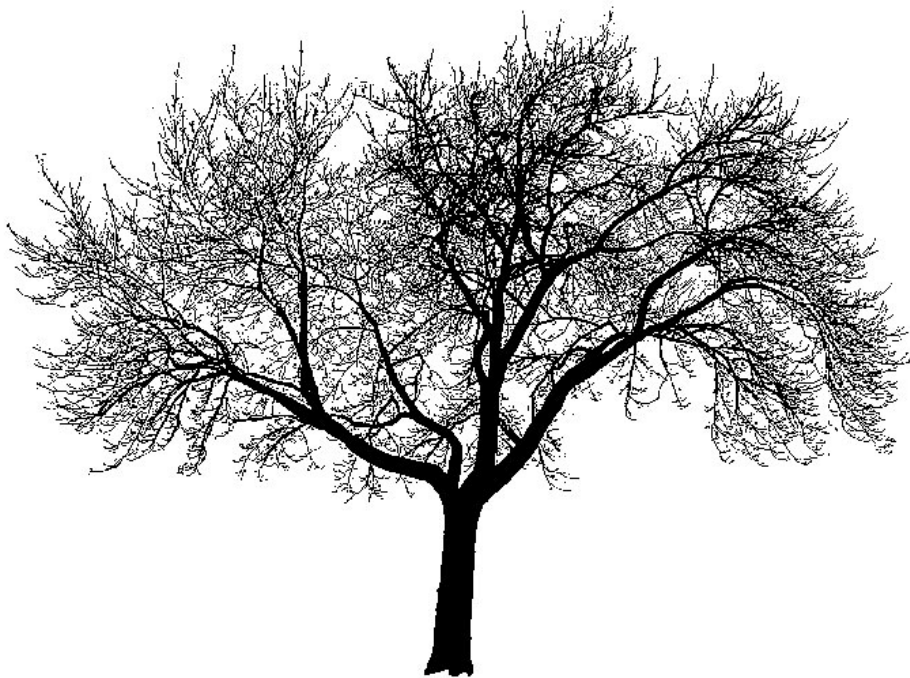




Private Tree Preservation By-law #86-2020

For The Corporation of the City of Stratford

This Tree Preservation By-law # 78-2020 is intended to preserve trees throughout the City of Stratford by regulating the injury and removal of trees that measure 30 centimeters in diameter or more as measured at 1.37 m above ground level. This By-law regulates the destruction or injury of trees and will protect and enhance Stratford's existing tree cover while respecting a landowner's right to make changes to the landscape of their property in an environmentally responsible manner.



CITY OF STRATFORD  
Being a By-law to Prohibit or Regulate the Destruction or Injury  
of Trees on Private Property  
Within the City of Stratford.

**WHEREAS** sections 8, 9, 10 and 11 of the *Municipal Act*, 2001 S.O. 2001 c.25, as amended or replaced from time to time (the "***Municipal Act***") provides the City with broad authority, including the authority to pass by-laws respecting the economic, social and environmental well-being of the municipality;

**AND WHEREAS** Section 135(1) of the *Municipal Act* authorizes the Council of The Corporation of the City of Stratford to pass a By-law to prohibit or regulate the destruction or injuring of trees, without limiting the City's authority under Sections 9, 10 and 11 of the Act;

**AND WHEREAS** Section 436 of the *Municipal Act* provides that the City may pass by-laws providing that the City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law or an order made pursuant to the by-law;

**AND WHEREAS** Section 141 of the *Municipal Act* provides for planting Trees adjacent to Highways with the consent of the property owner;

**AND WHEREAS** Section 62 of the *Municipal Act* 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;

**AND WHEREAS** Section 429(1) of the *Municipal Act* provides that a municipality may establish a system of fines for contraventions of a by-law passed under the *Municipal Act*;

**AND WHEREAS** Part XIV (Enforcement) and section 444 of the *Municipal Act* provides methods for a municipality to enforce its by-laws and allows a municipality to make an order to require any person to discontinue contravening a by-law and to do the work required to correct the contravention;

**AND WHEREAS** section 445 of the *Municipal Act* provides that a municipality may make an order requiring a Person who contravened a 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 WHEREAS** section 446 of the *Municipal Act* provides that a municipality may proceed to do work at a Person's expense which that Person is otherwise required to do under a by-law but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as property taxes;

**AND WHEREAS** section 391(1) of the *Municipal Act* provides that a municipality may impose fees or charges on Persons for service or activities provided or done by the municipality and Section 398(2) of the *Municipal Act* provides that such fees and charges may be added to the tax roll for any property in the municipality owned by the same Persons and collected in the same manner as taxes;

**AND WHEREAS** trees within the City are valued for the economic, social and environmental benefits they provide such as increased aesthetic and property values, shade, contributions to physical and psychological well-being, maintenance and enhancement of water quality, prevention of soil erosion and water run-off, wildlife habitat, local climate moderation and improved air quality;

**AND WHEREAS** the Council of The Corporation of the City of Stratford recognizes the ecological and aesthetic value of trees and is desirous of managing the injury and destruction of trees;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF STRATFORD ENACTS AS FOLLOWS:**

**INTERPRETATION**

1.(1) In this By-law, the following terms shall have the meanings indicated:

**“Applicant” and “Permit Applicant”** means an applicant for a Permit under this By-law who is the registered owner(s) of the land where the subject Tree(s) is located and also means the Owner’s authorized representative including but not limited to a contractor, arborist, occupant or other agent authorized to act on behalf of the Owner(s). The City will request written verification of such owner’s authorization;

**“Application”** means an application pursuant to this By-law for a Permit;

**“Arborist”** means an expert in the care and maintenance of trees and includes an arborist qualified by the Ontario Ministry of Training, Colleges and Universities, a person with a certificate, diploma or degree involving arboriculture from an accredited college or university, a registered professional forester, an accredited arborist certified under the International Society of Arboriculture or a consulting arborist registered with the American Society of Consulting Arborists or a person otherwise having a demonstrated history of tree preservation experience satisfactory to the Director.

**“Arborist Report”** means a technical report prepared by an Arborist that identifies the designated or surveyed location, species, size and the condition of the Tree(s), and sets out the rationale for any proposed Injuring or Destruction of a Tree and includes the Author Information including contact information and qualification, tree planting plan and describes Tree protection measures or other mitigating activities to be implemented.

**“City”** means The Corporation of the City of Stratford and **“City Council”** means the elected Council of the City.

**“DBH”** means the diameter of a Tree, outside the bark, at breast height, where breast height is measured from the existing grade of the ground adjoining the base of the trunk:

- (i) for a trunk rising straight and vertically from ground with a horizontal grade, 1.37 metres (4.5 feet) above that grade;

- (ii) for a trunk rising straight and non-vertically from ground with a horizontal grade, 1.37 metres (4.5 feet) along the centre axis of the trunk from that grade;
- (iii) for a trunk rising straight and vertically from ground with a non-horizontal grade, 1.37 metres (4.5 feet) along the centre axis from the trunk from that grade;
- (iv) for a trunk rising up straight, 1.37 metres along the centre axis of the trunk from that grade;

and where diameter is:

- (i) for a tree with a single trunk, the diameter of that single trunk;
- (ii) for a tree with two or three trunks, the total diameter of those two or three trunks; and,
- (iii) for a tree with more than three trunks, the total diameter of the three trunks with the greatest diameters;

**“Destroy”** means directly or indirectly, including through construction activities, remove, ruin, uproot or kill a Tree, whether by accident or by design, and whether by cutting, burning, girdling, interfering with its water supply, applying chemicals, puncturing, or compacting, regrading or resurfacing within its drip line, or to remove, cut down, or Injure a Tree in any way to such an extent that it has become a Hazard or its life processes have been compromised in such a way that it cannot survive, but does not including Maintenance Pruning, and **“Destruction”** has a corresponding meaning.

**“Director”** means the Director of Community Services for the City and any City employee, including a City appointed Arborist, designated by or acting under the direction and authority of the Director.

**“Drip Line”** means that line which could be drawn running along the ground beneath and perpendicular to the outermost branches of the Tree.

**“Emergency Tree Work”** means work involving Injury or Destruction of a Tree required to be performed immediately in order to prevent imminent danger to health and safety and the public including Tree maintenance work necessary due to a Hazard resulting from natural events including but not limited to ice storms, high winds, lightning, as well as Tree maintenance work associated with emergency reconstruction or repair of a drain, waterline, utility or building.

**“Golf Course”** means an area of land laid out and operated as a golf course and includes the lands used for putting greens and driving ranges but does not include other land used for ancillary facilities and services of property.

**“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 but not limited to 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)", as may be amended and/or replaced from time to time.

**"Hazard"** and **"Hazardous"** means a Tree, or part of a Tree that is destabilized, structurally compromised or obstructing views of vehicle operators or pedestrians in such a way that it is deemed, by a City appointed Arborist or the Director, to pose a potential safety concern to the property or public.

**"Highway"** means any public highway or any part thereof under the jurisdiction of the City, including the boulevard and all land dedicated or assumed as a road allowance, and includes a street and a bridge forming part of a highway.

**"Injury"** means any action causing directly or indirectly, whether by accident or design, including through construction activities, harm, damage, or impairment to a Tree, and includes, but is not limited to, causing stress or injury of Trees by changing grades or compacting or excavating soils within the Drip Line of a Tree, severing roots, the improper application of chemicals excessive or otherwise, excessive or improper pruning, attachments of any items, and the removal or slashing or defacing or girdling or burning of the bark, and **"Injure"**, **"Injured"** and **"Injurious"** shall have the corresponding meaning.

**"Municipal Property"** means any land owned, held, or used under statutory right by the City, or by any local board within the meaning of the *Municipal Act* or any other municipal body and including but not limited to road allowances, boulevards, parks, ravines, natural areas, woodlots, Highways, rights-of-ways and any grounds of municipal facilities.

**"Municipal Tree"** means any Tree, the trunk of which at ground level is located 60% or more on Municipal Property. A Tree is not a Municipal Tree where more than 40% of its base at ground level is located on Private Property.

**"Nursery"** means land on which the principal business is propagation or transplanting of plants, shrubs and Trees and/or where the selling occurs.

**"Officer"** means an Enforcement Officer appointed by the Council of the City pursuant to Section 11(1) of this By-law, and may include the City Arborist if so appointed.

**"Lot"** means a parcel of land that:

- (i) is the whole of a lot or block on a registered plan of subdivision so long as such registered plan of subdivision is not deemed, pursuant to section 50 of the *Planning Act*, R.S.O. 2990, c.P 13, as amended or replaced from time to time, not to be a registered plan of subdivision for subdivision control purposes;
- (ii) is all land held or owned under distinct and separate ownership from the ownership of the fee or equity of redemption in abutting land;
- (iii) has the same description as in a deed which has been given consent pursuant to section 53 of the *Planning Act*; or
- (iv) is the whole remnant remaining to an owner or owners after conveyance made with consent pursuant to section 53 of the *Planning Act*.

**“Owner”** means the person having right, title, interest or equity in the land where a Tree is located, a boundary Tree may have multiple Owners.

**“Permit”** means a permit to Destroy or Injury a Tree, issued pursuant to this By-law.

**“Permit Holder”** a Permit is deemed to be held in all cases by all parties who are an Owner(s) of the lands on which the Tree(s) is located and Permit holder means the Owner(s) in addition to the following:

- a) an agent that has obtained a Permit on behalf of the Owner with the Owner’s authorization and approval;
- b) any Person conducting work pursuant to a Permit; and
- c) an occupant of such lands where the occupant is the Applicant for the Permit

**“Person”** includes an individual, a partnership, joint venture, trust, company, corporation, association, organization, government or any department or agency thereof, and any other incorporated or unincorporated entity.

**“Private Property”** means a Lot not owned by a government of any level or by a governmental body nor otherwise dedicated to or used for a public purpose.

**“Private Tree”** means any Tree, the trunk of which at ground level is located more than 40% on Private Property. A Tree is not a Private Tree where 60% or more of its base at ground level is located on Municipal Property.

**“Prune”** means the removal of a branch or branches from a Tree for non-detrimental purposes such as improving the health of a Tree, promoting structural soundness and maintaining the shape of the Tree compatible with its location and well-being and in any case shall not exceed removal of more than one-third of the live branches or limbs of a Tree and shall be performed in a manner that complies with the American National Standards Institute (ANSI) A300 Tree Pruning Standards.

**“Tree”** means a specimen of any species of deciduous or coniferous growing woody perennial plant, supported by a single root system, which has reached, could reach or could have reached a height of at least 4.5 metres from the ground at physiological maturity and includes the root system and all above ground parts of the Tree.

**“Tree Management Professional”** means an Arborist.

**“Tree Preservation Plan”** means a plan prepared by an Arborist in accordance with good Arboricultural Practice, that at a minimum, itemizes the existing number, species, location and condition of all trees on the Property deemed satisfactory by the Director and includes recommended measures for protection and preservation of a Tree or Trees on a specific Lot.

**“Tree Protection Zone”** means the minimum required distances as set out in Schedule ‘D’ of this By-law setting out the Tree protection restrictions or requirements to ensure that no construction, excavation or potentially Injurious activity of any kind will take place inside the Tree Protection Zone.

**“woodlands”** means land at least 1 hectare in area with at least:

- (i) 1000 trees, of any size, per hectare;

- (ii) 750 trees, measuring over five (5) centimetres DBH, per hectare;
  - (iii) 500 trees, measuring over twelve (12) centimetres DBH, per hectare;
- or
- (iv) 250 trees, measuring over twenty (20) centimetres DBH, per hectare;

but does not include a cultivated fruit or nut orchard, or a plantation established and maintained for the purpose of producing Christmas trees or nursery stock.

**“woodlot”** means land at least 0.2 hectare in area and no greater than 1 hectare in area, with at least:

- (i) 200 trees, of any size, per 0.2 hectare;
- (ii) 150 trees, measuring over five (5) centimetres DBH, per 0.2 hectare;
- (iii) 100 trees, measuring over twelve (12) centimetres DBH, per 0.2 hectare; or
- (iv) 50 trees, measuring over twenty (20) centimetres DBH, per 0.2 hectare;

but does not include a cultivated fruit or nut orchard, or a plantation established and maintained for the purpose of producing Christmas trees or nursery stock.

- (2) Any use of a singular term includes its plural, any use of a masculine term includes the feminine term and any use of the present tense includes the past tense, where applicable in this By-law.
- (3) If any section(s) or part(s) of this By-law is found by a court of law to be beyond the powers of the Council to enact, or otherwise illegal or unenforceable, such section(s) or part(s) shall be deemed to be severable and all other sections and parts of this By-law shall be deemed to be independent therefrom and shall separately continue in full force and effect.

## **GENERAL PROVISIONS**

### 2. (1) Administration

This By-law shall be administered by the Director.

### (2) City Council Authority to overrule decision

Upon an Appeal under Section 9 of this By-law, City Council may consider and overrule, vary or confirm any decision of the Director, made under Section 6 or Section 7 of this By-law in their sole and absolute discretion.

## **PROHIBITED ACTIVITIES**

- 3. (1) No Person shall, without first obtaining a Permit under the provisions of this By-law, cause or permit Injury or Destruction of any Private Tree in the City having a trunk diameter of 30 centimetres or greater DBH.
- (2) Where a Permit has been issued, no Person shall Injure, Destroy or permit or cause to be Injured or Destroyed any Private Tree to that such Permit pertains unless they do so in accordance with the terms and conditions and requirements

of the Permit and any other supporting documentation relevant to the issuance of the Permit.

- (3) Any Person who obstructs or hinders, or attempts to obstruct or hinder the Director, or an Officer in the discharge of a power or duty authorized under this By-law and any Person who obstructs or hinders or attempts to obstruct or hinder any other employee or contractor of the City who is exercising a power or performing a duty authorized under this By-law, shall be considered to be committing an offence and act in contravention of this By-law.

### **EXEMPTIONS**

4. (1) Exemptions and exceptions to the prohibitions in Section 3 of this By-law apply in the following circumstances:
- a) activities or matters with respect to any Tree undertaken by the City for municipal purposes;
  - b) Injury or Destruction of Trees with a diameter of less than 30 cm DBH;
  - c) the Injury or Destruction is carried out by a Person licenced under the *Surveyors Act*, R.S.O. 1990, c. S. 29 to engage in the practice of cadastral surveying or his or her agent, where the destruction of said tree is necessary to complete required survey work;
  - d) Emergency Tree Work, as defined by this By-law;
  - e) Tree Pruning in accordance with good arboricultural practices or Good Forestry Practices;
  - f) removal of a dead, terminally diseased or Hazardous Trees(s) or a portion of such a Tree(s), provided such opinion and confirmation is set out in an Arborist Report if required or as indicated on permit, submitted to the Director prior to any removal of the Tree and the Arborist Report confirms, to the satisfaction of the Director, the need for Injury or Destruction of the Tree(s);
  - g) Trees on a Nursery or Golf Course;
  - h) transplanting of Trees that are stock propagated or sold in the operation of a Nursery;
  - i) the Injuring or Destruction of Trees by a transmitter or distributor, as defined in the *Electricity Act*, 1998, S.O. 1998, c.15, Sched. A, for the purpose of constructing and maintaining a transmission system or a distribution system, as defined in the *Electricity Act*.
  - j) where the removal of a Private Tree(s) is specifically required in an Order made under the City's Property Standards By-law (Maintenance and Occupancy By-law 141-2002);
  - k) Acer negundo (Manitoba Maple/Boxelder Tree[s]) interfering with infrastructure located on Private Property and such interference is confirmed in an Arborist Report, submitted to the Director confirming to the satisfaction of the Director, the need for Injury or Destruction of the Tree(s).
4. (2) Where there is a *Planning Act* Application submitted to the City for review and approval. However, all Trees situated upon the Private Property subject to the application shall be protected from Injury or Destruction from any site alteration, until the City issues a Permit under the provisions of this By-law and/or receipt of final approval of any applicable *Planning Act* Application.

Site Plan Application Process shall require:



- a) A Landscape Plan, that shall incorporate replacement Tree(s) satisfactory to the Director. In cases where trees cannot be replaced on site, compensation as set out in Schedule "C" attached to this By-law is required to be paid.

Site Plan Application Process may require:

- b) Submission of a satisfactory Tree Preservation and Inventory Plan for the site. Inventory plan that includes but is not limited to an Arborist report identifying location, species, size and condition of the Tree(s) on the Private Property. Preservation Plan will indicate proposed Tree(s) to be removed as well as Tree(s) to be saved.
- c) A Tree protection zone around remaining Tree(s) as set out in Schedule "D" of this By-law indicating location and type of protection.
- d) Written consent of every adjacent property owner upon whose adjacent land the base of the Tree(s) may be injured or removed is located.
- e) Such additional information and documentation as the Director may require.

### **PERMIT APPLICATION**

5. (1) Where an Applicant applies for a Permit for the Injury or Destruction of a Tree(s) on the Owner's lot, the Applicant shall submit the following to the Director:
  - a) a completed Permit Application form, in the form approved by the Director;
  - b) the non-refundable Permit Application fee as described in Schedule 'A',
  - c) an Arborist Report identifying the location, species, size and condition of the Tree(s) on the Private Property of the Tree(s) to be Injured or Destroyed, tree planting plan, description of Tree protection zones if required and including Author Contact information and details of qualification;
  - d) the written consent of every adjacent Private Property owner upon whose adjacent land the base of the Tree(s) to be Injured or Destroyed is partially located;
  - e) the written consent of the Owner(s) of the land where the subject tree(s) is located, if the Person who is applying for the Permit is not the registered Owner(s) of the land and is therefore applying as agent for such Owner(s);
  - f) such additional information and documentation as the Director deems appropriate in his/her sole and absolute discretion, in the circumstances and may require from time to time.
- (2) Within five (5) business days of receiving an Application for a Permit under Sec. 5(1), of this By-law the Director will review the Application and inform the Applicant of such further information, documentation or other requirements, if any, that will be required to complete the Application.

Such further requirements may include, but are not limited to, the following:

- a) additional information and details regarding the purpose for which the Permit is sought;
- b) a Tree Protection Plan describing the protection measures to be implemented for the benefit of Trees that are to be retained and, if applicable, describing other measures to be taken to address any concerns that may be identified by the Director;
- c) information, submissions or details included in all other applications currently filed or anticipated to be filed with the City relative to the site where the subject Tree(s) is located;

- d) such additional information and documentation as the Director deems appropriate in the circumstances and may require.
- (3) A Permit Application is not complete until the Applicant has satisfied all requirements of the application arising under sections 5(1) and 5(2) above.
  - (4) If an Applicant for a Permit under section 5(1) does not complete the Application by providing all the required documentation and information to the Director within ten (10) business days after being notified of further requirements under section 5(2) above or within such further time frame as may be specified by the Director, acting reasonably, provided that if the Permit Application remains incomplete and one (1) year has elapsed from the date the Permit Application was received by the Director, the Applicant shall be deemed to have withdrawn the Permit Application and shall not be entitled to a refund of any payments made.
  - (5) Despite section 5.(4) above, the Director may, in his/her sole and absolute discretion, extend the time frame for completing a Permit Application where the Director determines that the Applicant is actively taking steps to complete the Permit Application.
  - (6) No Person shall submit false or misleading information in support of a Permit Application under this By-law.
  - (7) While in the following cases Permits are nonetheless required for Destruction or Injury of a Tree, with respect to the following Permit Applications the Application fee may be waived by the City in the Directors sole and absolute discretion:
    - a) Applications for Destruction of a dead or a severely diseased Tree;
    - b) Applications for Destruction or Injury to remove a Tree, or a portion thereof, that is a Hazard;
    - c) Applications pertaining to Trees on properties owned by not-for profit entities providing housing on a not-for-profit basis including:
      - i. The Corporation of the City of Stratford;
      - ii. Habitat for Humanity;
      - iii. not-for-profit corporations and organizations providing social housing as defined in Section 7(1) of the *Residential Tenancies Act*, 2006, S.O. 2016, c.17;
    - d) Owners who are individuals living in a household with household income below the low-income cut off (LICO) as determined by Statistics Canada.

## **ISSUANCE OF PERMITS**

6. (1) The Director shall consider the relevant criteria set out in Schedule "B" to this By-law prior to approving or refusing a Permit, pursuant to a completed Application made under section 5 of this By-law.
- (2) For purposes of the Director's consideration of any of the criteria listed in Schedule "B" the Director may consider any reports prepared by qualified professionals and submitted by the Applicant with the Application or submitted subsequently by the Applicant at the Director's request.
- (3) Upon issuing a Permit the Director may require that one or more conditions be fulfilled before the permitted work or actions can proceed and where a requirement involves work or actions that are to be completed after the Injury or

Destruction for which the Permit is sought the Permit shall be conditional upon the Owner providing a written undertaking for compliance satisfactory to the Director. A Permit may be issued subject to such requirements and/or conditions including but not limited to any one or more of the following:

- a) a replacement Tree(s) as set out in Schedule "C";
- b) submission of a satisfactory Tree Preservation Plan;
- c) a Tree Protection Zone to be provided around a Tree(s) as set out in Schedule "D" to this By-Law and conforming to plans submitted indicating the location and type of Tree Protection Zone, to the satisfaction of the Director;
- d) the Director being satisfied that the Owner is proceeding with construction of a proposed site improvement or building in accordance with plans, submitted in connection with the application to the City and approved or permitted under the applicable City process (building permit if applicable);
- e) A fee to be paid to the City equal to the appraised value of the Tree(s) that is to be removed;
- f) all permit fees are required to be paid at the time of Permit issuance or financial security satisfactory to the Director, provided to the City in cash or by bond or letter or credit in accordance with the City's practice for security held, in an amount not less than the amount set by the Director
- g) an Arborist Report confirming satisfactory completion of the Tree related plans and the condition of the site and/or of the subject Tree(s).

(4) A Permit issued subject to any conditions shall be marked "conditional" and no work shall proceed under such Permit until conditions have been fulfilled to the Director's satisfaction upon which the conditional designation shall be removed by the Director;

(5) Where the planting of a replacement Tree(s) has been imposed as a condition, the Director may require any one or more of the following:

- a) that a number of replacement Tree(s) satisfactory to the Director, or Tree(s) equivalents be provided by the Owner;
- b) that replacement Tree(s) be located on the same lot in a location, number, size and/or species to the satisfaction of the Director;
- c) that a replanting plan be filed to the satisfaction of the Director;
- d) a written undertaking by the Owner to carry out the replacement planting;
- e) that payment for each replacement Tree not replanted on the Owner's Land be made to the City's replacement tree planting fund. The payment for each such Tree shall be the costs of planting an equivalent Tree as set out in Schedule "C".

(6) A Permit Holder shall comply with, or ensure compliance with all of the provisions and conditions of the Permit and this By-law;

(7) A Permit Holder shall ensure that the Permit is securely posted on the Private Property on which the Tree(s) are to be Injured or Destroyed are located. The posting shall be visible from the access street frontage for the entire period during which work is undertaken to Injure or Destroy a Tree(s) under the Permit and to comply with conditions of the Permit;

(8) The issuance of a Permit under this By-law does not relieve any Person from the necessity of acquiring any other license or Permit or complying with any other applicable laws, by-laws, regulations, and requirements of other governmental

authority or other requirements of the City pertaining to the subject site work or circumstances.

### **PERMIT REFUSAL**

7. (1) The Director shall not issue a Permit for the Injuring or Destruction of a Tree(s) where:
  - a) the Application is not complete, in the Director's sole and absolute discretion, or the Applicant failed to pay required fees;
  - b) the information or a report, required by section 6 of this By-law, has not been provided to the satisfaction of the Director, acting reasonably;
  - c) the Director determines that, after considering the applicable criteria listed in Schedule "B", the Destruction or Injury of the Tree(s) has not been justified based on those criteria.
- (2) If the Director refuses to issue a Permit, acting reasonably, the Director shall inform the Applicant and provide the Applicant with written reasons for the refusal within a period of five (5) business days from the refusal.

### **REVOCAION OF PERMITS**

8. (1) The Director may revoke a Permit at any time in his/her sole and absolute discretion, acting reasonably, for any one (1) or more of the following reasons:
  - a) The Permit was issued based on mistaken, false, misleading, inaccurate, or incorrect information;
  - b) The Permit Holder failed to comply with any term, condition, requirement or undertaking(s) that was a condition of the Permit;
  - c) The Permit Holder is non-compliant with any Order(s) whatsoever issued under this By-Law;
  - d) The Permit Holder is non-compliant with any of the provisions of this By-Law in respect to the Private Property affected by the Permit.
- (2) Upon revocation of a Permit, the Permit Holder of the revoked Permit shall immediately cease, or ensure the immediate cessation of, any and all activities for which the Permit had been issued.
- (3) Where a Permit Holder of a revoked Permit has Injured or Destroyed any Tree under the revoked Permit, the Permit Holder may be immediately ordered to replace or protect the Tree at the sole cost and expense of the Permit Holder.
- (4) A Permit is the property of the City and shall be deemed to be revoked upon a change of Owner. A Permit is not transferable unless the Director consents in writing to the specific transfer.

### **APPEALS**

9. (1) An Applicant for a Permit pursuant to this By-law may appeal to City Council by submitting a written request to the Director within thirty (30) calendar days following the date of the occurrence identified below:
  - a) the Director refuses to issue a Permit;
  - b) the Director fails to make a decision on an Application within forty-five (45) calendar days after the Application received by the Director is deemed to be complete;
  - c) the Permit is issued subject to a condition or requirement to which the Applicant objects;

- d) the Applicant receives notice that the Permit has been revoked by decision of the Director.
- (2) Where Council is satisfied that:
- a) the Applicant has submitted to the Director a written request for reconsideration by the Director, which request has not resulted in a resolution satisfactory to the Applicant within a period of not more than fifteen (15) business days following the Director receiving the request for reconsideration;
  - b) within ten (10) business days after:
    - i. being notified of the Director's response to the request for reconsideration, or
    - ii. the Director has failed to give notice of such response within the fifteen (15) business day period for doing so, the Applicant has submitted to the City Clerk a written submission to the Council requesting that the matter be placed on the agenda of a Council Meeting for review and consideration;
  - c) such request for consideration by Council is accompanied by the Applicant's written summary of the background and outlines the concerns of which the Applicant wishes Council to be aware in advance of the Applicant's presentation at the Council meeting along with any written report Council may receive from the Director regarding the basis for the Director's decision.
- (3) Council will consider the merits of the Applicant's written request and hear the Applicant's oral submissions as well as any written report Council may receive from the Director regarding the basis for the Director's decision and Council may:
- a) uphold the decision of the Director;
  - b) require the Director to vary a condition(s) or requirement(s) on a Permit, or;
  - c) require the issue of the Permit or the reinstatement of a revoked Permit on such conditions or requirements as the Council considers appropriate.

## **INSPECTION**

- 10.(1) Pursuant to Section 436(1) of the *Municipal Act*, an Officer may, at any reasonable time, enter and inspect any land to determine whether this By-law is being complied with or whether a direction or Order under this By-law, or an Order made pursuant to subsection 431 of the *Municipal Act* is being complied with.
- (2) Pursuant to orders issued under Section 438 of the *Municipal Act*, an Officer may undertake inspections to enforce compliance with this By-Law or to determine whether or not this By-Law is being complied with including compliance with a Permit issued under this By-Law.
- (3) An Officer carrying out an inspection under this section 20 may:
- a) require the production of documents or any other information relevant to the inspection;
  - b) inspect and remove documents or any other information relevant to the inspection for the purpose of making copies;
  - c) require any information or further details 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 examination or take tests or photographs necessary for the purpose of the inspection.

## **ENFORCEMENT**

- 11.(1) This By-law shall be enforced by one or more Officers appointed by the Council of the City.
- (2) An Order may be issued for any contravention of this By-law including, but not limited to, requiring a Person to cease and desist all actions causing Injury or Destruction of Trees contrary to this By-law or other acts prohibited under Section 3 of this By-law.
- (3) If an Officer is satisfied that this By-law has been contravened, the Officer may make an Order requiring the Person who contravened the By-law or who cause or permitted the contravention, and if different, the Person who is the Owner or occupier of the land on which the contravention occurred, to discontinue the contravention by ceasing and desisting from an activity which contravenes this By-law and/or requiring such Person(s) to correct the contravention.
- (4) The Order shall set out:
  - a) the municipal address or legal description of the Private Property where the contravention occurred;
  - b) the municipal address(es), if different, of the Person(s) who is/are named in the Order as responsible for the contravention;
  - c) reasonable particulars adequate to identify the contravention of this By-law and the work to be done, if any, to remedy the contravention;
  - d) the date by which there must be compliance with the Order; and,
  - e) notification of the fees, charges, costs and fines which may become payable under the provisions of this By-law due to the contravention and in the event of non-compliance.
- (5) All Notices and Orders under this By-law may be served by:
  - a) personal delivery to the Person to whom it is directed, or;
  - b) regular mail to the last address known to the City for the Person to whom the Order is directed, in which case service shall be deemed effective five (5) business days after the date the Order is mailed;
- (6) If the delay necessary to serve an Order under the preceding subsection would result in immediate danger to the health of any Person, the Order may be served to the Person to whom it is directed by posting a placard, stating the terms of the Order, in a conspicuous place upon the property that can be seen by members of the public.
- (7) In default of the work required by an Order being performed by the Person directed or required to do it, the City, in addition to all other remedies the City may have, may do the work or cause the work to be done at the Person's expense and may enter upon Private Property, at any reasonable time, for this purpose. The City may recover the costs incurred by it doing the work or causing the work to be done, including in the manner set out in this By-law and may be added to the tax roll and collected in the same manner as taxes on any property in the City for which all the Owners are responsible for paying the taxes.

- (8) If a Permit Holder fails to comply with an Order made under this section of the By-law, the City may use any security posted with the City as a requirement for the Permit under the revoked Permit to replace the Tree(s) and to pay for any costs associated with carrying out the work deemed necessary for compliance with the Order.
- (9) If the costs incurred by the City in carrying out any work under this Section 11 are greater than the security posted by the Permit Holder under the Permit, any costs not covered by the security shall be a debt owed by the Permit Holder to the City and the City may recover the costs of carrying out the work by adding the costs to the tax roll of the property in question and collecting them in the same manner as property taxes.
- (10) A Property Owner who fails to comply with an Order under this section 11 may in the discretion of the Director acting reasonably, be subject to a further fee of up to a maximum of Five Thousand Dollars \$5,000.00 as it relates to the City's services for inspection, for enforcement and for administration of remedial work deemed necessary by the Director.
- (11) Fees, and charges, including but not limited to the expense of any work performed by the City, imposed under any provision of this By-law, constitute a debt of the Person by whom the fee or charge is payable and the fees and charges may be added to the tax roll and collected in the same manner as taxes on any property in the City for which all the Owners are responsible for paying the taxes.

### **OFFENCES**

- 12.(1) Every Person who contravenes any provision of this By-law or an Order issued under section 11 of this By-law is guilty of an offence.
- (2) 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.
- (3) Contraventions of any provision(s) of this By-law or an Order issued under section 11 of this By-law are designated pursuant to section 429(2) of the *Municipal Act* as multiple offences and continuing offences where applicable to the facts establishing the offence.

### **PENALTIES**

- 13.(1) Upon conviction of an offence under this By-law, a Person is liable to a fine as follows:
  - a) in accordance with section 429 of the *Municipal Act*, the minimum fine for an offence is \$500.00 and the maximum fine for an offence is \$100,000.00;
  - b) in accordance with section 429 of the *Municipal Act*, in the case of a continuing offence, for each day or part of a day that the offence continues the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 and despite paragraph 13(1)(a) above the total of all fines for each included offence shall not be limited to \$100,000.00
  - c) in accordance with section 429 of the *Municipal Act*, in the case of multiple offences for each act or omission pertaining to each Tree the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 and despite

section 13(1)(a) above the total of all fines for each included offence shall not be limited to \$100,000.00

(2) Where any Person has Injured or permitted the Injury of a Tree that has been assessed by the Director as damaged beyond repair, or the Tree has been partially or fully removed, the appraised value of the Tree(s) in accordance with industry standards, or the cost of replacement of the Tree(s) as set out in Schedule "C", whichever is greater, may be taken into consideration when determining the amount of the fine(s).

(3) In addition to being liable for a fine, a Person convicted of an offence under this By-law may by court order:

- a) be prohibited from continuing or repeating the offence; and,
- b) be required to correct the contravention or remediate the damage in the manner and within the period of time the court considers appropriate.

**SHORT TITLE**

14. This By-law may be cited as the "Private Tree Preservation By-law".

**IN FORCE**

This By-law shall come into force upon Final Passage hereof.

Read a FIRST, SECOND and THIRD time and

FINALLY PASSED this 22<sup>nd</sup> day of June, 2020.

"Daniel. B Mathieson  
Mayor – Daniel B. Mathieson

"Tatiana Dafoe"  
Clerk – Tatiana Dafoe



Schedule "A" to By-law 86-2020  
Adopted the 22<sup>nd</sup> day of June, 2020

**Schedule 'A'**  
Permit Fees

<b>Permit Application Fee Schedule</b>	
Less than 10 Trees	\$100.00
More than 10 Trees	\$250.00
Not-for-profit housing Associations	\$0.00
Dead, Diseased or Hazardous Trees	\$0.00
Other, as set out in By-law: _____	\$0.00
<b>TOTAL FEE INCLUDED IN APPLICATION</b>	

Permit Fees are to be paid at time of application submission

Schedule "B" to By-law 86-2020  
Adopted the 22<sup>nd</sup> day of June, 2020

**List of Criteria referred to in 6(1) – Issuance of Permits**

- a) the condition and size of the Tree;
- b) whether the Tree location conflicts with any of the following:
  - i. a site plan, subdivision plan or building permit plan that has been proposed, approved or issued for development of Private Property, in compliance with the zoning of the land;
  - ii. a proposed pool enclosure; or
  - iii. the expansion of parking areas that comply with the zoning of the land;and whether all alternatives have been exhausted for avoiding or resolving such conflicts
- c) the species of the Tree;
- d) whether the Tree is of a classification such as "endangered", "threatened" or "at risk" as defined in the *Endangered Species Act 2007*, S.O. 2007, c. 6, as amended, or is of a Tree species classified as an endangered or threatened, or a Tree species of special concern, as defined in the *Species at Risk Act*, S.C. 2002, c. 29, as amended;
- e) whether the Tree, or a significant portion thereof, is dead, terminally diseased or Hazardous;
- f) whether all reasonable measures of Tree preservation have been diligently attempted or considered;
- g) protection of:
  - i. environmentally sensitive areas;
  - ii. natural landforms or contours;
  - iii. significant vistas.
- h) erosion and storm water control;
- i) whether the Tree(s) is in a Natural Heritage Area as defined in the Official Plan of the City of Stratford;
- j) a written report or research prepared by an Arborist or historian expressing the opinion that the Tree is an important species or example for heritage reasons relative to the Tree's age, size, species, location or association with a historical period or event;
- k) whether the Private Property on which the Tree is located is designated under the *Ontario Heritage Act*, R.S.O. 1990, c. O 18, as amended and, if so, whether a written report approved by the City's Municipal Heritage Advisory Committee has been provided, indicating that:
  - i. the Tree is or is not described as a heritage attribute in the designation or is otherwise relevant to the heritage designation of the site; or,
  - ii. the Tree is relevant to the heritage designation of the site but the Municipal Heritage Advisory Committee acknowledges and approves of the proposed Injury or Destruction of the Tree.
- l) whether the Tree(s) is located in a woodlot or forested area where the purpose is cutting of wood for fuel or other personal use and in accordance with Good Forestry Practices and an approved Tree Preservation Plan;
- m) whether a proposed harvest of wood for fuel exceeds 2.5 full cords per hectare of wooded area;

n) whether the Injury or Destruction of the Tree is otherwise acceptable to the Director;

Schedule "C" to By-law 86-2020  
Adopted the 22<sup>nd</sup> day of June, 2020

**Replacement Trees**

<b>Size of Removal</b> (Measured by DBH – Diameter at Breast Height)	<b># of Replacements</b> <b>required</b>	<b>Cost of</b> <b>Replacements</b>
Up to 30 - 50cm at DBH	1	\$400.00
Up to 51 - 75cm at DBH	2	\$800.00
Up to 76 - 100cm at DBH	3	\$1200.00
Greater than 100cm at DBH	4	\$1600.00

1. If adequate space is not available on the Private Property where the tree(s) was removed, or the Property Owner does not wish to plant trees on the Private Property, the associated fees as laid out above will be required to be paid to the City by the Property Owner at the time of permit issuance that will go towards the enhancement and management of the City's Urban Forest
2. Where the Property Owner chooses to plant trees on their property themselves, replacement trees are to be:
  - a. a minimum of 45mm diameter measured at 15cm above root collar and
  - b. of a species that will one day contribute to the Urban Forest Canopy

Schedule "D" to By-law 86-2020  
Adopted the 22<sup>nd</sup> day of June, 2020

**Tree Protection Zones**

A Tree Protection Zone (TPZ) is to be constructed around all trees that are not subject to destruction within the construction area unless otherwise approved by the Director.

The TPZ shall be determined in accordance with ISA Standards at a minimum of 30.5cm or 1 foot of diameter from the trunk for 2.54 cm or 1 inch diameter at Breast Height (DBH) or located at the drip line of the canopy. Therefore, a tree having a 35 inch DBH would require a 35 foot diameter or placed along the drip line.

The barrier shall be at least 1.2m (4 ft) high and be plywood or orange plastic snow fence or equivalent as approved by the Director.

All Supports and bracing should be outside the TPZ. All such supports should minimize damaging roots outside the TPZ

All TPZ shall have Tree Protection Signage indicating that it is a TPZ

Within the Tree Protection Zone there must be:

- No construction
- No altering of grade by adding fill, excavating, trenching, scraping, dumping or disturbance of any kind
- No storage of construction materials equipment, soil, waste or debris
- No disposal of any liquids
- No movement of any vehicles or machinery
- Directional micro-tunnelling and boring may be permitted within the limits of the TPZ subject to approval by the Director
- Open faced cuts outside a TPZ that are consistent with an approved plan and that require root pruning, require the services of a qualified Arborist or approved tree care professional.

**Tree protection Barriers**

<b>Tree Protection Zones: Trunk Diameter (DBH)<sup>1</sup></b>	<b>Minimum Protection Distances Required<sup>2</sup> City-owned and Private Trees</b>	<b>Minimum Protection Distances Required Trees in Areas Protected by the Ravine and Natural Feature Protection By-law</b>
< 10 cm 10 – 29 cm 30 <sup>3</sup> – 40 cm 41 – 50 cm 51 – 60 cm 61 – 70 cm 71 – 80 cm 81 – 90 cm 91 – 100 cm > 100 cm	1.2 m 1.8 m 2.4 m 3.0 m 3.6 m 4.2 m 4.8 m 5.4 m 6.0 m 6 cm protection for each 1 cm diameter	Whichever of the two is greater: The drip line or 1.2 m The drip line or 3.6 m  The drip line or 4.8 m The drip line or 6.0 m The drip line or 7.2 m The drip line or 8.4 m The drip line or 9.6 m The drip line or 10.8 m The drip line or 12.0 m 12 cm protection for each 1 cm diameter or the drip line <sup>5</sup>

