

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 71-2014

A by-law to prohibit the injury or destruction of trees on public property

WHEREAS pursuant to Section 135 of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended (the "Act"), provides that the Council of a local municipality may pass by-laws to prohibit or regulate the destruction or injury of trees.

AND WHEREAS section 427(1) of the Act provides that if a municipality has authority by by-law or otherwise to direct or require that a matter or thing be done, the municipality may, in the same or another by-law direct that, in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person's expense.

AND WHEREAS section 427(3) of the Act provides that the municipality may recover the costs of doing a thing or matter under section 427(1) from the person directed or required to do it and the municipality may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

Definitions

1. In this By-law,
 - a) "Injure or Destroy" means the removal, cutting, girdling of a Tree or its roots; negatively interfering with its water supply or applying chemicals to a Tree; compaction and regrading within the drip line of Tree; irreversible injury which may result from neglect, accident or design; the tacking, posting or attaching of any object or thing to a Tree; or the removal of the stake, post, guard or other object supporting or protecting a Tree and "Injured or Destroyed" has a similar meaning;
 - b) "Officer" means an individual who is appointed by Council for the administration and enforcement of municipal by-laws; or is an officer, employee or agent of a municipality whose responsibilities include the enforcement of a by-law while in the discharge of his or her duties;
 - c) "Person" means an individual, firm, corporation, association or partnership;
 - d) "Town" means The Corporation of the Town of Kingsville;
 - e) "Town Property" means property owned by or under the jurisdiction of the Town; and
 - f) "Tree" means any species of woody plant which has reached or can reach a height of at least 4.5 metres (14.8 feet) at physiological maturity.

Application of By-law

2. No person shall Injure or Destroy a Tree placed, planted or growing on Town Property.

Enforcement of By-law

3. Where a Person has Injured or Destroyed a Tree in contravention of this By-law, an Officer may make an Order against such Person which Order shall state:

- a) that the Person has Injured or Destroyed a Tree and contravened this By-law; and
 - b) how the Person may correct such contravention, which may include replacing a Tree with a Tree similar in size and/or age to the injured or Destroyed Tree, and the date upon which the contravention must be corrected.
4. Service of such Order shall be by way of regular or registered mail and shall be effective 2 days following the date of mailing.
 5. Where a Person has failed to correct such contravention to the satisfaction of an Officer within the time specified in an Order issued pursuant to this By-law, the Town may, in addition to other remedies it may have, take all necessary steps to correct the contravention of this By-law, including but not limited to replacing a Tree with a Tree similar in size and/or age to the Injured or Destroyed Tree, and recover such costs of correcting the contravention from any Person against whom an Order was issued by adding the costs to the tax roll and collecting them in the same manner as property taxes.

Offence and Penalty

6. Every person who contravenes any provision of this By-law is guilty of an offence and shall, upon conviction thereof, be liable to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

Severability

7. In the event that any provision or part of this By-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the By-law and all other provisions or parts thereof shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
28th DAY OF JULY, 2014.**

MAYOR, Nelson Santos

CLERK, Ruth Orton-Pert