

THE CORPORATION OF THE MUNICIPALITY OF BRIGHTON

BY-LAW NUMBER 369-2006

BEING A BY-LAW TO REGULATE PLANTING AND THE CARE OF TREES ON MUNICIPAL PROPERTY WITHIN THE MUNICIPALITY OF BRIGHTON

WHEREAS, section 135(1) of the *Municipal Act*, R.S.O. 2001, c. 25, as amended, permits the enactment of a By-law by the Council of the Corporation of the Municipality of Brighton to prohibit and regulate the destruction or injuring of trees;

AND WHEREAS, the Council for the Corporation of the Municipality of Brighton deems it desirable to enact such a By-law to protect, preserve and retain trees in public spaces and beautify the community through the planting and maintenance of trees on Municipal property.

NOW, THEREFORE, the Council of the Corporation of the Municipality of Brighton ENACTS AS FOLLOWS:

1. DEFINITION

- a. **Council** – the Council of the Corporation of the Municipality of Brighton.
- b. **Director** – the Director of Public Works, the Director of Parks and Recreation, or designates.
- c. **Municipality** – the Corporation of the Municipality of Brighton.
- d. **Municipal Property** – all land owned, controlled or maintained by the Municipality including parks, boulevards, bufferstrips, medians and natural stands.
- e. **Boulevard** – that part of Municipal property situated between the street and the facing front/side property and by practice maintained by the residents of the facing property.
- f. **Bufferstrip** – Municipal owned property set aside for the purpose of providing an aesthetic barrier to screen noise, unsightly areas and prevent through sites.
- g. **Median** – that part of the roadway which divides the lanes of traffic moving in opposite directions, commonly called the centre boulevard.
- h. **Natural Stand** – this includes environmentally protected areas along creeks, wetland, etc. where trees are in their natural state.
- i. **Pruning** – the removal of specific branches for the purpose of preserving the health and appearance of the tree and for public safety.
- j. **Tree** – shall be interpreted to include both trees and shrubs.
- k. **Agencies** – includes Lower Trent Conservation Authority, public and private utilities.

2. PLANTING AND MAINTENANCE OF TREES

- a. No person shall plant a tree on any highway or public property in the Municipality without first receiving the written approval of the Director, and such planting shall be done under the supervision and control of Municipality representatives. Any tree planted without such approval will be assessed, and may be removed without notice or compensation to the person who planted the tree.
- b. The written approval of the Municipality may be granted upon receipt of a request indicating by plans, sketches or word descriptions, the location, spacing and type of trees to be located within a designated area, and trees shall not be planted thereafter in such area except in accordance with the approved plan.
- c. The Director may refuse to permit the planting of trees, or the planting of any one or more species or variety of trees, on the highway, where, by reason of the nature of the pavements, walks, sewers, and other works thereon, or the use to which the lands abutting the highway are put, planting of trees thereon would be impracticable or dangerous or constitute a nuisance.
- d. An owner of property that adjoins the boulevard portion of a highway may request the Municipality for assistance in obtaining a tree for planting in the adjacent boulevard portion of the highway, where trees or funding become available. This program is not available to persons to provide trees to satisfy any tree planting requirements set out as a requirement of a subdivision agreement or site plan approval.
- e. The Municipality shall not allow signage in recognition of the donor of trees planted on Municipal property except in the case of signage for veterans' memorials.
- f. The Municipality or an agency may perform such pruning as necessary to comply with safety Regulations and to maintain safe operation of their facilities provided that the pruning is carried out in accordance with accepted arboricultural standards and practices.
- g. The Municipality will establish an annual program to replace public trees that have been removed due to age, disease or safety concerns, where trees and funding are available.

3. PROTECTION

- a. Residents, contractors and agencies working near or carrying on any operation near a public tree shall be required to take reasonable precautions to prevent damage to such trees. Such residents, contractors and agencies shall be liable for any loss of or damage to public trees occurring as a consequence of such work or operations.
- b. In the event that any tree is damaged or removed without consent, such person shall pay to the Municipality all costs for the repair of the tree, or for the removal and replacement of any tree that is damaged beyond repair.
- c. No person shall, by any means, attach a sign or poster to any public tree.
- d. No person shall attach electrical cords to a public tree.
- e. No person shall use a public tree to secure any object, including but not limited to, newspaper vending boxes, bicycle racks, dog chains, clothes lines, guy wires, swings, or tree houses.
- f. No person shall put anything in the branches of a public tree or cause anything to be put in the branches of a public tree, with the exception of a string of lights during the months of November, December and January, so long as doing so does

not contravene any Regulation respecting the location of electrical cords or create a safety hazard.

- g. No person shall place, apply or spray or cause to be placed, applied or sprayed any substance other than water on or near any public tree without the prior written authorization of the Director.

4. REMOVAL AND INJURY TO TREES

- a. The Municipality may cause any tree planted on a highway to be removed when such removal is considered necessary in the public interest and safety by the Municipality.
- b. The Municipality will observe the following priorities when responding to requests from residents, contractors and agencies for the removal of trees on Municipal property:
 - 1. Public hazard;
 - 2. Interference with overhead utility lines;
 - 3. Root interference with underground pipes, utilities or road structure;
 - 4. Disease;
 - 5. General tree care.
- c. Trees shall not be pruned, trimmed or removed for the purpose of opening up views from private property.
- d. Trees shall not be removed for the purpose of relocating driveways or structures unless:
 - 1. The tree can be successfully relocated;
 - 2. The tree can be replaced by one of similar quality.

The replacement or removal of trees for the purpose of relocating driveways shall be at the expense of the property owner making the request.

- e. Requests to remove or replace trees for reasons other than those cited above shall be dealt with on their own merit.

5. TREES LOCATED ON PRIVATE PROPERTY

- a. No person shall cause or permit any part of a tree planted on private property to obstruct, be a hazard to or interfere with travel on a highway. The Director may require the removal of any part of the tree which causes an obstruction, a hazard to or interference with travel by notice in writing to the owner of the property on which the tree is planted. If the demand for removal is not complied with within the time-limit provided therein, the Director may cause any part of the tree to be removed from the public highway and may charge the cost of such removal to the owner of the property by adding the cost to the tax rolls of the property, to be collected in the like manner as municipal taxes.

6. MUNICIPAL AND PUBLIC UTILITY INSTALLATIONS

- a. The provisions herein shall not limit the rights and obligations of the Municipality, or any public utility to construct, install, maintain and repair any road, sidewalk, sewer, watermain, public utility or telephone or other installation pursuant to any statute or regulation.

7. **PENALTY**

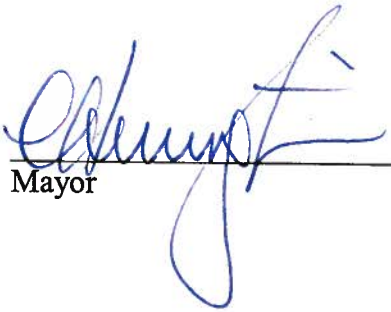
a. Any person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to pay:

- i) a fine of not more than \$10,000.00 for the first offence;
- ii) a fine of not more than \$20,000.00 for any subsequent offence;


and every such fine shall be recoverable as prescribed in the *Provincial Offences Act*.

b. In addition to the penalty provided above, where any person is required under this by-law to pay the Municipality the costs of repairs to or removal or replacement of a tree, the Municipality may recover all expenses incurred by placing such costs on the assessment rolls in the same manner as provided for in the *Municipal Act*.

READ A FIRST AND SECOND TIME, read a third time and finally passed this 20th, day of March, 2006.



Mayor



Clerk/C.A.O.

