Council that is convened to consider appeals made under the By-law. This raises broader questions about how property rights stand in comparison to the environmental benefits that trees provide to the community as a whole and the City’s commitment to the objectives of its adopted UFSP.

It also raises the question of what circumstances might override such denial of permit. More importantly if any compensation conditions, supplementary to the existing Schedule of the current By-law, would adequately mitigate for this loss. In anticipation of these questions, the revised By-law provides for broader consideration of property owners needs, increased reporting options to fully appraise the application and provides staff with the ability to require condition that would more appropriately compensate for what will be the loss of these exceptional trees.

When considering measures that could permit the removal of such exceptional and perfectly healthy trees, the revised by-law includes the ability to require more than 4

replacement trees. It also provides for other conditional measures to mitigate the effects of the destruction upon the natural environment.

### **Next Steps**

Since the introduction of the By-laws in October 2017 staff has worked to develop and revise the processes required in regulating the Injury or Destruction of Trees within the urban forest of Peterborough. Public consultation and education will continue throughout 2019 and beyond, adding value to the regulatory process and fulfilling a number of the principal objectives of the UFSP.

A second series of drop in meetings for the public and further consultation with Arborists, together with an online survey and a second mailing of a By-law information leaflet to every household is planned for 2019 as part of the on-going consultation and education process.

An additional contract staff resource has been accommodated within existing budgets to improve processing times. In addition, the administration of both By-laws have moved to the City's Amanda Permitting and Licensing software platform as of January 1, 2019. This will provide increased efficiencies and improve reporting. Staff will continue to monitor this process and continue making adjustments where they see fit and where they have the authority to do so.

Staff recognizes that revisions are also needed to the Woodland Conservation By-law (17-121) and staff intends to prepare a new Public Tree Conservation By-law to replace the current 1982-82 By-law and Chapter 765 of the Municipal Code.

Staff will also need to review and update the existing by-laws that govern the tree planting policy and a tree levy. Each of the respective by-laws will need extensive revisions to reflect the current social, environmental and economic state of Peterborough.

### **Summary**

The introduction of the Tree Conservation By-law in October of 2017 commenced the process of regulating the Injury or Destruction of trees within the City's urban forest. This process has confirmed the extent of activity on private trees and the need to prevent any unnecessary damage or removal of such a crucial environmental resource whose damage or loss would have far-reaching impacts on community health and well-being.

The past 16 months have been a learning process for staff, homeowners and arborists with systems being developed and revised as the process has moved forward. These revisions and improvements are a direct result of processing over 1100 applications and addressing the concerns surrounding the regulatory process of urban forest conservation in the City.

By-laws that seek to conserve a living and dynamic resource and provide benefit to the entire community should be equally dynamic and continue to develop and adapt in order to meet the high expectations of all stakeholders in the urban forest. However, it is essential that the By-law maintains its core function of regulating the injury of destruction of trees to protect the urban forest from unnecessary damage or removal.

Submitted by,

Cynthia Fletcher  
Commissioner of Infrastructure and Planning Services

Contact Name:  
Bruno Bianco, P. Eng.  
Manager, Infrastructure Planning  
Phone 705-742-7777 ext 1756  
Toll Free: 1-855-738-3755  
Fax 705-876-4621  
E-mail: [bbianco@peterborough.ca](mailto:bbianco@peterborough.ca)

Paul Hambidge MICFor.  
Urban Forest Manager  
Phone: 705-742-7777, Extension 1813  
Toll Free: 1-855-738-3755  
Fax: 705-876-4621  
E-mail: [phambidge@peterborough.ca](mailto:phambidge@peterborough.ca)

Attachment:

Appendix A: Draft By-law being a By-law to Regulate the Removal and Replacement of Trees in the City of Peterborough, entitled the Tree Conservation By-law