



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. Information Item 2**  
**Environment and Sustainability Standing Committee**  
**December 7, 2023**

**TO:** Chair and Members of the Environmental and Sustainability Standing Committee

**SUBMITTED BY:** **Original Signed**

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Brad Anguish, Acting Chief Administrative Officer

**DATE:** September 18, 2023

**SUBJECT:** **Case 24417: Evaluation of Regulatory Approaches to Tree Protection**

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**INFORMATION REPORT**

**ORIGIN**

December 11, 2018 Halifax Regional Council meeting, Item No. 15.2. Motion as follows:

*That Halifax Regional Council request a staff report on potentially creating new development charges for and/or regulating trees to be cut down on land that is developed for residential, commercial, and institutional purposes. The report should assess the advantages and disadvantages and the authority Halifax has to bring in such fees and regulation, given the enormous quantitative and qualitative benefits of trees as outlined in the Urban Forest Master Plan. The report would go to the Community Planning and Economic Development committee.*

On August 14, 2018, Regional Council approved the Halifax Green Network Plan (HGNP), including the following action:

Action 9: Consider the adoption of a private trees by-law to manage the removal of trees on private property within serviced (urban) areas. Specific direction to consider includes:

- Focusing on large properties with development potential while minimizing impacts on small properties
- Prioritizing the protection of trees and vegetation within the watercourse buffer
- Developing an educational campaign to promote tree stewardship on private property

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development and Part IX, Subdivision*

*HRM Charter, Sections 188 and 190.*

Power to make-by-laws

- 188 (1) (m) the enforcement of by-laws made under the authority of this statute, including  
(iv) for each offence imposing a fine not exceeding ten thousand dollars or imprisonment for not more than one-year or both, including the imposition of a minimum fine.
- 188 (2) Without restricting the generality of subsection (1) but subject to Part VIII, the Council may, in any by-law:  
(e) provide for a system of licenses, permits or approvals. Including any or all of  
(i) establishing fees for licenses, permits, or approvals, including fees for licenses, permits, and approvals that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue, which fees may be set or altered by policy

#### By-laws respecting trees or vegetation

- 190 (1) In this Section, “serviced area” means an area that has access to municipal water and wastewater service or that is identified as a “serviced” area in a municipal subdivision by-law.  
(2) The Council may make by-laws, for municipal purposes, requiring that existing trees or vegetation be retained or only removed pursuant to a municipal permit in serviced areas.  
(3) Subsection (2) does not apply to land used for agricultural or forestry purposes.  
(4) The Council may make by-laws, for municipal purposes, establishing watercourse buffer zones in which existing trees or vegetation must be retained or only removed pursuant to a municipal permit.

### **BACKGROUND**

Halifax Regional Municipality has long recognized the importance of trees for their ecological, social, economic, cultural, and health values. Recognizing that trees provide numerous benefits and values, Halifax Regional Council requested staff to investigate the implications of introducing additional regulation through development charges or a private tree bylaw to protect this resource. The removal of trees on private lands has been a longstanding concern and is a complex issue. The following sections will discuss policy context of this issue.

### **Policy Context**

#### **The Regional Plan**

Through the Regional Municipal Planning Strategy (Regional Plan), long-range, region-wide planning policies outline where, when, and how future growth and development should take place between now and 2031.

Strengthening and protecting important natural places is one of the core ideas of the Regional Plan. These ideas are supported through Priorities Plans, including the Halifax Green Network Plan (HGNP), Urban Forest Master Plan and HalifACT. The Regional Plan also establishes policy to protect the natural environment including protection and preservation of a natural network of interconnected open spaces and corridors, creation of designations for wilderness areas, and protection of water resources, wetlands, and watercourses. The Regional Plan is currently under review using a phased approach with work continuing in 2023-2024.

#### **Halifax Green Network Plan (HGNP)**

Approved in 2018, the HGNP envisions an interconnected open space system to strategically manage open

space and maintain ecologically important land and aquatic systems. The HGNP includes direction to carry out a total of 79 actions to effectively support the Plan's vision, goals and objectives. The actions generally use one of the four implementation tools identified in Chapter 6 of the HGNP. These tools include land use planning, park management, project work and partnerships.

With respect to trees, Action 9 calls for the consideration of adopting a private trees by-law to manage the removal of trees on private property within serviced (urban) areas with specific direction to consider:

- Focusing on large properties with development potential while minimizing impacts on small properties;
- Prioritizing the protection of trees and vegetation within the watercourse buffer; and
- Developing an educational campaign to promote tree stewardship on private property.

The HGNP identified regulatory gaps in the Municipality's environmental protection efforts that could be supported by amendments to the HRM Charter. Upon adoption of the HGNP, HRM sought Charter amendments which could provide the Municipality with additional tools to assist in the protection of sensitive lands, including trees. The Municipality has an ongoing partnership with the Province and continues to discuss the need for these Charter amendments. The requests include:

- Charter amendments to grant HRM an ability to acquire sensitive environmental lands (e.g. riparian areas, wetlands, steep slopes, etc.) as an environmental reserve through the land development and subdivision process, in addition to existing parkland dedication provisions; and
- Charter amendments to allow HRM to enact parkland dedication requirements based on density. This would allow HRM to collect parkland dedication for development outside the subdivision process for high-rise condos and apartments that add density but are not contributing to green spaces under the present system.

### **Urban Forest Master Plan and HalifACT**

In 2012, HRM approved the Urban Forest Management Plan (UFMP) which establishes guiding direction for planning, programming and regulatory activities related to managing and enhancing the urban forest cover in HRM. The development of the UFMP formalized the need to manage the urban forest and protect the qualitative and quantitative value of trees in the region from threats such as climate change, invasive species, extreme weather events, and development pressures as well as many others. The goal is to ensure a sustainable urban forest for its multiple environmental, social, cultural, and economic benefits.

In 2020, HalifACT was adopted as a community response to the climate crisis with a commitment to a net-zero community by 2050 and a healthy, resilient future. With this approval, there is renewed support to fund and implement the UFMP, highlighting the importance of trees for sequestering carbon (for climate change mitigation) and for controlling stormwater and erosion (for climate change adaptation). As the UFMP has reached the end of its 10 year lifespan, Public Works is working jointly with the Environment and Climate Change Team to manage the update of the UFMP due to the intrinsic link between trees and climate change work, both as a source of mitigation through carbon sequestration and as a source of adaptation for flood and stormwater management.

### **DISCUSSION**

Consideration of new regulatory approaches such as tree development charges or a private tree bylaw requires careful analysis to determine what work would be required to implement these changes and whether these approaches would result in the desired outcome of tree protection. The following sections outline legislative abilities under the HRM Charter and provide further detail on the work involved to update the UFMP.

## **Legislative Abilities under the HRM Charter**

### **Tree Development Charges**

Development (Infrastructure) charges are regulated under Sections 104 and 284 of the *Halifax Regional Municipality Charter* (HRM Charter). HRM can collect development charges through the subdivision bylaw only for those items listed under Section 284 of the Charter. One of these items is the collection of development charges for new or expanded stormwater systems. From a green infrastructure perspective, trees form an integral component of stormwater management as a natural management approach to manage flood risk, water quality, and stormwater. However, removal of trees for development does not fit within the scope of Section 284 for new or expanded stormwater systems. Rather, tree removal would be the removal of green stormwater infrastructure. In order to pursue monetary compensation for the removal of tree services, a Charter amendment would be required. The Charter amendment would need to allow the municipality to collect fees for the removal of trees as a green infrastructure.

On November 8, 2023, the NS Government gave Royal Assent to [Bill 329](#) (Halifax Regional Municipality Charter (amended) and Housing in the Halifax Regional Municipality Act (amended)) to the NS Legislature. Clause 5 of Bill 329 prohibits, for a period of two years, the Municipality from changing, without the approval of the Minister, fees, certain charges and incentive or bonus zoning agreements that would increase the cost of applicants for approvals beyond the cost that would have been chargeable immediately prior to its coming into force. New incentive or bonus zoning agreements, capital cost contribution agreements or local improvement charges may be created if the formulas and methods to calculate the charges used in the agreement are either: (1) the same as those in effect at the time this Section comes into force; or (2) in accordance with formulas approved by the Minister. Given that any charges related to tree removal would be considered a new cost, Bill 329 will prohibit the Municipality from adopting any such charges without approval of the Minister.

### **Private Tree Bylaw and Bylaw for Watercourse Buffer Zones**

HRM currently has the authority to regulate tree removal under Section 190 of the Charter. There are two potential options:

- The Council may make by-laws, for municipal purposes, requiring that existing trees or vegetation be retained or only removed pursuant to a municipal permit in serviced areas. This would not apply to land used for agricultural or forestry purposes (HRM Charter 190(2) and (3)).
- The Council may make by-laws, for municipal purposes, establishing watercourse buffer zones in which existing trees or vegetation must be retained or only removed pursuant to a municipal permit (HRM Charter 190 (4)).

### **UFMP Update**

Urban Forestry is currently updating the UFMP which will include analyzing the current plan, updating the vision and management objectives for the urban forest, and prioritizing investment into the municipal forestry to achieve the new objectives for the next 10 years. In recent years, the cultural and sociological landscape has been dynamic, with many pressures and trends affecting the urban forest including rapid growth, intensification of the urban core, new guidance for rights-of-way in the Municipal Design Guidelines, climate change pressures, community dependence on trees for climate resilience, and introduction of invasive species. The geographical scope of the update has also been expanded to include the entirety of the Regional Municipality.

The following work will be undertaken as part of the UFMP update:

- A jurisdictional scan of similar sized municipalities;
- A review of current HRM Plans, Policies, and Strategic Priorities as they relate to Urban Forestry;
- Engagement with the public and stakeholders;
- A gap analysis of the existing plan based on findings from 1, 2 and 3 above;
- Development of an evaluation method for prioritizing action items;

- Development of an updated plan with new or amended vision, goals, management objectives and prioritized actions; and
- An implementation strategy.

In the context of this report, the jurisdictional scan for best practices in urban forestry is particularly relevant. Specifically, the scan will focus on innovative approaches to public awareness and engagement with trees and forestry, invasive species management, operational practices, and policies and bylaws. Diving deeper, the jurisdictional scan will explore protection of trees on private property, including:

- How other jurisdictions protect trees on private property;
- Experiences with private tree protection and regulatory tools employed; and
- Effectiveness of private tree protection (private tree protection bylaws, developer fees, or landscaping requirements).

The final document for the UFMP update is scheduled to be completed by Spring 2024.

### **Conclusion**

Council has requested staff to investigate regulatory measures for tree protection and the legislative authority of the Municipality for potentially creating new development charges for an/or regulatory trees to be cut down on land that is developed for residential, commercial and institutional purposes. This report concludes the following:

- A Charter amendment would be required to allow the municipality to collect fees for the removal of trees as a green infrastructure;
- The Municipality has the authority to implement a private tree bylaw; however ongoing work with the UFMP update will investigate the efficacy of this approach; and
- The UFMP update is scheduled to be completed in Spring 2024 and will provide further details on a recommended approach to address policy and regulatory gaps to optimize the potential of the urban forest.

### **FINANCIAL IMPLICATIONS**

None

### **COMMUNITY ENGAGEMENT**

There was no community engagement undertaken for this report. However, there has been public engagement processes for the planning and updating of strategic documents including the update of the Regional Plan, UFMP, HGNP, and HalifACT. The UFMP update will include public engagement including public sessions or workshops, stakeholder interviews, focus groups, meetings, targets engagement and may also include online discussion forums and Shape Your City engagement.

### **ATTACHMENTS**

None

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Shilo Gempton, Planner III, Planning & Development, 902.943.9158.