

THE CORPORATION OF THE TOWN OF AJAX

BY-LAW NUMBER 138-2006

WHEREAS the Municipal Act, R.S.O. 2001, S.O. 2001, c.25, as amended, permits the enactment of a By-law by the Council to prohibit or regulate the destruction or injuring of trees;

AND WHEREAS Council may require that a permit be obtained to injure or destroy trees specified in the By-law and impose conditions on a permit, including conditions relating to the manner in which destruction occurs and the qualification of persons authorized to injure or destroy trees;

AND WHEREAS Council has determined that it is desirable to enact such a By-law:

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AJAX HEREBY ENACTS AS FOLLOWS:

1. SHORT TITLE

1.1 This by-law may be cited as the Boulevard Tree Protection By-law.

2. INTERPRETATION

2.1 The necessary grammatical changes required to make the provisions hereof apply to corporations, partnerships, trusts and individuals, male or female, and to include the singular or plural meaning where the context so requires, shall in all cases be assumed as though fully expressed.

2.2 Any reference in this by-law to any statutes, regulations or by-laws shall be deemed to be a reference to such statutes, regulations or by-laws, as amended, restated or replaced from time to time.

2.3 Measurements are stated in the metric system.

3. DEFINITIONS

3.1 In this By-law:

(a) "destroy/destruction" means to remove a tree, cut down a tree or in any other way injure a tree to such an extent that it is deemed necessary to remove or cut down the tree.

(b) "diameter" means the measurement of the diameter of the trunk of a tree from outside of the bark 1.4 m above grade or the ground adjoining its base or where there are multiple stems on a tree, means the total of the diameters of the three largest stems measured 1.4 m above existing grade.

(c) "injure/injury" means any act which will harm a tree's health in any manner.

(d) "Manager" means the Manager of Environmental Services or a duly appointed designate.

(e) "ornamental tree" means plants cultivated for their beauty and intended to be managed on an annual or biannual basis, rather than for their natural use, including but not limited to, foundation shrubbery, clipped hedges and fruit trees that produce fruit for human consumption.

(f) "street" means a common or public highway, road, street, lane or any road allowance or portion thereof under the jurisdiction of the Town.

(g) "Town" means The Corporation of the Town of Ajax.

(h) "tree" means any shade or ornamental tree, all or part of which is located on, above or below a street.

4. PLANTING AND MAINTENANCE OF TREES

- 4.1 No person shall plant a tree on any street without first obtaining the written approval of the Manager, and such planting shall be done under the supervision and control of the Town's representatives.
- 4.2 The Town may supervise the planting of trees upon any street and the pruning of trees planted upon a street or on private property where the branches extend over a street.

5. INJURY TO TREES

- 5.1 No person shall injure, destroy or remove a tree, or cause or permit the injury, destruction or removal of a tree, without the prior written approval of the Manager. Approval may be subject to such conditions as the Manager may impose, including payment of the tree's value, removal and replacement costs, replanting or the posting of a letter of credit in a form satisfactory to the Director of Finance for the Town.
- 5.2 No person shall mark, cut, break, peel, deface any tree or change the soil levels in the vicinity of any tree.
- 5.3 No person shall cause or permit any new construction, or excavation on a street, or on public property or private property within:
- (i) a 2 metre radius of a tree less than 40 cm in diameter, and,
 - (ii) a 3 metre radius of a tree greater than 40 cm in diameter,
- without the prior written approval of the Manager.
- 5.4 No person shall attach, or cause or permit to be attached, any decorative light, decoration, sign, object or thing to any tree or any stake, post or protective device placed around such tree, except with the prior written approval of the Manager.
- 5.5 The provisions of sections 5.1, 5.2, 5.3 and 5.4 shall not limit the rights and obligations of the Town, a public utility or Bell Canada to construct, install, maintain and repair any road, sidewalk, sewer, water main, public utility or telephone installation.
- 5.6 Where any person has injured or destroyed, or caused or permitted the injury or destruction of a tree, such person shall pay to the Town all costs for the repair of the tree, or for the removal and replacement value of the tree that is damaged beyond repair.

6. ADMINISTRATION AND ENFORCEMENT

- 6.1 This by-law shall be administered by the Operations and Environmental Services Department and enforced by a Municipal Law Enforcement Officer appointed by the Town.
- 6.2 If a Court of competent jurisdiction should declare any section or part of a section of this by-law invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

7. OFFENCE

- 7.1 Any person who contravenes a section of the by-law is guilty of an offence and is liable,
- (a) on a first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and
 - (b) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.
- 7.2 Corporations
- Despite Section 7.1, where the person convicted is a corporation,
- (a) the maximum fines in clause 7.1 (a) are \$50,000 or \$5,000 per tree; and

(b) the maximum fines in clause 7.1 (b) are \$100,000 or \$10,000 per tree.

- 7.3 If a person is convicted of an offence under this by-law, in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant trees in such a manner and within such a period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.
- 7.4 Where any person is required under this by-law to pay to the Town costs of repairs or removal and replacement of a tree, the Town may recover the expenses incurred by adding the costs to the tax roll and collecting them in the same manner as taxes.

READ a first and second time this

Tenth day of October,
2006

READ a third time and passed this
Tenth day of October, 2006

Mayor

Clerk