

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER T-600**

BY- LAW RESPECTING TREES ON PUBLIC LANDS

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of Section 118 (2) (a) of the Halifax Regional Municipality Act, 1995, R.S.N.S., Chapter 3 as follows:

Short Title

1 This By-Law shall be known as By-Law Number T -600 and may be cited as the “Tree By-Law.”

Definitions

2 In this By-Law

- (a) “Abutter” means the owner, lessee, or occupier of any premises or lot in the Municipality which abuts a street or any other Municipal property, and includes premises or a lot which has been registered as a condominium under the Condominium Property Act, including the condominium corporation which manages the premises or lot;
- (b) “Barrier” includes any fence, box, frame, guard or other device placed on, around or near a tree for the purpose of protecting it from injury or harm;
- (c) “Core Area” means that portion of the Halifax Regional Municipality for which the Municipality has assumed responsibility for maintenance of public streets and is more particularly described in Agreement No. HRM-01 between the Halifax Regional Municipality and the Minister of Transportation and Public Works which became effective on June 24, 1996;
- (d) “Contractor” includes the person in charge of a construction project and includes the person who applied for any permit related to the said construction;
- (e) “Council” means the Council of the Halifax Regional Municipality;
- (f) “Director” means the Director of Works and Natural Services or his/her designate;

- (g) “Engineer” means the Engineer of the Halifax Regional Municipality and includes a person acting under the supervision and direction of the Engineer;
- (h) “Region” means the Halifax Regional Municipality;
- (i) “Public Land” means any park, street, highway, and any other land owned, leased, or controlled by the Halifax Regional Municipality;
- (j) “Public tree” means a tree of which the majority of the trunk is on public land within the Region;
- (k) “Utility” includes any corporation that provides water, electric power, telecommunication services, natural gas or other gas intended for use as fuel;
- (l) “Qualified Persons” shall be determined by the Director or his/her designate as those persons qualified to work on public trees;

Tree Permit

3 (1) No person shall alter or remove a public tree without first obtaining a permit or written consent from the Director.

(2) No person shall, without first obtaining a permit or written consent from the Director, do or cause or permit any of the following:

- (a) take down, remove, spray, fertilize, disturb, or cut below ground any public tree;
- (b) deposit, place or store on public land any material that may impede the free passage of water, air or other nutrients to the roots of any public tree;
- (c) mark, break, remove bark from or deface any public tree;
- (d) fasten any sign, bill, notice, wire, rope, nail, or other thing to or around any public tree;
- (e) cause or permit any gas, liquid or solid which is harmful

to trees to come into contact with a public tree;

- (f) damage any public tree by fire;
- (g) change any grade or alter a drainage pattern in a manner which may interfere with access to water, air or other nutrients by public trees;
- (h) attach or lean anything to or against a public tree in conjunction with a construction project;
- (i) remove or otherwise interfere with a barrier designed to protect a public tree;
- (j) close, cover, obstruct, or otherwise interfere with any open space within a public tree barrier;
- (k) excavate or disturb the soil within the drip line of any public tree;
- (l) permit any electric current to come into contact with a public tree; or
- (m) plant a tree or shrub on public land.

Revocation of Permits

4 (1) The Director may cancel, revoke or suspend any permit where there is a violation of this By-Law and any condition of any permit issued under the authority of this By-Law;

Appeal Procedure

(2) Any person who has been refused a permit or whose permit has been revoked pursuant to the exercise of any discretion by the Director may appeal to the Council;

(3) All appeals shall be in writing, in the form of a notice, and filed with the Municipal Clerk within 15 days of the refusal or revocation and shall clearly state the grounds for the appeal;

(4) The Council shall choose to:

- (a) hear the appeal at a time and place as it determines, and may confirm the refusal or revocation by the Director or;

- (b) direct the immediate issuance or re-issuance of the permit by the Director.

Emergency Pruning or Removal

5 (1) In the event of an emergency requiring the immediate removal or pruning of a public tree by qualified persons, the Director may give verbal permission for such action on the condition that a tree permit is applied for and obtained on the first working day subsequent to the granting of such permission.

Waiver of Permit

6 (1) The Director has the right to disallow the need for a permit for Municipal interdepartmental use or for contractors working directly for the Municipality, if he/she finds it to be unnecessary.

Administration

7 (1) A street opening permit pursuant to the Streets By-law S-300 may serve as both a street opening permit and a tree permit upon the permission of the Director.

Fee

(2) The Director may, at his/her discretion, charge a fee for a tree permit in addition to any other fee charged for a Street Opening Permit.

(3) Except in the case of public utilities, in addition to the said fee, the applicant shall deposit with the Municipal Treasurer an amount sufficient to carry out any work necessary to either replace a public tree that has been or will be removed and/or might be so severely damaged so as to necessitate removal, or where not so severe, the amount that might be necessary to effect any corrective action necessary to restore the health of any public tree affected by the said works. Such deposit shall be retained as a guarantee that the contractor will properly perform and complete the work for which the permit is granted and protect the public trees during the course of the work, to the satisfaction of the Director for six months from the date of completion of the works. If the Director is of the opinion that the public trees have not been properly protected, he/she may, without notice to the applicant, perform such work as he/she considers necessary to correct the damage to the public trees and the cost of any such work so done by the Director, shall be deducted from the amount deposited, and the balance, if any, returned to the applicant at the end of the six months. If the cost of such works exceeds the amount deposited, the balance may be recovered by the Halifax Regional Municipality by action.

(4) In the case of projects under the control of the Engineer, the word Director is to be replaced by the word Engineer in Sections 7(1), 7(2) and 7(3).

(5) The Director shall be consulted and have input on any construction projects involving

public trees.

Annual Permits

8 (1) The Director may grant a tree permit for all works undertaken by a utility or contractor within a specified period, not shorter than a period of three months and not greater

than a period of one year, for a fee to be determined by the Director, for the carrying out of the routine business of the utility, subject to such conditions as the Director may determine.

(2) The Director may cancel, revoke or suspend any permit where there is a violation of this by-law, any order made pursuant to this by-law and any condition of any permit issued under the authority of this by-law.

Protection of Trees

9 (1) Where work is undertaken within the drip line or root zone of a public tree, whichever is greater, the person doing the work shall protect the tree with a barrier not less than 1.3 metres high and 2 metres or at a distance of .5 metres for every 45 mm in diameter at the breast height of the trunk, whichever is greater and where possible. As much protection as possible should be afforded to the trees so that they are not damaged by other forces.

(2) A barrier to protect a tree shall not create a sight line barrier to those persons utilizing any adjacent roadway or private driveway.

(3) All construction materials or other materials related to the construction shall be kept outside the said barrier.

(4) No portion of the barrier shall be affixed to the tree.

(5) The contractor shall erect any additional protection necessary, in the opinion of the Director, to ensure the protection of the tree and shall maintain the said barrier throughout the period of construction.

(6) All tunnels required for below ground installations shall be located not less than 1 metre below grade if the tree trunk is more than 30 centimetres thick, or at a lesser depth to be determined by the Director where the trunk thickness is less than 30 centimetres.

(7) Prolonged exposure of roots shall be minimized and root systems shall be covered with suitable materials to prevent damage as determined by the Director.

(8) Any work for which a tree permit is obtained shall be done in a manner that will minimize the impact on the tree.

Supervision of Utilities and Contractors

10 (1) Where a utility or a contractor alters a public tree, the Director may assign an inspector to supervise the work, the cost of which shall be borne by the utility or the contractor.

(2) The Director may require that a utility or a contractor do such things as are necessary to ensure the health and safety of public trees affected by any works carried out by the utility or contractor, even where not required by the utility's or contractor's own standards.

(3) The Director may grant the approval for any work that is required under any other By-law to proceed even though the work may effect public trees.

Abutting Trees

11 (1) The owner of a tree which abuts at least 50 percent onto an adjacent public right of way or public land and in the opinion of the Director poses a hazard or a danger to persons or public property, shall when so ordered in writing by the Director and within the time designated by the Director abate such hazard or danger to the satisfaction of the Director.

(2) Where the abutter has failed to comply with the subsection (1), the Director may serve a notice in writing upon the abutter requiring the trimming or removal of the tree. If the abutter fails to do so within the time frame stipulated on the notice, the Director may cause the same to be done at the expense of the abutter, and the cost may be recovered by the Municipality.

(3) Any person failing to act on the aforementioned written order given by the Director to the Director's satisfaction within the time frame allotted, is subject to a penalty not exceeding \$2,000.00 per day until the hazard or danger is abated to the Director's satisfaction.

Liability

12 (1) Nothing in this By-Law shall affect the Halifax Regional Municipality's right to commence an action for damages incurred by the Halifax Regional Municipality as a result of any of the matters regulated by this By-Law.

Stop Work Order

13 (1) Where the Director determines that there is a failure to comply with any provision of this By-Law, the Director may give the applicant, violator, contractor responsible for the work, or owner of the property on whose behalf the work is being done, an order in writing stopping the said work and/or directing compliance with such provision and may require the order to be carried out forthwith or within such reasonable time as the Director requires.

Penalty

14 (1) Every person who violates or fails to comply with any of the provisions of this By-Law or the conditions of any permit or order issued under this By-Law is guilty of an offence and is liable on

summary conviction to a penalty of not less than \$100.00 and not exceeding \$5,000.00, or in default of payment, to imprisonment for a term not exceeding six months. Each day that the offence continues constitutes a fresh offence.

(2) A person, who is alleged to have violated this By-Law and is given notice of the alleged violation with the amount of the fine completed on the face of the notice, must pay a penalty in the amount of \$100.00 to the Halifax Regional Municipality; provided that, said payment is made within a period of 14 days following the day on which the alleged violation was committed, and where the said notice provides for payment in this manner, may make such payment in full satisfaction, releasing and discharging all penalties and imprisonments incurred by the person for the violation.

Repeal

15 The following By-laws and Ordinances are hereby repealed except insofar as they repeal any other By-law or Ordinance:

City of Halifax Ordinance Number 189, Respecting Trees, 1996;

City of Dartmouth By-law D-300, Respecting Dutch Elm Disease, 1989;

Town of Bedford By-law 13, Respecting Tree Committee, 1981.

Done and Passed by Council this 17th day of November, A.D. 1998.

MAYOR

MUNICIPAL CLERK

I, Vi Carmichael, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on November 17, 1998.

Vi Carmichael
Municipal Clerk

BY-LAW T-600

Notice of Motion:	October 27, 1998
First Reading:	November 3, 1998
“Notice of Intent” Publication:	November 7, 1998
Second Reading:	November 17, 1998
Third Reading:	November 17, 1998
Approval of Minister of Housing & Municipal Affairs:	N/A
Effective Date:	February 13, 1999

Amendment # 1 (V-101)
Amending Subsection (1) of Section 14

Notice of Motion:	August 19, 2003
First Reading:	August 26, 2003
“Notice of Public Hearing” Publication:	September 6, 2003
Second Reading:	September 23, 2003
Approval of Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	September 27, 2003