

THE CORPORATION OF THE
CITY OF WHITE ROCK
CORPORATE REPORT



DATE: November 22, 2021

TO: Mayor and Council

FROM: Greg Newman, Acting Director, Planning and Development Services

SUBJECT: White Rock Tree Management Bylaw Changes as Recommended by the City's Environmental Advisory Committee

RECOMMENDATIONS

THAT Council:

1. Give the first three readings to City of White Rock Tree Protection Bylaw, 2021, No. 2407 and that final adoption of the Bylaw be given at the next regular meeting of Council;
 2. Repeal City of White Rock Tree Management Bylaw, 2008, No. 1831, with the date of repeal coinciding with the date of final adoption of White Rock Tree Protection Bylaw, 2021, No. 2407; and
 3. Rescind Council Policy 510 "Criteria for Type 2 Tree Removal Requests on Private Land" recognizing that the related content has been incorporated into City of White Rock Tree Preservation Bylaw, 2021, No. 2407.
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EXECUTIVE SUMMARY

In July of 2019, Council requested that the Environmental Advisory Committee (EAC) review White Rock's principal tree management instruments, including Tree Management Bylaw No. 1831 ('Bylaw') and Council Policy 611 ('Policy'), the latter of which pertains to "Tree Management on City Lands." Over the course of 20 meetings, the EAC consulted with City staff on potential changes to the Bylaw and Policy. This work ultimately culminated in a series of recommendations which are intended to support greater tree preservation and improved transparency in the process of administering both private and public tree removal requests. This report focuses on the recommendations of the EAC as they relate to the Bylaw. Considering the extensive revisions sought, staff are recommending that the current Tree Management Bylaw be repealed and replaced with "City of White Rock Tree Preservation Bylaw, 2021, No. 2407." The new bylaw not only responds to the recommendations of the EAC but also incorporates administrative, and some substantive, amendments proposed by staff. This report provides a summary of how the recommendations of the EAC have been addressed and where additional regulations are proposed. Furthermore, the report recognizes that, in a few instances, the recommendations of the EAC may have unintended consequences. In these cases, staff have not incorporated the recommended change into the new Bylaw, citing a rationale for this position. Overall, staff are confident that the content and structure of the new bylaw will help improve opportunities to support tree retention in the City while also incentivizing greater tree planting on private lands.

PREVIOUS COUNCIL DIRECTION

Motion # & Meeting Date	Motion Details
2019-315 July 22, 2019	<p>THAT Council refers the following documents to the City’s Environmental Advisory Committee for input:</p> <ul style="list-style-type: none"> • White Rock Tree Management Bylaw, 2008, No. 1831; and • Engineering and Municipal Operations Policy No. 611, with the following topics for consideration: <ul style="list-style-type: none"> ○ Tree Management on City Lands for review from an environmental perspective / protecting our environment for recommendations to come back to this committee in the Fall 2019. <p>Tree Management on City Lands for review and make recommendation(s) as to how they should change in regard to Council oversight of trees before they are taken down.</p>
2021-090 February 22, 2021	<p>THAT Council refer the following recommendations to the Governance and Legislation Committee:</p> <p><i>[Note: the motion includes a series of recommended amendments to Tree Management Bylaw 1831. The recommendations are included in Appendix A to this Report and can be found in the February 22, 2021 Council meeting minutes].</i></p>
2021-091 February 22, 2021	<p>THAT Council refers the following recommendations to staff:</p> <p><i>[Note: the motion includes a series of recommendations which can be found in the February 22, 2021 Council meeting minutes].</i></p>

INTRODUCTION/BACKGROUND

In July 2019, Council requested that the Environmental Advisory Committee (EAC) review White Rock’s principal tree management instruments, including Tree Management Bylaw No. 1831 (‘Bylaw’) and Council Policy 611 which pertains to “Tree Management on City Lands” (‘Policy’). Over the course of 20 meetings, the EAC consulted with City staff on several potential changes to the noted Bylaw and Policy. The intention of these changes was, generally, to support greater tree preservation throughout the City and improved transparency in the process of administering both private and public tree removal requests. Following the EAC’s review, a series of recommended amendments to the Bylaw and Policy were presented to Council. This report acknowledges the recommendations made by the EAC as they relate to the Bylaw. Appendix A provides a summary of the EAC’s recommendations (per Motion No. 2021-091), and the changes made to address the feedback received. In some instances, staff recommend that the change sought by the EAC not be incorporated into the Bylaw and in these instances a rationale for this position is offered. Due to the extent of revisions proposed to Bylaw No. 1831 staff are recommending that the Bylaw itself be repealed and replaced with “City of White Rock Tree Preservation Bylaw, 2021 No. 2407.” A draft copy of the Bylaw is included for consideration of the first three readings on the regular council agenda. Recommended changes to Policy 611, and broader direction to staff regarding other tree matters, will be the subject of future review and reporting.

Summary of Key Changes to Tree Management / Preservation in White Rock

The following points outline the substantive changes made to the City's Tree Management Bylaw in response to the recommendations of the EAC, as well as several additional key amendments introduced by staff (see additional detail in Appendix A):

1. Change of Bylaw title from Tree Management Bylaw to Tree Protection Bylaw (see Part 1 Section 1 of the Bylaw).
2. Reduction in the minimum "protected tree" size, from 30 cm "diameter at breast height" (DBH) to 20 cm DBH (see Part 1 Section 2).
3. Removal of fruit trees, alders and cottonwoods from definition of "lower value trees" (see Part 1 Section 3 – definitions).
4. Broadening the potential use of monies received as cash-in-lieu of tree replacement, and forfeited securities resulting from a permit violation, to support:
 - a) tree plantings on City property;
 - b) a local tree subsidy program; and
 - c) educational programs and materials that may be used to raise awareness of the benefits of supporting the growth of the City's tree canopy.

The above-noted changes have been incorporated into Part 7 Section 14 of the Bylaw.

5. Incorporation of criteria for the removal of an unwanted tree, taken from Council Policy 510, which include: a) roots causing damage to property; and b) complete obstruction of views. Note that in both instances it must be demonstrated through the permitting process that the conflict cannot be resolved through "sound arboricultural practices." This term has been defined in the Bylaw as follows:

"means the practices endorsed by the International Society of Arboriculture recommended by the American National Standards Institute (ANSI) in the A300 Standards for the planting, pruning and maintenance management of trees."

Throughout the Bylaw, all defined terms have now been italicized to strengthen the connection between bylaw provisions and the content within a defined term. In some cases, defined terms list the required qualifications of a professional (e.g., Project Arborist), and the required content of a technical submission (e.g., Arborist Report, Tree Survey (Inventory), Tree Protection and Replacement Report, etc.). This should help aid staff in administering the Bylaw, particularly when in receipt of incomplete or unacceptable submission materials and items submitted by unqualified professionals.

6. The definition of "Arborist" has been updated to require that the person be recognized as a Certified Arborist by the International Society of Arboriculture (ISA) and that the person holds a valid ISA Tree Risk Assessment Qualification (TRAQ).
7. The Bylaw now recognizes the requirement that the City's "Arboricultural Technician" carry out site inspections with each tree management permit application and that only the City, or their authorized agents, are permitted to remove or plant trees on City property (see Part 5 Section 4, and Part 8 Section 8, respectively).
8. The following provision has been added to Part 5 Section 2 of the Bylaw:

"The design of buildings and other site features (e.g., hardened walkways, driveways, outdoor patios, etc.) ought to demonstrate every effort to preserve protected trees where doing so would not take away from established density rights. The City's Arboricultural

Technician may refuse to issue a Tree Management Permit if it is determined that there are reasonable alternative design options to enable tree retention.”

This provision upholds the objectives of the EAC to see criteria introduced into the Bylaw to enable City staff to push for maximum tree retention.

9. The following provision has been added to Part 8 Section 1 of the Bylaw:

“A minimum of one (1) replacement tree shall be planted for each tree removed on a lot that is the subject of a Tree Management Permit application.”

This provision represents one of the most substantive changes proposed by staff. The current Bylaw only requires one on-site replacement tree regardless of how many trees are removed. Requiring a higher number of replacement trees will help restore and enhance the City's overall tree canopy, being a matter of particular interest to the EAC and Council. It is worth noting that the draft Bylaw does acknowledge there may be circumstances which render the one for one ratio as unviable (see Part 8 Section 9). In such instances the “Arboricultural Technician,” now a defined term, is recognized in the Bylaw as having the authority to determine whether cash-in-lieu payments may be made as an alternative to on-site replacement.

Areas Where Recommended Changes May Prove Problematic

In a few instances, the recommendations of the EAC have not been incorporated into the Bylaw for the reasons outlined below:

1. The EAC requested that a “Significant Trees Policy” be created and used to define “significant trees” on both private and City lands. The Policy would note that the removal of any “significant tree” would not be permitted other than for safety reasons or as approved by Council. In evaluating this recommendation, staff consulted with the District of Saanich as the municipality recognizes “significant trees” within its Tree Protection Bylaw (see link to Bylaw [here](#)). The Bylaw establishes a process for recognizing, with a plaque or marker, “significant trees,” being those that have importance to the community, including importance for “heritage, landmark value or as wildlife habitat.” The Bylaw provides that “no person shall alter, cut, damage or remove a Significant Tree” and requires a permit before any pruning of the branches or roots of a Significant Tree; there is no fee for such work. Staff at the District have provided that the administration of the significant tree component of the Tree Protection Bylaw is onerous and may not be yielding the desired benefits.

White Rock staff believe that the goal of protecting “significant trees” from removal can be upheld within the provisions of the proposed Tree Protection Bylaw. The Bylaw establishes a minimum threshold for the protection of trees (now 20cm DBH). Staff believe that any “significant tree” warranting protection will be captured by this threshold. Furthermore, staff note that Council's “Heritage Tree Policy” (No. 607 – [link](#)), provides a mechanism for the recognition of trees believed to have local significance. If Council were to become aware of a tree worthy of recognition, staff could be directed per the Policy to identify the tree with a plaque and to work with the owner to register a covenant on title that would prohibit the removal of the tree; the registration of the covenant would require the owner's consent.

2. Council Policy 510 ([link](#)) establishes criteria for Type 2 (unwanted) tree removal requests on private lands. Per section 3 of the Policy, the City will mail or deliver letters to the property owners immediately adjacent to the property under consideration of a Type 2 permit. The section further notes that comments are to be requested by a specified date prior to considering the issuance of the permit. The EAC recommended that a process of giving notice to adjacent property owners be incorporated into the Tree Protection Bylaw and that this

process be applied to both Type 2 and Type 3 permits. Furthermore, the Committee recommended that the Applicant be given the right to appeal a decision of staff to Council within 14 days of the notification that a removal request has been denied. Table 1.0 below summarizes the number of Type 2 and 3 permits managed between 2019 and 2021.

Table 1: Type 2 and Type 3 Tree Management Permit Applications 2019 to 2021

Permit Type	2019	2020	2021 (to Oct 31, 2021)
Type 2	7	6	6
Type 3	46	35	58

As outlined in the table, the volume of Type 3 permits is considerably higher than that of Type 2 permits. With the lowering of the “protected tree” threshold from 30 cm to 20 cm DHB, the number of Type 2 and Type 3 permits will increase. Where a tree subject to a Type 1, 2 or 3 permit request is a “shared tree,” the requestor of the permit must obtain a letter from the co-owner of the tree supporting its removal. In instances where the tree sought for removal is not a shared tree, giving the adjacent landowner(s) the opportunity to formally comment on the removal has the potential to not only delay the permit administration process but seems to give implied rights to a neighbour to control tree removal on lands not owned by that person(s). This is believed to be problematic, particularly in the absence of any decision-making framework. Notice of all issued tree management permits is required to be posted on site per Part 5 Section 3 and Part 9 Section 2 of the Bylaw; a notice template is included in the Bylaw as Schedule “B.” Staff believe the Bylaw provides ample notice of a tree management permit, issued in accordance with the requirements of the Bylaw.

In the view of staff, the Bylaw has been significantly strengthened through the inclusion of clearly defined terms and provisions which require that any tree removal (permit) request demonstrate the lack of alternatives to removal. The Bylaw now recognizes a 1:1 tree removal to replacement requirement and the opportunity for the posting of cash-in-lieu of replacement trees where there do not exist alternatives to on-site replacement. The Bylaw also now recognizes opportunities to use cash-in-lieu received, in addition to confiscated tree protection securities, to support activities that will benefit the supply and retention of trees in White Rock. Considering the structure, clarity, and purposeful flexibility built into the Bylaw, staff believe there is not a need to establish an appeal mechanism to Council.

3. Similar to the item above, the EAC recommended that notice of any proposal to remove a City tree be provided to property owners within 100 metres of the tree at least 14 days in advance of the request. The process of administering the removal of City-owned trees is established by way of Council Policy 611 (Tree Management on City Lands). Staff currently provide Council with notice of any request to remove a City tree. Further, staff have been diligent in ensuring that the approval of such requests are limited to instances where the tree in question is dead, diseased, poses high risk to the safety of the public or where it interrupts utility services and redesign is not possible due to extreme topography challenges. Changes to Policy 611 are currently being led by the City’s Engineering and Operations Department and do not warrant inclusion in the Tree Protection Bylaw, being largely applicable to trees on privately-owned lands.

COMMUNICATION AND COMMUNITY ENGAGEMENT IMPLICATIONS

The focus of amendments to the tree management bylaw has been advanced in response to the recommendations of the EAC. Council may wish to direct staff to publish notice of the Bylaw amendments between third and final reading of the Bylaw and, in doing so, enable the public an opportunity to comment on the document prior to adoption. Notice in the Peace Arch News and related social media would seem reasonable platforms to ensure the public is informed of the changes arising from this work.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS

Staff within the Planning and Development Services Department have been working with those in the Engineering and Operations Department to align the provisions of the draft Tree Protection Bylaw with those included in Policy 611. Revisions to Policy 611 will follow Council's adoption of the Tree Protection Bylaw, likely in early 2022.

CLIMATE CHANGE IMPLICATIONS

The proposed amendments to the City's Tree Protection Bylaw have the potential to greatly strengthen tree protection measures in White Rock. Furthermore, changes that enable a broader use of monies tied to tree removals will allow the City to support initiatives that lead to more trees being planted on private property. Seeing more trees in the ground will help address factors such as the urban heat island effect and the reduction in greenhouse gases, a known contributor to climate change.

ALIGNMENT WITH STRATEGIC PRIORITIES

Council has directed staff to undertake a review of several municipal bylaws including the City's Tree Bylaw. Helping to promote tree retention and increased tree planting has the potential to enhance the overall quality of life for White Rock residents as envisioned within Council's Strategic Priorities.

OPTIONS / RISKS / ALTERNATIVES

The following alternate options are available for Council's consideration:

1. Defer giving readings to the Tree Protection Bylaw and direct staff to make amendments as outlined during the meeting;
2. Direct staff to undertake community engagement activities to raise awareness of changes to the regulation of tree removals in the City;

CONCLUSION

Staff have undertaken a comprehensive review of the recommendations of the EAC as they relate to the City's Tree Management Bylaw and Policy 611, the latter of which pertains to requests for tree removal on City land. Stemming from this review staff have prepared a new Tree Protection Bylaw which will help improve tree retention and provide greater opportunities for tree planting. Ultimately, the outcomes of the recommended changes will support a greening of the City and enhancements to the quality of life for White Rock residents.

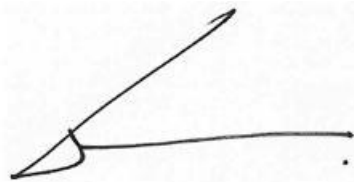
Respectfully submitted,

A handwritten signature in black ink that reads "Greg Newman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Greg Newman, MCIP, RPP
Acting Director, Planning and Development Services

Comments from the Chief Administrative Officer

I concur with the recommendations of this corporate report.

A handwritten signature in black ink that reads "Guillermo Ferrero". The signature is simple and consists of a few sharp, angular strokes.

Guillermo Ferrero
Chief Administrative Officer

Appendix A: EAC Recommendation Review and Discussion Matrix