

Agenda

Trees and Forests Advisory Committee

6th Meeting of the Trees and Forests Advisory Committee

June 27, 2018, 12:15 PM

Committee Room #3

	Pages
1. Call to Order	
1.1 Disclosures of Pecuniary Interest	
2. Scheduled Items	
2.1 12:15 PM Amber Cantell, Reforest London-Shade Policy and Naturalization Policy within the Parks & Recreation Master Plan	
2.2 12:35 PM Sara Rowland, Urban Forestry Planner re Tree Protection By-Law Amendments and Implementation Update Report.	2
3. Consent	
3.1 5th Report of the Trees and Forests Advisory Committee	49
3.2 Municipal Council Resolution - New Trees and Forests Advisory Committee Members	51
4. Sub-Committees and Working Groups	
4.1 Parks & Recreation Master Plan Working Group	
5. Items for Discussion	
5.1 Planting Areas update	
5.2 Summer Meeting Schedule	
6. Deferred Matters/Additional Business	
7. Adjournment	

Next Meeting; July 25, 2018

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: John M. Fleming
Managing Director, Planning and City Planner

Subject: The City of London Tree Protection By-law C.P.-1515-228
Amendments and Implementation Update

Meeting: June 18, 2018

Recommendation

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken in regards to The City of London Tree Protection By-law C.P.-1515-228 Amendments and Implementation Report:

- a) That the report and proposed by-law attached hereto as Appendix "A" **BE RECEIVED** for information;
- b) That the proposed amendments to the current by-law **BE REFERRED** to the Trees & Forest Advisory Committee for review and comment; and,
- c) That the proposed by-law **BE REFERRED** to a public participation meeting to be held by the Planning & Environment Committee on September 24, 2018 for the purpose of seeking public input and comments on amendments to the current by-law.

Executive Summary

Based on Council's August 22, 2016 direction, the purpose of the report is to provide a review of The City of London Tree Protection By-law C.P. 1515-228. Included in the report is initial community and stakeholder feedback, proposed amendments to the current by-law and an update on the impact of the by-law on staffing resources and work plan.

Analysis

1.0 Previous Reports

November 20, 2017	Planning & Environment Committee Report - The City of London Tree Protection By-law-C.P.1515-228 Implementation Review
October 10, 2017	Planning & Environment Committee Report – Planning Services Work Program update
July 17, 2017	Planning & Environment Committee Report – Staffing Resources to support the new Tree Protection By-law
August 22, 2016	Planning & Environment Committee Report – Adoption of the Tree Protection By-law and direction to monitor the implementation of the by-law and provide a status report and any recommended amendments to the by-law within a period of one year

2.0 Background

2.1 Planning History

Council Adoption of the Tree Protection By-law & Urban Forestry Strategy

In August 2016, Municipal Council adopted The City of London Tree Protection By-law C.P. -1515 -228. The intent of the by-law is to “Prohibit and regulate the destruction or injuring of trees in the City of London”. The adoption of the Tree Protection By-law was to support the “Protect More” pillar of The City of London - Urban Forest Strategy which was adopted in 2014. The Strategy’s vision is “London as The Forest City– A healthy, diverse and extensive urban forest for today and the future”. This pillar along with the other three major components to “Plant More”, “Maintain Better” and “Engage the Community” are a comprehensive management approach for a sustainable urban forest. It supports Council’s goal of reaching 34% tree canopy cover by 2065.

By-law covers 50cm diameter trees vs 75cm diameter Distinctive Trees

Through the approvals process at Planning & Environment Committee and Council, a revision to the by-law was made to amend the definition of “Distinctive Tree” to be greater than or equal to 50 cm diameter at breast height (DBH), instead of greater than or equal to 75 cm DBH. At that time, Administration indicated that this change would have a significant impact on the required resources to administer and enforce the proposed by-law. Accordingly, Council directed staff to move forward with the change and report back after a year of implementation and to identify progress on the implementation, potential revisions to the by-law, and any resource requirements resulting from the by-law. This report was presented to the Planning & Environment Committee on November 20, 2017.

Summary points from the Implementation Review Report include the following:

- Applications for Distinctive Trees are about four times the volume of what would have been submitted at the larger 75cm or greater DBH size. However, there is increased diversity in the types of trees being protected at the lower number.
- Significant amount of time and resources was needed in the first year to educate and guide applicants through the process. Improvement has been noticed in the quality of applications submitted by Tree Care Companies.
- Implementation of the by-law while still trying to continue with Urban Forest Strategy project work is challenging. Many activities related to the by-law are reactive in nature such as emergency permits and enforcement calls and further compounded by the seasonality of work.
- Many internal efficiencies and improvements have been made such as meetings to ensure consistency in the review of applications, the addition of a customer service representative, reduction in data entry and accepting pictures of dead trees (in some instances) to expedite application process.
- Even after realizing efficiencies, there is an expanding gap in the service delivery within Urban Forestry and its ability to carry out specific project work to support the Urban Forest Strategy.

Has the Tree Protection By-law Made a Difference?

It is evident that Londoners care about their trees. During the creation of the Urban Forest Strategy a public survey reported back that 86% supported a tree protection by-law for trees on private property. After approximately 18 months in effect, it is too early to measure the impact the Tree Protection By-law has had on preserving our tree canopy. Some information at this stage is anecdotal such as conversations with Tree Care professionals that mention that they have seen an increase in healthy trees being pruned instead of removed. There is no practical way to determine how many trees, of the protected tree types in the new by-law, have been saved that were otherwise being removed in London prior to the adoption of the by-law.

The preservation of mature trees and canopy cover continues to be a growing trend and priority for local municipalities. Since the adoption of London's Tree Protection By-law, St. Thomas has adopted a private tree by-law for individual trees of a smaller size than London currently protects. This does not include trees that are in tree protection areas and/or woodlands. Although a lower tier municipality and unable to protect woodlands, Burlington is currently in the process of a feasibility study for implementing a private tree by-law. In addition, Oakville has added the group of arborist/tree care professionals to their Licensing By-law. This means that these types of businesses will require appropriate insurance, completed estimates for work and other items that protect the public. It also required that they have all necessary permits when performing work and that only persons duly qualified to perform the duties of an Arborist can work with trees. This helps to ensure that only trees that are approved to be removed are removed while improving the industry standard for tree care maintenance. Such administrative changes would require additional staff to support and implement, and may be seen by some as more "red tape".

Commitment to preserving our urban forest is a long term endeavor that will benefit future generations and will entail longer term studies and analysis. The Urban Forest Strategy notes that canopy cover studies should be completed every five years and urban forest analysis every 10 years. This is to track the progress of our tree canopy cover goal of 34% by 2065. The latest data collected for canopy cover was in 2015 with the most recent urban forest analysis completed in 2012. An iTree Eco analysis is scheduled for Q4 of 2018. This work will provide updated trends on London's tree canopy cover based on the most recent information available. Staff is investigating using LiDAR (Laser Imaging, Detection and Ranging) to complete the next analysis. With this technology canopy cover analysis is expected to have increased accuracy and set a benchmark for future studies.

Replacement Trees

A sometimes overlooked piece of the Tree Protection By-law is to "encourage the preservation and planting of trees throughout the City of London". In cases where trees are approved to be removed, tree replanting can be required as a condition of the permit. Through this by-law over a hundred trees have been planted on private land. The greatest opportunity to increase our overall tree canopy cover is to plant on private land. Currently about 89% of tree planting opportunities are located on private land. In addition, the required replacement trees are larger shade type trees and are native species. These additional trees will improve the diversity of our urban forest, are improved species (replacing Norway maples) and will contribute to canopy cover over time that otherwise would not have been required. The proposed revisions to the by-law are providing clearer guidance for the requirement of replacement trees.

It is preferred that replacement trees are planted back onto the property from which they were removed. Where this is not possible and there is not adequate space, fees have been collected for tree planting elsewhere in the community. Since the adoption of the by-law approximately \$9,300 has been collected for off-site tree planting.

3.0 Community Engagement (see more detail in Appendix B)

From February to March 2018, Planning Services worked with the communications department to develop and implement an engagement strategy to collect feedback related to the Tree Protection By-Law. This included an event, personal phone calls, one-on-one meetings, outreach letters and a simple 12-question online survey. With a focus on those most impacted by the changes to the by-law, Urban Forestry staff hosted an event which brought together consultants and staff from various tree care companies to share their thoughts on the current version. Participants were split up into breakout groups, facilitated by City staff, which encouraged dynamic conversation about their current interactions with customers and their experiences with current tree removal processes.

In addition to the event, City staff connected with residents who had applied to have a tree removed in the last year over the phone and met face-to-face with developers, golf course and cemetery owners. This approach allowed for in-depth one-on-one conversations to take place. More detailed information about the engagement process can be found in APPENDIX B.

Through the different meetings and the survey, the following major themes appeared, and what follows is a summary of how those will be addressed in the coming months and how they have been incorporated into the proposed draft by-law:

1. Speed Up the Process
 - Investigate with City IT Services the ability to have on-line fillable forms and payments.
 - Create a simplified/streamlined application process for dead dying Distinctive trees.
 - Remove the requirement for posting the permit for 7 days before tree removal for all applications (this can still be required in special circumstances).
2. Make the By-law Easier to Understand
 - Look at the public facing pieces of the by-law for improvements and remove the redundant language to make the by-law shorter and easier to follow.
 - Create easier to understand supporting documents and applications to guide and assist applicants in the process.
3. Improve Education Around the By-law
 - Create a FAQ document about the by-law that will be specific for tree care industry distribution. This will identify the requirement for tree care companies to have permits when removing trees. Information will also include impacts for residents and tree care companies who do not comply with the by-law and ways to report activities of concern.
 - Hold yearly workshops with the tree care industry and the public on how to submit an application and other required application information such as how to measure a tree and what is a dead tree.
4. Adjust Fees
 - Fees will not be required when submitting an application. Fees will be paid when a permit has been approved and ready for pick-up.
 - Fees are proposed to be reduced to \$100 for all permits regardless of the type of permit (Distinctive Tree or Tree Protection Area) or number of trees to be removed.
 - Cost related to submitting long term plans for cemeteries and golf courses does not encourage best practices.

This feedback was reviewed with the City's Legal Services Division and suitable updates to the by-law have been proposed – (see APPENDIX A).

Staff will continue to work with Communications and stakeholders on a strategy to solicit and collect comments from the public about the proposed by-law amendments. This information will be included in the September report.

4.0 Summary of Major By-law Amendments

Major Administrative Changes

- Clarified what shall be included in a complete application and added a section on additional items the City Planner may require. This will help applicants in their submissions and Staff in decreasing the time for the review.
- Created a section to better define when the City Planner shall issue a permit and when not. This will help applicants better understand when a permit will be issued and provides consistency in the administration of the by-law.
- Created a shortened process for a “Dead Distinctive Tree” permit and a requirement for an “Arborist Opinion”. Approximately 60% of applications are

trees of this type. The amount of information required in an “Arborist Opinion” is similar to what would be provided in a quote by a tree care company (tree type, size, location, health, condition, recommendation). There will be no fee for this type of permit nor will replacement trees be required.

- Included new definition for an “Arborist Report”, who can complete one and that one is required for applications. This will improve the quality of the information submitted in the application helping to improve turn around in processing time. However, some companies may charge an additional cost for this report. Alternatively, some companies will waive this cost if they are the successful bidder of the work.
- Changes have been made in fee amounts and when they are collected in the process to receive a permit. This will be changed so that it is \$0 to submit an application but the applicant will be required to pay for the permit prior to it being released. This will help significantly decrease the time of the administrative side of the by-law and handling of payments.
- Added a definition for Replacement Tree(s) and clarified that they are required for all approved Distinctive Tree permits. Added new Schedule B calculating replanting and fees when off-site trees are required. In the current by-law replacement trees can be required but it is not clearly defined when and how many.
- Cemeteries and golf courses will not be required to submit long term maintenance plans as a condition of the permit. Trees on these sites will be subject to the same requirements as Distinctive Tree and trees located in Tree Protection Area.
- Changes to the “Protection of Forest Health” to align as an acceptable proactive cause with the Canadian Food Inspection Agency (CFIA).
- Removal of Schedule C “Critical Root Zone” and replaced with simplified definition.
- Update to Schedule D (now Schedule C) Tree Protection Area Map Key

Other minor administrative changes have been made throughout the by-law such as removing definitions that are not being used and/or expanding on others, correcting grammatical errors, and reorganizing sections to better guide applicants through the process. Another improvement to the by-law that should be considered is including Administrative Monetary Penalties (AMP) when the operational protocol has been established within the City. This process is designed to streamline the by-law enforcement process.

5.0 Staff Resources

On-Going Reprioritization of 2018 Urban Forestry Work Program

Permit applications for tree removals have been coming in consistently this year. In addition, there has been several weather events impacting trees. Due to the combination of reduced staffing and weather, our standard response time for completed applications has moved from two to three weeks to at least a five week response time. Even with a full complement of three Forestry Technologists it has been challenging to provide coverage for a by-law that covers the entire city when considering vacation time.

Legal has advised through this review that there should be clear and separate distinctions between the employees issuing the permits and employees that enforce the by-law. This ensures legal vigor in the process. Enforcement activities are also the most disruptive type of work performed by employees. Calls have to be responded to quickly to intervene early in the possible contravening activity or apply penalties, or to obtain solid evidence for a successful prosecution. It is unique that Urban Forestry enforces its own by-law. This by-law requires specific subject matter expertise but should still have the same robust legal structure as other enforcement areas. The City of Toronto in late 2016 created a separate Compliance & Enforcement division in their Forestry Branch dedicated to the proactive education and compliance of their tree protection by-law.

Currently their employees are not municipal by-law enforcement officers but may be in the future.

Staff will continue to make progress on some key initiatives through 2018 as outlined in APPENDIX C, but overall progress on the long-term Urban Forest Strategy continues to be impacted. This can be seen in the delay in updates to this by-law and the Boulevard Tree Protection By-Law P.-69, which impacts how our urban forest is being managed. One of the major findings of the engagement process was that many people did not know about the by-law at all, or how or if it applied to their land and how to measure the tree to know if the by-law applied to their tree. It is clear that education and communication efforts around the by-law should be improved. This can be seen as a possible impact of delaying the implementation of The Urban Forest Communication & Education Strategy over the last year. This initiative directly relates to “Engage the Community” pillar and the creation of a comprehensive communication strategy. Currently, City Communications provides on-going support to Urban Forestry on many projects such as National Tree Day, and the TreeME grant. However, this strategy would help reach our community and many partners in a targeted and effective manner. Tree care companies provided feedback that they believed that they are doing the majority of educating and communications around the by-law as first contact with homeowners.

Increase staffing resources through the addition of one Forestry Technologist & leave the By-law Distinctive Tree as greater than or equal to 50 cm DBH

Several options have been previously reviewed and it continues to be recommended that an additional Forestry Technologist be added to the compliment to support the implementation of the by-law. The addition of one Forestry Technologist would be used to redistribute and separate the by-law implementation from its enforcement. This position would also be responsible for improved educational awareness around the by-law. This will allow other staff to focus on planned permit applications and project work that supports the Urban Forest Strategic Plan and other Council priorities. Council may wish to consider the potential addition of this Forestry Technologist to support the adequate implementation of the Urban Forest Strategy, alongside other funding requests, through the 2020-2023 multi-year budget process.

6.0 Conclusion

Over the last 18 months we have had the opportunity to review how the by-law is progressing. The current engagement process has provided much insight into how the by-law can be improved and changes have been included where possible. The goal of the proposed amendments are to help make the process simpler and more predictable for applicants while streamlining requirements for a quicker review and improving consistency for staff.

This report was prepared with the assistance of S. Rowland, Urban Forestry Planner and L. Marshall, Solicitor.

Prepared by:	Jill-Anne Spence Manager, Urban Forestry
Submitted by:	Andrew Macpherson, OALA Manager, Environmental and Parks Planning
Recommended by:	John M. Fleming, MCIP, RPP Managing Director, Planning and City Planner

June 6, 2018

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Appendix A

Bill No.
2018

By-law No.

A by-law to regulate the Injuring and Destruction of Trees and to encourage preservation and planting of Trees throughout the City of London

WHEREAS Municipal Council has determined that it is desirable to enact a By-law to generally prohibit the Injury and Destruction of Trees within the Urban Growth Boundary that have a diameter of at least 50 cm, and all trees located within Tree Protection Areas, and to allow for the Injury and Destruction of such Trees in limited circumstances with a Permit, and to encourage preservation and planting of Trees throughout the City of London;

AND WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended ("*Municipal Act, 2001*") provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act, 2001* or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality, including respecting climate change"; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property; in paragraph 9, Animals;

AND WHEREAS pursuant to subsection 135(1) of the *Municipal Act, 2001*, without limiting sections 9 and 10, a municipality may prohibit or regulate the destruction or injuring of trees;

AND WHEREAS pursuant to subsection 135(7) of the *Municipal Act, 2001*, without limiting sections 9 and 10, a municipality may require that a permit be obtained to injure or destroy trees, and impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees;

AND WHEREAS subsections 151(1) to (4) of the *Municipal Act, 2001* apply with necessary modifications to a system of licences with respect to any activity, matter or thing for which a by-law may be passed under sections 9 and 10 as if it were a system of licences with respect to a business;

AND WHEREAS subsection 1(1) of the *Municipal Act, 2001* defines "licence" to include a permit;

AND WHEREAS section 23.2 of the *Municipal Act, 2001* permits a municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS the Municipal Council for The Corporation of the City of London is of the opinion that the delegation of legislative powers under this by-law to the City Planner and the Hearings Officer including without limitation the power to issue, revoke, suspend and impose conditions on the permit and prescribe operational standards such as the format and content of forms or documents, are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the *Municipal Act, 2001*;

AND WHEREAS subsection 391(1) of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons;

AND WHEREAS sections 429, 431, 444 and 445 of the *Municipal Act, 2001* provide for a system of fines and other enforcement orders;

NOW THEREFORE the Council of The Corporation of the City of London enacts as follows:

Part 1 SHORT TITLE

1.1 This By-law may be cited as the "Tree Protection By-law".

Part 2 DEFINITIONS

2.1 For the purpose of this By-law:

"Applicant" means the Landowner or the Landowner's authorized representative who, pursuant to this By-law, applies for a Permit;

"Arborist" means an arborist qualified by the Ontario Ministry of Training, Colleges and Universities; a certified arborist with the International Society of Arboriculture; a consulting arborist registered with the American Society of Consulting Arborists; or a Registered Professional Forester;

"Arborist Opinion (Dead Distinctive Tree)" means a written opinion by an Arborist that contains the following:

- (a) the Arborist's opinion that the Tree is a Dead Distinctive Tree as that term is defined;
- (b) correct identification of the location, species and size of the Dead Distinctive Tree; and
- (c) a photograph or video of the Tree;

"Arborist Report" means a written report by an Arborist that contains the following:

- (a) correct identification of the location, species, size and condition of Trees;
- (b) states the Arborist's opinion why a Tree should be Injured or Destroyed;
- (c) describes how the Tree is proposed to be Injured or Destroyed;
- (d) states whether there are reasonable alternatives to the Tree Injury or Destruction;
- (e) calculate the number of Replacement Trees based on Schedule B, and suggest the species and location, and if in a Tree Protection Area, the Trees that may be planted or established through appropriate natural regeneration;
- (f) if Trees are to be Injured but not Destroyed, describes maintenance strategies and protection measures to be implemented; and
- (g) if requested by the City Planner, information to include Tree or Trees on adjacent properties that may be affected, and an aerial map representation showing the Critical Root Zone of those Trees;

"By-Law Enforcement Officer" means a person appointed pursuant to the *Police Services Act*, or any successor legislation, as a Municipal Law Enforcement Officer to enforce the provisions of this By-law;

"Boundary Tree" means a tree having any part of its trunk located on the boundary between adjoining lands. For the purposes of this definition, 'trunk' means that part of the tree from its point of growth away from its roots up to where it branches out to limbs and foliage;

"City" means The Corporation of the City of London;

"City Planner" means the person who holds the position of City Planner for The Corporation of the City of London or their written Designate who is authorized by the City Planner to act on their behalf in respect of this By-law;

"Conservation Authority" has the same meaning as defined in the *Conservation Authorities Act*, R.S.O. 1990 c.C.27;

"Critical Root Zone" means the area of land within a radius of ten (10) cm from the trunk of a tree for every one (1) cm of trunk diameter;

"Dead Distinctive Tree" means a Distinctive Tree that as a result of natural causes, is dead, or is in advanced and irreversible decline in health;

"Dead Distinctive Tree Permit" means a permit issued by the City Planner to permit the Injury or Destruction of a Dead Distinctive Tree;

"Declared Emergency" means a situation or impending situation that has been declared an emergency under the *Emergency Management and Civil Protection Act*, R.S.O. 1990 c.E.9;

"Designate" means any person acting with express authority conferred in writing by the City Planner and may include but is not limited to City employees or Qualified Persons hired by the City;

"Destroy" means to cut down, remove, uproot, unearth, topple, burn, bury, shatter, poison, or in any way cause a Tree to die or be killed, or where the extent of Injury caused to a live Tree or disturbance of any part of its Critical Root Zone is such that it is likely to die or be killed, excepting where a Tree and/or its roots are killed by natural causes. The terms "Destroyed" and "Destruction" shall have a corresponding meaning;

"Distinctive Tree" means a Tree that has a Trunk Diameter of 50cm or greater, and that is located on a property within the Urban Growth Boundary, excluding a Tree Protection Area;

"Distinctive Tree Permit" means a permit issued by the City Planner to permit the Injury or Destruction of a Distinctive Tree or Trees;

"Emergency Services" means the fire, police, or ambulance services when responding to an emergency event;

"Good Arboricultural Practices" means the implementation of the most recent techniques or methods of Tree management as recommended by the International Society of Arboriculture or their successor;

"Good Forestry Practices" has the same meaning as defined in the *Forestry Act* R.S.O. 1990 c. F.26;

"Hearings Officer" means a Hearings Officer appointed under the City's Hearings Officer By-law A.- 6653-121, as amended, or any successor by-law;

"Injure" means to harm, damage or impair the natural function, form of a Tree, including its roots within the Critical Root Zone, by any means excepting Injury by natural causes, and includes but is not limited to carving, drilling, injection, exploding, shattering, improper Pruning that fails to meet Good Arboricultural Practices, removal of bark, deliberate inoculation of decay fungi, pest or disease, inserting or driving foreign objects into or through the Tree or its roots, soil compaction, root excavation, suffocation, drowning, burying or poisoning. The terms "Injury", "Injuring" and "Injured" shall have a corresponding meaning;

"Landowner" means a person having title in the land on which the Tree(s) are situated; the

term “Landowners” shall have the same meaning, plural;

“Natural Ground Level” means the unaltered and original level of the soil around the base of a Tree that is supporting or did support the Tree during its early growth and establishment phase; where the Natural Ground Level varies around the Tree any measurement that is referenced from Natural Ground Level shall be measured from the highest part of the soil;

“Normal Farm Practice” means a normal farm practice defined in the *Farming and Food Production Protection Act 1998*, S.O. 1998, c.1.

“Order” means an Order to Discontinue Activity or a Work Order, as the context requires;

“Permit” means a Tree Protection Area Permit or a Distinctive Tree Permit, or a Dead Distinctive Tree Permit, as the context requires;

“Permit Holder” means the Landowner to whom a Permit has been issued;

“Pest” means anything that is injurious or potentially injurious, whether directly or indirectly, to a Tree;

“Pruning” means the removal of live or dead branches from a standing Tree. The terms “Prune” and “Pruned” shall have a corresponding meaning;

“Qualified Person” shall mean a person who, in the opinion of the City Planner, has satisfactory qualification, experience, education or knowledge to be an expert in the matter;

“Registered Professional Forester” means a person who is a registered and full member in good standing of the Ontario Professional Foresters Association and has the right to use the designation ‘Registered Professional Forester’ under the *Professional Foresters Act, 2000*, S.O. 2000, C. 18;

“Replacement Tree” means a native, shade or large growing tree that is required to be planted to replace a tree Destroyed pursuant to a Permit;

“Security” means an agreement between the City and an Applicant where the Applicant arranges an irrevocable letter of credit from a financial institution to specify and lodge a sum of money as determined by the City Planner as a condition of a Permit;

“Silvicultural Prescription” means an operational plan prepared by a Registered Professional Forester or Qualified Person that describes the existing conditions and the sustainable management objectives for Trees on a Site, and that prescribes the practice of controlling Tree establishment and the composition, growth and quality of Trees to achieve the objectives of management, the methods for managing the Trees and a series of silvicultural treatments and Good Arboricultural Practices that will be carried out to perpetuate Tree cover and establish a free-growing state for Trees that accommodates other resource, environmental and social values as may be identified;

“Site” means the general area where activities subject to this By-law is planned or executed, and in the case of a tract of land that extends over multiple landholdings, each separate landholding is a separate “Site”;

“Species at Risk” means any species listed in *Ontario Regulation 242/08* under the *Species Act, 2007*, S. 0. 2007,c.6 and species listed in Schedules of the *Species at Risk Act*, S.C. 2002, c.29;

“Tree” means a woody perennial plant, whether alive or dead, healthy or unhealthy, including saplings or seedlings and including the root system, where the plant has

reached, could reach, or could have reached a height of at least 4.5 metres (15 feet) at physiological maturity. The term “Trees” shall have the same meaning, plural;

“Tree Management Plan” means a written plan that sets out the scope, rationale and management intentions for managing an inventory of a Tree or Trees for a year or more. Other names for a “Tree Management Plan” include ‘Landscape Management Plan’, ‘Tree Protection Plan’, ‘Tree Planting Plan’, ‘Woodland Management Plan’ and ‘Forest Management Plan’;

“Tree Protection Area” means any geographic area of the City that appears as a Tree Protection Area on Schedule C of this By-law;

“Tree Protection Area Permit” means a permit issued by the City Planner to permit the Injury or Destruction of a Tree or Trees within a Tree Protection Area;

“Trunk Diameter” means the diameter of the trunk of a Tree measured 1.4m above the Natural Ground Level;

“Urban Growth Boundary” means the Urban Growth Boundary as defined in the City’s Official Plan;

“Woodland” shall have the same meaning as “Woodlands” as defined by the *Forestry Act*, R.S.O. 1990, c. F.26.

Part 3 SCOPE

- 3.1 This By-law applies to private property in the City of London:
- (a) to Trees that have diameter of at least 50 cm within the Urban Growth Boundary; and
 - (b) to Trees of any size within a Tree Protection Area.

Part 4 ADMINISTRATION

- 4.1 The administration of this By-law shall be performed by the City Planner who shall generally perform all of the administrative functions conferred upon them by this By-law.

Part 5 EXEMPTIONS FROM BY-LAW

Exemptions from By-law

- 5.1 This By-law does not apply to:
- (a) activities or matters undertaken by a municipality or a local board of a municipality;
 - (b) activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*;
 - (c) the Injuring or Destruction of Trees by a person licensed under the *Surveyors Act*, to engage in the practice of cadastral surveying or his or her agent, while making a survey;
 - (d) the Injuring or Destruction of Trees imposed after December 31, 2002, as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act*, or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;

- (e) the Injuring or Destruction of Trees imposed after December 31, 2002, as a condition to a development permit or community planning permit authorized by regulation made under the *Planning Act* or as a requirement of an agreement entered into under the regulation;
- (f) the Injuring or Destruction of Trees by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (g) the Injuring or Destruction of Trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- (h) the Injuring or Destruction of Trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - (ii) on which a pit or quarry is a permitted land use under a By-law passed under section 34 of the *Planning Act*;
- (i) the Injuring or Destruction of Trees that are a noxious weed as defined in the *Weed Control Act, R.S.O. 1990, c. W.5* if the Injury or Destruction is being controlled by an appropriate method under the oversight or direction of a Qualified Person and no Trees other than a noxious weed are being Injured or Destroyed;
- (j) the Injuring or Destruction of Trees undertaken by a Conservation Authority on its own lands or in response to a Declared Emergency;
- (k) the Injuring or Destruction of Trees at the direction of Emergency Services;
- (l) Pruning that is necessary to maintain the health and condition of the Tree and is carried out in accordance with Good Arboricultural Practices;
- (m) Injury or Destruction of a Tree that is not a Distinctive Tree and is not located within a Tree Protection Area;
- (n) Injury or Destruction of a Tree that is located within a building, a solarium, a rooftop garden or an interior courtyard;
- (o) Injury or Destruction of a Tree located within an actively managed cultivated orchard, tree farm or plant nursery;
- (p) Injury or Destruction of a Tree that is an immediate threat to health or safety;
- (q) Injury or Destruction of the Tree that is required by a Property Standards Order issued under the *Building Code Act*; or
- (r) Injury or Destruction that is a Normal Farm Practice as defined in the *Farming and Food Production Protection Act, 1998, S.O. 1998, c.1..*

Part 6 PROHIBITIONS

Injure or Destroy Tree – Tree Protection Area

- 6.1 Subject to section 5.1 and Part 8, no person shall Injure or Destroy a Tree or cause or permit the Injury or Destruction of a Tree in a Tree Protection Area.

Injure or Destroy Tree – Distinctive Tree

- 6.2 Subject to section 5.1 and Part 8, no person shall Injure or Destroy a Distinctive Tree or cause or permit the Injury or Destruction of a Distinctive Tree. This section 6.2 shall not apply to a Tree located in a Tree Protection Area and section 6.1 shall apply instead.

Injure or Destroy Tree – Not in Accordance with Permit Conditions

- 6.3 No Permit Holder or person acting under authority of a Permit shall Injure or Destroy a Tree or cause or permit the Injury or Destruction of a Tree unless the Injury or Destruction is carried out in accordance with all conditions of the Permit.

Fail to Protect Tree in Accordance with Permit Conditions

- 6.4 No Permit Holder or person acting under authority of a Permit shall fail to protect a Tree in accordance with all conditions of a Permit.

Fail to Comply with Conditions of Permit

- 6.5 No Permit Holder or person acting under authority of a Permit shall fail to comply with all conditions of a Permit.

Fail to Comply with Order to Discontinue Activity or Work Order

- 6.6 No person who has been issued an Order to Discontinue Activity or a Work Order shall fail to comply with the Order.

Part 7 APPLICATION FOR PERMITS – Exceptional Circumstances

- 7.1 Only under the following exceptional circumstances (and subject to all applicable requirements in this By-law including sufficient evidence of the exceptional circumstances) a Permit may be issued for the Injury or Destruction of a Tree:
- (a) the Tree is a dead or dying Distinctive Tree (Dead Distinctive Tree Permit);
 - (b) the Tree is unsafe (Tree Protection Area Permit);
 - (c) the Tree is causing or is likely to cause structural damage to load-bearing structures or roof structures (Tree Protection Area Permit or Distinctive Tree Permit);
 - (d) Tree removal is required to remediate contaminated soil (Tree Protection Area Permit or Distinctive Tree Permit);
 - (e) the Tree Injury or Destruction is required to install, provide or maintain utilities, water or sanitary wastewater infrastructure required for the construction or use of a building or structure for which a building permit has been issued (Tree Protection Area Permit or Distinctive Tree Permit);
 - (f) the Injury or Destruction of a Distinctive Tree represents Good Arboricultural Practices, or, for Trees within a Tree Protection Area it represents Good Forestry Practices (Tree Protection Area Permit or Distinctive Tree Permit);
 - (g) the Tree Injury or Destruction is required for purposes of a Building Permit (Tree Protection Area Permit or Distinctive Tree Permit);
 - (h) the Tree Injury or Destruction is required for purposes of locating a swimming pool (Tree Protection Area Permit or Distinctive Tree Permit).

Application to City Planner

- 7.2 (1) Every application for a Permit shall be made to the City Planner in a format provided by the City Planner.

Application – Requirements

- (2) Every application for a Permit shall include the following:
- (a) payment of the Application Fee as set out in Schedule A of this By-law;
 - (b) the name, municipal address, email address (if available) and telephone number (if available) of the Landowner, and if not the same, the Applicant;
 - (c) if the Applicant is not the Landowner, written confirmation that the Applicant is making the application as the Landowner's authorized agent;
 - (d) if the Applicant or the Landowner is a corporation, the address of its head office;
 - (e) the municipal address and legal description of the land, upon which the Tree or Trees are to be Injured or Destroyed;
 - (f) if known, the name, municipal address, email address, and phone number of any contractor anticipated to Injure or Destroy the Tree or Trees;
 - (g) for a Dead Distinctive Tree Permit, an Arborist Opinion (Dead Distinctive Tree);
 - (h) for a Distinctive Tree Permit or a Tree Protection Area Permit, an Arborist Report;
 - (i) for a Distinctive Tree Permit or a Tree Protection Area Permit, where any of the following grounds for the proposed Tree Injury or Destruction apply:
 - (i) an Arborist's written opinion that the Tree is unsafe;

- (ii) an Arborist's, Professional Engineer's or Insurance Loss Adjuster's written opinion that the Tree is causing or is likely to cause structural damage to load-bearing structures or roof structures;
- (iii) a "qualified person's" (as defined in the *Environmental Protection Act*, R.S.O. 1990, c. E.19) written opinion that Tree removal is required to remediate contaminated soil;
- (iv) a Quantity Surveyor's written opinion that the Tree Injury or Destruction is required to install, provide or maintain utilities, water or sanitary wastewater infrastructure required for the construction or use of a building or structure for which a building permit has been issued with no reasonable alternative to locating those utilities or infrastructure;
- (v) an Arborist's written opinion that the Distinctive Tree Injury or Destruction represents Good Arboricultural Practices, or a Registered Professional Forester's written opinion that the Injury or Destruction of a Tree within a Tree Protection Area represents Good Forestry Practices;
- (vi) a copy of the Building Permit if the Tree Injury or Destruction is required for purposes of a Building Permit;
- (vii) a copy of the Swimming Pool Fence Permit if the Tree Injury or Destruction is required for purposes of locating a swimming pool.

Application – Additional Information May be Required

(3) In addition to the requirements in subsections (2), the City Planner may require the Applicant to provide one or more of the following:

- (a) for a Tree Protection Area Permit, an inventory, tally or estimates from sample plots of the species and size classes of all Trees to be Injured or Destroyed, including a map of the location of sample plots, to the satisfaction of the City Planner;
- (b) for a Tree Protection Area Permit, a Silvicultural Prescription that complies with Good Forestry Practices and is prepared by a Registered Professional Forester;
- (c) a drawing of the Site showing any proposed development, construction, works, excavation or site alteration that may require the Tree Injury or Destruction, and a schedule for this proposed activity, including start and end dates;
- (d) confirmation of any other matters (past or present Planning applications or otherwise) affecting the land upon which the Tree or Trees are to be Injured or Destroyed;
- (e) a Tree Management Plan, which may be for one or more Trees, prepared by a Qualified Person;
- (f) affidavits in support of an application.

Application – Further Information – Supplied within 60 days

(4) The Applicant must provide any further information requested by the City Planner under subsection (3) to the City Planner within 60 days of such request.

Application – Deemed Incomplete

7.3 An application that does not contain everything required in subsection 7.2(2) within 60 days of the receipt of the application by the City, or does not contain the information as further required under subsection 7.2 (3) within 60 days of the request, shall be deemed to be incomplete and will not be processed. The City Planner shall notify the Applicant that the file has been closed for incompleteness. The Schedule A fees paid shall not be returned to the Applicant.

Application – Permission for City to Inspect

7.4 By submitting an application, the Landowner shall be deemed to have granted permission for the City to enter on the Landowner's land for purposes of this By-law.

Boundary Tree

- 7.5 If the Tree to be Destroyed or Injured is a Boundary Tree, all owners of the Boundary Tree or their authorized agents must apply for a Permit. If one of the adjoining lands upon which the Boundary Tree is located is City-owned boulevard, then the City's Boulevard Tree By-law will apply and this By-law will not apply.

Part 8 POWERS OF THE CITY PLANNER

- 8.1 The power and authority to issue a Permit, refuse to issue a Permit, to cancel, revoke or suspend a Permit, to impose terms and conditions on a Permit, including special conditions, are delegated to the City Planner.

City Planner – When Permit Shall Issue

- 8.2 The City Planner shall issue a Permit where all of the following are satisfied:
- (1) the application is complete and all fees paid; and
 - (2) the City Planner is satisfied that there are no reasonable alternatives to the proposed Tree Injury or Destruction; and
 - (3) the City Planner is not aware of any grounds for refusing to issue a Permit under section 8.3; and
 - (4) the City Planner is satisfied that one or more of the following grounds for issuing a Permit apply:
 - (a) the Tree is a Dead Distinctive Tree;
 - (b) based on the opinion of an Arborist, it is necessary to remove unsafe Trees;
 - (c) based on the opinion of a Professional Engineer, the Tree or Trees are causing or are likely to cause structural damage to load-bearing structures or roof structures;
 - (d) based on the opinion of a 'qualified person' (as defined in the *Environmental Protection Act*), the Tree Injury or Destruction is required to remediate contaminated soil;
 - (e) based on the opinion of a Quantity Surveyor, the Tree Injury or Destruction is required to install, provide or maintain utilities, water or sanitary wastewater infrastructure required for the construction or use of a building or structure for which a building permit has been issued with no reasonable alternative to locating those utilities or infrastructure;
 - (f) the Tree Injury or Destruction is required for purposes of a Building Permit;
 - (g) the Tree Injury or Destruction is required for purposes of locating a swimming pool;
 - (h) based on the opinion of an Arborist, the Distinctive Tree Injury or Destruction represents Good Arboricultural Practices, or based on the opinion of a Registered Professional Forester, the Injury or Destruction of a Tree within a Tree Protection Area represents Good Forestry Practices.
- (5) The City Planner shall refuse to issue a Permit if (1), (2), (3) and (4) are not satisfied.

City Planner – May Refuse to Issue Permit, Revoke Permit, Suspend Permit, Impose Conditions on Permit

- 8.3 The City Planner may refuse to issue, may revoke, or may suspend a Permit or impose a term or condition on a Permit on any one or more of the following grounds:
- (a) the species of Tree is an endangered species or threatened species as defined in the *Endangered Species Act, 2007*, S.O. 2007, c. 6, or the *Species at Risk Act*, S.C. 2002, c. 29;
 - (b) the Tree is designated under Part IV of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18;

- (c) the presence, within the Tree, of breeding birds as contemplated in the *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22;
- (d) the protection and preservation of ecological systems and their functions, including the protection and preservation of native flora and fauna;
- (e) erosion, flood control and sedimentation of watercourses;
- (f) any information contained in the original application form or any other information provided to the City Planner has ceased to be accurate and the Applicant, Landowner or Permit Holder has not provided up-to-date accurate information to allow the City Planner to conclude that the Permit should continue;
- (g) an Applicant or Permit Holder does not meet one or more of the requirements of this By-law or a condition imposed on a Permit;
- (h) the Applicant or Landowner is carrying on activities that are in contravention of this By-law;
- (i) there are reasonable grounds to believe that an application or other documents provided to the City Planner by or on behalf of the Applicant or Landowner contains a false statement.

City Planner – Additional Reasons to Revoke

- 8.4 In addition to section 8.3 above, the City Planner may revoke a Permit if:
- (a) the Permit was issued in error;
 - (b) the Landowner or Permit Holder requests, in writing, that it be revoked;
 - (c) the Landowner or Permit Holder fails to comply with any condition of the Permit or this By-law;
 - (d) the Permit Holder is no longer the owner of the land while the Permit is still valid or the owner on title to the lands has changed;
 - (e) the City Planner is satisfied that there is a material change in circumstances in connection with or on the Site and the City Planner is satisfied that the Permit needs to be revoked to avoid further Injury or Destruction of a Tree or Trees.

City Planner – May Impose Conditions, Special Conditions

- 8.5 Notwithstanding any other provision of this By-law, the City Planner may impose terms and conditions on any Permit at issuance or at any time during the term of the Permit, including special conditions, as are necessary in the opinion of the City Planner to give effect to this By-law.

City Planner – Permit Decisions – Refuse, Revoke, Suspend, Conditions

- 8.6 (1) Where the City Planner is of the opinion that:
- (a) an application for a Permit should be refused;
 - (b) a Permit should be revoked;
 - (c) a Permit should be suspended for no more than 14 days; or
 - (d) a term or condition of a Permit should be imposed;
- the City Planner shall make that decision.

City Planner – Written notice of Decision under ss. 8.6(1)

(2) Where the City Planner has made a decision under subsection 8.6(1) of this By-law, the City Planner shall give written notice of that decision to the Applicant or Permit Holder by regular mail to the last known address of that person and shall be deemed to have been given on the third day after it is mailed. Written notice to a corporation may be given by registered mail to the address of the corporation's registered head office.

Contents of Written Decision – Can Appeal

- (3) The written notice to be given under subsection 8.6(1) shall:
- (a) set out the grounds for the decision;
 - (b) give reasonable particulars of the grounds;
 - (c) be signed by the City Planner; and
 - (d) state that the Applicant or Permit Holder is entitled to a hearing by the Hearings Officer if the Applicant or Permit Holder delivers a notice of appeal to the City Clerk, within thirty (30) days after the notice in

subsection 8.6(1) is given, and the appeal fee as set out in Schedule A attached to this By-law.

No Appeal – Decision Deemed Final

(4) Where no appeal is registered within the required time period, the decision of the City Planner is deemed to be final.

Permit Voluntarily Surrendered – Revoke – No Notice Required

(5) Despite subsection 8.6(2), where a Permit is voluntarily surrendered by the Permit Holder for revocation, the City Planner may revoke the Permit without notice to the Permit Holder.

City Planner – May Make Regulations – Forms, Documents

8.7 In addition to any other power, duty or function prescribed in this By-law, the City Planner may make regulations under this By-law including prescribing the format and content of any forms or other documents required under this By-law.

Copy of Regulations to City Clerk – Available for Public Inspection

8.8 The City Planner shall provide the City Clerk with copies of any regulations made under this by-law. The City Clerk shall maintain a record of all such regulations. The record of all regulations shall be available for public inspection at the office of the City Planner and the office of the City Clerk during normal business hours.

Part 9 ISSUANCE OF PERMITS

Information on Permits

9.1 Every Permit issued under this by-law shall be in the form and manner as provided by the City Planner and shall include on its face the following information:

- (a) the Permit number;
- (b) the name of the Permit Holder;
- (c) the date the Permit was issued and the date it expires;
- (d) the municipal address of the premises on which the Tree or Trees to be Injured or Destroyed is located;
- (e) the Tree or Trees that are permitted to be Injured or Destroyed;
- (f) the nature of the Injury or Destruction.

Permit – Automatic Conditions

9.2 Every Permit that is issued is subject to the following conditions of obtaining and continuing to hold a Permit, all of which shall be performed and observed by the Permit Holder and Landowner:

- (a) the Permit Holder shall ensure that the number of living Replacement Trees as determined by the City Planner, and the species, range, size and location of Replacement Trees as determined by the City Planner, are planted on the same Site by the date specified on the Permit;
- (b) where there is insufficient space on the same Site to plant all Replacement Trees, the Permit Holder shall ensure that they forthwith pay the fee as determined by the City Planner;
- (c) the Permit Holder or Landowner shall pay all fees related to this By-law;
- (d) the Permit Holder or Landowner shall pay all fees and fines owed by the Permit Holder or Landowner to the City;
- (e) the Permit Holder or Landowner shall allow, at any reasonable time, the City to inspect the Site;
- (f) the use of the Site is permitted or conforms with the uses permitted under the applicable zoning by-law or is a legal non-conforming use;
- (g) the Permit Holder or Landowner shall meet all of the requirements of this By-law.

Permit – Additional Conditions That May be Imposed

- 9.3 The City Planner may impose other conditions on a Permit, including but not limited to:
- (a) the Permit Holder shall ensure that the Injury or Destruction of the Tree is carried out in accordance with Good Arboricultural Practices or Good Forestry Practices;
 - (b) the Permit Holder shall ensure that the Injury or Destruction of the Tree is carried out in a particular manner or at or during a particular time;
 - (c) the Permit Holder shall ensure that Permit is posted in a public location for a time period before, during and after the Injury or Destruction of the Tree or Trees;
 - (d) the Permit Holder shall ensure that the Injury or Destruction is to be carried out by or under the supervision of a Qualified Person;
 - (e) the Permit Holder shall ensure that measures are to be implemented to protect any retained Trees for the period the Permit remains valid;
 - (f) the Permit Holder shall ensure that the City Planner is informed within 48 hours of a change of Landowner;
 - (g) the Permit Holder shall ensure that a Tree Management Plan satisfactory to the City Planner is implemented by a required date;
 - (h) the Permit Holder shall ensure posting of Security that the City may draw upon in full if the By-law is contravened or if there is a failure in the proper and complete execution of a Permit and its conditions, such that restoration of all or part of the Site has to be done by the City;
 - (i) the Permit Holder shall ensure it complies with any requirements to protect or relocate wildlife (including bees) as determined by the City Planner;
 - (j) the Permit Holder shall ensure it implements the Silvicultural Plan or Tree Management Plan submitted with the application to the satisfaction of the City Planner within a period of time specified by the City Planner;
 - (k) a condition recommended by a Qualified Person that the City Planner determines is appropriate.

Permit – Valid For Time Issued – 6 Month Maximum

- 9.4 A Permit issued under this By-law shall be valid only for the period of time for which it is issued. Unless expressly stated on the face of the Permit, all Permits issued under this By-law shall expire 6 months after issuance.

Permit Issuance – Not permission to Contravene Laws

- 9.5 The issuance of a Permit under this By-law is not intended and shall not be construed as permission or consent by the City for the Permit Holder or Landowner to contravene or fail to observe or comply with any law of Canada, Ontario or any By-law of the City.

Permit – Owned by City – Valid only to Person and Site Named On It

- 9.6 Every Permit, at all times, is owned by and is the property of the City and is valid only in respect of the person and the Site named on it.

Permit – Cannot be Sold, Transferred, etc.

- 9.7 No Permit issued under this By-law may be sold, purchased, leased, mortgaged, charged, assigned, pledged, transferred, seized, distrained or otherwise dealt with.

Permit – Notify City Planner if Change of Information

- 9.8 The Permit Holder shall notify the City Planner of any change in their name, business, home address, Site ownership, or any other information relating to the Permit within fifteen (15) days after such change and, if the City Planner determines it necessary, shall immediately return their Permit to the City Planner for amendment.

Requirement to obtain all other approvals required by any level of government

- 9.9 A Permit issued pursuant to this By-law does not preclude the responsibility of the Applicant or Landowner or Permit Holder to obtain all other approvals which may be required by any level of government and agencies.

Part 10 APPEALS – HEARINGS BEFORE THE HEARINGS OFFICER

- 10.1 The power and authority to conduct hearings of appeals under this By-law are delegated to the Hearings Officer.
- 10.2 The provisions of the City's Hearings Officer By-law A.-6653-121, as amended, and any successor by-law, apply to all hearings conducted by the Hearings Officer.
- 10.3 The Hearings Officer may uphold or vary the decision of the City Planner or make any decision that the City Planner was entitled to make in the first instance.
- 10.4 The decision of the Hearings Officer is final.

Part 11 ENFORCEMENT

Enforced By

- 11.1 This By-law may be enforced by a By-law Enforcement Officer.

Powers of Entry

- 11.2 The provisions of the City's Inspections By-law A-30, or any successor by-law, apply to Powers of Entry for the purpose of carrying out inspections.

Prohibition - Hinder or Obstruct By-law Enforcement Officer

- 11.3 No person shall hinder or obstruct or attempt to hinder or obstruct the By-law Enforcement Officer in the discharge of duties under this By-law.

Part 12 POWER TO MAKE ORDERS – REMEDIAL ACTION

Order to Discontinue Activity

- 12.1 (1) Where a By-law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the By-law Enforcement Officer may make an Order to Discontinue Activity requiring the person who contravened the By-law or a person that caused or permitted a contravention of the By-law or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity.
- (2) The Order to Discontinue Activity shall set out reasonable particulars of the contravention adequate to identify the contravention, the location of the land on which the contravention occurred, and the date and time by which there must be compliance with the Order to Discontinue Activity.
- Work Order**
- 12.2 (1) Where a By-law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the By-law Enforcement Officer may make a Work Order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.
- (2) A Work Order shall set out reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred, and the work to be done and the date by which the work must be done.

Service of Order to Discontinue Activity or Work Order

- 12.3 (1) An Order to Discontinue Activity or Work Order may be served personally by the By-law Enforcement Officer, may be sent by registered mail to the person contravening the By-law, or may be posted in a conspicuous place on the property where the contravention occurred.
- (2) Where an Order to Discontinue Activity or Work Order under this By-law is served personally by the By-law Enforcement Officer, it shall be deemed to have been served on the date of delivery to the person or persons named.
- (3) The posting of the Order to Discontinue Activity or Work Order at Site shall be deemed to be sufficient service of the Order to Discontinue Activity on the person or corporation to whom the Order to Discontinue Activity is directed on the date it is posted.
- (4) Where an Order to Discontinue Activity or Work Order issued under the By-law is sent by registered mail, it shall be sent to the last known address of:
- (a) the Applicant;
 - (b) the Permit Holder;
 - (c) the Landowner;
 - (d) the person contravening the by-law;
 - (e) the person or company undertaking the Injury or Destruction,
- and shall be deemed to have been served on the fifth day after the Order to Discontinue Activity or Order is mailed.

12.4 Remedial Action

If a person is required, under a Work Order under this By-law, to do a matter or thing, then in default of it being done by the person so required to do it, the matter or thing may be done at the person's expense under the direction of a By-law Enforcement Officer.

- 12.6 The City may recover the costs of doing a matter or thing under section 12.4 from the person required to do it, by adding the costs to the tax roll for the subject land and collecting them in the same manner as property taxes.
- 12.7 The amount of the costs under section 12.4, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien.

Part 13 PESTS - INSPECTION – REMOVAL OF INFESTED TREES

Inspection for Presence of Asian Long-Horned Beetles and Other Serious Pests; Removal of Infested Trees

- 13.1 The City Planner is authorized to inspect for the presence of Asian Long-Horned Beetles and other Pests that may create serious widespread economic or ecological harm, and to remove such infested trees, on all public and private property, with the consent of the property owner.

13.2 Inspection for Pests; Right to Enter Private Property – Consent Not Required

Where the City Planner has been designated as an "inspector" by the President of the Canadian Food Inspection Agency under section 13 of the Canadian Food Inspection Agency Act, S.C. 1997, c.6 for the purposes of enforcing the Plant Protection Act, S.C. 1990, c.22, the City Planner has the authority to inspect for the presence of Pests and to take action including the removal of trees on all public and private property, with or without the consent of the property owner, in accordance with the Plant Protection Act.

Part 14 OFFENCES AND PENALTIES

Offences

- 14.1 Any person who contravenes any provision of this By-law, or an Order to Discontinue Activity, or a Work Order, is guilty of an offence.
- 14.2 A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law is guilty of an offence.

Penalties – Minimum and Maximum

- 14.3 A person convicted under this By-law is liable to a minimum fine of \$500.00 and a maximum fine of \$100,000.00.

Penalties – Continuing Offence

- 14.4 Contravention of an Order to Discontinue Activity or a Work Order is a continuing offence, and a person who is convicted of an offence under this By-law is liable, for each day or part of a day that the offence continues, to a minimum fine of \$500 and a maximum fine of \$10,000 and the total of all daily fines for the offence is not limited to \$100,000.

Penalties – Special Fines

- 14.5 A person convicted under this By-law is liable to a special fine of maximum \$200,000.00 which may be imposed in addition to the regular fine, to eliminate or reduce any economic advantage or gain from contravening the By-law.

Court Order - Additional Order to Discontinue or Remedy – s. 431 *Municipal Act, 2001*

- 14.6 Under section 431 of the *Municipal Act, 2001*, when this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,:
- (a) prohibiting the continuation or repetition of the offence by the person convicted; and
 - (b) in the case of a by-law described in section 135 of *Municipal Act, 2001*, requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

Part 15 MISCELLANEOUS

Transition

- 15.1 Any Permit issued under the provisions of By-law C.P.-1515-228 that has not expired or been revoked as of the date of the coming into force of this By-law shall be deemed to have been issued under this By-law and will be valid until such Permit is revoked, surrendered or expires.

Repeal

15.2 The Tree Protection By-law C.P.-1515-228 passed on August 30, 2016 is repealed.

Coming into force

15.3 This By-law shall come into force and effect on _____.

Passed in Open Council on _____, 2018.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – (Insert Council Meeting Date)
Second Reading – (Insert Council Meeting Date)
Third Reading – (Insert Council Meeting Date)

Schedule A - Fees

1. The following fees apply to this By-law:

DESCRIPTION OF FEE	FEE AMOUNT
Fee for Dead Distinctive Tree Permit	\$0
Fee for Application for Distinctive Tree Permit	\$100
Fee for Application for Tree Protection Area Permit	\$100
Fee for Appeal Hearing Request	\$100

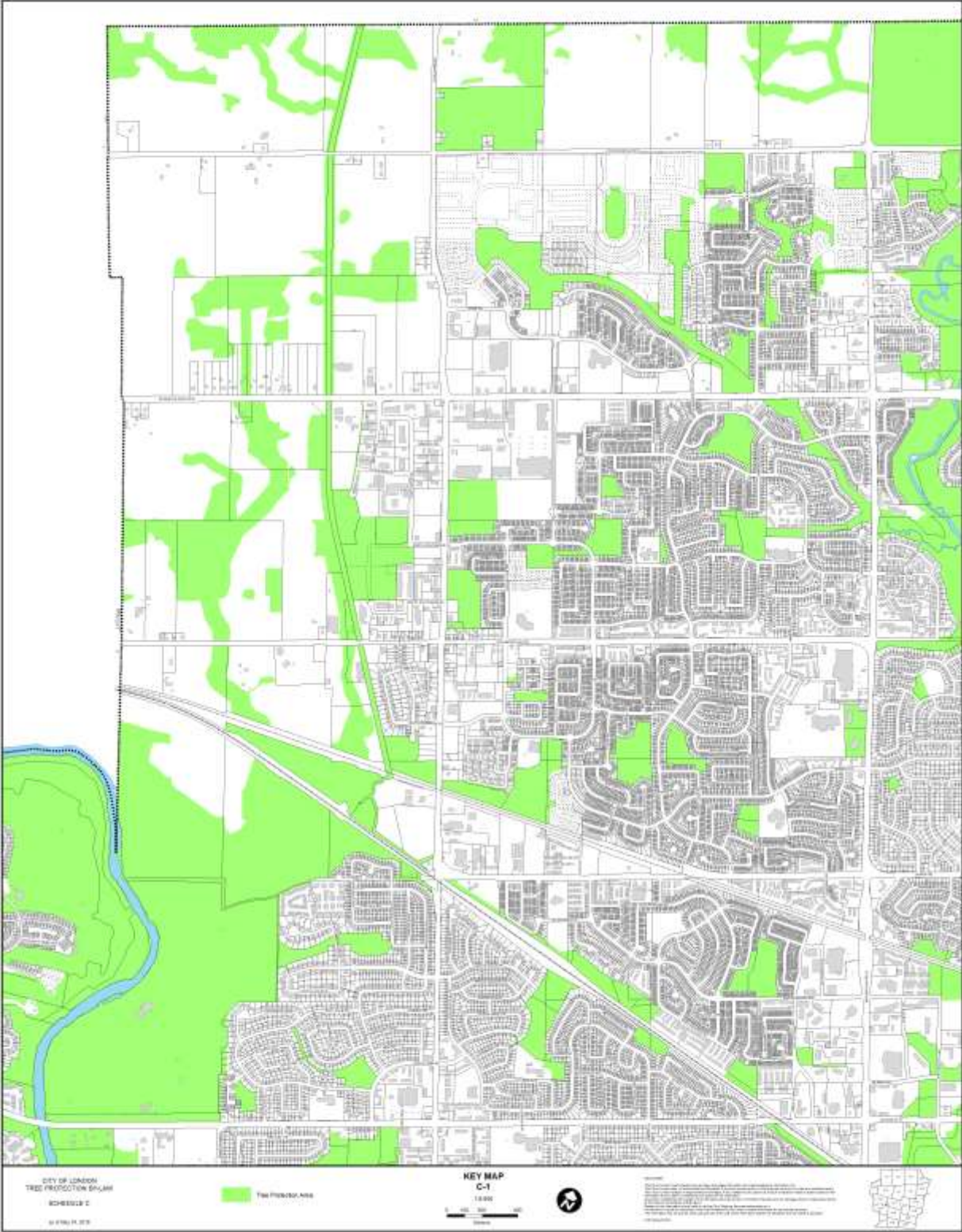
Schedule B

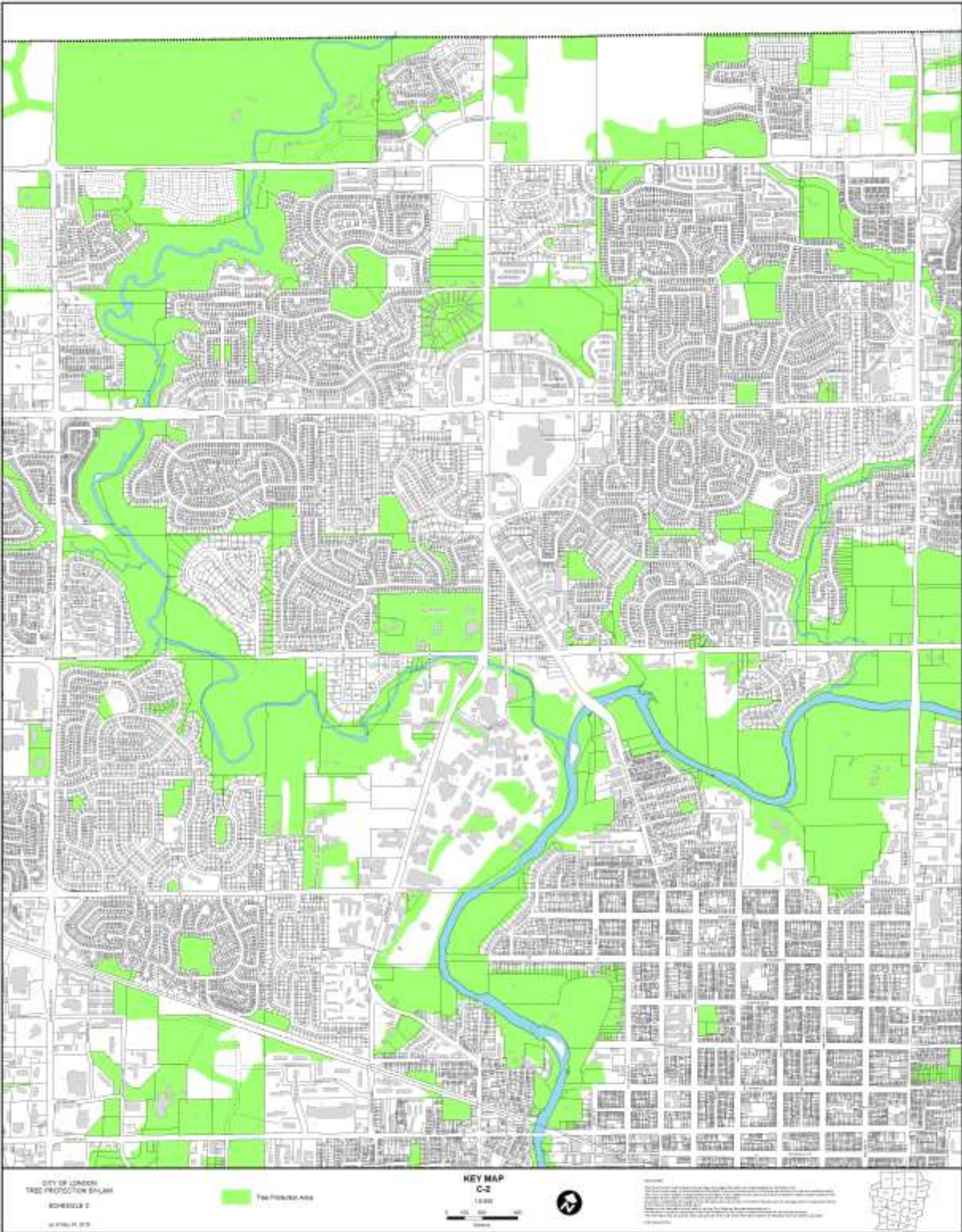
Calculation of Number of Distinctive Tree Replacement Trees & Calculation of Fees for Off-Site Tree Planting (insufficient space on Site to plant Replacement Trees)

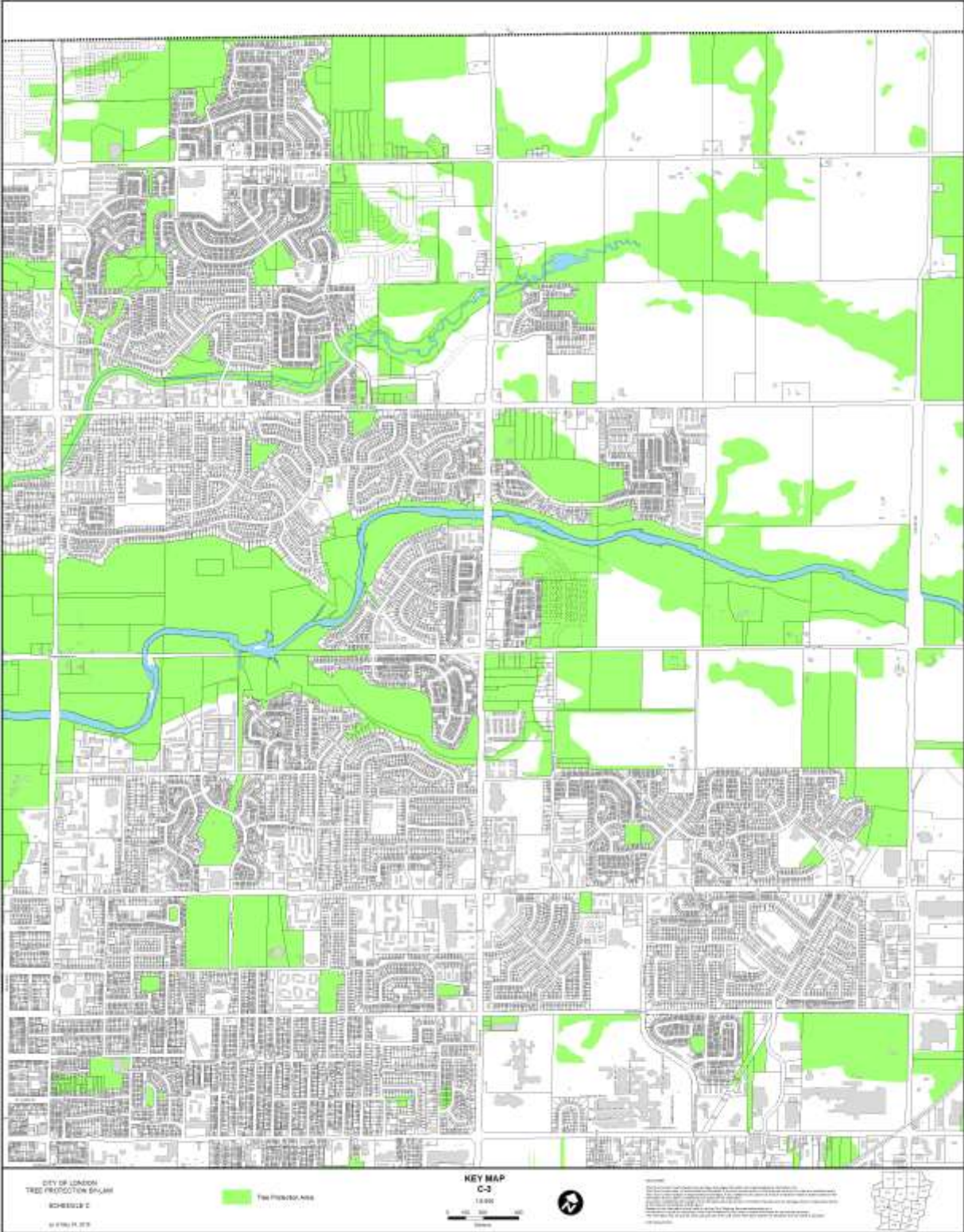
1. For the purposes of subsection 9.2(a) of this By-law with respect to a Distinctive Tree Permit, the City Planner shall determine the number of living Replacement Trees that will be required based on the chart below. The diameter of the Tree to be Destroyed under a Distinctive Tree Permit, as set out in Column 1, shall correspond to the number of replacement trees required, as set out in Column 2.
2. For the purposes of subsection 9.2(b) of this By-law with respect to a Distinctive Tree Permit, where there is insufficient space on the same Site to plant all of the number of Replacement Trees as calculated for 9.2(a) of this By-law, the City Planner shall determine the amount of the fee based on the chart below. The diameter of the Tree to be Destroyed under a Distinctive Tree Permit, as set out in Column 1, shall correspond to the Fee required, as set out in Column 3.

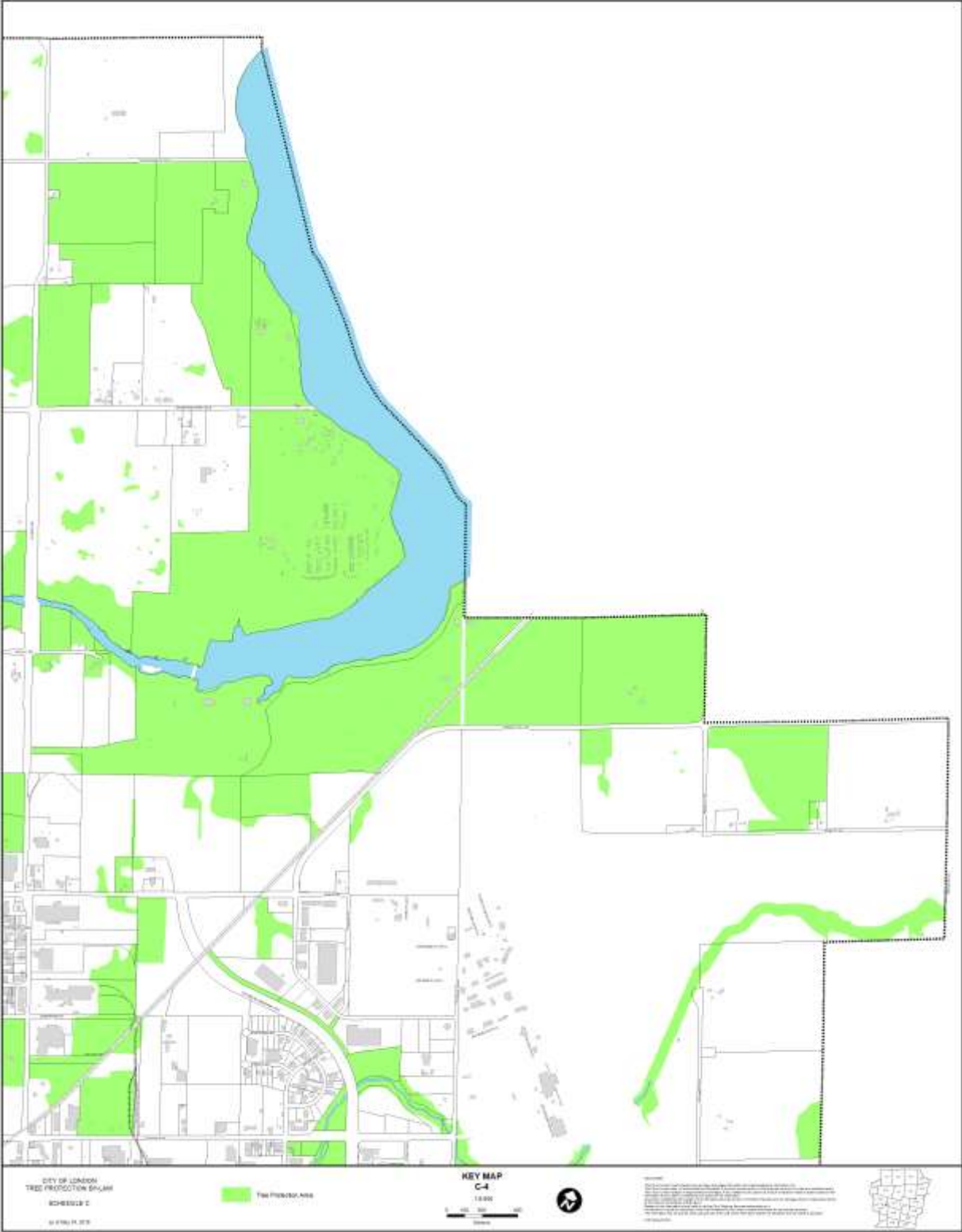
Column 1: Trunk Diameter of Distinctive Tree Destroyed	Column 2: Number of Replacement Trees Required – planted on-site	Column 3: Fee for Off-Site Tree Planting
50 cm	1	\$350
51-60 cm	2	\$700
61-70 cm	3	\$1 050
71-80 cm	4	\$1 400
81-90 cm	5	\$1 750
91-100 cm	6	\$2 100
101–110 cm	7	\$2 450
111-120 cm	8	\$2 800
121-130 cm	9	\$3 159
131-140 cm	10	\$3 500
>141cm	11	\$3 850

*NOTE: does not apply to Dead Distinctive Tree Permit

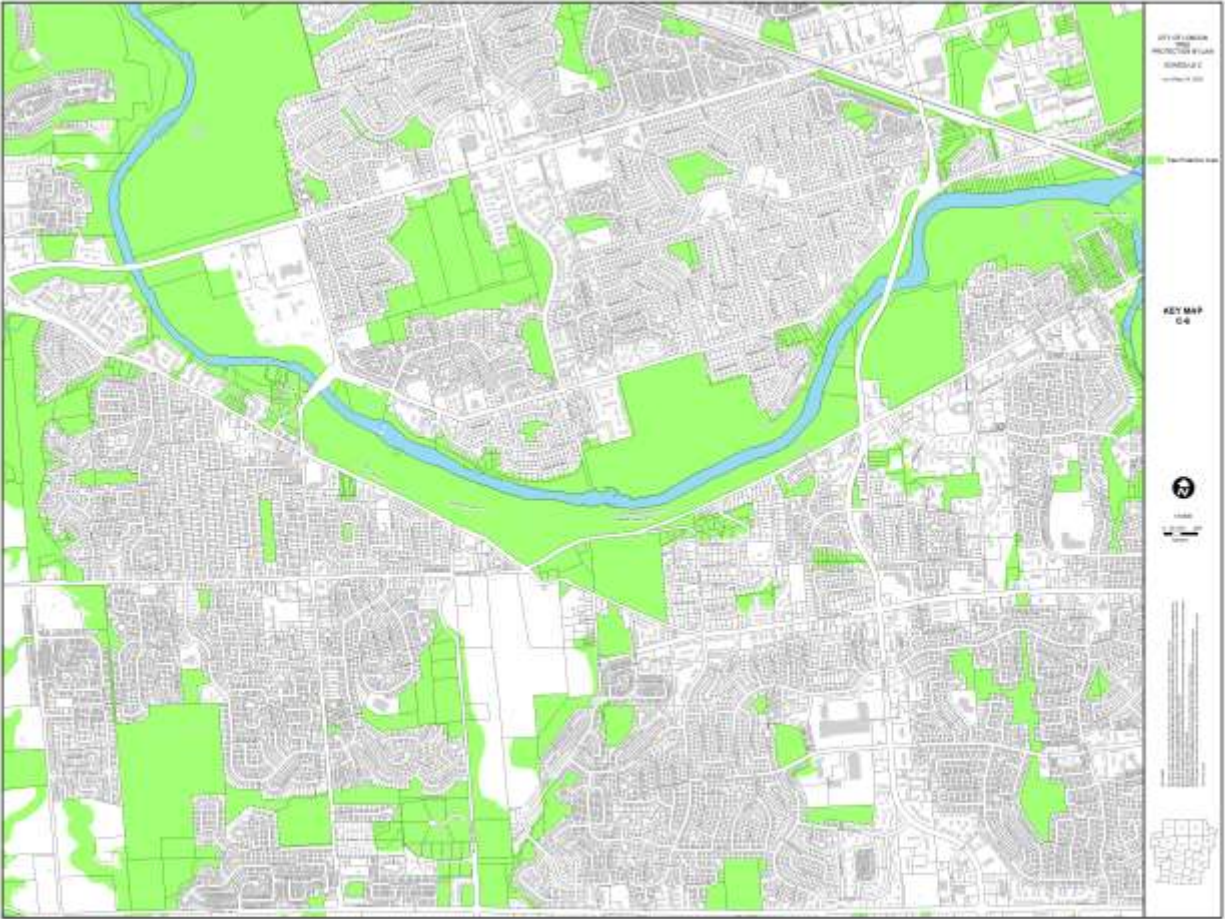


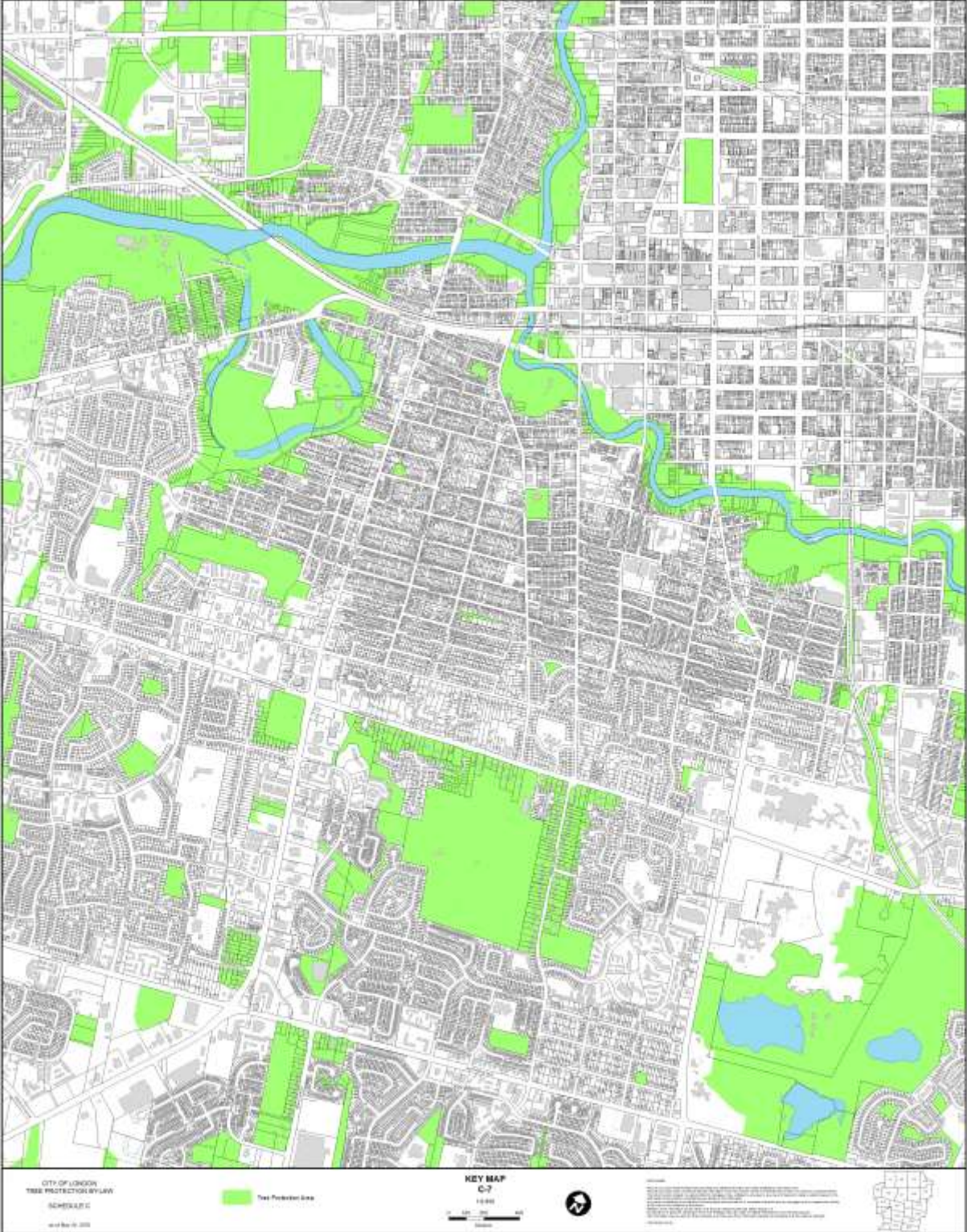


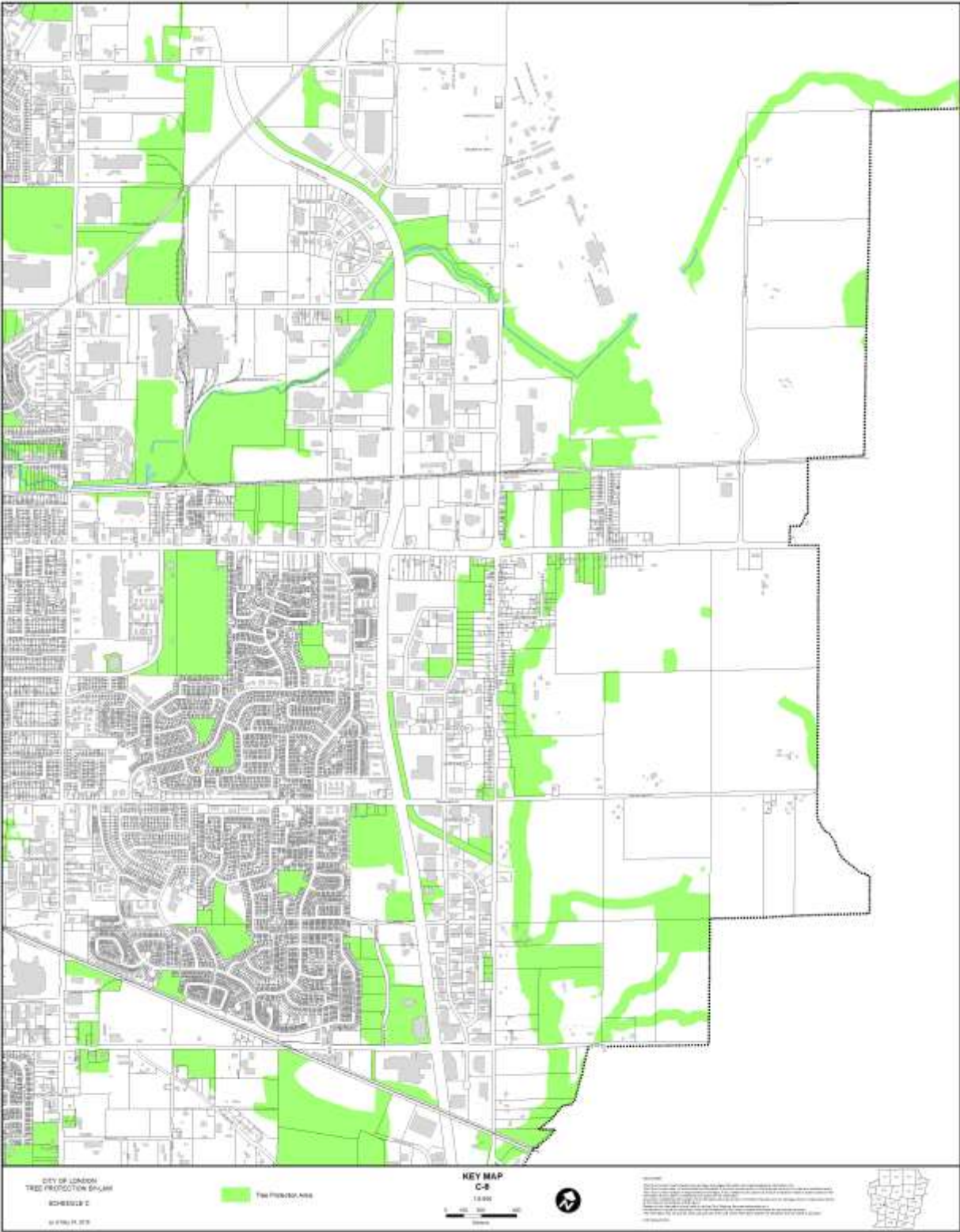


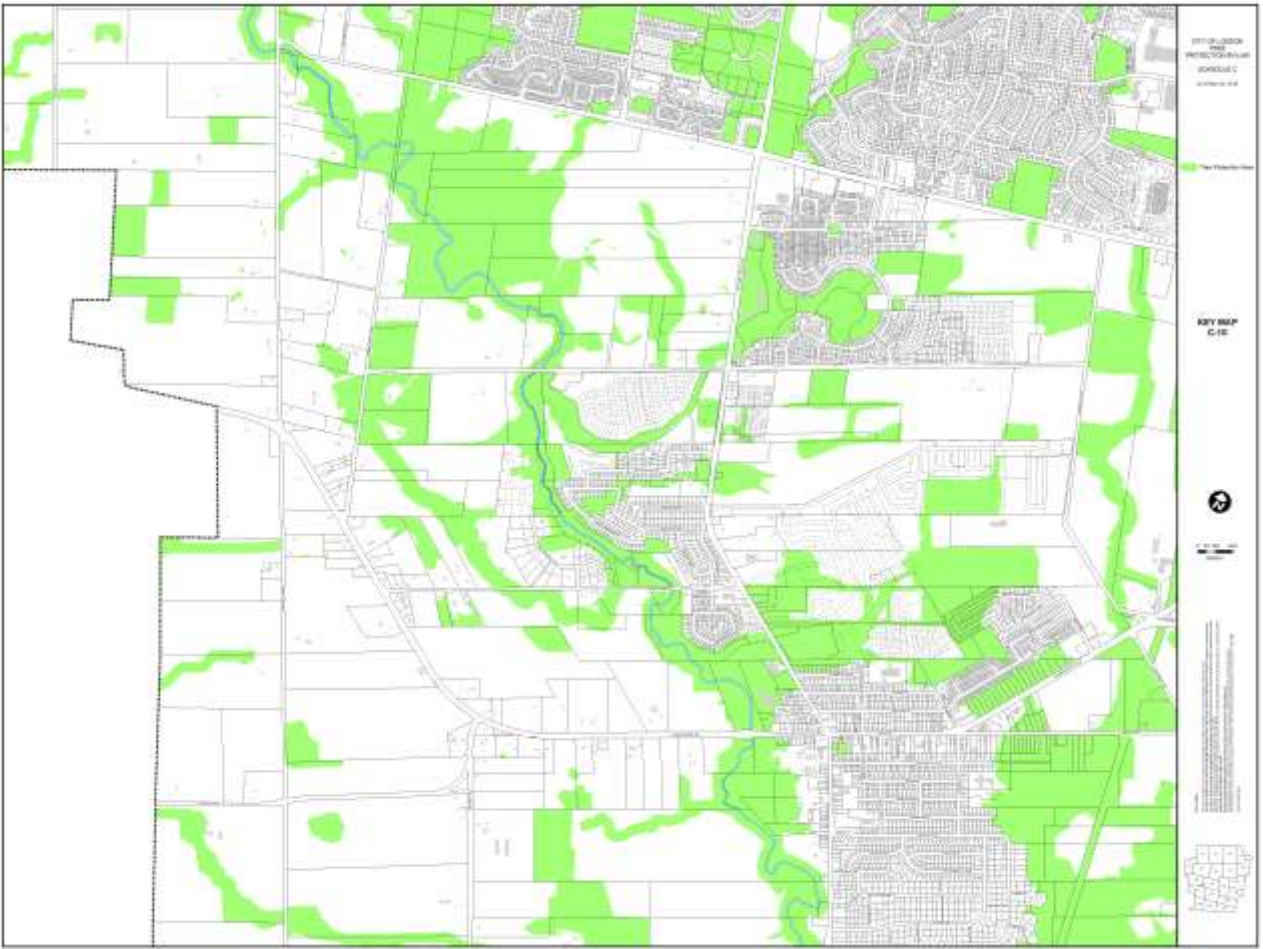


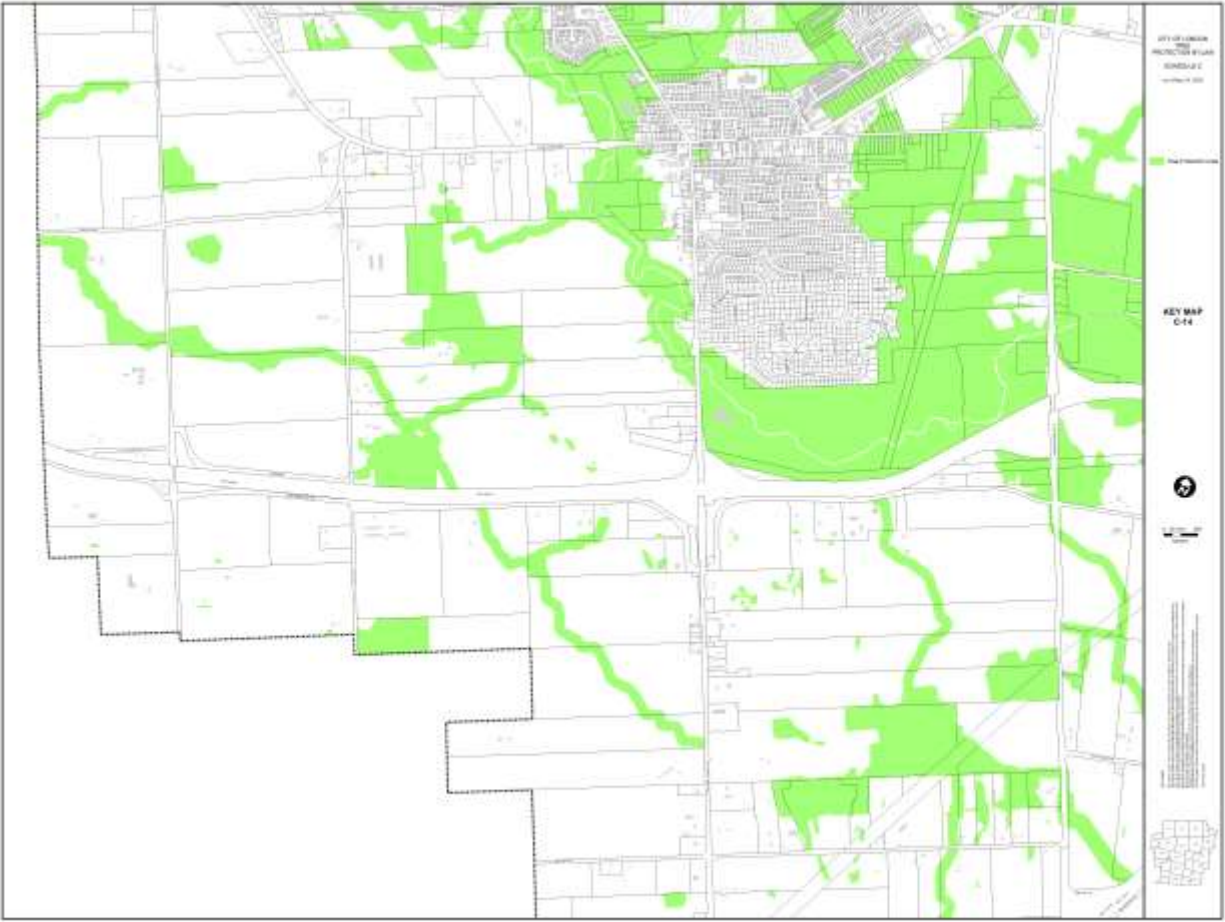




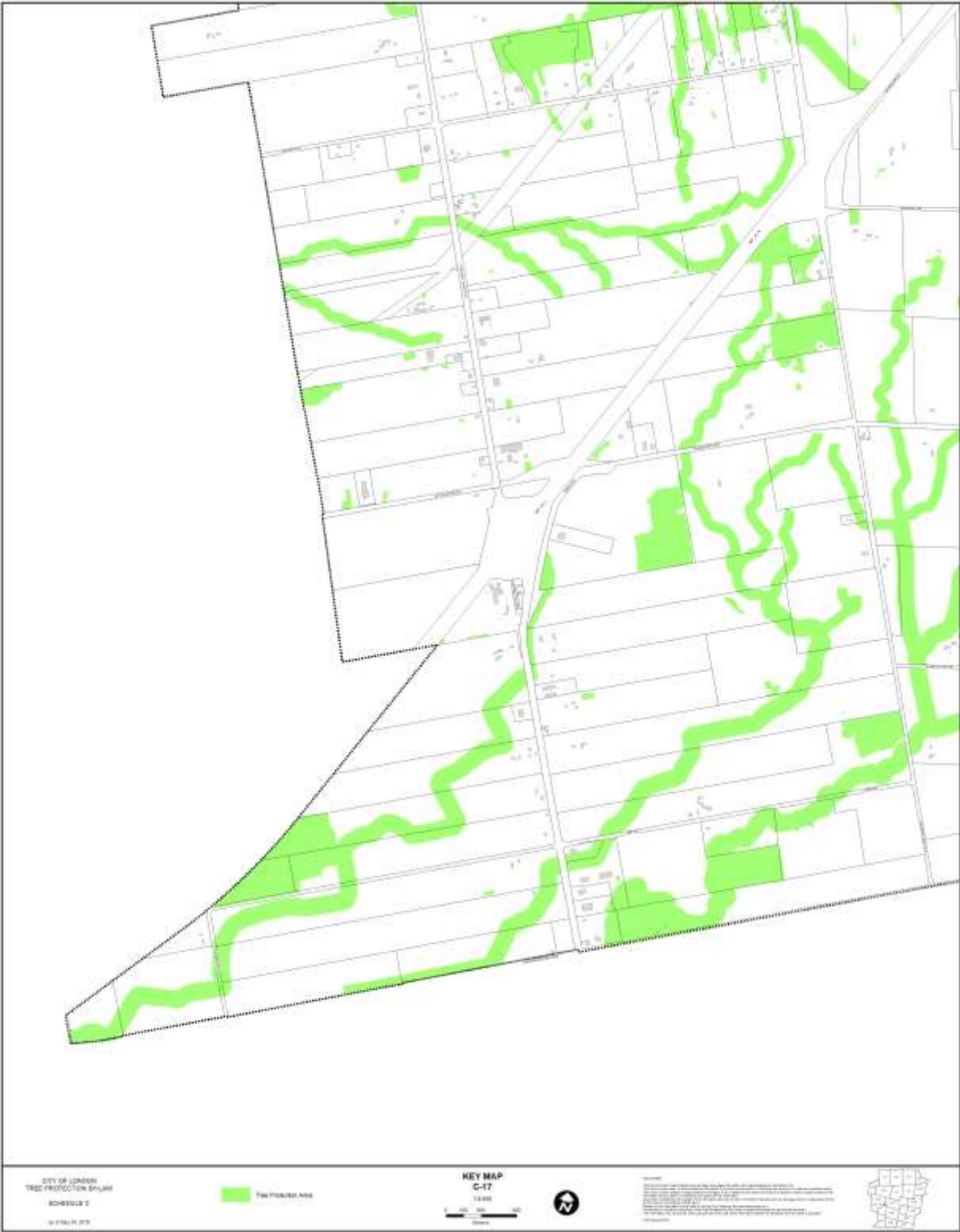


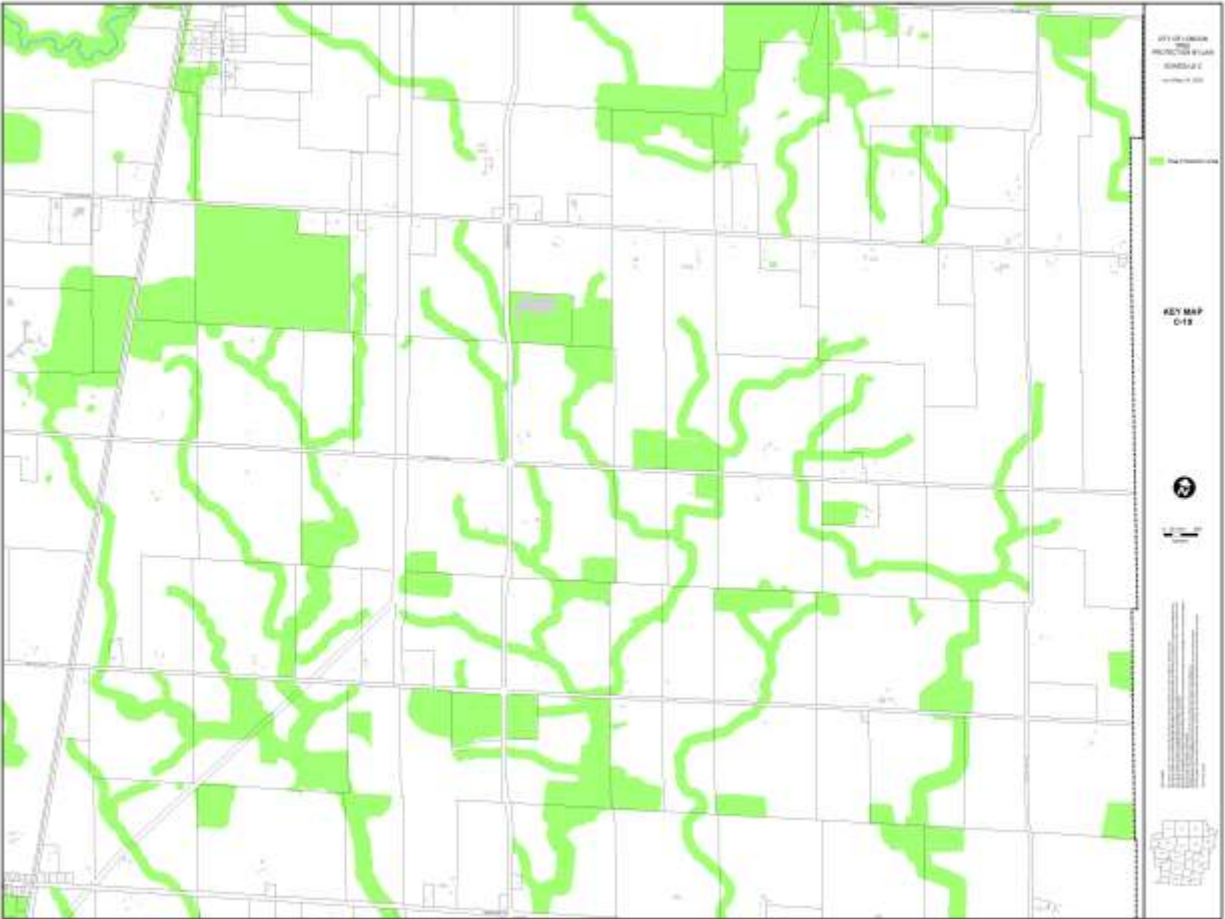














Appendix B – Public Engagement

Engagement Process Summary

Meetings were also held with London Development Institute and staff attended the London's Planner Lunch to discuss the By-Law.

Staff also reached out emailed 26 developers to provide the opportunity to have a one-on-one meeting to discuss their experience with the By-law and/or to submit their written comments.

Residents/Landowners

City Staff sent letters and emailed 341 residents/landowners to complete an on-line survey. We received 152 responses. Included in Appendix B are the results of the survey which also include input from tree care professionals and developers.

Tree Care Professional & Industry Consultants

On February 27, 2018 a meeting with tree care professionals and industry consultants was held. 29 companies were invited and 20 people attended representing 16 different companies. When the initial invite was sent out 4 tree care companies noted that they would not attend as they felt that the process was going very well with the By-law. The majority of permit applications that are submitted are done so by 3-4 of the larger tree care companies.

The following topics were discussed with participants in round table discussions:

1. From your experience when you went through the application process; what worked, what did not?
2. Is the language in the By-law easy to understand?
3. What do you think is a fair application fee? Distinctive Tree? Tree Protection Area?
4. What do you think would improve the By-law?
5. Other comments concerns?

Some main discussion themes included the following:

- Applicants need to be able to submit applications and payment on-line in addition to having other payment options at the front desk.
- The City needs to do a better job educating the public about the by-law as homeowners are not aware of the bylaw. Tree care companies are routinely their first point of contact.
- City should offer a workshop to help educate the tree care industry on the process as it is difficult to understand (what is required in an application) and currently takes too long.
- Fees are too high for Tree Protection Area (TPA) permits and the \$1,000 fee deters good forestry management. The Distinctive Tree fee is also too high as it is based on per tree removed.
- 7 day posting requirement creates an impacts on tree care companies scheduling of work.
- There are inconsistencies by staff in the issuing permits and when tree replanting is required.
- Raise the size threshold to 75cm DBH; threshold should be lowered to less than 50cm DBH
- Unintended consequence of the By-law that was noted by the tree care industry is the creation of "underground" companies that will perform work without appropriate permits, they are being penalized for following the law while others are not



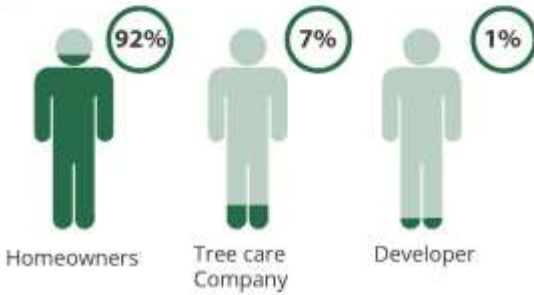
Tree Protection By-Law Survey Summary

Survey Overview

An online survey was distributed to the applicants who had gone through the Tree Protection By-Law application process

Survey Results: (152 respondents)

1 Who are the respondents?

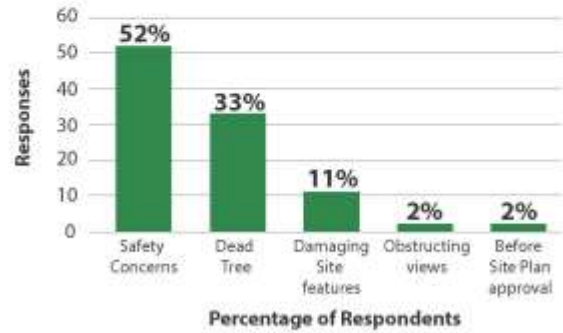


2 If you found the process difficult, which part of the Tree Removal Permit application was challenging?

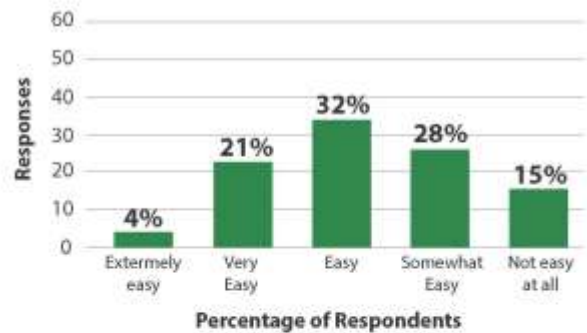


Survey Results: (Continued)

3 What prompted you to apply for a permit to remove a private tree?



4 How easy was it to find the information you were looking for to help you through the Tree Protection By-Law process?



5 Describe your level of satisfaction with the turnaround time (2-3 weeks)?

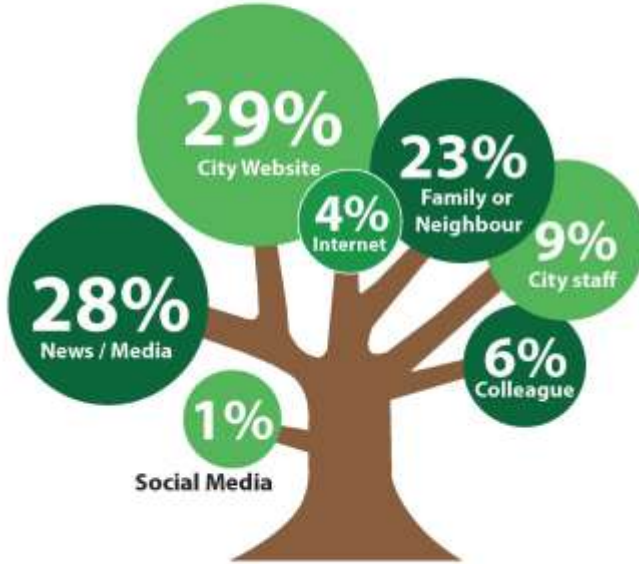




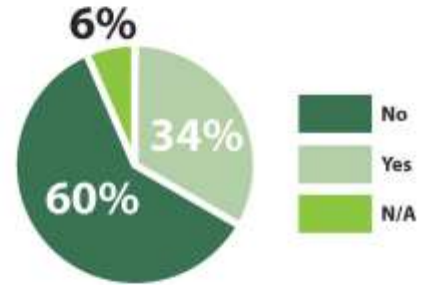
Tree Protection By-Law Survey Summary

Survey Results: *(continued)*

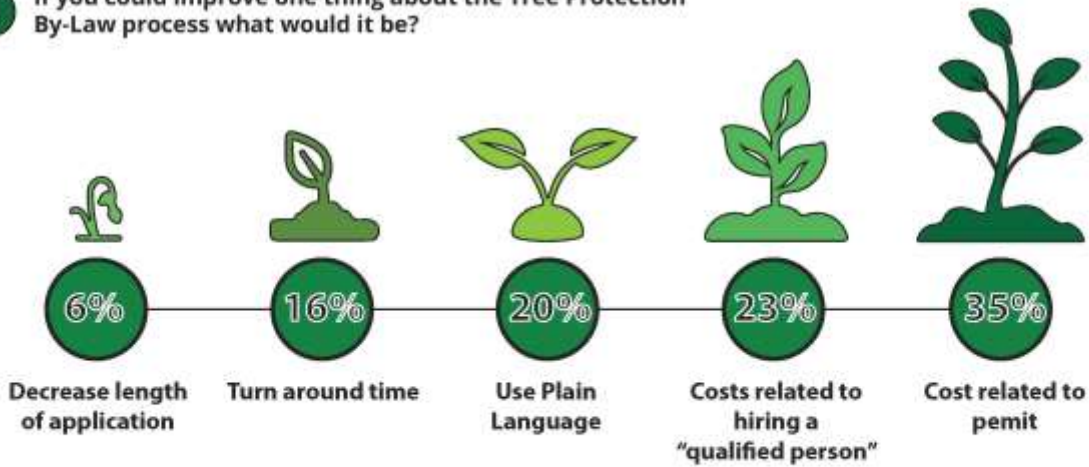
6 How did you learn/hear about the Tree protection By-Law:



7 Did you find the tree removal application process challenging?



8 If you could improve one thing about the Tree Protection By-Law process what would it be?

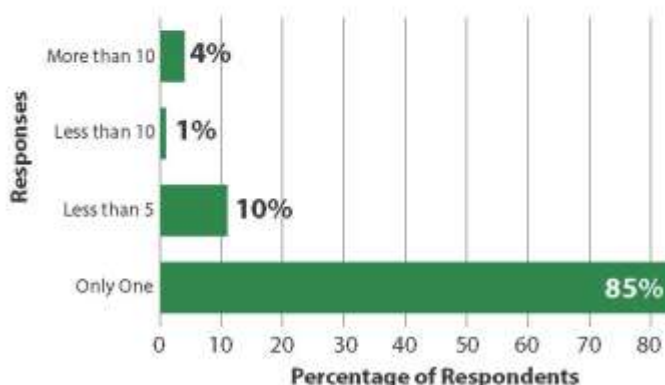




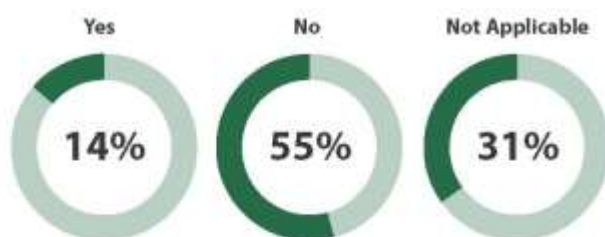
Tree Protection By-Law Survey Summary

Survey Results: *(continued)*

9 How many applications have you submitted?



10 Did the application fee discourage you from submitting your application?



11 If you've submitted more than 1 tree application, how has your experience been?



Summarized Notes from Engagement Meeting:

Positives:

- ▶ It's good that there is no fee for dead and/or dangerous trees
- ▶ Appreciate the value of this program. The City is losing too much of its forest cover and we must act to protect the little that remains.
- ▶ Very helpful, knowledgeable and friendly staff. Thank you guys!
- ▶ Several companies mentioned that they thought that the process was going well overall
- ▶ Found the whole process front to back very straight forward

Needs Work:

- ▶ Application is too long and complex - need online payment and fillable forms ASAP
- ▶ Create a template for an arborist report
- ▶ Process can be slow with too many return visits
- ▶ Criteria to approve a permit are clear enough - Language in 6.12(f) is unclear
- ▶ More education about the By-Law required for the public
- ▶ Develop fact sheets or newsletters outlining pertinent information
- ▶ Provide incentives
- ▶ Simplify the process for golf courses and cemeteries
- ▶ Simplify the language of the By-Law
- ▶ Don't really think it really required as you just add another level of bureaucracy to an already overburdened system at city hall.

Appendix C

REVISED URBAN FORESTRY WORK PROGRAM

PROJECTS TO IMPLEMENT

STATUS CHANGE

Nov 2017 June 2018

Implementation & Enforcement of Tree Protection By-law	On-going	On-going
Enforcement of Property Standards – tree hazards	On-going	On-going
Boulevard Tree Protection By-law Revisions*	Q2	Q4
Tree Protection By-law Update	Q2	Q3
Internal Service Review on Efficiencies and Process Improvement	Q3	Q4
Street Tree Inventory/ iTree Eco Analysis*	Q4 into 2019	

ADDED PROJECTS 2018

Design Guidelines Updates – Chapter 12	NEW
Oak Wilt Communication & Management Strategy	NEW

PROJECTS AS RESOURCES PERMIT

Report Writing & Analysis	On-going	
Plan reviews (subdivision, site)	Time Delay	
Invasive Species Reduction Programs		
• Buckthorn Management Program	On-going	Delayed
• Asian Long horned Beetle (ALB) Program (monitoring)	Delayed	Delayed
Woodland Management Capital Program	On-going	Delayed

PROJECTS WITH MODIFIED TIMEFRAME

Supporting Documents for By-laws & Strategies	
• UF Communications & Education Strategy	Defer
• Watering Strategy	Defer
• Tree Compensation Guidelines	Defer
• Downtown Capital Tree Planting Projects	Defer
Take on additional Property Standards role	Defer
Take on responsibility for the Boulevard Tree By-law	Defer

*Note: * indicates that the item is within the 2015-2019 Council Strategic Plan*

Trees and Forests Advisory Committee

Report

5th Meeting of the Trees and Forests Advisory Committee
May 23, 2018
Committee Room #3

Attendance PRESENT: R. Mannella (Chair); T. Khan, J. Kogelheide, C. Linton, N. St. Amour and M. Szabo and J. Bunn (Acting Secretary)

ABSENT: C. Haindl, G. Mitchell and R. Walker

ALSO PRESENT: A. Macpherson, M. Morris, J. Ramsay and S. Rowland

The meeting was called to order at 12:15 PM.

1. Call to Order

1.1 Disclosures of Pecuniary Interest

That it BE NOTED that no pecuniary interests were disclosed.

2. Scheduled Items

2.1 Parks and Recreation Master Plan Update

That the following actions be taken with respect to the Parks and Recreation Master Plan:

a) it BE NOTED that the attached presentation from A. Macpherson, Environmental and Parks Planning, with respect to this matter, was received; and,

b) a Working Group BE ESTABLISHED, consisting of T. Khan, M. Szabo and A. Morrison, to review the Parks and Recreation Master Plan and report back at the June meeting of the Trees and Forests Advisory Committee, with input on the above-noted plan.

2.2 Complete Streets Update

That it BE NOTED that the attached presentation from M. Morris, Engineer-in-Training, with respect to an update on the Complete Streets project, was received.

3. Consent

3.1 4th Report of the Trees and Forests Advisory Committee

That it BE NOTED that the 4th Report of the Trees and Forests Advisory Committee, from its meeting held on April 25, 2018, was received.

3.2 Municipal Council Resolution - 3rd Report of the Trees and Forests Advisory Committee

That it BE NOTED that the Municipal Council resolution, from its meeting held on April 24, 2018, with respect to the 3rd Report of the Trees and Forests Advisory Committee, was received.

4. Sub-Committees and Working Groups

None.

5. Items for Discussion

5.1 Green Legacy Update

That it BE NOTED that the attached presentation from A. Cantell, ReForest London, with respect to the Green Legacy Project, was received.

5.2 Trees Located at Southdale Road and Wharnccliffe Road South

That it BE NOTED that the Trees and Forests Advisory Committee heard a verbal update on the trees located at the corner at Southdale Road and Wharnccliffe Road South from A. Macpherson, Manager, Environmental and Parks Planning.

5.3 Clarification of Meeting Agenda Submission Process

That it BE NOTED that the Trees and Forests Advisory Committee held a general discussion with respect to the process for submitting items for the committee agendas.

6. Deferred Matters/Additional Business

None.

7. Adjournment

The meeting adjourned at 1:40 PM.



P.O. Box 5035
300 Dufferin Avenue
London, ON
N6A 4L9

London
CANADA

June 13, 2018

Chair and Members
Trees and Forests Advisory Committee

I hereby certify that the Municipal Council, at its meeting held on June 12, 2018 resolved:

That the following BE APPOINTED as Voting Members to the Trees and Forests Advisory Committee for the term ending February 28, 2019:

- Alex Meilutis (Active Community Planting Group)
- Alex Morrison (Local Business Association/Tree Related Business)
- Sonja Teichertt (Forestry Expertise) (4.1/12/CSC) (2018-C12)

C. Saunders
City Clerk
/hw

cc: A. Meilutis
A. Morrison
S. Teichertt