

The Corporation of the City of Burlington

City of Burlington By-law 98-2025

Being a by-law to prohibit and regulate the destruction and injury of trees on public property and to regulate the planting and maintenance of trees on or affecting public property within the City of Burlington and to repeal By-law No. 68-2013 (PWS-22-25)

Whereas the Council of the Corporation of the City of Burlington is authorized, without limiting the broad municipal powers, by subsection 11(2) and sections 135, 139 to 141, 429, 431, 436, 444, 445 and 446 of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended, to regulate and prohibit the destruction or injuring of trees and to provide for a system of fines and other enforcement orders; and

Whereas the Council of the Corporation of the City of Burlington is authorized, without limiting the broad municipal powers, by subsection 11(2) and sections 62, of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended, to enter at any reasonable time, land along any of its highways to inspect and conduct tests on trees and remove decayed, damaged, or dangerous trees or branches of any trees in the opinion of the employee or agent, the tree or branch poses an immediate danger to the health or safety of any person using the highway; and

Whereas the Council of the Corporation of the City of Burlington is authorized without limiting the broad municipal powers by sections 9, 10 and 11, and section 391(1) of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended the municipality may impose fees or charges on persons; and

Whereas Council for the City of Burlington considers it desirable and necessary to repeal By-law No. 63-2013, and to enact a new by-law to regulate the injury, destruction, maintenance, and planting of public trees; and

Whereas the Council for the Corporation of the City of Burlington deems it in the public interest to recognize the importance of trees to the environment within the City and wishes to protect and preserve trees growing upon or located upon City-owned land; and

Whereas the Halton Region Tree By-law 121-05 regulates the destruction or injuring of trees in woodlands with the parameters set out in that By-law.

Now therefore the Council of The Corporation of the City of Burlington hereby enacts as follows:

PART I: DEFINITIONS

1.1. For the purposes of this by-law, the following definitions shall apply:

“Administrative Monetary Penalties By-law” means the Administrative Penalties By-law 40-2016 of the City, as amended or replaced from time to time;

“administrative penalty” means an administrative monetary penalty (AMP) established by this By-law and specified in the Administrative Monetary Penalties By-law;

“applicant” means a person who has submitted an application for a public tree permit;

“application” means a complete tree permit application;

“application processing fee” means the fee charged by the City for the administration of a tree permit application under this By-law as may be prescribed from time to time in the City’s Rates and Fees By-law;

“arborist report” means a technical report prepared by a qualified tree professional which details specific and accurate information about trees, including but not limited to location, species, size, condition, structural integrity, disease, infestations and vitality, and identifies the nature of work to be undertaken as well as appropriate tree protection and preservation measures to be implemented according to City Standards;

“boundary tree” means a tree where any part of its trunk is located on both public property and an adjacent property;

“care and maintenance” means performing work in accordance with the American National Standards ANSI A300 and best management practices identified by the International Society of Arboriculture, including inspections, pruning, cabling and bracing, treatments for insect and disease, watering and fertilization;

“City” means “The Corporation of the City of Burlington”;

“City Standards” means the most recent version of the City of Burlington Standard Specifications for Tree Protection and Preservation;

“compliance inspection fee” means the fee charged by the City for an inspection to confirm compliance with this By-law or any Order or direction issued under this By-law as may be prescribed from time to time in the City’s Rates and Fees By-law;

“Council” means the Council for the City of Burlington;

“contractor” means a person engaged to perform a specific activity or service, on or at a particular land or premises;

“destroy” or **“destruction”** mean any of the following:

- (a) to remove or cut down a tree; or
- (b) to injure a tree to such an extent that the tree is deemed by the Manager to no longer be viable such that it is necessary to remove the tree, or that the tree's vitality has been reduced to such an extent that, in the opinion of the Manager, the tree cannot recover to be maintained and must be removed;

“diameter at breast height” or “DBH”

- (a) means the measurement of the diameter of the trunk of a tree from the outside bark at a height of 1.37 meters above the existing ground adjoining its base; or,
- (b) where there are multiple stems of a tree, means the square root of the sum of each stem diameter squared measured from the outside bark at a height of 1.37 meters;

“Director” means the Director of Roads, Parks and Forestry for the City of Burlington, and includes the Director's designate;

“emergency tree work” means where the City must execute work to injure or destroy a tree in order to address an immediate danger to the health and safety of any person or property;

“fee” or “fees” means the fees prescribed in the Rates and Fees By-law;

“good arboricultural practice” means the removal, planting and tree maintenance activities in accordance with the American National Standards ANSI A300 and best management practices identified by the International Society of Arboriculture, conducted to the satisfaction of the Manager;

“hardscaping” means any non-living element including bricks, concrete, stones, asphalt, synthetic or composite material, loose material (e.g., gravel); pavers, tile, and wood.

“heritage tree” means trees designated under Part IV of the *Ontario Heritage Act*, R.S.O. 1990, c. 0.18, as amended or trees recognized as heritage trees by Forests Canada and the Ontario Urban Forest Council;

“injure” or “injury” or “injured” means any act or omission that may harm or damage a tree's health and/or structure, in any manner, including, but not limited to any or a combination of the following:

- (a) removing, cutting, debarking, marking, defacing, girdling, tapping of a tree, or smothering a tree's roots;
- (b) pruning;

- (c) failing to protect a tree in accordance with the City Standards;
- (d) interfering with the water supply, nutrients and/or air supply of a tree;
- (e) setting fire to a tree;
- (f) affixing materials to a tree;
- (g) mechanical damage to a tree;
- (h) transplanting a tree;
- (i) applying harmful and/or toxic substances on, around or near the tree;
- (j) compaction, excavation, tunneling or re-grading within the tree protection zone;
- (k) storing, depositing, maintaining or placement of materials within the tree protection zone of a tree;
- (l) installing softscape or hardscape within the tree protection zone;
- (m) damage caused by construction related activities including driveways, and service (e.g., utility) installation/connections/decommissions;
- (n) the fastening of any sign, bill, notice, wire, rope, nail, or other object to, around, on, or through any tree in any manner, or around, on or through the stakes or posts that supports such tree;
- (o) any other damage, disturbance or alteration resulting from neglect, or by design;

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

“Manager” means the Manager of Urban Forestry for the City of Burlington, or designate, and also means City Arborist;

“nursery” means a lot on which the principal active business is the selling of plants, shrubs and trees to the public;

“Officer” means a person appointed by Council as a municipal law enforcement officer, a by-law enforcement officer of the City, or a person appointed under this By-law to administer or enforce this By-law and includes a person employed by the City whose duties are to enforce this By-law;

“orchard” means a Lot on which the principal active business is the growing of fruit for sale to the public;

“order” means an order issued under this By-law;

“owner” means a registered owner of a property, and their respective successors and assigns;

“permit alteration fee” means the fee charged by the City to alter a tree permit under this By-law as may be prescribed from time to time in the City’s Rates and Fees By-law;

“permit extension fee” means the fee charged by the City to extend a tree permit under this By-law as may be prescribed from time to time in the City’s Rates and Fees By-law;

“permit holder” means to any person whom a permit under this by-law has been issued;

“permit issuance fee” means the fee charged by the City under this By-law when a tree permit is issued as may be prescribed from time to time in the City’s Rates and Fees By-law;

“permit transfer fee” means the fee charged by the City to transfer or assign a tree permit under this By-law as may be prescribed from time to time in the City’s Rates and Fees By-law;

“person” includes an individual, sole proprietorship, partnership, association, or corporation;

“private property” means all lots or property except lots or property owned by the City;

“public property” means includes a highway, park, natural area, woodlot, boulevard, or any other public place or land owned by, or leased by, or leased to, or controlled by, or vested in the City;

“public tree” means any tree on public property and shall include a boundary tree;

“public tree security” means a security deposit payment charged by the City under this By-law where a tree permit is issued as may be prescribed from time to time in the City’s Rates and Fees By-law;

“pruning” means the removal of branches from a tree in accordance with good arboricultural practice;

“qualified tree professional” means a professional who has gained recognized certifications, qualifications and expertise in the care and management of trees. Recognized certifications and qualifications for qualified tree professionals include:

- (a) Registered Consulting Arborist (RCA) with the American Society of Consulting Arborists (ASCA);

- (b) Board Certified Master Arborist or Arborist Municipal Specialist with the International Society of Arboriculture (ISA);
- (c) Registered Professional Forester (RPF) as defined in the *Professional Foresters Act, 2000*, S.O. 2000, c.18;
- (d) Certified Arborist with the International Society of Arboriculture; or,
- (e) Qualified Tree Risk Assessor with the International Society of Arboriculture (ISA);

“Rates and Fees By-law” means City of Burlington By-law 70-2024 to impose Rates and Fees, as amended or replaced from time to time;

“replacement tree compensation” means the fee charged by the City for payment as cash-in-lieu of planting a replacement tree(s) under this By-law, as may be calculated using the trunk formula technique, prescribed from time to time in the City’s Rates and Fees By-law, which fee shall be deposited by the Manager into the Tree Establishment & Enhancement Reserve Fund;

“Tree Establishment & Enhancement Reserve Fund ” means the Tree Establishment & Enhancement Reserve Fund established by City of Burlington By-law 40-2024, as amended or replaced from time to time;

“Forestry Reserve Fund” means the Forestry Reserve Fund established by the City of Burlington By-law 105-2015, as amended, or replaced from time to time;

“softscape” means any living or organic elements including shrubs, flowers, succulents, grasses, sod, flower beds, mulch, and soil.

“tree” means any species of woody perennial plant, including its root system that will reach a height of at least 4.5m at physiological maturity;

“TRAQ report” means a report prepared by a qualified tree professional and who is a qualified tree risk assessor in accordance with the ISA Tree Risk Assessment Qualification;

“tree permit” means a permit issued by the City under this By-law;

“tree protection plan” means a scaled two-dimensional plan prepared by a qualified tree professional in conjunction with an arborist report that identifies the accurate location, species, and size of trees and identifies the extent of injury or destruction, as applicable, and illustrates details of protection measures including the location of protective barriers;

“tree protection zone” means the minimum setback from a tree (including above and below ground level) required to protect the health and structural integrity of a tree as prescribed by the City’s Standards, as amended, or replaced from time to time;

“trunk formula technique” means a technique for evaluating the value of trees for replacement in accordance with the trunk formula technique as prescribed by the CTLA Guide for Plant Appraisal, 10th Edition. Where no evidence exists on site, each tree that can be proven to have existed, through the use of aerial photos, City databases, existing surveys, photographs or streetview imagery, shall be replaced to the satisfaction of the Manager;

“woodland” means an area of land defined as a woodland in the Halton Tree By-law 121-05, as amended, with at least:

- (a)
 - (i) 1000 Trees, of any size, per hectare or 500 such Trees per 0.5 hectare;
 - (ii) 750 Trees, measuring over five (5) centimetres in Diameter at DBH, per hectare or 375 such Trees per 0.5 hectare;
 - (iii) 500 Trees, measuring over twelve (12) centimetres in Diameter at DBH, per hectare or 250 such Trees per 0.5 hectare; or
 - (iv) 250 Trees, measuring over twenty (20) centimetres in Diameter at DBH, per hectare or 125 such Trees per 0.5 hectare;

but does not include:

- (b)
 - (i) an active cultivated fruit or nut orchard;
 - (ii) a plantation established for the purpose of producing Christmas Trees;
 - (iii) a plantation specifically planted and maintained for the purpose of harvesting as certified in writing by an Officer based on field inspection and investigation;
 - (iv) a Tree nursery, or
 - (v) a narrow linear strip of Trees that defines a laneway or a boundary between fields

For the purpose of this By-law, the boundary of a woodland shall be defined by the ecological limit of the woodland and not by property boundaries. Where a potential woodland is dissected by a road or path not wider than 20m or by a natural feature such as a creek, the boundary of the woodland shall be deemed to cross the road, path or natural feature, but the area of the woodland shall be calculated exclusive of the area of the road, path or natural feature.

Part 2: BY-LAW TITLE

2.1 The short title of this By-law shall be the “Public Tree By-law”

PART 3: APPLICATION OF THE BY-LAW

3.1 This By-law applies to trees on public property within the geographic boundaries of the

City but does not apply to woodland(s) that are governed by the Halton Region Tree By-law 121-05, as amended or replaced from time to time.

- 3.2 Nothing in this By-law shall exempt any person from complying with any other By-law or requirement of the City, or from obtaining any certificate, licence, permission, permit, authority or approval required by the City including in any other City By-law.
- 3.3 Nothing in this By-law, or a tree permit issued pursuant to this By-law, is to be construed as permitting anything which is prohibited under federal or provincial legislation, and where there is a conflict in this respect between federal or provincial legislation and this By-law, the federal or provincial legislation prevails.

PART 4: AUTHORITY

- 4.1 The Director is authorized to administer and enforce this By-law, including, but not limited to:
 - (a) perform any act that the Manager or an Officer is authorized to perform under this By-law;
 - (b) negotiate and enter into agreements with respect to work as required to ensure compliance with this By-law and the City Standards;
 - (c) prescribe the form of any notices, applications, permits, policies, guidelines, and documents required or permitted pursuant to this By-law, and to amend or revise such notices, applications, permits, policies, guidelines or documents, from time to time;
 - (d) establish methods for the care and maintenance of public trees, and carry out activities related to their care and maintenance;
 - (e) plant and remove or cause to plant and remove without notice or compensation to any person any public tree;
 - (f) prescribe, amend or revise the City Standards;
 - (g) assign duties or delegate tasks under this By-law to be carried out in the Director's absence or otherwise;
 - (h) assign Officers to enforce this By-law;
 - (i) prune or remove or cause to be pruned, or removed, without notice or compensation to any person, trees or tree branches located on private property if they extend over public property and are deemed hazardous. If a tree on private property creates an unsafe condition or obstructs traffic,

and pruning alone is insufficient, the Director may remove the entire tree to eliminate the hazard;

- (j) conduct reviews under Part 9 of this By-law and, on a review under Part 9 of this By-law, where in the Director's opinion it is reasonable to do so, provide relief from the tree permit application requirements under section 7.1 of this By-law.

4.2 The Manager is authorized to:

- (a) issue notices and orders under this By-law;
- (b) issue, refuse, revoke, alter, extend, transfer, or assign tree permits;
- (c) impose new terms and conditions of a tree permit;
- (d) establish conditions related to tree permits;
- (e) perform any act that an Officer is authorized to perform under this By-law; and,
- (f) transfer funds into the Forestry Reserve Fund and the Tree Establishment & Enhancement Reserve Fund in accordance with this By-law and to utilize funds from the Forestry Reserve Fund and the Tree Establishment & Enhancement Reserve Fund in accordance with those by-laws.

4.3 Officers are authorized to enforce this By-law and shall have the authority to:

- (a) carry out inspections;
- (b) issue orders or impose other requirements as authorized under this By-law;
- (c) stop any work causing injury or destruction to a tree located on Public Property that is taking place contrary to this By-law or a tree permit issued under this By-law; and
- (d) give immediate effect to any orders or other requirements made under this By-law.

PART 5: OBLIGATIONS AND PROHIBITIONS

5.1 Every person carrying out work on public property that may impact public trees shall carry out work in accordance with:

- (a) this By-law;
- (b) the City's Standards;

- (c) the provisions of any approved tree protection plan and/or arborist report; and,
- (d) any other policy or standard pursuant to this Bylaw as identified by the Manager.

5.2 Except as provided under Part 6 of this By-law, no person shall, without obtaining a tree permit under this By-law:

- (a) injure or destroy, or cause or permit the injury or destruction of, a public tree. In the event there is no tree stump or other evidence of the injury or destruction of a public tree, reference to photographic evidence, notes, aerial photos, existing surveys, streetview imagery, or City database information pertaining to the tree may be relied upon to determine whether a public tree has been injured or destroyed;
- (b) injure or destroy, or cause or permit the injury or destruction of, a heritage tree, unless they also receive approval to do so under the requirements of the Ontario Heritage Act, R.S.O 1990, c. O.18;
- (c) injure or destroy, or cause or permit the injury or destruction of any tree listed under the provincial Endangered Species Act, 2007, c. 6 or those tree species provided protection by the federal Species at Risk Act, 2002, S.C. 2002, c. 29, unless they also receive approval to do so under the requirements of the provincial Endangered Species Act, 2007, c. 6 or the federal Species at Risk Act, 2002, S.C. 2002, c. 29;
- (d) plant or place, or cause or permit the planting or placing of any trees partially or wholly located on public property;
- (e) interfere or cause or permit interference with fences, structures, barriers delineating tree protection zones;
- (f) interfere or cause or permit interference with tree protection signage, plaques protective devices, or maintenance items (e.g., guy wires) on, around or through any public tree;
- (g) remove or cause or permit the removal of any woody debris that has fallen or has been cut down by the City on public property; or
- (h) climb or permit any person under their care or control to climb any public tree.

5.3 No person shall:

- (a) complete works identified in 5.1 and 5.2 other than in compliance with this By-law, the City Standards, the provisions of any approved tree protection plan and/or arborist report, and all other applicable laws;

- (b) contravene, or cause or permit the contravention of the terms or conditions of a tree permit, this By-law, or any policy or guideline made or issued under this By-law;
- (c) hinder or obstruct, or attempt to hinder or obstruct, either directly or indirectly, an Officer or any person who is exercising a power or performing a duty under this By-law;
- (d) provide false or inaccurate information in an application for a tree permit under this By-law or any document or thing required to be submitted under this By-law;
- (e) provide false information or give a false statement to an Officer or an employee and/or agent of the City while in the lawful exercise of a power or duty under this By-law;
- (f) fail to submit a tree protection plan required under section 7.15 of this By-law;
- (g) fail to comply with a tree protection plan required under section 7.15 of this By-law;
- (h) fail to comply with any order or notice issued under the authority of this By-law;
- (i) fail to cease activity when a tree permit is revoked; or,
- (j) fail to post a tree permit.

PART 6: EXEMPTIONS

- 6.1 Notwithstanding anything to the contrary herein, this By-law does not apply to:
- a) activities and matters exempted under Subsection 135(12) of the Municipal Act, 2001, S.O. 2001, c.25, as amended; or,
 - b) woodland or woodlots as regulated by the Halton Region By-law 121-05.

PART 7: TREE PERMITS AND TREE PROTECTION

Tree Permits - General

- 7.1 A person seeking to injure or destroy a tree(s) in relation to which a tree permit is required under this By-law, shall apply for a tree permit by submitting the following to the Manager:
- a) a completed tree permit application form;
 - b) a non-refundable application processing fee;

- c) a drawing or sketch showing the location of trees to be injured, destroyed, or retained;
- d) an arborist report, if required, in a form satisfactory to the Manager;
- e) a scaled, 2-dimensional tree protection plan, if required, in a form satisfactory to the Manager;
- f) the payment of replacement tree compensation fees as determined using the trunk formula technique;
- g) a report documenting exploratory investigative work by a qualified tree professional to confirm the details of the tree permit application;
- h) payment of the applicable permit issuance fees;
- i) payment of the applicable public tree security;
- j) a letter of undertaking and proof of insurance;
- k) a report completed by a qualified tree professional, which may include, but is not limited to, a TRAQ Report, prior to the issuance of a tree permit for the purpose of determining if the proposed work is able to proceed to the satisfaction of the Manager;
- l) any revised or additional information or documentation as may be required by the Manager to determine if the tree permit should be issued.

7.2 After receipt of a complete application, including any revised or additional information required, the Manager shall:

- (a) issue a tree permit(s) with or without conditions, in accordance with section 7.5 of this By-law;
- (b) refuse to issue a tree permit(s) for any of the reasons stated in section 7.6 of this By-law;
- (c) advise the applicant that no tree permit(s) is required for the work proposed in the application, and in that case, no further fee shall be payable; or
- (d) where an application for rezoning, official plan amendment, a consent, a minor variance, a plan of subdivision or a site plan has been made in relation to the work for which a tree permit application has been submitted, advise the applicant that any tree permit applications associated with those other types of application(s) will be considered together with and will be dependent upon any final approvals associated with those other types of application(s).

7.3 If an applicant for a tree permit:

- (a) does not provide the information or documents required under section 7.1 within the time specified by the Manager; or
- (b) has not taken any active steps to complete the tree permit application process and the application is more than one year old,

the application shall be deemed withdrawn, and the applicant shall not be entitled to a refund of any prescribed fees paid. The Manager may close the tree permit application file when the applicant withdraws or is deemed to have withdrawn the application.

Issuing Tree Permits

7.4 The circumstances in which the Manager may issue a tree permit for the injury or destruction of a tree include the following:

- (a) the applicant has complied with the application requirements in subsection 7.1; and
- (b) the Manager determines that there are no reasonable alternatives to the injury or destruction of the tree(s).

Tree Permit Conditions

7.5 The Manager may impose conditions as a requirement of obtaining or continuing to hold a tree permit under this By-law, which may include, but are not limited to, one or more of the following:

- (a) the manner and timing of the destruction and/or injury of a public tree(s);
- (b) a requirement that a tree protection zone be established around any trees and to comply with the City Standards and any other standards to the satisfaction of the Manager;
- (c) to perform any work authorized by a tree permit under the supervision of a qualified tree professional;
- (d) a requirement that the work is to be performed in accordance with an approved arborist report, tree protection plan, and/or landscape plan to the satisfaction of the Manager;
- (e) to provide a report completed by a qualified tree professional following the completion of the work authorized or required by the tree permit;
- (f) to contact the City's Forestry Department for inspection as required by the tree permit;
- (g) to restore the subject site to a specified condition, to the satisfaction of the Manager;

- (h) to establish a tree protection zone and install and maintain tree protection fencing around any tree(s) including horizontal (on grade) root protection in accordance with the City Standards, and in accordance with the approved tree protection plan and arborist report, to the satisfaction of the Manager;
- (i) to conduct work authorized by the tree permit in accordance with the City's relevant policies, procedures, By-laws as well as the City Standards;
- (j) to post the permit in a conspicuous location;
- (k) to provide public tree security, in a form acceptable to the Manager and in the amount specified in the Rates and Fees By-law; and
- (l) to comply with such other reasonable conditions that the Manager deems necessary for the purpose of regulating the injury or destruction of tree(s).

Refusing a Tree permit

7.6 The Manager may refuse to issue a tree permit on any of the following grounds:

- (a) the application for a tree permit is incomplete;
- (b) the work proposed is to injure or destroy a healthy tree;
- (c) the impacted tree is protected under the *Ontario Endangered Species Act*, 2007, as amended;
- (d) the impacted tree is protected under the *Ontario Heritage Act*, R.S.O 1990, c. O.18, as amended
- (e) the application is for the destruction or injury of a tree and there are reasonable alternatives to the injury or destruction of the tree;
- (f) the methods proposed in the application or the results to be achieved are, in the opinion of the Manager, not in accordance with good arboricultural practice;
- (g) the work proposed does not comply with the City Standards;
- (h) the application relates to a tree that is subject to a building permit, rezoning, a consent, a minor variance, a plan of subdivision, or a site plan that has been submitted to the City but has not received final approval;
- (i) a person or property will be adversely affected;
- (j) a nuisance may occur;
- (k) as a result of the removal of a tree, flood or erosion control, slope stability

or the ecological integrity of any public property may be negatively affected;
or,

- (l) where an order and/or notice under this By-law has been given to the applicant and, at the time of the application, the person has not complied with the order and/or notice;
- (m) for other such reasonable reasons.

Suspension, Alteration, and Revocation of Tree permits

7.7 The Manager may immediately suspend, alter, or revoke a tree permit where:

- (a) any term or condition of a tree permit, or applicable policy or guideline, is not complied with;
- (b) the specifications and recommendations in the arborist report, tree protection plan, or associated plans are not followed;
- (c) any order(s) or notices of the Manager under this By-law have not been complied with;
- (d) a situation of immediate threat or danger to any person or property exists;
- (e) any of the reasons for which the Manager could have refused to issue a tree permit under this By-law arise; or
- (f) the tree permit was issued because of mistaken, false or incorrect information received by the Manager.

7.8 If the Manager refuses to issue a tree permit, or alters, suspends or revokes a permit, the Manager will notify the applicant in accordance with this By-law to inform them of the decision with respect to the application or permit.

7.9 Upon the revocation or suspension of a tree permit, the permit holder shall immediately cease all activities being conducted under the tree permit or ensure the immediate termination of all activities for which a tree permit had been issued.

7.10 The written notice given under section 7.8, shall:

- (a) set out the grounds for the decision; and
- (b) identify reasonable particulars of the grounds for the decision.

Tree Permit Terms and Requirements

7.11 A tree permit is the property of the City and may not be transferred or assigned without the written approval of the Manager and upon payment of the prescribed permit transfer

fee.

7.12 A tree permit expires on the earlier of:

- (a) the expiry date indicated on the tree permit;
- (b) on notice of revocation by the Manager.

7.13 Notwithstanding section 7.12 of this By-law:

- (a) on request of the permit holder and payment of the prescribed permit extension fee, the Manager may extend the expiration date of a tree permit.
- (b) in determining whether to grant a request to extend the expiration date of a tree permit under subsection (a), the Manager shall consider:
 - (i) the work to be completed during the extension;
 - (ii) the progress of the work completed;
 - (iii) any potential conflict that may result from the extension with other planned or ongoing work;
 - (iv) the safety and convenience of the public;
 - (v) the permit holder's compliance with this By-law; and
 - (vi) any conditions of the tree permit.
- (c) a permit holder cannot apply for more than one extension and shall make a new application under section 7.1 for any other continuation or resumption of activities commenced under an expired tree permit.

7.14 A permit holder shall immediately inform the Manager of any change to:

- (a) the information contained in an application for a tree permit;
- (b) the information contained in a tree permit that has been issued;
- (c) the characteristics of the work for which the tree permit has been issued; or,
- (d) the cancellation of the work for which the tree permit was obtained.

The Manager may require any one or more of: revised or additional information, additional prescribed fees, or a new application with respect to a change under subsection 7.14.

Tree Protection

- 7.15 Where the manager determines that any proposed work could cause injury to public trees, notwithstanding that the person is not seeking a permit to injure or destroy any public tree(s), the Manager may require a person to establish a tree protection zone and/or submit a tree protection plan in respect of any such public trees, all to the satisfaction of the Manager. This includes the establishment of root protection in line with City Standards, and/or as outlined in an approved tree protection plan and arborist report. In such circumstances, the person shall establish the required tree protection zone and/or submit the required tree protection plan within the time specified by the Manager and prior to the commencement of the proposed work.

Tree Security

- 7.16 Where a permit holder has provided the City with public tree security, the permit holder shall notify the Manager to perform a final inspection, upon completion of the work for which the permit was issued. Following the completion of the final inspection, the Manager shall:
- (a) Return the public tree security to the permit holder if the Manager has determined that the conditions of the tree permit and this By-law have been complied with;
 - (b) Transfer the public tree security or a portion of the public tree security to the Forestry Reserve Fund if the Manager has determined (in their sole discretion) that any or all the security is required to correct non-compliance with the tree permit and/or this By-law;
 - (c) Retain the public tree security for a period of three (3) years from the date of the final inspection, if the Manager is unable to conclude during the final inspection the mitigative measures to apply. For clarity the Manager shall comply with subsections i) and ii) once they are able to assess whether a public tree has been injured and shall return the public tree security at the expiration of the three (3) year period if no injury is observed.
- 7.17 Where a tree permit has been revoked or suspended and no new tree permit has been issued or the suspension has not been lifted within six (6) months of the date of revocation or suspension, the Manager shall perform an inspection of the work for which the tree permit was issued, upon completion of which the Manager shall:
- (a) Return the public tree security to the permit holder if the Manager has determined that the conditions of the tree permit and this By-law have been complied with;
 - (b) Transfer the public tree security or a portion of the public tree security to the Forestry Reserve Fund if the Manager has determined (in their sole discretion) that any or all the security is required to correct non-compliance with the tree permit and/or this By-law;

- (c) Retain the public tree security for a period of three (3) years from the date of the final inspection, if the Manager is unable to conclude during the final inspection the mitigative measures to apply. For clarity the Manager shall comply with subsections i) and ii) once they are able to assess whether a public tree has been injured and shall return the public tree security at the expiration of the three (3) year period if no injury is observed.

7.18 Notwithstanding anything set out in this By-law, if after a period of 10 years the securities have not been collected by the applicant, the public tree security will be deemed forfeited into the Forestry Reserve Fund.

Compliance Inspection

7.19 A compliance inspection fee may be charged as detailed in the City's Rates and Fees By-law for an inspection to confirm compliance with this By-law or any Order or direction issued under this By-law.

PART 8: ENFORCEMENT, REMEDIAL ACTIONS AND RECOVERY OF EXPENSES

Entry and Inspections

- 8.1 A person authorized to enforce this By-law may enter on any land, including private property, at any reasonable time and in accordance with the conditions set out in the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) an order or other requirement under this By-law, including any policy or guideline made or issued in connection to this By-law;
 - (b) the tree permit or a condition of a tree permit issued under this By-law;
 - (c) for the purposes of doing work as authorized by the Director under this By-law; or
 - (d) an order made under section 431 of the *Municipal Act, 2001*.
- 8.2 For the purposes of the inspection under section 8.1 and in accordance with the conditions set out in section 436 of the *Municipal Act, 2001*, a person authorized to enforce this By-law may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

- (c) require information in writing or otherwise as required by an Officer from any person concerning a matter related to the inspection; and
- (e) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

8.3 Any person authorized to enforce this By-law may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, in accordance with the conditions set out in that section, where they have been prevented or is likely to be prevented from carrying out an inspection under this By-law.

Orders

8.4 If an Officer is satisfied that a contravention of this By-law or a tree permit has occurred, they may make an order requiring the person who contravened the By-law or the tree permit, or who has caused or permitted the contravention, to discontinue the contravening activity and/or do work to correct or rectify the contravention.

8.5 If the Officer is satisfied that a contravention of this By-law or tree permit has occurred which has resulted in emergency tree work, they may retain a contractor to execute work to correct and/or rectify the contravention at the expense of the person who caused or permitted the contravention. Details of the expense and other elements to rectify and remedy the contravention will be outlined in an order following the elements as set out in section 8.6.

8.6 An order under Section 8.4 or 8.5 shall set out:

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location on which the contravention occurred;
- (b) the date or dates by which there must be compliance with the order, which may be of immediate effect should the Officer determine that the circumstances warrant;
- (c) a notice that if the work is not completed in compliance with the order within a specified time period, then the work may be done at the expense of the person ordered to do the work;
- (d) the action to be completed by the permit holder or any other person who caused or permitted the contravention in order to rectify and remedy the contravention, which may include but is not limited to requiring:
 - (i) that prior to performing any additional work or activities, all necessary permits or other approvals be applied for and obtained;

- (ii) compliance with any of the conditions set out in section 7.5 of this By-law;
 - (iii) that works be performed to rectify and remedy the contravention in accordance with methods as established by the Manager, including that the work be performed by a prescribed contractor;
 - (iv) that compensation for any injured or destroyed tree be provided through payment of replacement tree fees calculated in accordance with the trunk formula technique, which the Manager shall deposit into the Tree Establishment & Enhancement Reserve Fund;
 - (v) that where emergency tree work is executed, the person shall pay the full cost the City incurred to rectify and remedy the contravention;
- (e) Any other information the Officer may deem appropriate.
- 8.7 An order under this By-law may require the permit holder or any other person who caused or permitted the contravention, to pay a prescribed compliance inspection fee, or any other prescribed applicable fee(s), by a specified date and time. In the event the fee is not paid, the fees shall be deemed a debt owing to the City, and the City may recover the fees by adding the fees to the tax roll and collect the fees in the same manner as municipal taxes.
- 8.8 Where a time frame is set out in an order or other document for carrying out any action, an Officer may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the Officer.
- 8.9 If an Officer is satisfied that a contravention of this By-law or a tree permit has occurred, the owner of the lot immediately abutting the Public Property on which the tree(s) is located shall be presumed to have caused or permitted the injury or destruction of the tree or caused or permitted the contravention of the conditions of a tree permit issued under this By-law, as the case may be, which presumption may be rebutted by the owner by evidence to the contrary on a balance of probabilities.

City Carrying Out the Work

- 8.10 Where a person does not comply with a direction or a requirement, including an order or a condition of a tree permit under this By-law to do a matter or thing, the Manager, with such assistance by others as may be required, may carry out such direction, requirement or order at the person's expense.
- 8.11 Where a person has contravened this By-law or a tree permit to the extent that City is required to carry out emergency tree work to correct or rectify the contravention the

Manager, with such assistance by others as may be required, execute the emergency tree work to correct or rectify the contravention at the person's expense.

- 8.12 The Manager is authorized to give immediate effect to any direction or requirement under sections 8.10 and 8.11. Where the costs of doing a matter or thing under section 8.10 and 8.11 are estimated to be:
- (a) up to but not including \$100,000, the Director may proceed without further approval and in accordance with the City's Procurement Policy; or
 - (b) \$100,000 or greater, the Director may proceed with approval of an authorized person or of Council and in accordance with the City's Procurement Policy.
- 8.13 The City may recover the costs of doing a matter or thing under section 8.10 and 8.11 by means of any one or more of:
- (a) bringing an action;
 - (b) adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an annual interest rate of 15 per cent commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full;
 - (e) realizing on public tree security provided for this purpose; or,
 - (d) charging a prescribed fee, where applicable, or as otherwise set and approved by Council from time to time.
- 8.14 The amount of the City's costs, including interest to the date payment is made in full, constitutes a lien upon the land, upon the registration of a notice of lien upon the land.
- 8.15 Where any tree located on public property is damaged to the degree that it must be replaced, the Manager may take whatever actions are required to obtain compensation for the City for the loss of the tree.

PART 9: REVIEW

- 9.1 A person who has received a notice of refusal to issue a tree permit or notice that a tree permit has been revoked or suspended from the Manager may request a review to the Director by sending a request for review in writing, as directed by the Manager, within 14 days of receiving the notice.
- 9.2 On a review of the Manager's decision to refuse, revoke or suspend a tree permit and in exercising its authority under this Part, the Director may confirm, modify or rescind the decision of the Manager.

9.3 The decision of the Director under this Part is final.

PART 10: OFFENCE

- 10.1 All contraventions of any provision of this By-law or an order or direction made under this By-law are designated as multiple offences and continuing offences.
- 10.2 Every person who contravenes any provision of this By-law or an order or direction made under this By-law is guilty of an offence and on conviction under Part I of the *Provincial Offences Act* is liable to a fine as set under section 91.1 of that Act or such other fine as the court considers appropriate, in accordance with the *Provincial Offences Act*.
- 10.3 Every person who contravenes any provision of this By-law or an order or direction made under this By-law is guilty of an offence and on conviction under Part III of the *Provincial Offences Act* is liable to a fine as follows,
- (1) A person, other than a corporation, is liable to a fine of not less than \$250 and not more than \$100,000 for a first conviction and to a fine of not less than \$500 and not more than \$100,000 for a subsequent conviction;
 - (2) A person that is a corporation is liable to a fine of not less than \$350 and not more than \$100,000 for a first conviction and to a fine of not less than \$500 and not more than \$100,000 for a subsequent conviction;
 - (3) For a continuing offence, a person, including a person that is a corporation, is liable to a fine, for each day or each part of a day that the offence continues, of not less than \$500 and not more than \$10,000 and the total of all the daily fines is not limited to \$100,000;
 - (4) For a multiple offence, a person, including a corporation, is liable to a fine, for each offence included in the multiple offence, of not less than \$500 and no more than \$10,000 and the total of all fines for each included offence is not limited to \$100,000.
- 10.4 An officer or director of a corporation who knowingly concurs in a contravention by the corporation of any provision of this By-law or an order or direction made under this By-law, is guilty of an offence and is liable to a fine set out in subsections 10.3(1), (3) or (4).
- 10.5 Every person, including a person that is a corporation, who contravenes any provision of this By-law or an order or direction made under this By-law is liable to a special fine, which may exceed \$100,000, in an amount that eliminates or reduces any economic advantage or gain from the contravention and the special fine may be in addition to a fine set out in sections 10.3 and 10.4.

- 10.6 When a person has been convicted of an offence, the court in which the conviction has been entered and, subsequently, any court of competent jurisdiction, may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.

PART 11: ADMINISTRATIVE PENALTIES

- 11.1 This By-law in its entirety is designated as a By-law to which the City's Administrative Monetary Penalties By-law applies.
- 11.2 Every person who contravenes this By-law when given a penalty notice, in accordance with the City's Administrative Monetary Penalties By-law, shall be liable to pay the City an administrative penalty in the amount specified in the Administrative Monetary Penalties By-law, and any fees related thereto.
- 11.3 Where an administrative penalty and administrative fee(s) respecting the administrative penalty, as specified in the Administrative Monetary Penalties By-law, are not paid within sixty days after the date that they become due and payable, the treasurer of the City may add the administrative penalty and administrative fee(s) to the tax roll for any property for which all of the owners are responsible for paying the administrative penalty and administrative fee(s), and collect it in the same manner as municipal taxes.

PART 12: MISCELLANEOUS

- 12.1 Unless otherwise specifically stated, all fees referred to in this By-law shall be as set out in the City's Rates and Fees By-law, or as otherwise set and approved by Council from time to time.
- 12.2 Any unpaid fee constitutes a debt of the person to the City and may be added to the tax roll and collected in the same manner as municipal taxes.
- 12.3 Should a court of competent jurisdiction declare a part or whole of any provision of this By-law to be invalid or of no force and effect, then the particular provision or part thereof is deemed severable from this By-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its remaining terms to the extent possible under law.
- 12.4 References in this By-law to any legislation or By-law means as may be amended or replaced from time to time and include any regulations thereunder.

Methods of Giving Notice

- 12.5 Any notice given by the City pursuant to this By-law in writing, including an order, may be given in any of the following ways
- (a) personally;

- (b) by posting it on the recipient's property;
- (c) by fax to the recipient's last known fax number;
- (d) by e-mail to the recipient's last known e-mail address; or
- (e) by registered or regular mail or courier or hand delivery addressed to the recipient's last known address.
- (f) In the event that service cannot be carried out for any reason, the Officer may place the order in a conspicuous place on the lands immediately abutting the land where the subject tree is/was situated and placement of the order will be deemed sufficient service of the order.

Deemed Effective

12.6 Notice given in accordance with section 12.5 shall be deemed to be effective:

- (a) on the date it is personally given, posted to the recipient's property, delivered by courier, or hand delivered;
- (b) on the date on which the fax is sent;
- (c) on the date the e-mail is sent; or
- (d) on the fifth day after the date of mailing by registered or regular mail.

PART 13: REPEAL, EFFECTIVE DATE AND TRANSITION

13.1 By-law No. 63-2013 is hereby repealed.

13.2 This By-law comes into force on January 1, 2026.

13.3 Despite the repeal of By-law No. 68-2013 under section 13.1:

- (a) the repeal shall not affect and that By-law shall continue to apply to:
 - (i) any offence committed against the provisions of that By-law;
 - (ii) any penalty or fee incurred in respect of that By-law;
 - (iii) any debt owed under that By-law; or,
 - (iv) any investigative proceedings under that By-law;
- (b) that By-law shall continue to apply to proceedings in respect of offences that occurred before its repeal;

- (c) any tree permit applications received by the City prior to the date of the repeal, for which a decision has not been rendered on the date of the repeal, will be processed in accordance with this By-law, and the fees and charges payable for the tree permit applications shall be those in effect at the time of the repeal;
- (d) any tree permit application(s) received by the City prior to the date of the repeal shall be subject to section 7.3 of this By-law;
- (e) all of the terms and conditions of any tree permits issued under By-law 68-2013 that are in effect at the time of the repeal or that are issued in accordance with subsection 13.3(c) above, will continue as terms and conditions of a tree permit issued under this By-law and be subject to this By-law.

PART 14: ENACTMENT

Passed this 9th day of December, 2026

Mayor Marianne Meed Ward _____

Deputy Clerk Lisa Palermo_____