



City of Peterborough

To: Members of the General Committee

From: Cynthia Fletcher
Commissioner of Infrastructure and Planning Services

Meeting Date: May 10, 2021

Subject: Report IPSIM21-008
Urban Forest Canopy Conservation and Tree Removal
By-Law

Purpose

A report to provide an update on the further consultation and studies related to the Urban Canopy forest and to recommend a revised Tree Removal By-law for Council approval.

Recommendations

That Council approve the recommendations outlined in Report IPSIM21-008, dated May 10, 2021, of the Commissioner of Infrastructure and Planning Services, as follows:

- a) That Council pass a Tree Removal By-law in the form comprising Appendix A to Report IPSIM21-008 to be in effect September 7, 2021;
- b) That an annual capital budget for City's contribution, of 2 new trees for each healthy private tree removal, be established and reviewed through the annual Budget Process;
- c) That a full-time technologist position, funded through the annual capital program, be approved to administer all replanting requirements, for permitted healthy tree removals, incentive programs and educational programs related to the Urban Forest Canopy;
- d) That the User Fee schedule and related By-law be updated to reflect the permitting fees for the removal of healthy trees: \$50.00/permit for Licenced Tree Service Providers and \$150.00/permit for Non-Licenced Tree service/private property owners; and

- e) That staff explore opportunities to maximize tree planting opportunities on public land – including boulevards and public rights-of-way – recognizing limited availability of public land.

Budget Implications

Capital Investment

The City currently invests approximately \$325,000 annually on replacement trees through the Emerald Ash Borer (EAB) program and Urban Forest Strategic Plan for City owned trees that have been removed. This investment is intended to compensate for trees lost to invasive pests or removed at end-of-life and does not provide for an increase or enhancement of the urban forest canopy.

The costs to provide replacement trees for the removal of healthy trees will be determined annually based on the number of privately-owned trees removed in the prior calendar year and proposed through the annual budget process.

Staffing

A full-time staff resource is required for the coordination and administration of tree planting programs in response to private tree removals, development, woodland and tree by-law compensation, planting incentives/initiatives, and public education and outreach. This position would cost approximately \$95,000 per year. The intention is to hire for this position once Council has approved the recommendations of this report. The remaining 2021 salary will be funded from the 2021 Capital Budget – Urban Forest Management – Strategic Plan Implementation (5-14.04).

Ongoing, the position will be funded from the capital allocation for Urban Forest Canopy Conservation budget as referenced in recommendation c) of this report.

Incentives

An initial recommended incentive and education program will involve a workshop and tree give away to be held twice per year (spring and fall). These workshops would distribute trees to City residents for planting on private property and offer education and outreach opportunities for proper tree care. An initial estimate to deliver the program and distribution of 400 trees annually would cost approximately \$25,000.

Potential Revenue

The potential revenue generated through permit fees is calculated based on projected healthy tree removals from data collected through the Tree Notification By-law (19-042) and is estimated at approximately \$35,000 per year.

Background

Municipal Responsibilities

The By-law is intended to protect and enhance the Urban Forest Canopy in the City of Peterborough, as per the requirements of Subsection 270 (1, clause 7) of the **Municipal Act, 2001** and to facilitate the target of achieving a 35% urban forest canopy cover by 2041 as identified in the draft Official Plan.

The environmental services and aesthetic benefits of trees are widely recognized and can be quantified. Given the benefits that trees provide collectively as an urban forest to the community, there is a legislative requirement for the municipality to protect and enhance the tree canopy of the urban forest.

Subsection 270 (1) of the **Municipal Act, 2001** (Act) (clause 7) requires Council to adopt and maintain policies that outline “the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.”

Previous Reports

In developing the framework to achieve the legislated requirement, Council has considered and approved the following previous reports:

- Report USPW11-008 – Urban Forest Strategic Plan for the City of Peterborough (UFSP), June 2011, and its update Report USDIR16-007 – Urban Forest Strategic Plan Update, May 2016. The latter report recommended a regulatory framework for private trees and Section 3.4 of the report stated:

“A growing number of instances of healthy tree removals have attracted public attention since the adoption of the 2011 UFSP and it is now prudent to regulate more stringently the removal of all healthy trees if the objectives of the UFSP are to be achieved.”

- Report CSD16-031 – Adoption of the Climate Change GHG Reduction Targets and Action Plans, December 2016. Through this report, Council adopted the Greater Peterborough Area Climate Change Action Plan (CCAP).

The CCAP identifies the need to protect and enhance natural assets (Strategy L3). This strategy recommends developing supporting policies to “place restrictions on cutting down trees on private property and/or a tree replacement policy.”

- Report USDIR17-008 – By-law for the Preservation of Trees, September 2017, and USDIR17-008A – Replacing Private Trees as Part of Tree Conservation By-laws, October 2017. These reports introduced the Tree Conservation By-law 17-120 and Woodland Conservation By-law 17-121 to establish a framework for requiring replacement trees for the removal of healthy trees and establish replacement costs to be paid for the removal of Woodland respectively.
- Report IPSIM19-007B – Interim Strategy for the Tree Conservation By-law, March 2019, introduced Tree Conservation By-Law 19-042 that eliminated the requirement to replant or pay for replacement trees when healthy trees are removed, and introduced a 72-hour notification requirement for tree removals larger than 7.5 cm diameter at breast height (DBH) to permit data gathering.
- Report IPSIM 20-003 – Climate Change Initiatives Update, March 2020. The report responds to the September 23, 2019, Council motion declaring a Climate Emergency. The Urban Forest Canopy is a key asset in support of the City’s goals related to Climate Change mitigation (through carbon dioxide sequestration) and adaptation (by reducing heat island effects and energy use through shading and controlling stormwater runoff).
- Report IPSIM20-004 – Urban Forest Canopy Conservation Update, July 2020. This report provided an update on the public consultation for the urban forest canopy and outlined guiding principles to develop a regulatory framework to protect and enhance the urban forest canopy of the City. The need for a regulatory framework for both private and publicly owned trees is driven by the majority (approximately 80%) of the urban forest being located on private property. The adopted guiding principles are:
 1. Pruning should not be part of a regulatory framework;
 2. Prequalification of tree service professionals is part of the regulatory framework;
 3. Permits are part of a regulatory framework;
 4. Incentives are part of a regulatory framework;
 5. Penalties should be considered in developing the regulatory framework;
 6. A balanced approach to any requirement for replanting trees to replace removal of healthy trees be considered in developing the regulatory framework;
 7. Education is a key element of the regulatory framework; and
 8. Cost associated with administering and enforcing a Tree Conservation By-law should be covered by fees and tax supported programs.

This report, IPSIM21-008 – Urban Forest Canopy Conservation and Tree Removal By-law, documents the findings of studies completed in 2020 and provides recommendations on implementing a regulatory framework in-line with the guiding principles based on the evidence presented in these studies.

Discussion

Assessing Benefits of the Urban Forest

Since March 2019 when the Tree Conservation By-law 17-120 was repealed and the Tree Notification By-law 19-042 was introduced, a public consultation process was undertaken together with studies and assessments to quantify the urban tree canopy, its environmental benefit and identify trends in canopy change over time.

These studies are:

- Light Detection and Ranging (LiDAR) assessments of the urban forest canopy 2015/2018/2020
- 2020 Urban Forest Sampling Study (i-Tree Eco Assessment)
- Assessment of tree removals under the Tree Notification By-law (19-042)

The intention of these studies was to begin the process of applying an asset management lens to the urban forest, similar to other assets in the City that provide a benefit to the community. By understanding the extent of the urban forest, determining how this is increasing or decreasing, and characterizing the current Level of Service provided, appropriate Life-Cycle Asset Management Strategies can be developed to begin to protect and enhance the urban forest canopy.

LiDAR Assessments

The extent of the urban forest canopy cover was determined by analyzing LiDAR data obtained from 2015, 2018 and 2020. LiDAR is a remote sensing method that uses laser pulses to measure ranges and create a digital representation of the urban forest canopy. By comparing the size of these shapes in subsequent years a trend can be established.

The analysis shows a decline in overall tree canopy in the City from 2015 to 2020 (Figure 1).

- In 2015 the canopy cover was 29.8% and by 2018 it was 27.9%. This represents a 6.3% decline in the overall canopy cover.
- In 2020, the canopy cover was measured to be 26.8% representing a further loss of 4.0% from 2018.

The results demonstrate a significant trend in canopy decline with 10% of the total canopy area being lost in a period of five years.

The analysis of the surface area of the canopy using LiDAR data acquired from 2015 – 2020 provides an accurate assessment of the extent of the urban forest surface canopy and identifies the current declining trend over that time. This decline informs the recommendation that replanting must occur to halt the gradual erosion of the canopy

and this replacement program needs to be sufficient and timely to counteract losses as soon as possible. Additional planting above and beyond the removal of healthy trees will be required to provide enhancement of the canopy into the future.

Preliminary cost estimates based on different replanting options are discussed below.

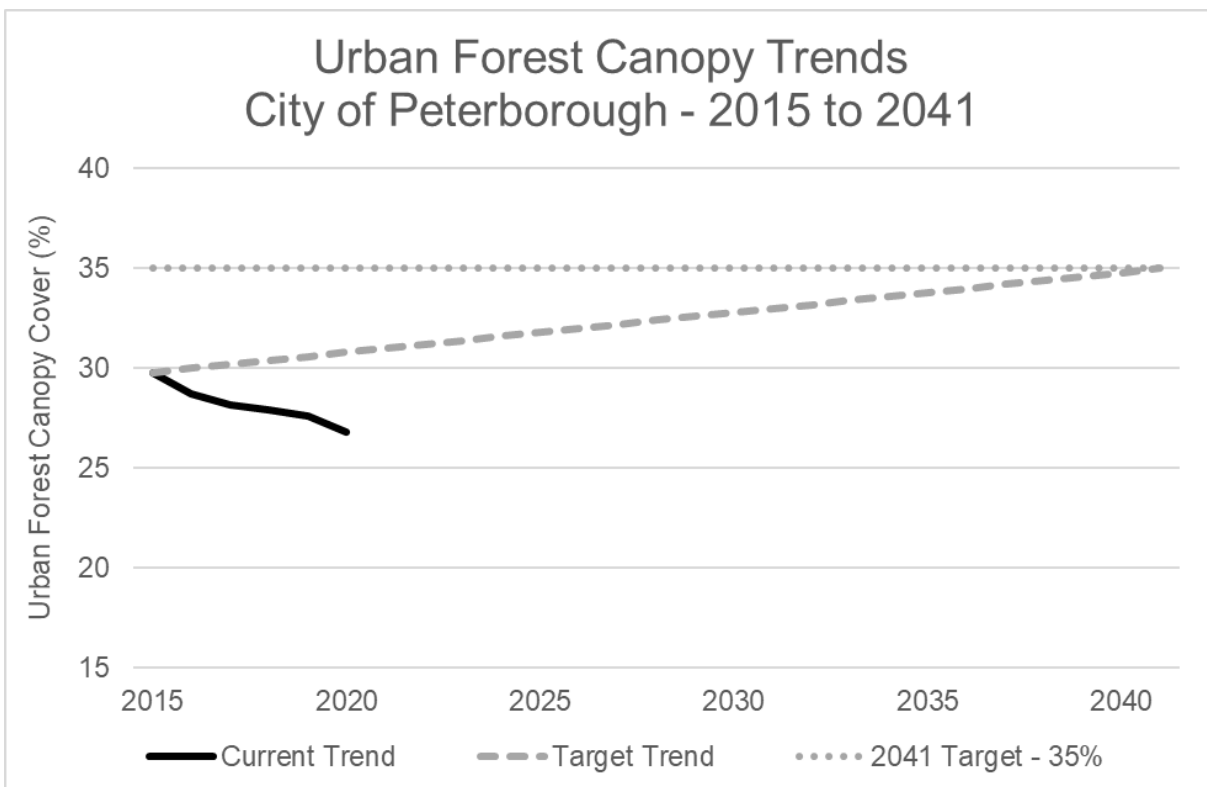


Figure 1 – Urban Forest Canopy Trends in the City of Peterborough (2015 – 2041)

2020 Urban Forest Sampling Study

The 2020 Urban Forest Sampling Study for Peterborough was conducted from May through October 2020. The study quantifies the environmental benefits of the urban forest, demonstrating its value and confirming its importance to the City.

One hundred and fifty (150) random sample plots of 0.1 hectare (1/4 acre) throughout the City were selected to capture detailed information that was used to quantify the environmental benefits of the urban forest using an industry recognized software modelling program (i-Tree Eco V.6) to analyse the results.

The assessment establishes the monetary value of the urban forest to the community and quantifies some of the benefits of the private and publicly owned urban forest canopy. It is also recognized that the urban forest provides social and cultural benefits to the community in addition to the monetary benefits calculated.

The assessment demonstrates the current monetary value of the environmental services that the urban forest gives to the City, particularly carbon sequestration and storage, which is important in mitigating climate change. The assessment will provide a baseline for monitoring the environmental impacts of change to the forest and a platform for education of stakeholders in the value of trees across the whole community.

Some preliminary highlights of the findings for Peterborough’s urban forest are summarized below. The monetary values assigned are based on what an equivalent cost would be to achieve a similar function if performed by an engineered solution.

Table 1
 The assessed value of benefits for Peterborough’s urban forest

Number of Trees	651,400
Replacement Value*	\$579 million
Building Energy Savings	\$983,000/year
Carbon Sequestered	4,106 tons/year (\$428,000/year)
Carbon Stored	129,900 tons (\$13.5 million)
Stormwater Runoff Mitigated	43,154 m ³ /year
Pollutants Removed	84.5 tons/year (\$481,000/year)

*The replacement value of trees in i-Tree is based on the trunk formula method of the Council of Tree and Landscape Appraisers (CTLA 1992) and models what the tree would be worth if it could be purchased commercially.

Assessment of Healthy Tree Removals under By-law 19-042

By-law 19-042 was enacted as an interim measure following the repeal of the Tree Conservation By-law 17-120 and has been in force since April 2019.

The 19-042 By-law provides a mechanism for recording details of trees with trunk diameters 7.5 cm or greater that are removed from privately-owned properties in the City. The By-law has a required notice period of 72 hours from the time of application to commencement of work to enable staff to validate applications, confirm ownerships and correct or add information as required.

The information submitted for the 19-042 notifications, which covers the period April 2019 through March 2021, was reviewed to summarize key findings. A review of privately-owned healthy tree removals since April 2019, using the information submitted under the Tree Notification By-law 19-042, records a net loss approximately 13 ha (32 acres) of healthy tree canopy valued at ~\$5.1M that is unlikely to be replaced.

Furthermore, of the trees removed approximately 56% were in good to fair condition, 23% were in poor condition, and only 10% of applicants indicated an intention to replant a healthy tree that was removed.

This review informs the need for broader education about the benefits of trees, the need for regulation and the purpose of replanting.

Table 2
 Assessed value of benefits lost through Tree Removals (By-law 19-042, 2019-2021)

Number of Healthy Trees Removed	2,323
Area Tree Canopy Lost	13 ha (32 acres)
Replacement Value*	\$5.1 million
Stored Carbon Released	1,002 tons
% of Healthy Tree Removals under By-law 19-042	56%
% of Applicants Replanting	10%

*The replacement value of trees in i-Tree is based on the trunk formula method of the Council of Tree and Landscape Appraisers (CTLA 1992) and models what the tree would be worth if it could be purchased commercially.

Council, in developing its response to the legislated requirement to “protect and enhance” the tree canopy, can take different approaches. Council can direct staff to:

- 1) **Individual Responsibility:** Implement a regulatory framework focused on individual trees that would include prohibiting the removal of healthy trees. This is the most common approach used by municipalities in Southern Ontario, i.e., “opt to save the tree and therefore save the forest” together with any necessary replacement planting program for trees that have reached the end of their natural lifespan or experienced damage due to natural causes. A by-law is required and costs to maintain and enhance the canopy is shared, with those who have direct impact providing additional compensation.
- 2) **City Responsibility:** Implement a management program that does not prohibit the removal of any healthy trees, but rather, seeks to protect the forest through adequate compensatory replanting to ensure the canopy’s continued health, where replacement is achieved over a defined timeframe. A by-law is required to collect data to quantify private tree removals and Council would need to establish a permanent budget within the capital program, as costs would be borne by the City/taxpayer.

- 3) **Shared Responsibility:** Implement a hybrid approach that still allows for the removal of healthy trees less than a specified trunk diameter and reserves the option to regulate removal of trees with a trunk diameter larger than a specified size. This approach more closely reflects the feedback received from the public consultation process and is inline with Guiding Principle 6 that a balanced approach to requiring tree replacements for healthy tree removals is considered. A by-law is required and costs to maintain and enhance the canopy is shared, with those who have direct impact providing additional compensation. This approach intends to strike a balance between options 1 and 2.

Based on the public/industry consultation feedback and results of the completed studies, Option 3 is recommended

Guiding the regulatory framework

In response to the staff report IPSIM20-004, dated July 6, 2020 Council endorsed eight (8) Guiding Principles to protect and enhance the tree canopy of the City's urban forest.

1. Pruning should not be part of a regulatory framework
2. Prequalification of tree service professionals is part of the regulatory framework
3. Permits are part of a regulatory framework
4. Incentives are part of a regulatory framework
5. Penalties should be considered in developing the regulatory framework
6. A balanced approach to any requirement for replanting trees to replace removal of healthy trees be considered in developing the regulatory framework
7. Education is a key element of the regulatory framework
8. Cost associated with administering and enforcing a Tree Conservation By-law should be covered by fees and tax supported programs

The proposed Tree Removal By-law was drafted following the previously outlined studies and public/industry consultations and with a view to the Council endorsed guiding principles as outlined below.

Guiding Principle #1: Pruning should not be part of a regulatory framework

In response to concerns from local industry and homeowners, pruning will not be part of the regulatory framework. However, it is widely recognized that incorrect pruning can be detrimental to the health of a tree if carried out incorrectly.

By excluding pruning from the by-law, a tree service provider can complete additional pruning work at a neighbouring property when already on site – a key concern raised by tree service providers previously. Proper pruning will be an element of future education and outreach around tree management practices, since incorrect pruning can be detrimental to the health of a tree.

Guiding Principle #2: Prequalification of Tree Service Professionals

During the consultation with the public, tree service providers and key stakeholders there was recognition that tree service providers are seen as subject matter experts with respect to the care of trees and a system of prequalifying this activity in the City has support. Pre-qualification of tree service providers validates this expertise and will provide great assistance to the City related to data gathering/verification, education related to the importance of the urban forest canopy and proper tending of trees species.

At present Arborists are not a compulsory or a red seal trade in Ontario, as defined in the Ontario College of Trades and Apprenticeship Act. However, the term Arborist is defined in the Woodland Conservation By-law 17-121. Together with other criteria, this definition can be used as a basis for adding a tree service provider to the existing Licensing By-law.

Licensing creates a mechanism to expedite field work, which was a key item raised by residents and tree service providers during the consultation. To facilitate this process a smartphone/tablet application for licensed tree service providers has been developed. This application will allow licensed tree service providers to record tree information on site, including photographs, for submission directly into the City's GIS system from the field. Each licensed tree service provider will have its own login credentials, enabling access to the system to record application information in real-time.

The proposed By-law contemplates that work under a permit issued by a Tree Service Provider could commence 72 hours after the Tree Service Provider has transmitted application information to the City's GIS system information. The involvement of Tree Services Providers in the administration of the By-law's permit system is considered an improved approach to reasonably balancing effective and efficient customer service and the objective to preserve and enhance the City's tree canopy.

The process from application to permit to commencement of actual work can be expedited by leveraging available technology to collect fees and issue permits. This process will streamline the process for applicants, since about 70% of applications under the present By-law 19-042 and under the previous By-law 17-120, were received from tree service providers.

Applications received from unlicensed tree service providers or the general public will be processed by staff in a traditional manner using on-line forms, with paper options still available. An administrative fee would be required for applications submitted in this manner. Applications completed through a Licensed Tree Service Provider would not be subject to an application fee.

Permit applications are required for the removal of all trees (excluding dead, less than a minimum size, or an exempted species) as a requirement of the regulatory process. Applications from the public and non-licensed tree service providers are validated.

The licensing of tree service providers effectively creates a process where staff accept the information to be correct as submitted by the applicant and the permit to be automatically issued after the elapse of 3 business days, subject to the payment of any fees.

Guiding Principle #3: Permits are part of a regulatory framework

Permits are a fundamental to regulatory framework and may be issued in several ways.

A permit to remove a tree for a Licensed Tree Service Providers will include the submission of complete information through the software application, payment of any fees or charges and the elapse of the 3-business day notice period (subject to agreed exceptions).

For a non-licensed tree service provider and the public, the permit would be issued, subject to receipt of a fully completed and compliant application and payment of any appropriate fee(s). As these applications will be processed in a traditional manner, processing time will be longer for these applications. This process will incentivize tree owners towards using the streamlined process for licensed tree service providers for more efficient tree management and reduced risk to municipal and private property.

It is suggested that reduced fees will apply to applications from Licensed Tree Service Providers, further incentivizing homeowners to use this service.

Permit Fees

It is anticipated that permit fees and replanting conditions will only apply to healthy tree removals. Permit fees and replanting conditions would not apply to removals of dead or high-risk trees since this is responsible tree management.

Permit fees are intended to offset the costs of administration. Recognizing that Licensed Tree Service Providers will be bearing some of the cost for permits administered by them, it is proposed that a discounted permit fee be implemented. It is proposed that the regular permit fee is set at \$150 and that the permit fee for permits issued by Licensed Tree Service Providers be set at \$50.

Based on data collected under Notification By-law 19-042 it is estimated that approximately 450 permits for healthy tree removals would be issued annually and assuming a 70/30 split of work from Licensed Tree Service Providers and others will result in ~\$35,000 revenue from this source.

Tree Size Exemptions

Report IPSIM20-004 called for a review of the minimum size of tree that requires a permit. By-law 19-042 requires the applicant to notify removals of trees with trunk diameters 7.5 cm and above. During the period March 2019 to November 2020 no complaints were received relating to this requirement.

The size at which most tree species begin to contribute quantifiable benefit to the environment is 15 cm DBH and is proposed as the minimum size requiring compensation. In general, trees below this size can be relatively easily replaced by new planting in the landscape. This size is consistent with the City's Emerald Ash Borer Management Plan in grading trees for retention and treatment and requirements for tree inventory and replacement with development applications.

Since 24% of healthy trees removed under By-law 19-042 were between 7.5 cm and 15 cm and the community has demonstrated acceptance of submitting information for trees 7.5 cm and greater, it is proposed that trees of this size continue to have information provided to enable better long-term planning of the asset. The detailed distribution of trees removed under By-law 19-042 is in Appendix A.

Guiding Principle #4: Incentives are part of the regulatory framework

Incentivized planting on private property could be achieved through initiatives such as tree planting programs in established subdivisions and older properties. This mechanism will provide for replacement trees being planted in cases where replanting conditions are not required (i.e., the removal of dead or high-risk trees).

The City could provide smaller container grown trees as part of tree planting workshops, partnering with local non-profits. The choice of species would be much broader than the City can use in the road allowance with a focus on native species, biodiversity, pollination and fruit trees.

In addition, planting incentives create a unique opportunity to educate residents on tree care and for canopy stability and future growth throughout the entire community, rather than just on municipal property.

Incentivized tree planting on private property could prove crucial in the City's response to climate change since three times more land is in private ownership offering favorable growth conditions which can be planted with smaller stock. The challenges facing municipal planting are generally one of less favorable growth conditions, restricted space and the increased costs of providing more resilient trees in public areas.

Guiding Principle #5: Penalties should be considered in developing the regulatory framework

Penalties consistent with the interim Notification By-law 19-042 have been incorporated in the revised by-law. The Administrative Monetary Penalty (AMP) system encourages compliance with municipal standards.

Guiding Principle #6: A balanced approach to any requirement for replanting trees to replace removal of healthy trees be considered in developing the regulatory framework

The replacement of removed healthy trees is fundamental in protecting the tree canopy of the urban forest.

Continued removal of privately-owned healthy trees requires the owner, the City or both, to replace removed trees if the statutory requirement to protect and enhance the urban tree canopy is to be achieved. The analysis of the data collected through the tree notification By-law 19-042 showed that there has been loss of a large number of healthy trees on private property over the past 2 years and that the majority of these will not be replaced by property owners.

There are 3 options to achieve the necessary replacement planting for healthy tree removals:

1. The tree owner replants and/or compensates the City, at their cost, for all the healthy trees removed at a rate that will replace lost canopy and benefits within a given timeframe.
 - High cost for the owner, low cost for the City and other taxpayers.
2. The City replants all of the healthy trees removed at a rate that will replace lost canopy and benefits within a given timeframe.
 - Low cost for the owner, high cost for all taxpayers, as the City would need to increase annual capital budgets for replacement trees.
3. The tree owner replants 1 new tree, at their cost, for each healthy tree removed and the City makes up the shortfall, by planting on City-owned lands and/or incentivizes new planting on private property.
 - Moderate cost for the owner, moderate to high cost for the City/taxpayer.

A balanced approach to replacement planting, where costs are shared by the owner and the City would be Option 3.

Replacement planting models and ratios for trees generally consider replacing lost benefits within a 25-year time frame as being the most practical and achievable option and is consistent with the City's Emerald Ash Borer Management Plan. This method determines the number of newly planted trees that would be required to provide equivalent canopy and benefits with a middle-aged healthy tree if it were left to grow over a given timeframe assuming no tree mortality.

Using the sizes, growth rates and calculated benefits of an average 30 cm diameter ash tree, a minimum planting ratio would be 3 replacement trees for 1 removed tree (see Appendix B).

To ensure that replacement tree planting is carried out and that trees are established and healthy after 2 years, periodic inspection by City staff to confirm the permit conditions have been met may occur. The AMP process will be utilized should replacement planting not occur.

Guiding Principle #7: Education is a key element of the regulatory framework

Education and outreach about the urban canopy and the benefits of trees to the whole community can be achieved via the City website and social media accounts.

Workshops with stakeholders and local partners in spring and fall of each year could offer opportunities for education about trees, improve planting practices and provide means of distributing trees to property owners tasked with replacing trees under a future tree conservation by-law.

Education can be facilitated through the regulatory framework during the permit application and confirmation process by including information in the body of any electronic correspondence and in-person during checks on application details and tree planting completion.

A stewardship framework could be created with local non-profits to develop and administer tree planting initiatives such as a backyard tree planting or adopt-a-tree programs.

Guiding Principle #8: Cost associated with administering and enforcing a Tree Conservation By-law should be covered by fees and tax supported program

As per Figure 1 – Urban Forest Canopy Trends in the City of Peterborough (2015 – 2041), the loss of the urban forest canopy since 2015 exceeds the combined private and public investment in replacement planting. Additional investment will be required to reverse this trend to maintain and expand the existing canopy. Staff will review and administer opportunities for grants, partnerships, incentive programs and incremental capital investment increases as ways of mitigating the loss of trees and protecting the urban forest canopy.

The Tree Removal By-law presented in this report proposes that when a healthy privately-owned tree is removed, replacement plantings are required to form part of a Life-Cycle Asset Management Strategy for the natural asset of the urban forest in the City. This replacement planting is proposed at a 3:1 ratio for the removal of a healthy tree with one replant required by the private property owner and two replants required by the City.

To estimate the costs to the City for replacement tree planting, data collected through the Tree Notification By-law 19-042 over the 24-month period from April 2019 to March 2021 was reviewed.

- 2,323 healthy trees were removed in 24 months
- 1,162 healthy trees removed per year
- 3,485 total replacement trees required/year (3:1 replacement ratio)
- 2,323 replacement trees/year planted by City (2 of 3 replacements)

Over this period there would be a requirement for the City to replant nearly 2,323 trees/year to replace this lost tree canopy within a 25-year timeframe.

City costs would be $2323 \times \$500/\text{tree} = \$1,161,500$. This cost is based on trees of 40 mm caliper stock.

If there was significant uptake in the incentive programs and private property owners demonstrate a willingness to plant trees on private property, the City's required investment could be reduced to approximately \$650,000 if one of the two replacements was planted in this manner.

Since the objective of a replanting program is to achieve equivalent canopy replacement, staff will look at opportunities for tree planting including creating new forested areas of equivalent canopy where public land is available to implement a cost-effective approach.

Furthermore, staff will work with other levels of government and other private organizations to access funding to offset this financial investment.

The level of investment will be reviewed on an annual basis, established based on the numbers of actual tree removals and brought forward through the annual Capital Budgeting process for Council approval.

Proposed Tree Removal By-law

Appendix C is the proposed Tree Removal By-law. Following is a summary of its key features:

- Defined terms (section 7);
- Activities to which the By-law does not apply (section 8);
- “Destroying” or “Injuring” a “Tree” are prohibited except pursuant to a “Permit” (sections 9 and 10);
- Permit applications and Permit issuance including conditions to Permits (sections 11-14);
- Permits issued by “Tree Services Providers” (section 15);
- Conditions applicable to all Permits (section 19);
- Matters related to the administration of the By-law (section 20);
- Circumstances in which Permit may be revoked (section 22);
- Administrative Orders (section 26) and remedial work (section 29);
- Appeals to Hearing Officer (section 30) against conditions to a Permit or a refusal to issue a Permit (section 16), revocation of a Permit (section 23) and against an administrative order (section 27);
- Administrative penalties in addition to any other remedy (sections 31-33);
- Escalating fines for subsequent offences (section 34);
- No “double jeopardy”. A Person cannot be prosecuted for an offence for which the Person has been given an administrative penalty notice (section 35).

Permanent Full-Time Position

Given the current declining trend of the urban forest in Peterborough and the number of replacement trees that will need to be coordinated and planned in the coming years, additional staff resources are required.

Currently, there are two staff members in the Urban Forestry Planning Section of the Infrastructure Management Division. The small team is responsible for the strategic management of the urban forest as an asset. This work includes the review of development applications, delivering the Emerald Ash Borer Management Plan, planning for planting/re-planting projects, supporting the City’s Capital projects, asset planning/asset management for the urban forest canopy, site inspections and responding to forestry related inquiries/concerns.

In the past, a temporary position has been approved for the section to assist with the processing of tree by-law permits and work related to other capital projects. Staff is proposing a full-time position to administer the replanting requirements of permitted healthy tree removals and manage, co-ordinate and promote private and public tree planting throughout the City. This will include the tendering and procurement of tree planting services and the administration of said contracts and coordination with other City departments and divisions around the required and available lands (i.e., Real Estate and Property, Engineering Design and Construction, Public Works). This resource is necessary to develop and administer the incentive and education programs adopted as key Guiding Principles.

With the increased need for planting street trees in the municipal right of way, this resource can work with private property owners adjacent to municipal lands (i.e. boulevards) to provide a short-list of acceptable species options that facilitate the Urban Forest Strategic Plan canopy cover and biodiversity objectives. Due to limitations of available land, the municipality will need to maximize the number of street trees that are in the public right of way.

Without this resource, collecting information and facilitating the replacement plantings in a timely manner will be jeopardized and further delay obtaining the replacement benefits through replanting. This resource will explore opportunities to implement lower cost forest planting projects in lieu of larger caliper tree plantings on appropriate public open space.

Peterborough Environmental Advisory Committee

The results of the various studies discussed in this report and the draft recommendations herein were presented to the Peterborough Environmental Advisory Committee (PEAC) at the January 20, 2021 meeting for information and comment. The feedback provided is summarized below:

- Generally supportive of pre-approving/licensing tree service providers.
- Emphasized the importance of a well conceived/written by-law.
- Suggested that staff should consider including pruning in the by-law since trees can be improperly pruned and result in poor outcomes for the long-term health of a tree – though unsure of how this would be regulated.
- Emphasized the importance of collecting good data on which to base future decisions – self reported data by property owners may not be the complete picture of removals.
- Suggested permit details should be made publicly available (i.e., via a publicly viewable map).

- Suggested that a proposed fine of \$500 for not complying with the By-law could be too weak a deterrent.
- Supported the 3 for 1 replanting option – owner replants 1, City replants 2.
- Suggested staff explore ways to mitigate costs to the City by pursuing potential Provincial or Federal tree planting initiatives.
- Supported planting incentives and stressed these need to be detailed and be part of the replanting option.
- Supported emphasizing public education on trees and suggested enabling through partnerships with local environmental groups.
- Stressed the importance of strengthening a regulatory framework for the protection and enhancement of the urban forest should be framed in the context of the declaration by Council of a climate emergency recognizing that trees play a key role in mitigating and adapting to climate change.

At a subsequent meeting of PEAC on March 17, 2021, the committee passed the following recommendations:

- a) That the Peterborough Environmental Advisory Committee supports, in principle, the need for a By-law that regulates the removal of healthy trees on private property; and,
- b) That responsibility for compensation of removed healthy trees is shared by the property owner and the Municipality to enhance and protect the urban forest canopy given its role in mitigating and adapting to the impacts of climate change and other environmental, social and cultural benefits for residents.

Next Steps

If the recommendations of this report are endorsed, staff will commence the process of preparation for the introduction of the By-law, effective September 7, 2021. This will involve a significant amount of work to be completed in several key areas as next steps:

- Hire the permanent full-time Urban Forest Technologist position
- Undertake a scoping and feasibility study of municipal lands to identify their extent and suitability for a variety of long-term tree planting options, to include tabling any planting policies necessary to realize these options;
- Develop a natural asset inventory to include the woodlands and other natural heritage features;

- Work with other City departments to implement Tree Service Providers in the City's Licensing By-law, including communicating licensing criteria, validating applications and establishing community expectations;
- Deploy the GIS-based app for Licensed Tree Service Providers, including field testing and training for licensees;
- Develop and rebrand the existing By-law 19-042 online application process as the portal for all non-licensed applications under the new by-law;
- Implement the financial processes that will be required to collect fees under the new by-law;
- Partner with community outreach groups to educate private tree owners on the by-law and urban forest values; and
- Undertake an ongoing review process that evaluates the outcomes of this framework in achieving the objectives of the City's Urban Forest Strategic Plan and adjust as required to fulfil the statutory obligations.

Summary

This report provides an update on the results of studies of the Urban Forest Canopy carried out during 2020 together with the information obtained under the Tree Notification By-law 19-042 and the results of the 2019 public consultation process.

The consultation process confirms the community recognizes the importance of trees, their contribution to our well-being and their role in mitigating and adapting to climate change. Education about the value of trees, the ways they can be managed and what is lost when they are removed needs to be proactively promoted by the City.

The studies and information collected from April 2019 until March 2021 provided objective input to the review and discussion of the eight guiding principles.

If the recommendations proposed in the discussion under each of the guiding principles are approved, they will form the basis of a revised Tree Removal By-law and determine the breadth and functionality of the proposed process for Licensed Tree Service Providers.

Once the recommendations are approved, the new Tree Removal By-law and update to the Licensing By-law will come into force September 7, 2021. This will allow time for companies to obtain licensing and field test the mobile licensed tree service application. In the interim the Tree Notification By-law 19-042 will remain in effect to continue to collect data to monitor the trends of the tree canopy of the urban forest.

Submitted by,

Cynthia Fletcher
Commissioner of Infrastructure and Planning Services

Contact Name:

Michael Papadacos, P.Eng.
Manager, Infrastructure Management
Phone 705-742-7777, ext. 1756
Toll Free: 1-855-738-3755
E-mail: mpapadacos@peterborough.ca

Paul Hambidge, MICFor.
Urban Forest Manager
Phone: 705-742-7777, ext. 1813
Toll Free: 1-855-738-3755
E-mail: phambidge@peterborough.ca

Attachments:

Appendix A: Distribution of Trees Removed under By-law 19-042
Appendix B: Tree Replacement Ratio Chart
Appendix C: Proposed Tree Removal By-Law

Appendix A – Distribution of Trees removed under By-law 19-042 by size

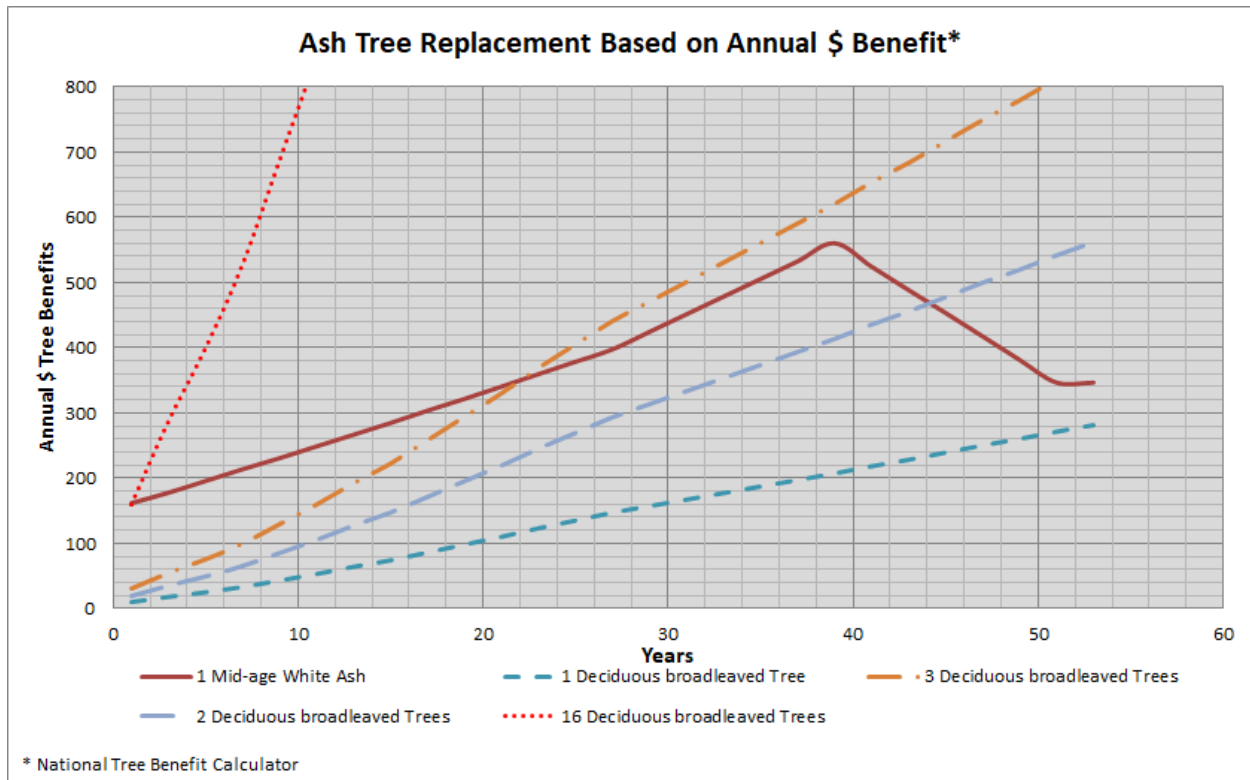
From April 2019 through October 2020, 2,275 healthy tree removals were notified and the requirement to report on trees 7.5cm or greater trunk diameter has provided valuable metrics on the size distribution of healthy tree removals over the past 2 years.

Trunk Size (DBH)	Number of healthy tree removals	Percentage (%) of healthy tree removals
7.5 cm – 15 cm	548	24
16 cm – 20 cm	383	17
21 cm – 30 cm	506	22
31 cm – 40 cm	321	14
41 cm – 50 cm	198	9
51 cm – 60 cm	116	5
61 cm – 70 cm	70	3
71 cm – 90 cm	91	4
91 cm +	42	2

In guiding the determination of a minimum tree size to be included in the by-law, the data show:

- 41% of healthy tree removals were trees between 7.5 cm and 20cm DBH.
- 22% of healthy tree removals were trees between 21 cm and 30 cm DBH.

Appendix B – Tree Replacement Ratio Chart



This model compares a 30 cm diameter ash tree with 1 or more 3 cm diameter replants at year zero and projects these forward through time. It assumes 100% survival of new trees; however, this is not supported by current research into urban tree mortality and survival. Therefore, the replacement timeframe is likely to be longer than the target 25 years.

Appendix C – Proposed Tree Removal By-law



The Corporation of the City of Peterborough

By-Law Number 21- [by-law number]

Being a by-law to protect and enhance the City's tree canopy.

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Recitals

1. Subsection 10(2) of the **Municipal Act, 2001** (the “Act”) permits a single-tier municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality, including respecting climate change.
2. Subsection 135(1) of the Act specifically permits a local municipality to enact by-laws to prohibit or regulate the destruction or injuring of trees.

3. Subsection 135(7) of the Act provides that the by-law may require that a permit be obtained to injure or destroy trees and may impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees.
4. Subsection 270(1) of the Act requires a municipality to adopt and maintain policies with respect to the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.

Now therefore, The Corporation of the City of Peterborough by its Council hereby enacts as follows:

Short Title

1. This By-Law may be referred to as the “Tree Removal By-law”.

Interpretation

2. Unless otherwise stated:
 - a) a reference to any statute or regulation refers to a statute or regulation of Ontario as it may be amended or replaced from time to time;
 - b) a reference to a by-law refers to a by-law of the City as it may be amended or replaced from time to time; and
 - c) a reference to a section, paragraph, clause or schedule is a reference to this By-law’s section, paragraph, clause or schedule.
3. The table of contents and headings in this By-law are for convenience only and do not form part of this By-law.
4. If any part of this By-law is determined to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.
5. In the event of any inconsistency between a provision of this By-law and of any other City by-law, the provision that, in the opinion of the Manager, more restrictively regulates prevails to the extent of the inconsistency.
6. This By-law applies within the territorial limits of the City.

Definitions

7. In this By-law:
 - a) “Administrative Order” means each of the orders described in paragraphs 26.a) and 26.b).
 - b) “Applicant” means each Person who or that submits an Application.
 - c) “Application” means an application for a Permit.
 - d) “By-law” means this By-law including its schedules.

- e) "City" means The Corporation of the City of Peterborough or the geographic area of the City of Peterborough as the context requires.
- f) "Council" means the City's Council.
- g) "Destroy" means to remove, cut down, or in any other way Injure a Tree to such an extent that it is or, in the Manager's determination, will be necessary to remove or cut down the tree.
- h) "DBH" or "Diameter at Breast Height" means the diameter of the stem of a Tree measured outside of the bark at a point that is 1.37 metres above the highest point of ground in an undisturbed state at the base of the Tree.
- i) "Hearing Officer" means a hearing officer appointed pursuant to Hearing Officer By-law 20-077.
- j) "Injure" means damage to a Tree that, in the Manager's determination, could inhibit or terminate its growth but does not include pruning or removing no more than 25% of the Tree's live crown that, in the Manager's determination, has improved or will improve the health of a Tree.
- k) "Manager" means each of the Commissioner, Infrastructure and Planning Services, the Manager, Infrastructure Management, the Urban Forest Manager and each Urban Forest Technologist.
- l) "Nursery" means the part of land on which the principal business is the growing of plants, shrubs and Trees for sale to the public.
- m) "Officer" means
 - i) the Manager;
 - ii) each person from time to time appointed as a municipal law enforcement officer to enforce all or any of the City's by-laws;
 - iii) each assistant to the Fire Marshal employed by the City; and
 - iv) a police officer employed by Peterborough Police Service, the Ontario Provincial Police or the Royal Canadian Mounted Police.
- n) "Orchard" means the part of land on which the principal business is the growing of fruit for sale to the public.
- o) "Owner" includes each Person who or that has any right, title, interest or equity in land on which any part of the trunk of a Tree below its first branch is situate.
- p) "Permit" means a permit issued pursuant to this By-law.
- q) "Permit Decision Notice" means a notice described in section 14.
- r) "Permit Revocation Notice" means a notice described in section 22.
- s) "Permittee" means a Person to whom or to which a Permit has been issued.
- t) "Person" includes an individual, corporation or partnership.

- u) “Tree” means any species of woody perennial plant, including its root system, which has reached or has the genetic potential to reach a height of at least 4.5 metres and a DBH of at least 7.5 centimetres at physiological maturity.
- v) “Tree Service Provider” means an individual to whom a Tree Service Provider Licence has been issued pursuant to a City Licensing By-law.

Application of By-law

8. This By-law does not apply to:

- a) activities or matters undertaken by a municipality or a local board of a municipality;
- b) activities or matters undertaken under a licence issued under the **Crown Forest Sustainability Act, 1994**;
- c) the Injuring or Destruction of trees by a person licensed under the **Surveyors Act** to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- d) the Injuring or Destruction of trees imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the **Planning Act** or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- e) the Injuring or Destruction of trees imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the **Planning Act** or as a requirement of an agreement entered into under the regulation;
- f) the Injuring or Destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the **Electricity Act, 1998**, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- g) the Injuring or Destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the **Aggregate Resources Act**;
- h) the Injuring or Destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - i) that has not been designated under the **Aggregate Resources Act** or a predecessor of that Act, and
 - ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the **Planning Act**;
- i) activities or matters undertaken pursuant to and in compliance with the Woodland Conservation By-law 17-121;

- j) activities or matters undertaken pursuant to a property standards order issued by the City; or
- k) Trees within a Nursery or an Orchard.

Destroying and Injuring Trees Prohibited

- 9. No Person may Destroy or Injure a Tree except pursuant to a Permit.
- 10. No Owner may permit a Tree to be Destroyed or Injured except pursuant to a Permit.

Permit Applications

- 11. The Manager may refuse to accept an Application unless the Manager is satisfied that:
 - a) the Application is complete, legible and submitted on forms from time to time established by the Manager;
 - b) an individual Applicant is not a minor;
 - c) the Application is by or on behalf of all Owners;
 - d) a corporate Applicant is incorporated pursuant to the laws of Ontario and is in good standing; and
 - e) the Application is accompanied by payment in full of any fee established by Council.
- 12. The Manager may issue a Permit to an Applicant if the Manager is satisfied that the Application complies with section 11, that the Applicant has complied and will comply at all times with this By-law and that the issuance of the Permit is not inconsistent with the protection and enhancement of the City's tree canopy. The Manager may otherwise refuse to issue a Permit.
- 13. In addition to conditions otherwise imposed pursuant to this By-law, the Manager may, at any time and from time to time, impose conditions to a Permit as the Manager determines are necessary to maintain the general intent and purpose of this By-law.
- 14. If the Manager issues a Permit with conditions pursuant to section 13 or refuses to issue a Permit pursuant to section 12, the Manager must give to the Applicant as soon as is reasonably practicable a Permit Decision Notice that includes the following information:
 - a) where a Permit is issued with conditions pursuant to section 13, particulars of the conditions;
 - b) where a Permit is refused, particulars of the reasons for refusing to issue the Licence;
 - c) information respecting the process by which the Applicant may exercise the Applicant's right to appeal to the Hearing Officer against the conditions or the refusal to issue the Permit; and

- d) a statement that the Manager's decision, unless modified or rescinded by a Hearing Officer, is final and not subject to review including review by any Court.
15. A Tree Service Provider may, if permitted by a Manager, exercise the authority delegated to a Manager pursuant to sections 11, 12, 13 and 14 subject to compliance with those sections, to any conditions or directions related to the permission imposed or given by the Manager and to the following:
- a) the Tree Service Provider must refuse to accept an Application that does not comply with section 11;
 - b) the Tree Service Provider must not collect personal information except:
 - i) personal information that relates only to the Applicant;
 - ii) directly from the Applicant;
 - iii) after giving notice to the Applicant in a form acceptable to the Manager and pursuant to subsection 28(2) of the **Municipal Freedom of Information and Protection of Privacy Act**, R.S.O. 1990, c. M.56;
 - iv) with the consent of the Applicant given only after the Applicant has received the notice referred in in clause iii); and
 - v) only such personal information that, in the Manager's determination, is necessary to the proper administration of this By-law.
 - c) the Tree Service Provider must impose such conditions to a Permit as the Manager may, from time to time, direct.
 - d) The Tree Service Provider must forthwith transmit to the Manager particulars of an Application that the Tree Service Provider has accepted.
 - e) The Tree Service Provider must not issue a Permit earlier than seventy-two hours following the Manager's receipt of the transmission required by paragraph d).
16. An Applicant who or that receives a Permit Decision Notice may appeal the conditions or the refusal to the Hearing Officer pursuant to section 30.
17. A Permit Decision Notice that is not appealed pursuant to section 30 is final and is not subject to review including review by any Court.
18. A Permit expires on the earlier of:
- a) the 90th day following the day on which it was issued; and
 - b) the day on which it is revoked.

Conditions Applicable to all Permits

19. Each of the following is a condition of obtaining and continuing to hold a Permit:
- a) the Permittee complies with all applicable law respecting the subject matter of the Permit including this By-law;

- b) the Permittee notifies the Manager in writing of any change to the information provided in an Application within three (3) days of the change;
- c) without limiting paragraph a), the Permittee complies with all conditions to the Permit imposed pursuant to sections 13 or 15, as applicable;
- d) the Permittee provides to the Manager such information as the Manager may from time to time require in relation to this By-law; and
- e) the Permittee is not indebted to the City for any fee, fine or penalty.

Administration of By-law

20. The Manager may do such things as the Manager considers appropriate in the administration of this By-law including:

- a) resolving inconsistencies for the purposes of section 5;
- b) determinations for the purpose of the term, “Destroy”, defined in paragraph 7.g);
- c) determinations for the purpose of the term, “Injure”, defined in paragraph 7.j);
- d) determining Application requirements and related forms for the purposes of paragraph 11.a);
- e) giving permission to Tree Service Providers pursuant to section 15 and imposing conditions and giving directions related to any such permission;
- f) directing Tree Service Providers as to conditions to be imposed on a Permit pursuant to paragraph 15.c);
- g) requiring information pursuant to paragraph 19.d);
- h) determining compliance with conditions imposed pursuant to this By-law including pursuant to sections 13, 15 and 19; and
- i) in consultation with the City Clerk, scheduling appeals to the Hearing Officer pursuant to paragraph 30.c).

21. It is Council’s opinion that the powers delegated pursuant to this By-law are of a minor nature having regard to the number of people, the size of geographic area and the time period affected by an exercise of the power.

Permit Revocation

22. In addition to any other remedy, where the Manager has reason to believe that a Permittee or a Tree Service Provider has not complied with this By-law, the Manager may give to the Permittee or the Tree Service Provider a Permit Revocation Notice that includes the following information:

- a) a statement that the Permit is revoked;
- b) particulars of the reasons for which the Permit is revoked;

- c) information respecting the process by which the Permittee may exercise the Permittee's right to appeal to the Hearing Officer against the Permit Revocation Notice; and
 - d) a statement that the Manager's decision to revoke the Permit, unless modified or rescinded by a Hearing Officer, will be final and not subject to review including review by any Court.
23. A Permittee that is given a Permit Revocation Notice may appeal to a Hearing Officer against the Permit revocation pursuant to section 30.
24. A Permit is revoked when a Permit Revocation Notice is given to the Permittee but may be reinstated only if and when so decided by the Hearing Officer pursuant to paragraph 30.g).
25. A Permit Revocation Notice that is not appealed pursuant to section 30 is final and not subject to review including review by any Court.

Administrative Orders

26. In addition to any other remedy, if an Officer is satisfied that a contravention of this By-law has occurred, the Officer may
- a) make an order requiring the Person who contravened this By-law to discontinue the contravening activity; and
 - b) make an order requiring the Person who contravened this By-law to do work to correct the contravention at the Person's expense.
27. A Person to whom or to which an Administrative Order has been given may appeal to the Hearing Officer against the order pursuant to section 30.
28. An Administrative Order that has not been appealed pursuant to section 30 is final and not subject to review including review by any Court.
29. In addition to any other remedy, the Officer may cause to be done the work set out in the order at the expense of the Person to whom or to which an Administrative Order described in paragraph 26.b) has been given if the Officer is satisfied that the Person has failed to comply with the order and:
- a) the Person has not appealed to the Hearing Officer pursuant to section 30; or
 - b) the Person has appealed to the Hearing Officer pursuant to section 30, the Hearing Officer has confirmed or modified the Administrative Order in whole or in part and the work done is consistent with the Administrative Order as confirmed or modified.

Appeal to Hearing Officer

30. The following rules and conditions apply to appeals to the Hearing Officer:
- a) A Person's right to appeal expires if it has not been exercised in the manner prescribed in paragraph b) before 4:30 p.m. on the tenth (10th) day after the

Permit Decision Notice, the Permit Revocation Notice or the Administrative Order has been given to the Person.

- b) A right to appeal is exercised by:
 - i) giving to the Manager written notice of the appeal that includes particulars of all grounds upon which the appeal is made; and by
 - ii) paying the fee from time to time prescribed by Council.
- c) The Manager will give to the Person no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
- d) Where the Person fails to appear at the time and place scheduled for a hearing of the appeal, the Person's appeal is deemed to be dismissed and the Person must pay to the City an administrative fee as from time to time prescribed by Council.
- e) Subject to paragraph d), the Hearing Officer may not decide the appeal unless the Hearing Officer has given each of the Person and the Manager an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
- f) The Person is only entitled to be heard to the extent of the particulars included in the Person's notice given pursuant to clause b)i).
- g) The Hearing Officer may make any decision that the Manager could have made pursuant to this By-law.
- h) The decision of the Hearing Officer is final and not subject to review including review by any Court.

Administrative Penalties

- 31. AMP System By-law 20-073 applies to each administrative penalty issued pursuant to this By-law.
- 32. Subject to section 33 and in addition to any other remedy, each Person that contravenes this By-law is, upon issuance of a penalty notice in accordance with AMP System By-law 20-073, liable to pay to the City an administrative penalty of:
 - a) \$175 for the remainder of the first day on which the contravention occurs; and
 - b) \$275 for each subsequent day on which the contravention continues.
- 33. Each Person that contravenes this By-law by undertaking an activity without a required Permit is, upon issuance of a penalty notice in accordance with AMP System By-law 20-073, liable to pay to the City an administrative penalty of:
 - a) \$500 for the remainder of the first day on which the contravention occurs; and
 - b) \$750 for each subsequent day on which the contravention continues.

Offences

34. Subject to section 35, each Person that contravenes this By-law is guilty of an offence and, upon conviction, is liable to a fine for each day or part of a day on which the offence occurs or continues of:
- a) not less than \$300 and not more than \$10,000;
 - b) not less than \$400 and not more than \$25,000 for a second conviction of the same offence; and
 - c) not less than \$500 and not more than \$50,000 for a third or subsequent conviction of the same offence.
35. A Person is not guilty of an offence for which a penalty notice has been issued pursuant to sections 32 or 33.

General

36. For the purposes of a prosecution under the **Provincial Offences Act**, a proceeding under this By-law and a proceeding under AMP System By-law 20-073, the holding out to the public that an activity for which a Permit is required is being undertaken without the required Permit is admissible in evidence as proof, in the absence of evidence to the contrary, that the activity is being undertaken without the required Permit.
37. Any notice to be given to a Person other than the City is sufficiently given:
- a) when given verbally to the Person;
 - b) when delivered in writing to the Person;
 - c) on the third (3rd) day after it is sent by regular lettermail to the Person's last known address; or
 - d) when sent to the Person by e-mail or by other means of electronic transmission.
38. For the purpose of paragraphs 37.c) and 37.d), a Person's last known address, last known e-mail address and other means of electronic transmission are deemed to include those provided pursuant to paragraph 11.a) as they may be changed pursuant to paragraph 19.b).
39. Any notice to be given to the City is sufficiently given:
- a) on the third (3rd) day after it is sent by regular lettermail to "Forestry Division, City of Peterborough, 500 George St. N, Peterborough, ON K9H 3R9"; or
 - b) when sent by e-mail to treebylaw@peterborough.ca.
40. No proceeding for damages or otherwise may be commenced against the City, a member of Council, or an officer, employee or agent of the City or a Person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this By-law or for any alleged neglect or default in the performance in good faith of the duty or authority.

41. By-law 19-042, By-law 1982-82 and Chapter 765 of the Peterborough Municipal Code are repealed.

42. This By-law is in effect on September 7, 2021.

By-law passed this ____ day of _____, 2021.

Diane Therrien, Mayor

John Kennedy, City Clerk