

Chapter 813

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[HISTORY: Adopted by the Council of the City of Toronto as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Tree permit fees — See Ch. 441.
Tree care in parks — See Ch. 608.

Ravine protection — See Ch. 658.

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§ 813-1

ARTICLE I

Inspection; Removal of Infested Trees
[Adopted 2000-05-11 by By-law No. 310-2000]

**§ 813-1. Inspection for presence of Asian Long-Horned Beetles and other pests;
removal of infested trees.**

The City Forestry staff is authorized to inspect for the presence of Asian Long-Horned Beetles and other alien forest pests and to remove infested trees, on all public and private property, with the consent of the property owner.

§ 813-2. Right to enter private property.¹

The City Forestry staff is authorized to enter upon private property to inspect for the presence of Asian Long-Horned Beetles and other alien pests and to remove infested trees.

ARTICLE II

Trees on City Streets
[Adopted 2000-06-08 by By-law No. 388-2000²]

§ 813-3. Definitions.

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

CARE AND MAINTENANCE — The care and maintenance of trees in accordance with good arboricultural standards and includes inspection, pruning, cabling and bracing, treatments for insect and disease problems, watering and fertilization.

CITY STREET — A common or public highway, road, street, lane or any road allowance or portion thereof under the jurisdiction of the City of Toronto.

COMMISSIONER — The Commissioner of Economic Development, Culture and Tourism or his or her delegate. **[Amended 2000-10-05 by By-law No. 869-2000]**

DESTROY/DESTRUCTION — To remove, cut down or in any other way injure a tree to such an extent that it is deemed necessary to remove or cut down the tree.

¹ Editor's Note: This section shall come into effect upon City Forestry staff being designated as inspectors by the President of the Canadian Food Inspection Agency in accordance with section 21 of the *Plant Protection Act*, S.C. 1990, c. 22, and section 13 of the *Canadian Food Inspection Act*, S.C. 1997, c.6.

² Editor's Note: This by-law was passed under the authority of section 312 of the *Municipal Act*, R.S.O. 1990, c. M.45. This by-law also repealed the following: Article I, Chapter 331, Trees, of the former City of Toronto Municipal Code; Article I, Chapter 243, Trees, of the former City of Etobicoke Municipal Code; By-law No. 118-97 of the former Borough of East York; Section 10 of By-law No. 211-74 of the former Metropolitan Toronto; By-law No. 31729 of the former City of North York; By-law Nos. 20975 and 21682 of the former City of Scarborough; and By-law No. 2507-92 of the former City of York. This listing of repealed by-laws was amended 2000-7-6 by By-law No. 484-2000.

EMERGENCY WORK — Includes work associated with drain repairs, utility repairs and structural repairs to a building or any other work of an emergency nature.

INJURE/INJURY — Not protecting a tree in accordance with the City of Toronto's Specifications for Construction Near Trees and/or other standards set out by the Commissioner, entirely or in part, and/or any acts which will harm a tree's health in any manner.

PERSON — Includes a company, a corporation, a partnership or an individual person.

SPECIFICATIONS FOR CONSTRUCTION NEAR TREES — The most recent version of the City of Toronto's Specifications for Construction Near City Trees.

STANDARDS — Minimum requirements or guidelines established by the Commissioner pertaining to the protection and preservation of trees.

TREE PLANTING DETAIL — The most recent version of illustrated details with notes pertaining to the planting of trees on any City street; as found in the City of Toronto Streetscape Manual.

TREES — Any shade or ornamental tree, all or part of which is located on, above or below a City street. Ownership and maintenance of trees which have 50 percent or more of their main stem situated on a City road allowance will be the responsibility of the City.

TREE VALUE/APPRAISED VALUE — The monetary value of a tree as determined through calculations using the City of Toronto's Tree Appraisal and Evaluation form.

§ 813-4. Authority for planting, care and maintenance and removal of trees.

The planting, care and maintenance, protection, preservation and removal of all trees located on any City street shall be under the supervision of the Commissioner.

§ 813-5. Powers and duties of Commissioner.

The Commissioner is authorized to:

- A. Plant, or cause to be planted, trees on City streets.
- B. Care for and maintain, or cause to be cared for and maintained, any tree located on any City street.
- C. Transplant, remove or cause to be transplanted or removed any tree planted or located on any City street where deemed necessary in the public interest.

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- D. Remove or cause to be removed without notice or compensation to any person any object or thing that adversely affects a tree or part of a tree on a City street.
- E. Prune or cause to be pruned all trees located on private property, the branches of which extend over a City street, including the pruning of branches which are hazardous or create an unsafe condition.
- F. Implement or cause to be implemented necessary treatments for insect and disease problems associated with trees located on a City street.
- G. Remove or cause to be removed trees which are dead, hazardous or no longer viable to maintain, certified as such by the Commissioner.
- H. Remove, injure or cause the removal or injury of trees as may be required to facilitate emergency work, certified as such by the Commissioner.
- I. Remove or cause to be removed healthy trees located on a City street, where a written request for tree removal has been received from an adjacent property owner, that includes a landscape plan satisfactory to the Commissioner and the Ward Councillor(s). Such requests for removals may be subject to conditions which include payment of tree value, removal and replacement costs and the replanting of a replacement tree or trees by the applicant. **[Amended 2000-10-05 by By-law No. 869-2000]**
- J. Refuse the removal of trees located on a City street and refer the matter to the appropriate Community Council.
- K. Permit the pruning of tree roots in accordance with good arboricultural practices causing minimal damage to the tree. Such requests for injury may be subject to conditions which include the payment of tree value, removal and replacement costs, the posting of a letter of credit and the planting of a tree or trees by the applicant.
- L. Stop any work causing injury or destruction to a tree located on a City street that is taking place without permission from the Commissioner and/or contrary to the City of Toronto's Specifications for Construction Near Trees and/or other standards set out and imposed by the Commissioner for the protection of a tree or trees.

§ 813-6. Protection, injury and removal of trees; prohibited activities.

- A. Protection.

Every person doing any work on City streets shall carry out such work in accordance with the City's Specifications for Construction Near Trees and any other standards set out by the Commissioner.

- B. Injury and removal.

No person shall injure, destroy or remove a tree without the prior written approval of the Commissioner. Approval may be subject to such conditions as the Commissioner may impose, including payment of tree value, removal and replacement costs, replanting, posting a letter of credit in a form and content acceptable to the City in an amount sufficient to cover the appraised value of the subject tree as well as removal and replacement costs, provision of a detailed tree protection plan and provision of a qualified arborist's or forester's report detailing specific arboricultural procedures to be undertaken.

C. Prohibited activities.

- (1) No person shall remove, cut down, destroy or injure any tree or part of a tree located on a City street except with the prior written approval of the Commissioner.
- (2) No person shall mark, cut, break, peel, deface or bury the roots of any tree or any part of a tree located on a City street.
- (3) No person shall undertake or cause to undertake any activities which are contrary to the City of Toronto's Specifications for Construction Near Trees and/or any other standards or conditions imposed and set out by the Commissioner pertaining to the protection of a tree located on a City street except with the prior written approval of the Commissioner.
- (4) No person shall attach in any manner any object or thing to a tree or part of a tree located on a City street except with the prior written approval of the Commissioner.
- (5) Despite Subsection C(4), no person shall attach decorative lights to a tree located on a City street except with the prior written approval of the Commissioner and upon production of satisfactory evidence that all other requisite approvals have been obtained. Such requests may be subject to conditions imposed by the Commissioner.

§ 813-7. Tree planting and removal.

A. Planting of trees.

- (1) Any tree planted on a City street must be approved by the Commissioner and planted in accordance with the appropriate City of Toronto Tree Planting Detail. Approval by the Commissioner will include the planting location, species, size and condition.
- (2) The Commissioner may request a monetary deposit in an amount appropriate to secure the planting of trees. These funds may be held by the City until after the planting of the trees for a period of time determined by the Commissioner

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and shall be released by the City, provided that the trees are healthy and in a state of vigorous growth after the stipulated time period.

B. Removal of trees.

- (1) When a tree is removed, a replacement tree must be planted unless otherwise determined by the Commissioner. The planting location, species, size, condition and planting date must be approved by the Commissioner.
- (2) Where the Commissioner or City Council has approved the removal of a tree, such approval may be subject to conditions which include the applicant providing payment of tree value, removal and replacement costs and a minimum of one replacement tree being planted for each tree approved for removal.

§ 813-8. Offences.

Any person who contravenes any provision of this article is guilty of an offence.³

ARTICLE III
Tree Protection
[Adopted 2004-09-30 by By-law No. 780-2004⁴]

§ 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.

³ Editor's Note: This section was passed under the authority of sections 320 and 331 of the *Municipal Act, R.S.O. 1990, c. M.45*, and, under section 61 of the *Provincial Offences Act, R.S.O. 1990, c. P.33*, a person convicted of an offence under this section is liable to a fine of not more than \$5,000.

⁴ Editor's Note: This by-law was passed under the authority of sections 135, 391 and 427 of the *Municipal Act, 2001, S.O. 2001, c. 25*.

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*.⁵

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

⁵ Editor's Note: See R.S.O. 1990, c. O.18.

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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 30 centimetres or more measured at 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 metres 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 30 centimetres or more measured at 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.
- F. To waive the permit application fee for owners living below the low-income cut off as determined by Statistics Canada. **[Added 2004-12-02 by By-law No. 1071-2004]**

§ 813-14. Review of applications; criteria.

The Commissioner shall consider the following criteria:

- A. The application form is complete.
- B. The applicant has paid all required fees.
- C. The condition of the tree.
- D. The location of the tree
- E. The protection of environmentally sensitive areas.
- F. The protection of natural landforms or contours.
- G. The protection of ecological systems.
- H. Erosion and flood control.
- I. The protection of significant vistas.
- J. Whether or not a tree is a heritage tree or should be protected as a heritage tree.

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§ 813-15. Permit refusal.

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

- A. The application form is not complete.
- B. The information required by § 813-12A has not been provided to the satisfaction of the Commissioner.
- C. Trees are healthy.
- D. Environmentally sensitive areas, ecological systems, natural landforms or contours will not be adequately protected and preserved.
- E. Erosion or flood control will be negatively impacted.
- F. Significant vistas will not be adequately protected and preserved.
- G. 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:

- A. Trees are causing or are likely to cause structural damage to load-bearing structures or roof structures.
- B. Trees are in poor condition and cannot be maintained in a healthy and safe condition.
- C. Trees are growing in inappropriate locations, as certified by the Commissioner, and cannot be maintained on a routine basis due to restrictive site conditions.
- D. 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.
- E. 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.
- F. Despite § 813-15C the Commissioner may issue permits to injure or destroy healthy trees where:
 - (1) The trees are causing or are likely to cause structural damage to load-bearing structures or roof structures.

- (2) 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.
- (3) Injury or destruction is required in order to remediate contaminated soil.
- (4) The trees are appropriately sited, and not causing or likely to cause structural damage to load-bearing structures or roof structures, provided that:
 - (a) Notice has been posted in accordance with § 813-17; and
 - (b) 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 § 813-16F(4) shall be posted on the property:

- A. In a manner and form satisfactory to the Commissioner.
- B. For a period of not less than 14 days.

§ 813-18. Permits to destroy; conditions.

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

- A. 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.
- B. Where replacement planting is not physically possible on site, the Commissioner may:
 - (1) Require replacement planting at another suitable location; or
 - (2) Accept a cash in lieu payment in an amount equal to 120 percent of the cost of replanting and maintaining the trees for a period of two years.
- C. 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.
- D. The destruction shall only be carried out by or under the supervision of an Arborist.

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§ 813-19. Permits to injure; conditions.

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

- A. Trees shall be protected in accordance with good arboricultural practices.
- B. 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.
- C. 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 article is guilty of an offence.⁶
- B. A person convicted of an offence under this article is liable:
 - (1) On a first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and
 - (2) On any subsequent conviction, to a fine of not more than \$20,000 or \$2,500 per tree, whichever is greater.
- C. Where a corporation is convicted of an offence under this article, the corporation is liable:
 - (1) On a first conviction, to a maximum fine of \$50,000 or \$5,000 per tree, whichever is greater; and
 - (2) On any subsequent conviction, to a maximum fine of \$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.

⁶ Editor's Note: This section was passed under the authority of section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, and, under section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, a person convicted of an offence under this section is liable to a fine of not more than \$5,000.

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§ 813-25

§ 813-25. Conflict.

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

§ 813-26. (Reserved)⁷

⁷ Editor's Note: Former § 813-26, Fees, was repealed 2004-12-02 by By-law No. 1071-2004.