

BY-LAW 2022-XXX

A By-law of the City of Greater Sudbury to Prohibit and Regulate the Destruction or Injuring of Street Trees

Whereas Section 135(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipality may prohibit or regulate the destruction or injuring of trees;

And Whereas Council of the City of Greater Sudbury deems it advisable to authorize, regulate and protect the planting, care, maintenance, protection, and removal of trees on municipal rights of way;

Now Therefore the Council of the City of Greater Sudbury Hereby Enacts as Follows:

1. Interpretation

1.1 In this By-law:

- (a) "By-law Enforcement Officer" means a by-law enforcement officer appointed to enforce the By-laws of the City;
- (b) "City" means the City of Greater Sudbury;
- (c) "City Personnel" includes the City's employees, contractors, and agents;
- (d) "Destroy" means any act that renders, or which is likely to render, a Tree unvivable or compromise its life processes in such a way that it cannot survive;
- (e) "General Manager" means the City's General Manager, Growth and Infrastructure, and includes their authorized designate;
- (f) "Injury" means any action that causes physical, biological or chemical damage to a Tree;
- (g) "Maintenance" includes all work or operations related to trimming, pruning, spraying, injecting, fertilizing, treating, cabling, and bracing a tree and "maintain", "maintaining" and "maintained" have similar meaning;
- (h) "Owner" means the Person(s) registered on the title of the land in the Land Registry Office.
- (i) "Person" means an individual, firm, corporation, association, or partnership;
- (j) "Pruning" means the removal, as appropriate, of the live branches or limbs of a tree and "prune" or "pruned" have similar meanings;
- (k) "Remove" means to cut down a tree and "removal" and "removed" have similar meanings;
- (l) "Street" means every road, road allowance and laneway under the City's authority or jurisdiction that is opened and includes the travelled portion of the road, shoulders, curb, ditch, boulevard and sidewalks and all other land between the lateral limits;
- (m) "Street Tree" means any Tree, where any part of the lower trunk of the Tree is within the Street;
- (n) "Street Tree Policy" means the City's policy respecting the City's standards for the planting, care and maintenance, protection, preservation, and removal of all Street Trees, as may be amended from time to time;

- (o) "Tree" means any species of woody perennial plant, including its root system, which has reached or can reach a minimum height of four hundred and fifty (450) centimetres at physiological maturity; and
- (p) "Tree Warden" means the City's certified Tree Warden.

2. Application

- 2.1 This By-law applies to all Street Trees within the geographic limitations of the City.

3. Authority of the Tree Warden

- 3.1 The Tree Warden:

- (a) is hereby authorized to plan, regulate, supervise, and carry out all planting, removal, Pruning, trimming and all Maintenance activities with respect to all Street Trees in a manner consistent with the Street Tree Policy; and
- (b) may direct the performance of any one (1) or more of the functions described in Section 3.1(a) to one (1) or more Persons from time to time as deemed necessary by the Tree Warden in their sole discretion.

- 3.2 The Tree Warden or each Person supervised by and assisting the Tree Warden, at any reasonable time, enter upon land lying along the Street to:

- (a) inspect the Street Trees and conduct tests on the Street Trees; and
- (b) Remove decayed, damaged, or dangerous Street Trees or branches of Street Trees if, in the opinion of the Tree Warden, the Street Trees or branches pose a danger to the health or safety of any Person using the Street.

4. Prohibited Activities

- 4.1 No Person shall:

- (a) Injure or engage in an activity likely to Injure a Street Tree;
- (b) Destroy or engage in an activity likely to Destroy a Street Tree;
- (c) Remove or caused to be Removed a Street Tree;
- (d) plant or cause to be planted a Tree or any part of a Tree on City land without first having obtained the written permission of the Tree Warden;
- (e) hinder or obstruct or attempt to hinder or obstruct the Tree Warden or any Person supervised by and assisting the Tree Warden, or a By-law Enforcement Officer in the exercise of their role as described herein this By-law;
- (f) affix a poster, notice, or sign to a Street Tree;
- (g) affix any guy line or other fastening or fixture to a Street Tree;
- (h) use a Street Tree to secure or support any object, structure, or animal; or
- (i) Remove or interfere with any fence, tree guard or other protective device placed around a Street Tree.

- 4.2 Section 4.1 does not apply to the Tree Warden or any Person supervised by and assisting the Tree Warden.

5. Removal of Healthy Street Tree

- 5.1 Any Person may request the Removal of a healthy Street Tree by submitting a “Request for Removal of a Healthy Tree Form” as described in the Street Tree Policy.
- 5.2 The Tree Warden may permit the Removal of a healthy Street Tree by City Personnel if such Removal is warranted and consistent with the criteria set out in the Street Tree Policy.
- 5.3 Where the Tree Warden refuses a Person’s request for the Removal of a healthy Street Tree, the Person may appeal the Tree Warden’s decision to the General Manager by submitting a “Appeal of Decision for Removal of a Healthy Street Tree Form” as described in the Street Tree Policy.
- 5.4 The General Manager may uphold the Tree Warden’s decision to refuse the Person’s request or permit the Removal of the Street Tree.
- 5.5 The decision of the General Manager shall be final.
- 5.6 Where either the Tree Warden or the General Manager approve the Removal of a healthy Street Tree, the Tree Warden and/or City Personnel shall remove the healthy Street Tree.
- 5.7 Unless otherwise determined by the Tree Warden or the General Manager, as the case may be, in their sole discretion, the City shall replace the Removed healthy Street Tree with another Street Tree pursuant to the criteria described in the Street Tree Policy.
- 5.8 The Person requesting the Removal of the healthy Street Tree shall pay to the City one half of the cost of said Removal, as determined by the Tree Warden, prior to the City Removing the healthy Street Tree. For clarification, the cost of said Removal, as determined by the Tree Warden, shall include the cost of replacing the healthy Street Tree where applicable.

6. Offences and Penalties

- 6.1 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, as may be amended or replaced from time to time.
- 6.2 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, as may be amended or replaced from time to time.
- 6.3 This By-law may be enforced by any By-law Enforcement Officer.

7. Short Title

- 7.1 The short title of this By-law is the “Street Tree By-law”.

8. Compliance with Other By-laws and Regulations

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

- 8.2 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 to protect the health, safety and welfare of the general public shall apply.

9. Repeal

- 9.1 By-law 2011-243, as amended, is hereby repealed.

10. Effective Date

- 10.1 This By-law shall come into effect and take effect immediately on the date of its passing.

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