

THE CORPORATION OF THE CITY OF WATERLOO

BY-LAW NO. 99-10

STREET TREE BY-LAW

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**CITY OF WATERLOO**

**BY-LAW NO. 99-10**

BY-LAW TO REGULATE PLANTING AND THE CARE OF STREET TREES WITHIN THE CITY OF WATERLOO.

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

**1. TITLE OF By-Law**

This By-Law may be cited as the “Street Tree By-Law”

**2. DEFINITIONS**

In this By-Law,

“**City**” shall mean the Corporation of The City of Waterloo.

“**City Street**” shall mean

- I. Any public highway, road, lane, alley, square, place, cul-de-sac, thoroughfare or way dedicated to and assumed by the City of Waterloo as a public highway; and
- II. Any common or public highway referred in Section 258 of the Municipal Act.

“**City Property**” shall mean any property now or hereafter owned by or made available by lease, agreement or otherwise to the Corporation of the City of Waterloo.

“**Council**” shall mean the Municipal Council of the Corporation of the City of Waterloo.

“**Team Leader**” shall mean the Environmental Team Leader or his/her representative.

“**Local Residential Street**” shall mean Urban Local Roads as defined in the official plan.

“**Master Street Tree Planting Plan**” shall mean a plan that has been developed through public consultation and approved by the City, for a neighbourhood or street that lists the tree species that are to be planted on a given street or lot.

“**Conspicuous Sign**” shall mean a durable sign suitable to outdoor climate, no smaller than 20 X 30 cm and no larger than 50 X 50 cm, with the heading Tree Removal Planned and listing date of planned removal, and a contact phone number and address of those initiating the removal.

“**Tree**” shall mean any trees, shrubs, bushes, and all other woody vegetation planted or growing in whole or in part on City right-of-way between the curb and property line along the side of City streets or in medians of all streets within the City.

“**Traffic Control Device**” shall mean a traffic signal, regulatory or warning sign erected in accordance with the Manual of Uniform Traffic Control Devices for Ontario by the road authority having jurisdictions.

“**Utility**” shall mean an “operating corporation” as defined in the Public Services Works on Highways Act, R.S.O. 1990, and a company or individual operation works for which an approval has been given under By-Law #78-35 of the Corporation of the City of Waterloo.

### **3. AUTHORITY OF TEAM LEADER**

The *Team Leader* is hereby authorized to:

- (a) Issue permits for any activity permitted under this by-law:
- (b) Enforce the terms and provisions of this by-law.

The Team Leader shall act at all times in conformity with the City Urban Forestry Policy and the Street Tree Planting Standards and Specifications document.

### **4. PROHIBITED ACTIVITIES**

No persons shall without first obtaining a written permit from the Team Leader:

- A. Plant, remove, prune, disturb, cut above or below ground or alter in any way any tree on public property.
- B. Deposit, place, store or maintain on public or private property any stone, brick, sand, concrete, soil or other materials (liquid or solid) or equipment which may impede the free passage of water, air or nutrients to the roots of any tree or at any site prepared for tree planting on City property.
- C. Fasten any sign, bill, notice, wire, rope, nail or other object to, around or through any tree on public property in any manner or to, around or through the stakes, posts or guards which support or protect any such tree.
- D. Set fire or willfully or recklessly permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.
- E. Interfere with fences, boxes, or other protective devices placed around any trees on City property.
- F. Alter or change soil levels in the vicinity of any tree in a manner likely to cause injury to any tree.
- G. Excavate any ditches, tunnels, and trenches or lay any walkway or driveway within a radius of three (3) metres from a tree.
- H. Cause or permit any excavation or soil disturbance or compaction within the dripline of any trees.

### **5. INJURY TO TREES; PRECAUTIONS**

Any person doing work upon city streets or city lands shall, in executing such work, take all steps necessary, as specified in the Urban Forest Policy, to avoid injuring any tree; and if that person finds it impossible to perform such work without injuring a public tree, they shall apply to the Team Leader for instructions and directions.

### **6. TREE SPACING REQUIREMENTS**

Trees planted upon streets shall conform to the Urban Forest Policy document.

## **7. PERMIT REQUIRED FOR PLANTING**

No person shall plant any tree upon a city street or city lands without first obtaining a written permit from the Team Leader. Any tree planted without such permit will be assessed, and may be removed without notice or compensation to the person who planted the tree.

## **8. PERMIT CONDITIONS**

The Team Leader may attach to any permit issued by him/her pursuant to this Article such terms and conditions as he/she, from time to time, deems necessary for the protection, preservation or replacement of any tree.

## **9. TREE REMOVAL AND PRINING; CONDITIONS**

Subject to section 12 of this By-Law, trees which;

- (a) Interfere with distribution of light from street lamps; or
- (b) Interfere with the safe view of traffic control device that cannot reasonably be placed otherwise or elsewhere; or
- (c) Which are dead or partly dead; or
- (d) Are leaning over the roadway such as to provide less than 4.27 metres (14 feet) vertical clearance as measured at the curb line; or
- (e) Are growing over a city sidewalk such as to provide less than 2.44 metres (8 feet) vertical clearance;
- (f) Have lost their structural stability and are deemed a hazard.
- (g) Shall be pruned or removed as may be deemed necessary by the Team Leader.

Pruning of partly dead trees will be performed with the goal to preserve a safe street tree.

## **10. UTILITIES**

No person working for or acting on behalf of a utility or hydro-electric commission may remove or prune any tree except by order and direction of the Team Leader or by approval of City Council.

## **11. REQUEST FOR TREE REMOVAL**

- (a) A property owner may submit a request to the Team Leader for permission from City Council for the removal of any tree from city property;
- (b) Where the Team Leader receives a request to remove a tree from city property, the Team Leader shall solicit the opinions of concerned persons by posting a Notice of Intent to remove the tree by way of a conspicuous sign posted at the tree for at least a period of 14 days and shall submit a recommendation to Council approving or disapproving the removal of the tree.

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- (c) Before determining whether permission should be granted under (a), council shall obtain the recommendation of the Team Leader.

**12. TREE REMOVAL**

Trees planted upon a street shall be removed when considered necessary in the public interest and safety. Prior to such removal, notice will be posted (by way of a conspicuous sign posted at such tree) for at least fourteen (14) days prior to removal. A replacement tree that is an acceptable street tree species as determined through the Urban Forest Policy will be planted. In the event of an emergency city staff have the authority to cut/remove any tree without notice when considered necessary in the public interest and safety.

**13. PENALTIES FOR OFFENCES**

Any person who contravenes a section of this by-law is guilty of an offence and on conviction is liable to pay:

- (1) a fine of not more than \$10,000.00 for the first offence;  
(2) a fine of not more than \$20,000.00 for any subsequent offence;

and every such fine shall be recoverable as prescribed in the Provincial Offences Act, R.S.O. 1990, c.P.33.

**13. REPEAL OF EXISTING BY-LAW'S**

That By-Law Number 90-105 and any other By-Law inconsistent with the provisions of this By-Law is hereby repealed.

ENACTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_ 1999.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**SUMMARY OF SIGNIFICANT CHANGES FROM EXISTING STREET TREE BY-LAW**

<b>AREA</b>	<b>OLD</b>	<b>NEW</b>	<b>REASON</b>
Title	"90-105"	"Street Tree" By-law	Accurately reflects content of new by-law
Authority	Generally where required authority with the by-law was delegated to the Commissioner of Public Works and City Engineer.	Where required, authority with the by-law has been delegated to parks Team Leader.	Supports our efforts to move responsibility to the appropriate operating areas.
Prohibited Activities	Prohibited activities from old by-law remain.	Prohibited activities have been updated to include a more defined listing of prohibited actions.	Clearly identifies actions that are not accepted. Similar to other Municipal by-laws.
Tree Spacing Requirements	Many restrictions listed	Conform to Street Tree Planting Standards and Specifications	Identifies appropriate document that describes in detail the planting requirements for street tree planting and must be used as reference when doing any street tree planting.
Undesirable Species for City Trees	Tree of Heaven (Male Only)	Section omitted	Covered under current Street Tree Planting Standards and Specifications document.
Permit Required for Planting	Refers to removal of trees planted on public right-of-way by residents.	No person shall plant any tree upon City streets or lands without first obtaining a written permit from the Team Leader. Any tree planted without such a permit will be assessed by staff and may be removed without notice or compensation.	Reflects a proactive approach to allow planting on city properties with proper approval, if no approval is given then staff will have to take appropriate action upon assessment of the tree.
Permit Conditions	No permit conditions listed.	The Team Leader may attach to any permit issued by he/she pursuant to this Article such terms and conditions as he/she, from time to time, deems necessary for the protection, preservation or replacement of any tree.	Recognizes need for flexibility when issuing planting permits.

**SUMMARY OF SIGNIFICANT CHANGES FROM EXISTING STREE TREE BY-LAW  
CONTINUED...**

<b>AREA</b>	<b>OLD</b>	<b>NEW</b>	<b>REASON</b>
Tree Removal and Pruning	Section 9 in old by-law Trimmed	Trimmed replaced by Pruning. Additional wording added: f) trees that have lost their structural stability and are deemed a hazard.	Reflects current arboriculture terminology and hazard tree assessment procedures.
Request for Tree Removal	Removed from by-law: ...then soliciting the opinions of the owners of lands situated within 45 metres, measured along the center line of the street, from the limit of the lot to which the tree is appurtenant.	Added to new by-law: ...after having solicited the opinions of concerned persons by posting a notice of intent ( a conspicuous sign posted on such tree) for at least 14 days prior to removal.	Provides a new method of informing persons of intent to remove trees and reduces the amount of paper and time required for proper notifications.
Tree Removal	Removed from by-law: ...owner shall be recompensated for his trouble in planting and protecting the tree and such owner, if he so desires, is entitled to remove the tree himself, but is not entitled to any further or other compensation.	Added to new by-law: Prior to removal, notice will be posted (a conspicuous sign posted at such tree) for at least 14 days prior to removal.	Clearly defines what will happen when a tree is removed.
Penalties for Offences	\$5,000.00 penalty for contravention.	Up to \$10,000.00 penalty for a first offence, and up to \$20,000.00 for subsequent offences as prescribed in the Provincial Offences Act, R.S.O. 1990, c.P.33.	New Provincial Offences Act allows for higher penalty. Similar to other by-laws.