

Proposed Bylaw for Tree Preservation and Protection - Further Engagement

Recommendation

That Urban Planning Committee recommend to City Council:

That Bylaw 18825 receive the appropriate readings.

Purpose

The purpose of this bylaw is to preserve and protect trees in public spaces owned by the City of Edmonton.

Readings

Bylaw 18825 - Public Tree Bylaw is ready for three readings.

A majority vote of City Council on all three readings is required for passage.

If Council wishes to give three readings during a single meeting, then prior to moving third reading, Council must unanimously agree "That Bylaw 18825- Public Tree Bylaw be considered for third reading.

Position of Administration

Administration supports this Bylaw.

Previous Council/Committee Action

At the May 25, 2021, Urban Planning Committee meeting, the following motion passed:

That the May 25, 2021, City Operations report CR_6801, be referred back to Administration to complete engagement with stakeholders regarding permit review, site inspection capacity, managing the permitting program and other related concerns.

Executive Summary

Sustaining a healthy urban forest aligns with The City Plan's commitment to be Greener As We Grow, as well as ConnectEdmonton's strategic goals of Healthy City

and Climate Resilience. The City Plan lays out the goal of planting two million new trees, in addition to a commitment to protect, expand and improve access to natural systems and open spaces in support of biodiversity and the health of all Edmontonians. The key to achieving these outcomes, especially in light of a changing climate and the intensification of development, is to plant and care for new trees and to preserve and protect the existing tree canopy.

The City of Edmonton's current policies and bylaws for tree protection are more reactive than proactive and have limited enforceability. A robust tree protection mechanism can help the City become a leader in preserving our urban forest and redefine how tree assets are valued. Administration presented its preliminary findings and approach for the proposed public tree bylaw to Urban Planning Committee on May 25, 2021, CR_6801 Proposed Bylaw for Tree Preservation and Protection. Based on Committee's direction, Administration has conducted additional engagement work to refine the proposed bylaw and permitting program.

This report includes feedback collected from additional stakeholder engagement on the revised fines, tree permit process, blanket permit categories which cover multiple sites, site inspection requirements, proposed fee options and budget requirements.

Report

The City of Edmonton maintains an extensive network of trees on boulevards, open spaces and natural areas that provide many environmental, ecological, economic and social benefits to Edmontonians. Trees provide environmental and ecological benefits by contributing to urban biodiversity, retaining water, providing wildlife habitat and sequestering carbon. Trees also meaningfully enhance the livability and quality of life in the city's neighbourhoods by cooling the streetscape, purifying the air we breathe, providing shade and creating a sense of well being in the urban environment. It is critical that tree assets, especially existing mature trees, are responsibly managed, preserved and protected for current and future generations.

Mature trees provide the largest ecosystem benefits, but their inventory is relatively limited in Edmonton. Currently, City-owned mature trees (defined as having a 40 cm trunk diameter and above, measured at 1.2 metres height) make up approximately 15 percent of the total inventory for boulevard and open space trees (excluding natural stands). Mature trees are estimated to have a total monetary value of over \$900 million and annual ecosystem benefits of over \$10 million. When mature trees are damaged or lost, their many benefits are degraded or lost for decades; a strong protection mechanism, like a bylaw and permitting process, is essential for the sustainability of the urban forest.

At the May 25, 2021, Urban Planning Committee meeting, Administration proposed a new public tree bylaw aimed at preventing damage or loss to City trees located on or

around work sites. Under this bylaw, a tree permit must be obtained from a City of Edmonton urban forester by submitting a tree preservation or protection plan whenever work is occurring within five metres of a boulevard or open space tree or within 10 metres of a natural stand. The complete bylaw is presented in Attachment 1.

Based on Committee's direction on May 25, 2021, Administration conducted additional engagement with stakeholders on various elements of the proposed bylaw.

Fines

Based on the feedback received from stakeholders and committee, the fine of \$500 for not obtaining a permit or not adhering to the approved tree preservation or protection plan is relatively low. After a further review of other Canadian cities and considering the cost of installing tree protection, Administration has increased the fine amount in the proposed bylaw to \$1,000.

In the event that a tree is damaged or lost, equitable compensation may be recovered from the party responsible based on the value of the tree and the extent of the damage. The fine amount under the bylaw is separate from the equitable compensation, which is recovered for damages. If a permit is not obtained or a plan is not followed and a tree is damaged, the City may prosecute a fine and seek equitable compensation for the value of the tree.

Tree Permit Process Flow

A key input provided by stakeholders through further engagement was a strong desire for the integration of permitting processes and use of existing channels and tools. Administration is proposing that a tree permit be separate from other existing permits, but that the application process for different permits be integrated to ensure a simple, intuitive experience for applicants. The process flow is outlined in Attachment 2. Key highlights include:

- The tree permit will be set up on the eServices/Self Serve platform like other permits to offer a single interface for all permitting needs.
- When applying for a Development, Building, On Street Construction and Maintenance (OSCAM) or Utility Line Assignment (ULA) Permit, there will be questions around whether the work is within five metres of a boulevard or open space tree or 10 metres of a natural stand.
- If the answer is no, the applicant will not require a tree permit. If the answer is yes, it will trigger a tree permit form where basic information will be pre-populated and the applicant will be prompted to answer additional questions and submit a tree protection or preservation plan.
- This submission will be directed to an urban forester to review the tree permit application simultaneously, as other permits are being reviewed by the respective teams. The tree permit will not hold up the issuance of other permits and applicants will be able to track the status of all permit applications.

Any sites that have not yet been granted a Final Acceptance Certificate (FAC) where the warranty is still covered under the servicing agreement with the developer will not be required to obtain a tree permit.

Tree Protection Plan and Tree Preservation Plan

Based on further engagement with stakeholders, Administration also worked on providing more clarity and flexibility around tree protection and tree preservation plans, including:

- Tree protection plans will be required for work activities including temporary crossing or access, laydown area or demolition (i.e. all activities where below-ground work is not involved). Site inspections will not be mandatory for these plans but photos of the site and trees will be required after tree protection is installed (five to 10 percent of sites under blanket permits will be inspected).
- Tree preservation plans will be required when work activities include ground excavation or grade changes. These plans require sign-off by an International Society of Arboriculture certified arborist, landscape architect, professional biologist or other discipline approved by the City. Costs for preservation plans vary widely based on the size and scope of the project. Based on stakeholder feedback, Administration added professional biologist as an acceptable designation to review and sign-off on preservation plans. When a tree preservation plan is received and approved, Administration will issue the permit and conduct a site inspection (five to 10 percent of sites under blanket permits will be inspected as part of a standardized audit process).

Administration will continue to work with stakeholders to promote more creative techniques in how to work around trees. There will be more flexibility with the materials allowed for installing tree protection fencing and reusability for other sites in the future. Administration is also looking into allowing signage on tree protection fencing and will be undertaking further work in the near future to establish guidelines and procedures to allow such signage without running afoul of the regulatory requirements in the City of Edmonton Zoning Bylaw and Traffic Bylaw.

Blanket Permits

In the May 25, 2021, City Operations report CR_6801 Proposed Bylaw for Tree Preservation and Protection, Administration proposed using blanket permits for the large volume of emergency and routine infrastructure maintenance work around City trees. After further engagement with stakeholders, Administration is recommending that:

- Blanket permits be issued to utility/telecom companies for all emergency work, vegetation clearance for surveillance and safety, directional boring,

above-ground infrastructure maintenance, excavation limited to roadways and excavation between three to five metres of a boulevard or open space tree and five to 10 metres of a natural stand.

- Regular/standalone permits will be required for utility/telecom companies for any ground excavation work within three metres of a boulevard or open space tree and within five metres of a natural stand as well as for neighbourhood renewal projects (one permit per neighbourhood).

Blanket permits will involve multiple sites city-wide and urban foresters will inspect approximately five to 10 percent of these sites as part of a standardized audit process.

Financial Implications

A new bylaw and tree permit program needs to be adequately funded to ensure long term success. While costs related to setting up the tree permit technology, public education program and performance reporting can be absorbed within the existing operating budget, other costs like additional enforcement officers and urban foresters will require more funding. This funding requirement can be met through a tax levy or a permit fee paid by the applicant or a combination of both.

Administration has prepared three permit fee options to cover the administrative costs for review of the permit application, tree preservation or protection plans and site inspections (when required) by the City's urban foresters. Enforcement costs will not be recovered through the permit fee and would require tax levy funding.

Of the total annual ongoing operating cost of \$887,500, urban forestry costs of \$621,300 can be recovered in full or in part through a permit fee, however, enforcement costs of \$266,200 would need additional ongoing funding.

Based on Committee's direction and if subsequently supported by City Council, Administration would return in the Fall 2021 Supplementary Operating Budget Adjustment with an ongoing funding request for enforcement costs of \$266,200, funded through tax-levy, as well as increased revenues of up to \$621,300 (pending fee option selection) required to offset urban forestry costs. The financial impacts of this proposal would be effective Spring 2022.

The cost breakdown and fee options are detailed in Attachment 3.

Public Engagement

In addition to the previous public and stakeholder engagement, Administration conducted further engagement with industry, utility/telecom companies and environmental groups. Stakeholders were invited to provide feedback on the revised fines, tree permit process, requirements for tree protection and preservation plans, blanket permits and fee options.

- Both industry and utility/telecom companies emphasized the need for sufficient resources within the City's urban forestry team to review and approve permit applications in a timely manner. Enforcement capacity was also cited as an important resource for the success of this bylaw.
- Both industry and utility/telecom companies responded positively to integration of the tree permit application process with other existing permits and the use of photos to fast-track review of certain types of permits. They also advocated for better monitoring, data collection and data sharing of different permitting statistics to help improve the permitting process on an ongoing basis.
- Industry stakeholders emphasized the need for consistency in how the bylaw and permit requirements impact different groups like greenfield versus infill, development industry versus utilities, homeowners or the City's own internal groups. They highlighted the importance of continued education around tree protection and better communication between various City departments.
- Utilities/telecom companies expressed concerns that the three-metre threshold for open excavation work will still result in a high volume of standalone permits when their response times for some of this work has to be quick. They expressed concern about the City's response times (especially with site inspections) and the requirement to get a professional sign-off on preservation plans as potentially impacting their work schedule.
- Environmental groups shared concerns over the blanket permit system and how those sites would be enforced. They sought further clarity on the site inspection process and how the bylaw would apply to tree planting and tree removals on City property. They were also interested in seeing more communication between the entity working around trees and the adjacent resident community.

Next Steps

Upon formal approval of the bylaw, next steps will include:

- Returning later this year with the funding requirements as part of the fall Supplementary Operating Budget Adjustment.
- Creating the online permit application process that is integrated with other existing permitting processes.
- Creating educational material like tutorials and templates for tree preservation and protection plans.
- Developing an integrated marketing and communication strategy for public and stakeholder education.

Corporate Outcomes and Performance Management

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| Corporate Outcome(s): Edmonton is an environmentally sustainable and resilient city |
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| Outcome(s) | Measure(s) | Result(s) | Target(s) |
|--|---|------------------|------------------|
| Preservation and protection of existing CoE Urban Forest | Equitable compensation collected for tree removal or partial loss due to work related damage or loss | To be determined | To be determined |
| | Number of fines issued under the proposed new bylaw | To be determined | To be determined |
| | Number of sites with a tree permit and no visible damage to City trees | To be determined | To be determined |
| | Number of 311 complaints regarding work around City trees with no tree permit or tree protection in place | To be determined | To be determined |

Attachments

1. Bylaw 18825 - Public Tree Bylaw
2. Tree Permit Process Flow
3. Financial Implications

Others Reviewing this Report

- D. Croft, Acting Deputy City Manager, Financial and Corporate Services
- H. Rai, Acting Chief Financial Officer, Financial and Corporate Services
- C. Owen, Deputy City Manager, Communications and Engagement
- A. Laughlin, Deputy City Manager, Integrated Infrastructure Services
- S. McCabe, Deputy City Manager, Urban Planning and Economy
- R. Smyth, Deputy City Manager, Citizen Services
- K. Fallis-Howell, Acting City Solicitor