

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 052-2018

A By-law to regulate the planting, maintenance and removal of trees on public and private property in the City of Vaughan and to repeal By-law Nos. 258-83, 95-2005, 185-2007, and 205-2007.

WHEREAS section 8(1) of the *Municipal Act*, 2001, S.O. 2001, c.25 provides that powers of a municipality shall be interpreted broadly as to confer broad authority on the municipality to (a) enable the municipality to govern its affairs as it considers appropriate, and (b) enhance the municipality's ability to respond to municipal issues;

AND WHEREAS 11(2) of the *Municipal Act*, 2001, S.O. 2001, c.25 provides that a lower-tier municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality, including respecting climate change;

AND WHEREAS section 135(1) of the *Municipal Act*, 2001, S.O. 2001, c.25, without limiting sections 9, 10 and 11 and subject to a by-law passed by an upper-tier municipality, provides for a lower-tier municipality to prohibit or regulate the destruction or injuring of trees;

AND WHEREAS section 425 of the *Municipal Act*, 2001, S.O. 2001, c.25, provides for a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS section 426 of the *Municipal Act*, S.O. 2001, c.25 provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a by-law passed under this Act;

AND WHEREAS section 429 of the *Municipal Act*, S.O. 2001, c.25 provides for a municipality to establish a system of fines for offences under a by-law of the municipality passed under this Act;

AND WHEREAS section 436 of the *Municipal Act*, S.O. 2001, c.25 provides for a municipality to pass by-laws that authorize it to enter on land at any reasonable time for the purpose of carrying out an

inspection to determine if a by-law of the municipality is being complied with, or to determine if an order or direction of the municipality made under the Act or made under the by-law is complied with, and may require information, inspect documents and take samples;

AND WHEREAS the Council of The Corporation of the City of Vaughan wishes to pass a by-law that, for the purpose of protecting the municipality's tree canopy, regulates the removal of trees within the City;

NOW THEREFORE the Council of The Corporation of the City of Vaughan ENACTS AS FOLLOWS:

SHORT TITLE

1. This By-law shall be known and may be cited as the "Tree Protection By-law."

DEFINITIONS

2. In this By-law,

- (a) "Applicant" means a *Person* seeking to obtain a *Tree Removal Permit* and, either in person or through an *Authorized Agent*, makes such an application. For clarification, an Applicant shall always include the *Owner* of the property to which the application pertains.
- (b) "Application" means a *Tree Removal Permit* application in a form provided by the *City*;
- (c) "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;
- (d) "Arborist Report" means a report prepared by an *Arborist* or *Landscape Architect* which provides details on the species, size and health of a *Tree* to be *Destroyed, Injured* or removed;
- (e) "Authorized Agent" means a *Person* authorized in writing by an *Applicant* or *Permit Holder* to act on behalf of such *Applicant* or *Permit Holder* for the identified purpose of making an application or otherwise complying with the provisions of this By-law.
- (f) "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;

- (g) "City" means the Corporation of the City of Vaughan, in the Regional Municipality of York and its employees and agents acting on the Corporation's behalf;
- (h) "City Facility" includes any administrative building, city yard, community centre, library, fire station, park or parquette, municipal golf course, or cemetery owned or managed by the *City*.
- (i) "City Property" means all real property owned or managed by the *City* and includes, but is not limited to, *City Facilities*, woodlands, open spaces, *Highways*, and the *Boulevard*, but does not include any property owned by the Regional, Provincial, or Federal Government, a Crown Corporation, Hydro, Utility, or Railway Company.
- (j) "Chief of Police" means the Chief of the York Regional Police Department or a person designated to act on his or her behalf;
- (k) "Clerk" means the Clerk of The Corporation of the City of Vaughan or duly appointed designate;
- (l) "Council" means the Council of The Corporation of the City of Vaughan;
- (m) "Dangerous" with respect to a *Tree*, means an immediate threat to property or life;
- (n) "Dead" means a tree that has no living tissue;
- (o) "Diameter" with respect to a *Tree*, means the measurement of the diameter of the trunk of a tree from outside the bark 1.4 metres 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 centimetres above existing grade.
- (p) "Director of Enforcement" means the Director and Chief Licensing Officer of By-law & Compliance, Licensing & Permit Services, or his or her designate, and/or his or her successor;
- (q) "Director of Forestry" means the Director of Transportation Services, Parks & Forestry Operations, or his or her delegate, and/or his or her successor;
- (r) "Dying" means a *Tree* that is infected by a lethal pathogen or where 70% or more of its crown is dead;
- (s) "Emergency Work" means the work necessary to terminate an immediate threat to life or property;

- (t) "Expenses" means any and all sums of money actually spent or required to be spent by the *City*, and shall include but not be limited to all charges, costs, application fees, administration fees, dispute resolution/mediation fees, taxes, outlays, legal fees and losses;
- (u) "Golf Course" means an area of land laid out and operated as a golf course and includes putting greens and driving ranges;
- (v) "Hazard" means a tree that has a potential to harm property or life, but is not an immediate threat;
- (w) "Injure" or "Destroy" with respect to a *Tree*, means the injury or destruction of a *Tree* by removal, cutting, girding 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;
- (x) "Lands" means a lot only and does not include a building;
- (y) "Landscape Architect" means a person registered as a Landscape Architect under the provisions of the *Ontario Association of Landscape Architects Act*, 1984 S.O. 1984, c. P412.
- (z) "Lot" means a parcel of land having specific boundaries which is capable of legal transfer;
- (aa) "Municipal Law Enforcement Officer" or "MLEO" means a *Person* appointed or employed by the *City* as a municipal law enforcement officer under the *Police Services Act*, R.S.O. 1990, c.P.15, as amended;
- (bb) "Nursery" means a *Lot* on which the principal business of selling plants, shrubs and trees occurs;
- (cc) "Officer" means any duly appointed municipal law enforcement officer, any police officer, or any person authorized to perform inspections pursuant to this by-law;
- (dd) "Order" means a written direction by the *Director* or *MLEO* on behalf of the *City*, under the authority of sections 444 and 445 of the *Municipal Act*, S.O. 2001, c.25, as amended, requiring a *Person* to cease a contravening activity and/or correct the contravention;
- (ee) "Owner" means the registered owner of a *Lot* or his/her respective successors and assigns;
- (ff) "Permit Holder" means an *Applicant* once a *Tree Removal Permit* has been granted.

- (gg) "Person" includes a natural individual, a corporation, partnership, proprietorship or other form of business association and the heirs, executors, administrators, successors and assigns, or other legal representatives thereof, or a receiver or mortgagee in possession;
- (hh) "Private Property" means any property not owned by the *City*, Regional, Provincial or Federal Government, a Crown Corporation, Hydro, Utility, or Railway Company;
- (ii) "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;
- (jj) "Public Property" means any property owned by the *City*, Regional, Provincial or Federal Government, a Crown Corporation, Hydro, Utility, or Railway Company;
- (kk) "Public Tree" means any *Tree* which has 50 percent or more of its main stem situated on *Public Property*.
- (ll) "Region" means the Regional Municipality of York and its employees and agents acting on its behalf.
- (mm) "Tree" means a self-supporting woody plant which has reached or will likely reach a height of at least 4.5 metres at maturity;
- (nn) "Tree Protection Agreement" means an agreement made pursuant to:
- (i) a development agreement, site plan agreement or subdivision agreement between the *City* and a *Person*; or
 - (ii) a permission by the *City*, including but not limited to a building permit or a cultural heritage permit,
- that identifies all *Trees* on a *Lot* that are to be preserved and sets out any other measures that the *City* deems appropriate.
- (oo) "Tree Protection Zone" means the minimum setback required, as determined by the *Director of Forestry*, to maintain the structural integrity of the tree's anchor roots, based on generally accepted arboricultural principles.
- (pp) "Tree Removal Permit" means a permit required by this by-law to *Injure* or *Destroy* or otherwise remove a *Tree* on *Private Property* within the *City*;

APPLICABILITY

3. If the *Region* has or enacts a by-law in respect of woodlands in the City of Vaughan, then this By-law is inoperative to the extent that it applies to *Trees* in the designated woodlands and in a manner that conflicts or frustrates a by-law of the *Region*.
4. This by-law does not apply to:
 - (a) any activities or matters undertaken by the *City*, the *Region*, a school board for the development of a school, or any other government authority, conservation authority, or utility corporation;
 - (b) activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act*, 1994, S.O. 1994, c25;
 - (c) the *Injuring or Destruction of Trees* by a person licensed under the *Surveyors Act*, R.S.O. 1990, Chapter S.29, to engage in the practice of cadastral surveying or his or her agent, while making a survey;
 - (d) the *Injuring or Destruction of Trees* 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*, R.S.O. 1990, c. P.13, or as a requirement of a site plan agreement or subdivision agreement entered into under those sections, or as otherwise addressed in an executed, written agreement with the *City*;
 - (e) the *Injuring or Destruction of Trees* as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act*, R.S.O. 1990, c. P.13, 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 constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
 - (g) the *Injuring or Destruction of Trees* undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8; or

- (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*, R.S.O. 1990, c. A.8 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*, R.S.O. 1990, c. P.13.

PROHIBITED ACTIVITIES

5. No *Person* shall on *Public Property* do or cause or permit to be done, any of the following:
 - (a) Abuse, attach, burn, cut down, carve, damage, *Destroy*, *Injure*, paint, paste, peel, prune, pull up, remove, scrape, tack, top, transplant or trim all or any part of a *Tree*, including a *Public Tree*;
 - (b) Attach any object to all or any part of a *Tree* including, without limiting the generality of the foregoing, a birdhouse, cable, light, nail, poster, rope, sign, twine, wire or other contrivance;
 - (c) Pour any substance that will *Injure* a *Tree* within the drip line of the *Tree*, being the area at the outer edge of the spread of the *Tree's* branches.
6. No *Person* shall *Injure* or *Destroy* or cause or permit any *Trees* on *Private Property*, having a diameter of twenty (20) centimetres or more or having a base diameter of twenty (20) centimetres or more, to be *Injured* or *Destroyed* unless authorized by a *Tree Removal Permit* to do so, pursuant to this By-law.
7. If a *Tree* is *Injured* or *Destroyed* in violation of section 6, the *Owner* and, if applicable the *Applicant* or Permit Holder, shall be presumed to have permitted such activity.
8. Despite section 6, a *Tree Removal 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*.

9. No *Person* shall undertake any unauthorized activities, including but not limited to the placing of materials, vehicles, equipment or other things, within a *Tree Protection Zone* of a *Tree*.

ENCROACHMENT OF TREES ONTO PUBLIC PROPERTY

10. The *City* may *Prune* any portions of *Trees* on *Private Property* that extend over a *Highway* or other *Public Property* and may remove any decayed or *Dangerous Tree* that has been deemed so by the *Director of Forestry*.

TREE REMOVAL PERMIT APPLICATIONS

11. An *Applicant* who applies for a *Tree Removal Permit* shall submit to the *Director of Forestry* the following:
- (a) a completed *Application*, in a form satisfactory to the *Director of Forestry*;
 - (b) a plan or drawing of the *Lot*, to the satisfaction of the *Director of Forestry*, illustrating which *Trees* are to be *Injured* or *Destroyed*;
 - (c) payment of the required fees as prescribed in Fees and Charges By-law No. 171-2013, as amended, or its successor by-law;
 - (d) an *Arborist Report*, if required by the *Director of Forestry*;
 - (e) where the *Tree* subject to the *Application* is not a *Public Tree* and any portion of the base of the *Tree* falls within six (6) metres of the property line, the written consent to the *Tree Removal Permit* issuance from the affected adjacent *Owner*;
 - (f) where the *Application* is not made and submitted by the *Owner*, the written authorization of the *Owner* consenting to the *Application*;
 - (g) any other documentation, reports or information required by the *Director of Forestry*.
12. A *Tree Removal Permit* shall be valid for only six (6) months from the date of issuance. In extenuating circumstances a *Tree Removal Permit* may be extended by, and at the discretion of, the *Director of Forestry*.
13. The *City* shall not issue a *Tree Removal Permit* for the *Injury* or *Destruction* of *Trees* where the *Director of Forestry* has determined that:

- (a) the *Application* is not complete, the required fee has not been paid, or the documentation and other information required has not been provided to the satisfaction of the *Director of Forestry*;
- (b) the information received from the *Applicant* is false or incorrect;
- (c) an alternative planting plan approved by the *Director of Forestry* has not been submitted;
- (d) environmentally sensitive areas, ecological systems, natural landforms or contours will not be adequately protected and preserved;
- (e) the removal of one or more of the subject *Trees* will have a negative impact on erosion or flood control;
- (f) significant vistas will not be adequately protected and preserved; or
- (g) the removal of one or more of the subject *Trees* is contrary to or in conflict with any other by-laws, policies, designations, or agreements of the *City* or the Regional Municipality of York, or any Acts of the Province of Ontario.

DUTIES OF PERMIT HOLDERS

14. The *Permit Holder* shall ensure that the *Tree Removal Permit* shall be posted on the *Lot* on which the *Trees* that are to be *Injured* or *Destroyed* are found, and such *Tree Removal Permit* shall be posted in a location that is visible from the street edge for the full period of time during which the *Trees* are being *Injured* or *Destroyed*.
15. A *Permit Holder* shall comply with all of the terms and conditions of the *Tree Removal Permit* and shall ensure that any *Person* in his employment or any *Person* acting on his or her behalf, including any *Authorized Agent*, complies with same.
16. A *Permit Holder* shall comply with any and all lawful direction from the *City*, including any and all *Orders*.

AUTHORITY OF THE DIRECTOR OF FORESTRY

17. The *Director of Forestry* is authorized to:
 - (a) issue, place conditions on, refuse, suspend or revoke *Tree Removal Permits* for the *Injury* or *Destruction of Trees* subject to the conditions set out in this By-law or where he or she believes that it is in the public interest to do so;

- (b) subject to the provisions of other *City* by-laws, provide relief from the requirements of the *Tree* protection requirements and measures in this By-law, or conversely require *Tree* protection measures that are above and beyond the *Tree* protection measures prescribed in this By-law, having regard to the variety and location of any and all subject *Trees* and any other circumstances surrounding the site alteration that may pose a particular hazard to the subject *Trees*.

ENFORCEMENT POWERS

18. A *Municipal Law Enforcement Officer* may enter on *Lands* at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) a provision of this By-law or any other by-law;
- (b) the terms and conditions of a *Tree Removal Permit*;
- (c) a direction or an *Order*.

19. A *Municipal Law Enforcement Officer* may, for the purposes of an inspection pursuant to section 18:

- (a) require the production for inspection of documents or things relevant to the inspection, including but not limited to government-issued photo identification, a *Tree Removal Permit*, or a *Tree Protection Agreement*;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any *Person* concerning a matter related to the inspection;
- (d) 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; and
- (e) order the *Permit Holder* to take and supply at the *Permit Holder's* expense such tests and samples as are specified.

20. A *Municipal Law Enforcement Officer* may:

- (a) issue an *Order*, describing a contravention, specifying the timeframe for its remedy, and establishing any other conditions deemed appropriate to mitigate any potentially adverse impacts;
- (b) pursuant to the authorization of the *Director of Enforcement*, suspend or revoke a *Tree Removal Permit*, for any violation of this By-law or the conditions of a *Tree Removal Permit*.

21. No Person shall hinder or obstruct a *Municipal Law Enforcement Officer* from performing any of his or her duties, as provided for in this By-law.

OFFENCES AND PENALTIES

22. Every *Person* who contravenes a provision of this By-law and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and, upon conviction, is liable to the following fines, exclusive of *Expenses*:

- (a) a fine no less than \$500 and not more than \$10,000 for every offence committed; and
- (b) a fine not less than \$500 and not more than \$10,000 for every day or part of a day that the offence continues.

23. Where a *Person Injures* or *Destroys* a *Tree* or *Trees*, in contravention of this By-law, the *Person* guilty of the offence or offences, upon conviction, is liable to the following fines, exclusive of *Expenses*:

- (a) on a first conviction, a fine not less than \$250 per *Tree* and not more than \$2,500 per *Tree*; and
- (b) on any subsequent conviction, a fine not less than \$500 per *Tree* and not more than \$5,000 per *Tree*.

24. In addition to any other fines, in the event that a *Person* is found guilty of an offence involving the *Injury, Destruction* or otherwise removal of *Trees* and the offence is determined to have occurred in the support of a development, a special fine of \$25,000 per *Tree* shall apply.

SEVERABILITY

25. In the event that a court of competent jurisdiction declares any section or part of a section of this by-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this by-

law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

REPEAL AND AMENDMENT OF OTHER BY-LAWS

26. The following by-laws are hereby repealed: By-law 258-83, By-law 95-2005, By-law 185-2007, and By-law 205-2007.

FORCE AND EFFECT

27. This By-law shall come into force and effect on the date it is enacted.

Enacted by City of Vaughan Council this 11th day of April, 2018.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, Deputy City Clerk