

Property Maintenance

Chapter 762 Trees - Protection

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Article 1 - Short Title

762.1.1 Citation

This Chapter may be cited and known as the "Tree By-law."

Article 2 – Interpretation

762.2.1 Arborist - defined

'arborist' means a person who is a specialist or expert in the area of care and maintenance of trees and includes an arborist qualified by the Ontario Training and Adjustment Board Apprenticeship, a certified Arborist qualified by the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists, or a Registered Professional Forester, or a person with other similar qualifications as approved by the Director.

762.2.2 City - defined

'City' means the Corporation of the City of Woodstock.

762.2.3 Critical Root Zone – defined

'Critical Root Zone' is considered to be the dripline of the tree + 1m.

762.2.4 DBH – defined

'DBH' means 'diameter at breast height', and is a measurement of the diameter of the stem of a tree measured at a point 1.37 metres above where the stem meets the grade.

762.2.5 Destroy – defined

'Destroy' means to cut down, remove, uproot, unearth, topple, burn, bury, shatter, poison, or in any way cause a Tree to die or be killed, or where the extent of Injury caused to a live Tree or disturbance of any part of its Critical Root Zone is such that it is likely to die or be killed, excepting where a Tree and/or its roots are killed by natural causes. The terms "Destroyed" and

"Destruction" shall have a corresponding meaning.

762.2.6 Director – defined

`Director' means the Director of Parks and Recreation, or a duly appointed designate.

762.2.7 Hazard – defined

`hazard' means a tree which is destabilized or structurally compromised to an extent that an imminent danger of death, injury or structural damage exists.

762.2.8 Injure/Injury - defined

`Injure/injury' means to harm, damage or impair the natural function or form of a Tree, including its roots, by any means excepting injury by natural causes, and includes but is not limited to carving, drilling, injection, exploding, shattering, improper Pruning that fails to meet Good Arboricultural Practices, removal of bark, deliberate introduction of decay fungi, inserting or driving foreign objects into or through the Tree or its roots, soil compaction, root excavation, suffocation, drowning, burying or poisoning. The terms: 'Injury", "Injuring" and "Injured" shall have a corresponding meaning.

762.2.9 Person – defined

`person' means an individual, a corporation, a partnership or association.

762.2.10 Protected Tree - defined

`protected tree' means any tree indicated in this by-law as requiring an approval, or a tree permit for its removal, injury, or destruction, and includes a retained tree.

762.2.11 Public property - defined

`public property' means land under the control or ownership of the City or County of Oxford, and may include but not be limited to parks, open and public rights of way.

762.2.12 Public tree - defined

`public tree' means any tree, whose trunk is fully or partially located on Public Property.

762.2.13 Tree – defined

`tree' means a woody perennial plant, whether alive or dead, healthy or unhealthy, including saplings or seedlings and including the root system, where the plant has reached, could reach, or could have reached a height of at least 4.5 metres.

762.2.14 Tree Protection Zone - defined

`tree protection zone' (TPZ) is a calculated distance from the stem of the tree set aside for the protection of a tree's crown and roots to provide for the viability and stability of the tree. Tree protection zone is calculated as

outlined in the City of Woodstock Landscape Design & Management Guidelines.

Article 3 – Authority

762.3.1 Authority - Director

The planting, inspection, maintenance, protection and removal of all Public Trees shall be under the supervision of the Director.

762.3.2 Powers and duties - Director

The Director, or the Director's delegate or agent, is authorized to:

- a) Plant Public Trees;
- b) Maintain any Public Tree;
- c) Inspect any Public Tree;
- d) Transplant, remove, or prune any Public Tree without notice or compensation to any person, where such action is deemed to be in the public interest;
- e) Remove, without notice or compensation, any object or thing that adversely affects a Public Tree or part of Public Tree;
- f) At the discretion of the Director, implement, or cause to be implemented, necessary treatments for insects and disease in a Public Tree;
- g) Stop any work causing injury or destruction to a Public Tree that occurs without or contrary to written permission from the Director;
- h) Remove or prune any Public Tree deemed to be dead or in Hazardous condition;
- i) Permit the removal of a Public Tree, subject to City tree management guidelines, and any supplemental conditions required by the Director;
- j) Refuse a request to remove a Public Tree.

762.3.3 Protection - requirements

Every Person doing any work on Public Property shall carry out such work in accordance with the City of Woodstock's Landscape Design and Tree Management Guidelines, and any other standards set out by the Director as amended from time to time.

Article 4 – Prohibited Activities

762.4.1 Prohibited acts

No Person shall:

- a) undertake or cause to undertake to remove, Injure or Destroy a Public Tree without the prior written approval of the Director; (See Set Fine)
- b) nail, pin or otherwise affix notices/advertisements, or object(s) to any Public Tree; (See Set Fine)
- c) undertake or cause to undertake to mark, cut, break, peel or deface any Public Tree; (See Set Fine)

- d) undertake or cause to undertake the planting of a tree on Public Property without prior written approval from the Director; (See Set Fine)
- e) undertake or cause to undertake excavation, digging, or related activities within the tree protection zone of a Public Tree without prior written approval from the Director (See Set Fine)
- f) allow any gaseous, liquid or solid substance which may be harmful or toxic to a Public Tree to come into contact with such a Public Tree without prior written approval from the Director; (See Set Fine)
- g) undertake or cause to undertake activities that are contrary to the provisions of the Endangered Species Act, S.O. 2007, c. 6.

Article 5 – Exemptions

762.5.1 Exemptions

The prohibitions in this by-law do not apply to:

- a) Public Trees injured or removed by a municipality or a local board of a municipality;
- b) The injury or destruction of Public Trees by the municipality, a public utility, or Bell Canada to construct, install, maintain and repair any road, sidewalk, sewer, watermain, public utility or telephone installation;
- c) The injury or destruction of a Public Tree which is a Hazard to any person, building or structure, utility service or vehicle where an assessment including species, condition and size (DBH) has been made by an arborist, proof of which must be submitted to the Director before removal of the tree or within 48 hours of removal in emergency situations;
- d) Activities undertaken by the Provincial or Federal Government, or their authorized agents;
- e) Public Trees cut by a Person licensed under the *Surveyor's Act* to engage in the practice of cadastral surveying or any Person in his or her employ while making a survey;
- f) The destruction or injury of Public Trees by a transmitter or distributor, as those terms are defined in section 2 of the Electricity Act, 1998, for the purposes of constructing and maintain a transmission system or distribution system, as those terms are defined in that section;
- g) The injury or destruction of Public Trees imposed as a condition to the approval of a site plan, a plan of subdivision, a minor variance or a consent under the *Planning Act*, or as a requirement of a site plan agreement or subdivision agreement entered into pursuant to the *Planning Act*, provided such injury or removal has received prior approval from the Supervisor and is consistent with the City's guidelines for tree management.

Article 6 – Enforcement

762.6.1 Fine – For contravention

Every Person who contravenes any of the provisions of this Chapter, or an order to discontinue activity, or a work order, is guilty of an offence and, upon conviction, is liable to a fine or penalty as provided in the *Provincial Offences Act*.

762.6.2 Prohibition - Hinder or Obstruct By-law Enforcement Officer

No Person shall hinder or obstruct or attempt to hinder or obstruct the By-law Enforcement Officer in the discharge of duties under this By-law. (See Set Fine)

Article 7 - Power to make Orders – Remedial Action

762.7.1 Order to Discontinue Activity

No Person who has been issued an Order to Discontinue Activity or a Work Order shall fail to comply with the Order. (See Set Fine)

762.7.2 Work Order

- a) Where a By-law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the By-law Enforcement Officer may make a Work Order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.
- b) A Work Order shall set out reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred, and the work to be done and the date by which the work must be done.

762.7.3 Service of Order to Discontinue Activity or Work Order

- a) An Order to Discontinue Activity or Work Order may be served personally by the By-law Enforcement Officer, may be sent by registered mail to the person contravening the By-law, or may be posted in a conspicuous place on the property where the contravention occurred.
- b) Where an Order to Discontinue Activity or Work Order under this By-law is served personally by the By-law Enforcement Officer, it shall be deemed to have been served on the date of delivery to the person or persons named.
- c) The posting of the Order to Discontinue Activity or Work Order at the Site shall be deemed to be sufficient service of the Order to Discontinue Activity on the person or corporation to whom the Order to Discontinue Activity is directed on the date it is posted.

Where an Order to Discontinue Activity or Work Order issued under the

By-law is sent by registered mail, it shall be sent to the last known address of the person contravening the By-law and shall be deemed to have been served on the fifth day after the Order to Discontinue Activity or Order is mailed.

762.7.4 Remedial Action

- a) If a person is required, under a Work Order under this By-law, to do a matter or thing, then in default of it being done by the person so required to do it, the matter or thing may be done at the person's expense under the direction of a Bylaw Enforcement Officer.
- b) The City may recover the costs of doing a matter or thing under section 762.7.4 (a) from the person required to do it, by adding the costs to the tax roll for the subject land and collecting them in the same manner as property taxes.
- c) The amount of the costs under section 762.7.4 (a), including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien.

Article 8 – Conflicts with Other By-laws

762.8.1 Conflict - other by-laws - legislation

Nothing in this by-law shall exempt any person from complying with the requirements of any by-law in force or from obtaining any licence, permission, permit, authority or approval required under any by-law or legislation.

Article 9 - Repeal – Enactment

762.9.1 By-laws – previous

All previous by-laws relating to this Chapter shall be repealed on the effective date of this Chapter.

762.9.2 Effective date

This Chapter shall come into force and effect upon third and final reading of the enabling by-law. By-law 9529-22, May 5, 2022.