

Tree Conservation By-law

CP-1362-380 - Consolidated May 23, 2001

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COMMUNITY PLANNING

By-law C.P.-1362-380

A by-law to prohibit and regulate the injuring, destruction or removal of trees in defined areas of the City of Humber Bay.

WHEREAS section 223.2 of the *Municipal Act, R.S.O. 1990, c. M.45*, as amended by section 56 of the *Planning and Municipal Statute Law Amendment Act, 1994* authorizes the Council of a local municipality to pass by-laws for prohibiting or regulating the injury or destruction of trees in any defined area or on any class of land in the Municipality;

AND WHEREAS the City of Humber Bay Official Plan has identified areas containing important natural features which have been recommended for long-term protection, or more detailed assessment prior to the final determination of land use designations;

AND WHEREAS it is in the interest of the community to protect these important natural features from unnecessary injury or destruction until such time as a final determination has been made on the need for long-term protection;

THEREFORE the Municipal Council of The Corporation of the City of Humber Bay enacts as follows:

SHORT TITLE THE CITY OF Humber Bay TREE CONSERVATION BY-LAW

Part 1

DEFINITIONS

1.1 Definitions

In this by-law:

“Commissioner” shall mean the Commissioner of Planning and Development for the Corporation of the City of Humber Bay or his designate;

“Environmental Protection Area” includes “Environmental Review” areas and “Open Space” areas designated on Map Schedule “A” Land Use of the Official Plan for the City of Humber Bay Planning Area adopted by Municipal Council and amended from time to time;

“Good Forestry Practice” shall mean the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and which minimize detriments to forest values including significant ecosystems; important fish and wildlife habitat; soil and water quality and quantity; forest productivity and health; and the aesthetics and recreational opportunities of the landscape. Good forestry practice shall also include the cutting and removal of severely damaged, diseased and insect infested trees which must be removed in order to prevent contamination or infestation of other trees, or which no longer contribute to the achievement of forest values;

“Officer” shall mean a person duly authorized by the Commissioner to carry out the administration duties described in Part 7 of this by-law;

“Owner” shall mean the registered owner of land, or their agent, or anyone acting under the direction of the owner or their agent; and

“Site” shall mean the area of land containing any tree(s) proposed to be injured, destroyed or removed.

Part 2

EXEMPTIONS

2.1 By-law - provisions not applicable - various

The provisions of this by-law do not apply:

- (a) to minor activities approved by the Commissioner as exceptions;
- (b) in areas that are zoned and draft plan approved for development and a subdivision agreement or development agreement has been entered into between the owner and the City which has been registered against the title of the subject lands and is still in effect;
- (c) to activities or matters undertaken by the Provincial or Federal Government or their agents or by Hydro One;
- (d) to activities or matters authorized under the *Crown Forest Sustainability Act*;
- (e) in areas that are not defined as an "Environmental Protection Area" by this by-law;
- (f) to activities or matters prescribed by regulations pursuant to the *Municipal Act*;
- (g) to orchards, Christmas tree plantations or tree nurseries;
- (h) to the removal of dead, dangerous, diseased or severely injured trees or stumps, in accordance with good forestry practice;
- (i) to routine maintenance and tree cutting activities within established golf courses;
- (j) to the cutting of wood for fuel or other personal use, in accordance with good forestry practice, provided the total volume cut or removed by the property owner in any calendar year does not exceed 2.5 full cords per hectare (one cord per acre) of woodlot area; and
- (k) to woodlands established under legal management agreements; and

Part 3

PROHIBITIONS

3.1 Tree injury - destruction - permit required

Unless otherwise exempted by this by-law no person shall injure or destroy a tree in an Environmental Protection Area without a permit issued under this by-law.

3.2 Tree injury - destruction - in accordance with permit

Where a permit has been issued pursuant to this by-law, no person shall injure, destroy or remove a tree except in accordance with the plans, conditions and any other information on the basis of which a permit was issued.

Part 4

REQUIREMENTS FOR AN APPLICATION

4.1 Application requirements - permit

Unless otherwise exempted by this by-law, every person who intends to injure, destroy or remove a tree within an Environmental Protection Area by cutting, burning, bulldozing, lacerating, chemical application or any other means, shall apply for and obtain a permit.

4.2 Application requirements - completed forms - plans

A person applying for a permit to injure, destroy or remove a tree shall submit a completed application form, along with the required plans and information to the Commissioner.

4.3 Application - approved form

Applications shall be made on the form approved by the Commissioner.

Part 5

REQUIREMENTS FOR ISSUANCE OF PERMIT

5.1 Permit Issuance - requirements - various

The Commissioner shall issue a permit where:

- (a) the applicant has fulfilled all requirements pursuant to this by-law;
- (b) the proposed activity is associated with an existing use of the property including ongoing silviculture practices and selective thinning or harvesting of plantations, in accordance with good forestry practice; and
- (c) the Commissioner is satisfied that the proposed activity:
 - (i) will not interfere with natural drainage processes;
 - (ii) will not result in soil erosion, slope instability or siltation in a watercourse;
 - (iii) will not have a significant impact on any healthy vegetation community within, and adjacent to the subject site; and,
 - (iv) will not have a significant impact on any fish or wildlife habitat within, and adjacent to the subject site.
- (d) the owner, if required, enters into an agreement which may be registered on title in the subject lands containing such conditions as the Commissioner considers necessary to ensure that the proposed activity will be undertaken in accordance with the approved plans and information. Such an agreement may contain a provision requiring the applicant to post with the City security in an amount determined by the Commissioner, to ensure performance of the obligations under the agreement.

5.2 Commissioner - imposition of conditions

The Commissioner may impose conditions to a permit as in the opinion of the Commissioner are reasonable, to ensure that the proposed activity is consistent with the provisions of paragraph 5.1 above.

5.3 Permit - ongoing period

Where silviculture or harvesting activity is proposed within a woodlot, one permit may be issued to authorize activity for an extended or ongoing period of time, on the basis of an acceptable forestry management plan.

5.4 Commissioner - refer application - comment

The Commissioner may refer any application, associated plans and information to municipal staff, public agency, advisory body and/or other qualified professional for comment prior to making a decision.

5.5 Permit valid - until expiry date

A permit issued pursuant to this by-law shall be valid to the expiry date as specified on the permit by the Commissioner.

Part 6

APPEALS

6.1 Permit - conditions - refusal - appeal to OMB

An applicant for a permit pursuant to this by-law may appeal to the Municipal Board:

- (a) if the Commissioner refuses to issue a permit, within thirty (30) days after the refusal;
- (b) if the Commissioner fails to make a decision on an application, within forty-five (45) days after the application and required plans and information are received by the clerk; or,

- (c) if the applicant objects to a condition in the permit, within thirty (30) days after the issuance of the permit.

6.2 OMB - decision - powers to make

The Municipal Board may make any decision that the Commissioner who received the application for a permit could have made.

Part 7

ADMINISTRATION

7.1 Commissioner - administers and enforces by-law

The administration and enforcement of this by-law shall be performed by the Commissioner and by such persons duly authorized by the Commissioner.

7.2 Officers - designated - enforce by-law

The Municipal Council may by by-law designate one or more persons as officers and assign to them the responsibility for enforcement of this by-law.

7.3 Officers - training and designation

Each officer under this by-law shall be properly trained to perform his or her duties and issued with a certificate of designation.

7.4 Officers - powers - enter and inspect

An officer may, during daylight hours and upon producing the certificate of designation, enter and inspect any land to which this by-law applies.

7.5 Officers - accompanied by assistant

An officer may, in carrying out an inspection, be accompanied by an assisting person.

7.6 Officers - contravention of by-law - make stop order

If after inspection, an officer is satisfied that a contravention of this by-law has occurred, the officer may make an order requiring the person to stop the injuring or destruction of trees and the order shall contain particulars of the contravention.

7.7 Appeal - notice to clerk - 30 days

A person to whom an order has been made pursuant to this by-law may appeal the order to the Municipal Council by filing a notice of the appeal to the clerk within thirty (30) days after the date of the order.

7.8 Municipal Council - hear appeals - powers

As soon as practicable after a notice of appeal is filed, the Municipal Council shall hear the appeal and may confirm, alter or revoke the order.

7.9 Municipal Council - decision - final

The decision of Council under subsection 7.8 of this by-law is final.

Part 8

ENFORCEMENT

8.1 Fines - offences - for conviction

Any person who contravenes any provision of this by-law or any order issued pursuant to this by-law is guilty of an offence and on conviction is liable:

- (a) on a first conviction, to a fine of not more than \$10,000; and
- (b) on any subsequent conviction, to a fine of not more than \$20,000.

8.2 Court order - continuation or repetition of offence

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 make an order prohibiting the continuation or the repetition of the offence of any person.

8.3 Court order - replanting

If a person is convicted of an offence under this by-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to replant or have replanted the trees in such manner and within such period of time as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees or have the trees re-established.

Part 9

EFFECTIVE DATE

9.1 Effective date

This by-law comes into force on the day it is passed.

PASSED in Open Council on July 2, 1996.

D.L. Haskett
Mayor

J.A. Malpass
Assistant City Clerk

First Reading - July 2, 1996
Second Reading - July 2, 1996
Third Reading - July 2, 1996

CITY OF HUMBER BAY TREE BY-LAW
APPLICATION FOR A PERMIT

1. Registered Owner of Affected Property: _____

2. Mailing Address of Owner: _____

City: _____ Postal Code: _____ Phone #: _____

3. Legal Description of Affected Property: _____

4. Existing Land Use(s): _____

5. Official Plan Designation: _____ Existing Zoning: _____

6. Purpose of Proposed Tree Cutting Activity: _____

7. Commencement/Completion Date: _____

8. Description of Proposed Activity (attach addendum, if necessary):

9. Contractor (if different from owner): _____

10. Attached, include a plan of the affected area drawn to scale, accurately delineating:

- a) property boundaries, buildings and structures;
- b) existing topography (contour intervals);
- c) environmental constraints (Flood line, fill line, 100 year erosion line);
- d) hydrological features (lakes, streams, wetlands, drainage courses);
- e) biological features (vegetation communities);
- f) location/dimensions of proposed tree cutting or removal activities (including the location of access roads or other associated works);

11. If required, for major activities include a report (prepared by a qualified forester, biologist and/or ecologist), describing the potential impacts on natural features and functions, and any required protection or mitigation measures.

12. _____

Signature of Owner or Authorized Agent

Date (day/month/year)