

THE CORPORATION OF THE CITY OF BRANTFORD
BY-LAW NUMBER 95-2024

By-law to Repeal and Replace By-law 119-2017 Being a By-law to Regulate the
Injury and Destruction of Private Trees and to Encourage Preservation and
Replanting of Private Trees Throughout the City of Brantford

WHEREAS Municipal Council has determined that it is desirable to enact a By-law to generally prohibit the Injury and Destruction of Trees within the municipal boundary in Woodlots and Core Natural Areas as identified in respectively Schedule A and the Official Plan and to allow for the Injury and Destruction of such Trees in limited circumstances with an approved application, and to encourage preservation and planting of Trees throughout the City of Brantford;

AND WHEREAS subsection 5(3) of the Municipal Act, 2001, S.O. 2001, c.25, as amended (“Municipal Act, 2001”) provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the Municipal Act, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act, 2001 or any other Act;

AND WHEREAS subsection 10(1) of the Municipal Act, 2001 provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the Municipal Act, 2001 provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality, including respecting climate change; in paragraph 6, Health, safety and well-being of persons; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1); in paragraph 8, Protection of persons and property; in paragraph 9, Animals;

AND WHEREAS pursuant to subsection 135(1) of the Municipal Act, 2001, without limiting sections 9 and 10, a municipality may prohibit or regulate the destruction or injury of trees;

AND WHEREAS pursuant to subsection 135(7) of the Municipal Act, 2001, without limiting sections 9 and 10, a municipality may require that a permit be obtained to injure or destroy trees, and impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees;

AND WHEREAS subsections 151(1) to (4) of the Municipal Act, 2001 apply with necessary modifications to a system of licences with respect to any activity, matter or thing for which a by-law may be passed under sections 9 and 10 as if it were a system of licences with respect to a business;

AND WHEREAS subsection 1(1) of the Municipal Act, 2001 defines “licence” to include a permit;

AND WHEREAS section 23.2 of the Municipal Act, 2001 permits a municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS the Municipal Council for The Corporation of the City of Brantford is of the opinion that the delegation of legislative powers under this By-law to the Commissioner of Public Works and their delegates including without limitation the power to issue, revoke, suspend and impose conditions on the permit and prescribe operational standards such as the format and content of forms or documents, are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the Municipal Act, 2001;

AND WHEREAS subsection 391(1) of the Municipal Act, 2001 provides that a municipality may impose fees and charges on persons;

AND WHEREAS sections 429, 431, 444 and 445 of the Municipal Act, 2001 provide for a system of fines and other enforcement orders;

AND WHEREAS the City of Brantford’s Official Plan enumerates the goal of promoting sustainable development and adapting to climate change through achieving a minimum of 40% tree canopy prior to 2051;

AND WHEREAS the Municipal Council for The Corporation of the City of Brantford has endorsed a Community Climate Change Action Plan which includes the objective of tree preservation through education and enforcement;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF BRANTFORD ENACTS AS FOLLOWS:

1. DEFINITIONS

1.1 For the purpose of this By-law:

“Administrator” means the designated City staff person authorized under the Authority of the Commissioner to administer permits under the Private Tree Protection By-law;

"Applicant" means the Landowner or the Landowner's authorized representative who, pursuant to this By-law, applies for a Permit;

"Application" means an application to remove trees on private property that falls within the scope of this By-law which must include (but is not limited to):

- a) Landowner and property information
- b) Application information (if applicable)
- c) Tree cutting contractor (if applicable)
- d) Landowner's authorization (if applicable)
- e) Arborist Report

"Arborist" means an Arborist qualified by the Ontario Ministry of Training, Colleges and Universities; a Certified Arborist with the International Society of Arboriculture; a consulting arborist registered with the American Society of Consulting Arborists; a Registered Professional Forester, or qualified ecologist;

"Arborist Report" means a written report by an Arborist that must include the following elements, as well as any other information deemed necessary by the Commissioner:

- a) correct identification of the location, species (common and botanical names), size and condition of Trees as of the date of inspection;
- b) states the Arborist's opinion why a Tree should be Injured or Destroyed, and whether it represents Good Arboricultural Practices or Good Forestry Practices;
- c) describes how the Tree is proposed to be Injured or Destroyed;
- d) an analysis and description of any reasonable alternatives to the Tree Injury or Destruction or an analysis and description as to why there are no reasonable alternatives to the Tree Injury or Destruction;
- e) calculation of the number of Replacement Trees based on Schedule B, and suggest the species and location;
- f) if Trees are to be Injured but not Destroyed, description of maintenance strategies and protection measures to be implemented;
- g) if requested by the Commissioner, further information such as Tree or Trees on adjacent properties that may be affected, and an aerial map representation showing the Critical Root Zone of those Trees; and
- h) the professional accreditation of the Arborist (e.g. International Society of Arboriculture (ISA) Certification Number);

"Boundary Tree" means a tree having any part of its trunk located on the boundary between adjoining lands. For the purposes of this definition, 'trunk'

means that part of the tree from its point of growth away from its roots up to where it branches out to limbs and foliage;

"Building Permit" means a building permit issued under the Building Code Act, 1992, S.O. 1992, c. 23, or successor legislation;

"By-Law Enforcement Officer" means a person appointed pursuant to the Community Safety and Policing Act, or any successor legislation, as a Municipal Law Enforcement Officer to enforce the provisions of this By-law;

"City" means The Corporation of the City of Brantford;

"Commissioner" means the Commissioner of the Public Works Commission or their designate;

"Condition Assessment" means a rating applied to a Tree as a general statement of various aspects of health and structure including but not limited to the Tree's structural integrity, structure, general crown development, crown structure, branch attachments and spacing, presence of deadwood, vigour, presence of insects, pathological concerns, evidence of fungal fruiting bodies evidence of decay, significant lean, damage to structures, age, life expectancy, and any other defects which may be evident in the Tree;

"Conservation Authority" means the Grand River Conservation Authority as established under the Conservation Authorities Act, R.S.O. 1990 c.C.27;

"Core Natural Areas" has the same meaning as defined in the City of Brantford's Official Plan;

"Critical Root Zone" means the area of land within a radius of ten (10) cm from the trunk of a tree for every one (1) cm of trunk diameter as measured from ground level;

"Declared Emergency" means a situation or impending situation that has been declared an emergency under the Emergency Management and Civil Protection Act, R.S.O. 1990 c.E.9 or successor legislation;

"Designate" means any person acting with express authority conferred in writing by the Commissioner and may include but is not limited to City employees or Qualified Persons hired by the City;

"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;

"Diameter at Breast Height" or "DBH" means the diameter of a Tree trunk measured 1.4 meters above the Natural Ground Level at the base of the Tree;

"Emergency Services" means the fire, police, or ambulance services when responding to an emergency event;

"Fees and Charges By-law" means the City's Fees and Charges By-law (30-2023), as amended or its successor(s);

"Good Arboricultural Practices" means the proper implementation of removal, renewal, and maintenance activities known to be appropriate for individual trees in and around urban areas, as recommended by the International Society of Arboriculture or their successor;

"Good Forestry Practices" has the same meaning as defined in the Forestry Act, 1990;

"Injure" means to harm, damage or impair the natural function or form of a Tree, including its roots within the Critical Root Zone, 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", "Injure" and "Injured" shall have a corresponding meaning;

"Landowner" means a person having title to the land on which the Tree(s) are situated;

"Municipal Boundary" means the boundary as defined in the City's Official Plan;

"Natural Causes" means those causal agents that would affect the condition of Tree(s) and the effect is not caused by human activity but is due to naturally occurring conditions;

"Natural Ground Level" means the unaltered and original level of the soil around the base of a Tree that is supporting or did support the Tree during its early growth and establishment phase; where the ground level varies around the Tree, it shall be measured from the highest part of the soil;

“Normal Farm Practice” means a practice that is recognized by the Normal Farm Practices Board as defined by the Farming and Food Production Protection Act 1998;

“Order” means a Stop Work Order or a Work Order, as the context requires;

“Permit Application” means an application to remove trees on private properties covered under the Scope of this By-law;

“Permit” means a Permit issued by the Administrator to destroy or injure a tree pursuant to this By-law;

“Permit Holder” means the Landowner to whom a Permit has been issued;

“Pest” means anything that is injurious or potentially injurious, whether directly or indirectly, to a Tree, and includes any species that is invasive or new to Canada where the potential for harm is yet unknown or unpredictable;

“Pruning” means the removal of live or dead branches from a standing Tree. The terms “Prune” and “Pruned” shall have a corresponding meaning;

“Qualified Person” means a person who, in the opinion of the Commissioner, has satisfactory qualification, experience, education or knowledge to be an expert in the matter;

“Registered Professional Forester” means a person who is a registered and full member in good standing of the Ontario Professional Foresters Association and has the right to use the designation ‘Registered Professional Forester’ under the Professional Foresters Act, 2000, S.O. 2000, C. 18 or successor legislation;

“Replacement Tree” means a tree of a size and type determined by the Commissioner that is required to be planted to replace a tree Destroyed or Injured pursuant to a Permit;

“Security” means an agreement between the City and an Applicant where the Applicant arranges an irrevocable letter of credit from a financial institution to specify and lodge a sum of money as determined by the Commissioner as a condition of a Permit;

“Silvicultural Prescription” means an operational plan prepared by a Registered Professional Forester that describes the existing conditions and the sustainable management objectives for Trees on a Site, and that prescribes the practice of controlling Tree establishment and the composition, growth and quality of Trees to achieve the objectives of management, the methods for managing the Trees and a series of silvicultural treatments and Good Arboricultural Practices that will

be carried out to perpetuate Tree cover and establish a free-growing state for Trees that accommodates other resource, environmental and social values as may be identified;

“Site” means the general area where activities subject to this By-law are planned or executed, and in the case of a tract of land that extends over multiple landholdings, each separate landholding is a separate “Site”;

“Structure” shall have the same meaning as defined in the City of Brantford Zoning By-law, as amended;

“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 (15 feet) at physiological maturity;

“Tree Replacement Plan” means a written Agreement prepared by an Applicant and the Administrator that outlines how the Applicant will replace the protected Tree(s) that will be removed if a Permit is issued, either through same site replanting or contributing to the City’s Tree Replacement Fund;

“Tree Protection Plan” means a plan prepared by a Certified Arborist in good standing with the International Society of Arboriculture (ISA), that documents the condition of existing trees and provides insurance against damage during construction;

“Woodlot” means a group of trees, not necessarily completely located on or within a single separately assessed parcel of land, as identified on mapping attached as Schedule A to this By-law;

“Trunk Diameter” means the DBH of the Tree;

1.2 In this by-law, words importing the singular number include the plural and vice versa, unless the context requires otherwise.

2. SCOPE

2.1 This By-law applies to all activities that could result in the injury or removal of:

- a) Trees of any size within a 1 acre or greater Woodlot, as depicted in the map attached as Schedule A to this By-law;
- b) Trees of any size on lands depicted within as within Core Natural Areas as shown in Schedule 6 of the City of Brantford Official Plan;

- c) Trees of the species set forth in Schedule C to this By-law at any location within the City; and
- d) Lands upon which there is pending an application for any of the following development approvals:
 - i. A plan of subdivision; or
 - ii. a description under the Condominium Act.

3. AUTHORITY AND ADMINISTRATION

- 3.1 The Commissioner and their delegates shall have the authority over the administration and enforcement of this By-law;
- 3.2 The Administrator shall have the authority to issue a Permit, refuse to issue a Permit, to cancel, revoke or suspend a Permit, to impose terms and conditions on a Permit, including special conditions.

4. PROHIBITIONS

- 4.1 Except under authority of a Permit, no Person shall Injure or Destroy a Tree of any size or cause or permit the Injury or Destruction of a Tree of any size within a 1 acre or greater Woodlot;
- 4.2 Except under authority of a Permit, no Person shall Injure or Destroy a Tree of any size or cause or permit the Injury or Destruction of a Tree of any size in a Core Natural Area;
- 4.3 Except under authority of a Permit, no Person shall Injure or Destroy a Tree of any size or cause or permit the Injury or Destruction of a Tree of any size that is of a species outlined in the City of Brantford Natural Heritage Strategy (2014) under Table 9: SARO and Rare (S1-S3 Rank) Species Observations;
- 4.4 No Permit Holder or person acting under authority of a Permit shall Injure or Destroy a Tree that is subject to this By-law or cause or permit the Injury or Destruction of a Tree that is subject to this By-law unless the Injury or Destruction is carried out in accordance with all conditions of the Permit;
- 4.5 No Permit Holder or person acting under authority of a Permit shall fail to protect a Tree in accordance with all conditions of a Permit;

- 4.6 No Permit Holder or person acting under authority of a Permit shall fail to comply with all conditions of a Permit;
- 4.7 No person who has been issued a Stop Work Order or a Work Order by the Commissioner shall fail to comply with the Order.

5. EXEMPTIONS

- 5.1 This By-law does not apply to activities or matters undertaken by the City or a local board of the City;
- 5.2 This By-law does not apply to activities or matters undertaken under a licence issued under the Crown Forest Sustainability Act, 1994;
- 5.3 This By-law does not apply to the Injury or Destruction of Trees by a person licensed under the Surveyors Act, to engage in the practice of cadastral surveying or their agent, while making a survey;
- 5.4 This By-law does not apply to the Injury 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;
- 5.5 This By-law does not apply to the Injury 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;
- 5.6 This By-law does not apply to the Injury or Destruction of Trees imposed after December 31, 2002, as a condition to a development permit or community planning permit authorized by regulation made under the Planning Act or as a requirement of an agreement entered into under the regulation;
- 5.7 This By-law does not apply to the Injury 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;

- 5.8 This By-law does not apply to the Injury or Destruction of Trees required by a Property Standards Order issued under the Building Code Act;
- 5.9 This By-law does not apply to the Injury or Destruction of Trees that is a Normal Farm Practice as defined in the Farming and Food Production Protection Act, 1998, S.O. 1998, c.1.;
- 5.10 This By-law does not apply to the Injury or Destruction of Trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land that has been designated under the Aggregate Resources Act or a predecessor of that Act, and on which a pit or quarry is a permitted land use under a By-law passed under section 34 of the Planning Act;
- 5.11 This By-law does not apply to the Injury or Destruction of Trees undertaken by a Conservation Authority on its own lands or in response to a Declared Emergency;
- 5.12 This By-law does not apply to the Injury or Destruction of Trees at the direction of Emergency Services;
- 5.13 This By-law does not apply to Pruning that is necessary to maintain the health and condition of the Tree and is carried out in accordance with Good Arboricultural Practices;
- 5.14 This By-law does not apply to the Injury or Destruction of Trees located within a building structure, a solarium, a rooftop garden or an interior courtyard;
- 5.15 This By-law does not apply to the Injury or Destruction of Trees that are a noxious weed as defined in the Weed Control Act, 1990;
- 5.16 This By-law does not apply to the Injury or Destruction of Trees that have been confirmed by an Arborist to be infested with the Emerald Ash Borer, or another invasive species as defined by the Invasive Species Act, 2015;
- 5.17 This By-law does not apply to the Injury or Destruction of Trees by the provincial or federal government or their agents so long as said trees are located exclusively on lands owned by the respective provincial or federal government;

- 5.18 This By-law does not apply to the Injury or Destruction of Trees undertaken as Normal Farm Practices, as ruled by the Normal Farm Practices Protection Board for the subject land; and
- 5.19 This By-law does not apply to the harvesting of Trees located within an actively managed cultivated orchard, tree farm or plant nursery that are being actively managed and harvested for the purposes for which the trees were planted as demonstrated in a management or business plan.

6. APPLICATION FOR PERMITS

- 6.1 Every application for a Permit shall include, in a form approved by the Commissioner, the following:
- a) the name, municipal address, email address (if available) and telephone number (if available) of the Landowner, and if not the same;
 - b) if the Applicant is not the Landowner, written confirmation that the Applicant is making the application as the Landowner's authorized agent;
 - c) if the Applicant or the Landowner is a corporation, the address of its head office;
 - d) the municipal address and legal description of the land, upon which the Tree or Trees are to be Injured or Destroyed;
 - e) if known, the name, municipal address, email address, and phone number of any contractor anticipated to Injure or Destroy the Tree or Trees;
 - f) a Tree Protection Plan, which may be for one or more Trees, prepared by an Arborist;
 - g) an Arborist Report containing the following information:
 - i. The Arborist declaration, including their name, credentials, company name if applicable, professional address, and contact information;
 - ii. Confirmation that the Arborist has reviewed the relevant legislation and By-laws applicable to the Site;
 - iii. Confirmation of the total canopy coverage on the Site;
 - iv. A list of dates on which the Arborist inspected the Site;
 - v. A fulsome description of the Site including but not limited to:
 - a. any factors which may affect the preservation and retention of Trees on the Site;
 - b. An inventory of Trees present on the Site, addressing the following details:

1. species (common name and Latin name);
 2. size (DBH and height);
 3. biological health;
 4. structural condition;
 5. a Condition Assessment of each Tree;
 6. Tree ownership; and
 7. risk assessment if deemed necessary by the Administrator;
- c. Recommended actions and compensation requirements for each Tree proposed to be removed or Pruned;
- vi. An inventory of the trees present on the Site, including details on the canopy cover percent, and an accounting of any trees which may be ecologically significant, endangered, or be of Provincial or Federal interest;
 - vii. A diagram and itemized list showing:
 - a. the location, species and DBH, of each tree to be destroyed or injured;
 - b. a justification for the destruction or injury of each tree;
 - c. the location, species, and DBH for each tree to be retained;
 - viii. Confirmation that endangered, threatened or special concern tree species as defined in the Endangered Act or the Species at Risk Act are not present;
 - ix. A description of the recommended size, species, timeline, and location of any trees to be planted in compensation for the removal, in accordance with the ratios as set out in this By-law;
 - x. If applicable any necessary photo or video documentation of the Site.

- 6.2 Where, in the discretion of the Administrator, additional information is necessary to evaluate the application, the Administrator may require the applicant to submit such additional information as requested within a specified period of time, including but not limited to:
- a) site drawings showing proposed development, construction, excavation, or site alteration that may cause injury to trees;
 - b) start and end dates to any proposed works taking place on the site;
 - c) confirmation of any other matters (past or present planning applications or otherwise) affecting the land upon which the Tree or Trees are to be Injured or Destroyed;
 - d) affidavits in support of an application.

- 6.3 Where the applicant has failed to submit the documentation required, or has failed to complete the application fully within twelve months of the date that the application was submitted to the City, the Administrator may deem the application to be abandoned and the City shall retain all application fees submitted. The Administrator shall notify the Applicant that the file has been closed for incompleteness;
- 6.4 By submitting an application, the Landowner shall be deemed to have granted permission for the Administrator to enter on the Landowner's land for purposes of this By-law;
- 6.5 If the Tree to be Destroyed or Injured is a Boundary Tree, all owners of the Boundary Tree or their authorized agents would need to apply for a Permit, otherwise a Permit will not be issued;
- 6.6 In the event that the City is an owner of a Boundary Tree (not on the City boulevard) the written approval of the Administrator would be required but such approval is entirely at the discretion of the Commissioner;
- 6.7 If one of the adjoining lands upon which the Boundary Tree is located is a City-owned boulevard, then this By-law will not apply, as it is under the jurisdiction of the City Tree Protection By-law 38-2023.

7. ISSUE OF PERMITS

- 7.1 The Administrator shall issue a Permit where all of the following are satisfied:
 - a) the application is complete;
 - b) the Administrator is satisfied that there are no reasonable alternatives to the proposed Tree Injury or Destruction;
 - c) the Administrator has determined, in their discretion, that there are no grounds for refusing to issue a Permit;
 - d) the Administrator is satisfied that one or more of the following grounds for issuing a Permit apply:
 - i. based on the opinion of an Arborist it is necessary to remove unsafe Trees;
 - ii. based on the opinion of a qualified engineer the Tree or Trees are causing or are likely to cause structural damage to load-bearing structures or roof structures;

- iii. based on the opinion of a 'Qualified Person' (as defined in the Environmental Protection Act) the Tree Injury or Destruction is required to remediate contaminated soil;
- iv. based on the opinion of a Qualified Person the Tree Injury or Destruction is required to install, provide or maintain utilities, water or sanitary wastewater infrastructure required for the construction or use of a building or structure for which a Building Permit has been issued with no reasonable alternative to locating those utilities or infrastructure;
- v. the Tree Injury or Destruction is required for purposes of a Building Permit.

7.2 In the event that the Administrator requests the Applicant to provide further relevant information the Applicant must do so within sixty (60) days. Failing to do so shall result in the Application becoming void;

7.3 Each Permit issued under this By-law shall be in the form and manner as provided by the Commission and shall include the following information:

- a) the Permit number;
- b) the name of the Permit Holder;
- c) the date the Permit was issued and the date it expires;
- d) the municipal address of the premises on which the Tree of Trees to be Injured or Destroyed is located;
- e) the Tree or Trees that are permitted to be Injured or Destroyed;
- f) the nature of the Injury or Destruction.

8. REFUSAL OF PERMITS

8.1 The Administrator at their discretion may refuse to issue, may revoke, suspend, or impose a term or condition on a Permit on any one or more of the following grounds:

- a) the species of Tree is an endangered species or threatened species as defined in the Endangered Species Act, 2007, S.O. 2007, c. 6, or the Species at Risk Act, S.C. 2002, c. 29;
- b) the Tree is designated under Part IV of the Ontario Heritage Act, R.S.O. 1990, c. O.18;
- c) migratory birds are making use of the Tree, or migratory bird nests are in the Tree, as contemplated in the Migratory Birds Convention Act, 1994, S.C. 1994, c. 22;

- d) the species of Tree is defined as a Species at Risk under Section 3.10 the City's Natural Heritage Strategy, 2014;
- e) the species of Tree is important for the protection and preservation of ecological systems and their functions, including the protection and preservation of native flora and fauna, erosion, flood control and sedimentation of watercourses, if the Administrator deems it appropriate the Administrator may require an ecologist's opinion or an Environmental Impact Statement be obtained at the Applicant's expense from an ecologist selected by the Administrator;
- f) any information contained in the original application form or any other information provided to the Administrator has ceased to be accurate and the Applicant, Landowner or Permit Holder has not provided up-to-date accurate information to allow the Administrator to conclude that the Permit should continue;
- g) an Applicant or Permit Holder does not meet one or more of the requirements of this By-law or a condition imposed on a Permit;
- h) the Applicant or Landowner is carrying on activities that are in contravention of this By-law;
- i) there are reasonable grounds to believe that an application or other documents provided to the Commissioner by or on behalf of the Applicant or Landowner contains a false statement; or
- j) the Applicant has failed to comply with or facilitate such further requests for information or access to the Site as reasonably made by the Administrator following the submission of the Application.

9. ADDITIONAL REASONS FOR THE REVOKING OF PERMITS

- 9.1 The Administrator at their discretion may revoke or suspend a Permit on any one or more of the following grounds:
- a) the Permit was issued in error;
 - b) the Landowner or Permit Holder requests, in writing, that it be revoked;
 - c) the Landowner or Permit Holder fails to comply with any condition of the Permit or this By-law;
 - d) the Permit Holder is no longer the owner of the land while the Permit is still valid or the owner on title to the lands has changed;
 - e) the Administrator is satisfied that there is a material change in circumstances in connection with or on the Site and the Administrator is satisfied that the Permit needs to be revoked to avoid further Injury or Destruction of a Tree or Trees.

10. WRITTEN NOTICE OF DECISION

- 10.1 The Administrator shall give written notice of that decision regarding an Application to the Applicant or Permit Holder by electronic mail or regular mail to the last known address of that person and shall be deemed to have been given on the third (3rd) day after it is mailed. Written notice to a corporation may be given by registered mail to the address of the corporation's registered head office, or by electronic mail if requested by the corporation;
- 10.2 The written notice shall include the grounds for the decision, reasonable particulars of the grounds, and be signed by the Commissioner or their Delegate;
- 10.3 Where a permit is voluntarily surrendered by the Applicant or Permit Holder no notice shall be given of the resulting revocation.

11. AUTOMATIC CONDITIONS OF ALL PERMITS

- 11.1 The Permit Holder or Landowner shall pay all fees related to this By-law and conform to all other requirements of this By-law;
- 11.2 The Permit Holder shall plant or cause to be planted the number of Replacement Trees of the size and species approved by the Administrator by the date specified on the Permit;
- 11.3 The Permit Holder or Landowner shall pay all other fees and fines owed by the Permit Holder or the Landowner to the City;
- 11.4 Where there is insufficient space on the same Site to plant all the required Replacement Trees, and the species, or choice of species, size and location of Replacement Trees as determined by the Commissioner, are planted on the same Site by the date specified on the Permit;
- 11.5 The Permit Holder or Landowner shall ensure that it complies with applicable law including the Migratory Birds Convention Act, 1994, and the Endangered Species Act, 2007;
- 11.6 Where any Replacement Trees cannot be planted on the same Site, the Permit Holder shall contribute financially to the City's Tree Replacement

Fund at the Tree Replacement Ratio outlined in Schedule B to this By-law and in the Fees and Charges By-law;

- 11.7 The use of the Site is permitted or conforms with the uses permitted under the applicable zoning by-law or it is a legal non-confirming use;
- 11.8 By submitting an Application the Permit Holder or Landowner shall be deemed to have granted the City permission to enter on the Landowner's property; and for the purposes of inspection under this By-law;
- 11.9 A Permit issued under this By-law shall be valid only for the period of time for which it is issued, unless expressly stated on the face of the Permit, all Permits issued under this By-law shall expire 6 months after issuance;
- 11.10 No Permit issued under this By-law may be sold, purchased, leased, mortgaged, charged, assigned, pledged, transferred, seized, distrained or otherwise dealt with. All Permits issued under this By-law are owned by the City and are valid only in respect of the Permit Holder and Site named on it;
- 11.11 The issuance of a Permit under this By-law is not intended and shall not be construed as permission or consent by the City for the Permit Holder or Landowner to contravene or fail to observe or comply with any law of Canada, Ontario or any By-law of the City;
- 11.12 The Permit Holder or landowner shall allow, at any reasonable time, the City to inspect the Site;
- 11.13 A Permit issued pursuant to this By-law does not preclude the responsibility of the Applicant or Landowner or Permit Holder to obtain all other approvals which may be required by any level of government and agencies;
- 11.14 The Permit Holder shall notify the Commissioner of any changes in their name, business, home address, Site ownership, or any other information relating to the Permit within fifteen (15) days after such change, and, if the Commissioner determines it necessary, shall immediately return their Permit to the Commissioner for amendment.

12. ADDITIONAL CONDITIONS THAT MAY BE IMPOSED

- 12.1 The Commissioner may impose other conditions on a Permit, including but not limited to:
- a) the Permit Holder shall ensure that the Injury or Destruction of the Tree is carried out in accordance with Good Forestry Practices;
 - b) the Permit Holder shall ensure that the Injury or Destruction of the Tree is carried out in a particular manner or during a particular time;
 - c) the Permit Holder shall ensure that the Permit is posted in a public location for a time period before, during and after the Injury or Destruction of the Tree or Trees;
 - d) the Permit Holder shall ensure that the Injury or Destruction of the Tree is to be carried out by or under the supervision of an Arborist;
 - e) the Permit Holder shall ensure that measures are to be implemented to protect any retained Trees for the period the Permit remains valid;
 - f) the Permit Holder shall ensure that the Commissioner is informed within 48 hours of a change of Landowner;
 - g) the Permit Holder shall ensure that a Tree Management Plan satisfactory to the Commissioner is implemented by a required date;
 - h) the Permit Holder shall ensure posting of Security that the City may draw upon in full if the By-law is contravened or if there is a failure in the proper and complete execution of a Permit and its conditions, such that restoration of all or part of the Site has to be done by the City;
 - i) the Permit Holder shall ensure it complies with any requirements to protect or relocate wildlife (including bees) as determined by the Commissioner;
 - j) the Permit Holder shall ensure it implements the Silvicultural Plan or Tree Management Plan submitted with the application to the satisfaction of the Commissioner within a period of time specified by the Commissioner;
 - k) any condition recommended by a Qualified Person that the Commissioner determines is appropriate.

13. ENFORCEMENT AND ORDERS

- 13.1 This By-law may be enforced by a By-law Enforcement Officer or City staff as designated by the Commissioner;

- 13.2 By-law Officers or City staff as designated by the Commissioner are able to exercise the powers of entry under s.446 of the *Municipal Act, 2001*, for the purpose of carrying out inspections under this By-law;
- 13.3 No person shall hinder or obstruct or attempt to hinder or obstruct the By-law Enforcement Officer or City staff as designed by the Commissioner in the discharge of duties under this By-law;
- 13.4 Where a By-law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the By-law Enforcement Officer or City staff as designated by the Commissioner may make a Stop Work Order or a Work order, as appropriate;
- 13.5 The Stop Work Order or Work Order shall set out reasonable particulars of the contravention, including a description of the contravention, the location of the land on which the contravention took place, and the date/time by which there must be compliance with the Stop Work Order or Work Order;
- 13.6 A Stop Work Order or Work Order may be served personally by a By-law Enforcement Officer or other City staff as designated by the Commissioner, may be sent by registered mail to the registered address of the land on which the contravention of the By-law took place, or may be posted in a conspicuous place at the location where the contravention occurred;
- 13.7 A Stop Work Order obligates the Permit Holder, the person who contravened the By-law, or the person who caused or permitted a contravention of the By-law to immediately discontinue the contravening activity;
- 13.8 A Stop Work Order may also obligate the Permit Holder, the person who contravened the By-law, or the person who caused or permitted a contravention of the By-law take such remedial action as required by the Stop Work Order as per the specifications of the Commissioner;
- 13.9 A Work Order obligates the Permit Holder, or 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. Such work may include but is not limited to,

developing and implementing a Tree Replacement Plan to address activities undertaken in contravention of this By-law.

14. SERVICE OF STOP WORK ORDER OR WORK ORDER

- 14.1 A Stop Work Order or Work Order may be served personally by the By-law Enforcement Officer or the Commissioner, 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;
- 14.2 Where a Stop Work Order or Work Order under this By-law is served personally by the By-law Enforcement Officer or the Commissioner, it shall be deemed to have been served on the date of delivery to the person or persons named;
- 14.3 The posting of the Stop Work Order or Work Order at the Site shall be deemed to be sufficient service of the Stop Work Order on the person or corporation to whom the Stop Work Order is directed on the date it is posted;
- 14.4 Where a Stop Work Order or Work Order issued under the By-law is sent by registered mail, it shall be sent to the last known address of one or more of the following, as applicable:
- a) the Applicant;
 - b) the Permit Holder;
 - c) the Landowner;
 - d) the person contravening the By-law;
 - e) the person or company undertaking the Injury or Destruction, and
 - f) shall be deemed to have been served on the fifth (5th) day after the Stop Work Order or Work Order is mailed.

15. REMEDIAL ACTION

- 15.1 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 By-law Enforcement Officer;
- 15.2 The City may recover the costs of doing a matter or thing under section 15.1 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;

- 15.3 The amount of the costs under this section, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien.

16. PESTS – INSPECTION

- 16.1 The Commissioner is authorized to inspect for the presence of Asian Long-Horned Beetles and other Pests that may create serious widespread economic or ecological harm, and to remove such infested trees, on all public and private property, with the consent of the property owner;
- 16.2 Where the Commissioner has been designated as an “inspector” by the President of the Canadian Food Inspection Agency under section 13 of the Canadian Food Inspection Agency Act, S.C. 1997, c.6 for the purposes of enforcing the Plant Protection Act, S.C. 1990, c.22, the Commissioner has the authority to inspect for the presence of Pests and to take action including the removal of trees on all public and private property, with or without the consent of the property owner, if it is in accordance with the Plant Protection Act.

17. OFFENCES AND PENALTIES

- 17.1 Any person who contravenes any provision of this By-law, including any Stop Work Order or any Work Order issued under this By-law, is guilty of an offence;
- 17.2 A person convicted under this By-law is liable to a minimum fine of \$500.00 and a maximum fine of \$100,000.00, where the fine is not a set fine;
- 17.3 Contravention of a Stop Work Order or a Work Order is a continuing offence, and a person who is convicted of an offence under this By-law is liable for each day or part of a day that the offence continues to a minimum fine of \$500.00 and a maximum fine of \$10,000.00 and the total of all daily fines for the offence is not limited to \$100,000.00;

- 17.4 A person convicted under this By-law is liable to a special fine of maximum \$200,000.00 which may be imposed in addition to the regular fine, to eliminate or reduce any economic advantage or gain from contravening the By-law;
- 17.5 Under section 431 of the Municipal Act, 2001, when this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:
- a) prohibiting the continuation or repetition of the offence by the person convicted; and
 - b) in the case of a by-law described in section 135 of Municipal Act, 2001, requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

18. MISC

- 18.1 The Private Tree By-law No. 171-2002 passed on October 7, 2002, as amended by By-law No.95-2004 and No. 119-2017, is repealed and shall not longer be in effect beginning on July 1, 2024;
- 18.2 This By-law shall come into force and effect on July 1, 2024.


FIRST READING: June 25, 2024

SECOND READING: June 25, 2024

PASSED: June 25, 2024



City Clerk

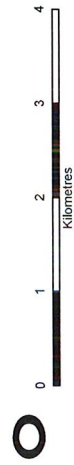
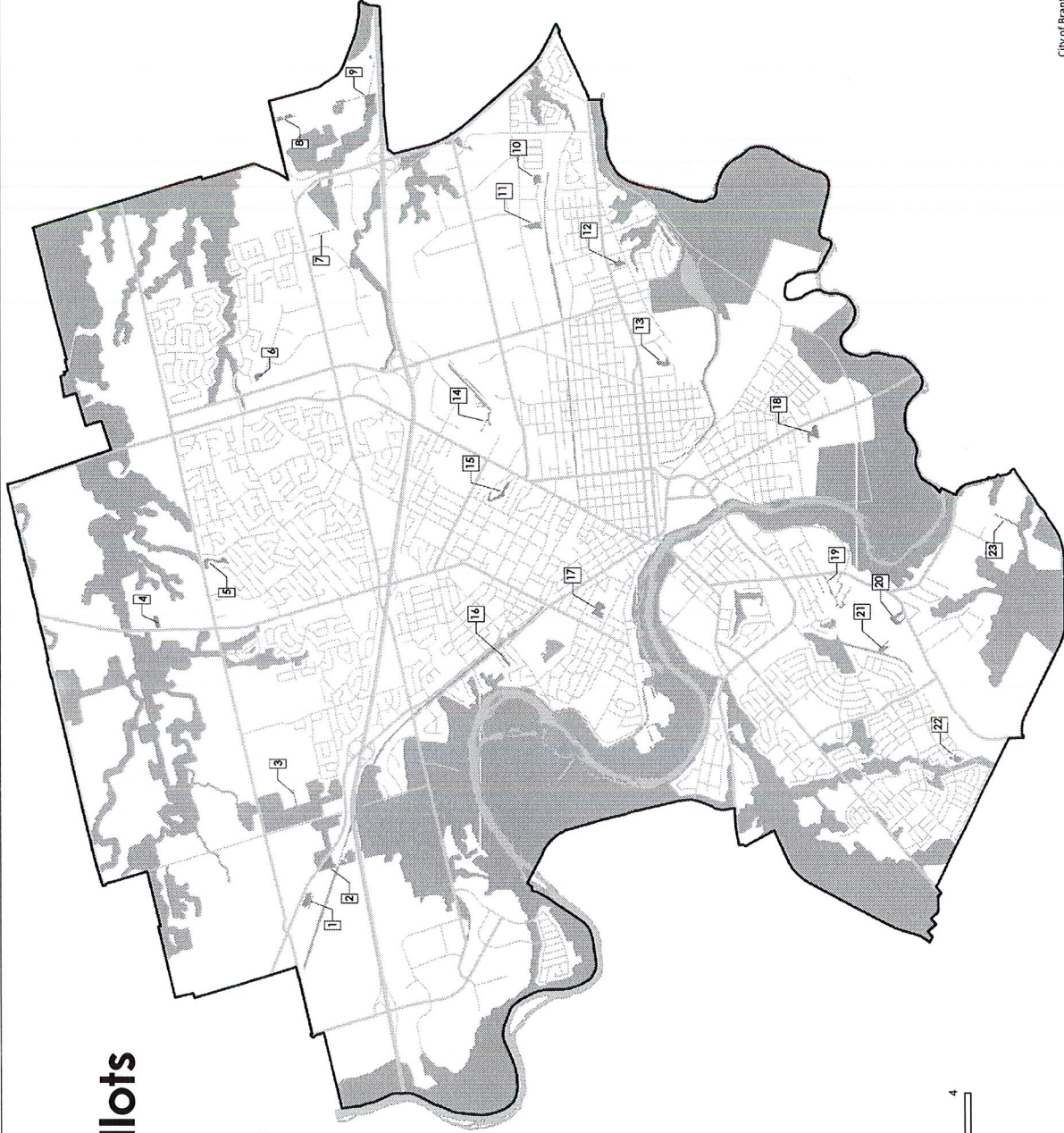


Mayor

Schedule A Protected Woodlots

Legend

- Designated Woodlot, 1 acre or greater
- Core Natural Area



Schedule B – Tree Replacement Ratios

The City has implemented these tree replacement ratios, which was guided by the desire to link the loss of ecosystem services more closely to the size of the tree proposed for removal.

For the purposes of this By-law with respect to a Permit, the Administrator shall determine the number of Replacement Trees that will be required based on the chart below. The diameter of the Tree to be Destroyed or Injured under a Tree Permit, as set out in Column 1, shall correspond to the number of Replacement Trees required, as set out in Column 2.

For the purposes of this By-law with respect to a Permit, where there is insufficient space on the same Site to plant all of the number of Replacement Trees as calculated for 11.2 of this By-law, the Permit Holder shall plant as many Replacement Trees as the site will allow as determined by the Administrator, and with respect to the number of Replacement Trees that could not be planted due to insufficient space, the Administrator shall calculate the amount of the fee by multiplying the number of Replacement Trees with the fees set out by the Administrator. The diameter of the Tree to be Destroyed or Injured under a Tree Permit, as set out in Column 1, shall correspond to the number of Replacement Trees, as set out in Column 2.

DBH (cm) of Tree Approved for Removal	Required Tree Replacement Ratio
0-30	3:1
31-40	4:1
41-50	5:1
51-60	6:1
61-70	7:1
71-80	8:1
81-90	9:1
91+	10:1

Approved Tree Replacement Species

Planted species must be sourced and grown locally (no cultivars or hybrids). Species other than those on this list may be considered at the discretion of the Commissioner.

Latin Name	Common name
Abies balsamea	Balsam fir
Acer rubrum	Red Maple

<i>Acer saccharum</i>	Sugar maple
<i>Aesculus glabra</i>	Ohio buckeye
<i>Amelanchier</i> spp	Serviceberry species
<i>Asimina triloba</i>	Pawpaw
<i>Betula alleghaniensis</i>	Yellow birch
<i>Carya cordiformis</i>	Bitternut hickory
<i>Carya ovata</i>	Shagbark hickory
<i>Celtis occidentalis</i>	Northern hackberry
<i>Cercis canadensis</i>	Eastern redbud
<i>Fagus grandifolia</i>	American beech
<i>Gymnocladus dioicus</i>	Kentucky coffeetree
<i>Juglans cinerea</i>	Butternut
<i>Juglans nigra</i>	Black walnut
<i>Juniperus virginiana</i>	Eastern red cedar
<i>Larix laricina</i>	Tamarack/American larch
<i>Liquidambar styraciflua</i>	Sweetgum
<i>Liriodendron tulipifera</i>	Tulip tree
<i>Magnolia acuminata</i>	Cucumbertree
<i>Nyssa sylvatica</i>	Black gum
<i>Ostrya virginiana</i>	Ironwood/American hophornbeam
<i>Picea abies</i>	Norway spruce
<i>Picea glauca</i>	White spruce
<i>Pinus resinosa</i>	Red pine
<i>Pinus strobus</i>	Eastern white pine
<i>Platanus occidentalis</i>	Sycamore
<i>Populus balsamifera</i>	Balsam poplar
<i>Populus tremuloides</i>	Quaking aspen/Trembling aspen
<i>Prunus pensylvanica</i>	Pin cherry
<i>Prunus serotina</i>	Black cherry
<i>Ptelea trifolia</i>	Hop tree
<i>Quercus alba</i>	White oak
<i>Quercus bicolor</i>	Swamp white oak
<i>Quercus macrocarpa</i>	Bur oak
<i>Quercus muehlenbergii</i>	Chinkapin oak
<i>Quercus rubra</i>	Red oak
<i>Quercus veluntina</i> *	Black oak
<i>Salix amygdaloides</i>	Peachleaf willow
<i>Salix nigra</i>	Black willow
<i>Sassafras albidum</i>	Sassafras
<i>Thuja occidentalis</i>	Eastern white cedar

Tilia americana	American basswood
Tsuga canadensis	Eastern hemlock

Schedule C

The following tree species in naturally occurring populations are protected.

Latin Name	Common Name
Castanea dentata	American Chestnut
Celtis tenuifolia	Dwarf Hackberry
Gymnocladus dioica	Kentucky Coffee
Fraxinus quadrangulata	Blue Ash
Quercus prinoides	Dwarf Chinquapin Oak
Quercus ellipsoidalis	Hills Oak
Quercus schumardii	Schumard Oak
Carya glabra	Sweet Pignut Hickory
Magnolia acuminata	Cucumber Tree
Morus rubra	Red Mulberry
Phelea trifoliata	Hop Tree