



City of Kingston

Tree By-Law Guidelines

The maintenance of mature tree cover is recognized as contributing to human health and quality of life and therefore it is the City's goal to increase the urban forest. Trees are an important element of the City's natural and cultural landscape for the following reasons:

- The aesthetic value of woodlands and trees;
- Providing recreational opportunities;
- Reducing airborne pollution;
- Protecting natural heritage features and areas;
- Maintaining and enhancing water quality;
- Preventing soil erosion and water run-off;
- Providing habitat for wildlife;
- Providing cooler temperatures in the summer; and,
- Reducing the effects of global warming.

The City of Kingston Tree By-Law was enacted in order to control the removal of trees, to provide for the protection of trees, and to promote good forestry practices and good arboricultural practices that sustain healthy woodlands and the urban forest.

The following guidelines have been produced to provide citizens and developers with clarification as to when a Tree Permit is required, and to guide them through the process of obtaining a Permit.

1. Determining whether a Tree Permit is needed

This section is intended to describe the activities and situations where the Tree By-Law does and does not apply, and instances where a Tree Permit is required in order to remove a tree.

Situations Where the Tree By-Law Applies and a Tree Permit is Required

The provisions of the Tree By-Law apply, and a Tree Permit is required, for the removal of the following trees:

- Trees that are 15 cm, or greater, in diameter at breast height (DBH), with DBH being defined as a point 1.37 metres above the ground;
- Trees that are located on Municipal Property, including road rights-of-way, easements, and parks;
- Trees that are located in areas designated as Environmental Protection Areas (EPA) or Open Space in a municipal official plan;
- Trees that have been identified for protection in a Tree Preservation and Protection Plan;
- Trees that are subject to commercial harvesting on lands greater than one (1) hectare in area;
- Trees that are listed as endangered, threatened, or at risk tree species in the provincial *Endangered Species Act* (please refer to the list in Appendix 'A' of this document);
- Trees that are listed as endangered or threatened tree species, or a tree species of special concern, in the federal *Species at Risk Act* (please refer to the list in Appendix 'A' of this document); and,

- Trees that are considered distinctive trees, as defined in Section 1 of the By-Law, including those species listed in Schedule ‘A’ of the By-Law (please refer to the list in Appendix ‘A’ of this document).

Also, the following sub-sections describe who and what the Tree By-Law applies to, and when a Tree Permit is required in order to remove a tree.

(a) New Development – Planning Approvals Required

New development that requires Planning Approvals (e.g. Plan of Subdivision, Plan of Condominium, Site Plan Control, or Severance) is required to address the issue of tree removal and replacement as part of their Planning Application(s). If tree removal is to occur before Planning Approvals have been received, a separate Tree Permit is required.

(b) Commercial Harvesting

A Tree Permit is required for the harvesting of trees on property that is greater than one hectare in area, unless a Forest Management Plan has been prepared by a Registered Professional Forester and submitted to and accepted by the Director of Planning & Development.

Situations Where the Tree By-Law Does Not Apply and a Tree Permit is Not Required

The following sub-sections describe who and what is exempt from the Tree By-Law, and when a Tree Permit is not required in order to remove a tree.

(a) Pruning and Other Tree Maintenance

A Tree Permit is not required in order to prune a tree, as long as the pruning is done in a manner that does not harm the tree. Individuals that are uncertain as to how to properly prune a tree without harming it should contact a Certified Arborist (certified by the International Society of Arboriculture – ISA) by referring to the yellow pages of the telephone book under “Tree Service”. The ISA also offers information about pruning on their website at www.treesaregood.com.

Also, a Tree Permit is not required in order to remove trees that are dead, severely damaged or diseased, or that pose a danger to people or buildings. However, a letter of proof from a Certified Arborist must be submitted to the Director of Planning & Development for approval before a tree can be removed for health or hazard reasons.

(b) Residential Properties

The Tree By-Law does not apply to residential properties, and a Tree Permit is not required in order to remove a tree. However, please ensure that the subject tree is located entirely on private property. Trees located within road rights-of-way are Municipal Trees; all maintenance and/or removal of such trees are the responsibility of the City of Kingston. The removal of a Municipal Tree is a chargeable offense under the Tree By-Law.

Trees that cross property lines, and the pruning of branches that overhang onto neighbouring properties, are civil issues between neighbours and are not addressed by the Tree By-Law.

(c) New Development – Planning Approvals NOT Required

New construction of buildings that do not require Planning Approvals also do not require a Tree Permit, as long as a Building Permit has been obtained, and as long as the trees that are removed are no more than 15 metres from the location of the proposed building.

A Tree Permit is also not required for the installation of a driveway, or public or private utilities.

(d) Other Exemptions

The following are other exemptions to the Tree By-Law where a Tree Permit is not required:

- Trees cut for personal use (does not include wood that is sold or given away);
- Trees removed in order to clear land as part of a Normal Farm Practice, as long as it is outside Environmental Protection Areas, and outside of the area identified on Schedule 'D' of the By-Law (Schedule 'D' shows the urban area of the City, as well as those lands adjacent to the urban area);
- The operation of existing cemeteries and golf courses;
- Works undertaken by utility providers, surveyors, or any level of government; and,
- Trees removed for the operation of a pit or quarry.

Any person wishing to remove a tree should check with the appropriate municipal staff to determine whether a Tree Permit is required. Refer to Section 12 of this document for contact information.

2. Applying for a Tree Permit

If a Tree Permit is required, an Applicant should submit the following items:

- A complete Tree Permit Application form (forms are available on-line at www.cityofkingston.ca/trees, or at the Planning & Development Dept.);
- The Tree Permit fee, as listed in Schedule 'B' of the By-Law; and,
- An Arborist's Report (if required; refer to Section 3 below).

3. Preparing an Arborist Report

Depending upon the situation, an Arborist Report may be required in support of a Tree Permit Application. The Arborist's Report is expected to address the reasons for the proposed removal of the tree(s) and the preservation measures to be taken for any trees to be retained.

If an Arborist Report is required, the Applicant will need to have the report prepared by a Qualified Forestry Consultant, which includes:

- A Certified Arborist (certified by the International Society of Arboriculture);
- A Certified Tree Marker (full certification and good standing with the Ministry of Natural Resources); or,
- A Registered Professional Forester (full member of the Ontario Professional Foresters Association).

The preparation of the report should be done in accordance with the City of Kingston's *Guidelines for the Completion of an Arborist Report*.

4. Submitting a Tree Permit Application

Once the Tree Permit Application, and the supporting Arborist Report, if required, is complete, they should be submitted to the Planning & Development Department. In all instances, whether Planning Approvals are required or not, the Tree Permit Application form, and any supporting documentation, will be forwarded to the Tree Inspector in the Public Works Department for technical review.

5. Reviewing a Tree Permit Application & Issuing a Decision

The City's Tree Inspector will review the Tree Permit Application and the supporting information, conduct a site visit, and may consult with the Applicant, if necessary. *Please note:* the submission of a Tree Permit Application constitutes permission for municipal staff to enter and inspect the lands upon which the tree(s) is located.

The Tree Inspector will be responsible for making a recommendation to the Planning & Development Department regarding whether the Tree Permit Application should be approved or not. The Tree Inspector may also recommend conditions that may be attached to the approval of a Tree Permit Application, including, but not limited to:

- Measures to be used to protect the retained trees during construction;
- The manner and timing of the removal of any trees; and,
- The terms of any replacement trees that may be required.

The recommendations of the Tree Inspector will be reviewed by the Director of the Planning & Development Department and a decision issued to the Applicant.

6. Replacement Trees

Replacement trees may be required as a condition to a Tree Permit. Although it is recognized that trees will have to be removed for both natural causes (i.e. disease) and to allow for development or redevelopment, the long term goal is to at least maintain, if not increase, the amount of tree coverage in the City.

Sections 9 and 10 of the Tree By-Law deal with the issues of compensation and replacement trees. In most instances, tree replacement can be considered as a condition of a Tree Permit, where, for uncomplicated proposals, the replacement of trees can be realized on a ratio of one replacement tree for every tree removed. However, the City does encourage replacement ratios greater than one to one, in order to increase tree coverage and its related benefits.

In the event that the tree to be removed is located on Municipal Property, or is removed without a Tree Permit, the value of the tree, and the number of replacement trees required, will be calculated using the Trunk Formula Method of the International Society of Arboriculture (ISA), as illustrated in Schedule 'C' to the Tree By-Law. The ISA formula takes into consideration a variety of factors to determine the value of a tree, including size, age, species, health, and location. The value of some trees can be considerable, and will therefore usually result in a ratio for replacement trees greater than one to one.

Any monies received in lieu of replacement trees shall be used for the purpose of reforestation.

7. Appeal of a decision regarding a Tree Permit

A person that has applied for a Tree Permit may appeal to the Council of the City of Kingston under the following situations:

- If the City refuses to issue a Tree Permit, within 30 days after the refusal; or,
- If the Applicant objects to a condition of the Tree Permit, in which case the appeal must be made within the 30 days following the issuance of the Tree Permit.

8. Steps to take after receiving a Tree Permit

Once a Tree Permit has been issued, an Applicant will be required to do the following:

- Post a copy of the Tree Permit on the property prior to the commencement of any tree removal, in a place that is adjacent to a public road and visible to all persons;
- Have a Qualified Forestry Consultant mark the trees to be removed, with orange paint both at breast height and ground level, at least 5 days prior to destroying any tree (but not prior to the issuance of the Tree Permit); and,
- Conduct any required tree protection measures.

If tree protection measures are required for any trees to be retained, including the establishment of Tree Protection Zones, they should be undertaken in accordance with the City of Kingston's *Guidelines for Tree Preservation and Protection*.

9. Length of time a Tree Permit is in effect

A Tree Permit will remain in effect for 12 months after the date it is issued. An Applicant may request an extension of a Tree Permit for a period of up to two additional years. The request must be made, in writing, to the Director of the Planning & Development Department at least 30 days before the date that the Tree Permit is to expire.

Under no circumstances will a Tree Permit be renewed if the Owner or Applicant has not complied with all of the terms of the Permit or the Tree By-Law.

10. Inspection of properties and enforcement of the Tree By-Law

Inspections

Municipal staff, including a By-Law Enforcement Officer, may, at any reasonable time, enter and inspect any land to determine whether the Tree By-Law or a condition of a Tree Permit is being complied with.

Stop Work Orders

Where a contravention of the Tree By-Law has occurred, a Stop Work Order may be issued, and it may be served personally by a By-Law Enforcement Officer, posted in a conspicuous place on the property by a By-Law Enforcement Officer, or sent by registered mail.

Upon receiving a Stop Work Order, all work on the trees on the property should cease, and the Owner should contact the City.

11. Penalties for contravening the Tree By-Law

If someone is convicted of an offence for contravening the Tree By-Law, the conditions of a Tree Permit, or an Order, the Court may order any or all of the following penalties:

- Prohibit them from continuing or repeating the offence;
- Require that they rehabilitate the land, including the planting or replanting of trees;
- Require that they provide compensation to the City (in accordance with Section 10 of the Tree By-Law); and/or,
- Require that they pay a fine equal to:
 - For a person: \$10,000 or \$1,000 per tree (whichever is greater) on a first offence, and \$25,000 or \$2,500 per tree (whichever is greater) on any subsequent offence; and,
 - For a corporation: \$50,000 or \$5,000 per tree (whichever is greater) on a first offence, and \$100,000 or \$10,000 per tree (whichever is greater) on any subsequent offence.

12. Questions and further information

For further information regarding the City of Kingston Tree By-Law, or to obtain a copy of the document, please refer to the City's website: www.cityofkingston.ca/trees.

You may also contact the Planning & Development Department to obtain further information and to inquire if a Tree Permit is required for a particular situation.

Location: 1211 John Counter Blvd.
Phone: 613-546-4291, ext. 3180
Fax: 613-542-9965

In order to determine if a tree on your property is within the municipal right-of-way, please contact the Public Works Department through the customer service centre at 613-546-0000.

APPENDIX 'A'

Endangered Species

At the time that these guidelines were written, the following tree species were listed under the provincial *Endangered Species Act* and the federal *Species at Risk Act* (with the exception of the Shumard Oak, which is currently listed under provincial legislation only):

Common English Name	Latin Name
American Chestnut	<i>Castanea dentata</i>
Blue Ash	<i>Fraxinus quadrangulata</i>
Butternut	<i>Juglans cinerea</i>
Common Hoptree	<i>Ptelea trifoliata</i>
Cucumber Tree	<i>Magnolia acuminata</i>
Dwarf Hackberry	<i>Celtis tenuifolia</i>
Kentucky Coffeetree	<i>Gymnocladus dioica</i>
Red Mulberry	<i>Morus rubra</i>
Shumard Oak	<i>Quercus shumardii</i>

Please note that provincial and federal legislation may be updated at any time, and the above list could change.

Distinctive Tree Species

The following trees are listed as Distinctive Tree Species in Schedule 'A' of the Tree By-Law, as they are considered to be uncommon in the Kingston region:

Common English Name	Latin Name
Black Maple	<i>Acer nigrum</i>
Black Walnut	<i>Juglans nigra</i>
Blue Ash	<i>Fraxinus quadrangulata</i>
Douglas-Fir	<i>Pseudotsuga menziesii</i>
Ginkgo	<i>Ginkgo biloba</i>
Kentucky Coffeetree	<i>Gymnocladus dioica</i>
London Planetree	<i>Platanus x acerifolia</i>
Ohio Buckeye	<i>Aesculus glabra</i>
Pitch Pine	<i>Pinus rigida</i>
Sycamore	<i>Platanus occidentalis</i>
Tulip-tree	<i>Liriodendron tulipifera</i>