



**SUBJECT: City-wide Private Tree Bylaw Implementation**

**TO: Committee of the Whole**

**FROM: Roads, Parks and Forestry Department**

Report Number: RPF-15-19

Wards Affected: All

File Numbers: 820-01

Date to Committee: October 7, 2019

Date to Council: October 28, 2019

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### **Recommendation:**

Table roads, parks and forestry report RPF-15-19 regarding a proposed city-wide private tree bylaw to be considered at the Committee of the Whole meeting to be held on December 2, 2019 for approval; and

Consider the potential operating and capital budget impacts for the administration of a private tree bylaw through the budget process.

### **Purpose:**

This report outlines the options to consider in following the Vision to Focus plan and the City's declared climate emergency:

- Focus Area 3: Supporting sustainable infrastructure and resilient environment
  - Trees sequester carbon and reduce the impacts of emissions
- Focus Area 4: Building more citizen engagement, community health, and culture
  - Protect and increase the tree canopy city-wide

### **Executive Summary**

Urban forests are shared community resources providing collective benefits, including cost-effective climate mitigation tools. As much as 90% of the land within the City of Burlington is privately owned. As a result, responsibility is shared by both the public and private sectors to preserve and enhance the urban forest.

Since March 2019, a pilot private tree bylaw has been in place within the Roseland community. The two-year pilot program included a provision for community consultation and evaluation of resource needs to implement a private tree bylaw city-wide.

In response to the April 23<sup>rd</sup> climate emergency declaration by council, a staff direction (SD-19-19) was passed at the June 10<sup>th</sup> Committee of the Whole as follow:

***Direct the Director of Roads, Parks and Forestry to report back to the Committee of the Whole in October 2019 regarding the resources and logistics necessary to expand the Private Tree Bylaw Pilot to encompass all of Ward 4, and city wide.***

To evaluate the amount of anticipated workload and resources required to successfully administer a city-wide private tree bylaw, city staff consulted with local municipalities that have successfully implemented a private tree bylaw.

A comprehensive review of the resource needs for the administration of both public and private tree bylaws was completed as part of this evaluation

## **Climate Impact**

On April 23, 2019, Council unanimously passed a motion to declare a Climate Emergency.

Trees play a critical role in local climate mitigation and adaptability. In a 2011 document published by The Centre for Clean Air Policy: “Planting and maintaining trees in urban settings is considered a quintessential green infrastructure practice with multiple benefits for resilience, adaptation, and even climate mitigation”. By Foster, J; Lowe, A; Winkelman, S.

Further, the United States Department of Agriculture, Forest Service, Climate Change Resource Centre cites the 2013 research paper “Urban Forests and Climate Change” by Safford, H; Larry, E.; McPherson, E.G.; Nowak, D.J. and Westphal, L.M., noting that “urban forests play an important role in climate change mitigation and adaptation. Active stewardship of a community’s forestry assets can strengthen local resilience to climate change while creating a more sustainable and desirable place to live.”

Trees are not only green infrastructure, but critical climate change adaptation elements. It is critically important to increase the protection of existing trees as well as to encourage and increase tree planting.

## **Background and Discussion:**

Urban forests are shared community resources providing collective benefits. Research indicates that trees provide improved air quality; carbon uptake; cooling effect for urban heat islands; shade from UV rays; storm water uptake; wildlife habitat; and psychological well-being benefits for residents.

As much as 90% of the land within the City of Burlington is privately owned. As a result, responsibility is shared by both the public and private sectors to preserve and enhance

the urban forest which provides critical environmental, ecological and public health benefits to the community.

The administration of both public and private tree bylaws are effective and necessary tools to manage the retention of trees and the Urban Forest Canopy.

At present there is no formal forest protection branch within the Forestry section. Through the evaluation process, it was determined that there are three distinct areas of bylaw administration that would benefit from the proposed staffing resources: non-construction related tree removal (private tree bylaw); development related applications (public and private tree bylaw); and linear infrastructure upgrades (public and private tree bylaw).

All linear infrastructure projects are currently evaluated and monitored by contracted consulting arborists with reports received by the Forestry section for review. Resource shortages have prevented staff from being able to conduct regular site inspections. This has led to situations where City trees have been significantly impacted by construction and in some cases required removal due to structural instability. Forestry staff are involved after the fact with little opportunity for corrective action or repair. The budget business case would provide adequate staffing resources to ensure projects are monitored by City staff and remove the need for on-site consulting services.

If a private tree bylaw is to be implemented city-wide, the forestry section is not able to successfully administer it without additional resources.

### **Private Tree Bylaw History in Burlington**

Burlington's 2010 Urban Forest Management Plan (UFMP) included a recommendation to complete a detailed study to evaluate the appropriateness of a private tree Bylaw for Burlington.

Staff submitted report number RPM-08-13 as information for Development and Infrastructure Committee on July 8, 2013 and report RPM-19-13 on August 2, 2013. At that time a city-wide private tree Bylaw was not approved.

At the March 22, 2016 Development and Infrastructure Committee meeting, a motion was made to undertake a pilot Private Tree Bylaw for the Roseland community. Council approved the motion April 22, 2016 to have staff prepare a pilot Private Tree Bylaw for the Roseland area for a period of two years.

In June 2018, a Pilot Private Tree Bylaw within the Roseland Community was approved by Council to run for a period of two years. In March 2019, the pilot was launched in Roseland.

The implementation of the bylaw has been successful to date. There have been 8 applications successfully processed. There have been no reports of bylaw infractions from the community. Several instances of infractions related to construction impact were noted and addressed on site.

The predominant permit application tends to be the removal of ash trees. Per the bylaw, this operation is exempt of permits and compensation as it is critical that these trees be removed quickly, without causing undue financial burden on residents which already bear 100% of removal costs. These metrics are important for the Forestry section to track as ash decline has a significant impact on the long-term resiliency of the urban forest.

It is anticipated that there will be an influx of development related applications within Q4 of this year, in preparation for the 2020 construction season.

The Forestry section does not have a formal enforcement team to conduct random inspections of the Roseland community. Response to contraventions are done solely through a complaint process.

### **Legal Implications**

As part of the review, Forestry staff consulted with the legal department on the process to follow should council decide to implement a private tree bylaw city-wide. This would require the repeal of the Pilot Private Tree Bylaw in Roseland (Bylaw 43-2018) and the approval of a new city-wide bylaw.

### **Strategy/process**

Forestry staff evaluated the logistics and resources required to administer a private tree bylaw to Ward 4 and City-wide. As part of the evaluation, the following criteria were reviewed:

#### **1) Municipal Benchmarking**

Staff conducted comprehensive interviews with surrounding municipalities that currently have an operational Private Tree Bylaw. The intent of the interview was to determine the how the bylaw is administered, to understand what improvements should be made, and to understand the resources required to successfully administer the bylaw.

Table 1: **Comparison of local Municipalities with Private Tree Bylaws**

<b>Municipality</b>	<b>Size of Tree Protected</b>	<b>Permits Received</b>	<b>Staff</b>	<b>Bylaw</b>	<b>Recommendations</b>
City of Cambridge	>20 cm	2018: 31 (6 months)	2 part time, contracted services	Private Tree bylaw	Incorporate short form wording and ticketing into bylaw
Town of Oakville	>15 cm	2018: 1149 (612 approved)	6 full-time	Public & Private Tree Bylaw	No recommendations from their current program

		Avg: 95 per month			
City of Mississauga	>15 cm	2018: 162 2017: 236 2016: 275	4 full-time	Private Tree Bylaw (No public tree bylaw)	Lower the size; 1 permit per tree; improve permit application process; ensure adequately resourced
City of Toronto	>29 cm	>6,000	20 full-time	Public & Private Tree Bylaw	Improve tracking of replacement trees to ensure compliance/success.

Through these consultations, it was determined that public and private tree bylaws were administered by the same individuals or team within the forestry section of a municipality as they require a highly specialized skillset.

Comprehensive knowledge of arboriculture which encompasses risk assessment and management; tree valuation appraisals; knowledge of construction methods and techniques; and applicable law are all required for an arborist to successfully administer these bylaws. For these reasons, it is not practical to consider having bylaw officers in the City Building department administer tree bylaws.

## **2) Community Consultation**

Staff developed a comprehensive communication strategy which included an online survey as well as 2 Citizen Action Labs which followed IAP2 (International Association for Public Participation) principles. They were hosted on the 'Get Involved Burlington' web page, ([www.getinvolvedburlington.ca/privatetree](http://www.getinvolvedburlington.ca/privatetree)) and were communicated through social media (Facebook, Twitter) and advertisements in the Burlington Post. The purpose of the community consultation was to gain a better understanding of support for a private tree bylaw and provide a process for the public to provide additional feedback for consideration.

## **3) Integration into Existing Planning Process**

The implementation of a private tree bylaw city-wide must consider implications from a planning and development process perspective. Recent large-scale tree removal operations that have occurred on private property (lot clearing) city-wide prior to application for Site Plan Approval. The Forestry section has no authority at present to issue orders or prevent this from continuing. A private tree bylaw would provide the means to prevent lot clearing of this nature in future, or to hold property owners accountable for bylaw violations.

## **OPTIONS CONSIDERED**

### **OPTION 1: Status quo**

A status quo approach was considered as part of this report. This would allow the current Pilot Private Tree Bylaw in Roseland to run the original 2-

Pros: Allows for more time to evaluate the pilot.

Cons: This does not consider the implications of a declared climate emergency, and delays protection of trees citywide.

### **OPTION 2: Expand the Bylaw to Ward 4 Only**

The expansion of the bylaw to ward 4 was considered as part of this report. The staff requirement would be reduced to 1 full time staff, with associated cost reductions.

Pros: Provides for a slightly larger pilot area.

Cons: This does not consider the implications of a declared climate emergency, and delays protection of trees citywide.

### **OPTION 3: Repeal the Pilot Private Tree Bylaw and approve a bylaw for the urban area only**

This option would protect all private trees within the urban area of the City and exclude all agricultural and rural areas north of Highway 5/407.

Pros: Provides protection for private trees in the most populated area of the City.

Cons: Does not provide protection for residential properties in the rural area that are not covered under the Regional bylaw for woodlots.

### **OPTION 4: Repeal the Pilot Private Tree Bylaw and approve a city-wide private tree bylaw**

Pros: This option provides the highest level of protection by including the entire city.

Cons: Increased resource requirements in both operating and capital budgets.

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## **Financial Matters:**

### **Total Financial Impact**

- Option 1 – no impact
- Option 2 – The operating budget impact is \$95,000 for 1 full-time tree protection officer. The capital budget impact is \$51,000 including the purchase of 1 electric vehicle and charging station.
- Option 3 and 4 – The operating budget impact is \$300,000.00 including 5 full-time staff (1 supervisor and 4 tree protection officer)

The capital budget impact is \$250,000 including the purchase of 5 electric vehicles and 2 charging stations to be installed at the City's Operations Centre.

Business cases have been submitted for consideration in the 2020 budget process.

### **Source of Funding**

The Private Tree Bylaw will be funded through both the operating and capital budget, and a business case has been prepared for consideration in the 2020 budget process. There will be partial cost recovery of administrative costs through permit fees, as well as bylaw contravention fees through site inspection, estimated at approximately \$200,000. Contracted service costs are expected to decrease by \$12,000 per year. The impact to the property tax rate is estimated at 0.18%.

### **Other Resource Impacts**

Additional office space, IT resources, and vehicles will be required and are included in the business case for consideration.

### **Connections:**

Burlington's 2010 Urban Forest Management Plan (UFMP) included a recommendation to complete a detailed study to evaluate the appropriateness of a private tree Bylaw for Burlington.

### **Vision to Focus:** Focus Area 3

Supporting Sustainable Infrastructure and a Resilient Environment; Supports commitment #5 - increasing the tree canopy city-wide; directly supports the initiative "Use the results and outcomes of the Roseland Private Tree Bylaw Pilot to determine where tree Bylaws are appropriate."

### **Red Tape Red Carpet and Development Application Process**

The development of a Forest Protection Branch within the Forestry Section will improve the service delivery for residential construction by way of improved coordination with

site engineering and zoning staff. Staff would be positioned to aid capital works staff with projects to improve tree preservation measures. These workflows are currently completed through contracted services. Cost savings would be achieved through the adoption of the preferred option.

### **Public Engagement Matters:**

City staff engaged the general public in several formats through the “Get Involved Burlington” page which acts as a hub for communications. The 2 main community engagement items were an online survey as well as Citizen Action Labs, with facilitated discussion following the International Association for Public Participation (IAP2) principles.

#### **Survey:**

The online survey was open for approximately 1 month with 300 responses. The survey results indicate that mostly homeowners responded to the survey (93%), with a relatively even distribution of all 6 wards.

#### **Quick Facts**

- 77% of the respondents support the protection and enhancement of the tree canopy
- **67% of the respondents support the development of a private tree bylaw City-wide**
- 36% of the respondents’ support cash in lieu fees of \$700 per replacement tree as compensation, and an additional 26% think it should be higher
- 51% of respondents recommend the mandate for development projects to incorporate tree planting into their designs, and an additional 30% recommend expanding the scope of the City’s tree planting program.

In addition, general themes from the survey comments include:

- 1) Incorporating a multi-faceted approach to increasing the urban tree canopy, which include a combination of a tree bylaw; increased tree planting; and mandated tree planting for development projects.
- 2) Incorporate a list of exempted species that are prone to disease or are known to be invasive.

#### **Citizen Action Labs**

Approximately 30 people engaged with City staff through the Citizen Action Lab Engagement process. Framing the conversation around the question of ‘How might we protect the City’s Tree Canopy while respecting private property rights’, attendees identified current challenges, as well as potential solutions the City should consider.



The majority of attendees were in support of policy development that protects and preserves trees on private land. In addition, 4 main trends were identified between the 2 sessions, which should be considered in future to increase the canopy cover within the City:

**1) Tree Planting Incentive Programs/Tree Subsidy**

Subsidized tree planting on private property was discussed by several groups. Part of this discussion considered free tree giveaways, or tax incentives for trees planted on residential properties. Programs of this nature do not currently exist within the Forestry section; however, it is currently being considered based on studies from other Ontario municipalities successfully implementing programs of this nature.

**2) Increased Public Education**

Improving the general public's knowledge of a private tree bylaw was noted as important. In addition, there are opportunities to develop long-term relationships with School Boards to educate children about trees and climate change. School programs do not currently exist within the Forestry section but could be considered in future.

**3) Engagement with Volunteers and Community Groups**

There is an opportunity to work with volunteer groups to accomplish tree planting initiatives at a local level. Utilizing a community-based approach to naturalized tree planting projects will yield a higher long-term success rate as volunteers will have a sense of ownership and commitment to ensuring trees are healthy. Initiatives of this nature have successfully been implemented over the past several years with the help of Burlington Green, the Burlington Optimist Club, Ontario Federation of Anglers and Hunters, and others.

**4) Private Sector Partnerships**

Seeking out long term private sector partnerships to help offset the cost of tree planting programs was identified by attendees. Programs of these nature are currently underway on an ad hoc basis. At present, the City has long-standing relationships with partners like IKEA, TD Bank, Halton District School Board, Union Gas, and others. There is a significant opportunity to formalize the development of a program to engage with private sector partners.

## **Conclusion:**

The Urban Forest provides countless benefits to a community and is an effective tool to help mitigate climate change. As a community resource, a community-based approach must be implemented to ensure the long-term preservation and maintenance of the Urban Forest.

Staff recommends Option 4 for implementation, with a tree size of greater than or equal to 20 cm diameter at breast height. This option provides a high level of protection for private trees city-wide.

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Respectfully submitted,

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## **Report Approval:**

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.