

Policy Discussion Papers - Preliminary Discussion



Request for Recommendation

Tree Policy

Presented To:	Priorities Committee
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Recommendations

That Council adopt this policy as outlined in the report from the General Manager of Infrastructure Services dated May 27, 2008 and that the necessary By-Law be prepared.

Signed By

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Background

Council requested a review and report on the existing Tree By-Law and tree services provided by the City. The existing Tree By-Law and Forestry employees emerged from the former City of Sudbury. The By-Law is dated 1984 (see Appendix 'A') and has existed unchanged since 1991. Staff have reviewed this By-Law as well as similar By-Laws governing trees in other municipalities across the country and are recommending it be replaced with an updated By-Law which falls under Part 3 of the Municipal Act, 2001, Sections 135 to 147.

Issues:

Requests for Forestry service including tree removals and pruning of trees on City property are received through the City's 311 system, recorded and forwarded to the Tree Warden for assessment. If the tree is healthy, the request is generally denied. The current By-Law does allow for removal of decayed and dangerous trees and certain trees (Section 709.4.6 of By-Law) that contribute to soil shrinkage, all at the discretion of the General Manager of Infrastructure Services. The City removes approximately two hundred (200) trees annually for these reasons. The current By-Law provides for fines for contravention of the provisions of the By-Law of up to \$5,000 (see Appendix 'A'). Other municipalities have similar provisions ranging from \$500 to \$100,000 (see Appendix 'C').

Some of the issues that have been identified in dealing with municipal trees are:

1. The criteria used to decide if and when to remove public trees.
2. Problems involving tree roots.
3. Species of trees and number of trees recommended to be planted.
4. Location of trees to be planted.
5. Fees charged for tree services and fines levied for By-Law infractions.

Each of these issues has been reviewed and recommendations provided to guide Council in selecting a tree by-law appropriate for the Greater City of Sudbury.

1. Criteria:

The overriding principle of this By-Law is to preserve public trees. The time it takes to grow trees to maturity and their contribution to a clean and healthy environment, through reduction of carbon dioxide and provision of life to many species of birds and animals.

This being said, trees eventually reach their natural life span, become decayed, damaged or hazardous and die and will require removal. If trees are removed, replacement trees are recommended, however due to their smaller size, cannot approach positive environmental impact of the mature tree for many decades.

The recommendations in this report and sample By-Law are intended for application to City right-of-way frontage of residential and commercial lots on publicly maintained roads. Reforestation efforts outside of the right-of-way by organizations such as: VETAC and the Junction Creek Stewardship Committee and trees planted on designated parkland are excluded from the Policy.

2. Problem Areas:

Most requests from residents wanting to remove a healthy tree fall into one (1) of five (5) categories:

- Allergic reactions to trees/sap/insects/pollen.
- Stress caused by fear or dislike of trees and/or branches being blown down in a wind storm.
- Trees drop things on 'their' property such as; seeds, fruit, leaves, twigs, sap and insects which requires clean up and regular maintenance.
- Trees attract unwanted critters such as wasps, bees, caterpillars, birds, insects, chipmunks, squirrels, etc.
- Trees taking up too much space; are too big, roots ruin lawn, roots in sewers and basements. (Appendix 'B' explains the problems with roots in pipes and foundations). Trees damage roofs, eavestrough, paint, siding, driveway, other private trees, shrubs and flower beds.

In addition, the City's own development by widening roads and adding sidewalks can impact mature trees in the road right-of-way. In each of the above cases a Department Representative, (usually the Tree Warden) inspects the site and makes a formal written assessment of which a copy is left with the homeowner and the original is placed on file. If the homeowner is not satisfied with the decision and places a further complaint, a Management Supervisor reviews the file and contacts the complainant. Many complaints are received from new home purchasers moving in to properties with trees in their front yards, expecting to remove the trees to re-landscape. Long term residents may also complain that they did not mind the trees when they were small but now have issues with large trees, providing a true indication of how important a By-Law is required to preserve the tree canopy within the City.

3. Species:

Species of trees have been reviewed over the years to minimize the problem areas listed in number two (2) above as much as possible. This does not mean the City removes existing mature species no longer recommended but that we do not replace these species as they decline/die. Another factor of tree selection is lot size. Lot size in general has been shrinking in urban areas, thus providing less space for trees/root systems.

The list of species currently planted and species no longer recommended for planting on residential lot frontage within the road right-of-way and the general reason why they are not

recommended are as follows:

Species of trees currently recommended for planting are:

Ash - fall gold, mountain, green

Locust - shade master

Maple - amur, tatarian, royal red, sugar

Hackberry

Hawthorn - thornless

Flowering Crab - royalty, spring snow, dolgo

Oak - burr, red

Japanese Lilac

Linden - pyramidal

Elm - prospector

Mayday

Species of trees not recommended nor approved include:

Manitoba Maple - too big, dirty, many insects, not aesthetically pleasing

Walnut/Butternut (under review)/Chestnut - large hard fruit, odour, disease

Poplars (All types) - too big, fragile, large root systems

Willows (All types) - large root systems, many insects, dirty

Cherry - fruit, black knot fungus

Silver Maple - too big, dirty, brittle

Elm (All types including Chinese Elm) - susceptible to Dutch Elm Disease

Evergreens (All types) - too large, large base impedes visibility (under review)

Only one (1) tree is recommended to be planted per 12.3m (40ft) of lot frontage. Corner lots may be suitable for a tree on both street frontages. Location, surface, soil and ground conditions (rock / wetland) also have an impact on the decision of what species, if any tree can be planted on the lot. Smaller lots may also be able to support a tree, however trees selected may be of smaller species type. Larger lots may be able to support more trees of a larger species selection.

Council may also wish to consider whether property owners have a choice to have or not have a tree planted on municipal property in front of their residence by the City. Currently residents are given a choice whether they want a tree planted or not. They are offered one of the recommended species based on other trees planted near by (looking for diversity) and soil/lot conditions.

Although the City may have the right to plant a tree, some property owners for health or other reasons, may not desire a tree planted at the current time. The Tree Warden reviews those lots not yet planted annually to see if there is any change to the situation. A change in the situation could be generated by new homes being constructed, change in ownership of the property, damage or poor health of tree(s) planted. None of the above is meant to prevent any homeowner from requesting the City to plant a tree on municipal property adjacent to their property, however the current budget only allows for approximately eighty (80) new trees annually outside of the Subdivision Reserve Fund. Requests are taken, logged and processed on a first call basis.

The Subdivision Tree Reserve Fund was established to maintain tree development and maintenance of trees in subdivisions from a deposit required by the Developer for each lot frontage.

4. Location:

Trees require space, both above and below ground. The average space required by a tree is approximately equal to the girth of the canopy of the mature tree (the drip line), however select species could have root systems up to half the volume of the tree. The space available for City trees on road right-of-ways in developing areas is governed by lot frontage, set back distance of the home from the road, soil and drainage conditions.

Other obstacles may also interfere with available space and in some instances make it undesirable or improbable to successfully plant trees due to future excavations for infrastructure maintenance purposes which could seriously injure or kill the tree. These obstacles include overhead and underground hydro, telephone, cable, and gas services, underground water, storm and sanitary sewer service chambers and lines, existing trees on adjacent lots that do or will, require more space than is available on the lot planted.

Areas where the surface is or may become water impervious such as asphalt, concrete or stone/brick boulevards, medians, sidewalks, driveways, parking lots and laneways, further impact the health of trees and potential damage to these surfaces from the growth of the trunk or roots seeking surface water.

As the City of Greater Sudbury is geographically large and diverse, it supports many urban and rural communities within its bounds. The same requirements to maintain a tree canopy in high density urban areas where trees quickly become scarce may not need to apply in the same form to rural area's that may have "hundreds of acres of trees in their back yard", however caution should be applied to protect trees as development occurs.

Recommendations:

It is recommended that changes be made to the existing By-Law to update it and institute the following principles:

1. A formal (existing) "Request for Tree Service" form be required, completed and submitted to the Tree Warden by the homeowner or through the 311 service number for review/response/service.
2. Healthy trees are not removed from municipal property for any reason, except where required by law (hydro/utilities), pose a danger that cannot be remedied, for the maintenance and construction of roads and sidewalks where other options are not available or upon recommendation from the City Solicitor for reasons seriously affecting corporate liability.
3. That requests for review/response/service to a tree(s) on municipal property be provided free of charge as it now is. However, other municipalities have various fee structures as listed in Appendix 'C'.
4. That for the purposes of this By-Law, the decision of the General Manager of Infrastructure Services or his designate is final for each application.
5. That a committee be formed from representatives of the Roads (including the Tree Warden) Parks, Legal, By-Law, Building Controls, Planning Services Sections and Greater Sudbury Utilities Inc. to review the By-Law and recommend changes, if required, on a minimum five (5) year cycle.
6. That any person wanting to plant trees on municipal property must make application to the Tree Warden on the "Request for Tree Service" form provided including species and location, and receive approval before proceeding. This is required to add the tree to the City's inventory as once planted on municipal property it becomes the property and responsibility of the City.

It is recommended that a formal By-Law be prepared by Legal Services incorporating the recommendations outlined in this report.

APPENDIX "A"

PROPERTY MAINTENANCE

**Chapter 709
TREES - PLANTING - CARE - REMOVAL**

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Article 1 INTERPRETATION

- 709.1.1 **City - defined**
"City" means the geographical limits of the City of Sudbury.

709.1.2 Commissioner - defined

"Commissioner" means the Commissioner of Community Services of The Corporation of the City of Sudbury or his/her designate.

709.1.3 Corporation - defined

"Corporation" means The Corporation of the City of Sudbury.

709.1.4 Council - defined

"Council" means the Council of The Corporation of the City of Sudbury.

709.1.5 Tree - defined

"tree" includes a growing tree or shrub planted or left growing on either side of a highway for the purpose of shade or ornament.

Article 2

GENERAL PROVISIONS

709.2.1 Money - appropriated - expended - by Council

The Council may annually appropriate and expend out of its current revenues, such sums of money as shall be requisite for the purchase and planting, caring for, trimming and removing of trees upon the streets in accordance with this Chapter.

709.2.2 Proposed street reconstruction - requirements

Any proposal for future street reconstruction shall illustrate those trees which are required to be removed due to the said construction together with a report on the types of trees being removed and the number and size of trees which will replace those being removed and notice of the removal of trees shall be given to the abutting owners in accordance with the *Municipal Act*.

Article 3

GENERAL PROHIBITIONS

709.3.1 Nuisance - obstruction of highway

No tree shall be so planted that the same is or may become a nuisance or obstruct the reasonable user of the highway. By-law 84-2, 10 January, 1984.

709.3.2 Species - varieties

No person shall plant on any highway in the City any tree of any of the following species or varieties:

Butternut, Cherry, Chestnut, Manitoba Maple, Walnut, Poplar (all kinds) and Willows (all kinds). By-law 84-2, 10 January, 1984; By-law 90-175, 11 September, 1990.

709.3.3 Destruction - injury - any tree

Except as herein provided, no person shall destroy or injure or cause or permit any activity which may destroy or injure any tree.

709.3.4 Attach - object - to tree - without consent

No person shall attach any object or thing to a tree located on any highway or public place except with the consent of the Commissioner.

709.3.5 Removal - tree - without permission

No person shall remove or cut down any tree growing upon a highway except with the written permission of the Commissioner.

Article 4

COMMISSIONER - AUTHORITY

709.4.1 Municipal arborist - duty - enforce Chapter

The Commissioner shall be the municipal arborist for the Corporation and shall have supervision and care over all trees now and hereafter planted or growing on any public highway, and it shall be his/her duty to enforce the provisions of this Chapter.

709.4.2 Master Tree Plan - formulated

The Commissioner may formulate a Master Tree Plan specifying the species of trees to be planted on each of the public highways and other public lands in the City, having regard to the needs of the residents of the municipality including safety, aesthetic considerations, noise and pollution control, recreation and the protection of wild life, water and soil.

709.4.3 Location - trees - determination

Any tree planted upon a highway shall be located at such distance from the street line or from the sidewalk or from any other tree planted or growing on the same highway as may be determined by the Commissioner.

709.4.4 Planting - prohibited - reasons

The Commissioner may refuse to permit the planting of trees, or the planting of any one or more species or variety of trees, upon a highway of the Corporation, or part thereof, by reason of the nature of the pavements, walks, sewers or other works thereon, or the use to which the lands abutting the property of the Corporation are put, or in consequence of the extent and nature of the traffic thereon, or the insufficient breadth thereof, or by reason of the existence of rock or unfertile soil thereunder, or where the planting of trees thereon would be impracticable or dangerous to traffic or constitute a nuisance upon the property of the Corporation.

709.4.5 Species - variety - to be planted - determination

Where all or more than one-half the total number of trees planted on any highway or on one side thereof are of a certain species or variety, the Commissioner may require that all trees proposed to be planted on such highway or upon one side thereof, shall be of the same species and variety as the trees, or the greatest number of the trees already planted thereon. By-law 84-2, 10 January, 1984.

709.4.6 Species - variety - to be removed

The Commissioner is authorized to remove or cause to be removed any tree of the following genera and species:

- (a) Acer - Acer Negundo - Manitoba Maple - Acer Saccharinum - Silver Maple;
- (b) Populus - all Poplar species;
- (c) Salix - all Willow species;
- (d) Ulmus - Ulmus Pumila - Chinese Elm;
- (e) Cone-bearing Evergreens - all species. By-law 90-175, 11 September, 1990.

709.4.7 Trees - on any highway - planting

The Commissioner may plant or cause to be planted, trees upon any highway.

709.4.8 Prohibited trees - removal

The Commissioner may remove without notice any of the species of tree referred to in Section 709.3.2 growing on a highway in the City or planted thereon contrary to this Chapter.

709.4.9 Public interest - removal - any tree

When the Council considers it necessary in the public interest to cause any tree planted upon a highway to be removed and has passed a by-law to cause any tree planted upon a highway to be removed, the Commissioner shall give ten (10) days notice of the intention of the Council to remove such tree to the owner of the tree.

709.4.10 Decayed - dangerous tree - removal - no notice

The Commissioner may cause any decayed or dangerous trees to be removed without notice.

709.4.11 Nuisance - removal - tree - Corporation expense

The Commissioner shall cause the removal of healthy trees on property of the Corporation at the expense of the Corporation when a property owner produces a soil report or other evidence satisfactory to the Commissioner that shows that the trees on the property of the Corporation are responsible for soil shrinkage and existing or possible subsequent sewer or foundation damage.

709.4.12 Obstructing tree - removal - conditions

If the owner of a property that abuts property of the Corporation is denied proper access to the use of his/her property by the existence of healthy trees on the property of the Corporation, the Commissioner may approve the removal of the healthy trees on the condition that the owner of the abutting property replaces the trees, at his/her own expense.

709.4.13 Public services - construction - removal - tree

The Commissioner may approve in writing the removal of healthy trees on the property of the Corporation for the construction of public services including water, sewer, hydro, gas and telephone.

709.4.14 Trim trees - branches over highway

The Commissioner may trim or caused to be trimmed trees planted upon a highway or upon private property where the branches extend over a highway.

709.4.15 Notice - given to adult - posted

Any notice required to be given hereunder may be given by leaving it with a grown-up person residing on the land or if the land is unoccupied by posting it in a conspicuous place on the land. By-law 84-2, 10 January, 1984.

**Article 5
ENFORCEMENT**

709.5.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than five thousand dollars (\$5,000), exclusive of costs and every such fine is recoverable under the *Provincial Offences Act*. By-law 91-13, 15 January 1991.

709.5.2 Order - prohibiting continuation - repetition

When a person has been convicted of an offence under this Chapter, the Provincial Offences Court or any Court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an Order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed towards the continuation or repetition of the offence.

Article 6

REPEAL - ENACTMENT

709.6.1 By-law - previous

By-law 3730, "A By-law Respecting the Planting, Care and Removal of Shade Trees", is hereby repealed.

709.6.2 Effective date

This Chapter comes into force and takes effect upon the date of final passing of the enabling by-law. By-law 84-2, 10 January, 1984.

APPENDIX "B"

Walkways, Driveways, Patios and Roots

The roots of trees can lift concrete or pavement when the hard surface treatment is located too close to the trunk of a tree

When planting a tree, make sure to leave enough room for the trunk to grow. To avoid damaging your walkway, driveway or patio at least 1.5m (5ft.) is recommended. Beyond this distance tree roots are not the cause of any heaving and cracking.

Heaving and cracking of walkways, driveways or patios is usually caused by the expansion and contraction caused by the winter freeze thaw cycles.

Further north there might be only one freeze thaw cycle per winter. In Toronto our climate is particularly difficult. We can have a number of freeze thaw cycles in one winter.

After each freeze thaw cycle the cracks and the heaving get a little worse. This is all happening while the roots are quietly dormant underground until after the spring thaw when they start to grow again. The roots then grow into the additional growing space created by the cracking and heaving.

Please do not blame trees and their roots for breaking and clogging water or drain pipes, or damaging foundations or cracking and heaving walkways, driveways or patios.
They didn't do it!

Roots are **not** harmful. But trees **are** helpful.

Please ask us to plant a tree on your street

Call Urban Forestry at 416- 338- 8733

 **TORONTO**
Parks, Forestry & Recreation

***Broken or clogged drain pipes?
Water coming through
the basement walls?
Cracked or heaving walkway
or driveway?***

***The problem is not
the roots!
Let's get to the
root of the problem!***



 **TORONTO**
Parks, Forestry & Recreation

APPENDIX "C"

Name of City	Application Fees	Fines
Vancouver	\$55 removal for 1 st Tree \$156 removal for each subsequent tree	\$500 up to \$20,000
Halifax	None	\$100 up to \$5,000
Toronto	\$100 per tree non-construction \$300 per tree construction	\$500 up to \$100,000
Victoria	\$30 removal for 1 st Tree \$5 removal for each subsequent tree	\$1,500 1 st Tree \$3,000 for each subsequent tree
Regina	\$300 plus costs	Private up to \$2,000 Corporate up to \$5,000
Ottawa	N/A	Private \$1,000 per tree - 1 st conviction \$2,500 per tree, subsequent conviction Corporate \$5,000 per tree - 1 st conviction \$100,000 per tree, subsequent conviction
London	None	up to \$10,000 - 1 st conviction up to \$20,000 - 2 nd conviction