



**By-law 78-2008
of The Corporation of the City of Oshawa**

being a by-law respecting the protection and maintenance of trees on City property in the City of Oshawa.

NOW THEREFORE the Council of the Corporation of the City of Oshawa enacts as follows:

1. SHORT TITLE

1.1 The short title of this By-law is the "City Trees By-law".

2. SEVERABILITY

2.1 If any or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative on particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

3. COMPLIANCE WITH OTHER BY-LAWS AND REGULATIONS

3.1 This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.

3.2 If there is a conflict between a provision of this By-law and a provision of any other City By-law, the provision that establishes the higher standard shall apply.

4. MEASUREMENTS

4.1 The abbreviation "cm" stands for centimetres and the abbreviation "m" stands for metres.

5. GENDER AND NUMBER

5.1 In this By-law, unless the contrary indication is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.

6. DEFINITIONS

6.1 In this By-law:

(a) "City" means The Corporation of the City of Oshawa.

(b) "Council" means the elected Council of the City.

(c) "Destroy" includes the removal or cutting down of a tree.

(d) "Diameter" means the measurement of the trunk at a height of 135 cm from the surface of the ground.

(e) "Director" means the Director of Parks Services or his designate.

(f) Deleted by By-law 63-2013.

(g) "Highway" means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway which is under the jurisdiction of the Corporation of the City of Oshawa and includes the boulevard and other untravelled portions.

(h) "Injure" means any action which causes physical, biological or chemical damage to a tree.

- (i) "Municipal Property" means any City owned land or property under the jurisdiction of the City.
- (j) "Officer" means a municipal law enforcement officer appointed to enforce the By-laws of the City.
- (k) "Person" includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives.
- (l) "Tree" means any living species of woody perennial plant, including its root system, which can reach a height of at least 4.5 m at physiological maturity.
- (m) "City Tree" means any tree 50% or more of the trunk of which is located on municipal property is deemed to be owned by the City.

7. AUTHORITY OF THE DIRECTOR

- 7.1 Notwithstanding section 8 of this By-law, the Director is hereby authorized to plan, regulate, supervise and carry out all planting, removal, pruning, trimming and, any and all maintenance activities with respect to trees 50% or more of the trunk of which is located on municipal property.
- 7.2 In the event that the Director determines that there is insufficient space to plant a tree satisfactorily entirely on municipal property, the Director may plant or cause to be planted a tree at the City's expense on adjacent private property subject to the consent of the owner of the private property and subject to the tree being planted within 2.5 m of the property line. Once planted, the tree becomes the property of the owner of the private property on which it is planted and the City shall not be liable for maintenance or otherwise.
- 7.3 The Director, Officers or each person supervised by and assisting the Director or an Officer may, at any reasonable time, enter upon land lying along any of the City's highways,
- (a) to inspect trees and conduct tests on trees; and
 - (b) to remove decayed, damaged or dangerous trees or branches of trees if, in the opinion of the Director, the trees or branches pose a danger to the health or safety of any person using the highway.
- 7.4 The Director, Officers or each person supervised by and assisting the Director or an Officer may remove a decayed, damaged or dangerous tree or branch of a tree immediately and without notice to the owner of the land upon which the tree is located if, in the opinion of the Director, the tree or branch poses an immediate danger to the health or safety of any person using the highway.

8. PROHIBITED ACTIVITIES

- 8.1 No person shall plant or cause to be planted a tree on municipal property without the written approval of the Director.
- 8.2 No person shall injure or destroy a tree or any part of a tree located on municipal property.
- 8.3 No person shall interfere with a tree or part of a tree located on municipal property, including but not limited to attaching, affixing or placing upon in any manner any object or thing to a tree or part of a tree, and climbing the tree.

9. TREE PLANTING BY OTHER PERSONS

- 9.1 The Director may approve the planting of a tree on municipal property.
- 9.2 The Director may refuse to permit the planting of any tree on municipal property where he, in his sole discretion, determines such planting to be unsuitable.

10. OFFENCES AND PENALTIES

- 10.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence and, upon conviction, is liable to the penalties as prescribed by the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
- 10.2 A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and, upon conviction, is liable to the penalties as prescribed by the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
- 10.3 The destroying or injuring of each tree in contravention of this By-law shall constitute a separate and distinct offence.

11. ADMINISTRATIVE PENALTIES

- 11.1 Administrative Penalty Process By-law 63-2013 applies to each administrative penalty issued pursuant to this By-law. (63-2013)
- 11.2 Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 63-2013, be liable to pay to the City an administrative penalty in the amount of \$250 for each day on which the contravention occurs or continues. (63-2013)

12. EXERCISE OF DELEGATE AUTHORITY

- 12.1 Subject to subsection 12.3, the powers and authorities delegated to and conferred upon the Director by this By-law shall be exercised solely and exclusively by the Director.
- 12.2 The powers and authorities delegated to and conferred upon the Director by this By-law are considered, in the opinion of Council, to be of a minor nature, having had due regard to the limited number of people within the municipality who may be impacted by a power or authority exercised under this By-law and the limited geographic area which may be affected.
- 12.3 The powers and authorities delegated to and conferred upon the Director by this By-law may be further delegated by the Director to any officer or employee of the Corporation of the City of Oshawa, provided such further delegation has been made in writing and for the time period expressly set-out in such written delegation, which period may not exceed six (6) months, but which period may be renewed or extended, from time to time, in writing by the Director.

13. REPEAL

- 13.1 By-law 80-83 is hereby repealed.

14. EFFECTIVE DATE

- 14.1 This By-law is in effect on the date of its passing.

By-law passed this twenty-third day of June, 2008.