

# **The Corporation of the City of Guelph**

## **By-law Number (2025) – 21059**

A by-law to prohibit or regulate the injuring or destruction of trees on private property within the City of Guelph and to repeal By-law Number (2010)-19058.

Whereas sections 9 and 10 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended or replaced from time to time (the “Municipal Act”), provide that a municipality has broad authority, including the authority to pass by-laws respecting the economic, social and environmental well-being of the municipality;

And whereas section 135 of the Municipal Act provides that a local municipality may prohibit or regulate the injuring or destruction of regulated trees, including regulated trees within woodlands;

And whereas Part XIV (Enforcement) of the Municipal Act provides methods for a municipality to enforce its by-laws;

And whereas trees within the City are valued for the economic, social and environmental benefits and services they provide such as increased aesthetic and property values, shade, contributions to physical and psychological well-being, maintenance and enhancement of water quality, prevention of soil erosion and water run-off, wildlife habitat, local climate moderation and improved air quality;

And whereas Council wishes to protect and enhance tree canopy cover in the City and has endorsed a Climate Adaptation Plan which includes the objective of protecting the urban forest and natural assets;

And whereas Council has determined that a by-law to prohibit or regulate the injury and destruction of trees on private property within the City of Guelph should be enacted;

### **The Council of the Corporation of the City of Guelph enacts as follows:**

#### **Part 1 – Intent**

- 1.1 The intention of the Private Tree Protection By-law shall be to:
- a) Prevent the unnecessary loss of Trees on Private Lots;
  - b) Support the health and growth of the City’s tree canopy cover by requiring tree protection measures in accordance with the City’s Tree Technical Manual; and
  - c) Sustain and enhance the City’s tree canopy cover by requiring Replacement Trees and/or Replacement Tree Fees for Regulated Trees permitted to be removed in accordance with this By-law.

#### **Part 2 – Definitions**

- 2.1 For the purposes of this By-law, the following terms shall have the corresponding meanings:

**“Administrator”** means the Deputy Chief Administrative Officer (DCAO) of

Public Services for the City;

**"Applicant"** means an Owner of a Tree or an Owner's authorized representative who, pursuant to this By-law, applies for a Tree Permit;

**"Application"** means an application pursuant to this By-law for a Tree Permit;

**"Application Fee"** means the fee prescribed in the City's User Fees By-law, required in connection with the submission of an Application;

**"Arborist"** means a professional who has gained recognized certifications, qualifications and expertise in the care and management of trees. Recognized certifications and qualifications for an Arborist include:

- a) a Certified Arborist as certified by the International Society of Arboriculture (ISA); or
- b) a Registered Consulting Arborist as registered with the American Society of Consulting Arborists (ASCA);

**"Arborist Report"** means a written letter or report prepared by an Arborist or Forester that includes but is not limited to the species, health/condition of the Regulated Tree and typically includes site information, description of the proposed activities, a description of the Regulated Tree, tree care and protection strategies and calculation of Replacement Trees and/or Replacement Tree Fees;

**"Boundary Tree"** has the meaning ascribed to that term by the Forestry Act, R. S. O. 1990 (the "Forestry Act"), as amended;

**"City"** means both the geographical boundaries of the Corporation of the City of Guelph and the Corporation of the City of Guelph and any of its designated representatives;

**"Committee"** means the City's Committee of the Whole, or such successor committee as Council may from time to time designate;

**"Council"** means the municipal council of The Corporation of the City of Guelph;

**"Dead"** means a Tree that has no living tissue;

**"Destroy"** or **"Destruction"** means directly or indirectly, including through construction activities, neglect, remove, ruin, uproot, or kill a tree, whether by accident or by design, and whether by cutting, burning, girdling, interfering with its water supply, applying chemicals, puncturing, or compacting, regrading or resurfacing within its Dripline, but shall not include Pruning;

**"Diameter at Breast Height (DBH)"** means the measurement, in centimetres, of the diameter of the Trunk of a Tree from the outside bark at a height of 1.4 meters above the existing ground adjoining its base along the centre axis and, where the Tree has multiple stems at a height of 1.4 meters above the existing ground adjoining its base along the centre axis, the sum of all stems that are at least the regulated size;

**"Dripline"** means the imagined line from the outer edge of a Tree's foliage extending perpendicularly down to the ground;

**"Dying"** means a Tree that is in terminal decline resulting from pests, diseases, Injury, age, catastrophic events or a combination of any of the aforementioned;

**"Emergency Work"** means work necessary to terminate an immediate danger to life or property as determined by the Administrator or their delegate and includes but is not limited to:

- a) work associated with water main repairs, utility repairs and structural repairs to a building where the work is necessary to terminate an immediate danger to life or property;
- b) the Injuring or Destruction of Trees where the likelihood of tree failure is imminent and a Tree or part of a Tree poses an extreme risk in which there is a high likelihood of severe consequences, such as serious injury to persons or property; and
- c) the Injuring or Destruction of Trees presenting an extreme (imminent) risk resulting from sudden natural events (including lightning, wind, hail or extreme snow event) or unforeseen causes (including automobile accident);

**"Entry By-law"** means the City's Power of Entry By-law, being By-law Number (2009)-18776, as amended or replaced from time to time;

**"Fee"** or **"Fees"** means the fees prescribed in the City's User Fees By-law;

**"Forester"** means a Registered Professional Forester (RPF) in good standing with the Ontario Professional Forester's Association (OPFA);

**"Good Arboricultural Practices"** means the proper implementation of maintenance, renewal and removal activities known to be appropriate for individual trees in accordance with American National Standards Institute A300 Tree Care Standards and related best management practices as outlined by the ISA;

**"Good Forestry Practices"** has the meaning ascribed to that term by the Forestry Act, as amended;

**"High Risk"** as it relates to a Tree, means there is a high probability of tree failure with potentially significant or severe consequences of a combined tree failure and target impact as assessed by an Arborist;

**"Hoarding"** means a fence or similar structure used to enclose land, trees and other vegetation in order to protect trees, other vegetation, or the ground (soil);

**"Injure"** or **"Injury"** or **"Injured"** or **"Injuring"** means cause, directly or indirectly, whether by accident or by design, lasting damage or harm to a Tree, which has or is likely to have the effect of inhibiting or terminating its growth, whether by:

- a) cutting, burning, girdling, interfering with its water supply, applying chemicals, puncturing or compacting, regrading or resurfacing within its Dripline; or
- b) construction works, including grading or storing any materials within the Dripline of a Tree or a Tree Protection Zone and is considered to have the potential to negatively affect the health of the Tree; but shall not include Pruning in accordance with Good Arboricultural Practices;

**"Inspector"** means any person designated by the Administrator to administer and enforce this By-law;

**"Lot"** means a parcel of land which:

- a) is the whole of a lot or block on a registered plan of subdivision so long as such registered plan of subdivision is not deemed, pursuant to section 50 of the Planning Act, R.S.O. 1990, c. P.13, (the "Planning Act") as amended

or replaced from time to time, not to be a registered plan of subdivision for subdivision control purposes;

- b) is all land held or owned under distinct and separate ownership from the ownership of the fee or equity of redemption in abutting land;
- c) has the same description as in a deed which has been given consent pursuant to section 53 of the said Planning Act; or
- d) is the whole remnant remaining to an owner or owners after conveyance made with consent pursuant to section 53 of the said Planning Act;

**"Officer"** means a person appointed as a Municipal Law Enforcement Officer to enforce the provisions of by-laws in the City, including this By-law;

**"Owner"** means the person having any right, title, interest or equity in the Regulated Tree and/or Private Lot for which a Tree Permit is being sought;

**"Private Lot"** means a Lot owned by anyone other than the City or another governmental agency at the municipal, provincial or federal level;

**"Property Standards By-law"** means the City's Property Standards By-law, being By-law Number (2000)-16454, as amended or replaced from time to time;

**"Pruning"** means the trimming or removal of branches, limbs or roots in accordance with Good Arboricultural Practices, including for the purpose of maintaining structural stability and balance and encouraging natural form, but limited to the appropriate removal of no more than one-third of the live branches that make up the leaf-bearing crown of the Tree within a three-year pruning cycle, or as appropriate for the specific Tree species, in order to maintain the health of the Tree;

**"Regulated Tree"** means:

- a) a Tree of at least 10 cm DBH located on any Private Lot larger than 0.2 hectares (0.5 acres); and
- b) a Tree of at least 30 cm DBH located on any Private Lot;

**"Replacement Tree"** means one or more Trees of a specified species and size that is planted as a condition of a Tree Permit issued under this By-law and may include other types of vegetation such as shrubs in accordance with the Tree Technical Manual;

**"Replacement Tree Fee"** means the fee charged by the City, calculated in accordance with the Tree Technical Manual, for payment as cash-in-lieu of planting a Replacement Tree(s) under this By-law, as may be prescribed from time to time in the City's User Fees By-law, which fee shall be deposited by the Administrator into the Replacement Tree Planting Fund;

**"Replacement Tree Security"** means the fee charged by the City to the Applicant, to be held as a security deposit, pending compliance with Tree Replacement required under this By-law, as may be prescribed from time to time in the City's User Fees By-law;

**"Replacement Tree Planting Fund"** means the fund established by the City for the purpose of planting and maintaining Trees by City staff, or their designates, in locations within the City other than the Lot where a Regulated Tree has been Injured or Destroyed;

**"Tree"** means a woody, perennial plant, whether alive or Dead, healthy or

unhealthy, including saplings or seedlings and including the root system, which has reached, could reach or could have reached a height of at least 4.5 metres from the ground at physiological maturity;

**“Tree Permit”** means a permit to Injure or Destroy a Tree, issued pursuant to this By-law;

**“Tree Inventory and Preservation Plan (TIPP)”** means a report written and signed by an Arborist or Forester that is accompanied by a plan that may be completed by a Landscape Architect but must be overseen by an Arborist or Forester. The TIPP must follow the guidance in the Tree Technical Manual;

**“Tree Management Plan”** means a written plan that sets out the scope, rationale and management objectives for one or more Regulated Trees for a period of one or more years, and must be prepared by an Arborist or Forester, sometimes with the support of an interdisciplinary team;

**“Tree Protection Zone”** means the setback from a Tree (including above and below ground level) required to protect the biological health and maintain the structural integrity of a Tree with specific setback distances as prescribed by the City’s Tree Technical Manual;

**“Tree Technical Manual”** means the most current version of the City’s Council-approved Tree Technical Manual, as amended or replaced from time to time;

**“Trunk”** means the part of a Tree from its point of growth away from its roots up to where it branches out to limbs and foliage;

**“Vegetation Compensation Plan”** means a plan completed by an Arborist, Forester, Ecologist, Landscape Architect or another person with comparable qualifications and in most cases will be overseen by an Arborist. This plan must clearly identify how the calculation for the appropriate Replacement Trees and/or Replacement Tree Fee, as applicable, have been calculated in accordance with the Tree Technical Manual;

**“Woodland”** as defined by the City’s Official Plan, as amended from time to time;

**“User Fees By-law”** means City’s User Fees By-law (2025)-21052, as amended or replaced from time to time.

2.2 In this By-law, words importing the singular number include the plural and vice versa, unless the context requires otherwise.

### **Part 3 – Scope of the By-law**

3.1 This By-law applies to all activities in the City that could result in the Injury or Destruction of one or more Regulated Trees.

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, license, 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, including but not limited to matters regulated by the Forestry Act (Ontario). Where there is a conflict in this respect between

federal or provincial legislation and this By-law, the federal or provincial legislation prevails.

- 3.4 Except as provided in this By-law, no person shall, without obtaining a Tree Permit under this By-law, Injure or Destroy, or cause or permit the Injuring or Destruction of any Regulated Tree.
- 3.5 If there is doubt as to whether a specific Tree is a Regulated Tree, the Owner of the Tree may request a determination from an Inspector. The Inspector may provide a written determination as to whether, on the date of the determination, the Tree is a Regulated Tree or not.
- 3.6 In a case where a Regulated Tree has been Injured or Destroyed and part, or all, of the remaining stump is too short for the DBH to be measured, the diameter shall be measured at the height of the remaining Trunk.

#### **Part 4 – Authority and Administration**

- 4.1 Council delegates to the:
  - a) Administrator and their delegates the authority to carry out their activities as set out in this By-law; and
  - b) Committee the authority to carry out its activities as set out in this By-law.
- 4.2 The Administrator shall have authority over the administration and enforcement of this By-law and shall delegate day-to-day administration and enforcement of this By-law to Inspectors.
- 4.3 The Administrator is authorized to:
  - a) confirm 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;
  - b) impose, amend or revise the City standards and specifications relating to this By-law; and
  - c) conduct reviews under Part 6 of this By-law and, when conducting a review under Part 6, provide relief from Tree Permit application requirements under Parts 7 and 9 of this By-law where the Applicant has demonstrated substantial compliance and the intent of this By-law has been met.
- 4.4 Inspectors and Officers are authorized, under this By-law, to:
  - a) issue a Tree Permit or refuse to issue a Tree Permit;
  - b) cancel, revoke or suspend a Tree Permit;
  - c) impose terms and conditions on a Tree Permit, including special conditions;
  - d) extend, transfer or assign Tree Permits;
  - e) carry out inspections;
  - f) issue notices and orders;
  - g) impose other requirements as authorized; and
  - h) give immediate effect to any orders or other requirements.

## **Part 5 – Exemptions**

### **Statutory Exemptions**

- 5.1 In accordance with the exemptions prescribed in subsection 135(12) of the Municipal Act, this By-law does not purport to regulate;
- a) activities or matters undertaken by a municipality or a local board of a municipality;
  - b) activities or matters undertaken under a license issued under the Crown Forest Sustainability Act, 1994;
  - c) the Injuring or Destruction of Trees by a person licensed under the Surveyors Act to engage in the practice of cadastral surveying or his or her agent, while making a survey;
  - d) the Injuring or Destruction of Trees imposed after December 31, 2002, as a condition to:
    - (i) the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the Planning Act or as a requirement of a site plan agreement or subdivision agreement entered into under those sections; or
    - (ii) a development permit authorized by regulation made under section 70.2 of the Planning Act or as a requirement of an agreement entered into under the regulation;
  - e) 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;
  - f) the Injuring or Destruction of Trees undertaken on land:
    - (i) described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act; or
    - (ii) to lawfully establish and operate or enlarge any pit or quarry on land that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act.

### **Tree Permit Exemptions**

- 5.2 Under this By-law, the Injury or Destruction of a Regulated Tree is exempt from the requirement for a Tree Permit if the Regulated Tree is:
- a) Dead;
  - b) High Risk, as certified by an Arborist or a Forester;
  - c) Injured or Destroyed at the direction of Emergency Services or as part of Emergency Work;
  - d) under order of removal by the City's Property Standards or Zoning By-law;
  - e) a Tree located on a rooftop or elevated podium, or in a solarium;

- f) a specimen of *Rhamnus cathartica* (Common buckthorn), *Rhamnus frangula* (European or Glossy buckthorn), *Alnus glutinosa* (Black alder), *Elaeagnus umbellata* (Autumn olive) or *Morus alba* (White mulberry);
- g) a Regulated Tree on lands owned and managed by the Arboretum at the University of Guelph, provided that the Injuring or Destruction is for scientific purposes, and in accordance with an approved Master Plan or Tree Management Plan;
- h) a Tree on lands operated for a railway; or
- i) a Tree on Lots owned by, or under the care or control of, the Grand River Conservation Authority, except for trees proposed for removal under a Planning Act application.

## **Part 6 – Requirements for Notification and Tree Permit Application**

### **Tree Permit Application Requirements**

- 6.1 An Owner seeking to Injure or Destroy a Regulated Tree, or undertake an activity which might Injure or Destroy a Regulated Tree, where the exemptions set out in Part 5 of this By-law are not applicable, shall submit the following:
  - a) a completed Application form; and
  - b) a non-refundable Tree Permit Application Fee.
- 6.2 The City may also require one or more of the following to support an Application:
  - a) a drawing or sketch showing the location of the Regulated Tree to be Injured, Destroyed and/or retained on the Owner's Lot, including the species, DBH, and Dripline;
  - b) information on a Regulated Tree with a Dripline within six (6) metres of the Owner's Lot, including the approximate DBH if known;
  - c) photos of the Regulated Tree to be Injured, Destroyed, and/or retained on the Owner's Lot;
  - d) the reason for the proposed Tree Injury or Destruction;
  - e) method of Tree Injury or Destruction;
  - f) alternatives, or why there are no alternatives, to the proposed Tree Injury and/or Destruction;
  - g) an Arborist Report, TIPP, Vegetation Compensation Plan and/or Tree Management Plan; and
  - h) any other information deemed necessary by the Inspector.
- 6.3 In the event that the Inspector requests additional information in support of the Application, the Applicant must provide the information within ninety (90) days of the request. Failing to do so shall result in the Application becoming void.
- 6.4 It is an offence under this By-law to furnish false or misleading information on or in support of an Application. A Tree Permit obtained through false or misleading information is void *ab initio*.



- 6.5 Submission of an Application shall constitute the granting of permission for the City to enter the Applicant's Lot for the purposes of this By-law.

## **Part 7 – Issuance of Tree Permits**

### **Tree Permit Issuance Considerations**

- 7.1 In deciding whether to issue a Tree Permit, an Inspector shall consider the following:
- a) the species, condition and location of the Regulated Tree;
  - b) the reason(s) for the proposed Injury or Destruction of the Regulated Tree;
  - c) alternatives to the Injury or Destruction of the Regulated Tree;
  - d) the protection and preservation of ecological systems and their functions, including the protection and preservation of native flora and fauna;
  - e) the proposed Tree protection measures, including Pruning, Hoarding and/or Tree Protection Zones;
  - f) the proposed Replacement Tree(s) and/or Replacement Tree Fee;
  - g) erosion, flood control and sedimentation of watercourses;
  - h) the submission of additional information as the Inspector may consider necessary for the proper review of the Application; and
  - i) any other legislation, City by-laws or City policies that may apply or approvals that may be required.

### **Form of Tree Permit**

- 7.2 Each Tree Permit issued under this By-law shall be in the form and manner as provided by the Administrator and shall include the following information:
- a) the Tree Permit number;
  - b) the name of the Tree Permit holder;
  - c) the date the Tree Permit was issued and the date it expires;
  - d) the address of the Lot on which the Regulated Tree to be Injured or Destroyed is located;
  - e) the number of Regulated Trees that are permitted to be Injured or Destroyed;
  - f) the required Replacement Trees and/or Replacement Tree Fee; and
  - g) the reason for the approved Tree Injury or Destruction.

### **Tree Permit Conditions**

- 7.3 The Inspector may impose conditions as a requirement for obtaining a Tree Permit, including but not limited to one or more of the following:
- a) the Tree Injury or Destruction is carried out in accordance with Good Forestry Practices or Good Arboricultural Practices, by or under the supervision of an Arborist and/or Forester;
  - b) the Tree Injury or Destruction occurs within a specified timing window;

- c) documentation from a qualified professional to support the reason for Tree Injury or Destruction;
- d) that Replacement Trees and/or a Replacement Tree Fee provided in accordance with the Tree Technical Manual, or in accordance with alternative terms approved by the Administrator or their delegate;
- e) that the Replacement Tree Fee is based on the per tree fee established in the City's User Fees By-law;
- f) that a Replacement Tree Security be provided;
- g) that Pruning, Hoarding and/or Tree Protection Zones be implemented for retained any Trees to be retained be protected in accordance with the Tree Technical Manual or approved plans; and
- h) that specified measures be implemented to mitigate the direct and indirect effects of the Injury or Destruction on other nearby Trees, land, water bodies and/or natural areas.

### **Refusal of Tree Permits**

- 7.4 The Inspector, at their discretion, may refuse to issue, may revoke, suspend, or impose a term or condition on a Tree Permit on any one or more of the following grounds but not limited to:
- a) the proposed Tree Injury or Destruction may contravene other applicable legislation, City policy, by-laws or approvals that may be required;
  - b) the Applicant or Tree Permit Holder has not met one or more of the requirements of this By-law or a requirement for a Tree Permit;
  - c) the Owner is undertaking activities that are in contravention of this By-law;
  - d) there are reasonable grounds to believe that an Application or other information provided by or on behalf of the Owner is false or misleading;
  - e) there is an unresolved legal proceeding related to a Regulated Tree on the Lot subject to an Application; or
  - f) the Applicant has failed to comply with or facilitate requests for further information or access to their Lot by the Inspector following the submission of the Application within the established time period (see Section 6.3).

## **Part 8 – Written Notice of Decision**

- 8.1 The City shall give written notice of the decision regarding the Tree Permit to the Applicant or Tree Permit Holder by electronic mail or regular mail to the last known address of that person and shall be deemed to have been given on the third (3rd) day after it is mailed; written notice to a corporation may be given by registered mail to the address of the corporation's registered head office, or by electronic mail if requested by the corporation.

- 8.2 The written notice shall include the grounds for the decision, reasonable particulars of the grounds, and be signed by the Administrator or their delegate.
- 8.3 Where an application for a Tree Permit is voluntarily surrendered by the Applicant or a Tree Permit is voluntarily surrendered by the Tree Permit Holder, no notice shall be given of the resulting revocation.

## **Part 9 – Tree Permit Terms and Requirements**

- 9.1 Following issuance of a Tree Permit, the Applicant shall immediately post a copy of it:
- a) in a conspicuous place on the Lot where the Regulated Tree is located so that it is visible and legible to passers-by;
  - b) at least five (5) days prior to the Tree Injuring or Destruction; and
  - c) until the Tree Injuring, Destruction, or other related activities are complete.
- 9.2 A Tree Permit is and remains the property of the City and may not be transferred except with the approval of an Inspector.
- 9.3 An Inspector shall revoke a Tree Permit if it was issued based on false or misleading information or if the Applicant fails to comply with any condition attached to the Tree Permit or any provision of this By-law.
- 9.4 A Tree Permit shall expire ninety (90) days after its issuance unless otherwise specified.
- 9.5 A one-time Tree Permit extension may be granted for up to an additional ninety (90) days, unless otherwise specified, if the Applicant applies at least thirty (30) days before the expiry date and the Inspector deems the request to be appropriate and reasonable.
- 9.6 A Tree Permit holder cannot apply for more than one Tree Permit extension and shall make a new Application for any continuation or resumption of activities under an expired Tree Permit.

## **Part 10 – Right of Appeal**

- 10.1 If an Inspector refuses to issue a Tree Permit, or if an Applicant objects to a condition attached to a Tree Permit, the Applicant may appeal to the Committee.
- 10.2 Such appeal shall be made by written notice received by the City within seven (7) days after the date of the refusal or the issuance of the conditional Tree Permit, as the case may be.
- 10.3 Upon considering the appeal, the Committee may recommend that the Administrator or their delegate refuse the Tree Permit, issue the Tree Permit or issue the Tree Permit upon such conditions as the Committee considers appropriate.
- 10.4 Council shall consider the Committee's recommendation and make the final decision on the appeal.

## **Part 11 – Entry and Inspection**

- 11.1 The Entry By-law shall apply to activities under this By-law and for purposes of the Entry By-law, each Inspector shall be considered an "Officer" and a Tree Permit shall be interpreted as a "license".
- 11.2 The City may enter upon a Private Lot at any reasonable time in the discharge of its powers and duties under this By-law.

## **Part 12 – Orders and Remedial Actions**

- 12.1 If an Inspector confirms, after making an inspection, that there has been a contravention of this By-law (including, but not limited to, the breach of an order or a condition of a Tree Permit made pursuant to this By-law) then he or she may make an order requiring the person who contravened it (including the Owner, an Applicant or, if applicable, a contractor of the Owner or Applicant) to discontinue the activity and/or to do work to correct the contravention at the Owner's expense.
- 12.2 If a person is required, under an order pursuant to this By-law, to do a matter or thing, and has failed to discharge those obligations, the matter or thing may be done by the City, under the direction of an Inspector or an Officer at the responsible person's expense.
- 12.3 The City may recover the costs of doing a matter or thing under section 12.2 from the person required to do it by adding the costs to the tax roll for the subject Lot and collecting them in the same manner as property taxes.
- 12.4 The expenses incurred by the City in connection with section 12.3, together with interest if applicable, shall constitute a lien on the subject Lot and may be registered against the Lot in the applicable land registry office.
- 12.5 The lien mentioned in section 12.4 shall be in respect of all costs that are payable at the time the notice is registered plus interest, which shall be calculated in accordance with City practice at 1.5 per cent per month (18 per cent per annum) and will be added to the outstanding amount on the first day of each month, accrued to the date payment is made.
- 12.6 An order under this By-law may be served:
  - a) personally, in which case it shall be deemed to have been served on the date of that personal service;
  - b) by email, in which case it shall be deemed to have been served on the date of that email; or
  - c) by prepaid ordinary mail to the last known address of the person being served, in which case it shall be deemed to have been served on the fifth day after the date it was mailed.
- 12.7 An order shall be served upon the Owner and upon, if known, any other person or persons responsible for the Injury or Destruction of Regulated Trees.

## **Part 13 – Enforcement**

- 13.1 The following rules applies to the identification of guilty parties:

- a) any person who directly or indirectly contravenes or who causes or permits a contravention of any provision of this By-law, an order issued under this By-law or a condition of a Tree Permit, is guilty of an offence;
- b) any director or officer of a corporation who concurs in the contravention of this By-law by the corporation is guilty of an offence; and
- c) if a contravention of any provision of this By-law, an order issued under this By-law or a condition of a Tree Permit occurs, the contravention may be presumed to have been committed by the Owner of the Lot on which the contravention occurred.

13.2 Without limiting Section 13.3(d) or 13.3 (e), the following applies to multiple offenses:

- a) All contraventions of any provision of this By-law, any order issued under this By-law or any condition of a Tree Permit are designated as multiple offences and continuing offences, pursuant to subsection 429(2) and (5) of the Municipal Act;
- b) A multiple offence is an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law and, for greater certainty, when multiple Regulated Trees are Injured or Destroyed, the Injury or Destruction of each Tree is a separate offence; and
- c) If an order or Tree Permit issued under this By-law has not been complied with, the contravention of the order or Tree Permit shall be deemed to be a continuing offence for each day, or part of a day, that the order or Tree Permit is not complied with.

13.3 The following rules apply to the system of fines:

- a) A person convicted of an offence under this By-law is liable to a fine of not less than \$500.
- b) A person convicted of an offence under this By-law is liable:
  - (i) on a first conviction, to a fine of not more than \$10,000 or \$1,000 per tree to a maximum of \$100,000, whichever is greater; and
  - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree to a maximum of \$100,000, whichever is greater.
- c) Where the person convicted of an offence under this By-law is a corporation:
  - (i) the maximum fine in clause 13.3(b)(i) is \$50,000 or \$5,000 per tree to a maximum of \$100,000, whichever is greater; and
  - (ii) the maximum fine in clause 13.3(b)(ii) is \$100,000 or \$10,000 per tree to a maximum of \$100,000, whichever is greater.
- d) In the case of a continuing offence for each day, or part of a day, that the offence continues, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all daily fines for the offence is not limited to \$100,000.

- e) In the case of a multiple offence, for each offence included in the multiple offences, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000.
  - f) On conviction of an offence under this By-law, a person is liable to a special fine in accordance with paragraph 429(2)(d) of the Municipal Act. The amount of the special fine shall be the minimum fine as provided for in subsection 13.3(a), to which may be added the amount of economic advantage or gain that the person has obtained or can obtain from the contravention of any provision of this By-law, any order issued under this By-law or any condition of a Tree Permit. Pursuant to paragraph 429(3)1 of the Municipal Act a special fine may exceed \$100,000.
- 13.4 Upon conviction for an offence under this By-law, in addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:
- a) prohibiting the continuation or repetition of the offence by the person convicted; and
  - b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate, which correction may include:
    - (i) the planting or replanting and maintenance of any Regulated Tree Injured or Destroyed;
    - (ii) the planting of any Replacement Tree(s) in a specified location and within a specified period of time;
    - (iii) the application of any specified measures to remediate the direct and indirect effects of the unauthorized Injury or Destruction including Replacement Tree(s); and/or
    - (iv) in lieu of, or if appropriate, in addition to planting or replanting, payment to the City in accordance with this By-law.

## **Part 14 – General**

- 14.1 In the event of conflict between the provisions of this By-law and any other City by-law, the provisions which are more protective of Trees shall apply.
- 14.2 If a court of competent jurisdiction declares any provision(s) or part(s) of any provision or provisions of this By-law to be invalid, illegal, unenforceable or of no force and effect, it is the intention of Council in enacting this By-law that the remainder of the By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.
- 14.3 The short title of this By-law is the "Private Tree Protection By-law".
- 14.4 By-law Number (2010)-19058 is hereby repealed.
- 14.5 This By-law shall come into force and take effect on the date this By-law is passed.

**Passed this twenty-third day of April, 2025.**

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**Cam Guthrie, Mayor**

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**Dylan McMahon, Acting City Clerk**