

Report to Council



Date: January 20, 2024
To: Council
From: City Manager
Subject: Street tree and boulevard maintenance standards
Department: Infrastructure Services and Planning, Climate Action, and Development Services

Recommendation:

THAT Council receives, for information, the report from Infrastructure Services and Planning, Climate Action, and Development Services divisions dated January 20, 2024, with respect to an update to Maintenance of Boulevards by the Owners of Lands Abutting Thereon Bylaw No. 10425;

AND THAT Bylaw No. 12744, being Maintenance of Boulevards, be forwarded for reading consideration;

AND THAT Bylaw No. 12745, being Amendment No. 38 to Bylaw Notice Enforcement Bylaw No. 10475, be forwarded for reading consideration.

Purpose:

To approve bylaw amendments that promote improved street tree care and protect boulevard landscaping as critical infrastructure.

Council Priority Alignment:

Climate & Environment

Background:

As part of the Urban Tree Canopy Enhancement Strategy, Council directed staff to develop tree care standards and bylaw requirements to maintain tree health and support the continued growth of the urban forest. Several City bylaws impact our urban forest; however, this report introduces bylaw requirements specifically relating to the care of street trees, also known as boulevard trees. The Boulevard Maintenance Bylaw No. 10425 currently sets regulations for the care of boulevard areas, the landscaping and drainage public right of ways adjacent to private property which may or may not include a sidewalk. Based on the staff review of this bylaw it is recommended that the current bylaw be repealed and replaced with a new regulation that better addresses tree and plant care and modernizes the bylaw language. These regulatory updates must be undertaken concurrently with amendments to the Bylaw Notice Enforcement Bylaw No.10475 to clarify enforcement options.

Previous Council Resolution

Resolution	Date
<p>THAT Council receives, for information, the report from the Climate Action & Environmental Stewardship Department, dated May 27, 2024, with respect to progress on the City's Urban Tree Canopy Enhancement Strategy.</p> <p>AND THAT Council direct staff to amend Bylaw No. 10425, to align street tree care and boulevard maintenance standards with other City Bylaws, prior to July 2024.</p>	<p>May 27, 2024</p>

Discussion:

The intent of this bylaw update is to address the challenges staff have observed in encouraging the care of boulevard areas by abutting landowners. Public complaints have raised concerns about street trees not being watered, rock mulch obstructing sidewalks and roadways, or flooding due to unauthorized paving.

For example, boulevard areas are often designed to manage stormwater with gravel areas where smaller water volumes soak into the ground (soakaway strips) or depressions (ditches or bioswales) that hold larger water volumes while also allowing water to infiltrate. It is a common misconception that these gravel areas or ditches have no purpose. They have in fact been designed for flood prevention and ground water recharging. Paving, adding the wrong type of gravel, changing the grade, or filling in these areas may cause flooding on adjacent property and roads. Staff have received numerous complaints about filling ditches or paving soakaway strips to create parking spaces or expand driveways. This increase in paving increases the risk of a minor rainstorm becoming a flood for abutting properties as the water has nowhere to soak into.

The following proposed bylaw changes are meant to address those concerns:

- **Update terminology**
 Specific definitions for landscaping materials were added to increase clarity. This also allows residents more options while identifying the necessary limitations on which plants or mulches are suitable in a boulevard considering snow clearing, on-street parking access, and street sweeping activities.
- **Reinforce existing service level**
 The City's current level of service for boulevard maintenance is limited to pruning and replacing street trees. Transferring the responsibility of irrigation, mowing, and trimming to the City is not recommended. These activities are a relatively minor cost to the abutting property owner compared to the potential impact on taxation if a new maintenance service were to be proposed.
- **Clarify abutting owner responsibility for watering/irrigation**

Currently, Bylaw No. 10425 does not specifically identify the need to water boulevard vegetation, despite the implied responsibility of care. This has limited the ability of staff to enforce the bylaw requirements until after a tree has died.

- **Establish ticketing options for enforcement**

Ticketing provisions were added to ensure Bylaw Officers can efficiently act on complaints and hazards. The previous bylaw did not allow ticketing, only a lengthy courts-based enforcement process, limiting the City's ability to act on complaints in a timely manner. Terminology that would be considered vague and difficult to enforce via ticket was also removed from the bylaw.

Another key consideration in this bylaw update was the need to balance the variety of interests in boulevard use. Lawn may not be the best boulevard option for a variety of reasons. Some boulevards may benefit from small shrubs, flowers, or tall grasses to serve as a safety barrier for pedestrians. An ageing population may have limited capacity to mow a lawn, while townhouse owners or retail businesses may have no lawn on their property and are not interested in maintaining high water demand boulevard lawn. A drought-tolerant groundcover (like yarrow and clover) or mulched low growing shrubs and perennial flowers may be a more attractive, biodiverse, drought-tolerant option. Addressing maintenance misconceptions regarding flowers and shrubs is an important consideration as these plants are often easier to maintain in a more attractive state while also providing huge benefits to pollinators and birds.

Conclusion:

Boulevards are important green infrastructure that provide many critical services to the community. A variety of landscaping options must be considered to meet resident and business interests while respecting the maintenance challenges of City Roads and Parks crews. This bylaw update attempts to balance freedom of choice for our citizens with the green infrastructure functions of a boulevard and the necessity of preventing public safety hazards. The responsibility for boulevard care is recommended to remain with the abutting property to make the most efficient use of City resources, support resident landscaping choices in these shared spaces, and minimize cost to taxpayers. While it is often preferred to work with property owners to ensure boulevards are maintained for both their benefit and the community's, bylaw regulations are needed to redress hazards or damage. This bylaw update will help make the enforcement process more efficient and transparent for all involved.

As staff continue to implement the direction of Council to better support our urban forest, work is ongoing to support updates to other bylaws. Climate appropriate landscape regulations are being investigated to help guide the shift in mindset needed for urban plants to be successful under the combined stress of more paving and more heat with less water. Staff are concurrently working on these landscaping and tree standards across multiple bylaws to provide consistent guidance to the community both on public and private lands.

Internal Circulation:

Roadways Operations
 Parks Services
 Parks Planning & Design
 Office of the City Clerk
 Risk Management
 Utility Services

Bylaw Services

Considerations applicable to this report:

Legal/Statutory Authority:

The *Community Charter*, Section 36(1), allows a municipality by bylaw to regulate and prohibit in relation to all uses of or involving a highway or part of a highway.

Existing Policy:

City of Kelowna Sustainable Urban Forest Strategy:

- Strategy 1: Strengthen policy, planning, and implementation to protect, connect, and expand the tree canopy.
- Strategy 5: Transition from reactive to proactive maintenance of City trees.
- Strategy 6: Ensure resourcing is sufficient to deliver levels of service that maximize urban forest benefits.
- Strategy 7: Improve awareness of and participation in urban forest management.

Communications Comments:

Bylaws can also act as a deterrent to activities that damage street trees and stormwater drainage infrastructure. Following Council's decision, staff will investigate options for communicating these changes, focusing on the value of street trees to the community.

Submitted by:

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cc:

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