

BY-LAW NUMBER 34 OF 1992
OF THE CITY OF SARNIA

"A By-Law to Regulate the Planting, Maintenance,
and Removal of Trees in Public Places within the
City of Sarnia"

WHEREAS by Section 313 of the Municipal Act,
R.S.O. 1980, as amended, Council for a local municipality
may pass by-laws to regulate the planting, maintenance, and
removal of trees in public places within the City of
Sarnia;

NOW THEREFORE the Municipal Council of The
Corporation of the City of Sarnia enacts as follows:

1. In this By-Law:
 - (a) "Arborist" means a person designated by the
Commissioner of Community Services of the City or,
in her absence, an alternate appointed by the said
Commissioner to assume responsibility for and
control of trees;
 - (b) "City" means the City of Sarnia or its successor
in law;
 - (c) "Commissioner" means the Commissioner of Community
Services of the City;
 - (d) "Park" includes all public parks, playgrounds, and
sports fields under the jurisdiction of the
Commissioner;
 - (e) "Person" means any person, firm, partnership,
association, corporation, company, or organization
of any kind;
 - (f) "Property Line" means the line between a public
right-of-way and abutting property;
 - (g) "Public Place" includes all parks and streets or
highways;

- (h) "Street" or "Highway" means the entire width of every public way or right-of-way or road allowance in the City open for the use of the public for the purpose of vehicular or pedestrian traffic;
- (i) "Trees" includes all shrubs and woody vegetation now or hereafter found on any public place.

2. The Arborist shall be responsible for the planting of all trees in all public places. No other person may plant any tree in any public place without first having received permission in writing from the Arborist; and any person receiving such permission shall comply with the instructions of the Arborist.

3. (a) The Arborist shall prepare a list of trees acceptable for planting in public places in the City; she shall consider existing and future utility and environmental factors when recommending specific species of trees for streets or other public places; trees considered undesirable by the Arborist shall not be recommended for general planting, and their use shall be restricted to locations where, because of certain characteristics of adaptability or landscape effect, in the opinion of the Arborist, they can be used to advantage;
- (b) The following species of trees shall not be planted along streets, highways, or on boulevards in the City:
- (i) Tree of Heaven;
 - (ii) Manitoba and Silver Maple;

- (iii) Chinese Elm;
 - (iv) All varieties of Poplar and Willow;
 - (v) All varieties of Spruce, Pine, Larch and Fir.
- (c) If a tree is planted in conflict with the provisions of this By-Law, the City may remove or cause removal of the same at the owner's expense.
- (d) Any tree growing in any public place which is, in the Arborist's opinion, undesirable, may be removed at the Arborist's discretion.
4. (a) Any tree found predominately upon privately owned property on land adjacent to or abutting any public place shall be the property of the owner of the land on which it is predominantly found;
- (b) Any pruning, care, maintenance or removal of any tree the subject of Section 4(a) shall be the responsibility of its owner and done in such a manner that it will not obstruct the passage of pedestrians on sidewalks, obscure street lights or traffic signs, or otherwise obstruct the view of any intersection. The minimum height of any portion of any tree overhanging any sidewalk, street, or highway shall be:
- (i) 2.74 metres (9 feet) over all sidewalks;
 - (ii) 5.00 metres (16 feet) over the travelled portion of all streets.

- ' (c) The City may prune or otherwise caused to be maintained, without notice to the property owner, any tree not in compliance with the provisions of this section, at the owner's expense.

5. Where any tree or part thereof is found predominantly upon private property, but overhanging or interfering with the use of any public place (other than a street or sidewalk), and in the opinion of the Arborist, endangers the life, health, safety, or property of the public and should be corrected or removed, the owner shall be notified in writing by the Arborist of the existence of the danger or of the requirement to remove the tree and given a reasonable time for its correction or removal as is dictated by the circumstances of the danger; if not corrected or removed within the time allotted, the City may cause the danger to be corrected or the tree to be removed, at the owner's expense and with no further notice to him.

6. No person shall:

- ' (a) Harm, damage, cut, carve, transplant, or subject to Section 7, otherwise injure or remove any tree found in a public place;

- (b) Attach or affix any object or thing to a tree, including nails, wire, and advertising posters or other such contrivances;

except as may be approved by the Arborist.

7. No person shall remove any tree found in any public place for any reason without first having obtained the written permission of the Arborist. No trees shall be recommended for removal from a public place by the Arborist unless they constitute a hazard to life or property, or because a revision of planting plans necessitates. Every attempt shall be made to retain the tree in its existing location or (with the permission of and to the satisfaction of the Arborist) to move the tree and place it in an alternative location. Any person removing a tree shall forward the replacement value of the tree being removed to the City before removing such tree and shall also, if the City is to remove such tree, forward the removal costs as determined by the Arborist. Replacement values shall be determined by the Arborist in accordance with the accepted formula for tree evaluation of the International Society of Arboriculture, provided that in the case of municipal operations the compensation payable for trees removed shall be the cost of replacing the same with suitable trees of a caliper of 10 centimeters (4 inches).

8. Where any public utility or department of the City, in connection with municipal operations, considers it necessary to trim trees found in public places or perform other operations affecting trees, the Arborist shall be notified at least Two (2) days in advance regarding such trimming or other operations. Where circumstances make it impossible to provide the required notice, then the Arborist shall be given as much notice as is practical in the circumstances. Any trimming or other work performed on such trees shall be limited to the actual necessities of the service of such utility or municipal operation, and shall be performed in accordance with the Arborist's instruction.

9. All trees on any public place near any excavation or construction of any building, structure, or street work, shall be protected to the satisfaction of the Arborist.

10. In order to protect the root system of, and prevent physical damage to any tree growing in a public place, no person shall, without prior consultation with the Arborist:
 - a) deposit, store or maintain upon any public place, within 3.05 metres of any tree found thereon, any stone, brick, sand, concrete or other material;
 - b) excavate any ditches, tunnels or trenches or lay any driveway within 3.05 metres of any tree in a public place.

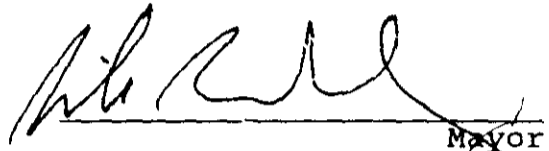
11. No person shall move any building or other large object along any street or highway without first having obtained the written consent of the Arborist who may, if he deems it necessary, require the mover to furnish a cash deposit, bond or letter of credit in an amount sufficient to cover the cost of any damage to any trees or shrubs caused as a result of the moving operations.

12. The provisions of this By-Law relating to the planting, removal or replacement of trees in public places shall not apply to persons operating under any contract with the City. Such persons will instead be bound by the provisions, if any, of the contract with respect to the planting, removal or replacement of trees in public places.

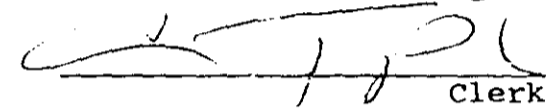
13. This By-Law repeals By-Laws Numbers 7347 and 8000 of the City and all amendments thereto. This By-Law supersedes any corresponding By-Laws of the former City of Sarnia or the Town of Clearwater which, through inadvertence, might not have been repealed.
14. All references to the feminine gender shall include references to the masculine gender, and all references to the singular shall be deemed to include references to the plural, where appropriate.
15. If any section or sections of this By-Law or parts thereof be found by any Court to be illegal or beyond the powers of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-Law shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found and this By-Law shall be enacted as such.
16. Any person who contravenes any section of this By-Law is guilty of an offence and is subject to the provisions of the Provincial Offences Act, as amended.
17. The short title of this By-Law is the "Trees By-Law".

18. This By-Law comes into force and effect upon being finally passed.

FINALLY PASSED this 24TH day of FEBRUARY , 1992.



Mayor



Clerk

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READINGS:

FIRST: FEBRUARY 24, 1992

SECOND: FEBRUARY 24, 1992

THIRD: FEBRUARY 24, 1992

THE CORPORATION OF THE CITY
OF SARNIA (DGM:be)
Legal Services
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Sarnia, Ontario
N7T 7N2