

Staff Report



To	Committee of the Whole
Service Area	Public Services
Date	Tuesday, March 5, 2024
Subject	Private Tree Protection By-law Update – Key Issues and Options

Recommendation

1. That the Private Tree Protection By-law Update – Key Issues and Options report, dated March 5, 2024, be received, and that staff be directed to proceed with the recommendations set out within the report.
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Executive Summary

Purpose of Report

This report provides Council with information on the recommended options for updating the Private Tree Protection By-law (PTPBL) for the purpose of seeking direction to proceed with public engagement on the recommended options.

The Key Issues and Options Report, provided as Attachment-1, presents four recommended options for the PTPBL update that consider local context, known extent of trees and canopy cover in Guelph, best practice, comparator municipalities, feedback from the first phase of engagement, and financial implications.

Key Findings

Key findings from the background review, tree canopy data analysis and first phase of engagement include:

- Guelph’s tree canopy cover provides valuable services;
- Guelph’s private tree by-law is an important tool for protecting and maintaining tree canopy cover;
- There are some overarching best practices for private tree by-laws;
- The current private tree by-law is not fully resourced;
- Most of Guelph’s trees are relatively small/young (78 per cent smaller than 20 centimetres in diameter);
- More than two thirds of Guelph’s tree canopy cover is on private land;
- Half of the tree canopy cover in Guelph is regulated by the current private tree by-law;
- Expanding the scope of the private tree by-law would potentially regulate up to 69 per cent of the tree canopy cover;
- There is broad support from the community for the efforts to protect and preserve trees, but differing perspectives on the approach;
- There is lack of knowledge in the community about the private tree by-law.

Recommended options for updating the Private Tree Protection By-law

The following four options were identified based on a balanced approach that considered the local planning, social, community, economic and operational context along with the key findings of the research undertaken for this process. The recommended options for updating the PTPBL are:

- Option 1: Regulation of trees at least 10 cm diameter on private lots greater than 0.2 ha.
- Option 2: Regulation of trees at least 10 cm diameter on private lots greater than 0.1 ha.
- Option 3: Regulation of trees at least 20 cm diameter on all private lots.
- Option 4: Regulation of trees at least 10 cm diameter on lots greater than 0.2 ha, plus trees at least 50 cm diameter on all private lots.

Strategic Plan Alignment

The PTPBL update will help to improve canopy cover sustainability and resilience. The resulting implementation of the PTPBL update will help increase canopy cover and mitigate the impacts of climate change.

Future Guelph Theme

Environment

Future Guelph Objectives

Environment: Be a leader in climate action

Financial Implications

There are no financial implications for this report as there is no approval required at this time.

The financial implications of the updated PTPBL will be included in the final presentation of the updated by-law that will be brought to Council in the first quarter of 2025.

The potential costs of resourcing the updated PTPBL have not been incorporated into the 2024-2027 multi-year budget (MYB) or forecast adopted on November 29, 2023. Approval of additional operating costs will be referred to the appropriate budget confirmation year.

Report

Protecting and enhancing the tree canopy cover in Guelph supports social, economic, and environmental value and well-being.

Guelph's urban forest consists of approximately three million trees with more than half the tree canopy cover found on private property (Urban Forest Study 2019). To help limit tree loss within the urban forest canopy, the City created the Private Tree Protection By-law in 1986 and continues to update, implement, and enforce the by-law. Private property owners may remove or injure trees on their property with the issuance of a permit which requires the planting of replacement trees or payment to support off-site tree planting.

Guelph has committed to being a leader in climate action through increasing canopy cover and, as part of that commitment, to updating the by-law that regulates the

destruction and injury of trees on private property. However, the City has also committed to accommodating Guelph's growth and development needs and requirements. Therefore, City staff understand that an updated by-law must continue to seek to limit loss trees and retain mature trees whenever possible, while still accommodating approved growth and other community priorities.

The work completed during the first stages of the PTPBL (i.e., background review, data analysis and community engagement) was used as the basis for the Key Issues and Options Report, which

- summarizes key findings and issues from the background review and data analyses;
- summarizes feedback from the first phase of engagement;
- describes the process for screening the private tree by-law update alternatives and selecting recommended options for Council and community consideration;
- describes the four recommended options for updating Guelph's private tree by-law being put forward with estimated resourcing requirements for each;
- discusses other key issues identified through the review and engagement process; and
- provides concluding remarks and next steps.

Key issues and opportunity findings

Guelph's current PTPBL regulates trees at least 10 centimetres (cm) in diameter on private lots greater than 0.2 hectares (ha). The by-law is intended to protect and enhance tree canopy cover through the regulation of tree removals and the ability to require replacement plantings or cash-in-lieu to plant trees off-site. Half of the City's total tree canopy cover is regulated by the current PTPBL.

Guelph's current PTPBL was last updated in 2010 when most of the new development in the city was occurring in "greenfield" (or previously undeveloped) areas. However, since 2010, the planning and environmental context in the city has changed. Key changes include more intensification, more concern about climate change, and updated municipal policies and guidance related to trees including the Future Guelph (2024-2027) Strategic Plan which identifies the update of the by-law as a supporting action for achieving 40 per cent tree canopy cover and mitigating the impacts of climate change. A review and update of the City's PTPBL was also recommended by the City's [Urban Forest Management Plan 2013-2032](#), which recognized regular review of municipal tree by-laws as a best practice, particularly in growing municipalities like Guelph.

City Council, Mayor and staff have indicated that they are seeking to continue to use the PTPBL primarily as a regulatory (not a prohibitive) tool. As such, it is anticipated that irrespective of the options ultimately selected for updating the PTPBL, regulated trees on private property may be permitted to be removed (e.g., to accommodate development, if they are severely diseased or dead) and related losses to the tree canopy cover are to be mitigated through tree compensation requirements.

The overall purpose of updating Guelph's PTPBL is to ensure that it

- can be implemented effectively and equitably, to help the City meet its tree canopy cover targets and urban forest objectives, and

- supports a healthy and climate resilient community by maximizing opportunities for tree retention on private lands and ensuring tree replacement through education and regulation.

The background review determined that the current PTPBL focuses on relatively large lots, should be more fully resourced, and is an important tool for protecting and enhancing tree canopy cover in Guelph.

Key best practices indicate that private tree by-laws are most effective if they

- have been developed with careful consideration for the issues and/or objectives they are intended to address, as well as the local context;
- are implemented with enough outreach and education so that most people in the community are aware of and generally understand the by-law; and
- are implemented and enforced with adequate resources.

Recognizing that Guelph is a growing and urbanizing city seeking to accommodate growth while still meeting its environmental objectives and building resilience to climate change, a balanced approach was taken to identifying and screening alternatives for updating the PTPBL.

Initially, a total of nine alternatives were identified based on combining

- regulation of trees with diameters at least 50 cm, 20 cm, or 10 cm; and
- on private lots greater than 0.2 ha, 0.1 ha, or all sizes.

These alternatives were screened against six criteria. The first two screening criteria capture environmental considerations, the second two criteria capture planning and social / community considerations, and the last two criteria capture economic and operational considerations related to a private tree by-law. The six criteria are:

1. Proportion of trees regulated
2. Proportion of tree canopy cover regulated
3. Level of protection compared to the current private tree by-law
4. Alignment with community perspectives
5. Level of complexity
6. Impact on City resources

The five alternatives ranked as “moderate” and “high” were considered preferred alternatives and subject to further assessment, including:

- ensuring that any options being recommended provide, as a minimum, a comparable level of tree regulation as the current and in-force PTPBL and
- consideration of the estimated resources associated with each alternative.

Ultimately, four options were identified to be recommended for consideration by Council and the community through Phase 2 engagement. Table 2 provides an overview of the four options along with details of the level of regulation of the tree canopy cover and comments regarding the opportunities and risks of each scope.

Additional recommendations include gathering feedback, through the phase 2 engagement process, on

1. regulation of replacement trees through the private tree by-law;

2. options for updating the approach to tree compensation (in accordance with the guidance approved in the 2019 Tree Technical Manual); and
3. options for offsetting potential tree compensation costs for residents if the private tree by-law scope is expanded to more private lots.

Ultimately, Guelph's updated PTPBL is expected to maintain and / or improve the protection and enhancement of Guelph's tree canopy cover to support a healthy and climate resilient community.

The next step in this process is to seek feedback on the recommended options for updating the PTPBL.

Table 1 Overview of the recommended options for updating Guelph's PTPBL

Option	Number of private lots captured	Approximate total tree canopy cover * captured (per cent)	Approximate private tree canopy cover ** captured (per cent)	Opportunity / Risk
Option 1: Trees of at least 10 cm diameter on private lots greater than 0.2 ha	1,929	50	72	This scope is the same as the current private tree by-law but with adequate resourcing
Option 2: Trees of at least 10 cm diameter on private lots greater than 0.1 ha	3,882	55	77	This is a moderate expansion in scope from the current private tree by-law and regulates trees on more properties
Option 3: Trees of at least 20 cm diameter on all private lots	37,187	69	100	This option applies to all the tree canopy cover on private lands but excludes trees smaller than 20 cm diameter
Option 4: Option 1 plus trees of at least 50 cm diameter on all private lots	37,187	50 to 69	72 to 100	This option applies to all the tree canopy cover on private lands but excludes trees smaller than 50 cm diameter on lots smaller than 0.2 ha

* "Total tree canopy cover" is based on all the tree canopy cover in the City of Guelph, on private and public lands.

** "Private tree canopy cover" is based on all the tree canopy cover on private lands in the City of Guelph.

Financial Implications

There are no financial implications for this report at this time. The financial implications of the updated PTPBL will be included in the final presentation of the updated by-law that will be brought to Council in the first quarter of 2025.

The actual annual costs to implement the recommended options for updating the PTPBL depends on factors such as the estimated proportion of trees on private property that have the potential to be regulated, the number of private properties affected and the overall complexity of the option. The estimated annual operating costs associated with implementing options 1 through 4 are \$29,000, \$58,000, \$340,000, and \$218,000, respectively (see Table 3 below). There is not expected to be any new funds required to implement Option 1 or Option 2. However, an additional \$235,000, and \$113,000 would be required to implement Option 3 and Option 4 respectively in Parks' operating budgets (see Table 3 below). There are no capital costs associated with the implementation of the PTPBL.

Administration, implementation, and enforcement of the current PTPBL can include, but is not limited to:

- Administrative processing of permits (receive application, input data, circulate application for review, issue permit)
- Responding to inquiries, complaints, or infractions
- Site inspections and on-site meetings with applicants and/or their representatives prior to and following permit issuance
- Organizing appeal hearings for those who contest denied permits
- Reviewing and commenting on applications and tree related plans
- Enforcing violations
- Preparing evidence and documentation for charges
- Presenting evidence and testifying in court

The administration and implementation of the PTPBL as it relates to regulating trees under the Municipal Act is proposed to be transferred to Parks (from Planning).

Planning staff will continue to complete tree-related reviews required for Planning Act applications within the existing approved operating budget.

Although there is a cost associated with collecting evidence and laying charges when deemed necessary, the Bylaw department budgets are funded through general by-law enforcement budgets and are not expected to be significantly affected. Therefore, these costs have been excluded from the financial implication analysis.

Similarly, Clerks, Legal and Finance provide only peripheral support for the PTPBL implementation and are also funded through general budgets. They too have been excluded from the financial implication analysis.

Table 3: Summary of estimated financial implications to Parks for by-law update options

PTPBL update options	Description (scope)	Annual operating cost	Annual funding gap *
1	Trees greater than 10 cm diameter on private lots greater than 0.2 ha (current scope fully resourced)	\$29,000	\$0
2	Trees at least 10 cm diameter on private lots greater than 0.1 ha	\$58,000	\$0
3	Trees at least 20 cm diameter on all private lots	\$340,000	\$235,000
4	Current private tree by-law scope plus trees at least 50 cm diameter on all private lots	\$218,000	\$113,000

* Zero indicates that option can be implemented within current capacity.

The financials provided are high-level estimates based on

- the estimated costs of implementing the current PTPBL
- discussions with City staff involved in current PTBL implementation, including resourcing gaps related to the current PTPBL
- consultations with City staff in Finance related to appropriate approaches for making projections; and
- consideration for high-level private tree by-law resourcing information provided by some comparator municipalities.

These numbers may be refined as work continues on updating the PTPBL. The potential costs of resourcing the updated PTPBL have not been incorporated into the 2024-2027 multi-year budget (MYB) or forecast adopted on November 29, 2023. Approval of operating impacts will be referred to the appropriate budget confirmation year.

Consultations and Engagement

Two phases (rounds) of community engagement, in addition to workshops with internal City staff, at key points in the project timeline were planned for this project. The intent of Phase 1 of the engagement was to listen to the community’s feedback to help inform the identification of options for updating the PTPBL. The intent of Phase 2 of the engagement will be to listen to the community’s feedback on the recommended options and key issues identified through research and Phase 1 engagement. Phase 1 engagement results are set out in Attachment-2.

Internal engagement

Key issues and options were developed with input and feedback from key staff in Parks, Planning, Communications, Community Engagement, Bylaw, Finance, and Legal. Feedback was initially gathered through a staff workshop during the project background stage and then again during Phase 1 engagement where an on-line survey was circulated to the internal, cross-departmental Tree Team and additionally available to all City staff as part of the external engagement. The

consultants also have regular progress meetings and touchpoints with the City project team which is multi-departmental and includes staff from Parks, Planning, and Strategic Communications and Community Engagement.

External engagement

Community feedback has also informed the identification of key issues and options. Phase 1 engagement took place between March 6 and April 14, 2023, with three community pop-ups, two community information sessions, one town-hall and nine focus groups plus an online survey which garnered nearly 300 responses.

Participants included Councillors and Mayor, City staff, Indigenous Nations, the Natural Heritage Advisory Committee, Heritage Guelph, local developers and builders, local tree care professionals, local agencies and institutions, private property owners, and a diverse range of individuals and organizations from across the community.

Overall, the Phase 1 feedback indicated broad support from the community for the efforts to protect and preserve trees but with differing perspectives on the approach.

Key themes heard from participants:

- It is critical to protect and expand Guelph's tree canopy cover.
- Mature trees should be a priority for protection.
- Many residents are not aware of and / or do not fully understand the current private tree by-law; more outreach and education is needed.
- It is understood sometimes trees must be removed to accommodate development, but this loss of canopy cover must be replaced.
- Guelph is starting to feel the impacts of climate change and trees can help the community adapt (e.g., by providing cooling, filtering the air, etc.).
- The effectiveness of the current private tree by-law is not being tracked.
- We also heard a variety of opinions about a possible change in the scope of the PTPBL including support for keeping the current scope, expanding the scope a little, and expanding the scope a lot. The community will have another opportunity to provide feedback, this time on specific options for updating the private tree by-law, during the second phase of engagement for this process planned for May 2024.

Attachments

Attachment-1 Key Issues and Options Report

Attachment-2 Phase 1 Engagement Summary

Attachment-3 Presentation – Private Tree Protection By-law Update

Departmental Approval

Report Author

Timea Filer, R.P.F, Urban Forestry Field Technologist

This report was approved by:

Gene Matthews
General Manager, Parks
Public Services
519-822-1260 extension 3337
gene.matthews@guelph.ca

This report was recommended by:

Colleen Clack-Bush
Deputy Chief Administrative Officer
Public Services
519-822-1260 extension 2588
colleen.clack-bush@guelph.ca