

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2003-40

Being a By-Law to regulate the planting, preservation, maintenance and removal of trees in public places within the Town of Amherstburg.

WHEREAS Section 8, Section 9 of the Municipal Act 2001 S.O. 2001, C. 25 gives Municipalities the powers of a natural person to govern their affairs as they consider appropriate and to enhance their ability to respect to municipal issues;

AND WHEREAS it is deemed expedient to regulate the development and construction including planting, preservation, maintenance and removal of trees in public places within the Town of Amherstburg.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

1. In this by-law:
 - (a) "Town" means the Town of Amherstburg.
 - (b) "Park" includes all public parks, playgrounds and sports sports fields under the jurisdiction of the Town.
 - (c) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
 - (d) "Property Line" means the line between the public right-of-way and abutting property.
 - (e) "Public Place" includes all parks and all streets or highways.
 - (f) "Street" or "Highway" means the entire width of every public way or right-of-way in the Town open for the use of the public for the purpose of vehicular or pedestrian traffic.
 - (g) "Trees" include all shrubs, hedges and woody vegetation now or hereafter growing on any public place.
 - (h) "Hedges" include all plants of similar variety grown together forming a visual or physical barrier as well as any mass planting or groupings of plants used for visual or physical barriers.
 - (i) "Site Triangle" refers to the measured area found at the intersection or corner of two streets where its location is measured back thirty feet (30') from the intersection along each edge forming a triangle free of obstructions.
 - (j) "Drip Line" refers to an imaginary line (circle) found under an existing tree as measured by the diameter of the crown from the farthest branch on the opposite side.

2. PERMISSION TO PLANT

No person may plant any tree in any public place without first having received permission in writing from the Town and any person receiving such permission shall comply with the instructions of the Town.

3. **PROHIBITED SPECIES**

- (a) Schedule "A" attached lists trees acceptable for planting in public places in the Town of Amherstburg;

Existing and future utility and environmental factors shall be considered when recommending specific species of trees for streets or other public places; trees considered undesirable shall not be recommended for general planting, and their use shall be restricted to locations where, because of certain characteristics of adaptability or landscape effect, they can be used to advantage.

- (b) The following species of trees may **NOT** be planted on boulevards in the Town:

Tree of Heaven	Black Walnut
Manitoba Maple	Mulberry
Chinese Elm	
Poplar and Willow (All varieties)	

- (c) If a tree is planted in conflict with the provisions of this by-law, the Town may remove or cause removal of the same.

4. **PRUNING TREES OF PRIVATE PROPERTY**

- (a) Any person owning or occupying real property abutting any street and upon which property there are trees, shall prune using sound and correct horticultural practices, as directed by the Town, and these trees shall be pruned in such a manner that they will not obstruct the passage of pedestrians on sidewalks, obscure street lights, traffic signs, or interfere with power lines, or obstruct the view of any intersection; the minimum height of any portion of a tree nine feet (9') over all sidewalks and fourteen feet (14') over the travelled portion of streets except truck thoroughfares for which the minimum clearance shall be sixteen feet (16').

- (b) If any person fails to prune trees in accordance with Section 4 of this by-law, the Town may prune such trees to cause them to conform with the provisions of Section 4 hereof at the owner's expense.

5. **DANGEROUS TREES**

Where any tree or part thereof is growing upon private property, but overhanging or interfering with the use of any public place and, in the opinion of the Town, endangers the life, health, safety or property of the public and should be corrected or removed, the Owner shall be notified in writing by the Town of the existence of the danger or of the requirement to remove the tree and given reasonable time for its correction or removal; if not corrected or removed within the time allotted, the Town may cause the danger to be corrected or the tree removed, at the owner's expense.

6. **DAMAGE OF TREES**

No person shall intentionally damage, cut, carve, transplant or, subject to Section 7, remove any tree growing in a public place, attach any rope, wire, nails, advertising posters, or other contrivance to such tree, allow any gaseous, liquid or solid substance which is harmful to such tree to come in contact with it, or set fire to such tree or permit any fire or heat thereof to injure any portion of any tree except as may be approved by the Town.

7. **REMOVAL**

No person shall remove any tree growing in any public place for the purpose of construction or for any other reason without having obtained written permission from the Town. Every attempt shall be made to retain the tree in its existing location or with the permission of and to the satisfaction of the Town to move the tree and place it in an alternative location. Any person removing a tree shall forward the replacement value of the tree being removed to the Town before removing such tree and shall also, if the Town is to remove such tree, forward the removal costs as determined by the Town in accordance with the accepted formula for tree evaluation of the International Shade Tree Conference Incorporated (latest edition), provided that in the case of the public utility or municipal operations the compensation payable for trees removed shall be the cost of replacing same with suitable trees of a caliper between 4" and 12" caliper as determined necessary by the Town.

8. **PUBLIC UTILITIES**

Wherever it is necessary for a public utility, or in connection with municipal operations, to trim trees growing in public or perform other operations affecting trees, the Town shall be notified at least two (2) days in advance regarding such trimming or other operation. Any trimming or other work performed on such trees shall be limited to the actual necessities of the services of such utility or municipal operation, and shall be performed in a neat and workmanlike manner to the satisfaction of the Town.

9. **PROTECTION WHEN TREES ARE NEAR EXCAVATION**

All trees on any public place near any excavation or construction of any building, structure or street work, shall be protected to the satisfaction of the Town, by means of a snow fence barrier or other barrier as necessary. The barrier shall be set within ten feet (10') or within the drip line whichever is greater of any tree growing within the construction or project area.

10. **DAMAGE TO ROOT**

(a) No person may deposit, place, store or maintain upon any public place within ten feet (10') or greater of any tree growing thereon, any stone, brick, sand, concrete, other materials, machines or equipment which may impede the free passage of water, air and fertilizer to the roots of any tree growing thereon, or compact the soil around any existing tree or add soil around any existing tree, provided that this provision shall not apply to the operation of a public utility or municipal service.

10. (b) No person shall excavate any ditches, tunnels, trenches or lay any driveway within a radius of ten feet (10') or within the drip line of the tree whichever is greater from any tree growing in a public place without written permission from the Town, provided that this provision shall not apply to the operation of a public utility or municipal service.

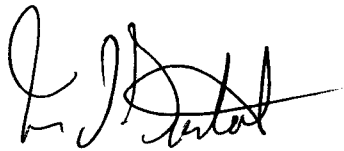
11. **PENALTY**

Any person who contravenes any of the provisions of this by-law is guilty of an offense and upon conviction thereof is liable to a fine of not more than one thousand (\$1,000.00) and the provision of the Provincial Offenses Act.

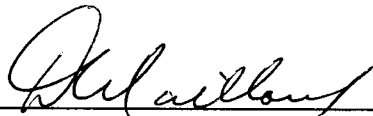
12. **ENFORCEMENT**

The Public Works Supervisor or alternate designated by the Town shall cause the provisions of this by-law to be enforced; provided that any person may refer any matter of dispute to the Council of the Town of Amherstburg whose decision on such matter is final.

READ A FRIST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 9TH DAY OF JUNE, 2003.



MAYOR



CLERK

Certified to be a true copy of
By-Law No. 2003-40 passed by
the Council of the Town of
Amherstburg on the 9th day of June, 2003.

CLERK

SCHEDULE "A"

**GUIDELINES FOR TREE PLANTING
ON THE RIGHT-OF-WAY**

RECOMMENDED TREE SPECIES

1. Only deciduous trees are recommended for street planting (see list below).
2. Where several trees are to be planted, no more than 5 trees of one species are to be planted consecutively.
3. The following trees are coded as to the most suitable and adaptable locations for planting and development:

A - Parks and Cemeteries
B - Core area of Town
C - Residential

4. Whenever possible Carolinian Tree Species should be planted.

* - depicts a Carolinian Tree Species

SHADE TREES (Plant 20' to 30' apart)

<u>AREA</u>	<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>
A/C	Acer Platanoides & var.	Norway Maple - large leaf, dense shade
A/C	Aesculus carnea "Briotti"	Ruby Red Horsechestnut - large leaf, fruitless only
A/C	Cladrastis lutea	Yellowwood - white flower in June
B/C	Corylus colurna	Turkish Hazel - hardy pyramidal tree
C	*Fagus (all species)	Beech - Shallow root, dense shade
. /C	*Fraxinus americana	White Ash - compound dark green leaf
A/C	Fraxinus nigra	Black Ash - compound dark green leaf
B/C	Fraxinus pennsylvanica "Marshall's Seedless"	Marshall's Seedless Ash - no seeds
A	Ginkgo biloba	Maidenhair Tree - use non fruit variety
B/C	*Gleditsia Tiancanthos & var.	Honey Locust - Light open canopy
B/C	*Gymnocladis dioicus	Kentucky Coffeetree - large seed pod
B/C	Liquidambar styraciflua	Sweetgum - corky bark

SCHEDULE "A"
(Continued)

<u>AREA</u>	<u>BOTANICAL NAME</u>	<u>COMMON NAME</u>
C	*Liriodendron tulipifera	Tulip Tree - interesting leaves/flower
B/C	*Nyssa Sylvatica	Blackgum - bright red fall colour
A	Platanus acerifolia	London Plane Tree - sheds bark, large tree
A/C	*Quercus alba	White Oak - dense shade, acorns
A/C	*Quercus rubra	Red Oak - dense shade, acorns
AC	*Quercus macrocarpa	Bur Oak - dense shade, acorns
B/C	Tilia americana	Basswood - small round seed

ORNAMENTAL TREES (Narrow boulevards or under wires)

A/B/C	Acer platanoides columnar	Columnar Norway Maple - upright form
A/C	*Amelachier Arborea	Serviceberry - small tree/bush
A/C	*Cercis cnadensis	Eastern Redbud - excellent spring colour
C	*Cornus florida	Flowering Dogwood - red berry, white flower
A/C	Prunus serrulata & var.	Japanese Cherry - pink flower
A/B/C	Pyrus calleryana & var.	Callery Peat - spring flower, fruitless
A/B/C	Quercus robur fastigiata	Columnar English Oak - upright form
A/C	Syringa amerensis japonica	Japanese Tree Lilac - white mid-summer flowers