



# OAKVILLE

Consolidated Version as of February 22, 2021 – Amended by By-law No: 2009-188, 2019-030, 2021-038

## THE CORPORATION OF THE TOWN OF OAKVILLE

### BY-LAW NUMBER 2009-025

A by-law to authorize and regulate the planting, care, maintenance and removal of trees on Town property and ensuring the sustainability of the urban forest.

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

**WHEREAS** section 62 of the *Municipal Act, 2001* authorizes a municipality, at reasonable times, to 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;

**WHEREAS** section 431 of the *Municipal Act, 2001* authorizes, in addition to any other remedy and to any penalty imposed by a by-law passed under section 135, the court in which a conviction has been entered to make an order requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate;

**WHEREAS** the Council for the Corporation of the Town of Oakville recognizes the importance of trees to the environment within the Town for the purposes of health and welfare, beauty, safety, history, and general well being; and

**WHEREAS** the Council for the Corporation of the Town of Oakville wishes to promote tree conservation, the increase, renewal and proliferation of trees and the tree canopy, and the protection of existing trees by providing reasonable minimum standards regarding the preservation, planting, protection and maintenance of Town trees;

### COUNCIL ENACTS AS FOLLOWS:

#### 1. Definitions

In this By-law,

- (a.i) “Administrative Penalties for Non-Parking Violations and Orders By-law” means By-law 2021-038, or successor by-laws; **(By-law 2021-038)**
- (a) “Council” means the Corporation of the Town of Oakville;

- (b) “dead” a tree that has no living tissue;
- (c) “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;
- (d) “destroy” shall mean to change the structure or condition of a tree such that it cannot reasonably be returned to its original structure or condition;
- (e) “hazardous” means a tree that is destabilized or structurally compromised such that it poses a potential safety concern to property or life;
- (e.1) Deleted by By-law 2021-038
- (f) “injure a tree” means any act that will harm a tree’s health in any manner, which includes but is not limited to the cutting of trees, topping, debarking, marking, defacing, cutting or breaking of tree roots, placing in the tree protection zone any stone, brick, sand, soil, concrete, vehicle, equipment or other matter or material thereby impeding the free passage of water, air or nutrients to the roots of a tree, excavating, trenching, or soil compacting within the tree protection zone, or failure to protect a tree in accordance with the Town’s Standards;
- (g) “multiple offence” means 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; for greater certainty, when multiple trees are injured or destroyed, the injury or destruction of each tree is a separate offence;
- (g.1) “Officer” means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers, Halton Regional Police Officers; **(By-law 2019-030)**
- (h.1) “penalty notice” means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law;; **(By-law 2021-038)**
- (h.2) “person” means an individual, firm, corporation, sole proprietorship, association or partnership and includes an applicant for a permit under this By-law as the context requires; **(By-law 2019-030)**
- (h.3) Deleted by By-law 2021-038
- (h.4) Deleted by By-law 2021-038

- (i) “Standards” means those standards set out in the Town of Oakville’s Tree Protection Policy and Procedure as may be amended or replaced;
- (j) “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;
- (k) “Town” means the Corporation of the Town of Oakville;
- (l) “Town Forester” means Manager of Forestry and Cemetery Services or any designated person acting under their direction;
- (m) “Town property” includes but is not limited to Town parks and Town streets;
- (n) “Town street” includes but is not limited to a common or public highway, road, street, boulevard, lane or other road allowance or any portion thereof under the jurisdiction of the Town of Oakville;
- (o) “tree” means any tree, all or part of which is located on a Town property; and
- (p) “tree protection zone” means the minimum required setback distance to protect a tree during any activity in the construction process that may injure or destroy a tree, and is based on generally accepted arboriculture principles.

### **1.1 Interpretation (By-law 2021-038)**

- (1) This By-law is a Designated By-law under the Administrative Penalties for Non-Parking Violations and Orders By-law.

### **2. Authority for Planting, Care and Maintenance and Removal of Trees**

- (1) The Town Forester is hereby authorized to plan, regulate, supervise and carry out the planting, care and maintenance, protection, preservation, and removal of all trees located on any Town property.
- (2) Without limiting the generality of (1), the Town Forester is hereby authorized to take or cause the following action:
  - (a) plant trees on Town property;
  - (b) care for and maintain trees located on Town property including removal;

- (c) identify the species of trees which are prohibited on Town property;
- (d) remove a tree located on Town property which is dead or hazardous;
- (e) remove without notice or compensation to any person, any object or thing that adversely affects a tree or part of a tree located on a Town property;
- (f) prune trees located on private property where the branches of which extend over a Town street, including the branches which are hazardous or create an unsafe condition;
- (g) implement all necessary treatments for insect and disease problems associated with trees located on Town property;
- (h) stop any work causing injury or destruction to a tree located on Town property that is taking place without permission from the Town Forester;
- (i) enter upon land adjacent to Town property to inspect trees and conduct tests on trees, and remove decayed, damaged or dangerous branches of trees if, in the opinion of the Town Forester, the trees or branches pose a danger to the health or safety of any person using the Town street; and
- (j) remove a decayed, damaged or dangerous tree or branch of a tree immediately and without notice to the owner of the land upon which the tree is located if, in the opinion of the employee or agent, the tree or branch poses an immediate danger to the health or safety of any person using a Town street.

### **3. Prohibited Acts**

No person shall,

- (a) injure or destroy, or cause to be injured or destroyed, a tree growing on Town property;
- (b) remove or cause to be removed a tree growing on Town property;
- (c) deface, tack, paste or otherwise attach a bill or note or any other thing or object to a tree growing on Town property, or to a stake, post, guard or other object supporting such tree;
- (d) hinder or obstruct or attempt to hinder or obstruct the Town Forester in the exercise of the powers and performance of the duties under this by-law;

- (e) plant or cause to be planted a tree or any part of a tree on Town property without first having obtained the permission of the Town Forester;
- (f) fail to comply with an order issued by an Officer; or **(By-law 2021-038)**
- (g) undertake or cause any unauthorized activities within the tree protection zone of a Town tree which are contrary to the Town's Standards or any conditions imposed and set out by the Town Forester pertaining to the protection of any tree located on Town property.

#### **4. Enforcement of By-law**

- (1) In addition to the Town Forester, the administration and enforcement of this By-law may be performed by those persons designated by Council as municipal law enforcement officers.
- (2) Where an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may issue an order to the person contravening this By-law in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law. **(By-law 2021-038)**
- (3) Deleted by By-law 2021-038
- (3) Service of any penalty notice, order, or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law. **(By-law 2021-038)**
- (4) If the Town is unable to effect service on the person who contravened the Bylaw, a placard containing the terms of the order may be placed in a conspicuous place on the land where the contravention occurred and the placing of the placard shall be deemed to be sufficient service of the order. **(By-law 2021-038)**
- (6) Deleted by By-law 2021-038
- (7) Deleted by By-law 2021-038.

#### **4.1 Administrative Penalties (By-law 2021-038)**

- 4.1.1 An Officer who finds or has reasonable cause to believe that a person has contravened any provision of this By-law, including any Schedules, may issue a penalty notice to the person.



- 4.1.2 Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of \$300 or as revised in the Town's rates and fees schedule.
- 4.1.3 If an Officer has issued a penalty notice under subsection 4.1.1 of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this By-law, including any Schedules, for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person.
- 4.1.4 Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$400 or as revised in the Town's rates and fees schedule.
- 4.1.5 If an Officer has issued a penalty notice under subsection 4.1.3 of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this By-law, including any Schedules, for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.
- 4.1.6 Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$500 or as revised in the Town's rates and fees schedule.

4.1.7 – 4.1.21 Deleted by By-law 2021-038

## **4.2 Inspection (By-law 2019-030)**

- 4.2.1 The Town Forester or an Officer may, at any reasonable time, enter and inspect any land to determine whether this by-law or an order under this bylaw is being complied with.
- 4.2.2 It shall be an offence to obstruct or permit the obstruction of such inspection.

## **5. Offence and Penalty**

- (1) Every person who contravenes any provision of this By-law is guilty of an offence. All contraventions of this By-law or orders issued under section 4 are designated multiple offences and continuing offences pursuant to section 429(2) of the *Municipal Act, 2001*.
- (2) Upon conviction of an offence under this By-law, a person is liable to a fine as follows:

- (a) the minimum fine for an offence is \$400 and the maximum fine for an offence is \$100,000. **(By-law No. 2009-188)**
  - (b) in the case of a continuing offence, in addition to the penalty mentioned in clause (a) above, for each day or part of a day that the offence continues, the minimum fine shall be \$400 and the maximum fine shall be \$10,000, and the total of all daily fines for the offence is not limited to \$100,000. **(By-law No. 2009-188)**
  - (c) in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$400 and the maximum fine shall be \$10,000, and the total of all fines for each included offence is not limited to \$100,000. **(By-law No. 2009-188)**
  - (d) A special fine may be imposed, in addition to a fine under clause (a) to (c) above, in circumstances where there is an economic advantage or gain from the contravention of this By-law or an order under section 4 of this By-law, and the maximum amount of the special fine may exceed \$100,000.
- (3) If a person is convicted of an offence for contravening the provisions of this By-law, or an order issued pursuant to this By-law, the Court in which the conviction has been entered may order the person to correct the contravention, which may include but is not limited to: planting or replanting such tree(s) in such manner and within such time period as the Court considers appropriate, such as replacement of a comparable species and/or payment of the tree(s) amenity value as determined by the Designated Official.
- (4) Any costs payable or associated with an order of the Court in subsection (3) are in addition to, and not in substitution for, the payment of any penalty imposed by the Court for the commission of an offence under this By-law or any other applicable legislation.

## 6. **Severability**

In the event that any provision or part of this By-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the By-law and all other provisions or parts thereof shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

## 7. **Other**

- (1) This by-law may be cited as the “Town Tree Protection By-law.”



(2) By-law 1981-031, as amended by By-law 2003-110, is hereby repealed.

PASSED this 4th day of May, 2009

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MAYOR

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CLERK