



Staff Report for Committee of the Whole Meeting

Date of Meeting: December 4, 2024

Report Number: SRPBS.24.088

Department: Planning and Building Services

Division: Policy Planning

Subject: SRPBS.24.088 - Request for Comments - Tree By-laws Review Key Directions and Draft By-laws

Purpose:

The purpose of this staff report is to present the Key Directions for the Tree By-laws Review and to present and obtain comments on the Draft Tree By-laws.

Recommendation(s):

- a) That staff report SRPBS.24.088 be received, including attachments containing the following:
 - i. Draft Tree Preservation By-law (Attachment A);
 - ii. Draft Trees on City Lands By-law (Attachment B);
 - iii. Draft Site Alteration Permit By-law (Attachment C);
 - iv. Recommended Tree Protection Zones (Attachment D); and
 - v. Recommended Tree Replacement Chart (Attachment E).
- b) That all comments be referred back to staff.

Contact Person(s):

- Mandy Vandenberg, Tree Preservation/Landscape Planner, extension 2930
- Michelle Dobbie, Manager, Park and Natural Heritage Planning, extension 2467
- Maria Flores, Director, Policy Planning, extension 5438
- Gus Galanis, Commissioner, Planning and Building Services, extension 2465

Report Approval:

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner and City Manager. Details of the report's approval are attached.

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Key Messages:

- The purpose of the City's Tree By-laws Review is to modernize the by-laws and ensure that the by-laws reflect current legislation and recent plans or studies aimed at improving the City's urban forest and urban tree canopy.
- The Tree By-laws Review included background research and a public survey which resulted in four Key Directions for modernizing the City's Tree By-laws.
- Based on the review, draft Tree By-laws and draft recommendations for Tree Protection Zones and a Tree Replacement Chart have been prepared for public comment.
- Following the public commenting period, the proposed Tree By-laws, Tree Protection Zones, and Tree Replacement Chart will be finalized for Council approval in 2025.
- Once the final Tree By-laws are approved, staff will prepare an implementation plan to continue educating the public about the City's Tree By-laws.

Background:

The City of Richmond Hill has several by-laws in place to regulate the destruction or injury of trees on private and City-owned lands. This staff report SRPBS.24.088 outlines key directions resulting from a review of those By-laws, specifically: Tree Preservation By-law No. 41-07; the Trees on City Streets By-law No. 40-07; and sections of the Site Alteration By-law No. 166-07 (hereinafter referred to as the "Tree By-laws").

Collectively, these By-laws regulate the destruction or injury of both private trees and City-owned trees and are enacted pursuant to the *Municipal Act 2001*.

The purpose of the Tree By-laws Review is to modernize the by-laws and ensure that the by-laws reflect current legislation and recent plans or studies related to the City's urban forest and urban tree canopy. The review also considers more recent arboricultural practices, the updated City Standards and Specifications, and policy direction from the City's Official Plan, 2020 Urban Forest Management Plan (2020 UFMP), 2022 Environment Strategy, and 2022 Urban Forest Study.

Direction from Council endorsed plans or studies informing the Tree By-laws Review is summarized below:

- Under Goal 2 of the 2020 UFMP, "Plan and protect to preserve canopy", Objective 2.3 directs the improvement of processes and policies to more effectively implement tree protection, and includes the following actions:
 - "Action 2.3.2 - Review and update tree-related City by-laws and implementation processes
 - Action 2.3.3 - Implement the use of the Administrative Monetary Penalty System for tree-related City by-laws."
- The City's 2022 Environment Strategy includes the following action:

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- *“6.3 Support trees on private lands through review of the City’s tree-related by-laws and explore opportunities to incorporate standards that provide space for tree protection and/or establishment through the Comprehensive Zoning By-law.”*
- The City’s 2022 Urban Forest Study provides more detailed direction regarding the Tree By-laws Review given the composition of the City’s urban forest that was found to exist through this Study. Namely that approximately 71 percent of all trees are less than 15.2 cm diameter at breast height (DBH).

There are three recommendations from the 2022 Urban Forest Study that provide direction relevant to the Tree By-laws Review:

- Recommendation 10: *“Evaluate and develop the strategic steps required to increase the proportion of large, mature trees in the urban forest.”*
- Recommendation 12: *“Explore the possibility of amending the Private Tree Preservation By-law to decrease the minimum regulated DBH to less than 20 cm DBH and review replanting conditions associated with removal of privately owned trees.”*
- Recommendation 33: *“Continue post-tree planting management and monitoring strategy to complement the City’s tree maintenance program in order to ensure tree survivorship, mitigate common stressors in the urban environment and replace trees based on warranty as needed.”*

The Tree By-laws Review project is being undertaken through a four-stage process:

Stage 1	Research Stage (Jan. to March 2024)
Stage 2	Evaluation of Options and public consultation survey (April to June 2024)
Stage 3	Key Directions and Draft By-laws for comment (July to Dec. 2024)
Stage 4	Approval of Final By-laws and Implementation Stage (targeting winter 2025 and onwards)

Discussion:

The Tree By-laws Review included background research and a public survey which was posted from May 7 to 28, 2024 and received close to 300 respondent comments. The review resulted in four Key Directions for modernizing the City’s Tree By-laws. The following discussion outlines those Key Directions along with recommended changes and improvements.

1) Update the City’s Tree By-laws to increase the proportion of large, mature trees in the urban forest

It is vital to preserve and maintain smaller trees so they can grow into larger trees that provide increased environmental, social and economic benefits. Currently, the City

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requires landowners to obtain a Tree Permit to injure or destroy private trees that are 20 centimeters or greater diameter at breast height (DBH). In instances where a Tree Permit is issued, replacement planting of cash-in-lieu thereof is required. As part of the Tree By-laws Review, approximately 63% of survey respondents noted that they support lowering the size requirement to include smaller trees in order to better protect the environment, maintain biodiversity, and provide food and habitat for wildlife. In addition, approximately 60% of survey respondents noted that they support updating the Tree By-laws to better protect replacement trees so these trees can grow into mature trees. Further, the City's 2022 Urban Forest Study found that the proportion of larger trees in the City's urban canopy is low and accounts for only 2% of the urban canopy (i.e. trees 46 centimetres DBH or greater). Additional direction to protect larger trees from injury or destruction would benefit the urban canopy.

As such, the draft Tree By-laws in Attachments A, B and C of this staff report include the following changes:

- **Updating the definition of a “Permit” to regulate any private tree with a DBH of 15cm or greater.** The 2022 Urban Forest Study found that over 71% of the trees in the urban forest are 15.2 cm DBH or less. This update implements the direction in the 2022 Urban Forest Study by recognizing that it is in the City's interest to regulate smaller trees located on private property to best maintain and where possible increase the existing urban canopy. Further, this direction is consistent with the Tree By-law updates recently completed in the nearby cities of Kingston, Oakville, Peterborough and Mississauga.
- **Adding new direction to protect replacement trees.** Generally, a newly planted replacement tree is smaller than those trees regulated under the City's Tree Preservation By-law (i.e., typically the City requires 6cm DBH replacement trees). This means that a replacement tree planted as a condition of a Permit or *Planning Act* application could legally be removed immediately after inspection. Adding a new direction to protect replacement trees so that they can grow into larger mature trees (vs. being removed without a Permit) is similar to replacement tree protections established by other municipalities such as Burlington in Ontario and Surrey and Victoria in British Columbia.
- **Adding new criteria under the Permit approval process regarding the size of a tree.** As noted above, additional direction to protect larger trees from injury or destruction would benefit the urban canopy given that larger trees account for only 2% of the City's urban canopy. Adding size as a criteria will enable the size of a tree to be weighted along with the other existing criteria used to determine whether to issue a Permit or not.
- **Adding new direction to require tree replanting securities, a replanting plan and/or cash in lieu of replanting prior to the issuance of a Tree Permit.** The processes for City tree removals and *Planning Act* application tree removals already include upfront actions to secure tree replanting. Enabling private Tree

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Permits to secure replanting obligations upfront would harmonize the approach across all City processes. This direction is similar to tree by-laws found in Burlington, Kingston, Mississauga and Vaughan, which require replanting securities upfront.

- **Include provisions for Richmond Hill to be able to regulate woodlots.** The *Municipal Act 2001* directs that “*an upper-tier municipality may prohibit or regulate the destruction or injuring of trees in woodlands designated in the by-law.*” Woodlands are defined as treed areas meeting certain criteria outlined in the *Ontario Forestry Act* that are one hectare or more in area. When Richmond Hill approved Tree Preservation By-law 41-07 in 2007, it delegated authority to the upper-tier municipality to regulate woodlands one hectare or greater in Richmond Hill. It also delegated authority for York Region to regulate the destruction or injuring of trees in woodlots, a treed area of at least 0.2 hectares and no greater than one hectare in area.

Over the years, the City’s forest management practices have evolved and the City now has the technical capability to effectively regulate the destruction or injury of trees in woodlots. Staff have discussed revoking delegation of the authority to regulate woodlots with York Region Forestry staff who are supportive of this change. Given the urbanizing context of Richmond Hill, there have been limited requests for such permits since this delegation of authority began. It is staff’s understanding that Aurora and Newmarket are also regulating their own woodlots.

In order to best reflect current arboricultural practices, amendments are also being proposed for the implementation tools below. While these tools do not form part of the Tree By-laws, they help ensure that the Tree By-laws are implemented consistently.

- **Updating the Tree Protection Zone chart.** The ISA Certified Arborist Study Guide 4th Edition recommends that Tree Protection Zones include the minimum distance from the trunk of regulated trees and that this distance be adjusted for tree species, condition, and age. To ensure a streamlined approach and consistent implementation of Tree Protection Zones throughout Richmond Hill, staff recommend amending the current Tree Protection Zone chart to reflect the chart in Attachment D to this staff report.
- **Updating the Tree Replacement Chart to reflect the new size of trees to be regulated by the Tree By-laws.** Through background research, it was found that most municipalities do not have their Tree Replacement Chart embedded in their Tree By-laws but rather keep it as a separate Council-approved policy document to provide flexibility to update it if needed. In order to ensure the City’s Tree Replacement Chart implements the changes to the Tree By-laws outlined in this staff report (specifically the size of tree regulated by the By-laws), staff

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recommend amending the current Tree Replacement Chart to reflect the chart in Attachment E to this staff report.

2) Implement new enforcement and review procedures for the City's Tree By-laws

As part of the public survey, respondents were asked whether they support stricter penalties for unauthorized tree removals and actions that injure trees. Approximately 32% of respondents noted that they support this direction. Further, comments were received about the process following decisions on private property trees, as the City's Tree By-laws currently do not include a review process for refusal decisions.

As such, the draft Tree By-laws at Attachment A, B and C of this staff report include the following changes:

- **Adding a new Review Process to the By-laws.** Most private tree by-laws reviewed through the background research include a review process where the applicant can request a review of a decision after a Permit is refused, for example:
 - Mississauga's By-law provides 30 days to submit a review;
 - Burlington's By-law provides 14 days to submit a review;
 - Oakville's By-law provides 21 days to submit a review;
 - Kingston's By-law provides 30 days to submit a review; and
 - Markham's By-law provides 10 days to submit a review.

Having a review process provides a fair and equitable manner through which an applicant can request a review of the City's decision. A review process is particularly useful in situations where new evidence is available that may impact the City's decision. The City's current Tree Preservation By-law does not include a formal review process so, at present, an applicant would have to appear as a delegate before Council or provide a written delegation to request a formal review of a decision. By establishing a formal review process, an applicant would be able to request a review of a decision directly to the Commissioner of Planning and Building Services, creating a more streamlined process. The draft Tree Preservation By-law in Attachment A proposes a 15-calendar day period within which an applicant can submit a request to review the decision on a Tree Permit.

- **Add a new section on Work Orders and Remediation.** Similar to newer City by-laws under the *Municipal Act 2001*, a new section is proposed in relation to issuing a Written Compliance Order, as well as the contents, service procedure, and compliance procedure for the Order. A cost recovery procedure is also proposed should the City end up needing to complete the works outlined in such an Order on behalf of an owner.
- **Add new direction that will enable the Administrative Monetary Penalty (AMPs) system to be used as an enforcement mechanism.** The City's current Tree By-laws (with the exception of the Site Alteration By-law) do not include the

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option to use the Administrative Monetary Penalty System (AMPs) given this system did not exist at the time the Tree By-laws were approved. As such, the draft Tree By-laws in Attachments A and B propose to add this enforcement option. AMPs is a municipal alternative to the Provincial court system that administers and adjudicates by-law offences. The AMPs program transfers offences from the courtroom to the municipality, allowing most disputes to be resolved within a much shorter timeline. Staff expect that the AMPs enforcement system will be helpful to more efficiently deter minor Tree By-law infractions (e.g. where the required Tree Protection Fencing is removed prior to the completion of the works).

- **Continue to increase the Tree Replanting Fee and Boulevard Replanting Fee to be in line with industry costs as part of the annual Tariff of Fees By-law update.** Ensuring that the Tree Replanting Fee and Boulevard Replanting Fee remain in line with the industry cost of removing/replacing a tree will act as a deterrent to tree removal. On February 21, 2024, Council received the Development Application Fee Review Final Report prepared by Watson & Associates Economists Ltd. (Appendix 1 to SRPBS.24.002 - Development Application Fee Review). This report recommended two further increases in 2025 and 2026 to the Tree Replanting Fee and Boulevard Replanting Fee to ensure these fees are in line with industry costs.

3) Focus on streamlining the City's Tree By-laws to ensure quality customer service and a continuous improvement mindset

As directed by the City's Strategic Plan under Pillar 3 Strengthening our Foundations, Richmond Hill is aiming to ensure quality customer service and a continuous improvement mindset. As such, the draft Tree By-laws in Attachment A, B and C of this staff report include the following changes:

- **Add a new Exemption for Site Alteration By-law-related tree removals/injuries.** Currently, when an applicant wishes to remove or injure a tree(s) as part of a Site Alteration Permit for an infill dwelling or a pool on their lands, they require a separate Tree Permit. This is often confusing to applicants, who feel the City should be processing these approvals as one permit (versus two permits). Staff have heard a desire for these two permits to be combined to improve customer service. Adding this new exemption will eliminate the need for applicants to apply for two separate permits. Further, this change will allow tree removal/injury permissions associated with a Site Alteration Permit to be processed in a similar manner to those associated with a *Planning Act* application in Richmond Hill.
- **Amend definitions, wording and general notes in the Tree By-laws.** These housekeeping changes help to reflect current Arboricultural practices or other

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legislative changes since the time the Tree By-laws were approved. For example, the following updates are recommended:

- Adding various new definitions (e.g. “Valuation”, “Exemption”, “Dead”, “Dying”, and “Injury”);
- Modifying certain definitions (e.g. “Arborist”, “Arborist Report”, “Pruning”, “Boundary Tree”);
- Requiring written consent from the Property Owner for an Agent to act on their behalf when completing a Tree Permit Application;
- Modifying the Tree By-laws to clarify an Exemption Permit is required for dead, dying and/or hazardous trees as this aids the City in tracking these removals and responding in a timely manner to complaints received;
- Revising the Tree By-laws to reflect gender neutral wording;
- Updating the Tree By-laws to change “Town” to “City” throughout;
- Updating Department and Commissioner names throughout; and
- Updating references to the City Standards and Specifications Manual, including references to Tree Protection Zones and Tree Protection Fencing requirements.

4) Ongoing education of residents and customers about the City’s Tree By-laws and Maintenance Practices

As part of the Tree By-laws Review public survey, respondents noted an interest in a number of tree-related educational matters that the City does not currently provide. To help maintain the larger urban canopy over time, following approval of the updated Tree By-laws in 2025, staff recommend preparing an implementation plan to ensure ongoing education of the public on the following tree-related matters:

- **The need to plant the right species in the right location** - Native trees/plants are an important part of the urban forest, but in an urbanizing City like Richmond Hill, non-native trees/plants also have their place. Educational materials or sessions could help residents and landowners understand how both native and non-native trees can have their place in an urbanizing City, and how to determine the appropriate species to plant given the surrounding context.
- **The need for routine tree care given the changing climate** – Respondents noted a need for trees to be protected for many reasons, ranging from providing habitats and food for wildlife to mitigating the effects of the changing climate. A tree that is properly pruned and maintained in an urban environment has a greater chance of surviving an extreme weather event. An educational opportunity exists to help residents understand tree maintenance and care.

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- **Why replacement plantings use smaller trees to maintain the urban forest** – Respondents expressed concerns over the size of replacement tree plantings (e.g. 6 cm. DBH trees) required by the City when larger trees are approved for removal. A visual educational tool could be developed to demonstrate how planting smaller trees helps the urban forest regenerate faster over time compared to when larger trees are replanted.
- **How to report unauthorized tree removals/injury** – Some respondents were not aware of how to report unauthorized tree removals/injuries. Promotional materials may aid in educating residents on this process.
- **Maintenance of City-owned trees** – Respondents expressed concerns over the maintenance of City-owned trees along with a desire for the City to replant more trees on City-owned lands. An educational opportunity exists to help residents better understand the City's tree care, monitoring and replanting schedule, along with how to report overgrown and/or potentially hazardous trees on City streets or lands and to suggest replanting locations.

Financial Implications:

There are no financial implications associated with this report.

Relationship to Strategic Plan 2024-2027:

The Tree By-laws Review helps to implement 2024 – 2027 Strategic Plan Pillar 1, Growing a Liveable and Sustainable Community, by modernizing the City's Tree By-laws based on background research and in collaboration with the community. These updates will ensure Richmond Hill's natural tree assets and urban canopy are protected and/or replaced as part of development on private and City-owned lands. The Tree By-laws Review also helps to implement Pillar 3, Strengthening our Foundations, by providing recommended updates that will ensure quality customer service and a continuous improvement mindset.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. All attachments have been reviewed and made accessible. If you require an alternative format please call the contact person listed in this document.

- Attachment A – Draft Tree Preservation By-law
- Attachment B – Draft Trees on City Lands By-law
- Attachment C – Draft Site Alteration By-law
- Attachment D – Recommended Tree Protection Zones
- Attachment E – Recommended Tree Replacement Chart

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Report Approval Details

Document Title:	SRPBS.24.088 - Request for Comments - Tree By-laws Review Key Directions and Draft By-laws .docx
Attachments:	<ul style="list-style-type: none">- Attachment D to Staff Report SRPBS_24_088.docx- Attachment E to Staff Report SRPBS_24_088.docx- Attachment A to Staff Report SRPBS_24_088.docx- Attachment B to Staff Report SRPBS_24_088.doc- Attachment C to Staff Report SRPBS_24_088.docx
Final Approval Date:	Nov 8, 2024

This report and all of its attachments were approved and signed as outlined below:

Maria Flores - Nov 8, 2024 - 8:52 AM

Antonio Dimilta - Nov 8, 2024 - 9:40 AM

Gus Galanis - Nov 8, 2024 - 10:13 AM

Gigi Li - Nov 8, 2024 - 10:24 AM

Darlene Joslin - Nov 8, 2024 - 1:53 PM