



CERTIFIED TRUE COPY

CITY CLERK

CITY OF CAMBRIDGE

BY-LAW 124-18

of the

CORPORATION OF THE CITY OF CAMBRIDGE

Being a by-law of the Corporation of the City of Cambridge
to regulate the destruction or injuring of trees

WHEREAS sections 9 and 10 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended or replaced from time to time, provide that a municipality has broad authority, including the authority to pass by-laws respecting the economic, social and environmental well-being of the municipality;

AND WHEREAS section 135 of the Municipal Act provides that a local municipality may regulate the destruction or injuring of trees;

AND WHEREAS Part XIV (Enforcement) of the Municipal Act provides methods for a municipality to enforce its by-laws;

AND WHEREAS Council recognizes

- (a) the economic, social and environmental benefits of trees,
- (b) the increased aesthetic and property values that trees provide,
- (c) the shade canopy created by trees,
- (d) the contribution of trees to human physical and psychological well-being,
- (e) the improvement of air quality by trees,
- (f) the maintenance and enhancement by trees of water quality, and their prevention of soil erosion and water run-off,
- (g) their maintenance of wildlife habitat, and
- (h) the moderation of local climate by trees;

AND WHEREAS the Council of the City wishes to protect trees located on private property and to enhance the tree canopy cover in the City

NOW THEREFORE BE IT RESOLVED THAT the Corporation of the City of Cambridge enacts as follows:

Definitions

1. As used in this by-law, the following terms shall have the meanings indicated:

"applicant" means an owner of a tree, or an owner's authorized agent, who applies for a permit,

"authorized agent" means an arborist, authorized in writing by an owner to make an application for a permit to injure or destroy a tree,

"arborist" means a person who has graduated from an accredited college or university with a diploma or degree in urban forestry, arboriculture or equivalent course of study and who holds at least one of the following professional qualifications:

- (i) trade certification as an arborist from the Ontario Training and Adjustment Board,
- (ii) certification as an arborist from the International Society of Arboriculture
- (iii) accreditation as a consulting arborist by the American Society of Consulting Arborists
- (iv) registered as Registered Professional Forester (RPF) pursuant to the Professional Foresters Act, 2000, S.O. 2000, c. 18 as amended or replaced from time to time,

"City" means The Corporation of the City of Cambridge,

"DBH" means the diameter of a tree, outside the bark, at breast height, where breast height is measured from the existing grade of the ground adjoining the base of the trunk;

- (i) for a trunk rising straight and vertically from ground with a horizontal grade, 1.4 metres above that grade;
- (ii) for a trunk rising straight and not vertically from ground with a horizontal grade, 1.4 metres along the centre axis of the trunk from that grade;
- (iii) for a trunk rising straight and vertically from ground with a non-horizontal grade, 1.4 metres along the centre axis of the trunk from that grade; and

- (iv) for a trunk rising not straight, 1.4 metres along the centre axis of the trunk from that grade;

and where the diameter is;

- (v) for a tree with a single trunk, the diameter of that single trunk,
- (vi) for a tree with two or three trunks, the total diameter of those two or three trunks, and
- (vii) for a tree with more than three trunks, the total diameter of the three trunks with the greatest diameters,

"destroy" means directly or indirectly, including through construction activities, remove, ruin, uproot or kill a tree, whether by accident or by design, and whether by cutting, burning, girdling, interfering with its water supply, applying chemicals, puncturing, or compacting, regrading or resurfacing within its drip line, but does not include maintenance pruning, and "destruction" has the corresponding meaning,

"Director" means the Director of the Parks, Recreation and Culture Division, or his designate

"emergency" means an event where work is required to be carried out immediately in order to prevent imminent danger to life, health or property, and includes the destruction or injuring of trees required because of the state of the trees resulting from natural events (including lightning, wind, hail or extreme snow event) or unforeseen causes (including automobile accident),

"good arboricultural practice" means the proper implementation of maintenance, renewal and removal activities known to be appropriate for individual trees in and around urban areas to minimize detrimental impacts on urban forest values, and includes maintenance pruning,

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

"hoarding" means a fence or similar structure used to enclose land, trees and other vegetation in order to protect trees or other vegetation,

"injure" means cause, directly or indirectly, whether by accident or by design, including through construction activities, lasting damage or harm to a tree, which has or is likely to have the effect of inhibiting or terminating its growth, whether by cutting, burning, girdling, interfering with its water supply, applying chemicals, puncturing, or compacting, regrading or resurfacing within its drip line, but does not include maintenance pruning, and "injuring" has the corresponding meaning,

"landscaping, replanting and replacement plan" means a plan which identifies the location, species and size of existing trees, trees to be planted or replaced and other landscaping elements on land and provides details regarding planting methodology and timing,

"lot" means a parcel of land having specific boundaries which is capable of legal transfer,

"maintenance pruning" means the pruning or removal of tree branches in accordance with good arboricultural practice, as specified by the International Society of Arboriculture, including for purposes of removing dead limbs, maintaining structural stability and balance and encouraging natural form, but limited to the appropriate removal of no more than one-third of the live branches that make up the leaf-bearing crown of the tree within a three-year pruning cycle, or as appropriate for the specific tree species, in order to maintain the health of the tree,

"officer" means a municipal law enforcement officer person appointed by the Council to administer and enforce by-laws of the City and an employee of the Forestry Section of the City Parks, Recreation or Culture Division

"owner" means the registered owner of the lot where a tree is located,

"permit" means a permit to destroy or injure a tree, issued pursuant to this By law,

"Region" or "Regional" means the Regional Municipality of Waterloo,

"Replacement Tree Planting Fund" means the fund managed by the City reserved for the purpose of planting trees in locations within the City other than the location where a tree has been removed,

"tree" means a self-supporting woody plant which will reach a height of at least 4.5 metres at maturity,

"Zoning By-law" means By-law 150-85 and Schedule A attached thereto, as amended and replaced from time to time.

Prohibition

2. (1) Except as provided in this By-law, no person shall, within the geographic limits of the City, destroy, injure, or cause, or permit the destruction or injuring of any tree with a DBH equal to or greater than 20 cm.
- (2) Notwithstanding subsection 2(1), a person may destroy or injure, or cause, or permit the destruction or injuring of a tree in compliance with a permit issued pursuant to this By-law prior to the destruction or injuring of a tree.

Exemptions

3. (1) This By-law does not apply where the provisions of this By-law are in conflict with the provisions of provincial or federal or Regional legislation.
- (2) Notwithstanding the generality of subsection 3 (1) this By-law does not apply to,
 - (a) the activities or matters undertaken by a municipality or local board of a municipality,
 - (b) activities or matters undertaken under a licence issued under the Crown Forest Sustainability Act, 1994,
 - (c) the injuring or destruction of trees by a person licensed under the Surveyors Act to engage in the practice of cadastral surveying or his or her agent, while making a survey,
 - (d) the injuring or destruction of trees imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51, or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections,
 - (e) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the Electricity Act, 1998, for the purpose of

- constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section,
- (f) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act,
 - (g) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - (i) that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and
 - (ii) on which a pit or quarry is permitted land use under a by-law passed under section 34 of the *Planning Act*,
 - (3) the injuring or destruction of trees performed in accordance with the provisions of the Regional Conservation of Trees in Woodlands By-law,
 - (4) the injuring and destruction of trees which constitute a normal farm practice carried on as part of an agricultural operation, as so determined by the Normal Farm Practices Protection Board, pursuant to the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended or replaced from time to time,
 - (5) the injuring or destruction of trees pursuant to a forestry development agreement pursuant to, or deemed to be pursuant to, the Forestry Act, R.S.O. 1990, c. F.26, as amended or replaced from time to time, or measures to prevent, retard, suppress, eradicate or destroy an infestation by a forest tree pest, taken by an officer pursuant to the said Forestry Act,
 - (6) the injuring or destruction of a tree which is a hazard to any person, building, structure, utility service or vehicle where an assessment 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,
 - (7) the injuring or destruction of trees for the purpose of maintenance pruning as determined by an arborist, and
 - (8) the injuring or destruction of trees located on rooftop gardens, interior courtyards, solariums, or in a nursery.

Permit Application

- 4. (1) An owner, or his authorized agent, may apply for a permit to injure or destroy a tree on a lot owned by him.

- (2) The application shall include the following information and material;
- (a) the municipal address of the lot where each of the trees are to be destroyed or injured is located,
 - (a) the names and contact information, including the telephone number and email address, of the owner of the lot,
 - (b) the name and contact information, including the telephone number and email address, of the applicant for a permit to injure or destroy a tree,
 - (c) the name and contact information, including telephone number and email address, of the authorized agent of the owner of the lot, if applicable,
 - (d) the consent in writing to the injuring and destruction of the tree by all of the owners of each tree to be injured or destroyed,
 - (e) the consent in writing of all of the adjacent property owner(s) if the ownership of the tree to be injured or destroyed is shared as defined by the *Forestry Act*, R.S.O. 1990, c. F.26, as amended or replaced from time to time,
 - (f) a report containing the following information;
 - (i) a plan (or plan of survey) and photograph, to the satisfaction of the Director, showing
 - a. the location, species, DBH and condition of each tree to be destroyed or injured, and
 - b. the location, species, DBH and condition of each tree to be retained,
 - (ii) the purpose for the destruction or injuring of each of the trees,
 - (iii) the nature and method of the proposed destruction or injury of each of the trees,
 - (iv) the nature and method of the protection for each of the trees to be retained, including when required by the Director, a tree protection plan identifying the location, species and DBH of retained trees on the land and tree protection measures, including barriers and hoarding, to be implemented to avoid destruction or injuring of, and to protect, each of the trees that are to be retained,
 - (h) consent by the owner of the lot to entry upon the lot by the City for the purpose of reviewing the application, and
 - (i) payment of the fees required.

5. Where in the discretion of the Director, additional information is necessary to evaluate the application, the Director may require the applicant to submit such additional information within a specified period of time.
6. Where the applicant has failed to submit the documentation required by the Director, or has failed to complete the application to the satisfaction of the Director within twelve months of the date that the application is received by the Director, the Director may deem the application to be abandoned and the Director will retain all application fees submitted to the Director.

Issuance of Permits

7. When deciding whether to issue a permit, the Director may consider the following criteria:
 - (1) the condition of the tree to be injured or destroyed,
 - (2) the location of the tree to be injured or destroyed,
 - (3) the reason or reasons for the proposed destruction or injuring of the tree,
 - (4) the preservation of retained trees on the lot,
 - (5) the protection and preservation of ecological systems and their functions, including the protection and preservation of native flora and fauna,
 - (6) erosion, flood control and sedimentation of watercourses;
 - (7) interference with natural drainage processes, and
 - (8) consistency with the City of Cambridge Urban Forest Plan 2015-2034, and the Cambridge Urban Forest Canopy Assessment, as amended or replaced from time to time.
8. The Director may issue a permit subject to conditions including, but not limited to, any one or more of the following:
 - (1) that the injuring or destruction of each tree occur in a specified manner,
 - (2) that the retention of each tree occur in compliance with a plan for tree preservation and replanting approved by the Director, including any hoarding to be provided around the trees to be retained,
 - (3) that each tree to be injured or destroyed is replaced with one or more replacement trees to be planted and maintained to the satisfaction of the Director in accordance with landscaping, replanting and replacement plans approved by the Director,

- (4) that the owner provide a monetary contribution to the Replacement Tree Planting Fund for each tree injured or destroyed,
 - (5) that the destruction or injuring of each tree only be carried out by or under the supervision of an arborist;
 - (6) that specified measures be implemented to mitigate the direct and indirect effects of the destruction or Injuring on other nearby trees, land, water bodies or natural areas, and
 - (7) any other condition that the Director considers would reasonable implement the intent of this By-law.
9. Where the Director has imposed the planting of replacement tree(s) for each of the trees to be destroyed or injured as a condition of the issuance of the permit, the Director may require that
- (1) a replanting plan be submitted to the satisfaction of the Director,
 - (2) any required replanting plan use a mature tree canopy target of 40% for lots zoned as Open Space and Residential uses and a canopy of 20% for lots zoned Industrial, Commercial and Institutional uses pursuant to the Zoning By-law,
 - (3) the replacement trees be located on the same lot in a location, number, DBH and species to the satisfaction of the Director,
 - (4) the method for calculating the value of a replacement tree be the market value of the tree,
 - (5) a written undertaking be provided by the owner to carry out the replacement planting in accordance with the approved replanting plan, and
 - (6) the owner provide a letter of credit in a form and amount satisfactory to the Director to be delivered to the Director at the time of the issuance of the permit to cover the costs of the replacement trees and the maintenance of the replacement trees for a maximum period of two years.

The Permit

10. Following receipt of a complete application, the Director may issue a permit for destroying or injuring trees, where the Director is satisfied that the applicant has complied with, or will comply with the requirements of this By-law.

11. Any permit issued by the Director pursuant to this By-law will expire twelve months from the date it was issued by the Director.
12. Following the issuance of the permit, the owner shall immediately post a copy of the permit in a conspicuous place on the lot where the tree is to be injured or destroyed at least five days prior to the destruction or injuring of the tree.
13. A permit is, and remains, the property of the City and may not be transferred without the written consent of the Director.
14.
 - (1) Where the Director refuses to issue a permit, the applicant shall be informed in writing of the refusal by the Director
 - (2) The decision of the Director is final.
15.
 - (1) The Director may revoke a permit issued by him if
 - (a) the permit was issued on mistaken, misleading, false or incorrect information,
 - (b) the permit was issued in error,
 - (c) the owner requests, in writing, that the permit be revoked,
 - (d) the owner fails to comply with the conditions of the permit, or
 - (e) the owner fails to comply with the provisions of this By-law.
 - (2) The Director will not refund any fees paid by the owner upon the revocation of a permit issued by him.
 - (3) Where the Director has revoked a permit, the owner shall immediately cease all operations being conducted under the authority of the revoked permit.
16. The issuance of a permit under this By-law does not relieve any person from the necessity to obtain any other licence or permit or with complying with any other applicable law.

Planning Processes

17.
 - (1) An application for a permit under this By-law may be processed concurrently with an application submitted pursuant to the Planning Act and may form part of the

technical information requested in order to consider a planning application complete.

- (2) Where there is a planning application involving an approval, the owner shall protect all trees upon the subject property from injury or destruction until the issuance of a permit under this By-law and/or the receipt of final approval of any applicable planning applications.

Building Permits

18. Where the owner of a lot intends to construct a building or buildings on a single lot pursuant to a building permit issued by the Chief Building Official, and such construction does not require any approvals pursuant to the Planning Act, the owner may injure or destroy
 - (1) one tree, if the tree is entirely located within ten metres of any exterior wall of any building to be constructed, or
 - (2) two or more trees if the trees are entirely located within ten metres of the exterior wall of any building to be constructed where the owner of the lot has made a monetary contribution satisfactory to the Director to the Replacement Tree Planting Fund for each of the two or more trees to be injured or destroyed.

19.
 - (1) The plans and drawings submitted to the Chief Building Official for the construction of a building or buildings shall contain information identifying any tree or trees on the lot, their location on the lot and whether any tree or trees are to be injured or destroyed for the purpose of constructing the building or buildings.
 - (2) The Chief Building Official shall forward a copy of the plans and drawings containing the information identifying the trees as required to the Director.

Fund Contributions

20. Where a payment to the Replacement Tree Planting Fund is required as a condition of the issuance of the permit, or where more than one tree is to be injured or destroyed within 10 metres of a building to be constructed on a lot, the Director, in calculating the monetary contribution,
 - (1) shall give consideration

- (i) to the methods for calculating the value of a tree as set out in the most recent version of the Trunk Formula Method Tree Appraisal of the International Society of Arboriculture, and
 - (ii) to any reductions in the monetary contribution that can be achieved through the replanting and replacement of each of the trees to be injured or destroyed, and
- (2) may reduce the appraised value of the tree to be injured or destroyed by a maximum of 95%.

Orders

21. An officer has authority to enforce the provisions of this By-law.
22. (1) If an officer is satisfied that a contravention of this By-law has occurred, the officer may make an 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 cease the contravention.
- (2) The order shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - (b) the date by which there shall be compliance with the order.
23. Any person to whom an order has been issued pursuant to this By-law shall comply with the terms of the order.
24. (1) If a person is required, under an order pursuant to 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 an officer.
- (2) The City may recover the costs of doing a matter or thing from the person required to do it, by adding the costs to the tax roll for the subject land and collecting the cost in the same manner as property taxes.
- (3) The amount of the costs shall constitute a lien on the subject land upon the registration, in the proper land registry office, of a notice of lien.
- (4) The lien shall be in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date payment is made.

25. An order under this By-law may be served:
- (1) personally, in which case it shall be deemed to have been served on the date of that personal service, or
 - (2) by sending it by registered mail to the last known address of the person being served, in which case it shall be deemed to have been served on the fifth day after the date it was mailed, and
 - (3) by posting it on the owner's property.

Enforcement

26. (1) Any person who directly or indirectly contravenes, or who causes or permits, a contravention of any provision of this By-law, an order issued under this By-law or a condition of a permit, is guilty of an offence.
- (2) Any director or officer of a corporation who concurs in the contravention of this By-law by the corporation is guilty of an offence.
27. (1) All contraventions of any provision of this By-law, any order issued under this By-law or any condition of a permit are designated as multiple offences and continuing offences. A multiple offence is an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law and, for greater certainty, when multiple trees are destroyed or injured, the destruction or injury of each tree is a separate offence.
- (2) The contravention of an order or a permit under this By-law shall be deemed to be a continuing offence for each day or part of a day that the order or permit is not complied with.
28. (1) A person convicted of an offence under this By-law is liable to a fine of not less than \$500.
- (2) A person convicted of an offence under this By-law is liable:
- (a) on a first conviction, to a fine of not more than \$10,000 or \$1,000 per tree to a maximum of \$100,000, whichever is greater; and
 - (b) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,000 per tree to a maximum of \$100,000 whichever is greater.
- (3) Where the person convicted of an offence under this By-law is a corporation:

- (a) on a first conviction, to a fine of not more than \$50,000 or \$5,000 per tree to a maximum of \$100,000 whichever is greater;
 - (b) on any subsequent conviction, to a fine of \$100,000 or \$10,000 per tree to a maximum of \$100,000, whichever is greater.
- (4) In the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all daily fines for the offence is not limited to \$100,000.
- (5) In the case of a multiple offence, for each offence included in the multiple offences, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000.
- (6) On conviction of an offence under this By-law, a person is liable to a special fine. The amount of the special fine shall be the minimum fine to which may be added the amount of economic advantage or gain that the person has obtained or can obtain from the contravention of any provision of this By-law, any order issued under this By-law or any condition of a permit. A special fine may exceed \$100,000.

29. Upon conviction for an offence under this By-law, in addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:

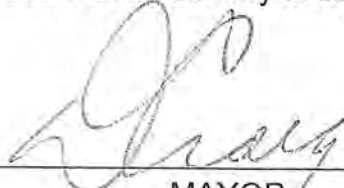
- (1) prohibiting the continuation or repetition of the offence by the person convicted; and
- (2) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate, which correction may include:
 - (a) the planting or replanting of any tree or trees destroyed or injured or the planting of any replacement tree or trees in a specified location and within a specified period of time;
 - (b) the application of any silvicultural treatment that may be necessary to establish or re-establish the tree or trees or replacement tree or trees; and
 - (c) in lieu of planting or replanting, payment to the Replacement Tree Planting Fund in accordance with this By-law.

29. If a court of competent jurisdiction declares any provision or provisions or part or parts of any provision or provisions of this By-law to be invalid, illegal, unenforceable or of no force and effect, it is the intention of Council in enacting this By-law that the remainder of the By-law

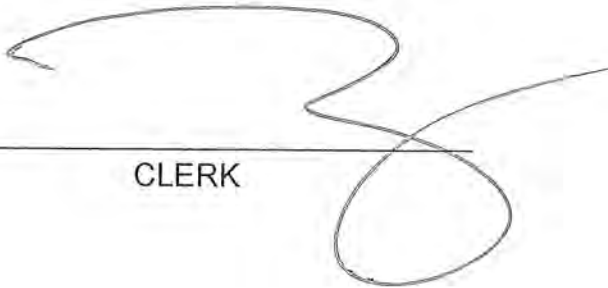
shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

- 30. The short title of this By-law is the "Private Tree Preservation By-law".
- 31. This By-law shall come into full force on the day it is passed.

PASSED AND ENACTED this 10th day of July, 2018



MAYOR



CLERK