

APPENDIX A

REPORT 21-212(IFS) City Tree By-Law Update

This appendix contains a reference copy of By-law 71-06 showing a mark-up of proposed changes as outlined in report 21-212(IFS). Text with strike-out is proposed to be removed and highlighted text in yellow is proposed to be added through an amending by-law.

BY-LAW NO. 71-06

OF THE

CORPORATION OF THE CITY OF CAMBRIDGE

Being a by-law of the Corporation of the City of Cambridge to regulate the planting, propagation, preservation and removal of trees on lands owned by the municipality or over or adjacent to highways under the jurisdiction of the municipality and to repeal By-law 1478.

Whereas pursuant to Section 30 of the Municipal Act, 2001, S.O. 2001, c.25 (the Act) a highway is owned by the municipality that has jurisdiction over it subject to any right reserved by a person who dedicated the highway or any interest in the land held by any other person.

And Whereas pursuant to Section 130 of the Municipal Act, 2001, S.O. 2001, c.25 (the Act) a municipality may regulate matters not specifically provided for in the Act or any other Act for the purposes related to the health, safety and well-being of the inhabitants of the municipality.

And Whereas the Council of the City of Cambridge deems it desirable to regulate the planting, propagation, preservation and removal of trees within the municipality for the safety and well-being of the inhabitants of the community.

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF CAMBRIDGE HEREBY ENACTS AS FOLLOWS:

1. Definitions: In this By-law
 - (a) "Highway" means a common and public highway and includes a street and a bridge forming part of a highway, or on, over or across which a highway passes.
 - (b) "Tree" includes a growing tree or shrub planted or left growing on either side of a highway for the purpose of shade or ornament.
 - (c) "Municipality" means the Corporation of the City of Cambridge.
 - (d) "Utility" includes all plant and facilities used in the supply and maintenance of water, artificial or natural gas, electrical power or energy, and television and radio transmission or reception.

(e) "Nuisance" means negatively impacting existing driveways, walkways, fences, services, or similar infrastructure such that these no longer function as intended and/or cannot be adequately maintained, repaired, or replaced without impacting the health of the tree. It excludes leaf, fruit, seeds, sap, or any other form of natural litter produced by trees.

(f) "Hazardous Tree" means a dead or severely damaged tree that may pose a danger to persons or property.

2. No person other than the Municipality or person authorized by the Municipality shall plant or place or cause to be planted or placed any shade or ornamental tree on any highway under the jurisdiction of the Municipality or on land owned by the Municipality.
3. The ~~Manager of Horticulture and Forestry Services~~ **Director of Operations** or designate shall supervise the planting and trimming of trees upon any highways under the jurisdiction of the Municipality or on any land owned by the Municipality or upon private property where the branches extend over a highway under the jurisdiction of the Municipality or over any land owned by the Municipality.
4. The Director of Operations or designate may remove decayed, Nuisance, or Hazardous trees. ~~The Manager of Horticulture and Forestry Services or designate may remove decayed or dangerous trees or trees that have by by-law of the Municipality been directed to be removed.~~
5. The Municipality may, with the consent of the owner, plant and maintain shade or ornamental trees adjacent to any highway under the jurisdiction of the Municipality or any land owned by the Municipality, at the expense of the Municipality, provided that the Municipality shall not be liable for the maintenance or otherwise in respect of any tree so planted.
6. Where the removal of a live and healthy tree is requested for the purpose of providing an entrance to private property, for the protection of buildings, or where such removal is requested for the preservation or construction of a utility, the person or corporation requesting such removal shall:
 - (a) Pay all costs and expenses incurred in such removal; and
 - (b) Pay to the Municipality as compensation for the tree to be removed an amount equal to the value thereof in accordance with the most recent shade tree valuation formula as set out by the International Society of Arboriculture.
7. Except as authorized under the provisions of this by-law, no person shall injure or destroy any tree on a highway under the jurisdiction of the Municipality or on any land owned by the Municipality; and without restricting the generality of the foregoing, no person shall damage, cut, carve, transplant, trim or remove any tree or allow any substance which is harmful to come into contact with any tree or set fire to or permit any fire to burn where such fire or the heat thereof may injure any portion of any tree located upon any highway under the jurisdiction of the Municipality or on any land owned by the Municipality.
8. No person or corporation shall deposit, place, store or maintain upon any lands any stone, brick, sand, concrete, asphalt or any other materials which may impede free passage of water, air and fertilizer for the roots of any tree, or do any work within the canopy drip line of any tree located on any highway under the jurisdiction of the Municipality or on any lands owned by the Municipality without the approval of the Manager of Horticulture and Forestry Services or designate.

9. Any person damaging or destroying a tree (including a tree root system) on any highway under the jurisdiction of the Municipality or on any lands owned by the Municipality, shall forthwith report such damage to the Municipality and shall pay an assessment equal to the value of such tree determined in accordance with Paragraph 6(b) of this by-law, and all costs of the Municipality incurred in connection with such damage or destruction.
10. No person or Corporation shall attach any object or thing to a tree, that may create a safety concern or in some fashion facilitate tree damage. This would apply to a tree located on any highway under the jurisdiction of the municipality, or any public place, and any exceptions would have to have the consent of the Manager of Horticulture and Forestry Services (or designate), notwithstanding that such attachment would not injure or destroy the tree.
11. Where a person or corporation proposes to install, alter, repair or otherwise maintain a utility or do any work within the canopy drip line of any tree upon a highway under the jurisdiction of the Municipality or on lands owned by the Municipality, such person or corporation shall:
 - (a) Deposit with the Municipality plans clearly showing the property lines, the edge of the roadway and sidewalk, the distance from any other utilities or important geographical features, the location and nature of the proposed work, and the exact distance of such work from any tree or trees. Such plans shall include both horizontal and vertical measurements.
 - (b) Proceed with such work only in accordance with a method of construction approved by the Municipality to ensure that minimum damage is done to trees.
 - (c) Pay to the Municipality for any tree damaged or removed any amount equal to the value thereof determined in accordance with Paragraph 6(b) hereof, and all costs and expenses incurred by the Municipality in connection with such damage or removal.
 - (d) During the period of construction, which shall include clean up and restoration, to properly guard and to protect all trees in so far as is reasonably possible.
12. This By-law shall not apply to any trees required to be removed or trimmed in connection with the construction, reconstruction or repairs to the highways under the jurisdiction of the Municipality or resulting from work of Cambridge and North Dumfries Hydro Inc. in maintaining the safety and security of its service, provided that every reasonable precaution is taken to preserve the affected tree(s). And, is performed in consultation with the Manager of Horticulture and Forestry Services or designate.
13. Every person who contravenes any of the provisions of the by-law, and every director or officer of a corporation, who concurs in the contravention by the corporation, is guilty of an offence and upon conviction is liable to a fine as provided for in the "Provincial Offences Act".
14. And that By-law 1478 is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME

ENACTED AND PASSED THIS 8TH DAY OF MAY, 2006

A.D.

THE CORPORATION OF THE CITY OF CAMBRIDGE

BY-LAW 21-XXX

Being a by-law to amend By-law 71-06, being a by-law to regulate the planning, propagation, preservation and removal of trees on lands owned by the municipality or over or adjacent to highways under the jurisdiction of the municipality

WHEREAS pursuant to Section 30 of the Municipal Act, 2001, S.O. 2001, c.25 (the Act), as amended, a highway is owned by the municipality that has jurisdiction over it subject to any right reserved by a person who dedicated the highway or any interest in the land held by any other person;

AND WHEREAS pursuant to Section 130 of the Municipal Act, 2001, S.O. 2001, c.25 (the Act), as amended, a municipality may regulate matters not specifically provided for in the Act or any other Act for the purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS the Council of the City of Cambridge deems it desirable to regulate the planting, propagation, preservation and removal of trees within the municipality for the safety and well-being of the inhabitants of the community;

AND WHEREAS it is deemed necessary to amend By-law 71-06 as outlined in this by-law,

NOW THEREFORE BE IT RESOLVED THAT the Corporation of the City of Cambridge enacts as follows:

1. **THAT** Section 1 "Definitions" of By-law 71-06, be amended to add the following:
 - (e) "Nuisance" means negatively impacting existing driveways, walkways, fences, services, or similar infrastructure such that these no longer function as intended and/or cannot be adequately maintained, repaired, or replaced without impacting the health of the tree. It excludes leaf, fruit, seeds, sap, or any other form of natural litter produced by trees.
 - (f) "Hazardous Tree" means a dead or severely damaged tree that may pose a danger to persons or property.

2. **AND THAT** Section 3 of By-law 71-06, be deleted and replaced with the following:
 - (3) The Director of Operations or designate shall supervise the planting and trimming of trees upon any highways under the jurisdiction of the Municipality or on any land owned by the Municipality or upon private property where the branches extend over a highway under the jurisdiction of the Municipality or over any land owned by the Municipality.
3. **AND THAT** Section 4 of By-law 71-06 be deleted and replaced with the following:
 - (4) The Director of Operations or designate may remove decayed, decayed, Nuisance, or Hazardous trees.
4. **AND THAT** this by-law shall come into force and effect on the date of its final passing thereof.

ENACTED AND PASSED this 28th day of September, 2021.

MAYOR

CLERK