

Date: November 12, 2021	Originator's files:
To: Chair and Members of General Committee	
From: Jodi Robillos, Acting Commissioner of Community Services	Meeting date: December 1, 2021

Subject

Public Tree By-Law Update

Recommendation

1. That a by-law be enacted to repeal the Tree By-Law 91-75 and a new by-law be enacted to regulate the injuring and/or destruction of trees located on public property pursuant to the report entitled "Public Tree By-Law Update" dated November 12, 2021 from the Commissioner of Community Services, taking effect on April 1, 2022.
2. That a by-law be enacted to amend the appropriate fees and charges by-law to set out the fees associated with obtaining a permit to perform work in or around a tree located on public property and the fees for removing and replacing a tree located on public property, if permitted.

Executive Summary

- Tree By-law 91-75 is out of date and is no longer effective for enforcing the City's tree preservation and protection standards located on public property.
- An updated by-law is required to strengthen tree preservation and protection standards, provide greater clarity to the public and enforcement staff, and to require that persons obtain a permit from the City in order to injure a tree located on public property or to work within a tree protection zone of a tree located on public property.
- Engagement webpage, survey, public, internal and utility consultation was held to gather feedback on the Public Tree Protection By-Law

Background

The City of Mississauga enacted the current Public Tree By-Law entitled "The Tree By-Law" in 1975 to "regulate the planting, maintenance and protection of trees and shrubs on public lands.

Here are some of the provisions under the existing by-law:

- No one shall break, injure, uproot or otherwise destroy any tree or part thereof;
- No one shall cut, injure, damage, deface or remove any box casings or supports around any tree;
- No one shall attach any object or thing to a tree located upon a highway or in a public place;
- No one shall plant a tree or shrub on a highway or road without approval
- All trimming or work done to trees along a highway or public place must be approved by the Commissioner

The Commissioner of Community Services brought forward the corporate report to GC-0333-2021 dated May 13, 2021 entitled "Public Tree By-Law Update". General Committee directed staff to conduct community stakeholder engagement on both the Public and Private Tree By-laws, with a final report and by-laws presented to General Committee for approval in fall 2021. Staff proceeded to conduct the Public and Private Tree By-law review and aligned it with the recommendations made in the City's Future Directions Master Plan, Urban Forest Management Plan and Natural Heritage & Urban Forest Strategy.

- Recommendation # 13 of the Future Directions Master Plan (2019) states that the Private and Public Tree By-Laws should be updated every 5 years to ensure they reflect current best practices and urban forestry standards.
- Action # 15 of the Urban Forest Management Plan (2014) supports updating the Public Tree Protection by-law, which provides support to the City's urban forest expansion objectives.
- Objective # 5 of the Natural Heritage & Urban Forest Strategy (2014) supports the protection of the Natural Heritage System and Urban Forest on public lands through enforcement of applicable regulations and education

Present Status

Tree By-law 91-75 is out of date and is no longer effective for enforcing the City's tree preservation and protection standards.

By-law 91-75 provides the City with the authority to issue fines of up to \$1,000 per contravention. Fines in the by-law (1975) are not to exceed \$1,000 exclusive of costs for each offence. The only other fine is for people who ties or fasten any animals to or injures or destroys a tree along a highway or who suffers or permits any animals in his charge to injure or destroy such a tree or cuts down or removes such a tree is subject to a fine no more than \$25. These fines are outdated and no longer appropriate.

Forestry staff have consulted with public, applicable City departments and agencies for comments and input.

Comments

The City's Legal Services team has prepared the updated Public Tree By-Law. The new Public Tree By-law will include updated fines for those who contravene the by-law:

- **Corporations:**
 - 1st conviction to a fine of not more than \$5,000 per tree;
 - Subsequent conviction, to a fine of not more than \$10,000 per tree;
- **Individuals:**
 - 1st conviction to a fine of not more than \$2,500 per tree; and;
 - Subsequent conviction, to a fine of not more than \$5,000 per tree;

The updated Public Tree By-Law will also introduce new permit process including applicable fees for related to works that may impact City-owned trees:

- Public Tree By-Law Permit (one tree) - \$304.00
- Additional Trees on each permit (per tree) - \$110.00

The first fee amount is based on 4.5 hours of staff time at a Non-Union Grade E position (application review, initial inspection, hoarding inspection, final inspection, travel time), plus car allowance for 3 site trips, averaged at 15 kilometres each way. The additional tree fee is based on 2 hours of staff time at the same grade. This fee ensures any trees potentially impacted by activities undertaken pursuant to a Public Tree Permit remain protected and preserved long term while recovering 100% of staff costs.

This permit structure follows industry best practices and the corresponding fees fall in the mid-range of neighbouring municipalities (see Appendix 2). A non-union Grade E position and non-union Grade PE position have been requested for 2022 based on the estimated number of permit applications. The program will be monitored and an additional non-union Grade D position may be brought forward for the 2023 budget cycle.

The updated Public Tree By-Law clearly outlines the Tree Protection and Preservation Standards that will guide the public, development community and internal staff. The updated standards lay out City expectations pertaining to tree protection on all projects that involve trees located on City property (i.e. tree protection fencing, security deposits, and tree replacement requirements).

Updates and improvements to the protection of City trees, include:

- Requiring a permit to injure a tree located on City property. The Commissioner of Community Services will have the ability to issue, revoke or suspend a permit.

- The City may impose conditions on a permit including: a requirement for hoarding, standards and timelines for which the work is performed, having regard for good arboricultural practices.
- The City may impose financial conditions including: requiring a fee to cover the costs for the removal and replacement of a public tree where the City permits the removal of a tree located on City property or a security deposit representing the appraisal value of the tree to be used by the City in the event that a tree is injured or destroyed.
- Prohibiting the interference with hoarding, associated signage or other protective devices associated with a public tree.
- Prohibiting defacing, tacking or otherwise attaching an object or thing to, around or through a public tree without the consent of the city.
- Prohibiting storage of material, equipment or anything that would impede the health of a trees root zone.
- Requiring approval for work within the tree protection zone as identified and approved by City Staff and prohibiting grade changes in the tree protection zone.
- Prohibiting harmful and/or toxic substances on, around or near a tree.
- Prohibiting the removal any woody debris that has fallen or been cut down by the City in a natural area.
- Prohibiting planting of trees on public land without the consent of the City.

Strategic Plan

The proposed Public Tree By-Law aligns with the Green Pillar from the City's Strategic Plan that promotes a green culture, in order to lead a change in behaviours to support a more responsible and sustainable approach to the environment, that will minimize our impact on the environment and contribute to reversing climate change. These strategic goals are supported by 3 aforementioned master plan documents.

Financial Impact

The updated Public Tree By-Law will have a net zero cost to the City. The projected \$119,649 in permit fees will off-set the 1.69 FTEs (Year 1 of BR # 8443) required to administer the program. The program will be monitored and additional FTE requests may be brought forward for the 2023 budget cycle.

There is no immediate financial impact on any City projects. Any future projects will be subject to the annual business and budget planning process.

Conclusion

Tree By-law 91-75 is out of date and is no longer effective for enforcing the City's tree preservation and protection standards. An updated Public Tree By-law will strengthen tree preservation and protection standards, provide greater clarity to the public and enforcement staff, implement a public tree permitting process. It is therefore appropriate to establish the new by-law to protect the over 300,000 trees on City streets and in parks.

Attachments

- Appendix 1: Public Tree Survey Summary
- Appendix 2: Public Tree Permit Fee Benchmarking
- Appendix 3: Projected Public Tree Permit Revenue
- Appendix 4: Public Tree FAQ's
- Appendix 5: Communications Report Tree Protection By-laws



Jodi Robillos, Acting Commissioner of Community Services

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