

# TFAC Tree Conservation Bylaw Working Group:

## Notes from the April 12, 2013 Meeting

### Working group members present:

Amber Cantell, Craig Linton, Calvin McCallum, Sylvia Curtis-Norcross

### Bylaws from other communities:

- Various members have collected and reviewed bylaws from Oakville, Toronto, Hamilton, Brantford
- (Amber notes: There's also a 13 page systematic review of lower tier bylaws available here which will likely come in handy:  
<http://www.oufc.org/wp-content/uploads/2012/04/Lower-Tier-municipality-Tree-Bylaws-rev.-April-2012.pdf> )

### Elements under consideration:

- **Fee structure** which starts out with only a notification requirement for the smallest number of trees (based on Oakville's), and which is based on a tree needing to be a minimum size (or qty.) in order to require a permit
  - Oakville's language and approach is particularly good, as it emphasizes the value of trees and makes the permitting process an educational tool as well
  - Oakville uses 8" min DBH before a tree needs to be considered; Toronto's is about 12".
  - Oakville also makes use of a "per annum" approach
  - One of the bylaws offers an option to waive the permitting fee to those facing financial hardship or not-for-profits
  - One required written consent from the neighbour if the tree is on the property line
    - If using this approach, we'll need to be very clear about what constitutes a "shared" tree (roots, trunk, and/or overhanging branches?)
- **Requirement to have an arborist do the assessment** as a part of the permitting process (strongly supported by the group); other by-laws can give examples of what to look for (and checklists or forms would help to ensure it all gets done)
  - Also creates a more focused marketing/training opportunity (directed towards arborists, rather than having to teach many things to the public as a whole)
- **List of scenarios which are exemptions** to needing to get a permit (such as roots breaking through foundations) (p. 5 section 6 of Oakville's Private Tree Protection Bylaw)
- **Several municipalities had different by-laws** to deal with different types of trees (often private, public/parks and highways in various combinations)
- **Fines:**
  - In general, we think a high cap is good so as to serve as a strong disincentive to cutting without a permit (even if in practice it may never be used)
  - Oakville has an unusual "per day" section for people who keep cutting without a permit – we neither understand nor especially like this approach, feeling instead that the fees should be based on the number of trees cut.

- **Definitions:**
  - **DBH** needs to be clearly defined, and a stump-based approach for trees cut without permits would be a good idea
  - Either **critical root zone** or **drip line** would be a good addition (so as to ensure protection for tree roots as well as branches). Callum thinks drip line would be easier to work with than critical root zone, although Sylvia pointed out potentially for trying to find loopholes (trimming one side of tree so as to argue drip line does not extend as far)
  - **Injury and damage:** Many good definitions available. Amber would like to see “flooding” worked in as an example of a way to kill a tree.
  
- **Woodlands, Hazard Lands:**
  - Should trees in woodlands and hazard lands be dealt with differently? (Craig has suggested that some things to do with woodlands are already covered under other City processes)
  - Sara has said single-tier municipalities can’t do woodlands, and yet Brantford’s (p. 1, sec 2a.i) does
  - Overall, current bylaw seems far too restrictive in terms of the types of lands it applies to (“Environmental Protection Areas”)
  - If we were to do multiple bylaws, one for parks/city lands would only apply to people who aren’t the City cutting trees on City land
  
- Should **encroachment** be worked in? If so, where?
  
- **Tie back to a “Reforestation Policy”** – currently bylaw only serves to say when you can cut, nothing about how to conserve (maintain) existing tree levels
  - We also discussed the possibility of getting City to allocate a certain proportion of permit fees to replanting or purchasing forested lands
- **Also tie back into the Urban Forest Strategy:** the new bylaw should support the UFS going forward, rather than being based on an older set of goals and strategies.
  
- **Right Tree, Right Place:**
  - Should it be in here, or will it turn into a justification for cutting? (Not going to be one for planting as far as this bylaw is concerned)
  
- **Valuation of Trees:**
  - Placing higher value on trees would both discourage cutting and provide funds for replanting.
    - But could be made challenging where tree has been cut down: hard to determine health, species.
  - It does not appear that any of the other municipalities’ bylaws being reviewed contain much in the way of systematic valuation. We will need to ask Sara how the four systems used in the book she recommended are actually applied at the municipal level. (Is it just for City projects?)
  
- **Wording/Language:**
  - The final product must clear and easily understood by the public; an overview page similar to Oakville’s may be useful
  - Language needs to have an emphasis on tree protection and the value of trees, rather than being a document about how to *get* trees cut down.
  - Would like to see wording establish a green infrastructure focus
  - Good wording: “Destroyed” rather than “Removed”, “injured” rather than “damaged” – stress the idea that plants are living things rather than just objects

- **Phased-in Approach:** By-law should be phased in with a large educational/marketing campaign before it is launched – don't want to create undue controversy
  - Ideas for marketing: utility ads, partnering with the Health Unit, etc.
- **Involvement of Arborists:** Needs to be more consultation between City and the tree care companies in town (in general), to both learn from each other and give information.
  - (The City did a survey of the tree businesses about 3 years ago – would have been under Ivan – it would be interesting to see results if someone could find them)
  - Need to determine if City is in a position to penalize a business (e.g. arborists) if they cut down tree without permit. (Callum cited butternut example, but Craig thinks it only works because it's a federal species at risk)

#### Other Miscellaneous Notes:

- We will need more time to develop feedback
- We want bylaw to be very clear on where it does NOT apply. Will likely alleviate a lot of concerns, reduce potential for animosity.
- Bylaw must be enforceable and if there are elements concerning enforcement that cannot be made within the bylaw itself (e.g., how much money to spend on enforcement), TFAC should come up with other recommendations to send to council along those lines.
- City of London website needs to be updated so as to ensure all forestry-related files can be found in one place
- Apparently initial tree conservation bylaw is based off an old woodlot one from the Ontario Woodlot Association (hence why it reads a bit strangely)

#### Tasks:

- **Sylvia** will contact Oakville to ask how their permitting system is working for them (is 4 the right number?) and why they used a “per day” approach in their fee system.
- **Craig** will forward Sara's response to his inquiry concerning the City's goals for the bylaw, and double check in with Sara about her timelines (and why they are what they are)
- **Amber** will forward 13 page review by Ontario Urban Forest Council to group, and will send quick e-mail to Sara and Ivan advising them immediately that we want more info from them immediately about their objectives and expectations
- **Group** will review EEPAC's feedback in more detail before our next meeting; we'll also want to set up a meeting with EEPAC's working group to discuss how we can collaborate
- **Group** will ask City to clarify their goals at next TFAC
  - We could plan to use the UFS