

GENERAL

Chapter 322 TREES - PLANTING - PROTECTION

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Article 1 INTERPRETATION

322.1.1 Administrator - defined

“Administrator” means the Administrator of the Parks and Recreation Department of the City, or such person or persons as he or she shall designate for any purpose of this Chapter.

322.1.2 City - defined

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

322.1.3 Commission - defined

“Commission” means The Brantford Hydro Electric Commission.

322.1.4 Highway - defined

“highway” means a highway as defined in the *Municipal Act*.

322.1.5 Other applicable law - defined

“other applicable law” means any Act, statute, by-law, or regulation of Canada, the Province of Ontario or the City of Brantford which is applicable to or affects any of the requirements of this Chapter.

322.1.6 Tree - defined

“tree” includes a growing tree or shrub planted or left growing on either side of a highway for the purpose of shade or ornament.

Article 2 GENERAL PROVISIONS CARE - MAINTENANCE

322.2.1 Planting - care - maintenance - all trees - on highways

The Administrator is hereby authorized and requested to perform all acts which are reasonable to provide for the planting, care and maintenance of all trees on highways including the trimming of same.

322.2.2 Trimming - branches - overhanging highway

The Administrator is hereby authorized and requested to trim trees planted upon private property where the branches extend over a highway, or to remove decayed and dangerous trees.

322.2.3 Administration - enforcement

The Administrator is hereby authorized and requested to perform all acts necessary to administer and enforce the provisions of this Chapter.

322.2.4 Trimming - consent required - from Administrator

Subject to the provisions of any other applicable law and the provisions of any agreements of the City including those made under the authority of the *Municipal Franchises Act*, no person, company, or corporation (including the Bell Telephone Company, Ontario Hydro, the Union Gas Company, and any suppliers of cable telephone services but excluding The Corporation of the City of Brantford and the Brantford Hydro Electric Commission) shall trim trees on City property along highways for wires, poles, standards, conduits or for any other purpose without having first obtained the consent of the Administrator in writing.

322.2.5 Trimming - consent - requested - performance by City

In response to a request for a consent to the said trimming of trees the Administrator may cause the City to perform such trimming.

322.2.6 Trimming - consent - requested - refusal

In response to a request for a consent to the said trimming of trees the Administrator may refuse such request.

322.2.7 Trimming - consent - requested - authorization

In response to a request for a consent to the said trimming of trees the Administrator may authorize the person, company, or corporation to perform such trimming and, if so required by the Administrator, obtain financial assurances there from for the proper trimming of the trees as are satisfactory to the Administrator.

Article 3**GENERAL PROHIBITIONS****322.3.1 Climbing - injuring - destroying - damaging tree**

No person shall climb, bark, peel, cut, deface, remove, injure, root up or otherwise destroy or damage any tree or part thereof located on any highway.

322.3.2 Tree box - damaging - defacing - removing

No person shall damage, deface or remove any box or casing surrounding any tree located on any highway.

322.3.3 Attachment to tree - prohibited - exception

No person shall attach any object or thing to a tree located on any highway or other City property, except with the consent of the Administrator, even if such attachment would not injure or destroy the tree.

322.3.4 Stakes - supporting posts - damaging - removing

No person shall damage, destroy, or remove any supporting post, stake, or guard attached to or around a tree located on any highway.

322.3.5 Discharge - harmful - poisonous - in soil - prohibited

No person shall add, discharge or emit substances into the soil which may poison, injure or damage any tree located on any highway.

322.3.6 Construction activities - without precautions

No person shall carry on construction activities in proximity to any tree located on any highway without first having taken such precautions as may be required by the Administrator to prevent damage or injury to the tree. By-law 62-91, 15 April, 1991.

**Article 4
EXEMPTIONS****322.4.1 City - works - roads - sewers - authorized contractors**

Nothing contained in this Chapter shall affect The Corporation of the City of Brantford in conjunction with road, sewer, or sidewalk maintenance, construction or reconstruction activities carried on by it or contractors acting on its behalf; however, the City and any contractors employed by it shall exercise reasonable care and diligence in connection with such activities and shall endeavour to preserve and protect trees where possible unless otherwise directed by the Engineer of the City.

322.4.2 Hydro Electric Commission - authorized contractors

Nothing contained in this Chapter shall affect the Brantford Hydro Electric Commission in conjunction with water or hydro maintenance, construction or reconstruction activities carried on by it or contractors acting on its behalf; however, the Commission and any contractors employed by it shall exercise reasonable care and diligence in connection with such activities and shall endeavour to preserve and protect trees where possible. By-law 187-92, 14 December, 1992.

322.4.3 Individual - removing - trimming - permission granted

Nothing contained in this Chapter shall prevent any person from removing a tree in accordance with permission granted pursuant to Section 322.5.1 or from trimming a tree in accordance with permission granted pursuant to Section 322.2.7.

**Article 5
PLANTING - REMOVAL****322.5.1 Permission - required - in writing - from Administrator**

No person, other than the City, shall plant any tree nor shall any person, other than the City, remove or cut down any tree that may have been heretofore or shall be hereafter planted on a highway or left growing on such highway without first obtaining permission in writing from the Administrator.

322.5.2 In public interest - permitted - approval - required

Trees planted or growing upon any highway within the City of Brantford may be removed by the City or by other persons with the approval of the Administrator when considered necessary in the public interest.

322.5.3 Notice - intention to remove - to appurtenant owner

Prior to the removal of any such tree the owner of the land to which the tree is appurtenant shall be given ten days notice of the intention of the City to remove the tree, and, where applicable, such owner shall be recompensed for his or her trouble in planting and protecting the said tree in the sum of \$10.00 for each of such trees and, if the owner so desires, is entitled to remove the tree himself or herself, but is not entitled to any further or other compensation.

322.5.4 Notice - not required - emergency situation

Where the removal of any tree is considered to be an emergency by the Administrator then no notice of removal shall be required to be given to the said owner.

322.5.5 Valuing trees - compensation for removal - methods

Where the removal of a live and healthy tree is approved by the Administrator as in the public interest for the purpose of providing an entrance to private property, for the protection of buildings, or where such removal is approved for the preservation or construction of a public utility, excluding however any utility supplied directly by the City or the Commission, then the person, company or corporation requesting such removal shall:

- (a) at the sole option of the Administrator, remove such tree at the expense of such person, company or corporation or pay all costs and expenses of the City in removing such tree; and
- (b) pay to the City as compensation for the tree or trees to be removed in an amount equal to the value thereof as determined in accordance with the most recent shade tree valuation formula as set out by the Ontario Shade Tree Council.

322.5.6 Tree - damaged - cost - expenses - responsibility

Where any person, company or corporation damages or injures any tree upon a highway in any manner whatsoever then such person, company or corporation shall pay all costs and expenses incurred by City in repairing such damage or in removing the tree in question.

322.5.7 Tree - damaged - removed - compensation - calculation

Where any person, company or corporation damages or injures any tree upon a highway in any manner whatsoever then such person, company or corporation shall, where it is necessary in the opinion of the Administrator to remove a tree as a result of such damage or injury, pay to the City compensation for the tree or trees removed in an amount equal to the value thereof as determined in accordance with the most recent shade tree valuation formula as set out by the Ontario Shade Tree Council.

**Article 6
ENFORCEMENT****322.6.1 Fine - for contravention**

Any person who contravenes any provision of this Chapter is guilty of an offence and upon conviction, is liable to a penalty of not more than five thousand dollars, (\$5,000), exclusive of costs, for each offence, recoverable under the *Provincial Offences Act* or any successor legislation.

**Article 7
REPEAL - ENACTMENT****322.7.1 By-law - previous**

By-law 77-2 of the Board of Park Management and Recreation Commission of the City of Brantford is hereby repealed.

322.7.2 Effective date

This Chapter shall come into full force and effect on the date of passage of the enabling by-law. By-law 62-91, 15 April, 1991.