

# Tree Conservation By-law

CP-1466-249 - Consolidated July 25, 2011

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**OFFICE CONSOLIDATION  
INCLUDING AMENDMENT C.P.-1466(b)-208 (July 25/11)**

Bill No.385  
2007

By-law No. C.P.-1466-249

A by-law to prohibit and regulate the  
destruction or injuring of trees in the City of London.

WHEREAS the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended provides:

- in section 2 that municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this Act and many other Acts for the purpose of providing good government with respect to those matters;
- in section 9 that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;
- in section 8 that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable it to govern its affairs as it considers appropriate and to enhance its ability to respond to municipal issues;
- in subsection 10(1) that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;
- in subsection 10(2) that a municipality may pass by-laws respecting: 5. Economic, social and environmental well-being of the municipality; 6. Health, safety and well-being of persons; 7. Services and things that the municipality is authorized to provide under subsection (1); 8. Protection of persons and property;
- in section 135 that a local municipality may prohibit or regulate the destruction or injuring of trees;
- in section 436 that a municipality may, at any reasonable time, enter on land for the purpose of carrying out an inspection to determine compliance with the by-law, direction or order, a condition to a permit, or a court order;
- in subsection 436(2) that the municipality may require the production for inspection of documents or things relevant to the inspection; inspect and remove documents or things relevant to the inspection; require information from any person concerning a matter related to the inspection; and alone or in conjunction with a person possessing special expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection;
- in section 435 that the power to enter shall be exercised by an employee, officer or agent of the municipality or a member of the police force of the municipality;
- in section 23.2 for municipalities to delegate certain legislative and quasi-judicial powers;
- in section 426 that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under the Act or this by-law, and any person who so hinders or obstructs is guilty of an offence;
- in section 438 that a municipality has the power to pass by-laws providing that the municipality may, in the circumstances set out in the by-law, undertake inspections pursuant to orders issued by a provincial judge or justice of the peace;
- in section 444 that the municipality may make an order requiring the person who contravened the 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, and any person who contravenes such an order is guilty of an offence;
- in section 445 that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention, and any person who contravenes such an order is guilty of an offence;
- in section 446 that if the municipality has the authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and the municipality may recover the costs of doing the matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes, and the amount of the costs including interest constitutes a lien on the land upon registration in the proper land registry office of a notice of lien;

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

### **SHORT TITLE**

1.1 This by-law may be cited as the “Tree Conservation By-law”.

### **DEFINITIONS**

2.1 For the purpose of this by-law:

“Agricultural Operation” has the same meaning as contained in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, C. 1, as amended, or any successor legislation;

“Applicant” means an Owner, or an Owner’s agent who is authorized by the Owner in writing to act on behalf of the Owner, applying for a Permit under this by-law;

“Basal Area” means the cross-sectional area of the trunk of a tree taken at a point of measurement 1.37 metres above the ground, and the basal area of a stand of trees is the sum of all individual tree basal areas for a given land area;

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

“City Planner” shall mean the person who holds the position of City Planner for The Corporation of the City of London;

“DBH” stands for Diameter at Breast Height and means the diameter of the trunk of the tree measured outside the bark at roughly breast height or 1.37 metres above the ground on the uphill side of the tree;

“Environmental Protection Area” means those areas designated as Open Space and/or Environmental Review on Map Schedule “A” of the Official Plan for the City of London Planning Area adopted by the Municipal Council and amended from time to time, and/or those lands that are zoned as Environmental Review and/or OS5 under any of the City’s zoning by-laws passed under section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

“Good Forestry Practices” means 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 that 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, consistent with the forestry management practices as set out in the Ministry of Natural Resources document “A Silvicultural Guide to Managing Southern Ontario Forests (2000)”, or any successor document;

“Hearings Officer” means a Hearings Officer appointed under the City’s Hearings Officer By-law A.-6653-121, as amended;

“Injure” and “destroy” in relation to a tree or trees includes any action or treatment which may inhibit or terminate tree growth and includes but is not limited to changing grades around trees, compacting soil over root areas, severing roots, the application of chemicals toxic or harmful to the tree, improper pruning, removal of bark, cutting trees, burning trees, uprooting trees, and “injuring”, “injury”, “injured”, “destruction” and “destroyed” shall have corresponding meanings;

“Normal Farm Practice” has the same meaning as contained in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, C. 1, as amended, or any successor legislation;

“Officer” means a person designated by by-law to carry out and enforce the provisions of this by-law;

“Owner” means any person having any right, title, interest or equity in the land;

“Permit” means a permit to injure or destroy a tree or trees on an Environmental Protection Area issued pursuant to Sections 6.1 through 6.11 of this By-law;

“Permit Holder” means a person to whom a Permit has been issued;

“Qualified Tree Marker” means:

- (i) an individual who has successfully completed the Ontario Ministry of Natural Resources Certified Tree Marker Course;
- (ii) a Registered Professional Forester who is experienced in tree marking; or
- (iii) a member in good standing of the Ontario Professional Foresters Association who is experienced in tree marking;

“Registered Professional Forester” means a person who is a registered member of the Ontario Professional Foresters Association and has the right to use the designation “Registered Professional Forester” under the *Professional Foresters Act, 2000*, S.O. 2000 c. 18;

“Silviculture” means the theory and practice of controlling forest establishment, and the composition, growth and quality of forests to achieve the objectives of forest management;

“Silvicultural Prescription” means a site specific operational plan that describes the existing forest conditions and the forest management objectives for a particular woodland area, and that prescribes the methods for harvesting the existing forest stand and a series of silvicultural treatments that will be carried out to establish a free growing stand in a manner that accommodates other resource values as identified;

“Tree” means any species of woody perennial plant including its root system that has reached or can reach a height of at least 4.5 metres at physiological maturity, provided that where multiple stems grow from the same root system, the number of trees shall be the number of stems that can be counted at a point of measurement 1.37 metres from the ground;

## **EXEMPTIONS**

3.1 This by-law does not apply to:

- a) activities or matters undertaken by the Provincial or Federal Government or their agents;
- b) the cutting of wood for fuel or other personal use, provided the total volume cut or removed by the Owner in any calendar year does not exceed 2.5 full cords per hectare of wooded area, and provided it is in accordance with Good Forestry Practices;
- c) activities or matters undertaken by a municipality or a local board of a municipality;
- d) the injury, destruction or removal of trees occurring as part of a Normal Farm Practice and carried on as part of an Agricultural Operation, and as approved in advance in writing by the City Planner, or as determined by the Normal Farm Practices Protection Board;
- e) the injury, destruction or removal of trees in a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees or nursery stock;
- f) activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*;
- g) the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- h) the injuring or destruction of trees imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- i) the injuring or destruction of trees imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;
- j) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998* for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- k) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*; or
- l) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
  - (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
  - (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*.

## **PROHIBITION**

- 4.1 No person shall injure, destroy, or remove, or cause or permit the injury, destruction or removal of a tree or trees located on an Environmental Protection Area without first obtaining a Permit under this by-law.
- 4.2 No person shall injure, destroy, or remove, or cause or permit the injury, destruction or removal of a tree or trees located on an Environmental Protection Area unless a valid Permit is posted at the main entrance to the site and is visible from a public road.
- 4.3 No person shall injure, destroy, or remove, or cause or permit the injury, destruction or removal of a tree or trees located on an Environmental Protection Area without notifying the City Planner in writing.
- 4.4 Where a Permit has been issued pursuant to this by-law, no person shall injure, destroy or remove a tree or trees on an Environmental Protection Area except in accordance with that Permit and except in accordance with any terms, conditions, plans or other information that form part of the Permit or were submitted as part of the application or supporting material for the issuance of that Permit.
- 4.5 No person shall contravene a Work Order or an Order to Discontinue Activity under this by-law.
- 4.6 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty, including carrying out an inspection, pursuant to this by-law.

## **REQUIREMENTS FOR ISSUANCE OF A GOOD FORESTRY PRACTICES PERMIT**

- 5.1 An Applicant applying for a Permit shall submit the following to the City Planner:
  - (1) a complete application in the form prescribed by the City Planner;
  - (2) a Permit Fee as set out in Schedule "D" to this by-law;
  - (3) a schedule of the anticipated starting and completion dates of each injuring or destroying of a tree or trees;
  - (4) such information required by the City Planner to satisfy him or her that the proposed activity will be in accordance with Good Forestry Practices, including, as required by the City Planner, the information set out in Schedule "A" to this by-law;
  - (5) where the Applicant does not hold title to the land on which trees are proposed to be injured or destroyed, the written consent of the person on title to the issuance of a Permit;
  - (6) where required by the City Planner, a completed security agreement as set out in Schedule "C", which security is to be in a form and amount to be determined by the City Planner; and
  - (7) where required by the City Planner, a Certificate of Insurance in the Owner's name for Third Party General Liability Insurance, naming the City as an Additional Insured, covering the ownership of the property to a minimum amount of two million dollars (\$2,000,000.00) per occurrence. The Insurance shall not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the date of cancellation. In addition, the City reserves the right to require such other and amounts of insurance as appropriate, including Environmental Liability Insurance.

## **ISSUANCE OF A PERMIT**

- 6.1 The City Planner shall not issue a Permit unless:
  - (1) the injury or destruction of a tree or trees is associated with an existing or proposed use of the property that is otherwise legally permitted;
  - (2) the Applicant has fulfilled all requirements pursuant to this by-law;
  - (3) the injury or destruction of a tree or trees is in accordance with Good Forestry Practices;
  - (4) the trees to be cut are marked by a Qualified Tree Marker in accordance with a Silvicultural Prescription or Forest Management Plan and only such marked trees are cut;
  - (5) the injuring or destruction of trees will not reduce the total basal area per hectare by more than one-third over a 15-year period, OR more than 21m<sup>2</sup>/ha total Basal Area over a 15-year period, OR more than 16m<sup>2</sup>/ha for trees >25 cm DBH over a 15-year period.

- (6) the City Planner is satisfied that the injury or destruction of a tree or trees will not result in:
    - (a) soil erosion or slope instability;
    - (b) blockage of a watercourse or interference with natural drainage processes;
    - (c) siltation in a watercourse;
    - (d) pollution of a watercourse;
    - (e) significant impact on any healthy vegetation community within, or adjacent to the subject site; or
    - (f) significant impact on any fish or wildlife habitat within, or adjacent to the subject site;
  - (7) none of the species set out in Schedule "E2" will be destroyed, unless they are severely diseased, severely damaged, or severely insect-infested, in which case they are only to be removed as determined by a Registered Professional Forester, and the injury, destruction or removal will be done in accordance with Good Forestry Practices and under the supervision of a Registered Professional Forester.
- 6.2. Permits may be issued by the City Planner and shall be subject to the conditions as set out in Schedule "B" to this by-law.
- 6.3 The City Planner may impose further conditions to a permit as in the opinion of the City Planner are reasonable, to ensure that the injury or destruction of a tree or trees is consistent with the provisions of section 6.1 above.
- 6.4 The Permit issued pursuant to this by-law shall only be valid for a period of 1 year from the date of issuance, or as specified on the Permit by the City Planner, whichever period of time is less. A Permit that is no longer valid shall be deemed to have expired.
- 6.5 A Permit which is no longer valid or which has expired pursuant to this by-law may be renewed within 180 days from the date of expiry upon the making of written application to the City Planner accompanied by a payment of one half (1/2) of the original Permit fee, provided that the proposed work has not been revised. The renewed Permit shall be valid for a period of 1 year from the date of issuance, or as specified on the Permit by the City Planner, whichever period of time is less.
- 6.6 The issuance of a Permit by the City Planner does not preclude the Applicant's responsibility to obtain all other approvals which may be required by any level of government and agencies thereof.
- 6.7 If the land for which a Permit has been issued is transferred while the Permit remains in effect, the Permit is no longer valid unless the new owner of the land provides the City with an undertaking to comply with all the conditions under which the existing Permit was issued. Otherwise, the new owner shall apply for and obtain a new Permit in accordance with the provisions of this by-law.
- 6.8 Where the City Planner refuses to issue a Permit, the Applicant shall be informed in writing.
- 6.9 A Permit is non-transferable to another site or to another person, except in accordance with section 6.7.
- 6.10 Every person to whom a Permit is issued shall:
  - (a) forthwith after the injury or destruction of a tree or trees, restore the site surface in a manner that is appropriate for the area, and to the satisfaction of the City Planner; and
  - (b) ensure that all conditions of the Permit and any requirements of this by-law are fulfilled to the satisfaction of the City Planner.
- 6.11 The City Planner may revoke any Permit if the application contains false or misleading information, or if the Owner has breached any conditions of the Permit, or has violated any provision of this By-law.

## **APPEALS**

- 7.1 The power and authority to conduct hearings for appeals under this by-law are hereby delegated to the Hearings Officer.
- 7.2 The provisions of the City's Hearings Officer By-law A.-6653-121, as amended, apply to all hearings conducted by a Hearings Officer.
- 7.3 An Applicant for a Permit pursuant to this by-law may appeal to a Hearings Officer:
  - (1) If the municipality refuses to issue a Permit, within thirty (30) days after the refusal;

- (2) If the municipality fails to make a decision on the application, within forty-five (45) days after the application is received by the City Planner; or
  - (3) If the Applicant objects to a condition in the Permit, within thirty (30) days after the issuance of the Permit.
- 7.4 A request by an Applicant for a hearing shall be made in writing and filed with the City Clerk. The request shall consist of a notice of appeal and must comply with the requirements as set out in Schedule 1 of the City's Hearings Officer By-law A-6653-121.
- 7.5 A Hearings Officer may:
- (1) Uphold the decision of the municipality;
  - (2) Require the municipality to vary any condition on a Permit; or
  - (3) Require the municipality to issue a Permit on such conditions as the Hearings Officer considers appropriate.
- 7.6 The decision of the Hearings Officer is final."

#### **ADMINISTRATION AND ENFORCEMENT**

- 8.1 The administration of this by-law shall be performed by the City Planner and by such persons as may be designated by by-law as Officers. Officers shall have the power to issue Permits, impose conditions to the Permits as set out in this by-law, and to issue Work Orders and Orders to Discontinue Activity. The City Planner is authorized to sign the security agreement, attached as Schedule "C".
- 8.2 The enforcement of this by-law shall be performed by such persons as may be designated by by-law of the City.

#### **POWERS OF ENTRY – INSPECTION – REMEDIAL ACTION**

- 9.1 The City Planner, an Officer, and anyone under the City Planner's or the Officer's direction, may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether this By-law, an Order to Discontinue Activity, a Work Order, or an order under section 431 of the *Municipal Act, 2001* is being complied with.
- 9.2 For the purposes of an inspection, the Officer may:
- (a) require the production for inspection of documents relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information from any person concerning a matter related to the inspection; and,
  - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take photographs necessary for the purposes of the inspection.
- 9.3 A receipt shall be provided for any document or thing removed under clause 9.2(b) and the document or thing shall be promptly returned after the copies or extracts are made.
- 9.4 The following conditions apply to a power of entry:
- (a) the power of entry shall only be exercised by an employee, Officer or agent of the City or a member of London Police Services;
  - (b) the person with the power of entry must on request display or produce proper identification;
  - (c) the person exercising the power may be accompanied by a person under his or her direction.

#### **INSPECTIONS PURSUANT TO A COURT ORDER**

- 9.6 The City Planner or an Officer may undertake inspections pursuant to an order of a provincial judge or justice of the peace in the following circumstances:
- (a) the inspection is reasonably necessary; and
  - (b) the City Planner or an Officer has been prevented or is likely to be prevented from:
    - (i) entering the property;
    - (ii) inspecting and removing documents or things relevant to the inspection for the purpose of making copies or extracts;
    - (iii) obtaining information from any person concerning a matter related to the inspection when required;
    - (iv) making examinations or taking tests, samples or photographs necessary for the purposes of the inspection, alone or in conjunction with a person possessing special or expert knowledge.

## **INSPECTION FEE**

- 9.7 (1) Where the Officer determines that an injury or destruction of a tree or trees is not in compliance with this by-law or with an Order, the fee or charge set out in Schedule “D” for inspecting the property may be imposed on the Owner, person responsible for the injury or destruction, or Permit holder.
- (2) The fees imposed constitute a debt of the person to the City. The City Treasurer may add fees to the tax roll and collect them in the same manner as municipal taxes on any property for which all the owners are responsible for paying the fees.

## **ORDER TO DISCONTINUE ACTIVITY**

10.1 If an Officer is satisfied that this by-law has been contravened, the Officer may make an order, known as an Order to Discontinue Activity, requiring the person who contravened the 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 contravention.

10.2 An Order to Discontinue Activity shall set out:

- (a) the municipal address of the property on which the contravention occurred;
- (b) the date of the contravention;
- (c) the reasonable particulars of the contravention of the by-law;
- (d) the date by which there must be compliance with the order; and
- (e) the date on which the order expires.

10.3 The Order to Discontinue Activity may be served personally on the person to whom it is directed or by regular mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.

## **WORK ORDER**

11.1 In addition to any powers in section 10.1 above, if an Officer is satisfied that a contravention of the by-law has occurred, the Officer may make an order, known as a Work Order, requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do the work to correct the contravention.

11.2 The Work Order shall set out:

- (a) the municipal address or the legal description of the land;
- (b) reasonable particulars of the contravention and of the work to be done;
- (c) a deadline, being a specific date, for compliance with the Work Order; and
- (d) a notice that if the work is not done in compliance with the Work Order by the deadline, the municipality may have the work done at the expense of the owner and the cost of the work may be recovered by adding the amount to the owner's tax roll.

11.3 The Work Order may be served personally on the person to whom it is directed or by regular mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the corporate mailing address.

11.4 If the City is unable to effect service on the owner under section 11.3, it shall place a placard containing the terms of the Work Order in a conspicuous place on the land and may enter on the land for this purpose. The placing of the placard shall be deemed to be sufficient service of the Work Order.

## **REMEDIAL ACTION**

12.1 (1) In default of the work required by a Work Order under sections 11.1 and 11.2, or under 13.1 not being done by the person directed or required to do it, the City in addition to all other remedies it may have, may do the work or cause the work to be done at the person's expense and may enter upon land, at any reasonable time, for this purpose.

(2) The City may recover the costs incurred by it in doing the work or causing it to be done under section 12.1(1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. Costs include interest calculated at a rate of fifteen (15) per cent, calculated for the period commencing on the day the City incurs the costs and ending on the day the costs, including interest, are paid in full.

(3) The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper Land Registry Office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate of fifteen (15) per cent to the date payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper Land Registry Office.

## **REMEDATION**

13.1 Where a tree or trees are injured, destroyed or removed from land contrary to this by-law or contrary to a Permit issued under this by-law, the person who injured, destroyed or removed them or who caused or permitted them to be injured, destroyed or removed shall forthwith rehabilitate the land to a condition satisfactory to the City Planner, which may include, but is not limited to, re-planting, site maintenance and ecological monitoring.

## **PENALTY**

14.1 Any person who hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this by-law contrary to section 4.6 is guilty of an offence and is liable to a fine as provided for in the *Provincial Offences Act*.

14.2 Any person who contravenes any provision of this by-law other than section 4.6, or who contravenes an Order to Discontinue Activity or a Work Order is guilty of an offence and is liable,

(a) on a first conviction, to a minimum fine of \$100, and a maximum fine of not more than Ten Thousand Dollars (\$10,000.) or \$1,000 per tree injured or destroyed, whichever is greater; and

(b) on any subsequent conviction, to a minimum fine \$500, and a maximum fine of not more than Twenty-five Thousand Dollars (\$25,000.) or \$2,500 per tree injured or destroyed, whichever is greater.

14.3 Despite section 14.2, where the person convicted is a corporation, the corporation is liable,

(a) on a first conviction, to a minimum fine of \$500, and a maximum fine of not more than Fifty Thousand Dollars (\$50,000.) or \$5,000 per tree injured or destroyed, whichever is greater; and

(b) on any subsequent conviction, to a minimum fine \$1,000, and a maximum fine of not more than One Hundred Thousand Dollars (\$100,000) or \$10,000 per tree injured or destroyed, whichever is greater.

14.4 If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,

(a) prohibiting the continuation or repetition of the offence by the person convicted; and

(b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate, including ordering the person to rehabilitate the land or to plant or replant trees in such a manner and within such a period as the court consider appropriate, including any silviculture treatment necessary to re-establish the trees.

## **REPEAL**

15.1 By-law CP-1362-380 and any amendments thereto are hereby repealed.

15.2 Any permit issued in 2006 or 2007 under the provisions of By-law CP-1362-380 that has not expired or been revoked as of the date of the coming into force of this by-law, shall be deemed to have been issued under this by-law and will be valid until such permit is revoked or until it expires. Any permits issued under By-law CP-1362-380 prior to 2006 are deemed to have expired.

## **SEVERABILITY**

16.1 Notwithstanding that any section or sections of this by-law, or part or parts thereof, may be found by any court of law to be bad or illegal or beyond the power of the Council to enact, such section or sections, or a part or parts thereof shall be deemed to be severable, and all other sections of this by-law, or parts thereof, are separate and independent therefrom and enacted as such.

**IN FORCE**

17.1 This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on October 22, 2007.

Anne Marie DeCicco-Best  
Mayor

Kevin Bain  
City Clerk

First Reading – October 22, 2007  
Second Reading – October 22, 2007  
Third Reading – October 22, 2007

## SCHEDULE "A"

Information That May Be Required by the City Planner to be Submitted Under Section 5.1 – Issuance of a Permit:

- a) a key map at a scale of approximately 1:500 showing the location of all Environmental Protection Areas as defined in this by-law located on and within a minimum of 30 metres beyond the site boundary, roads, buildings and north arrow;
- b) the site boundaries and number of hectares of the site;
- c) aerial photograph of the site;
- d) topographical features (ravines, slopes, contour intervals);
- e) hydrological features (streams, ponds, wetlands, recharge areas);
- f) sensitive environmental features or areas (riparian zones, seepage areas, amphibian breeding ponds, wetlands, steep or unstable slopes, significant wildlife habitat, stick nests, patches of conifer, rare species or species of conservation concern);
- g) the Flood Plain and Conservation Authority Fill Regulation lines, where applicable;
- h) the locations of all existing easements, and right-of-ways over, under, and across or through the site;
- i) the location of existing or proposed logging roads and skid trails;
- j) the landing area for the sawlogs as they are being harvested;
- k) the location of all sampling plots measured (minimum 1 per hectare or 5 whichever is greater);
- l) tree species composition and distribution across the site (Ecological Land Classification of treed communities);
- m) tree condition (e.g. stem and crown quality, presence of insects or disease) coded as AGS or "acceptable growing stock" or UGS or "unacceptable growing stock";
- n) tree age, diameter, size (DBH);
- o) stand height, density, volume;
- p) regeneration;
- q) report prepared by the Registered Professional Forester;
- r) Silvicultural Prescription or Forest Management Plan;
- s) any other information with respect to the site required by the City Planner.

**Not all of the above information may be required by the City Planner.**

## SCHEDULE "B"

### PERMIT CONDITIONS

1. It is a condition of obtaining, renewing and continuing to hold a Permit that the Permit holder shall:
  - (a) Notify the City Planner in writing a minimum of two business days prior to the commencement or recommencement of any injuring or destruction of a tree or trees, and request in writing prior to the commencement of any injuring or destruction that the City conduct an inspection;
  - (b) Promptly repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from injuring or destruction of a tree or trees;
  - (c) Allow City Officers or agents of the City to enter the site for the purpose of inspecting for compliance with the by-law or for performing any work necessary to bring the site into compliance with the by-law;
  - (d) Maintain and post a copy of the Permit at the site where a tree or trees are to be injured or destroyed:
    - (i) at the main entrance and visible from a public road; and
    - (ii) commencing at least 7 days prior to the destroying or injuring of a tree or trees, and ending 7 days after the permit expires.
  - (e) Ensure that the injuring or destruction of a tree or trees is done at the request of or with the consent of the owner or owners having title to the land;
  - (f) Comply with any other conditions imposed by the City Planner;
  - (g) Where required by the City Planner, ensure that no injuring or destruction of a tree or trees occurs prior to the City conducting an inspection;
  - (h) Where required by the City Planner, inspect the sedimentation control measures at least once per week and after each rainfall of at least one centimetre and make needed repairs;
  - (i) Where required by the City Planner, notify all subcontractors and suppliers of approved access routes to the site and ensure compliance with these instructions;
  - (j) Where required by the City Planner, ensure that all Environmental Protection Areas as defined in this by-law are surrounded by appropriate fencing prior to commencement of any injuring or destruction of a tree or trees, satisfactory to the City Planner;
  - (k) Where required by the City Planner, ensure that site sediment and erosion control measures as determined by the City Planner are adhered to;
  - (l) Where required by the City Planner, agree that upon the failure by the Permit holder to comply with this by-law or with a Permit, the City may draw the appropriate amount from the securities posted and use the funds to remedy the non-compliance as the City Planner deems necessary;
  - (m) Where required by the City Planner, ensure that a Registered Professional Forester monitors the tree injury or destruction to ensure compliance with the Permit and all by-law requirements;
  - (n) Ensure that none of the species set out in Schedule "E2" will be destroyed, unless they are severely diseased, severely damaged, or severely insect-infested, in which case they are only to be removed as determined by a Registered Professional Forester, and the injury, destruction or removal will be done in accordance with Good Forestry Practices and under the supervision of a Registered Professional Forester; and
  - (o) Where required by the City Planner, request in writing after the completion of the injury or destruction of a tree or trees that the City conduct an inspection, or the Registered Professional Forester prepare a logging damage audit and submit this to the City for their review.

**SCHEDULE "C"**

**SECURITY AGREEMENT**

**THIS SECURITY AGREEMENT** entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**BETWEEN:**

\_\_\_\_\_

(the "Owner")

**AND**

**THE CORPORATION OF THE CITY OF LONDON**

(the "City")

**WHEREAS** the Owner has applied for a Permit under the City's Tree Conservation By-law;

**AND WHEREAS** the City's Tree Conservation By-law requires an Applicant for a Permit to submit a completed security agreement, which security is to be in a form and amount to be determined by the City Planner;

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada now paid by the Owner to the City, the receipt and sufficiency whereof is hereby acknowledged, the Parties agree one with the other as follows:

1. The lands subject to this Agreement (the "Lands") are described as follows:

**ALL AND SINGULAR** those certain parcels or tracts of land and being in the City of London, and \_\_\_\_\_ being \_\_\_\_\_ composed \_\_\_\_\_ of:

\_\_\_\_\_

\_\_\_\_\_ and also known as (assessment roll): \_\_\_\_\_, with Municipal Address:

\_\_\_\_\_, London, Ontario.

2. (a) The Owner agrees to deliver an irrevocable letter of credit or other "cash" security, in a form satisfactory to the City's City Planner of Finance and Corporate Services in the amount of \$\_\_\_\_\_.

(b) If the City Planner, acting reasonably, determines that there is a breach of the City's Tree Conservation By-law, the irrevocable letter of credit or other security may be drawn upon in full and the monies used to remediate the site (including planting of trees), and site stabilization as determined necessary in the opinion of the City Planner.

(c) It is the responsibility of the Owner to request that the City carry out a final inspection of the site and to obtain the approval of the City Planner that this By-law and terms and conditions of the Permit have been complied with by the Owner. When the provisions of this section have been fully complied with to the satisfaction of the City Planner, he or she shall release the Owner's security.

(d) Should costs associated with remediation of the site be incurred by the City in excess of the amount of the Owner's irrevocable letter of credit or other security, the municipality may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

**IN WITNESS WHEREOF** the Parties have affixed their hand and seal attested by their duly authorized signing officers in that regard.

**SIGNED SEALED AND DELIVERED )**

\_\_\_\_\_

**Name of Owner**

THE CORPORATION OF THE CITY OF LONDON

\_\_\_\_\_

Signature\*

\_\_\_\_\_

Signature

\_\_\_\_\_

Name (print)

\_\_\_\_\_

---

Title

Name (print)

Title: CITY PLANNER OF PLANNING AND  
DEVELOPMENT

---

Signature\*

---

Name (print)

---

Title

**I/We Have Authority to Bind the Corporation**

**Schedule "D"**

**PERMIT FEE:**

<b><u>Number of Trees to be Injured/Destroyed</u></b>	<b><u>Fee</u></b>
Less than 10 Trees	\$50
10 to 100 Trees	\$100
More than 100 Trees	\$250
If all trees to be injured/destroyed are severely diseased, severely damaged or severely insect-infested	\$0
If all trees to be injured/destroyed are Non-native or Invasive, as set out in Schedule "E1"	\$0

**INSPECTION FEE FOR BY-LAW NON-COMPLIANCE:**

\$250.00 per inspection

### Schedule "E1"

For purposes of determining Fee amount in Schedule "D":

The following list include those woody species which are either invasive of natural areas, or could become invasive and may be removed without a fee for permit.

SCIENTIFIC NAME	COMMON NAME	TYPE
<b>PINACEAE</b>		
<i>Pinus sylvestris</i>	Scots pine	Tree
<b>SALICACEAE</b>		
<i>Populus alba</i>	European white poplar	T
<i>Salix alba</i>	White willow	T
<i>Salix x rubens</i>	Hybrid willow	T
<i>S. fragilis X S. alba</i>	Crack willow	T
<b>BETULACEAE</b>		
<i>Betula pendula</i>	European birch	T
<i>Alnus glutinosa</i>	Black alder	T/S
<b>ULMACEAE</b>		
<i>Ulmus pumila</i>	Siberian elm	T
<b>MORACEAE</b>		
<i>Morus alba</i>	White mulberry	T
<b>ROSACEAE</b>		
<i>Crataegus monogyna</i>	English hawthorn	T/Shrub
<i>Prunus mahaleb</i>	Perfumed cherry	T/S
<i>Prunus avium</i>	Sweet cherry	T/S
<i>Sorbus aucuparia</i>	European mountain-ash	T
<i>Pyrus calleryana</i>	Bradford pear	T
<b>LEGUMINOSAE</b>		
<i>Robinia pseudo-acacia</i>	Black locust	T
<b>SIMARAOUBACEAE</b>		
<i>Ailanthus altissima</i>	Tree of heaven	T
<b>ACERACEAE</b>		
<i>Acer platanoides</i>	Norway maple	T
<i>Acer ginnala</i>	Amur maple	T
<i>Acer pseudoplatanus</i>	Sycamore maple	T
<b>RHAMNACEAE</b>		
<i>Rhamnus cathartica</i>	Common buckthorn	T/S
<i>Rhamnus frangula</i>	Glossy buckthorn	T/S
<b>OLEACEAE</b>		
<i>Syringa vulgaris</i>	Lilac	T/S
<b>CAPRIFOLIACEAE</b>		
<i>Lonicera tatarica</i>	Tartarian honeysuckle	T/S
<b>ELAEAGNACEAE</b>		
<i>Elaeagnus angustifolia</i>	Russian-olive	T/S

## Schedule "E2"

For purposes of subsection 6.1(7):

### Species Not to be Destroyed or Injured

Red mulberry (*Morus rubra* L.) S2, END-R  
Butternut (*Juglans cinerea* L.) S3S4, END  
American chestnut (*Castanea dentata* (Marsh.) Borkh.) S2, END  
Kentucky coffee-tree (*Gymnocladus dioica* (L.) K. Koch) S2, THR  
Blue ash (*Fraxinus quadrangulata* Michx.) S3, SC  
Flowering dogwood (*Cornus florida* L.) S2  
Honey-Locust (*Gleditsia triacanthos* L.) S2  
Tulip-Tree (*Liriodendron tulipifera* L.) S4  
Sycamore (*Platanus occidentalis* L.) S4  
Sassafras (*Sassafras albidum* (Nutt.) Nees) S4  
Cucumber-Tree (*Magnolia acuminata* (L.) L.) S2, END-R  
Papaw (*Asimina triloba* (L.) Dunal) S3, S  
Hop-Tree (*Ptelea trifoliata* L.) S3, THR

SRANK Provincial Rank where S1-S3 are considered rare  
END Endangered under COSEWIC and MNR  
R Regulated under the Ontario *Endangered Species Act*  
THR Threatened  
SC Special Concern  
S Sensitive