

PROPERTY MAINTENANCE

Chapter 709 TREES - PLANTING - CARE - REMOVAL

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Article 1 INTERPRETATION

- 709.1.1 **City - defined**
"City" means the geographical limits of the City of Sudbury.

709.1.2 Commissioner - defined

"Commissioner" means the Commissioner of Community Services of The Corporation of the City of Sudbury or his/her designate.

709.1.3 Corporation - defined

"Corporation" means The Corporation of the City of Sudbury.

709.1.4 Council - defined

"Council" means the Council of The Corporation of the City of Sudbury.

709.1.5 Tree - defined

"tree" includes a growing tree or shrub planted or left growing on either side of a highway for the purpose of shade or ornament.

Article 2

GENERAL PROVISIONS

709.2.1 Money - appropriated - expended - by Council

The Council may annually appropriate and expend out of its current revenues, such sums of money as shall be requisite for the purchase and planting, caring for, trimming and removing of trees upon the streets in accordance with this Chapter.

709.2.2 Proposed street reconstruction - requirements

Any proposal for future street reconstruction shall illustrate those trees which are required to be removed due to the said construction 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*.

Article 3

GENERAL PROHIBITIONS

709.3.1 Nuisance - obstruction of highway

No tree shall be so planted that the same is or may become a nuisance or obstruct the reasonable user of the highway. By-law 84-2, 10 January, 1984.

709.3.2 Species - varieties

No person shall plant on any highway in the City any tree of any of the following species or varieties:

Butternut, Cherry, Chestnut, Manitoba Maple, Walnut, Poplar (all kinds) and Willows (all kinds). By-law 84-2, 10 January, 1984; By-law 90-175, 11 September, 1990.

709.3.3 Destruction - injury - any tree

Except as herein provided, no person shall destroy or injure or cause or permit any activity which may destroy or injure any tree.

709.3.4 Attach - object - to tree - without consent

No person shall attach any object or thing to a tree located on any highway or public place except with the consent of the Commissioner.

709.3.5 Removal - tree - without permission

No person shall remove or cut down any tree growing upon a highway except with the written permission of the Commissioner.

Article 4

COMMISSIONER - AUTHORITY

709.4.1 Municipal arborist - duty - enforce Chapter

The Commissioner shall be the municipal arborist for the Corporation and shall have supervision and care over all trees now and hereafter planted or growing on any public highway, and it shall be his/her duty to enforce the provisions of this Chapter.

709.4.2 Master Tree Plan - formulated

The Commissioner may formulate a Master Tree Plan specifying the species of trees to be planted on each of the public highways and other public lands in the City, having regard to the needs of the residents of the municipality including safety, aesthetic considerations, noise and pollution control, recreation and the protection of wild life, water and soil.

709.4.3 Location - trees - determination

Any tree planted upon a highway shall be located at such distance from the street line or from the sidewalk or from any other tree planted or growing on the same highway as may be determined by the Commissioner.

709.4.4 Planting - prohibited - reasons

The Commissioner may refuse to permit the planting of trees, or the planting of any one or more species or variety of trees, upon a highway of the Corporation, or part thereof, by reason of the nature of the pavements, walks, sewers or other works thereon, or the use to which the lands abutting the property of the Corporation are put, or in consequence of the extent and nature of the traffic thereon, or the insufficient breadth thereof, or by reason of the existence of rock or unfertile soil thereunder, or where the planting of trees thereon would be impracticable or dangerous to traffic or constitute a nuisance upon the property of the Corporation.

709.4.5 Species - variety - to be planted - determination

Where all or more than one-half the total number of trees planted on any highway or on one side thereof are of a certain species or variety, the Commissioner may require that all trees proposed to be planted on such highway or upon one side thereof, shall be of the same species and variety as the trees, or the greatest number of the trees already planted thereon. By-law 84-2, 10 January, 1984.

709.4.6 Species - variety - to be removed

The Commissioner is authorized to remove or cause to be removed any tree of the following genera and species:

- (a) Acer - Acer Negundo - Manitoba Maple - Acer Saccharinum - Silver Maple;
- (b) Populus - all Poplar species;
- (c) Salix - all Willow species;
- (d) Ulmus - Ulmus Pumila - Chinese Elm;
- (e) Cone-bearing Evergreens - all species. By-law 90-175, 11 September, 1990.

709.4.7 Trees - on any highway - planting

The Commissioner may plant or cause to be planted, trees upon any highway.

709.4.8 Prohibited trees - removal

The Commissioner may remove without notice any of the species of tree referred to in Section 709.3.2 growing on a highway in the City or planted thereon contrary to this Chapter.

709.4.9 Public interest - removal - any tree

When the Council considers it necessary in the public interest to cause any tree planted upon a highway to be removed and has passed a by-law to cause any tree planted upon a highway to be removed, the Commissioner shall give ten (10) days notice of the intention of the Council to remove such tree to the owner of the tree.

709.4.10 Decayed - dangerous tree - removal - no notice

The Commissioner may cause any decayed or dangerous trees to be removed without notice.

709.4.11 Nuisance - removal - tree - Corporation expense

The Commissioner shall cause the removal of healthy trees on property of the Corporation at the expense of the Corporation when a property owner produces a soil report or other evidence satisfactory to the Commissioner that shows that the trees on the property of the Corporation are responsible for soil shrinkage and existing or possible subsequent sewer or foundation damage.

709.4.12 Obstructing tree - removal - conditions

If the owner of a property that abuts property of the Corporation is denied proper access to the use of his/her property by the existence of healthy trees on the property of the Corporation, the Commissioner may approve the removal of the healthy trees on the condition that the owner of the abutting property replaces the trees, at his/her own expense.

709.4.13 Public services - construction - removal - tree

The Commissioner may approve in writing the removal of healthy trees on the property of the Corporation for the construction of public services including water, sewer, hydro, gas and telephone.

709.4.14 Trim trees - branches over highway

The Commissioner may trim or caused to be trimmed trees planted upon a highway or upon private property where the branches extend over a highway.

709.4.15 Notice - given to adult - posted

Any notice required to be given hereunder may be given by leaving it with a grown-up person residing on the land or if the land is unoccupied by posting it in a conspicuous place on the land. By-law 84-2, 10 January, 1984.

**Article 5
ENFORCEMENT**

709.5.1 Fine - for contravention

Every person who contravenes any of the provisions of this Chapter is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than five thousand dollars (\$5,000), exclusive of costs and every such fine is recoverable under the *Provincial Offences Act*. By-law 91-13, 15 January 1991.

709.5.2 Order - prohibiting continuation - repetition

When a person 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 convicted, issue an Order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed towards the continuation or repetition of the offence.

Article 6

REPEAL - ENACTMENT

709.6.1 By-law - previous

By-law 3730, "A By-law Respecting the Planting, Care and Removal of Shade Trees", is hereby repealed.

709.6.2 Effective date

This Chapter comes into force and takes effect upon the date of final passing of the enabling by-law. By-law 84-2, 10 January, 1984.

APPENDIX "B"

Walkways, Driveways, Patios and Roots

The roots of trees can lift concrete or pavement when the hard surface treatment is located too close to the trunk of a tree

When planting a tree, make sure to leave enough room for the trunk to grow. To avoid damaging your walkway, driveway or patio at least 1.5m (5ft.) is recommended. Beyond this distance tree roots are not the cause of any heaving and cracking.

Heaving and cracking of walkways, driveways or patios is usually caused by the expansion and contraction caused by the winter freeze thaw cycles.

Further north there might be only one freeze thaw cycle per winter. In Toronto our climate is particularly difficult. We can have a number of freeze thaw cycles in one winter.

After each freeze thaw cycle the cracks and the heaving get a little worse. This is all happening while the roots are quietly dormant underground until after the spring thaw when they start to grow again. The roots then grow into the additional growing space created by the cracking and heaving.

Please do not blame trees and their roots for breaking and clogging water or drain pipes, or damaging foundations or cracking and heaving walkways, driveways or patios.
They didn't do it!

Roots are **not** harmful. But trees are helpful.

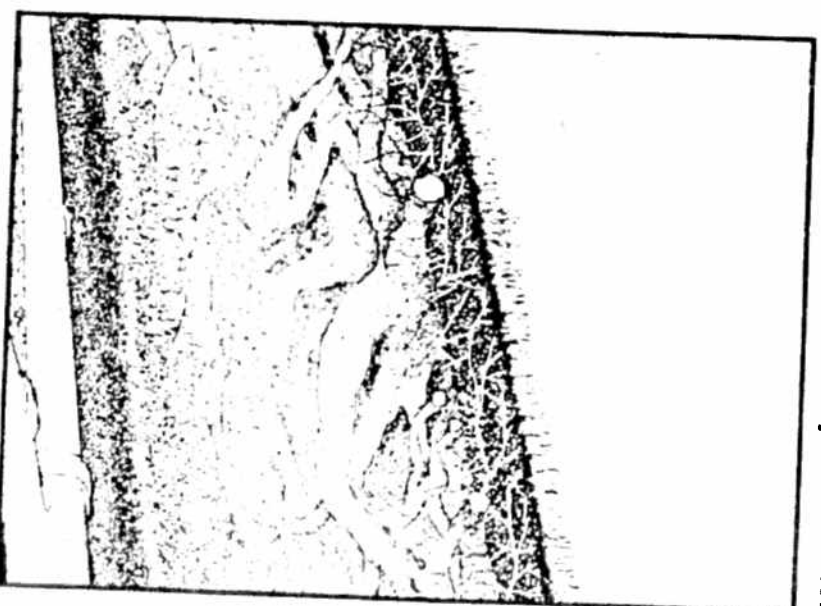
Please ask us to plant a tree on your street

Call Urban Forestry at 416- 338- 8733

 **TORONTO**
Parks, Forestry & Recreation

**Broken or clogged drain pipes?
Water coming through
the basement walls?
Cracked or heaving walkway
or driveway?**

**The problem is not
the roots!
Let's get to the
root of the problem!**



 **TORONTO**
Parks, Forestry & Recreation

APPENDIX "C"

Name of City	Application Fees	Fines
Vancouver	\$55 removal for 1 st Tree \$156 removal for each subsequent tree	\$500 up to \$20,000
Halifax	None	\$100 up to \$5,000
Toronto	\$100 per tree non-construction \$300 per tree construction	\$500 up to \$100,000
Victoria	\$30 removal for 1 st Tree \$5 removal for each subsequent tree	\$1,500 1 st Tree \$3,000 for each subsequent tree
Regina	\$300 plus costs	Private up to \$2,000 Corporate up to \$5,000
Ottawa	N/A	Private \$1,000 per tree - 1 st conviction \$2,500 per tree, subsequent conviction Corporate \$5,000 per tree - 1 st conviction \$100,000 per tree, subsequent conviction
London	None	up to \$10,000 - 1 st conviction up to \$20,000 - 2 nd conviction