

**Property Maintenance
Chapter 763 Trees - Protection
Privately-Owned Lands**

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WHEREAS section 135 of the *Municipal Act, 2001*, c. 25 authorizes a municipality to prohibit or regulate the destruction or injuring of trees;

AND WHEREAS the Council of The Corporation of the City of Woodstock are desirous of passing a by-law for purposes including, but not limited to:

- Protecting certain trees from injury or destruction on privately-owned lands within the municipality; and
- Conserving, protecting and enhancing woodlands and tree cover within the municipality.

Article 1 - Short Title

763.1.1 Citation

This Chapter may be cited and known as the "Private Tree By-law."

Article 2 – Interpretation

763.2.1 Applicant - defined

'applicant' means an Owner of a tree or an Owner's authorized representative who, pursuant to this by-law, applies for permission to remove a tree or trees.

763.2.2 Arborist - defined

'arborist' means a person who is a specialist or expert in the area of care and maintenance of trees and includes an arborist qualified by the Ontario Training and Adjustment Board Apprenticeship, a certified Arborist qualified by the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists, or a Registered Professional Forester, or a person with other similar qualifications as approved by the Supervisor.

763.2.3 City - defined

'City' means the Corporation of the City of Woodstock.

763.2.4 Critical Root Zone – defined

'Critical Root Zone' is considered to be the dripline of the tree + 1m.

763.2.5 Council - defined

'Council' means the council of the City.

763.2.6 DBH - defined

'DBH' means 'diameter at breast height', and is a measurement of the diameter of the stem of a tree measured at a point 1.37 metres above where the stem meets the grade.

763.2.7 Destroy - defined

'Destroy' means to cut down, remove, uproot, unearth, topple, burn, bury, shatter, poison, or in any way cause a Tree to die or be killed, or where the extent of Injury caused to a live Tree or disturbance of any part of its Critical Root Zone is such that it is likely to die or be killed, excepting where a Tree and/or its roots are killed by natural causes. The terms "Destroyed" and "Destruction" shall have a corresponding meaning.

763.2.8 Director - defined

'Director' means the Director of Parks and Recreation, or a duly appointed designate.

763.2.9 Good forestry practices - defined

'good forestry practices' means the proper implementation of maintenance, renewal and removal activities known to be appropriate for individual and groups of trees in and around urban areas to minimize detrimental impacts

on urban forest values.

763.2.10 Harvest - defined

'harvest' means the injury or destruction of trees through cutting or mechanized means which results in the death or injury of the tree, and includes work and efforts to move and gather such trees.

763.2.11 Hazard - defined

'hazard' means a tree which is destabilized or structurally compromised to an extent that an imminent danger of death, injury or structural damage exists.

763.2.12 Injure/Injury - defined

'Injure/injury' means to harm, damage or impair the natural function or form of a Tree, including its roots, by any means excepting injury by natural causes, and includes but is not limited to carving, drilling, injection, exploding, shattering, improper Pruning that fails to meet Good Arboricultural Practices, removal of bark, deliberate introduction of decay fungi, inserting or driving foreign objects into or through the Tree or its roots, soil compaction, root excavation, suffocation, drowning, burying or poisoning. The terms: 'Injury', "Injuring" and "Injured" shall have a corresponding meaning.

763.2.13 Owner - defined

'owner' means the person having any right, title, interest of equity in the land where a tree is located; a boundary tree may have multiple Owners.

763.2.14 Person - defined

'person' means an individual, a corporation, a partnership or association.

763.2.15 Protected Tree - defined

'protected tree' means any tree indicated in this by-law as requiring an approval, or a tree permit for its removal, injury, or destruction, and includes a retained tree.

763.2.16 Public property - defined

'public property' means land under the control or ownership of the City or County of Oxford, and may include but not be limited to parks, open and public rights of way.

763.2.17 Public tree - defined

'public tree' means any tree, whose trunk is fully or partially located on Public Property.

763.2.18 Supervisor - defined

'Supervisor' means the Supervisor of Parks and Forestry or a duly appointed delegate.

763.2.19 Tree - defined

'tree' means a woody perennial plant, whether alive or dead, healthy or unhealthy, including saplings or seedlings and including the root system, where the plant has reached, could reach, or could have reached a height of at least 4.5 metres.

763.2.20 Tree Protection Zone - defined

'tree protection zone' (TPZ) is a calculated distance from the stem of the tree set aside for the protection of a tree's crown and roots to provide for the viability and stability of the tree. Tree protection zone is calculated as outlined in the City of Woodstock Landscape Design & Management Guidelines.

763.2.21 Woodland - defined

'woodland' means land, at least one hectare (2.47 acres) in area, with at least:

- i. 1000 trees of any size per hectare; or
- ii. 750 trees measuring over 5cm DBH per hectare; or
- iii. 500 trees measuring over 12cm DBH per hectare; or
- iv. 250 trees measuring over 20cm DBH per hectare.

The boundaries of woodlands shall be defined by the ecological limit of such features and not by property boundaries.

Article 3 - Prohibitions

763.3.1 Injury - destruction

No person shall remove, injure or destroy or permit the removal, injury or destruction of any living tree within or upon any of the following lands in the City of Woodstock without prior written approval of the Supervisor (permit) and every person shall comply with all the conditions of the permit. (See Set Fine)

- a) any Woodland;
- b) lands upon which there is pending an application for any of the following development approvals;
 - i. a plan of Subdivision;
 - ii. a plan of Condominium;
 - iii. a severance or consent;
 - iv. an Official Plan amendment;

- v. a zoning bylaw amendment;
 - vi. a minor variance;
 - vii. Site Plan Approval.
- c) lands depicted on Schedule W-1 of the County of Oxford Official Plan as within an Environmental Protection Policy Area or within an Open Space Policy Area;
- d) lands depicted in the City of Woodstock Zoning by-law as within any of the following zoning categories:
- i. Environmental Protection 1 (EP-1);
 - ii. Environmental Protection 2 (EP-2);
 - iii. Passive Open Spaces 1 (OS-1);
 - iv. Active Open Space 2 (OS-2);
 - v. Any commercially zoned land (C1 through C6);
 - vi. Industrial zoned land (M1 though M4);
 - vii. Neighborhood Industrial (NI);
 - viii. Community Facility (CF);
 - ix. Future Development (FD);
- e) lands described on Schedule 'A' attached.

Article 4 – Exemptions

763.4.1 Exemptions

The prohibitions in this by-law do not apply to:

- a) A Tree on Public Property;
- b) Trees of any size that are the following species:
 - i. *Acer negundo* (Manitoba Maple)
 - ii. *Morus alba* (White Mulberry)
 - iii. *Rhamnus cathartica* (Common Buckthorn)
 - iv. *Rhamnus frangula* (Glossy Buckthorn)
 - v. Any *Fraxinus* species (Ash) infected with the Emerald Ash Borer
- c) Activities or matters undertaken by the City, County of Oxford, Conservation Authority, Public Utility or a local board thereof.
- d) Activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act*.
- e) Injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or agent while making a survey.

- f) Injuring or destruction of trees imposed as a condition to the approval of a site plan, a plan of subdivision, a minor variance or a consent under the Planning Act, or as a requirement of a site plan agreement or subdivision agreement entered into pursuant to the Planning Act, provided such injury or removal has received prior approval from the Supervisor and is consistent with the City's guidelines for tree management.
- g) Injuring or destruction of trees imposed as a condition to a development permit authorized by regulation made under the *Planning Act* or as a requirement of an agreement entered into under a Regulation.
- h) Injuring or destruction of trees by a transmitter or distributor, as those terms are defined in 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 Act.
- i) Injuring or destruction of trees undertaken on land 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*.
- j) 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* 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 the *Planning Act*. By-law 7979-04, March 18, 2004.
- k) The harvest, injury or destruction of trees by the Owner of a Woodland (or part thereof) where the Owner has been the registered Owner of the property on which the Woodland is located for a minimum of 2 years prior to the date of harvest, injury or destruction, and provided that:
 - i. such activity is conducted consistent with good forestry practices;
 - ii. no more than 20 trees per hectare are harvested, injured or destroyed in a calendar year; and
 - iii. such activity does not reduce the density of the woodland below the minimum trees per hectare required to be considered a woodland.
- l) Cultivated fruit or nut orchards, a registered tree nursery, or a tree plantation planted and maintained for the purpose of producing Christmas trees.

- m) The injury or destruction of trees which is a hazard to any person, building or structure, utility service or vehicle where an assessment including species, condition and size (DBH) has been made by an arborist, proof of which must be submitted to the Supervisor before removal of the tree or within 48 hours of removal in emergency situations.
- n) The injury or destruction of trees where prior written approval has been provided by the Supervisor.

Article 5 – Supervisor’s Written Approval

763.5.1 Written approval - supervisor

Requests for permission to remove trees that would otherwise be prohibited for removal by this By-law shall be submitted in writing to the Parks Clerk in a format which may, from time to time, be prescribed by the Supervisor. No person shall knowingly furnish false or incorrect information to obtain a permit (See Set Fine). Requests shall include the following information, to the satisfaction of the Supervisor:

- a) The name of the Permit Holder;
- b) The date the Permit was issued and the date it expires;
- c) The municipal address of the premises on which the Tree or Trees to be injured or Destroyed is located;
- d) a description of the tree or trees which is or are proposed to be injured or destroyed, including a plan or diagram showing the location of the tree or trees, all of which shall be prepared by a Registered Professional Forester or Certified Arborist;
- e) the reasons for which approval is sought including a written supporting opinion from a Registered Professional Forester or Certified Arborist;
- f) management and protection measures to protect any potentially impacted trees or environmental features to be preserved; and
- g) an application fee as prescribed in the City of Woodstock fees and charges By-law.

If approved, the Supervisor shall issue a permit (the “Permit”) to the Applicant (the “Permit Holder”).

763.5.2 Approval - conditions

As part of the granting of a Permit to remove trees otherwise prohibited for removal, the Supervisor at their sole discretion may impose conditions to be satisfied with respect to the Permit, including but not limited to:

- a) No person shall remove, injure or destroy or cause or permit the

- removal, injury or destruction of any tree except for in accordance with the conditions of an approved permit (See Set Fine)
- b) Permit Holder shall ensure that the Injury or Destruction of the Tree is carried out in accordance with Good Arboricultural Practices or Good Forestry Practices under the supervision of a qualified person;
 - c) Permit Holder shall ensure that the Permit is posted in a public location for a time period before, during and after the Injury or Destruction of the Tree or Trees;
 - d) the Permit Holder shall ensure posting of Security (when required) that the City may draw upon in full if the By-law is contravened or if there is a failure in the proper and complete execution of a Permit and its conditions, such that restoration of all or part of the Site has to be done by the City;
 - e) Permit holder shall ensure the appropriate protection, management or mitigation measures are taken to protect the trees within the tree protection zone (TPZ) to ensure the health of trees and environmental features to remain;
 - f) Permit Holder shall ensure it implements the Silvicultural Plan or Tree Management Plan submitted with the application to the satisfaction of the Supervisor within a period of time specified by the Supervisor;
 - g) compensation planting; Permit Holder shall ensure that the number, species, size and location of living Replacement Trees as determined by Supervisor, are planted on the same site by the date specified on the Permit;
 - h) Where there is insufficient space on the same site to plant all the replacement trees, the Permit Holder shall plant as many Replacement Trees as the Supervisor determines the Site will allow and the Permit Holder shall forthwith pay the fee as determined by the Supervisor and Municipal Code Chapter 330 - Fees – Charges, with respect to the number of Replacement Trees that could not be planted due to insufficient space (Fee for Tree Compensation);
 - i) Permit Holder or Landowner shall pay all fees related to this By-law;
 - j) the Permit Holder or Landowner shall pay all other fees and fines owed by the Permit Holder or Landowner to the City;
 - k) monitoring or certification of protection and management measures;
 - l) Permit Holder or Landowner shall meet all of the requirements of this By-law; or the issued permit;

- m) A condition recommended by a Qualified Person that the Supervisor determines is appropriate.

763.5.3 Right of appeal

If the Supervisor of Parks and Forestry refuses to grant approval to remove a tree or trees, or if an Applicant objects to a condition imposed by the Supervisor, the Applicant may appeal to the Director. Such appeal shall be made by written notice received by the Director within seven (7) days after the date of refusal or the issuance of the conditional approval, as the case may be.

763.5.4 Consideration - Director

On consideration of the appeal, the Director may refuse the approval, issue the approval, or issue the approval upon such conditions as the Director deems appropriate.

Article 6 – Enforcement

763.6.1 Fine – For contravention

Every person who contravenes any of the provisions of this Chapter, or an order to discontinue activity, or a work order, or the terms and conditions of a Permit is guilty of an offence and, upon conviction, is liable to a fine or penalty as provided in the *Provincial Offences Act*.

763.6.2 Prohibition - Hinder or Obstruct By-law Enforcement Officer

No person shall hinder or obstruct or attempt to hinder or obstruct the By-law Enforcement Officer in the discharge of duties under this By-law. (See Set Fine)

Article 7 - Power to make Orders – Remedial Action

763.7.1 Order to Discontinue Activity

No person who has been issued an Order to Discontinue Activity or a Work Order shall fail to comply with the Order. (See Set Fine)

763.7.2 Work Order

- a) Where a By-law Enforcement Officer is satisfied that a contravention of this By-law has occurred, the By-law Enforcement Officer may make a Work Order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.
- b) A Work Order shall set out reasonable particulars of the contravention adequate to identify the contravention and the location of the land on

which the contravention occurred, and the work to be done and the date by which the work must be done.

763.7.3 Service of Order to Discontinue Activity or Work Order

- a) An Order to Discontinue Activity or Work Order may be served personally by the By-law Enforcement Officer, may be sent by registered mail to the person contravening the By-law, or may be posted in a conspicuous place on the property where the contravention occurred.
- b) Where an Order to Discontinue Activity or Work Order under this By-law is served personally by the By-law Enforcement Officer, it shall be deemed to have been served on the date of delivery to the person or persons named.
- c) The posting of the Order to Discontinue Activity or Work Order at the Site shall be deemed to be sufficient service of the Order to Discontinue Activity on the person or corporation to whom the Order to Discontinue Activity is directed on the date it is posted.
- d) Where an Order to Discontinue Activity or Work Order issued under the By-law is sent by registered mail, it shall be sent to the last known address of one or more of the following, as applicable:
 - i. the Applicant;
 - ii. the Permit Holder;
 - iii. the Landowner;
 - iv. the person contravening the By-law;
 - v. the person or company undertaking the Injury or Destruction;

and shall be deemed to have been served on the fifth day after the Order to Discontinue Activity or Order is mailed.

763.7.4 Remedial Action

- a) If a person is required, under a Work Order under this By-law, to do a matter or thing, then in default of it being done by the person so required to do it, the matter or thing may be done at the person's expense under the direction of a Bylaw Enforcement Officer.
- b) The City may recover the costs of doing a matter or thing under section 763.7.4 (a) from the person required to do it, by adding the costs to the tax roll for the subject land and collecting them in the same manner as property taxes.
- c) The amount of the costs under section 763.7.4 (a), including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien.

Article 8 – Repeal - Enactment

763.8.1 By-laws – previous

All previous by-laws relating to this Chapter shall be repealed on the effective date of this Chapter.

763.8.2 Effective date

This Chapter shall come into force and effect upon third and final reading of the enabling by-law. By-law 9530-22, May 5, 2022.

Schedule 'A' - Lots

Lot 51-83 Draft Plan Subdivision #32T-02001 (Revised)

(Municipal house addresses: 660, 656, 652, 648, 644, 640, 636, 632, 628, 624, 612, 608, 604, 600, 596, 592, 588, 586, Lakeview Drive) (162, 158, 154, 150, 146, 142, 138, 134, 130, 126, 122, 118, 114, 110, 106, Eastview Ave)

Lots 6 through 23, inclusive, Plan 41M-164 (for reference, these lots are on the north side of Pember's Pass) (Municipal house addresses: 9, 13, 17, 21, 25, 29, 33, 41, 45, 49, 53, 57, 61, 65, 69, 73, 77, Pember's Pass)

Part of Block 27, Plan 41M-164 and designated as Parts 1 & 2, 41R-M-164 and designated as Parts 1 & 2, 41R-6439 and Parts 1 through 13, inclusive, 41R-6515 (south side of Pember's Pass) (Municipal house addresses: 41, 46, 50, 54, 58, 62, 66, 70, 74, 78, 82, 86, 90, 94, 98, Pember's Pass)

Lots 32 through 44, inclusive, Plan 41M-176 (north side of Potter's Way) (Municipal house addresses: 47, 51, 55, 61, 67, 71, 75, 79, 83, 87, 93, 97, 101, Potter's Way)

Lots 7 through 22, inclusive, Plan 41M-176 (south side of Potter's Way) (Municipal house addresses: 36, 40, 44, 48, 54, 58, 62, 66, 70, 74, 78, 82, 86, 90, 94, 98, Potter's Way)

Lots 4 through 11, inclusive, Plan 41M-189 (north side of Forestway Trail) (Municipal house addresses: 115, 119, 123, 127, 131, 135, 139, 143, Forestway Trail)

An area more or less 9 metres in width, bordering the east side of Mill Street, between N78° 49'E and N77° 39'E, part of blocks 20, 21 and 22, on Parts 1 and 2 of Plan 41R-7749, as highlighted on the attached sketch (B-1). (Municipal house addresses: 606, 612, 616, 620, 624, 628, 632, 636, 640, 644, 648, 652, 656, 660, 664, 668, 672, 676, Crawford Cres.)

An area more or less 7.5 metres in width, bordering the north side of Pember's Pass, starting at N11° 13' 25" W and extending 345.993 metres east, part of blocks 17 and 20 on Parts 1 and 2 of Plan 41R-7749, as highlighted on the attached sketch (B-1). (Municipal house addresses: 680, 684, 688, 692, 696, 700, 704, 708, 712, 716, 720, 724, 728, Crawford Cres.)

Schedule 'A' - Lots

PART LOT 21, CONCESSION 2 (EAST OXFORD)
PARTS 1 AND 2 REFERENCE PLAN 43R-7749
CITY OF WOODSTOCK

