

THE CORPORATION OF THE TOWN OF AURORA

By-law Number 4474-03.D

BEING A BY-LAW to Authorize the Injury or Destruction of Trees (Tree Permit By-law)

WHEREAS the Council of The Corporation of the Town of Aurora recognizes the ecological and aesthetic value of trees and is desirous of managing the injury and destruction of trees;

AND WHEREAS Section 135 (7) of the *Municipal Act, 2001*, R.S.O. 2001, c. 25 provides that a by-law passed may require a permit be obtained to injure or destroy trees and to impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroys trees;

AND WHEREAS section 135(1) of the *Municipal Act, 2001* authorizes a local municipality to prohibit or regulate the injuring or destruction of trees;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AURORA ENACTS AS FOLLOWS:

DEFINITIONS

1. In this By-law,

“application” means a tree permit application form provided by the Town;

“arborist” means a person with a diploma or degree involving arboriculture from an accredited college or university, a Registered Professional Forester, an accredited Certified Arborist under the International Society of Arboriculture or with a demonstrated history of tree preservation experience;

“arborist report” means a report prepared by an arborist which provides details on the species, size and health of a tree to be destroyed, injured or removed;

“base diameter” means the measurement of the diameter of the trunk of a tree from outside the bark at the existing grade of the ground adjoining its base or where there are multiple stems on a tree, means the total of the diameters of the three (3) largest stems measured at existing grade;

“Clerk” means the Clerk of The Corporation of the Town of Aurora or his duly appointed designate;

“Council” means the Council of The Corporation of the Town of Aurora;

“dead” means a tree that has no living tissue;

“dying” means a tree that is infected by a lethal pathogen or where 70% or more of its crown is dead;

“emergency work” means the work necessary to terminate an immediate threat to life or property;

“golf course” means an area of land laid out and operated as a golf course and includes putting greens and driving ranges;

“hazard” means a tree that is a potential hazard to property or life but not an immediate threat;

“injure or destroy a tree” means the injury or destruction of a tree by removal, cutting, girdling of the tree or roots, interfering with the water supply, application of chemicals, compaction and regrading within the drip line of the tree, or by other means including irreversible injury which may result from neglect, accident or design but does not include pruning;

“lands” means a lot only and does not include a building;

“lot” means a parcel of land having specific boundaries which is capable of legal transfer;

“Manager” means the Park Manager of the Leisure Services Department for the Town or his/her designate;

“nursery” is a lot on which the principal business of selling plants, shrubs and trees occurs;

“owner” means the registered owner of a lot, his respective successors and assigns or his authorized agent;

“officer” means a person authorized to perform inspections pursuant to this By-law;

“permit” means a permit required by this By-law to injure or destroy a tree on private property within the Town .

“person” means an individual, his heirs, executors and administrators and his respective successors and assignees and includes a corporation and its directors and officers;

“pruning” means the appropriate removal in accordance with good arboricultural practices of not more than one-third of the live branches or limbs of a tree or more than one third of the live branches or limbs on a tree as part of a consistent annual pruning program;

“Town” means The Corporation of the Town of Aurora;

“tree” means a self-supporting woody plant which has reached or will reach a height of at least 4.5 m at maturity;

“tree diameter” means the measurement of the diameter of the trunk of a tree from outside the bark 1.4 m above existing grade of the ground adjoining its base or where there are multiple stems on a tree, means the total of the diameters of the three (3) largest stems measured approximately 140 cm above existing grade;

SCOPE

2. This By-law shall apply to all private property in the Town.

PERMIT REQUIREMENTS AND EXCEPTIONS

3. (1) No person shall injure or destroy five (5) or more trees each with either a tree diameter greater than 20 cm or a base diameter greater than 40 cm on a lot within any one year period without first obtaining a permit pursuant to this By-law.

- (2) Despite subsection (1), a permit is not required:
 - (a) for emergency work;
 - (b) for the pruning of a tree;
 - (c) for the removal of dead branches;
 - (d) to injure or destroy trees located on rooftop gardens, interior courtyards, or solariums; or
 - (e) to injure or destroy trees on a nursery or golf course.

FILING FOR A PERMIT

- 4. An Owner who applies for a permit shall submit to the Manager the following:
 - (1) a completed application;
 - (2) a plan or drawing of the lot to the satisfaction of the Manager illustrating which trees are to be injured or destroyed;
 - (3) payment of the required fees prescribed by the Fees and Services By-law;
 - (4) an arborist report, if required by the Manager;
 - (5) where the base of a tree straddles a property line the written consent to the permit issuance from the affected adjacent property owner; and
 - (6) where the person is not the owner the written authorization of the owner consenting to the application.

REVIEW OF A PERMIT APPLICATION

- 5. (1) The Manager shall review all completed applications based on the following criteria:
 - (a) the trees are dead or dying;
 - (b) the trees are a hazard;
 - (c) the tree location conflicts with any of the following:
 - (i) proposed building permit plans that comply with the zoning of the land;
 - (ii) a proposed pool enclosure; or
 - (iii) the expansion of parking areas that complies with the zoning of the land;
 - (d) there will be no negative impact on flood or erosion control, or slope stability; or
 - (e) the lot is designated under the *Heritage Act* R.S.O. 1990, c. 0.18, as amended, and the Town of Aurora's Heritage Advisory Committee has approved the injury or destruction of the tree.

CONDITIONS OF THE ISSUANCE OF A TREE PERMIT

6. Town Council may issue a permit and impose conditions.

COUNCIL'S CONSIDERATION OF AN APPLICATION

7. Where the Manager receives an application for a permit, the Manager shall prepare a report forthwith to be heard by Council.
8. The Owner may appear before Council to make representation regarding the application by notifying the Clerk.
9. The Owner shall post on the property where the trees that are the subject of the application are located a sign supplied by the Town advising of the date of the Council meeting in which the application for a permit will be considered, the intent of the permit and the name of the Town official to contact for further information. The sign shall be posted on the property in a location visible from the street edge for minimum period of two weeks before the Council meeting.

REVOCAION OF PERMIT

10. Council may revoke a permit issued pursuant to this By-law if it was issued because of mistaken, false or incorrect information received from the owner.

APPEAL TO THE ONTARIO MUNICIPAL BOARD

11. An Owner may appeal to the Ontario Municipal Board under the following circumstances:
 - (a) If the municipality refuses to issue a permit, within 30 days after the refusal;
 - (b) If the municipality fails to make a decision on the application, within 45 days after the application is received by the clerk or
 - (c) If the Owner objects to a condition in the permit, within 30 days after the issuance of the permit.

PERMIT APPROVALS

12. The approval of a permit shall be valid for only one (1) year from the date of issuance.

POSTING OF PERMIT

13. The approved tree permit shall be posted on the lot from which the trees are to be injured or destroyed in a location visible from the street edge for the period during which the trees are being injured or destroyed.

INSPECTION

14. The Council may from time to time designate officers to carry out the administrative functions of this By-law including the enforcement thereof.
15. An officer may at any reasonable time enter and inspect any lands to which this By-law applies to determine whether the By-law, an order or a condition to a permit is being complied with.
16. An officer, in carrying out an inspection, can be accompanied by assisting personnel.

17. Where an officer is satisfied that a contravention of this By-law has occurred, the officer may make an order requiring the person who contravened the by-law or who caused or permitted the injuring or destruction of trees in contravention of the by-law to stop the injuring or destruction of trees.
18. A order issued pursuant to section 17 shall set out the municipal address or legal description of the land, reasonable particulars of the contravention and the period within which there must be compliance with the order.
19. A person shall comply forthwith with an order as issued by the officer.

EXEMPTIONS

20. A By-law passed under this section does not apply to,
 - (a) any activities or matters undertaken by the Town, the Region, the School Boards for the development of a school or any other government authority, conservation authority or utility corporation;
 - (b) activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act, 1994*;
 - (c) the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey;
 - (d) the injuring 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;
 - (e) the injuring or destruction of trees imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;
 - (f) the injuring 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 construction and maintaining a transmission system or distribution system, as those terms are defined in that section;
 - (g) the injuring or destruction of trees undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
 - (h) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land
 - (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - (ii) on which a pit or quarry is a permitted land use under a By-law passed under section 34 of the *Planning Act*.

OFFENCES

21. (1) Any person who contravenes any provision of this By-law is guilty of an offence is liable:
 - (a) on a first conviction, to a fine of not more than \$10,000 or \$1,000

per tree, whichever is greater; and

- (b) on any subsequent conviction, to a fine of not more than \$20,000 or \$2,500 per tree whichever is greater.
- (2) Any a corporation that contravenes any provision of this By-law and is guilty of an offence is liable:
- (a) on a first conviction, to a fine of not more than \$50,000 or \$5000 per tree, whichever is greater; and
 - (b) on a subsequent conviction, to a fine of not more than \$100,000 or \$10,000 per tree whichever is greater.

SHORT TITLE

22. This By-law may be referred to as the "Tree Permit By-law".

READ A FIRST, SECOND AND THIRD TIME AND ENACTED THIS 28TH DAY OF OCTOBER, 2003.

T. JONES, MAYOR

B. PANIZZA, TOWN CLERK