

Jurisdictional Scan: Private Tree Bylaws in Canadian Cities

Using publicly-available data and information collected through key informant interviews, cities across Canada were explored with regard to their implementation of private tree bylaws. Details of the cities studied — Ottawa, Vancouver, Toronto and Surrey — can be found in the sections below. To date, cities in Alberta, Saskatchewan and Manitoba have not enacted bylaws to protect or preserve trees on private property.

Edmonton has taken steps to protect trees on City property through the Public Tree Bylaw 18825, which comes into effect on May 1, 2022. Public Tree Bylaw 18825 requires a permit and a tree protection or preservation plan for any work done within five meters of a boulevard and open space tree or within 10 meters of a natural stand. These selected cities have previously implemented a similar public tree bylaw which set the foundation for a private tree protection bylaw. Reviewing these municipalities provides insight on how private tree protection is implemented — and its effectiveness.

A general approach found among these cities was that specific tree protections only applied to certain areas of the city. This speaks to the diversity of property types and the outcomes of the tree protection bylaws, which seek to limit tree loss within the urban forest canopy. For example, in Ottawa, the requirements for tree permits on private property applied to certain areas identified as urban/rural in their respective bylaws. Additionally, different types of development were subject to more burdensome permitting requirements. For example, in Surrey, developers seeking to build multi-family developments or subdivisions faced higher permit fees and securities than property owners looking to remove individual trees. In Ottawa, costs for removal of trees associated with infill were higher than other removal costs, demonstrating a desire to limit the amount of infill-related tree loss.

While the overall costs for permits, securities and replanting ratios varied across cities, they seemed to serve as incentives to retain trees where possible, and ensured that trees will be replaced and cared for once a permit is issued.

The following section explores each city and its approach to tree protection bylaws.

Ottawa

The City of Ottawa (pop. 1,408,000) implemented its Tree Protection Bylaw (No. 2020-340) in January 2021, which consolidated the Urban Tree Conservation Bylaw and Municipal Trees and Natural Area Protection Bylaw into one. The Tree Protection Bylaw protects all municipal trees, as well as certain private trees, and requires a tree permit to be issued in order to remove or injure any protected trees.

In 2017, Ottawa City Council approved a 20-year strategic Urban Forest Management Plan (UFMP). It provided insight into the city's urban forest canopy

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cover and municipal tree inventory and helped inform the outcomes of the Tree Protection Bylaw (2020-340). The bylaw was developed in response to community feedback and a recommendation made in the plan which highlighted the extensive loss of the city's urban forest canopy.

Overall, the requirements and costs associated with obtaining a tree permit varied but were generally more costly and prohibitive if the removal was associated with infill. For example, the replanting ratio associated with infill was 2:1, whereas a similarly sized tree not associated with infill only required a 1:1 replanting.

Significant funding and resources were required to process these newly-added tree permits and to enforce compliance. Since the issuance of tree permits now occurs at the time of a building permit application review, development timelines have inevitably increased.

Date Implemented	Tree Protection Bylaw (By-law No. 2020-340) in effect on January 1, 2021
Overview of Bylaw	<ul style="list-style-type: none"> • A tree permit is required to remove or injure any trees (10 cm or more in diameter) on public property, any trees that are on private properties >1ha within the urban area, any trees identified as distinctive on private properties <1ha within the urban area, or any trees subject to the requirements of a site plan or subdivision plan. • A permit to remove trees is not required in the designated rural area. • Permit fees range from \$500-\$2,500 for infill and \$150-\$750 for non-development removal.
Enforcement and Compliance	<ul style="list-style-type: none"> • A forester does not have the ability to issue fines but may engage with municipal law enforcement officers to deal with offences • Non-compliance occurrences are often difficult to convict and prove in court. • If convicted of offence: \$500 (min) to \$100,000 (max). • Failure to adhere to a stop work order: \$500 (min) to \$100,000 (max) for each day or part of a day that the offence continues; not limited to \$100,000.
Compensation and Replanting Ratios	<ul style="list-style-type: none"> • In non-development scenarios: replacement of a tree is a 1:1 ratio. • For municipal trees: minimum compensation value is \$400/tree.

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	<ul style="list-style-type: none"> • For infill development: 2:1 ratio for distinctive trees 30 to 49 cm in diameter and 3:1 ratio for distinctive trees 50 cm or greater in diameter. • Financial compensation is accepted by the City in some cases where required replacement trees cannot be accommodated.
Incentives to Retain, Protect and Replant	<ul style="list-style-type: none"> • The costly application fee and high replacement tree ratios may act as a deterrent to remove trees. • When a replacement tree is required, a security deposit may be collected to guarantee the cost of maintaining or replacing the tree. This acts as an incentive to replant and maintain required trees to recover this cost.
Resources and Funding	<ul style="list-style-type: none"> • One full-time forester in the planning department reviews applications and contacts applicants for direct questions or feedback.
Other	<ul style="list-style-type: none"> • For infill development: A full Tree Information Report must be submitted to Building Code Services, along with any building permit application. Tree-related variances are considered at the Committee of Adjustment Tribunal. • For non-infill development: To apply for a tree permit, a Tree Information Report still must be submitted. • Development Officers are able to check sites for adequate tree protection fencing before development begins but enforcement capacity is limited beyond that. • Generally, the City encourages services under driveways rather than under lawns to preserve trees and eliminate future complications with trees. • Strong focus on culture change around trees. Programs are in place to educate, train and increase public understanding of the importance of trees.

Vancouver

The City of Vancouver (pop. 2,606,000) implemented its Protection of Trees Bylaw (No. 9958) in January 2020. This bylaw protects all City-owned trees and requires a permit to remove private trees with a diameter of 30 cm or more. Over 95 per cent of the urban canopy is on private property, and overall, the bylaw helped reduce the significant loss of trees that was occurring across urban areas of the city.

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Generally, the cost of applying to remove one tree is low, but begins to cascade in cost for any additional trees. This permit cost, along with the cost of replanting and potential fines for non-compliance, act as an incentive to retain trees when possible. Additionally, the bylaw allows for on-site ticketing from development officers and bylaw enforcement, which provides greater enforcement powers and may act as an incentive for people to follow the tree permitting process.

However, funding and resources was cited as an issue that has led to longer permitting times and less convictions for offences. The 17-person department oversees more permits every year, and since the tree permitting process is now tied to development applications, more resources are required to review these applications. Currently, the department faces staffing limitations to follow up on inspections to ensure that trees were not injured or replaced properly as part of their application.

Date Implemented	Protection of Trees By-law 9958 in effect on January 1, 2020.
Overview of Bylaw	<ul style="list-style-type: none"> • A tree removal permit is required to remove private trees 30 cm or larger. No permit is needed to remove smaller trees, unless identified as a replacement tree or part of a landscape design for a new development. • Permit fees are \$87.00 for a tree permit to remove the first tree in a 12-month period and \$250.00 to remove each subsequent tree during that same time period.
Enforcement and Compliance	<ul style="list-style-type: none"> • Fines are set at a minimum of \$500 but not more than \$10,000 for each offence. • For a continuing offence, fines are no less than \$250 but no more than \$10,000 for each day such offence continues.
Compensation and Replanting Ratios	<ul style="list-style-type: none"> • For each tree a person removes from a site, the owner of the site must plant up to 2 replacement trees or any number of trees acceptable to the director of planning.
Incentives to Retain, Protect, and Replant	<ul style="list-style-type: none"> • Replacement tree requirements are an incentive to retain or replant trees, since the issuance of a development permit is tied to the tree permit requirements.
Resources and Funding	<ul style="list-style-type: none"> • Seventeen staff are required to administer the bylaw and perform the following: <ul style="list-style-type: none"> ○ review all landscape and tree permit applications alongside development

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	<ul style="list-style-type: none"> ○ applications and provide recommendations on building and servicing placement ○ inspect all landscapes and tree sites ○ process approximately 5,400 tree permit applications per year
Other	<ul style="list-style-type: none"> ● Current actions are focused on creating efficiencies in the permitting process.

Toronto

The City of Toronto (pop. 6,255,000) implemented its Tree Protection By-law (Chapter 813) in 2015. This bylaw was collectively formed by Chapters 608, 658, and 815 and protects both City street trees as well as private trees. A tree permit is required for all city owned trees and to remove, work around or injure private trees 30 cm or greater on private property. Trees identified for protection in the Tree Preservation and Protection Plan, municipal trees, ravine and natural area trees and trees listed as endangered, threatened or at-risk are also protected by this bylaw.

Overall, the permit fee to remove either private or public trees is quite high and may be enough to act as a deterrent against removing trees. This fee is higher if the tree permit is tied to development. Tree removal associated with development also requires a higher tree replanting ratio of 3:1. Additionally, the fine for injuring, destroying or removing a private or public tree protected by the bylaw is significant and may incentivize retaining trees when possible.

Due to the size of the city and sheer number of applications per year, four Urban Forestry and Tree Protection and Plan Review District offices are responsible for reviewing tree permit applications across the city.

Date Implemented	<ul style="list-style-type: none"> ● Chapter 813 (Article II and III) of the Toronto Municipal Code collectively form the City's Tree Protection By-law ● Private Tree By-law (Article III of Chapter 813) ● City Street Tree By-law (Article II of Chapter 813)
Overview of Bylaw	<ul style="list-style-type: none"> ● A permit is required to injure, destroy or remove any of the following: <ul style="list-style-type: none"> ○ A City-owned street tree of any size ○ A private tree with a diameter of 30 cm or greater on private property ○ Any tree located in an area regulated under the Ravine and Natural Feature Protection Bylaw. ● Applications not associated with construction or related activities (i.e. building, demolition, excavation)

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	<p>etc.) are generally subject to a smaller permit application fee.</p> <ul style="list-style-type: none"> • Development application approvals happen concurrently with planning level applications such as Site Plan applications and zoning. • Private trees: \$369.61 (construction related), \$123.55 (non-construction) • To remove public trees: \$369.61 (both construction and non-construction related) • To remove a boundary or neighboring tree: \$773.77 (construction related) /\$257.91 (non-construction). This applies when the base of a tree straddles the property line and either property owner may apply for a permit to injure or remove that tree
Enforcement and Compliance	<ul style="list-style-type: none"> • Fines for a person convicted of an offence start at a minimum of \$500 to a maximum of \$100,000, per tree, involved in offense
Compensation and Replanting Ratios	<ul style="list-style-type: none"> • For City trees, a 1:1 replanting ratio is required. For City projects, the ratio increased to 3:1 • For private trees that are non-development related, a 1:1 replanting ratio is required • For private trees related to development, a 3:1 replanting ratio is required
Incentives to Retain, Protect and Replant	<ul style="list-style-type: none"> • A security deposit equal to the cost of planting and maintenance for two years is required • Where replacement trees are not possible on site, the general manager may require planting at another location, or cash-in-lieu payment equal to 120 per cent of the cost of planting and maintaining a tree for two years. • The replanting ratio and security deposit may act as a disincentive to remove trees
Resources and Funding	<ul style="list-style-type: none"> • Data not available
Other	<ul style="list-style-type: none"> • There are four Urban Forestry Tree Protection and Plan Review (TPPR) district offices to handle applications across the city (North York, Toronto/East York, Scarborough and Etobicoke/York) • As of 2015, Urban Forestry was issuing approximately 5,600 permits annually, and the estimated revenue

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	<p>related to these permits was approximately \$1.13 million</p> <ul style="list-style-type: none"> ● They receive roughly 2,500 infraction related calls/year. Roughly 25 per cent are truly infractions (under MC 658 or 813) ● During the initial implementation of the bylaw, there were sites that began removing trees quickly. Illegal tree removals are still reviewed and prosecuted regularly.
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Surrey

The City of Surrey (pop. 880,360) adopted its Tree Protection Bylaw (no.16100) in September 2006. This bylaw requires a permit to remove or re-top (removing the top) trees 30 cm or greater, trees identified as part of a condition of development or trees of a specific species. There are extra requirements that developers must meet if seeking to develop property in Surrey. These requirements include higher tree cutting permit fees, as well as tree protection, landscape, replacement and sensitive ecosystem securities. Overall, the fee for a permit is lower than other municipalities. However, permit fees for proposed subdivision or multi-family lots are higher, emphasizing that there are additional barriers in place for developers in the form of costs and securities.

Date Implemented	<ul style="list-style-type: none"> ● Surrey Tree Protection Bylaw (no.16100) in effect in September 2006
Overview of Bylaw	<ul style="list-style-type: none"> ● Permit required to remove or re-top all trees 30 cm in diameter or more. This includes all trees that are planted as required replacement trees or as conditions of a development permit. ● Protects the following tree species of all sizes: Arbutus, Garry Oak, Coast Redwood, Dawn Redwood, Giant Redwood and Maidenhair Tree ● Tree protection requirements must be complete before being issued a development permit ● For existing lots where no subdivision is proposed: base fee is \$93 plus \$36 for every protected tree removed ● For proposed subdivisions for single family residential lots: \$130-\$591 per proposed lot depending on zone and lot size. ● For proposed multi-family residential lots, commercial, industrial and institutional lots the fee is \$591.00 per acre

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	<ul style="list-style-type: none"> • Agricultural lots: \$484.00 per acre
Enforcement and Compliance	<ul style="list-style-type: none"> • Any Bylaw Enforcement Officer, the General Manager of Planning and Development or an authorized representative or similarly-qualified expert retained by the General Manager may assess or inspect any properties with trees subject to the bylaw. Any violations are assessed by the General Manager. • Fines for cutting, removing or damaging a tree protected by the bylaw ranges from \$50-\$20,000.
Compensation and Replanting Ratios	<ul style="list-style-type: none"> • For every tree removed, an owner may be required to plant two replacement trees. • As a condition of a tree cutting permit, owners must plant an approved replacement tree on the same parcel of land and are responsible for booking a replacement tree inspection.
Incentives to Retain, Protect and Replant	<ul style="list-style-type: none"> • For replacement trees, a security is to be collected for the planting and maintenance of the tree. For replacements requiring a 5 cm caliper deciduous tree or a 3 m tall conifer, the cost of the security is \$550.00. For an 8 cm caliper deciduous tree or 4 m tall conifer, the cost is \$1,100. • For trees that are proposed to be retained as a requirement of a subdivision, development permit or building or demolition permit, the cost of security ranges from \$10,000 per significant tree to \$3,000 per protected tree, up to a maximum of \$15,000 for a single family dwelling or \$150,000 per each subdivision, development permit, variance permit or rezoning application. • Deposits are returned in a two-stage inspection process to ensure replacement trees are up to standard.
Resources and Funding	<ul style="list-style-type: none"> • 14 staff responsible for implementing the Tree protection Bylaw on private land. • An additional 10 staff are responsible for overseeing the protection of trees on public land that is associated with development.