

APPENDIX “D”

THE CORPORATION OF THE CITY OF GREATER SUDBURY

BY-LAW NUMBER _____

A By-Law to authorize, regulate, and protect the planting, care, maintenance, protection, and removal of trees on municipal right-of-ways, and walkways within the City of Greater Sudbury.

This By-Law deals with trees on residential and commercial lots on public property only within a public road right-of-way.

Definitions:

“**City**” means the geographical limits of the City of Greater Sudbury.

“**Corporation**” means the Corporation of the City of Greater Sudbury.

“**Council**” means the elected Council of the City of Greater Sudbury.

“**General Manager of Infrastructure Services**” a person or their designate duly authorized by Council to carry out the intent of the By-Law.

“**Owner**” means the registered owner of the land or their agent; or anyone acting under the direction of the owner or their agent.

“**Site**” means the area of land containing any tree(s) proposed to be injured, destroyed, removed, or planted.

“**Tree**” means a woody plant or shrub on City of Greater Sudbury property, on either side of a highway, park, walkway or building. The term includes the whole and/or all parts of: the roots, branches, trunk, and crown.

“**Right-of-Way**” means every road, road allowance, and laneway under the Corporation’s authority whether opened or unopened within the City of Greater Sudbury. The road allowance includes all of the property that makes up the road including the traveled portion of the road, shoulders, curb, ditch, boulevard, and sidewalks, within the road allowance.

“**Municipal Property**” means any and all land owned by the Corporation of the City of Greater Sudbury, including highways.

“**Municipal Tree**” is any tree that has more than fifty percent (50%) of the diameter of its trunk 0.5 m above the ground on municipal property.

“Review Committee” means a committee made up of representatives from various Departments having a stake in preserving trees in the City. These Departments are (but not limited to) By-Law, Building Controls, Roads Operations, Parks, Legal, Planning and Greater Sudbury Utilities Inc.

“Private Property” means any and all land in Greater Sudbury which is not Municipal Property.

“Private Tree” is any tree that has more than fifty percent (50%) of the diameter of its trunk, 0.5 m above the ground on private property.

“By-Law” means this By-Law as it may be amended from time to time. The recitals to this By-Law are considered integral parts of it.

Recitals:

Subsection 11(5) of the Municipal Act, 2001 provides authority to municipalities for the control and regulation of parks, including trees with parks.

Sections 135 through 141 of the Municipal Act 2001 provides authority to municipalities to regulate the cutting of, planting of, and general maintenance of trees.

Sections 62 and 137 of the Municipal Act, 2001 authorizes the imposition of penalties for the commission of an offence under a Tree Regulatory By-Law.

Section 138 of the Municipal Act, 2001 authorizes the imposition of penalties for the commission of an offence under a Tree Regulatory By-Law.

Intent:

The intent of the By-Law is to preserve and protect rather than remove public trees wherever possible and expedient. Healthy trees are not removed from municipal property for any reason, except where required by law (hydro/utilities), have a danger to the public that can not be remedied, for the maintenance and construction of roads, sidewalks, and drainage ways upon recommendation from the City Solicitor for reasons seriously affecting corporate liability.

Roadway and ditch brushing and maintenance activities along the road right-of-ways shall not apply to this By-Law.

Authority in Implementing this By-Law:

Council or their designate (General Manager of Infrastructure Services) is assigned the authority for the implementation of the By-Law.

Planting and Transplanting:

The General Manager of Infrastructure Services or designate is authorized to plant, transplant or remove any and/or all trees on municipal property in accordance with this By-Law.

Care and Maintenance:

The General Manager of Infrastructure Services or designate is authorized to care for and maintain all trees on municipal property. Care and maintenance includes pruning, fertilizing, support systems, and preventative measures as deemed necessary to protect trees from insects or disease.

General Provisions:

Money Appropriated by Council:

Council may annually appropriate and expend out of its current revenues, such sums of money for the purchase and planting, caring for, trimming, and removal of trees upon municipal property.

Proposed Street Reconstruction:

Any proposal for street reconstruction shall illustrate those trees which are required to be removed due to the said reconstruction together with a report on the types of trees being removed and the number and size of trees which will replace those being removed and notice of the removal of trees shall be given to the abutting owners in accordance with the Municipal Act.

Removal of Municipally Owned Trees:

The General Manager of Infrastructure Services or designate is authorized to remove trees which are dead, damaged beyond repair, decayed to a degree making them unsafe, are no longer viable to maintain or pose a hazard to the public. In implementing this section, the Manager shall regard the intent of the By-Law.

Removal of Nuisance Trees:

In the case of tree(s) causing soil shrinkage when a property owner produces a soil report or engineering report showing evidence, the City will attempt to remedy the property by restoring the area to a safe condition. If this is not possible in the opinion of the General Manager of Infrastructure Services, the tree may be removed. The General Manager of Infrastructure Services or designate may approve the removal of nuisance trees on municipal property.

Review of Removal Decision:

Residents upon receiving a written response to a request for service they are not satisfied with may apply to a Council member to present their case to Council and have Council vote in support or against the removal of such tree.

Prohibited Species of Trees:

No person shall plant on residential and commercially zoned property within the municipal road allowance any tree(s) of any of the following species or varieties: Manitoba Maple, Walnut, Butternut (under review), Chestnut, Poplars (all species), Willows (all species), Cherry, Chinese Elm and all Elm species susceptible to Dutch Elm Disease, Evergreens (under review) and Silver Maple.

Objects Attached to Trees:

No person shall attach, tack, or paste, any bill, note, sign, poster, or any other thing to or around a tree on municipal property.

No person shall use any part of a municipal tree to secure or support any object, structure, or animal.

Protective Devices:

No person shall remove or interfere with fences, boxes, tree guards, or other protective devices placed around municipal trees without prior permission.

Municipal Policies and Programs:

The above two sections do not operate to prohibit activities that are sanctioned by Council or policies or programs for beautification or other. For example, the stringing of Christmas lights, Christmas wreaths, or other such decorations must be placed so as not to damage the tree(s) or pose a safety hazard.

Requests for Service:

Requests for service are made on the "Request for Tree Service" form supplied by the City or through the 311 service number. The first request by the public for service is provided free of charge. Subsequent requests for similar service on the same tree(s) within one year require a \$50 non-refundable deposit with the request for service. This would not apply to citizens reporting dangerous situations involving trees requiring immediate attention such as municipal trees damaged by wind storms.

Private Property - Entry To:

The General Manager of Infrastructure Services or designate has the right to enter onto private property without permission of the owner to inspect a tree(s) if there is a hazard or potential hazard, which may impact the city in anyway.

Species Variety to be Removed:

The General Manager of Infrastructure Services or designate is authorized to remove or cause to be removed any of the species listed as prohibited: Manitoba Maple, Walnut, Butternut, Chestnut, Poplars (all species), Willows (all species), Cherry, Chinese Elm and all Elm species susceptible to Dutch Elm Disease, Evergreens (under review) and Silver Maple with just cause and considering the intent of the By-Law.

Planting Trees on Private Property:

No person shall plant a tree on private property that is within nine (9) metres of any intersection of a street, or within two (2) metres of a property line that is adjacent to the street.

Every owner shall ensure that every tree on their property that overhangs municipal property shall be pruned so that the branches are at least four and a half (4.5) metres above the ground.

No person shall plant a tree on private property that will grow into the utility lines except that of service lines to the dwelling.

Planting Trees on Municipal Property:

That any person wanting to plant trees on municipal property must make application to the Tree Warden on the form provided, including species and location, and receive approval before proceeding.

Destroy, Remove, or Prune a Municipal Tree:

It is an offence to destroy or remove a municipal tree without prior permission.

It is an offence to willfully damage or prune a municipal tree. If in any way the damage or pruning may cause the tree to die or cause it to be removed the owner is liable for the replacement of such tree with one as close to the same size as possible as may be recommended by the Tree Warden. The owner shall also bear the cost of removal of the tree(s) and the cost to replace the tree(s) on the recommendation of the Tree Warden.

The damages and costs payable for the above two sections of this By-Law are in addition to and not in substitution for the payment of any penalty imposed by a Court of Law for the commission of an offence under the By-Law or any other applicable legislation.

Removal of Decayed or Dangerous Tree:

The General Manager of Infrastructure Services or designate may remove without notice any decayed or dangerous tree.

Public Services:

The General Manager of Infrastructure Services or designate may approve in writing the removal of healthy trees on municipal property for the construction of public services including water, sewer, hydro, gas, and telephone.

Severability:

If a court of competent jurisdiction should declare any Section of this By-Law to be invalid, illegal, or unenforceable, that Section of this By-Law will be considered to be severed from the By-Law, and that the remainder of the By-Law shall be valid and shall remain in force and effect.

Penalty Provision:

Any person who contravenes any provision of the By-Law and found to be guilty of an offence and on conviction is liable:

- a) On a first conviction, to a fine of not more than \$5,000.
- b) On a second conviction, to a fine of not more than \$50,000.

The above fines shall be doubled if applied to a business/corporation that is found guilty of an offence and convicted.

Order Prohibiting Continuation or Repetition:

When a person/business/corporation has been convicted of an offence under this Chapter, the Provincial Offences Court or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person/business/corporation convicted, issue an order prohibiting the continuation or repetition of the offence on the doing of any act or thing by the person/business/corporation convicted directed towards the continuation or repetition of the offence.