

THE CORPORATION OF THE MUNICIPALITY OF TRENT HILLS

BY-LAW NUMBER 2005-95

A BY-LAW TO AUTHORIZE THE REMOVAL AND/OR TRIMMING OF ANY TREES AND VEGETATION UPON A HIGHWAY AND UPON LAND LYING ALONG A HIGHWAY

WHEREAS Part III of the Municipal Act, 2001, S.O. 2001, Chapter 25, provides for Specific Municipal Powers for municipalities when conducting general highway operations for entry onto private properties to remove dangerous trees or branches and to apply to the Courts to require the removal of any vegetation, building or object that is deemed to be harmful to the Municipality's highway, in that:

"Entry on land, tree trimming

62. (1) A municipality may, at any reasonable time, enter upon land lying along any of its highways,

- (a) to inspect trees and conduct tests on trees; and
- (b) to remove decayed, damaged or dangerous trees or branches of trees if, in the opinion of the municipality, the trees or branches pose a danger to the health or safety of any person using the highway. 2001, c. 25, s. 62 (1).

Immediate danger

(2) Despite clause 431 (a), an employee or agent of the municipality may remove a decayed, damaged or dangerous tree or branch of a tree immediately and without notice to the owner of the land upon which the tree is located if, in the opinion of the employee or agent, the tree or branch poses an immediate danger to the health or safety of any person using the highway. 2001, c. 25, s. 62 (2).

Application to court

62.1 (1) A municipality may apply to a judge of the Superior Court of Justice for an order requiring the owner of land lying along a highway to remove or alter any vegetation, building or object on the land that may obstruct the vision of pedestrians or drivers of vehicles on the highway, cause the drifting or accumulation of snow or harm the highway if the municipality is unable to enter into an agreement with the owner of the land to alter or remove the vegetation, building or object from the land. 2002, c. 17, Sched. A, s. 10.

Order

(2) Upon application by the municipality under subsection (1), the judge may make an order, subject to the payment of such compensation to the owner or other conditions as the judge may fix,

- (a) requiring the owner of the land to remove or alter the vegetation, building or object in respect of which the application is made; or
- (b) authorizing the municipality to enter upon the land, upon such notice to the owner as the judge may fix, to remove or alter the vegetation, building or object. 2002, c. 17, Sched. A, s. 10."

AND WHEREAS the Council for the Corporation of the Municipality of Trent Hills deems it desirable to issue a By-law pursuant to Section 5. (3) of the Municipal Act, 2001, S.O. 2001, Chapter 25, and 2001, c. 25, s. 11, Table; 2002, c. 17, Sched. A, s. 4., 1. Highways, regulating the removal and trimming of trees located along any of its highways that, in the opinion of the Director of Transportation and Waste, pose an immediate danger to the health and safety of persons using the highway;

NOW THEREFORE the Council of the Corporation of the Municipality of Trent Hills hereby enacts as follows:

1.) For the purposes of this By-law:

- (a) "Highway" means a highway under the jurisdiction of the Corporation of the Municipality of Trent Hills;
- (b) "Municipality" means the Corporation of the Municipality of Trent Hills;
- (c) "Director" means that person as appointed by the Council of the Corporation of the Municipality of Trent Hills as Director of Transportation and Waste;
- (d) "Designate" means that person as appointed by Director of Transportation and Waste to act on behalf of the Corporation of the Municipality of Trent Hills;
- (e) "Tree" includes a growing tree, shrub, hedge or any part thereof planted or growing on either side of the highway or on a highway.

2.) That the Municipality hereby authorizes the Director or designate to implement the provisions of the Municipal Act permitted under Sections 62(1) and (2) as related the inspection, testing and removal of decayed, damaged or dangerous trees or branches of trees if, in the opinion of the Director or designate, the trees or branches pose a danger to the health or safety of any person using the highway;

3.) Trees that are located on a highway may be removed or trimmed at the sole discretion of the Director or designate when:

- (a) the tree or part of the tree obscures or interferes with any overhead wires, streetlights, street signs or any other element of a highway; or
- (b) where the tree or any part of the tree is so situated that, in the opinion of the Director or designate, the tree poses a danger to the health or safety of any person using the highway.

4) Trees that are located on property other than a highway may be removed or trimmed at the sole discretion of the Director or designate when:

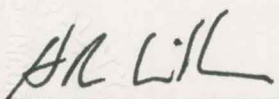
- (a) where it is reasonably probable that the tree in question will cause injury or damage to any person or property on a highway; or
- (b) where the tree in question is likely to collapse or fall on the highway; or
- (c) where the tree(s) in question is interfering with the visibility on the Municipal road and/or is causing a safety hazard.

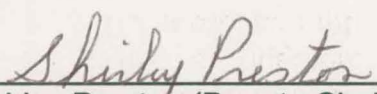
5) For the purposes of enforcing the provisions of this By-law, the Director or designate may, at all reasonable times and upon producing proper identification, enter onto any property other than a highway to inspect trees located on that property where it appears likely to the Director or designate that the tree in question may require trimming or removal pursuant to the provisions of this By-law.

6) If, after an inspection conducted in accordance with the provisions of this By-law, the Director or designate is satisfied that a tree should be trimmed or removed, he or she shall serve or cause to be served, by personal service upon or sent by prepaid registered mail to the owner of the property and all persons shown by the records of the Land Registry Office and the Sheriff's Office to have an interest therein to the last known address of the owner or persons, a Notice containing the particulars of the non-conformity with this By-law and the steps and measures to be taken to bring the tree into conformity with this By-law and may, at the same time, provide all occupants of the property with the same notice.

- 7) After affording any persons served with the Notice provided under this By-law an opportunity to appear before the Director or designate to make representations in connection therewith, the Director or designate may make and serve or cause to be served upon or sent by prepaid registered mail to such person an order containing:
- (a) the municipal address or legal description of the property; and
 - (b) reasonable particulars of the work to be done or the trees to be trimmed or removed and the period within which this work must be done and that, if such work is not so done within the time as set out in the Order, the Municipality may carry out the work at the expense of the owner of the subject property.
- 8) If the owner or occupant of the subject property fails to remove or trim the tree in accordance with the Notice or Order given pursuant with this By-law, the Municipality, in addition to all remedies it may have:
- a) shall have the right to trim or remove the tree in question and for this purpose, with its employees or agents from time to time, may enter into and upon the property; and
 - b) shall not be liable to compensate such owner or occupant or any other person having an interest in the property by reason of anything done by or on behalf of the Municipality.
- 9) Where the Municipality trims or removes a tree in accordance with the provisions of this By-law, the Municipality may recover the expense incurred by the Municipality in respect thereof by any and all methods provided for in the Municipal Act.
- 10) If any provision or requirement of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-Law or the application of such provision or requirements to all persons other than those to which it is held to be invalid or unenforceable, shall not be affected thereby and it is hereby declared to be the intention of the Council of the Municipality that each provision and requirement of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.
- 11) In this By-law, words importing the singular shall include the plural and words importing the masculine gender shall include the feminine and neuter gender and visa versa.
- 12) This By-law shall come into force and take affect on the date of its passing.

That By-law No. 95-2005 be introduced and be deemed to be read a first, second and third and final time, passed and properly signed and sealed this 26th day of September, 2005.


Hector Macmillan (Mayor)


Shirley Preston (Deputy-Clerk)