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| TO: | CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE MEETING ON FEBRUARY 2, 2015 |
| FROM: | JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER |
| SUBJECT: | BOULEVARD TREE PROTECTION BY-LAW REVISION |
| RECOMMENDATIONS | |

That on the recommendation of the Managing Director, Planning and City Planner the following actions **BE TAKEN** regarding Boulevard Tree Protection By-law P.-69 to update numerous administrative clauses and to increase the fees collected for the consensual removal of City trees:

- a) The proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on February 9, 2015 to repeal By-law P.-69 being a A by-law relating to planting, care, maintenance and removal of trees on city property and the sustainability of the urban forest and replace it with a new City Tree Protection By-law;
- b) that the proposed set fines for contraventions of the City Tree Protection By-law **BE APPROVED**;
- c) that the Civic Administration **BE DIRECTED** to submit the approved set fines to the Ontario Court of Justice for approval; and
- d) that the Civic Administration **BE DIRECTED** to direct fees and fines collected under the City Tree Protection By-law into a Reserve specifically for urban forest management.

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| PREVIOUS REPORTS PERTINENT TO THIS MATTER |
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| August 26, 2014 | Planning and Environment Committee report for adoption of the Urban Forest Strategy and endorsement of an Implementation Plan that includes by-law revisions |
| June 27, 2013 | Internal report to Audit Committee from Price Waterhouse Coopers (PWC) audit of Urban Forestry recommending revisions to the Boulevard Tree Protection By-law |

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| BACKGROUND |
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EXECUTIVE SUMMARY

The proposed City Tree Protection By-law is required to improve administration and enforcement, as well as formalize the consensual removal process where third-party applications to plant, remove, injure or destroy a City tree are considered. The proposed By-law expands the scope to include trees on other City properties, like City Hall, which are currently not specifically covered by the other By-laws.

The goals of the new By-law include: deter tree removals that are not in the public interest; improve the management and prolong the City's maturing tree resource; maintain and shape unique neighbourhoods; recognise and evaluate the benefits that trees provide and recoup the tree asset value; recover internal administration costs and operational costs associated with administering the By-law; streamline and formalize the administrative processes, and enable Part 1 Offence Notice ("City ticket") enforcement capabilities under the Provincial Offences Act.

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Table 1: A comparison of the main differences between the existing Boulevard Tree Protection By-law P.-69 and proposed City Tree Protection By-law

| Existing Boulevard Tree Protection By-law P.-69 | Proposed City Tree Protection By-law |
|---|---|
| Protect City-owned trees in a boulevard | Protect City-owned trees on any public property, including City Boards and Commissions, but not including lands that are Parks (<i>Parks are covered by a separate By-law</i>) |
| Administered and enforced by the General Manager of Environmental and Engineering Services and any employee acting under his/her direction | Administered and enforced by the Managing Director, Planning and City Planner or his/her designate, or enforced by an officer appointed by Council |
| Silent with regard to criteria for assisting the General Manager in his/her decision to allow, or refuse to allow, a tree to be planted or removed by request of a third party (consensual removal) | Sets out criteria for assisting the Managing Director in his/her decision to allow, or refuse to allow, a tree to be planted or removed by request of a third party (consensual removal). Criteria are based on values of public interest (wildlife, environmental, social, heritage, etc.) |
| No exemptions | Exemptions: Emergency work; temporary attachment of objects, where the Managing Director has approved |
| No set fines, therefore no Part 1 Offence Notices ("tickets") may be issued | Introduce set fines to enable issuance of Part 1 Offence Notices ("tickets") |
| Schedule B: Set fees for tree removal range from \$500 to \$3,300 | Tree removal fees shall remain the same, ranging from \$500 to \$3,300 per tree but are in addition to the appraised asset value that shall be an additional fee |
| No consensual removal application process defined | Application process defined for injury, destruction or removal of a tree at request of a third party; requires an arborist report and tree appraisal to be submitted by the person making the request, for approval by City staff |
| Too many defined terms e.g "trim"; "prune"; "cut"; "topping"; "deface" | Simplification of defined terms e.g "injury" includes cutting, pruning, trimming, topping, defacing, etc. |
| No discretion to avoid charging of fees for consensual removal requests | Discretion where a tree is discovered to be a significant hazard to the public and its removal would be necessary |

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| DISCUSSION |
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Council's strategic policy states that we *"value and protect our environment"* and that *"the decisions we make are environmentally responsible for today and sustainable for tomorrow. We are a community that is growing but understands it must take a careful and balanced approach to preserving and protecting our natural environment, knowing it is essential to our prosperity, sustainability and quality of life."*

The City's Urban Forest Effects (UFORE) study in 2008 identified the environmental values of trees with larger trees providing exponential benefits. The Corporate Asset Management program identifies City trees as assets, growing in value over time.

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The draft London Plan includes policies with the goal of ensuring preservation of tree cover and natural heritage features. In the draft London Plan, and the Council-approved Urban Forest Strategy (2014), one of the key themes, or guiding principles, is to “*Protect more*”. The Urban Forest Strategy includes various recommendations for the protection of the urban forest including revision and development of by-laws.

For the purposes of this By-law, a City tree is any tree that is growing on City property except areas designated as a Park which are already covered by the Parks and Recreation By-law PR.-2. City property includes City streets. Note that while this is a By-law for City trees, the Municipal Act exempts the City from its own By-laws. The purpose of the By-law is to better protect City trees from the actions of others. The By-law would prohibit actions that injure, remove or destroy a City tree. For example, infractions of the By-law would include acts of vandalism, vehicle collision, attachments of foreign objects (but exempting temporary attachment of any objects, if approved by the Managing Director), and site alteration where it fails to care for the City tree. The By-law is not intended to deal with tree maintenance or removals that occur as a result of the public notifying the City about health and safety concerns, and natural causes such as old age, storm damage, etc. Those calls and enquiries received from the public where a City tree is causing concern will continue to be responded to by City staff, in the normal manner, with inspections and any required work arranged as usual at the City’s expense.

Currently there is no formal consensual removal process. The fees are directed into an operational forestry budget account to offset the removal costs and fees have remained static for approximately six years. Fees for consensual removal will apply if the subject tree is not hazardous to the public, the third party has applied to remove the tree and the Managing Director agrees that the tree may be removed.

Fines resulting from enforcement of By-laws typically are directed back into general revenue. Depending on the nature of removal or fine, the revenue generated from the fines alone could be in the tens of thousands of dollars. Staff recommends that a Reserve Fund for forest management be established, into which both fees and enforcement fines could be directed and the proceeds would support tree planting and enhanced urban forestry operations.

STAFFING AND RELATED MATTERS

Administration

There is currently no formal application or administration process for consensual removal of trees. Administrative duties are likely to increase through the formalization of an application process for consensual removal, including those received by way of development applications e.g. site plan. Additional administration fees may be required to be added in a future revision to the By-law. Administrative duties will include receiving and responding to telephone or written enquiries and site plan or similar applications made under the Planning Act, determining what other information is required, maintaining the City tree inventory and work order database, processing paperwork, site inspections, and administering appeals.

Operations

Operational activities may be adversely impacted by responding to and co-ordinating consensual removals, with the City crews taken away from planned maintenance operations, or overseeing a City contractor engaged to remove the tree.

Enforcement and Set Fines

Contraventions of the By-law are administered in accordance with the Provincial Offences Act. The proposed By-law introduces set fines that will enable the issuance of Part 1 Offence Notices (“tickets”) for less serious By-law infractions up to a maximum fine of \$1000. The proposed set fines associated with the By-law appear in Appendix B. The set fines do not take effect until approved by the Ontario Court of Justice, which may alter them before granting approval. Other options for enforcement include issuance of a Part 1 summons, compelling someone to attend Court where a fine of up to \$1000 may be levied, or a laying of information as a Part 3 for more serious offences that proceed through Court, with a fine of up to \$100,000 per offence.

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Enforcement activities will be done primarily by staff in the Planning Division (Urban Forestry and Environmental and Parks Planning) with support from Licensing and Municipal Law Enforcement Services and Engineering and Environmental Services, Forestry Operations Section, as needed.

SETTING A FEE THROUGH TREE APPRAISAL

The current consensual removal fee structure takes into account tree removal costs and the replacement of one or two trees depending on the size of the tree removed. The fees have remained the same for approximately six years. The current fees now reflect the removal cost but no longer are sufficient to cover the additional cost of replanting. Activities related to removals include but are not limited to: obtaining underground utility locates, cutting the tree, disposing of the wood, removing the stump, and rehabilitating the site between removal and replanting.

The intent of the fee for third party consensual removal is to facilitate long-term City tree management through recovery of more of the costs associated with:

- the maintenance of the tree over its lifetime;
- the cost of removing the tree and its stump;
- the cost of replacing the tree (not necessarily in the same place) with more trees in order to achieve approved tree canopy cover targets, and;
- the loss of benefits to society that the tree provides, and would have provided over the remainder of its intended lifetime, including but not limited to aesthetic values

This is achieved through applying a cost recovery method of tree appraisal called the Trunk Formula Method published in the Guide for Plant Appraisal 9th edition (2000) or as subsequently published by the International Society of Arboriculture, and supported by the Ontario Supplement to Guide for Plant Appraisal, 8th Edition, revised (2003) or as subsequently published by the Ontario Chapter of the International Society of Arboriculture. The Trunk Formula Method is a consistent approach appropriate to most situations and is considered by staff to best represent the value of a larger tree that cannot be replaced exactly by a new and smaller tree. It takes into account the size, condition and species of the original tree and the contribution it provides to society. It has been successfully defended across Canada. Including an appraisal method in the By-law will bring the City into line with other cities such as Toronto, Oakville and Barrie.

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| SUMMARY |
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Trees and the services they provide are important for Londoners. Council has directed Administration to increase the tree canopy cover significantly over the next 50 years. While trying to maintain and protect trees as long as possible it is realised that there are competing interests that require a balance in retention and removal of trees to achieve City-wide goals and objectives. The proposed By-law improves the administration while ensuring that the City receives adequate compensation for valuable assets that are lost as a result of specific requests for removal to accommodate private objectives. The proposed removal fees are based on industry standard appraisal techniques and associated removal costs by the City, while the set fines are required to effectively enforce the By-law. By allowing the proceeds from the fines and fees to be directed back to forest management, the cost of the loss of services the tree provides and the replacement of the tree is borne by those benefitting by its removal. It lessens the burden on the remainder of the taxpayers and provides a self-sustaining funding source to manage one of London’s most valuable assets – its urban forest.

Because of the number and nature of the revisions to the Boulevard Tree Protection By-law, we are recommending the following:

- a) the Boulevard Tree Protection By-law P.-69 be repealed;
- b) the City Tree Protection By-law be approved;
- c) the proposed set fines be approved and submitted to the Ontario Court of Justice; and,

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- d) Civic Administration explore and implement processes that direct proceeds from the fines and fees associated with administration and enforcement of the City Tree Protection By-law into a specific Reserve Fund to sustain and support the urban forestry program rather than directing them into general revenue.

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| PREPARED BY: | SUBMITTED BY: |
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| SARA ROWLAND URBAN FORESTRY PLANNER | IVAN LISTAR, R.P.F. MANAGER, URBAN FORESTRY |
| REVIEWED BY: | RECOMMENDED BY: |
| | |
| ANDREW MACPHERSON, OALA MANAGER, ENVIRONMENTAL AND PARKS PLANNING | JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER |

APPENDICES:

- APPENDIX A City Tree Protection By-law
APPENDIX B Proposed Set Fines

- cc: Trees and Forests Advisory Committee
John Braam, Managing Director and City Engineer, CAO Regional Water Supply,
Environmental and Engineering Services
John Parsons, Division Manager - Transportation and Roadside Operations
Edward Soldo, Director - Roads and Transportation

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“APPENDIX A”

Bill No.
2015

By-law _____

A by-law to repeal and replace By-law P.-69 and all amendments being a by-law relating to planting, care, maintenance and removal of trees on city property and the sustainability of the urban forest

WHEREAS the *City of London Act, 1953*, c. 118 declares that all trees growing upon highways within the City of London are the property of The Corporation of the City of London;

AND WHEREAS subsection 11(1) of the *Municipal Act, 2001* provides that municipalities may pass by-laws within the sphere of jurisdiction of highways;

AND WHEREAS subsection 9(1) of the *Municipal Act, 2001* provides that section 11 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS subsection 9(2) of the *Municipal Act, 2001* provides that in the event of ambiguity in whether or not a municipality has the authority to pass a by-law under s. 11, the ambiguity shall be resolved so as to include, rather than exclude, municipal powers that existed on December 31, 2002;

AND WHEREAS subsection 9(3) of the *Municipal Act, 2001* provides that a by-law under section 11 respecting a matter may regulate or prohibit respecting the matter, and as part of the power to regulate or prohibit respecting the matter, require persons to do things respecting the matter, provide for a system of licenses, permits, approvals or registrations respecting the matter and impose conditions as a requirement of obtaining, continuing to hold or renewing a licence, permit, approval or registration;

AND WHEREAS section 62 of the *Municipal Act, 2001* provides that a municipality may, at any reasonable time, enter upon land lying along any of its highways, to inspect trees and conduct tests on trees; and to remove decayed, damaged or dangerous trees or branches of trees if, in the opinion of the municipality, the trees or branches pose a danger to the health or safety of any person using the highway;

AND WHEREAS section 391 of the *Municipal Act, 2001* provides that a municipality may pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

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Part 1
DEFINITIONS AND SCOPE

1.1 Definitions

In this by-law:

“appraised value” is the result of the application of the Trunk Formula Method published in the Guide for Plant Appraisal 9th edition (2000) or as subsequently published by the International Society of Arboriculture, and supported by the Ontario Supplement to Guide for Plant Appraisal, 8th Edition, revised (2003) or as subsequently published by the Ontario Chapter of the International Society of Arboriculture.

“arborist” is an expert in the care and maintenance of trees including an arborist qualified by the Ontario Training and Adjustment Board Apprenticeship and Client Services Branch, a certified arborist qualified by the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists, a Registered Professional Forester or a person with other similar qualifications as approved by the Managing Director.

“City” means The Corporation of the City of London.

“City property” means land and any portions thereof under the control or management or joint management of the City except areas designated as a Park.

“City street” means that portion of every road allowance within the limits of the City of London which is not used as a sidewalk, driveway, travelled roadway or shoulder. It includes but is not limited to a common highway or public highway, road, street, boulevard, lane or other road allowance or any portion thereof under the jurisdiction of the City.

“deface” includes but is not limited to the painting or carving of words, figures, symbols or any other markings on the bark of a tree. Defacing has the equivalent meaning.

“destroy” shall mean to remove or cut down or change the structure or condition of a tree such that it is deemed by the Managing Director to be an imminently hazardous tree or cannot reasonably be returned to its original structure or condition or it becomes necessary to remove the tree. Destroying has the equivalent meaning.

“emergency work” shall mean work of an urgent nature conducted by or undertaken at the direction of police, fire ambulance or Conservation Authority in order to protect life, limb or property. It may also include but is not limited to work associated with drain repairs, utility repairs, structural repairs to a building and work required to prevent imminent soil erosion, slipping of soil or damage to trees.

“heritage tree” means any tree designated under Part IV of the *Ontario Heritage Act* or a tree recognized as a heritage tree by the Ontario Heritage Program of Trees Ontario or that may be considered for designation in the future.

“highway” means a common and public highway, and includes a street and a bridge forming part of a highway, or on, over or across which a highway passes.

“injure a tree” means any act that will harm a tree’s health in any manner, including failure to protect in accordance with standards set by the Managing Director. Injurious acts include but are not limited to cutting of trees, debarking, drilling, nailing, spiking, defacing, topping, removing tree bark, leaves or fruit, or cutting or breaking of tree branches or roots, vehicle, equipment or material or other matter such as excavating, trenching or soil compaction thereby impeding the free passage of air, water or nutrients to the roots of a tree.

“Managing Director” shall mean the Managing Director, Planning and City Planner for the City and any employee acting under their direction.

“park” means land covered by water and all portions thereof under the control or management or joint management of the City, that is, or hereafter may be established, dedicated, set apart, or made available for use as public open space, including a natural

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park area and an Environmentally Significant Area, including any buildings, structures, facilities, erections and improvements located in or on such land.

“**remove**” means take away, move from the position occupied or destroy traces of a tree or parts of a tree.

“**topping**” shall mean the inter-nodal cutting of tree branches to stubs or laterals, that are not large enough to assume the terminal role of the trunk or branch and also includes such terms as tipping, heading back, hat racking, and rounding over. Top has the equivalent meaning.

“**tree**” means any woody perennial plant, of any species, where that species can reach a height of at least 4.5 metres at physiological maturity. This definition applies to both live and dead trees and includes the roots.

“**tree protection zone**” means the minimum required setback distance to protect a tree during any activity that may injure or destroy a tree, and is based on generally accepted arboriculture principles or as identified in City standards or guidelines.

Part 2 GENERAL PROVISIONS

2.1 Exemptions

This by-law does not apply to:

- a) activities and matters undertaken by the City, Board or Commission of the City or by an agent acting under the direction of the City
- b) City trees that are protected under the Tree Conservation By-law C.P. 1466-249, Parks and Recreation By-law – PR-2 and as they may be revised from time to time
- c) injury, destruction, or removal of a tree as may be required for emergency work
- d) removal of trees or portions of trees that have been cut by the City or its agents and deliberately left for the public as firewood or for personal use
- e) a request by a person for the City to plant a tree on City property

2.2 Administration of By-law

This by-law shall be administered and enforced by the Managing Director or his/her designate or any person appointed by Council to enforce this By-law.

2.3 Branch extending over highways

The Managing Director may prune any trees located on private property where the branches extend over a highway which are hazardous or create an unsafe condition.

2.4 Trees may be removed

The Managing Director may remove, without notice to any person, a tree of the prohibited species listed in Schedule “A” of this by-law, or a tree that has been planted without prior written permission.

2.5 Application to plant, injure, destroy or remove a tree

(a) Any person who wishes to plant, injure, destroy or remove a tree shall submit an application to the Managing Director, on the prescribed or similar form and shall provide the following to the satisfaction of the Managing Director:

- 1) The name, address and telephone number of the applicant;
- 2) Subject to Schedule B, the appropriate fee;
- 3) The purpose for which the planting, injury, destruction or removal is requested;
- 4) The proposed timeframe for the purpose or work for which the planting, injury, destruction or removal is required;
- 5) An arborist report identifying the location, species, size and condition of the subject tree, the impact of any proposed work on the tree and describing protection or mitigation measures to be implemented for adjacent trees not being applied to remove;

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- 6) An appraised value for the tree requested to be injured, destroyed or removed, completed by an arborist;
- 7) A tree protection plan, where required by the Managing Director, accurately identifying the location, species and size of City tree and illustrating details of protection measures including but not limited to location of tree protection zones, protective barriers and hoarding;
- 8) Such additional information and documentation as the Managing Director may require.

(b) The Managing Director shall consider the following criteria prior to permitting or refusing to plant, injure, destroy or remove a tree:

- 1) The application form is complete;
- 2) The species of tree;
- 3) The condition of the tree;
- 4) The location of the tree;
- 5) The protection of environmentally sensitive areas;
- 6) The protection of natural landforms or contours;
- 7) The protection of ecological systems;
- 8) Erosion and flood control;
- 9) The protection of significant vistas;
- 10) Whether landscape plans, arborist reports, tree protection plans and appraisal estimates submitted by the applicant are satisfactory;
- 11) Whether or not a tree is in a Heritage Conservation District, is a heritage tree or should be protected as a heritage tree;
- 12) Whether the purpose will result in the loss of existing or future plantable area, and;
- 13) The impact of the loss of the tree to the amenity and other values

(c) The Managing Director shall not allow the injury, destruction or removal of a healthy tree where:

- 1) The application form is incomplete, or;
- 2) The information required by 2.5(a) has not been provided to the satisfaction of the Managing Director, or;
- 3) Environmentally sensitive areas, ecological systems, natural landforms or contours will not be adequately protected and preserved, or;
- 4) Erosion or flood control will be negatively impacted, or;
- 5) Significant vistas will not be adequately protected and preserved, or;
- 6) Landscape plans, arborist reports, tree protection plans or appraisal estimates submitted by the applicant are not satisfactory in the opinion of the General Manager, or;
- 7) The tree is a heritage tree, or should in the opinion of the General Manager, be recommended for designation as a heritage tree, or;
- 8) The species of tree is listed as a Species at Risk under the Ontario Endangered Species Act, or;
- 9) The purpose of the injury, destruction or removal is to mitigate an inconvenience including but not limited to, shade, litter and bird droppings.

(d) Notwithstanding 2.5(c), the Managing Director may allow the injury, destruction or removal of the tree if the Managing Director is satisfied that there is no reasonable alternative to tree injury, destruction or removal for the completion of the work.

2.6 Refusal and Permission

The Managing Director shall issue a Notice that includes the decision and the reason(s) for refusal or permission to plant, injure, destroy or remove a tree which may include other conditions including, but not limited to:

- 1) Compliance with the City's tree standards and guidelines for tree protection and planting and any other standards or permit conditions;

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- 2) Compliance with approved landscape and tree protection plans to the satisfaction of the Managing Director;
- 3) A requirement for a provision of a tree protection guarantee by submission of a letter of credit or alternative form of security in a form and content acceptable to the Managing Director, to ensure compliance with conditions of permit issuance, in an amount which represents the appraised value of the tree to be protected plus the removal costs. The tree protection guarantee will be released by the City once all construction activities are complete and compliance with all Notice or Order terms and conditions have been verified to the satisfaction of the General Manager;
- 4) Where tree planting or replacement planting is not physically possible or feasible on site, the Managing Director may require the planting, or may plant, at another suitable location;
- 5) Impose the production of satisfactory evidence that all other requisite approvals have been obtained;

2.7 Tree destruction or removal fees

- 1) Should the Managing Director permit the destruction or removal of a City tree, a fee as set by Council from time to time, and found in Schedule “B” to this by-law, shall be payable by the person requesting the tree removal prior to the removal of the tree. All such tree removals shall be carried out by the City.
- 2) The fee as set out in Schedule “B” shall include the cost of destroying and removing the tree plus the appraised value of the tree or as may be revised by Council from time to time.

**Part 3
PROHIBITED MATTERS**

3.1 Plant tree without permission

No person shall plant or cause to be planted a tree on City property without prior written permission of the Managing Director.

3.2 Plant prohibited species

No person shall plant or cause to be planted a species of tree designated in Schedule “A” to this by-law as a prohibited species, on City property.

3.3 Injure – destroy -remove - prohibited

No person shall, or cause to injure, destroy or remove a tree located on City property without prior written permission of the Managing Director.

3.4 Hinder General Manager in duties

No person shall hinder or obstruct, or attempt to hinder or obstruct, the Managing Director in the exercise of the powers and performing the duties authorized or contained in this by-law.

3.5 Attaching objects prohibited without permission

No person shall, or cause to attach any object or thing to a tree upon a City property without prior written permission from the Managing Director.

3.6 Defacing

No person shall deface or cause to deface a tree on City property without prior written permission from the Managing Director.

3.7 Undertaking work causing tree damage within a tree protection zone

No person shall undertake, or cause to permit or undertake, any unauthorized activities within a tree protection zone on City property so as to cause injury, destruction or removal to any tree without the prior written permission from the Managing Director.

3.8 Failure to comply with an Order

No person shall or cause to contravene or fail to comply with an Order issued by the Managing Director under Section 4.3 of this By-law.

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Part 4
ENFORCEMENT

4.1 Fine for contravention

Any person who contravenes this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.

4.2 Issuance of an Order by the Managing Director

Where a person has planted, injured, destroyed or removed a tree or otherwise contravened this by-law, the Managing Director may issue an Order directing the person to do any or all of the following:

- (a) Comply with any conditions required to correct the contravention to the satisfaction of the Managing Director;
- (b) Cease the activity which is in contravention of the By-law.

4.3 Order issued by the Managing Director

The Order issued by the Managing Director pursuant to subsection 4.2 shall set out:

- (a) the person who contravened the By-law or caused or permitted the contravention;
- (b) reasonable particulars of the contravention
- (c) the period within which there must be compliance with the Order; and
- (d) if applicable, stating that if the work is not done in compliance with the order within the specified period, the City may have the work done at the expense of the person who contravened the By-law and recover the cost from the person.

4.4 Continuation - repetition - prohibited by order

The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

4.5 Authority to Issue Order

The Managing Director may issue an Order at any time to a person to prevent unauthorized planting, injury, removal or destruction of a tree.

Part 5
Appeal

5.1 A person who has received a Notice under Section 2.6 of this By-law may appeal the decision of the Managing Director to refuse the planting, injury, destruction or removal of a tree to Council within 30 days of the issuance of the Notice.

Part 6
SHORT TITLE

6.1 The short title of this by-law shall be the City Tree Protection By-law.

Part 7
REPEAL – ENACTMENT

7.1 By-law - previous

By-law P.-69 and all amendments thereto are hereby repealed.

7.2 Effective date

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This by-law shall come into force and effect on the day of its final passing.

PASSED in Open Council on February 9, 2015

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – February 9, 2015
Second Reading – February 9, 2015
Third Reading - February 9, 2015

First Reading - February 9, 2015
Second Reading - February 9, 2015
Third Reading - February 9, 2015

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**SCHEDULE “A”
PROHIBITED SPECIES**

The following trees of prohibited species may be removed, without notice to any person, by the Managing Director, pursuant to section 2.5 of this by-law:

1. All poplar species (*Populus* spp)
2. All willow species (*Salix* spp)
3. Thorny Hawthorns (*Crataegus*), Thorny Honey Locust (*Gleditsia*), Osage-orange (*Maclura pomifera*), Black Locust (*Robinia*)
4. Tree of Heaven (*Ailanthus altissima*)
5. European or Common Buckthorn (*Rhamnus cathartica*)
6. Glossy Buckthorn (*Rhamnus frangula*)
7. Princess or Empress Tree (*Paulownia tomentosa*)
8. Princess or Empress Tree (*Paulownia elongata*)
9. Empress Splendor™ Tree (*Paulownia Empress Splendor*™)

**SCHEDULE “B”
TREE DESTRUCTION OR REMOVAL FEES**

The following fees shall apply when permission is given for the destruction or removal of a tree situated on City property, pursuant to section 2.7 of this By-law. Tree diameter for the purpose of this by-law is measured at 1.3 metres above the ground.

Removal Fee = Appraised Value + Removal Cost

Removal Cost:

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| For the removal of a tree under 10 cm in diameter | \$ 500.00 |
| For the removal of a tree 10 cm to 35 cm in diameter | \$ 800.00 |
| For the removal of a tree 36 cm to 61 cm in diameter | \$1,600.00 |
| For the removal of a tree 62 cm to 100 cm in diameter | \$2,300.00 |
| For the removal of a tree 101 cm and over in diameter | \$3,300.00 |
| For the removal of a tree of a prohibited species listed in Schedule “A” of this by-law | \$0.00 |

Appraised Value: As per Council of Tree and Landscape Appraisers *Guide for Plant Appraisal 9th Edition* and International Society of Arboriculture *Ontario Supplement to Guide For Plant Appraisal 8th Edition Revised* or as revised from time to time.

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APPENDIX B

PROPOSED SET FINES

Short Form Wording and Set Fines

| ITEM | Short form wording | By-law Provision creating or defining offence | Set fine |
|------|---|---|----------|
| 1 | Plant tree without permission | 3.1 | 400 |
| 2 | Cause to plant a tree without permission | 3.1 | 400 |
| 3 | Plant a prohibited species without permission | 3.2 | 400 |
| 4 | Cause to plant a prohibited species without permission | 3.2 | 400 |
| 5 | Injure a tree without permission | 3.3 | 800 |
| 6 | Cause to injure a tree without permission | 3.3 | 800 |
| 7 | Destroy a tree without permission | 3.3 | 1000 |
| 8 | Cause to destroy a tree without permission | 3.3 | 1000 |
| 9 | Remove a tree without permission | 3.3 | 1000 |
| 10 | Cause to remove a tree without permission | 3.3 | 1000 |
| 11 | Hinder or obstruct Managing Director in duties | 3.4 | 600 |
| 12 | Attempt to hinder or obstruct Managing Director in duties | 3.4 | 600 |
| 13 | Attach object or thing prohibited without permission | 3.5 | 300 |
| 14 | Cause to attach an object or thing prohibited without permission | 3.5 | 300 |
| 15 | Deface a tree | 3.6 | 500 |
| 16 | Cause to deface a tree | 3.6 | 500 |
| 17 | Cause injury, destruction or removal of a tree within a tree protection zone without permission | 3.7 | 1000 |
| 18 | Cause or permit injury, destruction or removal of a tree within a tree protection zone without permission | 3.7 | 1000 |
| 19 | Contravene or fail to comply with an Order | 3.8 | 800 |
| 20 | Cause to contravene or fail to comply with an Order | 3.8 | 800 |