

Authority: Policy and Finance Committee Report No. 7, Clause No. 2,
adopted as amended, by City of Toronto Council on September 28, 29, 30 and
October 1, 2004

Enacted by Council: September 30, 2004

CITY OF TORONTO

BY-LAW No. 780-2004

To amend City of Toronto Municipal Code Chapter 813, Trees, by adding a new article as Article III, Tree Protection and to make consequential amendments to Municipal Code Chapter 441, Fees.

WHEREAS Council has authority to pass this by-law under sections 135, 391 and 427 of the *Municipal Act, 2001*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Chapter 813, Trees, of the City of Toronto Municipal Code is amended by adding the following article as Article III, Tree Protection:

§ 813-9. Definitions.

As used in this article, the following terms shall have the meanings indicated:

APPLICATION – a permit application to injure or destroy trees.

ARBORIST – an expert in the care and maintenance of trees and includes an arborist qualified by the Ontario Training and Adjustment Board Apprenticeship and Client Services Branch, a certified arborist qualified by the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists, a registered professional forester or a person with other similar qualifications as approved by the Commissioner.

ARBORIST REPORT – a technical report that identifies the species, size and condition of trees and describes tree protection measures to be implemented.

COMMISSIONER – the Commissioner of Economic Development, Culture and Tourism or his or her delegate.

DESTROY – to remove, cut down or injure a tree to such an extent that it is deemed necessary to remove or cut down the tree.

EMERGENCY WORK – work required to be done immediately in order to prevent imminent damage, including soil erosion, drain repairs, utility repairs and structural repairs to a building.

ENVIRONMENTALLY SENSITIVE AREA – includes an environmentally significant area, natural area or ravine as defined and designated in the City of Toronto official plan.

GRADE – a defined elevation of land established as a result of natural processes or by human alteration.

HAZARDOUS TREE – a destabilized or structurally compromised tree that is in imminent danger of causing damage or injury to life or property.

HERITAGE TREE – a tree designated under Part IV of the *Ontario Heritage Act*.

INJURE – any act that will harm a tree including failure to protect in accordance with the City of Toronto’s Tree Protection Policy and Specifications for Construction Near Trees or other standards set out by the Commissioner.

LANDSCAPING and REPLANTING PLAN – a plan which identifies the location, species and size of existing trees, trees to be planted and other landscape elements on a property and provides details regarding planting methodology.

OFFICER – those persons holding the positions of: City Forester, Urban Forestry Supervisor, Urban Forestry Co-ordinator, Urban Forestry Planner, Urban Forestry Planning Assistant, Urban Forestry Manager, Arborist Inspector and Arborist Foreperson.

OWNER – for purposes of making an application under this article, shall include the owner of either property where the base of a tree straddles a property line or whose property is physically impacted by the roots or crown of a tree on adjacent property.

ROOFTOP GARDEN – does not include the rooftops of parking garages or other structures at grade.

TREE PROTECTION PLAN – a plan that identifies the location, species and size of trees on a property and provides tree protection measures including but not limited to protective barriers and hoarding.

TREE PROTECTION POLICY AND SPECIFICATIONS FOR CONSTRUCTION NEAR TREES – The most recent version of the City of Toronto’s Tree Protection Policy and Specifications for Construction Near Trees as established by the Commissioner.

§ 813-10. Permit Required.

No person shall, within the City’s boundaries, injure or destroy any tree having a diameter of thirty (30) centimetres or more measured at one and four-tenths (1.4) metres above ground level unless authorized by permit to do so.

§ 813-11. Exceptions.

Despite § 813-10, a permit is not required under this article for the following activities:

- A. Removal of a diseased, dead or hazardous tree certified as such by the Commissioner.
- B. Pruning of a tree in accordance with good arboricultural practice to maintain tree health.

- C. Pruning of tree branches that interfere with utility conductors.
- D. Emergency work.
- E. Injury or destruction of trees on rooftop gardens, in interior courtyards having a soil depth of less than 1.5 m above a built substructure, in solariums or on elevated podiums.
- F. Injury or destruction of trees in ravine protection areas designated under Municipal Code, Chapter 658, Ravine Protection.

§ 813-12. Applications; form and content.

- A. An owner who wishes to injure or destroy a tree shall submit to the Commissioner an application on the prescribed form and shall provide the following:
 - (1) The name, address and telephone number of the applicant.
 - (2) The non-refundable application fee set out in § 441-19.
 - (3) The purpose for which the permit is required.
 - (4) A tree survey showing the location of trees on the property.
 - (5) An arborist report identifying the location, species, size and condition of trees on the property and describing protection measures to be implemented.
 - (6) A tree protection plan identifying the location, species and size of trees on the property and illustrating details of protection measures including protective barriers and hoarding to be implemented to protect trees that are to be retained.
 - (7) Landscaping and replanting plans.

§ 813-13. Powers and duties of Commissioner.

The Commissioner is authorized to:

- A. Issue permits for the destruction of trees in accordance with the criteria and subject to the conditions set out in this article.
- B. Issue permits for the injury of trees in accordance with the criteria and subject to the conditions set out in this article.
- C. Refuse to issue permits for the injury or destruction of trees and refer the matter to the appropriate Community Council.

- D. Stop any work causing injury or destruction to trees having a diameter of thirty (30) centimetres or more measured at one and four-tenths (1.4) metres above ground level that is taking place without a permit or contrary to the conditions of a permit or other standards established by the Commissioner.
- E. To waive the requirement for an arborist report in non-commercial applications.

§ 813-14. Review of Applications; criteria;

The Commissioner shall consider the following criteria:

- (1) The application form is complete.
- (2) The applicant has paid all required fees.
- (3) The condition of the tree.
- (4) The location of the tree
- (5) The protection of environmentally sensitive areas.
- (6) The protection of natural landforms or contours.
- (7) The protection of ecological systems.
- (8) Erosion and flood control.
- (9) The protection of significant vistas.
- (10) Whether or not a tree is a heritage tree or should be protected as a heritage tree.

§ 813-15. Permit Refusal.

The Commissioner shall not issue a permit for the injury or destruction of trees where:

- (1) The application form is not complete.
- (2) The information required by § 813-12A has not been provided to the satisfaction of the Commissioner.
- (3) Trees are healthy.
- (4) Environmentally sensitive areas, ecological systems, natural landforms or contours will not be adequately protected and preserved.
- (5) Erosion or flood control will be negatively impacted.
- (6) Significant vistas will not be adequately protected and preserved.

- (7) The tree is a heritage tree, or should in the opinion of the Commissioner be recommended for designation as a heritage tree.

§ 813-16. Issuance of permits.

The Commissioner is authorized to issue permits where:

- (1) Trees are causing or are likely to cause structural damage to load-bearing structures or roof structures.
- (2) Trees are in poor condition and cannot be maintained in a healthy and safe condition.
- (3) Trees are growing in inappropriate locations, as certified by the Commissioner, and cannot be maintained on a routine basis due to restrictive site conditions.
- (3) Trees are located on property where site plan, subdivision, consent or committee of adjustment approval has been obtained, provided that the trees must be injured or destroyed to facilitate construction in accordance with plans approved by the City.
- (4) Trees are located on property where a building permit, front yard or boulevard parking permit or permission for driveway widening has been obtained provided that the trees must be injured or destroyed to facilitate construction in accordance with plans approved by the City.
- (5) Despite § 813-15(3) the Commissioner may issue permits to injure or destroy healthy trees where:
 - (a) The trees are causing or are likely to cause structural damage to load bearing structures or roof structures.
 - (b) The trees are growing in inappropriate locations as certified by the Commissioner, and cannot be maintained on a routine basis due to restrictive site conditions.
 - (c) Injury or destruction is required in order to remediate contaminated soil.
 - (d) The trees are appropriately sited, and not causing or likely to cause structural damage to load bearing structures or roof structures provided that:
 - (i) notice has been posted in accordance with § 813-17; and
 - (ii) the Commissioner and the ward councillor are satisfied that the applicant has undertaken to implement a satisfactory landscaping and replanting plan.

§ 813-17. Notice.

Notice of an application to injure or destroy healthy trees in accordance with § 813-16(6)(d) shall be posted on the property:

- A. In a manner and form satisfactory to the Commissioner.
- B. For a period of not less than fourteen days.

§ 813-18. Permits to destroy; conditions.

A permit to destroy trees shall be subject to the following terms and conditions:

- (1) Replacement trees shall be planted and maintained to the satisfaction of the Commissioner in accordance with landscaping and replanting plans submitted by the applicant and approved by the Commissioner.
- (2) Where replacement planting is not physically possible on site, the Commissioner may:
 - (a) require replacement planting at another suitable location; or
 - (b) accept a cash in lieu payment in an amount equal to one hundred and twenty percent of the cost of replanting and maintaining the trees for a period of two years.
- (3) Where a property is not subject to site plan approval, the applicant shall provide a written undertaking and release to ensure that replacement planting is carried out and maintained in accordance with landscaping and replanting plans approved by the Commissioner.
- (4) The destruction shall only be carried out by or under the supervision of an Arborist.

§ 813-19. Permits to Injure; conditions.

A permit to injure trees shall be subject to the following terms and conditions;

- (1) Trees shall be protected in accordance with good arboricultural practices.
- (2) Where a property is not subject to site plan approval, the applicant shall provide a written undertaking and release to ensure that tree protection is carried out and maintained in accordance with landscaping and replanting plans submitted by the applicant and approved by the Commissioner.
- (3) The injury shall be carried out by or under the supervision of an Arborist.

§ 813-20. Appeals.

- A. Where the Commissioner refuses to issue a permit, an applicant may within 14 days of the date of refusal appeal to the appropriate Community Council by submitting a written request to the Commissioner that the permit application be heard by the appropriate Community Council.
- B. Where an applicant has filed an appeal, the Commissioner shall prepare and forward a report on the application to the next appropriate Community Council meeting, setting out the grounds for refusal of the application.
- C. Prior to the Commissioner reporting to Community Council, the City Clerk shall notify the ward Councillor, abutting property owners and any other persons who have expressed written interest in the application of the date the application will be considered by Community Council.
- D. Upon consideration of the application, the appropriate Community Council shall make a recommendation to Council.
- E. Upon consideration of the application, Council may direct the Commissioner to issue a permit, subject to conditions satisfactory to Council.

§ 813-21. Order to correct violation.

If an officer is satisfied that there is a contravention of this article or a permit issued under this article, the officer may make an order setting out particulars of the contravention and requiring the person to stop the injuring or destruction of trees.

§ 813-22. Remedial action.

Wherever this article or a permit issued under this article directs or requires any matter or thing to be done by an applicant, in default of its being done by the person directed or required to do it, the matter or thing may be done under the direction of the Commissioner and the City may recover the costs incurred by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

§ 813-23. Offences; additional remedies.

- A. Any person who contravenes any provision of this by-law is guilty of an offence.
- B. A person convicted of an offence under this bylaw is liable:
 - (1) On a first conviction, to a fine of not more than ten thousand dollars (\$10,000.00) or \$1,000.00 per tree, which ever is greater; and
 - (2) On any subsequent conviction, to a fine of not more than twenty thousand dollars (\$20,000.00) or \$2,500.00 per tree, whichever is greater.

- C. Where a corporation is convicted of an offence under this bylaw, the corporation is liable:
- (1) On a first conviction, to a maximum fine of fifty thousand dollars (\$50,000.00) or \$5,000.00 per tree, whichever is greater; and
 - (2) On any subsequent conviction, to a maximum fine of one hundred thousand dollars (\$100,000) or \$10,000 per tree, whichever is greater.
- D. In addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, or any other court of competent jurisdiction, may make an order prohibiting the continuation or repetition of the offence by any person.
- E. The court in which the conviction has been entered, and any other court of competent jurisdiction, may order the person to replant or have replanted such trees in such manner and within such time period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

§ 813-24. Repeal.

The following are repealed:

- A. Article III, Chapter 331, Trees of the former City of Toronto Municipal Code.
- B. By-law No. 25150 of the former City of Scarborough.

§ 813-25. Conflict.

In the event of any conflict between this by-law and any other by-law of a former municipality respecting trees on private property this by-law shall prevail.

§ 813-26. Fees.

Despite § 813-12 A(2) seniors age 65 and over shall not be required to pay the permit fee.

2. Chapter 441, Fees of the Municipal Code is amended as follows:

A. By adding a new section § 441-19, Tree Permit Fees, as follows:

§ 441-19. Tree permit fees.

A. By permit application fees payable under § 813-12A(2) for permits to injure or destroy trees shall be as follows:

<u>Column 1</u>	<u>Column 2</u>
Non-development related applications	\$100 per tree to a maximum of \$300
Development related applications	\$200 per tree

ENACTED AND PASSED this 30th day of September, A.D. 2004.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)