

CITY OF ST. THOMAS

BY-LAW NO. 60 - 2019

A by-law to amend By-Law 130-2017, being a by-law to Prohibit or Regulate the Destruction or Injury of Trees on Municipally Owned Lands and other Trees along Highways within the City of St. Thomas.

THE COUNCIL OF THE CITY OF ST. THOMAS ENACTS AS FOLLOWS:

1. THAT Section 1 be deleted and replaced with the following:

“Applicant” means an applicant who submits an application under this By-law who is the registered owner(s) of the Private Property where the subject Tree(s) is located and also means a contractor, arborist, occupant or other agent authorized to act on behalf of the Owner(s). The City may request written verification of such authorization.

“Application” has the corresponding meaning, as detailed in Section 5 of this By-law.

“Arborist” means a person with a certificate, 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 or a registered consulting arborist with the American Society of Consulting Arborists or with a demonstrated history of tree preservation experience satisfactory to the Director.

“Arborist Report” means a technical report prepared by an arborist which identifies the surveyed location, species, size and the condition of the tree, provides the reasons for any proposed injuring or destruction of the tree, and describes tree protection measures or other mitigating activities to be implemented.

“City” means the Corporation of the City of St. Thomas and **“City Council”** means the elected Council of the City.

“DBH” means the diameter of a Tree at breast height, measured on the Tree stem 1.37 metres (4.5 feet) above the ground.

“Destroy” means to remove, cut down, or Injure a Tree in any way to such an extent that it has become a Hazard or its life processes have been compromised in such a way that it cannot survive, and **“Destruction”** has a corresponding meaning.

“Director” means the Director of Parks and Recreation for the City and any City employee, including a City appointed Arborist, designated by or acting under the direction of the Director.

“Drip Line” means that line which could be drawn running along the ground beneath and perpendicular to the outermost branches of the Tree.

“Emergency Tree Work” means work involving Injury or Destruction of a Tree required to be performed immediately in order to prevent imminent danger including Tree maintenance work necessary due to a Hazard resulting from natural events (e.g. ice storm, high winds, lightning), as well as Tree maintenance work associated with emergency re-constructs or repairs of a drain, waterline, utility or building.

“Hazard” and **“Hazardous”** means a Tree, or part of a Tree that is destabilized, structurally compromised or obstructing views of vehicle operators or pedestrians in such a way that it is deemed, by a City appointed Arborist or the Director, to pose a potential safety concern to property or Persons.

“Highway” means any public highway or any part thereof under the jurisdiction of the City, including the boulevard and all land dedicated or assumed as a road allowance, and includes a street and a bridge forming part of a highway.

“Injury” means any action causing harm, damage, or impairment to a Tree, and includes, but is not limited to, causing stress or injury of Trees by changing grades or compacting or excavating soils within the Drip Line of a Tree, severing roots, the improper application of chemicals excessive or otherwise, excessive or improper pruning, attachments of any items, and the removal or slashing or defacing or girdling or burning of the bark, and **“Injure”**, **“Injured”** and **“Injurious”** shall have the corresponding meaning.

“Municipal Property” means any land owned, held, or used under statutory rights by the City, or by any local board within the meaning of the Act or any other municipal body and includes, but is not limited to, road allowances, boulevards, parks, ravines, natural areas, woodlots, Highways, rights-of-ways and grounds of municipal facilities.

“Municipal Tree” means any Tree, the trunk of which at ground level is located 60% or more on Municipal Property. A Tree is not a Municipal Tree where more than 40% of its base at ground level is located on Private Property.

“Officer” means an enforcement Officer appointed by the Council of the City pursuant to Section 7 (1) of this By-law, which may include the City Arborist if so appointed.

“Person” means an individual acting alone or in partnership or association, and a corporation.

“Private Property” means land not owned by a government of any level or by a governmental body nor otherwise dedicated to a public purpose.

“Private Tree” means any Tree, the trunk of which at ground level is located more than 40% on Private Property. A Tree is not a Private Tree where 60% or more of its base at ground level is located on Municipal Property.

“Prune” means the removal of a branch or branches from a Tree for non-detrimental purposes such as improving the health of a Tree, promoting structural soundness and maintaining the shape of the Tree compatible with its location and wellbeing and in any case shall not exceed removal of not more than one-third of the live branches or limbs of a Tree and shall be performed in a manner that complies with the American National Standards Institute (ANSI) A300 Tree Pruning Standards.

“Tree” means a living tree of any species of perennial woody plant that has reached or can reach a height of 4.5 meters at physiological maturity. Tree includes the root system and all above ground parts of the Tree.

“Tree Preservation Plan” means a report and plan prepared by a qualified biologist or Arborist setting out recommended measures for protection and preservation of a Tree or Trees on a specific property or site.

“Tree Protection Zone” means the minimum required distances as set out in Schedule ‘C’ within which Tree protection restrictions are put in place under this By-law so that no construction activity of any kind will take place inside the Tree Protection Zone.

“Woodlands” means land at least 1 hectare in area with at least:

- (i) 1000 trees, of any size, per hectare;
 - (ii) 750 trees, measuring over five (5) centimetres DBH, per hectare;
 - (iii) 500 trees, measuring over twelve (12) centimetres DBH, per hectare; or
 - (iv) 250 trees, measuring over twenty (20) centimetres DBH, per hectare;
- but does not include a cultivated fruit or nut orchard, or a plantation established and maintained for the purpose of producing Christmas trees or nursery stock; and

“Woodlot” means land at least 0.2 hectare in area and no greater than 1 hectare in area, with at least:

- (i) 200 trees, of any size, per 0.2 hectare;
- (ii) 150 trees, measuring over five (5) centimetres DBH, per 0.2 hectare;

(iii) 100 trees, measuring over twelve (12) centimetres DBH, per 0.2 hectare; or
(iv) 50 trees, measuring over twenty (20) centimetres DBH, per 0.2 hectare;
but does not include a cultivated fruit or nut orchard, or a plantation established and maintained for the purpose of producing Christmas trees or nursery stock.”

2. THAT Section 5. (1) be deleted and replaced with the following:

“5. (1) In regard to a Municipal Tree that is not deemed to constitute a Hazard, a Person may file with the City staff located at 75 Caso Crossing, St. Thomas:

- a) an Application requesting the City to Prune or Destroy the Tree; or
- b) an Application for permission to conduct an activity on Private Property, or to perform any other act proposed by the Person, which activity or act would reasonably be expected to, in any way, cause Injury or Destruction of a Municipal Tree;”

3. THAT Section 6. (2) be deleted and replaced with the following:

“6. (2) Such applications as are approved by the Director will also be subject to the following fees and charges:

- a) an amount equivalent to the cost of performing the Destruction or Injury, determined at the rates charged in the current year by the City’s contractor for tree trimming and removal services;
- b) the appraised value of the living Tree, or a minimum of \$400.00, whichever is greater, where the application is for the Destruction of a Municipal Tree;
- c) the payment(s) referred to in b) above shall be added to the City’s Urban Forest Management fund to enhance and maintain the City’s Urban Forest.”

4. THAT Section 6. (5) be deleted and replaced with the following:

“6. (5) Where any Person has Injured or permitted the Injury of a Municipal Tree which, and as a result, is assessed to be damaged beyond repair as determined by the Director, or where a Person has been responsible for Injuring or Destroying a Municipal Tree, such Person shall pay to the City the cost of removing any remaining portion of the Municipal Tree and shall pay to the City the appraised value of the entire Municipal Tree(s) before the Injury as determined by the Director or a minimum of \$400.00, whichever is greater.”

5. THAT Schedule ‘A’ be deleted and replaced with the following:

“Schedule ‘A’

Prohibited Species

The below is a list of tree species that are prohibited to be planted on the untraveled portion of the Highway, unless otherwise approved by the Director;

<i>Populus</i> Species	Poplars
<i>Salix</i> Species	Willows
<i>Acer negundo</i>	Manitoba Maple
<i>Acer platanoides</i>	Norway Maples including all cultivars of the species
<i>Fraxinus</i> Species	Ash Trees
<i>Rhamnus</i> Species	All Buckthorn species
<i>Ailanthus altissima</i>	Tree of Heaven

<i>Robinia</i> Species	Black Locust and Varieties
<i>Prunus virginiana</i>	Choke Cherry
<i>Juglans nigra</i>	Black Walnut
<i>Gleditsia triacanthos</i>	Native Honey Locust (Thornless varieties approved)
<i>Malus</i> species	Apples (some fruitless and apple scab resistant varieties approved)
All Coniferous species”	

6. THAT Schedule ‘B’ be deleted and replaced with the following:

“Schedule ‘B’

List of Approved Street Trees planted by the Parks and Recreation Department

Trees are one of our most important landscape features. If a tree is not properly matched to the landscape site, the tree can become more of a liability than an asset. Tree planting on the Public right-of-way is a long term initiative and each tree species requires certain site requirements that should be considered during the planning process.

Selection of the right tree species for a particular site is one of the most important decisions to ensure long-term benefits, beauty and satisfaction. The mix of species is essential to reduce the risk of insect epidemics, to guard against the spread and to reduce the risk of extensive tree removals of a single species in the event of a wide spread disease or insect infestation (i.e. Dutch elm disease or the Emerald Ash Borer).

The following considerations should determine the selection of species:

- Designs should reflect random species patterns of plantings of diversified species.
- The size, texture and ornamental value of the selected species should vary with the scale and function of the street.
- Existing conditions including soil type, moisture, available growing space above and below ground.
- Proximity to hydro wires, lighting fixtures, hydrants, vaults, underground utilities, sewers and sidewalks and the available space above and below ground, size of boulevard or front/side yards
- Tree species shall be chosen for their disease and insect resistance, salt and air pollution tolerance and hardiness.

Once the conditions of the site are fully understood, the right tree can be selected. The following is a list of trees recommended in the City of St. Thomas.

Species	Code	Latin Name	Common Name	Comments
Acer	Ac	<i>Acer campestre</i>	Hedge Maple	Small
	Af	<i>Acer x freemanii</i>	Freeman Maple*	Large
	Af	<i>Acer x freemanii</i> 'jeffersred'	Autumn Blaze Maple	Large
	Ag	<i>Acer ginnala</i>	Amur Maple	Small
	As	<i>Acer succharum</i>	Sugar Maple*	Large
	Ap	<i>Acer psuedoplatanus</i>	Sycamore Maple	Medium
	Ay	<i>Acer miyabe</i>	Miyabe Maple	Medium
Aesculus	Ae	<i>Aesculus glabra</i>	Ohio Buckeye*	Small to medium
	Ah	<i>Aesculus hippocastanum</i> 'Baumannii'	Baumannii Horsechestnut	Large
Carpinus	Cc	<i>Carpinus caroliniana</i>	Blue Beech	Small to medium
Crataegus	Cg	<i>Crataegus crus-galli var inermis</i>	Thornless Hawthorn	Small
Celtis	Co	<i>Celtis occidentalis</i>	Hackberry*	Large
Cercidiphyllum	Cj	<i>Cercidiphyllum japonicum</i>	Katsura Tree	Large
Cladastris	Ck	<i>Cladastris kentuckea</i>	Yellowwood	Medium

Corylus	Cy	<i>Corylus colurna</i>	Turkish filbert	Medium to large
Ginkgo	Gb	<i>Ginkgo biloba</i>	Maidenhair Tree	Large - Males only
Gymnocladous	Gd	<i>Gymnocladous dioicus</i>	Kentucky Coffee Tree*	Large
Gleditsia	Gt	<i>Gleditsia triacanthos var inermis 'shademaster'</i>	Shademaster Honey Locust*	Medium
	Gt	<i>Gleditsia triacanthos var inermis 'Suncole'</i>	Sunburst Honey Locust*	Medium
Ostrya	Ov	<i>Ostrya virginiana</i>	Ironwood*	Small to medium
Phellodendron		<i>Phellodendron amurense</i>	Amur Cork Tree	Medium - Males only
Platanus	Px	<i>Platanus x acerfolia</i>	London Plane Tree	Large
Quesrcus	Qm	<i>Quesrcus macrocarpa</i>	Burr Oak*	Large
	Qf	<i>Quercus robur 'fastigiata'</i>	Columnar English Oak	Columnar
	Qr	<i>Quesrcus rubra</i>	Red Oak*	Large
Liquidambar	Ls	<i>Liquidambar styraciflua</i>	Sweetgum	Large
Syringa	Sr	<i>Syringa reticulata 'Ivory Silk'</i>	Ivory Silk lilac	Small
Tilia	Ta	<i>Tilia Americana</i>	Basswood*	Large
	Tc	<i>Tilia cordata</i>	Little Leaf Linden	Medium
	Tc	<i>Tilia cordata 'Greenspire'</i>	Greenspire Linden	Medium
	Tc	<i>Tilia cordata x flavescens 'Glenleven'</i>	Glenleven Linden	Medium
Ulmus	Ua	<i>Ulmus 'Accolade'</i>	Accolade Elm	Large
	Ug	<i>Ulmus glabra x carpinifloia</i>	Pioneer Elm	Large
	Ua	<i>Ulmus Americana 'Princeton'</i>	Princeton Elm	Large
Zelkova	Zs	<i>Zelkova serrata</i>	Japanese Zelkova	Medium to large

Species not on the list

The below tree species are examples that are more specific in their site requirements and may be used if appropriate conditions for each tree can be met. The list is not limited to the species below. Planting these species or any species not listed in the document will require the approval of the Parks and Forestry Division.

Species	Code	Latin Name	Common Name	Comments
Acer	Ar	<i>Acer rubrum</i>	Red Maple*	Large
	Ap	<i>Acer palmatum</i>	Japanese Maple	Small to medium
Catalpa	Cs	<i>Catalpa speciosa</i>	Norther Catalpa	Large
Cornus		<i>Cornus sp.</i>	Dog wood species	Small
Chiomanthos	Cv	<i>Chiomanthos virginious</i>	Fringe Tree	Small
Cercis	Cc	<i>Cercis Canadensis</i>	Redbud	Small
Fagus	Fg	<i>Fagus grandifolia</i>	American Beech	Large
	Fs	<i>Fagus sylvatica</i>	European Beech	Large
Liriodendron	Lt	<i>Liriodendron tulipifera</i>	Tulip Tree*	Large
Pyrus	Pc	<i>Pyrus calleryana</i>	Callery Pear	Small to medium
Malus	Ma	<i>Malus 'Indian Summer'</i>	Indian Summer Crab Apple	Small to medium
	Ma	<i>Mauls 'White Angel'</i>	White Angel Crab Apple	Small to medium

	Mg	<i>Magnolia accuminata</i>	Cucumber Magnolia	Large
Magnolia	Mg	<i>Magnolia x saucer</i>	Saucer Magnolia	Small to medium
Quercus	Qro	<i>Quercus robur</i>	White Oak	Large

Special Circumstances:

In special circumstances in the center islands in cultivars, or as screening, coniferous trees may be accepted with the approval of the City Arborist.”

7. THAT Schedule ‘C’ be deleted.

8. THAT Schedule ‘D’ be renamed as Schedule ‘C’.

9. THAT Schedule ‘C’ be deleted and replaced with the following:

“Schedule ‘C’

Tree Protection Zones

A Tree Protection Zone (TPZ) is to be constructed around all trees that are not subject to destruction within the construction area unless otherwise approved by the City Urban Forester.

The TPZ shall be determined in accordance with ISA Standards at a minimum of 30.5cm or 1 foot of diameter from the trunk for 2.54 cm or 1 inch diameter at Breast Height (DBH) or located at the drip line of the canopy. Therefore, a tree having a 35 inch DBH would require a 35 foot diameter or placed along the drip line.

The barrier shall be at least 1.2m (4 ft) high and be plywood or orange plastic snow fence or equivalent as approved by the City Arborist.

All Supports and bracing should be outside the TPZ. All such supports should minimize damaging roots outside the TPZ.

All TPZ shall have Tree Protection Signage indicating that it is a TPZ.

Within the Tree Protection Zone there must be:

- No construction
- No altering of grade by adding fill, excavating, trenching, scraping, dumping or disturbance of any kind
- No storage of construction materials equipment, soil, waste or debris
- No disposal of any liquids
- No movement of any vehicles or machinery
- Directional micro-tunnelling and boring may be permitted within the limits of the TPZ subject to approval by the City Arborist
- Open faced cuts outside a TPZ that are consistent with an approved plan and that require root pruning, require the services of a qualified Arborist or approved tree care professional.

Tree Protection Barriers

Tree Protection Zones: Trunk Diameter (DBH)	Minimum Protection Distances Required City-owned and Private Trees	Minimum Protection Distances Required Trees in Areas Protected by the Ravine and Natural Feature Protection By-law
< 10 cm 10 – 29 cm 30 – 40 cm 41 – 50 cm 51 – 60 cm 61 – 70 cm 71 – 80 cm 81 – 90 cm 91 – 100 cm > 100 cm	1.2 m 1.8 m 2.4 m 3.0 m 3.6 m 4.2 m 4.8 m 5.4 m 6.0 m 6 cm protection for each 1 cm diameter	Whichever of the two is greater: The drip line or 1.2 m The drip line or 3.6 m The drip line or 4.8 m The drip line or 6.0 m The drip line or 7.2 m The drip line or 8.4 m The drip line or 9.6 m The drip line or 10.8 m The drip line or 12.0 m e.g 12 cm protection for each 1 cm diameter or the drip line

10. THAT Schedule 'E' be renamed as Schedule 'D'


Schedule 'D'

Non Hazardous Municipal Tree Removal or Injury Fees Schedule	
Less than 10 Trees	\$100.00
10 to 100 Trees	\$150.00
More than 100 Trees	\$250.00
Not-for-profit housing Associations	\$0.00
Dead, Diseased or Hazardous Trees	\$0.00
Other, as set out in By-law: _____	\$0.00
TOTAL FEE INCLUDED IN APPLICATION	
Fees to be paid at the time of application submittal	

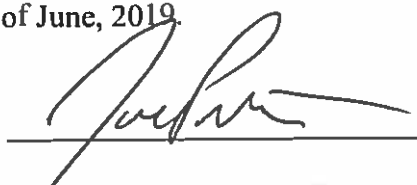
11. This by-law shall come into effect on the day of passing.

READ a First and Second time this 3rd day of June, 2019.

READ a Third time and Finally passed this 3rd day of June, 2019.



 Maria Konefal, City Clerk



 Joe Preston, Mayor

