

Boulevard Tree Protection By-law

P.-69 – Consolidated – May 3, 2010

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**OFFICE CONSOLIDATION
INCLUDING AMENDMENT P.-69-10001 (May 3, 2010)**

Bill No. 198
2005

By-law P.-69

A by-law relating to PLANTING AND PRESERVING
OF TREES ON BOULEVARDS IN THE CITY OF
LONDON.

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:

**Part 1
DEFINITIONS**

1.1 Definitions

In this by-law:

“boulevard” 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.

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

“General Manager” shall mean the General Manager of Environmental and Engineering Services & City Engineer for the City and any employee acting under their direction.

“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.

“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.

“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” includes but is not limited to cutting of trees, topping, removing tree bark, leaves or fruit, removing whole tree or cutting or breaking of tree roots.

“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.

“tree” includes a tree, shrub or plant alive or dead.

Part 2 GENERAL PROVISIONS

2.1 Administration of By-law

This by-law shall be administered and enforced by the General Manager.

2.2 General Manager - authority

Notwithstanding section 3.3 of this by-law, the General Manager is hereby authorized to plan, regulate, supervise and carry out all planting, removal, pruning, trimming and, any and all maintenance activities with respect to trees situated on a boulevard in the City of London.

2.3 Branch extending over highways

The General Manager may trim any trees planted on private property where the branches extend over a highway.

2.4 Trees may be removed

The General Manager may remove, without notice to any person, a tree of the prohibited species listed in Schedule “A” of this by-law, from the boulevard.

2.5 Consensual tree removal fee - tree replacement

- (a) Should the General Manager agree to a request for the removal of a tree located on a City boulevard, 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 are to be carried out by the General Manager.
- (b) The fee as set out in Schedule “B” includes a fee for planting a replacement tree. Where a tree less than 36 cm in diameter is removed, the General Manager shall plant at least one replacement tree on City property. Where a tree 36 cm or greater in diameter is removed, the General Manager shall plant at least two replacement trees on City property. In each case, where the General Manager determines it is reasonably possible, the General Manager shall plant the tree close to the location of the tree removed, or, where not reasonably possible, at a location determined by the General Manager. The General Manager shall determine which species of tree to plant.

Part 3 PROHIBITED MATTERS

3.1 Plant tree without permission

No person shall plant or cause to be planted a tree on a boulevard without written permission of the General Manager.

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 a boulevard.

3.3 Cut down - deface - trim - injure - prohibited

No person shall cut down, deface, trim, prune, destroy or injure a tree located on a boulevard in the City.

3.4 Hinder General Manager in duties

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

3.5 Attaching objects prohibited without permission

No person shall attach any object or thing to a tree upon a boulevard without written permission from the General Manager.

3.6 Undertaking work causing tree damage

No person shall undertake any work over, upon or under a boulevard so as to cause injury to any tree.

**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 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.

**Part 5
SHORT TITLE**

5.1 The short title of this by-law shall be the Boulevard Tree Protection By-law.

**Part 6
REPEAL – ENACTMENT**

6.1 By-law - previous

By-law No. P-68 and all amendments thereto are hereby repealed.

6.2 Effective date

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

PASSED in Open Council on May 16, 2005.

Anne Marie DeCicco
Mayor

Kevin Bain
City Clerk

First Reading – May 16, 2005
Second Reading – May 16, 2005
Third Reading - May 16, 2005

SCHEDULE "A"
PROHIBITED SPECIES

The following trees of prohibited species may be removed, without notice to any person, by the General Manager, pursuant to section 2.4 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"
CONSENSUAL TREE REMOVAL AND REPLANTING FEES

The following fees shall apply when consent is given for the removal of a tree situated on a boulevard in the City of London, pursuant to section 2.5 of this by-law:

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