

Authority: Item ,
Report (PED19008(a))
CM:
Ward: City Wide

Bill No.

CITY OF HAMILTON

BY-LAW NO.

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

WHEREAS Council enacted a by-law to licence and regulate various businesses being City of Hamilton By-law No. 07-170; and

WHEREAS this By-law amends the General Provisions of By-law No. 07-170 and provides for the addition of Schedule 14 to licence Tree Cutting Services.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Subsection 2(a) of the General Provisions of By-law No. 07-170 is deleted and the following substituted:
 - (a) Administration of this By-law shall be by the staff of Licencing and By-law Services Division of the Planning and Economic Development Department of the City.
2. Subclause (6)(1)(e)(i) of the General Provisions of By-law No. 07-170 is amended by deleting "(Reserved)" after "Schedule 14" and substituting "Tree Cutting Services".
3. Section 30 of the General Provisions of By-law No. 07-170 is amended by deleting the word "(Reserved)" after "Schedule 14" and substituting "Tree Cutting Services".
4. By-law No. 07-170 is amended by adding the new Schedule 14, entitled "Tree Cutting Services" as follows:

SCHEDULE 14

TREE CUTTING SERVICES

Definitions

- 1 In this Schedule,

"tree" means a self-supporting woody perennial plant which has reached or can reach a height of at least 3 metres at physiological maturity;

"tree cutting service" means a person engaged in the business of assessing the health and structural integrity of trees, removing trees, pruning tree branches or roots, removing stumps, or transplanting trees, including climbing aloft and using rigging equipment for any such purpose.

Requirement for Licence

2 No person shall carry on the business, trade or occupation of a tree cutting service without a licence.

General Operating Conditions

3 Every tree cutting service shall:

- (a) ensure that a policy of commercial general liability insurance, including coverage for bodily injury and property damage resulting from any work performed, with an inclusive limit of at least two million dollars (\$2,000,000) per claim or occurrence, is in force at all times during the currency of the licence and includes coverage for all the tradespersons and labourers employed or retained by the tree cutting service;
- (b) provide a written contract to the person for whom the work is being completed, which contract shall be signed by the licensee and shall contain:
 - (i) the name and address of the licensee and the person for whom the work is being done;
 - (ii) the address where the work is to be done;
 - (iii) a description of the work to be completed and price; and
 - (iv) the estimated date of completion;
- (c) not permit the operation of any equipment used in the course of the tree cutting service between the hours of 7:00 p.m. and 7:00 a.m. of the following day that is likely to disturb those inhabiting neighbouring properties;

- (d) ensure that no vehicle used in the performance of work obstructs the municipal right of way;
- (e) ensure that all debris, mud, garbage or stone tracked onto a municipal right of way is removed at the end of each working day;
- (f) ensure that no work performed creates a public safety concern;
- (g) ensure that no work performed interferes with any property’s drainage or creates any flooding or ponding on any property including a municipal right of way;
- (h) not permit the emission of dust or airborne particulate matter to reduce the enjoyment of a neighbouring property;
- (i) replace any damaged sod, ground cover, pavement, or other property of the City within 48 hours of the completion of the work; and
- (j) obtain proper permits (if required) to ensure that cutting is done in accordance with approved tree protection plan which may be prepared by an arborist among other professionals.

Compliance with Tree By-laws

4 (1) Every tree cutting service shall comply with all applicable by-laws relating to trees, which may include:

- (a) Public Tree Protection By-law No. 15-125;
- (b) Urban Woodland By-law No. 14-212;
- (c) Former Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law No. R00-054;
- (d) Former Town of Dundas Tree Protection By-law No. 4513-99;
- (e) Former City of Stoney Creek Tree By-law No. 4401-96; and
- (f) Former Town of Ancaster Tree Protection By-law No. 2000-118.

(2) Prior to injuring or destroying any tree, every tree cutting service shall ensure:

- (a) that a permit has been obtained to injure or destroy trees, if required by by-law;
or
- (b) if no permit is required by by-law, that the injury or destruction of trees is performed in accordance with any applicable restrictions or conditions on the injury or destruction of trees such as an approved tree protection plan imposed as a condition of development approval.

Penalties

5 (1) Despite subsection 27(2) of the General Provisions of this By-law, every person other than a corporation who contravenes any provision of this Schedule or an order made under this By-law relating to this Schedule is guilty of an offence and on conviction is liable to a maximum fine of:

- (a) for first offence, \$10,000 or \$1,000 per tree injured or destroyed, whichever is greater; or
- (b) for a subsequent offence, \$25,000 or \$2,500 per tree injured or destroyed, whichever is greater.

(2) Subsection (1) applies to any officer or director who knowingly concurs in a contravention of this Schedule or an order made under this By-law relating to this Schedule.

(3) Despite subsection 27(3) of the General Provisions of this By-law, every corporation who contravenes any provision of this Schedule or an order made under this By-law relating to this Schedule is guilty of an offence and on conviction is liable to a maximum fine of:

- (a) for first offence, \$50,000 or \$5,000 per tree injured or destroyed, whichever is greater; or
- (b) for a subsequent offence, \$100,000 or \$10,000 per tree injured or destroyed, whichever is greater.

(4) In addition, if any person convicted of an offence under this Schedule has gained economic advantage from the contravention of the Schedule, they are liable to a special fine, which may exceed \$100,000 equal to the economic advantage gained.

6 This By-law comes into force on the day it is passed.

PASSED this day of , 2019.

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk