

The Corporation of the Town of Ajax By-law Number 65-2021

Being a By-law to prohibit or regulate the destruction or injuring of trees on the Town's
boulevards

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

And whereas the Act permits the Town the authority to issue an Order to Discontinue Activity;

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. Definitions

2.1 In this By-law:

- a) "boulevard" means the area of the highway between the edge of the pavement or curb of the roadway and the adjacent property line of the highway.
- b) "destroy/destruction" means to remove, cut down, or in any other way injure a tree to such an extent that it is deemed necessary to remove or cut down the tree.
- c) "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.
- d) "expense" means the cost of carrying out the work to be done and an administrative fee as outlined in the Town of Ajax Fee By-law;
- e) "injure/injury" means any act which will harm a tree's health in any manner.
- f) "Manager" means the Manager of Environment Services or a duly appointed designate.
- g) "Officer" means a Municipal Law Enforcement Officer appointed by the Council of the Town of Ajax.
- h) "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.

- i) "person" means an individual, a firm, corporation, association or partnership.
- j) "replacement value" means the calculated value of the actual tree as determined by the Town.
- k) "street" means a common or public highway, road, street, lane or any road allowance or portion thereof under the jurisdiction of the Town.
- l) "Town" means The Corporation of the Town of Ajax.
- m) "tree" means any shade or ornamental tree, all or part of which is located on, above or below a boulevard.
- n) "tree ring" means ornamental material defining the base of a tree.

3. Planting and Maintenance of Trees

3.1 No person shall plant a tree on any boulevard.

4. Tree Ring

4.1 No Person shall allow, construct, have, and/or maintain a tree ring on any boulevard that:

- (i) extends more than 30 cm below grade;
- (ii) exceeds 3.0 m² total area;
- (iii) encroaches within 45 cm of a sidewalk.

4.2 All Tree rings shall be maintained in a good state of repair.

4.3 For the purposes of this By-law "good state of repair" shall mean:

- (i) structurally sound, level and plumb; and/or
- (ii) free from deterioration and damage.

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.

5.2 No person shall mark, cut, break, peel, deface any tree or change the soil levels in the vicinity of any tree; with the exception of an approved tree ring.

5.3 No person shall cause or permit any construction, or excavation on a boulevard, or on public property or private property, but does not include a tree ring, within:

- (i) 1 metre radius of a tree 20 cm in diameter or less; or
- (ii) 2 metre radius of a tree greater than 20 cm in diameter.

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 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 expenses for the repair of the tree, or for the removal and replacement and/or replacement value of the tree that is damaged beyond repair, and/or the expense associated with the removal of a tree ring and the repair to the boulevard; all at the sole discretion of the Town.

6. Administration and Enforcement

- 6.1 This By-law shall be administered by the Operations and Environmental Services Department and enforced by an Officer.
- 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. Order to Discontinue Activity

- 7.1 Where the Manager or an Officer is satisfied that a contravention of this By-law has occurred, the Manager or the Officer may make an order requiring the person who contravened this By-law, or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity.
- 7.2 An Order issued under this section shall set out:
- (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred or is occurring; and
 - (ii) the date by which there must be compliance with the order.

8. Offence

- 8.1 Any person who contravenes an Order to Discontinue Activity under this By-law is guilty of an offence.
- 8.2 A person is guilty of an offence if the person hinders or obstructs, or attempts to hinder or obstruct an Officer, or any person accompanied by the Officer, in the exercise of a power or the performance of a duty under the By-law; and/or makes a false or intentionally misleading recital or fact, statement or representation or produces any falsified or fictitious agreement or document.
- 8.3 Any person who contravenes the provisions of this By-law, including every person who fails to perform a duty imposed herein or who performs an act prohibited herein and every manager or officer of a corporation who concurs in such a contravention is guilty of an offence and, upon conviction pursuant to the provisions of the Act, is liable to a penalty not to exceed \$100,000.00.
- 8.4 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.

- 8.5 Where any person is required under this By-law to pay to the Town expenses of repairs or removal and replacement of a tree, the Town may recover the expense by adding the expense to the tax roll and collecting such expense in the same manner as taxes.

9. Repeal

- 9.1 That By-law number 03-2021 is hereby repealed

Read a first and second time this
Eighteenth day of October, 2021.

Read a third time and passed this
Eighteenth day of October, 2021.

Mayor and CEO Shaun Collier

D-Clerk Alexander Harras