



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	Tree Service Company Licensing Feasibility Report (PED19008) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Luis Ferreira 905-546-2424 Ext. 3087
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION(S)

- (a) That Council adopt this Report and direct staff to draft a new licensing schedule (Tree Service Company) within the Business Licensing By-law 07-170 and bring it back in a form satisfactory to the City Solicitor for enactment;
- (b) That the item respecting the feasibility of implementing a By-law that will ensure that any commercial company that is contracted to remove trees within the City of Hamilton has a City Business Licence, be identified as complete and removed from the Planning Committee Outstanding Business List.

EXECUTIVE SUMMARY

This Report outlines the feasibility of licensing all commercial businesses that are contracted to remove or cut trees within the City of Hamilton to ensure our Tree Protection By-laws are being adhered to and to ensure consumer protection, public safety and nuisance control.

There have been recent incidents of landowners hiring a Tree Removal or Cutting Business that either clear cut or remove trees on their property prior to proper site approval or contrary to the City's Tree Protection By-laws. Other municipal jurisdictions have also experienced similar activities and have put into place a licensing schedule to ensure these businesses have the proper skill sets, insurance and understanding of municipal By-laws, therefore strengthening public safety, consumer protection and nuisance control.

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This Report reviews best practices and outlines stakeholder feedback that supports the need for licensing these businesses and to give the City more control of non-compliant businesses that do not follow best practices and the City's Tree Protection By-laws.

The *Municipal Act, 2001* provides Council with the authority to license, regulate and govern any business, wholly or partly, carried out within its jurisdiction.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The Tree Service Company will be required to pay a licensing fee, which is based on full cost recovery.

Staffing: The impact of the licensing schedule and enforcement activities will be absorbed within the existing complement.

Legal: Pursuant to Subsection 10(2) of the *Municipal Act, 2001* (the "Act") the City has the legal authority to pass by-laws respecting business licensing.

HISTORICAL BACKGROUND

At its meeting of March 29, 2017, Council approved Item 7.7, directing staff to bring a report back to the Planning Committee which investigates the feasibility of implementing a by-law that will ensure that any commercial company that is contracted to remove trees within the City of Hamilton has a City Business Licence.

The motion was brought forward after hundreds of trees in a woodland area were destroyed and cut down in contravention of regulations contained within By-law 14-212, being a By-law to Promote the Conservation and Sustainable Use of Woodlands on Private Property within the Urban Boundary of the City.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

NA

RELEVANT CONSULTATION

Legal Services and Industry Stakeholders were consulted in the preparation of this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The City of Hamilton plays a role in the protection of urban forests through education and implementation of green space enhancements, assessments and protection initiatives. The City promotes healthy urban forests and protects trees from harm by using existing by-laws.

There have been recent incidents of landowners hiring a Tree Removal or Cutting Business to remove or cut trees to improve or streamline their development project prior to seeking site plan approval from the City or establishing a tree protection plan. This type of activity has threatened the tree canopy of the City which may have negative effects on our environment.

In preparation of this Report, staff found that other municipalities license tree service companies:

- 1) Barrie, ON
- 2) Burnaby, BC
- 3) Calgary, AB
- 4) Edmonton, AB
- 5) New Westminster, BC
- 6) Oakville, ON

Researching this industry revealed regulations for the professional designation of Arborist and additional information on certification programs and training opportunities for individual workers in this industry. The International Society of Arboriculture and the Infrastructure Health and Safety Association (IHSA) provide certificate exams, training options and funding sources for chainsaw operators, tree climbers, working near energized high-voltage power systems, operating machinery safely, transporting dangerous goods, working on suspended access equipment and utility clearing.

Although there is training available to individuals in this industry (including certifications from Provincial and Health and Safety bodies), there is no single regulatory body to ensure compliance with standards nor is it mandatory. Therefore, anyone can advertise and perform this type of work with no oversight or accountability.

On October 30, 2018, Licensing and By-law Services' staff hosted an Industry Stakeholders meeting. Individuals, representing seven different tree service companies and one sole proprietor attended. The group all supported licensing their industry and welcomed the requirement of a Certified Arborist to be on staff to ensure good practices as related to tree health and adherence to by-law regulations. A Certified Arborist would also direct and supervise workers at the work site to ensure health and safety standards are maintained and adhered to.

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Having an Arborist on staff provides a level of expertise when addressing tree issues and a valuable teaching resource for tree service workers. The individuals who attended the meeting were in support of an annual licensing fee but added that without proper enforcement, both proactive and reactive, there would be no benefit as unlicensed companies would continue to operate under the radar.

During the meeting staff were told of companies within the tree service industry who operate without liability insurance, have no education or training in safe tree removal practices and who use poor or inappropriate equipment to do the work putting people at risk and damaging property. The tree service companies indicated that in some cases money was taken in advance and the work originally hired to do was sub-standard or never performed, leaving the customer out of pocket, unsatisfied and with little to no ability to go after the company for re-imburement or compensation. Given this information, it is staff's opinion that there is a municipal purpose to licence companies who provide tree services within the City's jurisdiction.

Introducing the requirement of a licence will provide enforcement staff the ability to properly vet these companies by requiring comprehensive insurance coverage, corporate documents and/or sole proprietorship information and the requirement to have a Certified Arborist on staff to ensure adherence to industry best practices as it relates to the care and maintenance and when necessary the safe removal of trees. It would also require licensed tree service companies to provide contracts which identify work to be performed and for whom, cost of the work and completion date before commencement of any work. This critical enforcement strategy through licensing will ensure consumer protection, public safety and nuisance control.

In summary, the proposed Business Licensing Schedule would address the need for a Certified Arborist, proper liability insurance, contracts, promote safe operations and removal and ensure the adherence to current Tree Protection By-laws. This Business Licensing Schedule will provide the mechanism for the City to regulate and enforce where there are contraventions of the By-law.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

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Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

APPENDICES AND SCHEDULES ATTACHED

N/A

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