

CITY OF HAMILTON

**PUBLIC WORKS DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Forestry and Horticulture Section**

POLICY

POLICY NO:

SUBJECT: Public Tree Preservation and Sustainability Policy

ISSUED BY THE DIRECTOR OF ENVIRONMENTAL SERVICES: August 10, 2015
(Subsection 7(b), Public Tree Protection By-law 15-125)

EFFECTIVE DATE: August 10, 2015

UPDATED: May 29, 2017

REPLACES THE FOLLOWING POLICIES:

(Subsection 36(1), Public Tree Protection By-law 15-125)

Tree Removal, Tree Preservation & Protective Measures for Trees Affected by Construction, Street Tree Planting – Planning & Design, Street Tree Planting – New Developments, Reforestation – Municipally Owned Lands

(received by Council on May 28, 2008)

City of Hamilton Street Tree Planting Policy - Rural Roadways

1. Introduction

The purpose of the Public Tree Preservation and Sustainability Policy (the “Policy”) is to support the continued growth and development of the urban forest. The Policy sets out the following:

- (a) the requirements for work to be performed on, in or around a public tree or to plant a tree on road allowance within or outside the urban boundary and rural settlement areas;
- (b) the administration of requests/permits for such work; and
- (c) the criteria that may be applied by the Director to any assessment he or she makes with respect to the condition of a tree.

2. Application

The Policy will be applied in conjunction with City of Hamilton Public Tree By-law 15-125 (the “Public Tree By-law”). The Policy applies where work is to be performed by an individual or entity and is not subject to a *Planning Act* process. Schedule “B”, “Criteria for Assessing the Condition of Trees”, may be applied by the Director to any assessment he or she makes with respect to the condition of a tree.

Where the work affects significant public trees or large numbers of public trees, the Director may inform Council or seek its approval with respect to the implementation of the Policy.

Schedule “A”, “Retention and Protective Requirements”, and Schedule “B”, “Criteria for Assessing the Condition of Trees” are attached to and form part of this Policy.

3. Definitions

In addition to the definitions found in the Public Tree By-law, the following definitions shall apply for the purposes of this Policy:

“**Permit**” means a permit issued by the Director for work performed on, in or around a public tree and may be part of another City approval process, for example for the installation of a driveway;

“**Permit Holder**” means a person who applies for and receives a Permit; and

“**Planting Request**” means a request to have a tree planted on road allowance within or outside the urban boundary and rural settlement areas.

4. Permit Applications

- (1) Prior to a person performing any work on, in or around a public tree, an application for a Permit shall be submitted to the Director. An application shall include:
 - (a) the name and contact information of the applicant, and any applicable corporation information;
 - (b) the applicable Permit fee;
 - (c) identification of the proposed location where the work will be undertaken and completed;
 - (d) a description of how the work will be completed so as to retain and protect public trees in accordance with Schedule “A”;
 - (e) photographs and/or sketches with notes or other indicators that set out the following:
 - (ii) property lines;
 - (iii) work to be undertaken and completed;
 - (iv) the location of all public trees;
 - (v) any proposed grade changes;
 - (f) evidence of Commercial General Liability insurance satisfactory to the Director, if requested;
 - (g) a signed release and indemnity form satisfactory to the Director, if requested; and
 - (h) any other supporting documentation as required by the Director with respect to the work to be undertaken and completed or the Permit to be issued.

- (2) All reasonable efforts shall be made to avoid the removal of public trees. However, if the removal of one or more public trees is unavoidable, the application shall include, for each public tree:
 - (a) the reasons for the removal;
 - (b) the species;
 - (c) the diameter breast height measurement; and
 - (d) photographs.

In addition, before the Permit may be issued, the applicant shall pay the replacement cost for any public trees to be removed once informed of the amount by the Director.

5. Permit Review

A completed application, including the applicable fees and supporting documentation, will be reviewed by the Director who may consider the following criteria when making a decision on whether to issue a Permit:

- (a) species, size, location of the public trees where the work will be undertaken and completed;
- (b) overall health of any public trees which may be affected by the work; and
- (c) any impact of the work on the surrounding environment.

6. Permit Issuance

- (1) The Director may, in his or her discretion, issue, issue with, or refuse to issue a Permit.
- (2) The Director may issue the Permit with conditions under subsection 6(1) if he or she has reason to believe, having regard any work performed by the applicant in the past, the application and any other information that the Director considers relevant, that conditions are required for the work to be undertaken and completed in accordance with this Policy, the Public Tree By-law, any other City policies or by-laws and any federal or provincial regulations or statutes relating to trees.
- (3) In imposing conditions on a Permit, the Director may include conditions in respect of, but not limited to:
 - (a) specifics in relation to the location and type of work;
 - (b) requirements in relation to reporting to the Director about the work;
 - (c) a requirement that all public trees to be retained be noted on a plan and fully protected prior to the work commencing;

- (c) where a public tree is being removed, a requirement that, instead of the replacement cost being paid, the public tree be replaced by a tree of a similar species at the expense of the Permit Holder;
 - (e) such other conditions as the Director considers necessary to ensure that the work is undertaken and completed in accordance with this Policy, the Public Tree By-law, any other City policies or by-laws and any federal or provincial regulations or statutes relating to trees.
- (4) The Director may refuse to issue a Permit under subsection 6(1) if he or she has reason to believe, having regard to any work performed by the applicant in the past, the application and any other information that the Director considers relevant that the work, with or without the imposition of conditions on the Permit, will not be undertaken and completed in accordance with this Policy and the Public Tree By-law, any other City policies or by-laws and any federal or provincial regulations or statutes relating to trees.
 - (6) A Permit is only valid for the term approved by the Director and shall expire on the last day of the term as set out in the Permit.
 - (7) A Permit is the property of the City and shall not be transferred without the written permission of the Director.

7. Permit Compliance

- (1) Following the issuance of a Permit, site inspections may be performed by the Director at any time to ensure compliance with the conditions of the Permit.
- (3) A Permit Holder shall comply with the Public Tree By-law and all of the conditions of the Permit and this Policy;
- (4) Failure to comply with the Public Tree By-law or any condition of a Permit or this Policy may result in the revocation of the Permit by the Director, or the refusal by the Director to approve a further application for a Permit from a Permit Holder;
- (5) Upon the refusal of an application or the revocation of a Permit, the applicant or the Permit Holder shall not commence or complete any part of the work set out in the application or the Permit.
- (6) If a public tree is deemed by the Director to have died or declined within 24 months of the expiry of the Permit as a result of non-compliance with the Permit including any conditions imposed, the Permit Holder may be charged in accordance with the Public Tree By-law. In addition, the public tree may be removed by the Director and replaced with a tree of the same or substantially similar value and the Permit Holder shall be responsible for the removal cost and replacement cost.

8. Planting Requests

- (1) A request to have one or more trees planted on road allowance within or outside the urban boundary and rural settlement areas shall be submitted by the owner or occupier of the property lot which abuts the road allowance (residential, agricultural, industrial, institutional, and commercial) to the Director.
- (2)(a) One request per year may be submitted for each property lot which abuts road allowance. The upset allocation for each property lot per year is 10 trees where space permits, with a maximum allocation for each property lot of 30 trees within a ten year period;
- (b) The allocation for trees per property lot which abuts road allowance, including the ten year period allocation, shall be calculated separately from any special Forestry and Horticulture Section tree canopy management plans that have been approved to address infestations such as the Emerald Ash Borer and/or the Asian Long-horned Beetle.
- (3) The Forestry and Horticulture Section:
 - (a) Provides all trees to be planted. Requesters are not permitted under any circumstances to source their own trees for planting.
 - (b) Determines the size, number, and species of trees to be provided. A Forestry staffer person will assist the requestor with tree selection.
 - (c) Plants the trees.
 - (d) May plant trees within the road allowance on its own initiative without a request from an adjacent property owner or occupier.
- (4) Trees are provided on a first-come first-serve basis, subject to the availability of funding.
- (5) Once trees are planted, requesters:
 - a) Shall water each tree one time every two days until the tree is established.
 - b) Shall monitor trees for insect and disease infestations, as well as signs of decline.
 - c) May fertilize the trees once per year in the autumn, using a slow release nitrogen fertilizer, to encourage growth. Fertilization should not be performed within the first year of planting, as there may be negative impacts to the root system.
 - d) Shall report any problems with, or noticeable changes to, the tree to the Forestry and Horticulture Section immediately.

9.0 Development Related Planting

- (1) Plant material shall be specified:

- a) As per City of Hamilton current planting list, and may be determined by the City.
- b) To not be coniferous.
- c) To be planted by the City of Hamilton, or contractor on behalf of the City.
- d) Promote diversity with no single species making up more than 20% of the total street tree population, where the development includes 20 or more tree plantings.
- e) To have a minimum caliper of 50mm at time of planting.
- f) To conform to the current City of Hamilton Standards for Planting within the Public Right of Way.

(2) The layout of new trees in residential development:

- a) Shall be within the road allowance, one tree per standard lot.
- b) Shall be within the road allowance, three trees per corner lot.
- c) Shall be paid to the City as cash-in-lieu of tree planting, as per the City's current approved User Fees rates.
- d) Shall be spaced a minimum of 8 meters and maximum of 10 meters apart where proposed along non-residential frontage, such as park blocks.

(3) The layout of new trees in non-residential development:

- a) Shall be within the road allowance.
- b) Shall be paid to the City as cash-in-lieu of tree planting, as per the City's current approved User Fees rates.
- c) Shall be spaced a minimum of 8 meters and maximum of 10 meters apart where proposed along non-residential frontage.

(4) The Forestry and Horticulture Section may plant trees within the road allowance in new developments on its own initiative without a request or approval from an adjacent property owner or occupier.

10. Fees

All fees in this Policy, including the removal cost and the replacement cost, are as set in the City's User Fees and Charges By-law or as approved by City Council from time to time.

Schedule "A"

Retention and Protective Requirements

The following retention and protective requirements shall be met by all Permit Holders when carrying out work in or around a public tree.

1. All public trees to be retained at the location shall be tagged and fully protected with fencing or other protective measures as set out in the Permit.
2. The requirements for a tree protection zone shall be completed prior to the commencement of the work to the satisfaction of the Director.
3. Tree protection zones may be expanded as determined by the Director while the work is being undertaken.
4. Public trees located within a tree protection zone and any other public tree as determined by the Director shall remain undisturbed and protected as required by the Director.
5. The storage of building materials, structures or equipment is not permitted within a tree protection zone.
6. Surplus soil, equipment, vehicles, tools, debris or materials shall not be placed over the root systems of public trees within a tree protection zone or any other area as set out in the Permit.
7. No contaminants or toxic materials shall be dumped or flushed anywhere within the location.
8. Tree roots typically spread well beyond the dripline of trees, up to 3.5 times the dripline radius, and are located predominantly within the top 30 cm of soil. As this area may not be within a tree protection zone, activity should be kept to a minimum to prevent root damage and soil compaction. Where root systems of trees are exposed or damaged by construction work, the Director shall be advised before the roots are trimmed neatly and the area back-filled with topsoil.
9. Equipment shall not compact soil over the root zone of public trees. To avoid damage to public trees that are to be retained and protected, access routes shall be established away from tree protection zones. All access routes, regardless of how temporary, shall be identified and approved by the Director before the commencement of the work.

10. Any tunneling, torpedoing, digging or trenching within the dripline of any public tree is not permitted unless otherwise set out in a Permit. If such work is permitted in a Permit, it shall be carried out so as to minimize root injury and avoid soil compaction.
11. The cutting of surface roots of a public tree is not permitted unless otherwise set out in a Permit.
12. Disturbing original grades around public trees in the tree protection zone is not permitted.
13. The placement, deposit, or storage of any stone, brick, sand, concrete, soil or any other material or equipment which may impede the free passage of water, air, or nutrients to the public tree is not permitted.
14. No cables or ropes of any type shall be wrapped around or installed in or on any public trees.
15. The attaching of signs or fencing, or the making of survey markings or paint to a public tree is not permitted.
16. All vegetation within the tree protection zone, including trees, shrubs and grasses, shall be watered, fertilized and maintained.
17. New sidewalks, paving or asphaltting shall allow 1.5 m² of breathing space for tree roots, and shall include such construction materials such as interlocking stone, rubber mats and steel grating to allow for this breathing space.
18. Individually planted trees in new sidewalks installations shall include 21m³ of soil and a grouping of 2 or more trees in a soil bed shall include 16m³ of soil per tree.

Schedule “B”

Criteria for Assessing the Condition of Trees

The condition of both public and private trees may be assessed by the Director under the Public Tree By-law: for example when considering the need to correctively prune or remove a public or a private tree that interferes with or is likely to interfere with a highway.

In addition, from time to time, the Director may assess the condition of a private tree for corrective pruning or removal by the City (upon the owner giving permission to enter and waiving liability) that serves the purpose of a public tree: for example when the tree acts as a boulevard tree even though it is less than 50% on City property.

All assessments are based on the potential impact of failure on vehicular or pedestrian traffic and/or structures and/or other static features, the “target area”. The lower the frequency of use of the target area, the fewer potential consequences resulting from a failure of the tree or a component part. The following criteria may be applied by the Director to any such assessment.

1. Structural condition

- a. Condition of tree shell wall including thinning, cracks, cavities , decay
- b. Condition of tree branches including dead branches, weak branch unions
- c. Condition of tree base including leaning, root failure, soil mounding
- d. Condition of tree crown including no fine twigs, peeling bark
- e. Changes in soil / site
- f. Adequate soil volume to sustain the health and vigour of the tree
- g. Any defect of any tree component part

2. Biological condition

- a. Level of infestation of a pest concerns
- b. Level of infestation of disease concerns
- c. Overall health and vigour of the tree

3. Urban suitability

- a. Species characteristics including the growth rate and hardiness
- b. Location including soil type and/or grade
- c. Visual obstruction of any traffic signals or signs and/or other obstruction of a highway
- d. Adequate soil volume to sustain the health and vigour of the tree