

Authority: Item 6, Planning Committee
Report 17-009 (PED17084)
CM: May 24, 2017
Ward: City Wide

Bill No. 094

CITY OF HAMILTON

BY-LAW NO. 17-094

To Amend By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law; By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law 4401-96, the City of Stoney Creek Tree By-law; By-law No. 4513-99, the Town of Dundas Tree Protection By-law

WHEREAS Council wishes to amend By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law; By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law No. 4401-96, the City of Stoney Creek Tree By-law; and By-law No. 4513-99, the Town of Dundas Tree Protection By-law;

AND WHEREAS the *City of Hamilton Act, 1999* did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is successor to the following former area municipalities: The Corporation of the Town of Ancaster, The Corporation of the Town of Dundas, The Corporation of the Town of Flamborough, The Corporation of the Township of Glanbrook, The Corporation of the City of Hamilton, and The Corporation of the City of Stoney Creek; and the successor to the former Regional Municipality of Hamilton Wentworth;

AND WHEREAS the *City of Hamilton Act, 1999* provides that the By-laws of the former area municipalities and the former Regional Municipality of Hamilton-Wentworth remain in force, in respect of the part of the municipal area to which they applied on December 31, 2000, until they expire or are repealed or amended to provide otherwise.

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

By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth:

1. Section 3 of By-law No. R00-054 of the Regional Municipality of Hamilton-Wentworth is deleted and replaced with the following:

TREE DESTRUCTION RESTRICTIONS

3. (1) Except as provided in Section 4, no person shall destroy or permit the destruction by cutting, burning, or other means one or more trees in a woodlands if:
 - (a) one or more of the trees destroyed is of a prescribed species listed in Schedule A and does not equal or exceed the measurements required for that tree species as set out in Schedule A at the point of measurement specified; or
 - (b) the destruction of one or more of the trees has the effect of reducing the number of trees in the woodlands below the number of trees necessary to constitute a woodlands.
- (2) When cutting or removing or permitting the cutting or removing of one or more tree in woodlands, no person shall:
 - (a) unnecessarily damage or injure any tree of a prescribed species that remains standing in the woodlands; or
 - (b) conduct their operations in such a manner that results in excessive damage to the soil, water bodies, wetlands, or other portions of the woodlands.
2. Section 8 of By-law No. R00-054 of the Regional Municipality of Hamilton-Wentworth is deleted and replaced with the following:

PENALTY

- 8.(1)(a) Every person who contravenes any provision of this By-law and every Director or Officer of a corporation who knowingly concurs in the corporation's contravention of the provision is, upon conviction, guilty of an offence and is liable:
 - (i) on a first conviction, to a fine of not more \$10,000 or a fine of \$1,000 per tree injured or destroyed, whichever is greater; and
 - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or a fine of \$2,500 per tree injured or destroyed, whichever is greater.
- (b) Despite paragraph 8(1)(a), where the person convicted is a corporation:

- (i) the maximum fines in subparagraph 8(1)(a)(i) are \$50,000 or \$5,000 per tree injured or destroyed; and
 - (ii) the maximum fines in subparagraph 8(1)(a)(ii) are \$100,000 or \$10,000 per tree injured or destroyed.
- (c) Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under paragraphs 8(1)(a) or 8(1)(b), to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.
8. (2) Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted;
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

By-law No. 2000-118, the Town of Ancaster Tree Protection By-law:

3. Section 10 of By-law No. 2000-118 of the Town of Ancaster is deleted and replaced with the following:

SECTION 10: PENALTIES FOR NON-COMPLIANCE WITH BY-LAW

10.1.1 Every person who contravenes any provision of this By-law and every Director or Officer of a corporation who knowingly concurs in the corporation's contravention of the provision is, upon conviction, guilty of an offence and is liable:

- (i) on a first conviction, to a fine of not more \$10,000 or a fine of \$1,000 per tree injured or destroyed, whichever is greater; and
- (ii) on any subsequent conviction, to a fine of not more than \$25,000 or a fine of \$2,500 per tree injured or destroyed, whichever is greater.

10.1.2 Despite paragraph 10.1.1, where the person convicted is a corporation:

- (i) the maximum fines in subparagraph 10.1.1(i) are \$50,000 or \$5,000 per tree injured or destroyed; and
 - (ii) the maximum fines in subparagraph 10.1.1(ii) are \$100,000 or \$10,000 per tree injured or destroyed.
- 10.1.3 Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under paragraphs 10.1.1 or 10.1.2, to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.
- 10.2 Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted;
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

By-law No. 4401-96, the City of Stoney Creek Tree By-law:

4. Section 37 of By-law No. 4401-96 of the City of Stoney Creek is deleted and replaced with the following:

PENALTY

- 37 (a) Every person who contravenes any provision of this By-law and every Director or Officer of a corporation who knowingly concurs in the corporation's contravention of the provision is, upon conviction, guilty of an offence and is liable:
- (i) on a first conviction, to a fine of not more \$10,000 or a fine of \$1,000 per tree injured or destroyed, whichever is greater; and
 - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or a fine of \$2,500 per tree injured or destroyed, whichever is greater.

- (b) Despite paragraph 37(a), where the person convicted is a corporation:
 - (i) the maximum fines in subparagraph 37(a)(i) are \$50,000 or \$5,000 per tree injured or destroyed; and
 - (ii) the maximum fines in subparagraph 37(a)(ii) are \$100,000 or \$10,000 per tree injured or destroyed.
- (c) Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under paragraphs 37(a) or 37(b), to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.

5. Section 38 of By-law No. 4401-96 of the City of Stoney Creek is deleted and replaced with the following:

PROHIBITION ORDER

38. Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted;
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

By-law No. 4513-99, the Town of Dundas Tree Protection By-law:

6. Section 6 of By-law No. 4513-99 of the Town of Dundas is deleted and replaced with the following:

OFFENCE

- 6.(1)(a) Every person who contravenes any provision of this By-law and every Director or Officer of a corporation who knowingly concurs in the corporation's contravention of the provision is, upon conviction, guilty of an offence and is liable:

- (i) on a first conviction, to a fine of not more \$10,000 or a fine of \$1,000 per tree injured or destroyed, whichever is greater; and
 - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or a fine of \$2,500 per tree injured or destroyed, whichever is greater.
 - (b) Despite paragraph 6(1)(a), where the person convicted is a corporation:
 - (i) the maximum fines in subparagraph 6(1)(a)(i) are \$50,000 or \$5,000 per tree injured or destroyed; and
 - (ii) the maximum fines in subparagraph 6(1)(a)(ii) are \$100,000 or \$10,000 per tree injured or destroyed.
 - (c) Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under paragraphs 6(1)(a) or 6(1)(b), to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.
6. (2) Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted;
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
7. This By-law comes into force on the day it is passed.

PASSED this 24th day of May, 2017

F. Eisenberger
Mayor

R. Caterini
City Clerk