

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 2025-XXX**

**A BY-LAW TO REGULATE THE DESTRUCTION OR INJURING
OF TREES ON PRIVATE PROPERTY IN THE URBAN AREAS OF
THE MUNICIPALITY AND TO RESCIND BY-LAW 5139-19**

WHEREAS sections 9 and 10 of the Municipal Act, 2001, S.O. 2001, c. 25, (the Act), provides that a municipality has broad authority, including the authority to pass By-laws respecting the economic, social and environmental well-being of the municipality;

AND WHEREAS section 135 of the Act provides that a local municipality may prohibit or regulate the destruction or injuring of trees;

AND WHEREAS Part XIV (Enforcement) of the Act provides methods for a municipality to enforce its By-laws;

AND WHEREAS the destruction or injury to trees owned by the Town is regulated through other By-laws, policies and procedures;

AND WHEREAS the destruction or injury of trees as a consequence of development is evaluated as part of the approval of site plans, plans of subdivision or other approvals under the Planning Act, R.S.O. c. P.13;

AND WHEREAS trees within the municipality are valued for the economic, social and environmental benefits they provide such as increased aesthetic and property values, shade, contributions to physical and psychological well-being, maintenance and enhancement of water quality, prevention of soil erosion and water run-off, wildlife habitat, local climate moderation and improved air quality;

AND WHEREAS Council of the Corporation of the Town of Niagara-on-the-Lake wishes to protect and enhance the tree canopy cover in the municipality.

NOW THEREFORE the Council of the Corporation of the Town of Niagara-on-the-Lake enacts as follows:

DEFINITIONS

1. As used in this By-law, the following terms shall have the meanings indicated:

"Administrative Monetary Penalties By-law" means the Administrative Monetary Penalties By-law;

"Administrative Penalty" means a monetary penalty administered pursuant to the Town's Administrative Monetary Penalties By-law;

"Applicant" means an Owner of a tree or an Owner's authorized representative who, pursuant to this By-law, applies for a Permit;

"Application" means an application pursuant to this By-law for a Permit;

"Application Fee" means the fee, required in connection with the submission of an application, as set out in the Town's Annual User Fees;

"Arborist" means an expert in the care and maintenance of trees and includes an arborist qualified by the Ontario Ministry of Training, Colleges and Universities, a Forest Technician, a Forestry Technologist with an applicable college diploma and a minimum

of two (2) years of urban forestry experience, a certified arborist qualified by the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists or a registered professional forester as defined in the Professional Foresters Act, 2000, S.O. 2000, c. 18, as amended or replaced from time to time;

“Arborist Report” means a written report by an Arborist that shall contain the following:

- (a) the location, species, size, tree protection zone and condition of trees that will be injured or destroyed trees and those trees located within one (1) tree length of the tree to be injured or destroyed, included in tabular format and as shown on a map;
- (b) a drawing of the site showing any proposed development, construction, works, excavation or site alteration that may require the tree injury or destruction, and a schedule for this proposed activity, including start and end dates;
- (c) the Qualified Tree Professional’s opinion on why a tree should be injured or destroyed, and whether it represents Good Arboricultural Practices or Good Forestry Practices;
- (d) a description of how the tree is proposed to be injured or destroyed;
- (e) an analysis and description of any reasonable alternatives to the tree injury or destruction or an analysis and description as to why there are no reasonable alternatives to the tree injury or destruction;
- (f) confirmation of any other matters (past or present Planning applications or otherwise affecting the land upon which the tree(s) are to be injured or destroyed;
- (g) calculation of the number of replacement trees that can be planted on the Site based on Schedule “B”, and suggest the species and location;
- (h) if trees are to be injured but not destroyed, a description of maintenance strategies and protection measures to be implemented;
- (i) the professional accreditation of the Qualified Tree Professional;

“Boundary Tree” means a tree having any part of its trunk located on the property line between adjoining lands;

“Circumference” means the measurement of the perimeter of a stem or trunk of a tree, with such measurement including the bark;

“Community Tree Plan” means a plan developed for a specific area within Niagara-on-the-Lake which identifies that area’s distinct qualities and provides guidance for their preservation. To include a substantive list of recommended trees for planting and design guidelines for their recommended manner of placement;

"Council" means the council of the Corporation of the Town of Niagara-on-the-Lake;

"Critical Root Zone" means the distance from the trunk of the tree that equals one (1) centimeter for every centimeter of the tree’s diameter;

"DBH" means the diameter of the stem or trunk of a tree at breast height, measured outside the bark and shall be measured at a point 1.4 metres above the highest point of the ground in an undisturbed state at the base of a tree, or where there are multiple stems to a tree, means the total diameter of all stems at a point of 1.4 metres above the highest point of the ground in an undisturbed state at the base of a tree. DBH shall be determined in accordance with Schedule “A” to the satisfaction of the Inspector;

“Destroy” or “Destruction” or “Destroyed” mean any of the following:

- (a) to remove or cut down a tree; or
- (b) to injure a tree to such an extent that the tree is deemed by the Inspector to be a high-risk tree or is no longer viable, such that it is necessary to remove the tree, or that the tree’s vitality has been reduced to such an extent that in the opinion of the Inspector, the tree cannot recover to be maintained in a safe and healthy condition such that it is necessary to remove the tree;

“Distinctive Landscape” means a landscape that has evolved over time to be a recognizable version of the greater Niagara-on-the-Lake urban forest and has been identified in a community tree plan;

“Director” means the Director of Municipal Enforcement or their designate;

“Emergency Tree Work” means:

- (a) any work requiring the destruction of a tree where the likelihood of tree failure is imminent or a tree or part of tree is in active failure; or
- (b) where a tree must be injured or destroyed to conduct work in order to address an immediate danger to the health and safety of any person or property. Work may include but is not limited to works associated with immediate watermain repairs, drain repairs, utility repairs, and structural repairs to a building.

“Extreme Risk Tree” means a tree assessed to be destabilized or structurally compromised to an extent that an imminent likelihood of failure and impact exists, that could lead to significant or severe consequences;

“Good Arboricultural Practice” means the removal, planting and tree maintenance activities in accordance with the American National Standards ANSI A300 and best management practices identified by the International Society of Arboriculture, conducted to the satisfaction of the Director;

“High-Risk Tree” means a destabilized or structurally compromised tree where there is a high-risk of failure, but the failure is not imminent;

“Heritage Tree” means a tree designated under Part IV of the Ontario Heritage Act, 1990, c.0.18, as amended or replaced from time to time, or included in the Town’s Municipal Register of Cultural Heritage Properties, or is part of an identified Cultural Heritage Landscape;

“Hoarding” means a fence or similar structure used to enclose land, trees and other vegetation in order to protect trees or other vegetation;

“Iconic Tree Species” means a species of tree identified as being an iconic contribution to the mature tree canopy of Niagara-on-the-Lake. Individual areas with a community tree plan may have additional iconic tree species unique to their distinctive landscape;

“Injure” or “Injury” or “Injured” means any act or omission that may harm or damage a tree’s health and/or structure, in any manner, including, but not limited to any or a combination of the following:

- (a) removing, cutting, girdling, or smothering of a tree or roots;
- (b) pruning that does not follow good arboricultural practice;
- (c) failing to protect a tree in accordance with the Tree Protection and Preservation Policy;

- (d) interfering with the water supply of a tree;
- (e) setting fire to a tree;
- (f) affixing materials to a tree;
- (g) mechanical damage to a tree;
- (h) transplanting a tree;
- (i) applying chemicals on, around or near the tree;
- (j) compaction, excavation or re-grading within the tree protection zone;
- (k) storing materials within the tree protection zone that have the potential, in the opinion of the Inspector, to affect the health of the tree; and/or
- (l) any other damage resulting from neglect, or by design;

"Inspector" means a person designated by the municipality to enforce this By-law;

"Institution" means an Owner of land used for educational, medical, religious, retirement or similar purposes;

"Invasive Tree" means any tree that is classified as prohibited or restricted as defined in the Invasive Species Act, 2015, S.O. 2015, c. 22, or if the tree is listed as a noxious weed as defined by the Weed Control Act, R.S.O. 1990, c. W.5;

"Landscaping, Replanting and Replacement Plan" means a plan which identifies the location, species and size of existing trees, trees to be planted or replaced and other landscaping elements on land and provides details regarding planting methodology and timing;

"Lot" means a parcel of land which:

- (a) is the whole of a lot or block on a registered plan of subdivision so long as such registered plan of subdivision is not deemed, pursuant to section 50 of the Planning Act, R.S.O. 1990, c.P.13, as amended or replaced from time to time, not to be a registered plan of subdivision for subdivision control purposes;
- (b) is all land held or owned under distinct and separate ownership from the ownership of the fee or equity of redemption in abutting land;
- (c) has the same description as in a deed which has been given consent pursuant to section 53 of the said Planning Act; or
- (d) is the whole remnant remaining to an owner or owners after conveyance made with consent pursuant to section 53 of the said Planning Act;

"Maintenance Pruning" means the pruning or removal of tree branches in accordance with Good Arboricultural Practice, as specified by the International Society of Arboriculture, including for purposes of removing dead limbs, maintaining structural stability and balance and encouraging natural form, but limited to the appropriate removal of no more than 30% of the live branches that make up the leaf-bearing crown of the tree within a three-year pruning cycle, or as appropriate for the specific tree species, in order to maintain the health of the tree;

"Municipality" means the Corporation of the Town of Niagara-on-the-Lake;

“Nuisance Tree” means a tree listed in Schedule “C”;

"Owner" means an individual or corporation having any right, title, interest or equity in the land where a tree is located; a boundary tree may have multiple Owners;

"Permit" means a Permit to destroy or injure a tree, issued pursuant to this By-law;

“Qualified Tree Professional” means a professional who has gained recognized certifications, qualifications and expertise in the care and management of trees. Recognized certifications and qualifications include:

- (a) Registered Consulting Arborist (RCA) with the American Society of Consulting Arborists (ASCA);
- (b) Board Certified Master Arborist or Arborist Municipal Specialist with the International Society of Arboriculture (ISA);
- (c) Registered Professional Forester (RPF) as defined in the Professional Foresters Act, 2000, S.O. 2000, c.18;
- (d) Certified Arborist with the International Society of Arboriculture (ISA); or,
- (e) Qualified Tree Risk Assessor with the International Society of Arboriculture (ISA);

“Replacement Tree” means a tree that is planted as a condition of a tree permit issued under this By-law to replace another tree that was approved for destruction under this By-law;

“Replacement Tree Plan” means a scaled two-dimensional plan that identifies the location, species, and size of trees proposed for planting and illustrates planting details;

“Replacement Tree Planting Fund” means the fund set aside for the purpose of planting trees in locations within the Town other than the lot where a tree has been injured, destroyed or removed;

"Town" means the Corporation of the Town of Niagara-on-the-Lake;

“TRAQ Report” means a report prepared by a Qualified Tree Professional who is a qualified tree risk assessor in accordance with the International Society of Arboriculture Tree Risk Assessment Qualification;

"Tree" means a specimen of any species of deciduous or coniferous growing woody perennial plant, supported by a single root system, which has reached, could reach or could have reached a height of at least 4.5 metres from the ground at physiological maturity and has a DBH of at least 15 centimetres;

"Tree Management Plan" means a plan prepared by a Qualified Tree Professional in accordance with Good Arboricultural Practice, which, at a minimum, itemizes the existing number, species, location and condition of all trees on the lot and which includes a management schedule related to destruction or injuring intentions for a period of not less than two (2) years;

“Tree Protection and Preservation Policy” means the most recent version of the Town of Niagara-on-the-Lake Tree Protection and Preservation Policy;

“Tree Protection Plan” means a scaled two-dimensional plan prepared by a Qualified Tree Professional in conjunction with an arborist report that identifies the accurate location, species, and size of trees and identifies the extent of injury or destruction, as

applicable, and illustrates details of protection measures, including the location of protective barriers;

“Tree Protection Zone” means the minimum setback from a tree (including above and below ground level) required to protect the health and structural integrity of a tree as prescribed by the Tree Protection and Preservation Policy, as amended or replaced from time to time;

“Trunk” means the part of a tree from its point of growth away from its roots up to where it branches out to limbs and foliage;

“Woodland” or “Woodlands” means as defined in the Niagara Region Tree By-law 2020-79, namely: land on one or more properties with a density of at least: a 1,000 Trees, of any size, per hectare; 750 Trees, measuring over five (5) centimetres in Diameter at DBH, per hectare; 500 Trees, measuring over twelve (12) centimetres, in Diameter at DBH, per hectare; or 250 Trees, measuring over twenty (20) centimetres, in Diameter at DBH, per hectare; but does not include: a cultivated fruit or nut orchard; a plantation established for the purpose of producing Christmas trees and which is being actively managed and Harvested for the purposes for which it was planted, except that this does not refer to plantations that have ceased being managed or Harvested for their intended purpose for a period of 15 years or more; or a bona fide tree nursery that is being actively managed and harvested for the purposes for which it was planted; a hedgerow or windrow less than 20 metres in width.

SCOPE

2. This By-law applies to all private property in the urban areas of the Town but does not apply to trees in woodlands that are governed by Niagara Region Tree By-law 2020-79, as amended or replaced from time to time.

3. This By-law is a Designated By-law under the Administrative Penalties for Non-Parking Violations and Orders By-law.

PROTECTION OF REGULATED TREES

4. Except as provided in this By-law, no person shall, within the geographic limits of the urban boundaries of the municipality, destroy or injure, or cause or permit the destruction or injuring of any regulated tree.

5. Notwithstanding section 4, a person may destroy or injure, or cause or permit the destruction or injuring of a regulated tree in compliance with a Permit.

6. If there is doubt as to whether a specific tree is a regulated tree or not, the Owner of the tree may request a determination from an Inspector. The Inspector may provide a written determination as to whether, on the date of the determination, the tree is a regulated tree or not.

7. In a case where a tree has been destroyed or injured and part or all of the remaining stump or stumps is or are too short for the DBH to be measured, the relevant DBH shall be extrapolated from the remaining trunk or trunks.

STATUTORY NON-APPLICATION OF THE BY-LAW

8. This By-law does not apply where there is a conflict with Provincial or Federal legislation. Therefore, this By-law does not apply:

- (a) to the activities or matters or the destruction or injuring of trees described in subsection 135(12) of the Municipal Act;

- (b) to restrict the destruction and injuring of trees which constitute a normal farm practice carried on as part of an agricultural operation, as so determined by the Normal Farm Practices Protection Board, pursuant to the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended or replaced from time to time; or
- (c) to the destruction or injuring of trees pursuant to a forestry development agreement pursuant to, or deemed to be pursuant to, the Forestry Act, R.S.O. 1990, c.F.26, as amended or replaced from time to time, or measures to prevent, retard, suppress, eradicate or destroy an infestation by a forest tree pest, taken by an officer pursuant to the said Forestry Act.

PERMIT EXEMPTIONS

9. The destruction or injury of a regulated tree is exempt from the requirement for a Permit if the regulated tree is:

- (a) a tree having no living tissue, having 70% or more of its crown dead, or being infected by a lethal pathogen, lethal fungus or lethal insect (including the Emerald Ash Borer or the Asian Long horned Beetle), and where required, a certificate issued by a Qualified Tree Professional, confirming this justification for destruction or injuring, has been submitted to an Inspector;
- (b) a high risk tree, and where required, a certificate issued by a Qualified Tree Professional, confirming this justification for destruction or injuring, has been submitted to an Inspector;
- (c) a tree that is destroyed or injured as part of Emergency Work, subject to the emergency notification requirement contained in this By-law;
- (d) a tree certified by an engineer as causing structural damage to a drain, load-bearing structure or roof structure;
- (e) a tree located on a rooftop or elevated podium, or in an interior courtyard or solarium, and likely to cause damage;
- (f) a tree growing in contaminated soil and, by its presence, preventing remediation of the contaminated soil, provided that proof of remediation efforts in the form of an approved Ontario Ministry of the Environment, Conservation and Parks remediation plan;
- (g) as required under a Property Standards By-law order;
- (h) as required maintenance pruning that is necessary to maintain the health and condition of the tree, and is carried out in accordance with good arboricultural practices;
- (i) an invasive/nuisance tree;
- (j) a fruit tree that is capable of producing fruit for human consumption; or
- (k) a tree which is part of:
 - (i) a tree nursery business where trees are planted, cultivated and harvested for the purpose of live tree sales;
 - (ii) a Christmas tree plantation business where coniferous trees are planted, cultivated, maintained and harvested for Christmas celebration purposes; or

- (iii) a cultivated orchard business where fruit or nut trees are grown and maintained specifically for the harvesting of their fruit or nuts.

EMERGENCY WORK NOTIFICATION

10. Where emergency tree removal is required, where the likelihood of tree failure is imminent, and a tree or part of a tree poses an extreme risk, the Owner shall:

- (a) notify the Inspector within seventy hours (72) of the commencement of work; and
- (b) provide documentation as requested by the Inspector which may include, but is not limited to, an arborist report, engineering reports, work orders, locates, photographs of the emergency tree work including those associated with the size and height of the subject tree(s) and measurement of the distance to any nearby building or structure.

APPLICATION FOR PERMIT

11. If an Owner wishes to destroy or injure one (1) or more of the Owner's regulated trees or wishes to undertake an activity which might destroy or injure one (1) or more of the Owner's regulated trees, and if none of the exemptions set out in this By-law are applicable, then the Owner shall submit the information below as applicable to an Inspector in respect of each such regulated tree:

- (a) the address of the land where the regulated tree is to be destroyed or injured is located;
- (b) the name and contact information of the Applicant;
- (c) the names and contact information, and written permission, of all Owners;
- (d) a plan (or plan of survey) and photograph, showing the location, species, size and condition of each regulated tree to be destroyed or injured;
- (e) the purpose for which the Permit is sought and the nature of the proposed or possible destruction or injuring;
- (f) where there is a discrepancy in the health assessment of the regulated tree to be destroyed or injured, and where the Inspector so requires, a written evaluation by a Qualified Tree Professional of the condition of the regulated tree;
- (g) where trees are proposed to be retained, and where the Inspector so requires, a tree protection plan identifying the location, species and size of trees on the land and tree protection measures, including barriers and hoarding, to be implemented to avoid destruction or injuring of, and protect, the trees that are to be retained; and
- (h) where three (3) or more trees are proposed for destruction or injuring, and where the Inspector so requires a landscaping, replanting and replacement plan; and
- (i) a report completed by a Qualified Tree Professional, which may include but is not limited to, a TRAQ Report, prior to the issuance of a tree Permit for the purpose of determining if the proposed work is able to proceed to the satisfaction of the Inspector; and
- (j) any revised or additional information or documentation as may be required by the Inspector to determine if the tree Permit should be issued; and

(k) any applicable fees as detailed in the Town's Annual User Fees.

12. No person shall provide false or misleading information on or in support of an application.

13. Submission of an application shall constitute the granting of permission for the Town, or its designate(s), to enter on the Applicant's land for purposes of this By-law.

14. Acceptance of an application does not constitute approval of the application or oblige the Town to issue a Permit.

15. Where the trunk of the tree straddles the boundary of one (1) or more properties, in addition to the requirements listed above, the applicant must provide the written consent of the other Owner(s) to the application.

ISSUANCE OF PERMITS

16. In deciding whether or not to issue a Permit in respect of a regulated tree, an Inspector shall consider the following criteria:

- (a) the species of each regulated tree, and particularly whether it is native to the area, has been designated as an iconic tree species by the Town and any of its neighbourhoods with community tree plans, is considered regionally or locally significant or is an endangered species or threatened species as defined in the Endangered Species Act, 2007, S.O. 2007, c. 6, as amended or replaced from time to time, or in the Species at Risk Act, S.C. 2002, c. 29, as amended or replaced from time to time;
- (b) the condition of the regulated tree;
- (c) the location of the regulated tree including heights and distances to structures;
- (d) the age of the regulated tree;
- (e) the reason or reasons for the proposed destruction or injuring of the regulated tree;
- (f) whether the regulated tree is a heritage tree;
- (g) the presence, within the regulated tree, of breeding birds as contemplated in the Migratory Birds Convention Act, 1994, S.C. 1994, c. 22, as amended or replaced from time to time;
- (h) the protection and preservation of ecological systems and their functions, including the protection and preservation of native flora and fauna;
- (i) erosion, flood control and sedimentation of watercourses;
- (j) the submissions of such persons or agencies as the Inspector may consider necessary to confer with for the proper review of the application; and
- (k) any other legislation that may apply or approvals that may be required.

17. In issuing a Permit, the Inspector may make the Permit subject to such conditions as the Inspector may consider necessary, including (but not restricted to) any one (1) or more of the following requirements:

- (a) that the destruction or injuring occurs in a specified manner;

- (b) that each tree destroyed or injured be replaced with one (1) or more replacement trees to be of a species capable of equal or mature height;
- (c) that in the case where the destroyed or injured tree is an iconic tree species it shall be replaced with an equally iconic tree species;
- (d) that the destruction or injuring only be carried out by or under the supervision of a Qualified Tree Professional;
- (e) that the tree(s) that are to be retained be protected in accordance with Good Arboricultural Practice as outlined in Tree Protection and Preservation Policy for construction near trees during the destruction, injuring or other related activities;
- (f) that specified measures be implemented to mitigate the direct and indirect effects of the destruction or injuring of other nearby trees, land, water bodies or natural areas; and
- (g) that payment of fees as detailed in the Town's Annual User Fee By-law be made into the Town's Replacement Tree Planting Fund.

18. Where the planting of replacement tree(s) has been imposed as a condition of tree removal, the Inspector shall require that:

- (a) the replacement tree(s) be located on the same lot in a location and species to the satisfaction of the Inspector within twelve (12) months from the date of permit issuance, or the security deposit will be reallocated to the Town's Replacement Tree Planting Fund;
- (b) the minimum tree replacement size is a thirty (30) millimetre caliper deciduous tree, or a one hundred and fifty (150) centimetre height coniferous tree in a five (5) gallon container or balled and burlapped or in a wire basket;
- (c) where replacement tree(s) are not physically possible to properly grow on the site, the replacement tree(s) be located at another suitable location to the satisfaction of the Inspector within twelve (12) months from the date of permit issuance, or the security deposit will be reallocated to the Town's Replacement Tree Planting Fund;
- (d) a landscaping, replanting and replacement plan be filed to the satisfaction of the Inspector;
- (e) a written undertaking by the Applicant to carry out the replacement planting;
- (f) a security deposit in a form satisfactory to the Inspector to be delivered to the Town;
- (g) if replacement planting is not achievable on the subject land, it shall be substituted by a payment of cash in lieu as detailed in the Town's Annual User Fees; and
- (h) the payment for each replacement tree not replanted in accordance with this subsection be made into the Town's Replacement Tree Planting Fund.

19. The Inspector may refuse to issue a Permit to remove a tree where any one (1) or more of the following applies:

- (a) the Permit application has not been submitted in full and is considered incomplete, or where an arborist report is required or requested by the Inspector in support of the Permit application and the report has not been provided;

- (b) any tree with a diameter greater than twenty-four (24) centimetres, or the second tree or more with a diameter between fifteen (15) centimetres to twenty-four (24) centimetres, that has been applied for removal within a twelve (12) month consecutive period;
- (c) an application for a building permit, rezoning, a consent, a minor variance, a plan of subdivision, a plan of condominium or a site plan to the land on which the tree is located has been submitted to the Town or Region, but has not received final approval;
- (d) the tree is an endangered, threatened, or at risk tree species, as defined in the provincial Endangered Species Act, 2007, S.O. 2007, c. 6, or any tree classified as an endangered or threatened tree species, or a tree species of special concern, as defined in the federal Species at Risk Act, 2002, S.C. 2002, c. 29;
- (e) the tree is relevant to the heritage designation of the lot as determined by the Town's Director of Community and Development Services; or
- (f) the tree is required to be retained or planted as a condition of an approved Site Plan.

20. In issuing a Permit, the Inspector shall issue the Permit to the Applicant and provide copies of the Permit to any other Owners.

21. The Permit shall identify the tree(s) to be destroyed or injured and the reason(s) for the destruction or injuring.

22. Following issuance of a Permit, the Applicant shall immediately post a copy of it in a conspicuous place on the land where the regulated tree is located so that it is visible and legible to passers-by. The Permit shall be posted at least five (5) days prior to the destruction or injuring, and shall ensure that it remains so posted until the destruction, injuring or other related activities are complete.

23. A Permit is and remains the property of the Town and may not be transferred except with the approval of an Inspector.

24. An Inspector shall revoke a Permit if it was issued based on false, mistaken or misleading information or if the Applicant fails to comply with any condition attached to the Permit or any provision of this By-law.

25. A Permit shall expire one (1) year after its issuance, unless, at least thirty (30) days before that expiry, the Applicant applies to the Inspector and before that expiry, the Inspector grants a one-time extension of a maximum of six (6) months.

PERMIT APPEAL PROCESS

26. An Applicant;

- (a) whose application for a Permit has been denied; or
- (b) who is not satisfied with the terms or conditions placed on the Permit, may apply for a hearing to appeal this decision to the Hearing Officer.

27. Every person who initiates an appeal of a decision made under Section 26 of this By-law shall submit a Notice of Appeal;

- (a) within fourteen (14) days of a refusal or revocation;
- (b) with the non-refundable required fee as detailed in the Town's Annual User Fees; and

(c) by registered mail to the Inspector.

28. The Town shall receive all notices of appeal and hold a hearing with every person who initiates an appeal of a decision made under Section 26 of this By-law.

29. An incomplete application is not subject to an appeal.

HEARING OFFICER

30. Council shall appoint, by a resolution, a Hearing Officer(s) for a term to be determined by Council.

31. Upon hearing an appeal, the Hearing Officer may:

- (a) confirm the decision of the Director or Inspector to refuse a Permit application;
- (b) rescind the decision of the Director or Inspector to refuse a Permit application, and order that the Permit be issued;
- (c) confirm the decision of the Director or Inspector to deny the Permit; and/or
- (d) confirm, modify or remove any conditions placed on the Permit, or add any conditions they deem appropriate.

32. The decision of the Hearing Officer shall be provided, in writing, to the Applicant as soon as is reasonable after such decision is rendered.

33. The decision of the Hearing Officer is final and binding.

ORDERS AND REMEDIAL ACTION

34. If an Inspector confirms, after making an inspection, that there has been a contravention of this By-law (including of an order or a condition of a Permit made pursuant to this By-law) then they may make an order requiring the person who contravened the By-law (including the Owner, an Applicant or, if applicable, a contractor of the Owner) to discontinue the activity and/or to do work to correct the contravention at the Owner's expense.

35. If a person is required, under an order pursuant to this By-law, to do a matter or thing, then in default of it being done by the person so required to do it, the matter or thing may be done at the person's expense under the direction of the Inspector.

36. The Town may recover the costs of doing the matter or thing under this section 35, from the person required to do it, by adding the costs to the tax roll for the subject land and collecting them in the same manner as property taxes.

37. The amount of the costs mentioned in section 36 including interest, shall constitute a lien on the subject land upon the registration, in the proper Land Registry Office, of a notice of lien.

38. The lien mentioned in section 37 shall be in respect of all costs that are payable at the time the notice is registered, plus interest accrued to the date payment is made.

39. An order under this By-law may be served:

- (a) personally, in which case it shall be deemed to have been served on the date of that personal service;
- (b) by email, in which case it shall be deemed to have been served on the date of that email; or

- (c) by sending it by prepaid ordinary mail to the last known address of the person being served, in which case it shall be deemed to have been served on the fifth day after the date it was mailed.

40. An order shall be served upon the and upon if known, any other person or persons responsible for the destruction or injury of the regulated tree.

ENFORCEMENT

41. Except as provided under section 10 of this By-law, no Person shall, without obtaining a Permit under this By-law:

- (a) injure or destroy a tree, or cause or permit the injury or destruction of a tree with a DBH of fifteen (15) centimetres or greater. Where a tree has been injured or destroyed and a DBH measurement is no longer possible, then the tree stump will be measured at grade. If the tree stump measurement is fifteen (15) centimetres at grade, then the provisions of this By-law apply;
- (b) any person who directly or indirectly contravenes or who causes or permits a contravention of any provision of this By-law, an order issued under this By-law or a condition of a Permit, is guilty of an offence;
- (c) any director or officer of a corporation who concurs in the contravention of this By-law by the corporation is guilty of an offence; and
- (d) if a contravention of any provision of this By-law, an order issued under this By-law or a condition of a Permit occurs, the contravention may be presumed to have been committed by the Owner of the land on which the contravention occurred.

42. No person shall fail to protect a tree in accordance with an approved Tree Protection Plan.

43. No person shall fail to comply with any of the conditions of a Permit that has been issued under this By-law.

44. No person shall alter or remove approved tree protection fencing without approval from the Inspector.

45. All contraventions of any provision of this By-law, any order issued under this By-law or any condition of a Permit are designated as multiple offences and continuing offences, pursuant to subsection 429(2) of the Municipal Act. A multiple offence is an offence in respect of two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law and, for greater certainty, when multiple trees are destroyed or injured, the destruction or injury of each tree is a separate offence.

46. If an order or Permit issued under this By-law has not been complied with, the contravention of the order or Permit shall be deemed to be a continuing offence for each day or part of a day that the order or Permit is not complied with.

47. A person convicted of an offence under this By-law is liable to a fine of not less than \$500.

48. A person convicted of an offence under this By-law is liable:

- (a) on a first conviction, to a fine of not more than \$10,000 or \$1,000 per tree to a maximum of \$100,000, whichever is greater; and

- (b) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree to a maximum of \$100,000, whichever is greater.

49. Where the person convicted of an offence under this By-law is a corporation:

- (a) the maximum fine in subsection (a) of section 48 is \$50,000 or \$5,000 per tree to a maximum of \$100,000, whichever is greater; and
- (b) the maximum fine in subsection (b) of section 48 is \$100,000 or \$10,000 per tree to a maximum of \$100,000, whichever is greater.

50. In the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all daily fines for the offence is not limited to \$100,000.

51. In the case of a multiple offence, for each offence included in the multiple offences, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000.

52. On conviction of an offence under this By-law, a person is liable to a special fine in accordance with paragraph 429(2)(d) of the Municipal Act. The amount of the special fine shall be the minimum fine as provided for in section 47, to which may be added the amount of economic advantage or gain that the person has obtained or can obtain from the contravention of any provision of this By-law, any order issued under this By-law or any condition of a Permit. Pursuant to paragraph 429(3)1 of the Municipal Act a special fine may exceed \$100,000.

53. Upon conviction for an offence under this By-law, in addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:

- (a) prohibiting the continuation or repetition of the offence by the person convicted and;
- (b) requiring the person convicted to correct the contravention within the period that the court considers appropriate include:
 - (i) the planting or replanting of any tree(s) destroyed or injured or the planting of any replacement tree(s) in a specified location and within a specified period of time;
 - (ii) the application of any silvicultural treatment that may be necessary to establish or re-establish the tree(s) or replacement tree(s); and
 - (iii) in lieu of planting or replanting, payment to the municipality in accordance with this By-law.

GENERAL PROVISIONS

54. Council delegates to the Inspector the authority to carry out their activities as set out in this By-law and in keeping with any community tree plans.

55. Council delegates to the Hearing Officer the authority to carry out its activities as set out in this By-law and in keeping with any community tree plans.

56. The Schedules attached to this By-law shall form part of this By-law.

57. This By-law shall not be interpreted as exempting any person from the requirement to comply with any other Town By-law. In the event of conflict between the provisions of this By-law and any other Town By-law, the provisions which are more protective of trees shall apply.

58. In this By-law, words importing the singular number shall include the plural, words importing the plural shall include the singular number, words importing the masculine gender shall include the feminine, and words importing the feminine gender shall include the masculine, unless the context requires otherwise.

59. Should any section, clause or provision of this By-law be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part hereof, other than the part which was declared to be invalid.

60. The short title of this By-law is the "Private Tree Protection By-law".

61. References in this By-law to any legislation or By-law means as may be amended or replaced from time to time, and include any regulations thereunder.

62. That By-law 5139-19 and all amendments to the Private Tree Protection By-law are hereby repealed.

63. This By-law shall come into force and take effect on the 24th day of June, 2025.

64. After the date of the passing of this By-law, By-law No. 5139-19, as amended, shall apply only to those trees for which an Order or Permit have been issued prior to the date of passing of this By-law, and then only to such trees until such time as the work required by such Order or Permit has been completed or any enforcement proceedings with respect to such Order or Permit carried out by the municipality have been concluded.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 24TH DAY OF JUNE 2025

LORD MAYOR GARY ZALEPA

TOWN CLERK GRANT BIVOL

SCHEDULE "A"

Tree Measurement

Diameter at breast height, or DBH, is the standard for measuring trees. DBH refers to the tree diameter measured at 1.4 metres (4.5 feet) above the ground.

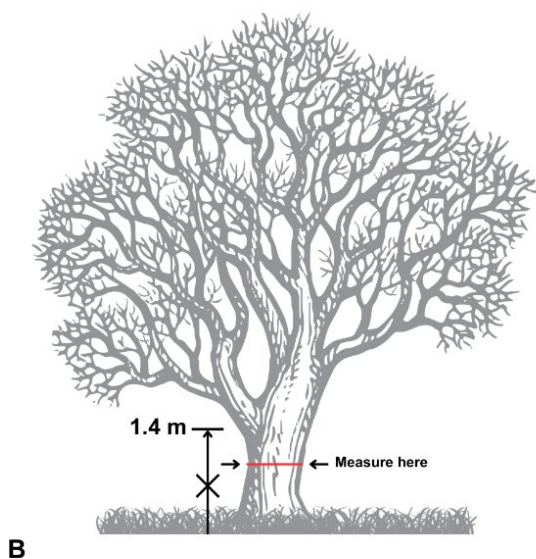
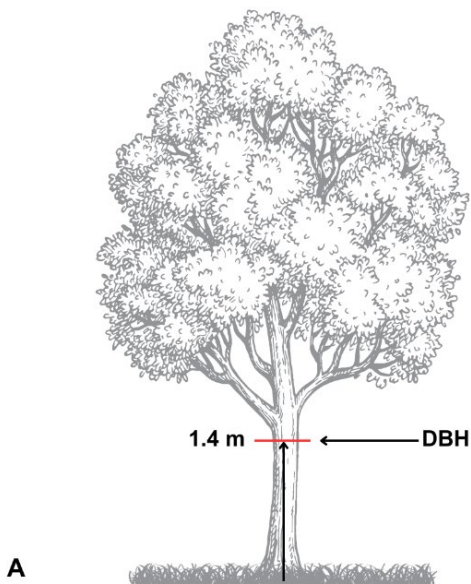
DBH can be measured quickly with a specially calibrated diameter tape, often referred to as a d-tape, that displays the diameter measurement when wrapped around the circumference of a tree. If you don't have access to a d-tape, you can find the diameter of the tree using a string, a measuring tape, a thumb tack, and a calculator.

With the measuring tape, measure 1.4 metres (4.5 feet) up the trunk of the tree from the ground. Use a thumb tack to mark the height on the tree.

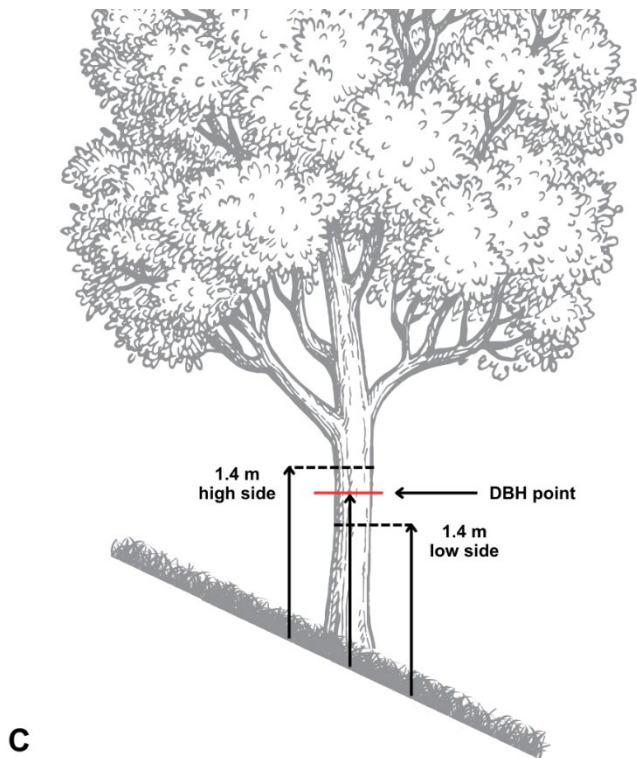
Wrap your string around the tree trunk at 1.4 metres (4.5 feet). Make sure the string is straight and tight around the trunk, and mark or cut the circumference on the string.

Measure the length of the string to get the circumference of the tree. Convert the circumference measurement to diameter by dividing the circumference by pi (3.14).

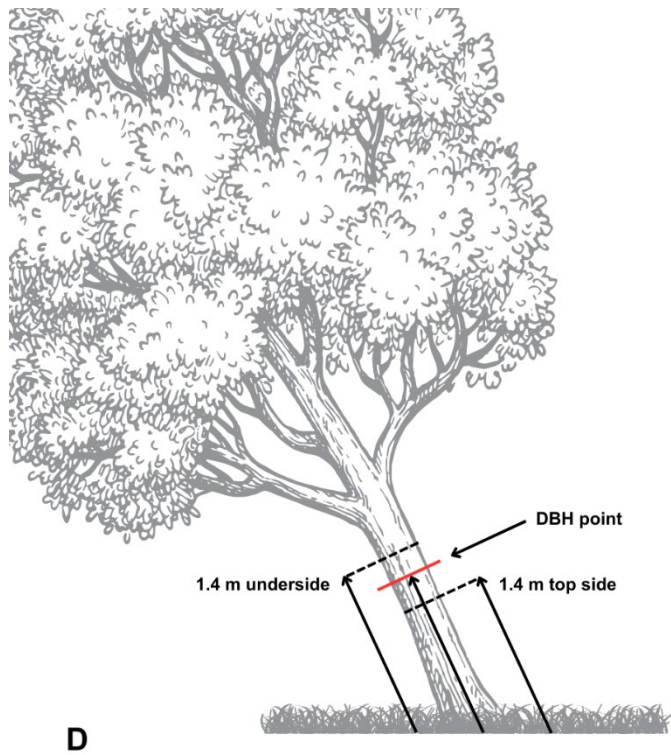
As a general rule, record the smallest trunk circumference between the DBH point (1.4 metres) and the ground, but below the lowest fork. Also, record the height above the ground where the measurement was taken.



For a tree on a slope, measure up 1.4 metres (4.5 feet) along the axis of the trunk on both the high and low sides; the DBH point is midway between these two planes.



For a leaning tree, measure 1.4 metres (4.5 feet) along both the top and undersides of the trunk; the DBH point is midway between these two planes.



SCHEDULE “B”
Replacement and Replanting

Tree Replacement as the Condition of a Tree Removal Permit	
Diameter at Breast Height (DBH) in centimetres	Number of Replacement Trees
15-24	2
25-34	3
35-44	4
45-54	5
55-64	6
65-74	7
75-84	8
85-94	9
95-104	10
105-114	11
>115	12

The following list of trees are recommended for replacement or replanting as per the Ontario Tree Atlas, Ontario-Southwest Region 7E-3.

List of Preferred Trees for Replanting

Alternate-Leaf Dogwood	Northern Hackberry
American Beech	Ohio Buckeye
American Chestnut	Pawpaw
American Elm	Peachleaf Willow
American Mountain-Ash	Pin Cherry
Balsam Poplar	Pin Oak
Basswood	Red Maple
Bitternut Hickory	Red Mulberry
Black Cherry	Red Oak
Black Oak	River Birch
Black Walnut	Sassafras
Black Willow	Serviceberry
Blue-Beech	Shagbark Hickory
Bur Oak	Silver Maple
Cherry Birch	Sugar Maple
Common Hackberry	Swamp White Oak
Eastern Hemlock	Sycamore
Eastern White Pine	Tamarack
Freeman Maple	Thornless Honeylocust
Hawthorn	Trembling Aspen
Ironwood	Tulip Tree
Kentucky Coffeetree	White Birch (Paper Birch)
Largetooth Aspen	White Oak
Nannyberry	Yellow Birch

SCHEDULE “C”
Nuisance Trees

Nuisance Trees:
Female Gingko

SCHEDULE “D”

TO BY-LAW NO. 2025-XXX
TOWN OF NIAGARA-ON-THE-LAKE SHORT TITLE: Private Tree Protection By-law

ITEM	SHORT FORM WORDING	OFFENCE	SET FINE
1	Injuring or destroying, or causing a tree growing within the urban boundaries to be injured or destroyed, without a permit	4	\$1000
2	Providing false or misleading information on an application	12	\$1000
3	Failing to protect a tree in accordance with an approved Tree Protection Plan	42	\$1000
4	Failing to comply with the conditions of a Permit	43	\$1000
5	Altering or removing tree protection fencing without approval from the Inspector	44	\$1000

SCHEDULE “E”

TOWN OF NIAGARA-ON-THE-LAKE

Tree Protection and Preservation Policy

This policy applies to Town and private trees covered under any municipal permit process or agreement relating to construction.

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3. Application of Policy	2
4. General Policy	3
5. The Minimum Tree Protection Zone (MTPZ).....	3
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1. Scope

This Policy describes the measures required to protect trees not designated for removal for all works on public property within the Town of Niagara-on-the-Lake and for those situated on private property within the Town's Urban Boundary.

2. Definitions

For the purpose of this Policy, the following definitions apply:

- a) **Certified Arborist:** An arborist certified by the International Society of Arboriculture (ISA) who has a diploma (minimum) in arboriculture or urban forestry. The arborist may be required to provide their ISA Certification number.
- b) **Barrier:** A fence placed around a single tree or group of trees to protect them from removal and injury.
- c) **Dripline:** The location on the ground surface directly beneath the theoretical vertical line from the tips of the outermost branches of the trees.
- d) **Tree:** Refers to all parts of the tree, including all roots.

3. Application of Policy

- a) Tree protection measures are required for Town trees protected by the Town's Tree By-law and those privately-owned trees protected by the Town's Private Tree Protection By-law.
- b) All trees situated on Town property are protected under the provisions of Tree By-law No. 4571-12.
- c) Trees that are of permissible size situated on private property are protected under the provisions of Private Tree Protection By-law No. 2025-XX.
- d) Trees protected by By-law may not be removed, injured or destroyed in any way without authorization.
- e) The specifications set out in this Policy shall be the standard specifications for tree protection measures during construction whenever tree protection measures are required by the Town and in every instance where construction activities may result in damage to trees.
- f) Higher standards of tree protection may be imposed where warranted in the opinion of the Town's Director of Operations or designate.
- g) Lesser standards of tree protection shall only be permitted on the recommendation of a Certified Arborist (as defined in this policy) and with the written consent of the Town's Director of Operations or designate.
- h) Anyone failing to adhere to the tree protection policies and specifications outlined below will be financially responsible for any resulting damage to trees.

4. General Policy

Construction activities near trees may result in injury to the trunk, limbs or roots of trees causing damage or death of the tree. In order to prevent such damage or death:

- a) Trees within or adjacent to a construction area must be protected during construction by means of a barrier demarcating the Minimum Tree Protection Zone (MTPZ) as outlined in Sections 5 & 6 of this Policy;
- b) Activities which are likely to injure or destroy the tree are not permitted within the MTPZ. Equipment or vehicles shall not be operated, parked, repaired or refueled within the dripline of trees.
- c) Tree pruning or root cutting of protected trees is to be done in accordance with Section 8 of this Policy.
- d) No objects may be attached to trees protected by By-law without written authorization by the Town. Construction material, supplies, or equipment and earth shall not be stockpiled within the dripline of any tree.
- e) Exposed roots from excavation must be covered with soil, mulch or wet burlap and watered within 24 hours of exposure to prevent drying out.

5. The Minimum Tree Protection Zone (MTPZ)

The following is a chart showing minimum required distances for determining a MTPZ. Some trees and some site conditions may require a larger MTPZ at the discretion of the Town.

Table 1 – Minimum Tree Protection Zones

Trunk Diameter (DBH) ²	Minimum Tree Protection Zone (MTPZ) Distances Required ³	Critical Root Zone (CRZ) Distances Required ^{3&4}
< 10 cm	1.8 m	1.8 m
11 - 40 cm	2.4 m	4.0 m
41 - 50 cm	3.0 m	5.0 m
51 - 60 cm	3.6 m	6.0 m
61 - 70 cm	4.2 m	7.0 m
71 - 80 cm	4.8 m	8.0 m
81 - 90 cm	5.4 m	9.0 m
91 - 100+ cm	6.0 m	10.0 m

¹ The roots of a tree can extend from the trunk to approximately 2-3 times the distance of the dripline.

² Diameter at breast height (DBH) measurement of tree trunk taken at 1.4 metres above ground.

³ MPTZ and CRZ distances are to be measured from the outside edge of the tree base towards the drip line and may be limited by an existing paved surface, provided the existing paved surface remains intact throughout the construction work and is subject to Section 6 of this Policy.

⁴ Where work is being performed beyond the MTPZ but within the CRZ, the works are subject to Section 8 of this Policy.

6. Tree Protection Barriers

Trees within MTPZ shall be protected by means of a “tree protection barrier” meeting the following specifications:

- a) The required barrier is a 1.2 m (4 ft) high orange plastic web snow fencing on 2” x 4” frame (see Detail TP-1). Where orange plastic web snow fencing creates a restriction to sightlines, page wire fencing with reflective tape can be used.
- b) Prior to any ground disturbance when staking, locates should be identified.
- c) Tree protection barriers are to be erected prior to the commencement of any construction or grading activities on the site and are to remain in place throughout the entire duration of the project. The barriers shall be maintained erect and in good repair throughout the duration of construction operations with breaks and unsupported sections repaired immediately. Tree protection may not be removed prior to the completion of construction without written authorization from the Town’s Director of Operations or designate.
- d) All supports and bracing used to safely secure the barrier should be located outside the MTPZ. All supports and bracing should minimize damage to roots.
- e) Where some fill or excavated material must be temporarily located near a MTPZ, a wooden barrier with silt fencing must be used to ensure no material enters the MTPZ.
- f) No materials or fill may be stored within the MTPZ.
- g) Equipment or vehicles shall not be operated, parked, repaired, or refueled within the MTPZ.
- h) No construction activity, grade changes, surface treatment or excavations of any kind is permitted within the MTPZ without written authorization from the Town’s Director of Operations or designate.
- i) A laminated MTPZ sign (see Detail TP-4) must be attached to the most visible side of the tree protection, where it will be visible to those persons entering the site. Minimum size must be 10” x 14”.
- j) The tree protection barrier and signage must be erected to the satisfaction of the Director of Operations or designate in advance of any site works.

7. Tree Removal and Relocation

Any requests for removal, cutting, pruning or relocating a tree must be made in writing to the Town. If approval is granted for the removal of a tree, the contractor will assume all costs involved. In most instances, tree replacement or compensation will be required.

8. Site Services or Excavations within the Minimum Tree Protection Zone and Critical Root Zone

It is recognized that there are cases where trees are growing overtop existing underground utilities that may require inspection and/or new installation. While the guidelines in this Policy still apply, in these cases some modification to the MTPZ, in addition to pre-construction pruning, may be required where work within or near the

MTPZ is approved by the Town's Director of Operations or designate. The objective is to avoid severance of anchor roots and or major branches and minimize damage to the tree(s) and to maintain the natural form of the crown.

- a) Above ground clearance for overhanging branches in the work zone must be anticipated. The contractor is required to have a Town approved tree service raise the crown of all branches to provide adequate clearance for construction equipment. The cost of above ground pre-construction pruning is to be borne by the party that requires the work to be completed.
- b) When excavation is required for inspection (only) of private water and sanitary lateral connections at the property line, are within the limits of the MTPZ and the CRZ and have the potential to damage tree roots, excavation must be completed by a qualified arborist or under an arborist's supervision using a hydro vacuum unit or air powered soil excavation tools in order to preserve the integrity of the tree's roots. When new private water and sanitary lines must be installed, and there is not a suitable location outside of the MTPZ and the CRZ, directional micro tunneling and boring is the preferred option for installation within the MTPZ and CRZ.
- c) When any site works, are within the limits of the MTPZ and the CRZ and have the potential to damage tree roots, root pruning using a hydro vacuum unit or air powered soil excavation tools is acceptable, provided it is operated by a certified arborist or under a certified arborist's supervision, and completed to a depth of 300 mm. Roots are to be cut a maximum of 150 mm from the edge of excavation (grading or removals). The limit of excavation, grading or removals is to be minimized to the greatest extent possible and is to include the use of excavation shoring, smaller excavation equipment or rubber-tired machines. When possible, any exposed roots should be covered with soil, mulch, wet burlap, etc. and watered within 24 hours after exposure to prevent them from drying out. See Detail TP- 2 for further information.
- d) If equipment is required to be placed within the CRZ, ground protection is needed (i.e. plywood or synthetic alternative) to reduce soil compaction and must only be in short durations. A layer of mulch should be placed under the ground protection.

9. Tree Repair/Root Pruning

Trees damaged by construction operations shall be repaired as follows, as per ISA standards, within five (5) days of the damage:

- a) Branches 25 mm or greater in diameter that are broken shall be cut back cleanly on the tree side of the break or to within 10 mm of their base if a substantial portion of the branch is damaged.
 - b) Bark that is damaged shall be neatly trimmed back to the uninjured bark without causing further injury to the tree.
 - c) Root pruning within the MTPZ of any tree requires root exploration via a supersonic air tool or hydro vacuum unit to first remove the soil and expose the
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roots.

- d) Roots under 2 cm in diameter can be pruned using a sharpened tool such as hand pruners or a sharpened spade under the supervision of Town staff.
- e) Roots between 2 cm and 8 cm in diameter can be pruned by the arborist using a sharp tool, such as a handsaw, hand pruner or loppers and under the supervision of Town staff and the advisement of a certified arborist.
- f) All roots over 8 cm in diameter must be assessed by a certified arborist prior to pruning and may only be pruned if the arborist on-site can confidently assess the effect of removal as not to be detrimental to the tree.
- g) Root pruning within the CRZ and outside of the MTPZ typically requires the use of a sharpened garden spade, cutting a line to a depth of about 30 cm by a certified arborist. However, the same pruning protocol for the size of roots encountered in the MTPZ applies to the roots found within this area.
- h) The trenches are backfilled with the same excavated soil or new topsoil or compost, and hoarding should be installed along this trench to protect the remaining roots.

10. Tree Protection Guarantee for Tree's on Public Property

A tree protection guarantee to secure the protection of trees on Public property impacted will be required. Such guarantees will be required upon Building Permit submission. The tree protection guarantee will be held by the Town of Niagara-on-the Lake and only be released by the Town provided that all construction activities are complete, compliance with all permit terms and conditions have been verified and there has been no encroachment into the MTPZ and the tree(s) are healthy and in a state of vigorous growth. Where it has been confirmed that an unauthorized encroachment into the MTPZ or the terms and conditions of a permit have not been complied with, the guarantee will be retained until satisfactory compliance is observed by the Town's Director of Operations or designate.

11. Tree Planting Security for Tree's on Public Property

A tree planting security in an amount equal to the cost of planting and maintenance for two (2) years in order to ensure compliance with approved landscape or replanting plans. The security deposit may be held by the Town after the planting of the trees for a period of two (2) years and shall be released by the Town provided that the trees have been maintained, are healthy and in a state of vigorous growth upon inspection. It is the applicant's responsibility to advise the Director of Operations or designate that the trees have been planted in accordance with approved plans, in order that the two (2) year maintenance period begin.

Prior to release of the security, any dead/dying trees must be replaced, deadwood and sucker growth should be pruned, and mulch should be topped up where necessary. If stakes and ties were used, they must be removed within one (1) year. Any encroachments are to be removed prior to assumption, including walkways, timbers or bricks that result in increased height of soil or mulch around the trees, and lights in trees

Where a tree has been damaged through non-compliance with the Tree Protection and Preservation Policy, any security provided for tree preservation or replacement may be held by the Town for up to two (2) years from the date of the final inspection of the construction project. If the tree dies or needs to be replaced within those two (2) years, the Owner shall pay for replacement planting with nursery stock using an Aggregate Caliper Formula (eg. one 250 mm caliper tree must be replaced with five 50 mm caliper trees or two 125 mm trees). This applies to 150 mm or greater caliper deciduous trees and coniferous trees, 4.5 m in height or greater. Replacement trees must have a minimum height of 180 cm for coniferous trees and 80 mm caliper for deciduous replacements. Replacements must be made to the satisfaction of the Town's Director of Operations or designate.

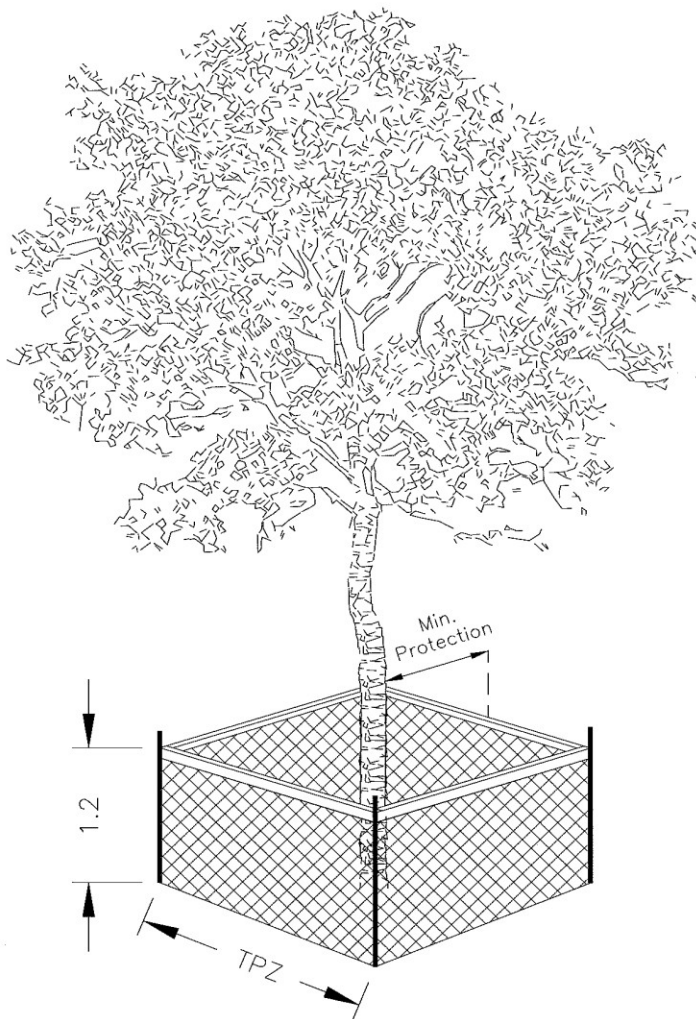
If the Owner meets their financial obligations and there is no further need to care for the tree, after two (2) years, the Town shall return the deposit(s) or the balance of the deposit(s) if the Town use some of the money for monitoring, preservation or replacement of the tree. If the tree does not recover to the satisfaction of the Town's Director of Operations or designate, then the Town shall retain the deposit(s) for the continued maintenance, preservation or eventual replacement of the tree. The Owner may be required to post additional securities if, in the opinion of the Town's Director of Operations or designate, the saved tree is damaged and will need ongoing monitoring, preservation or replacement that will exceed the cost of the deposit(s) mentioned above.

Securities may be released prior to the expiry of the two (2) year period provided the Town is satisfied that the tree has not been damaged. Applicants for the early release or reduction of securities shall submit a report from a Certified Arborist certifying that the tree is in a state of vigorous health and has not been injured or destroyed as a result of the construction activities.

12. Emergency Repairs to Utilities

Emergency repairs to underground utilities are permitted to commence immediately by a qualified person(s). The utility company concerned is responsible for notifying the Town at 905-468-3266 as soon as possible after emergency repairs have commenced. The utility company must notify the Town of any trees impacted by emergency repair work within 72 hours of the emergency work being commenced.

Tree Protection and Preservation



Detail TP-1 – Tree Protection Detail

Trunk Diameter (DBH) ²	Minimum Tree Protection Zone (MTPZ) Distances Required ³	Critical Root Zone (CRZ) Distances Required ^{3,4}
< 10 cm	1.8 m	1.8 m
11 - 40 cm	2.4 m	4.0 m
41 - 50 cm	3.0 m	5.0 m
51 - 60 cm	3.6 m	6.0 m
61 - 70 cm	4.2 m	7.0 m
71 - 80 cm	4.8 m	8.0 m
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NOTES:

¹ The roots of a tree can extend from the trunk to approximately 2-3 times the distance of the dripline.

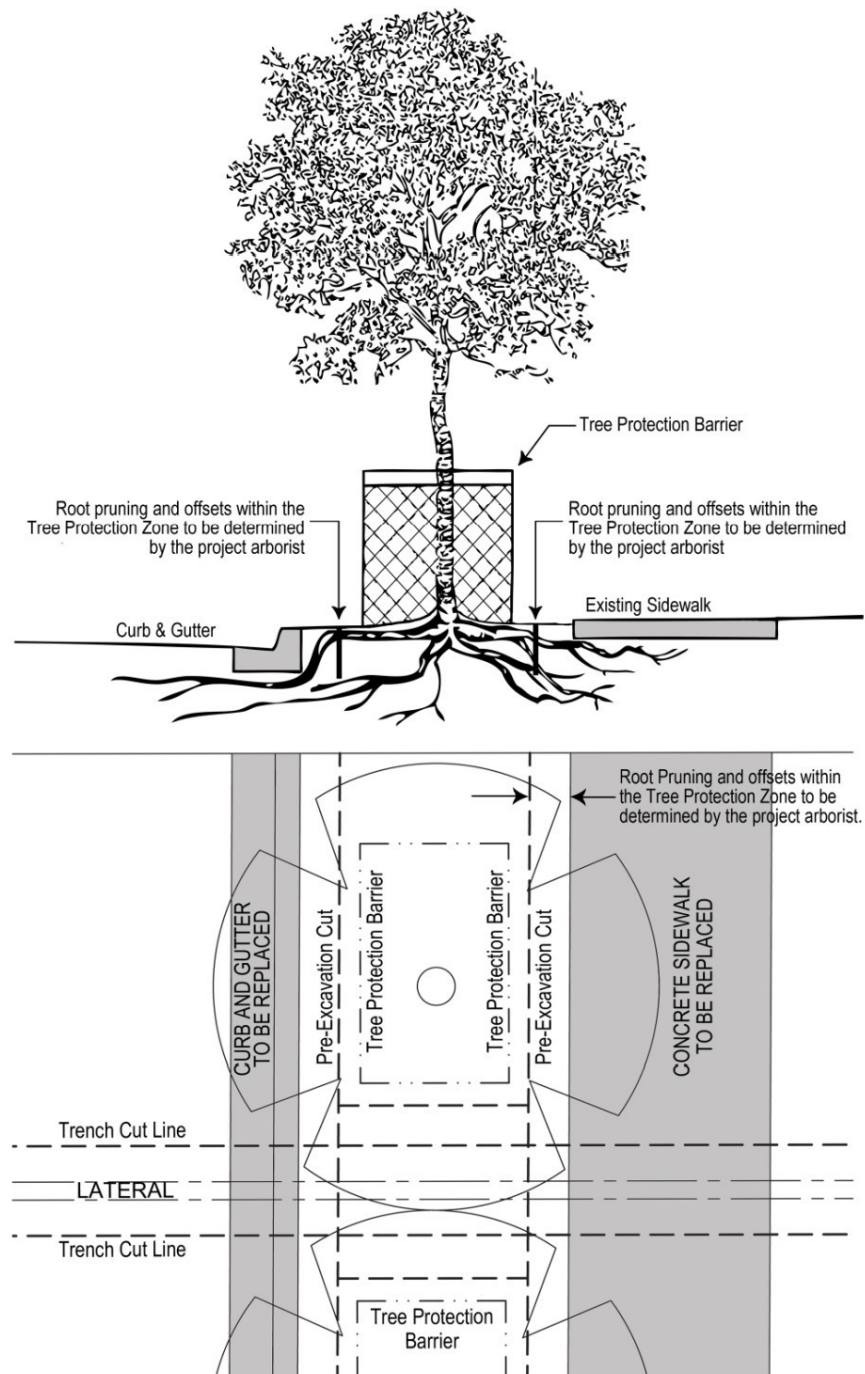
² Diameter at breast height (DBH) is the measurement of the tree trunk taken at 1.4 metres above ground.

³ MTPZ and CRZ distances are to be measured from the outside edge of the tree base towards the drip line and may be limited by an existing paved surface, provided the existing paved surface remains intact throughout the construction work and is subject to Section 6 of this Policy.

⁴ Where work is being performed beyond the MTPZ but within the CRZ, the works are subject to Section 8 of this Policy.

TREE PROTECTION BARRIER

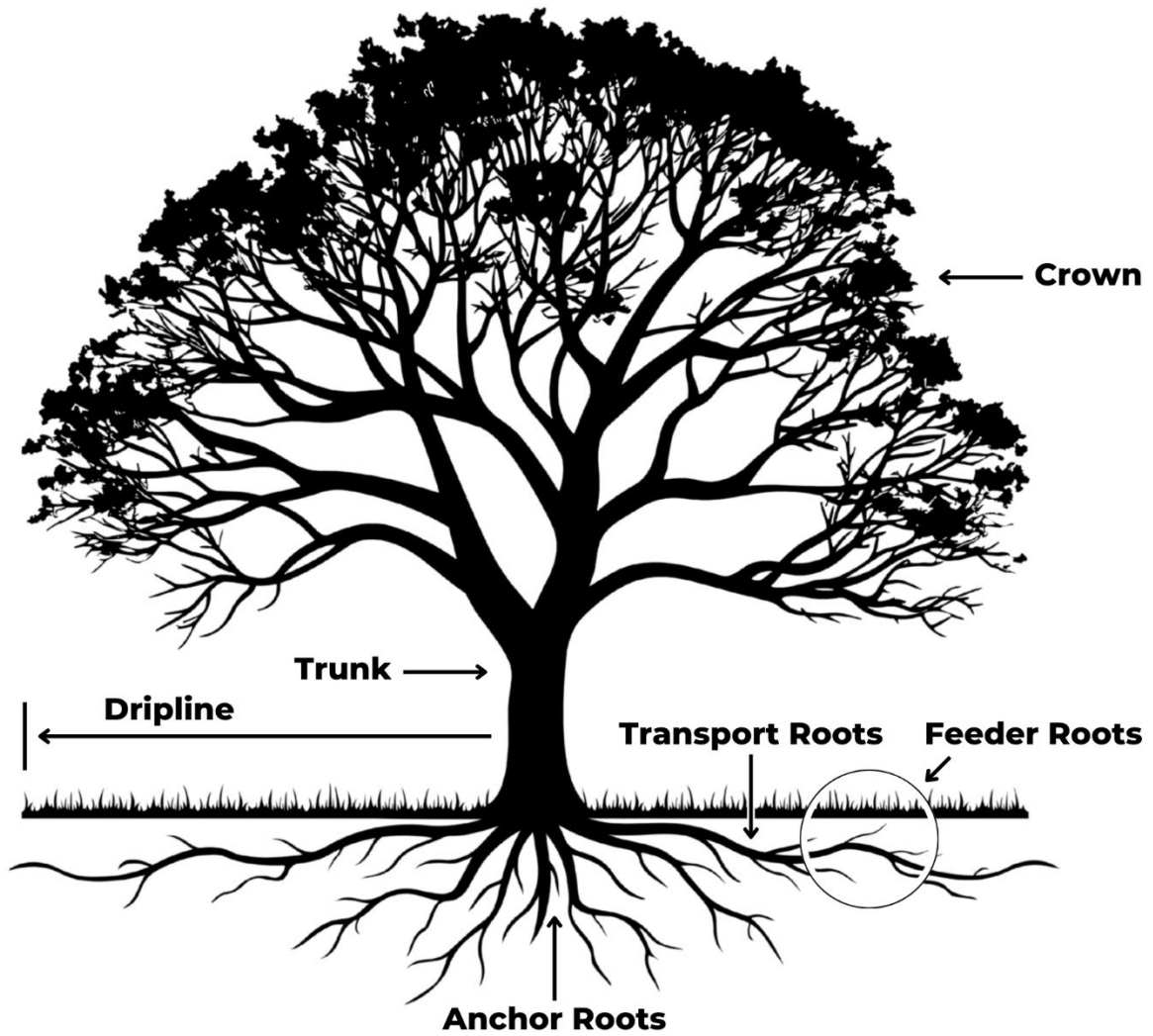
1. The required barrier is a 1.2 metre (4 ft) high orange plastic web snow fencing on a 2" x 4" frame. Where orange plastic web snow fencing creates a restriction to sightlines, page wire fencing with reflective tape can be used.
2. Tree protection barriers are to be erected prior to the commencement of any construction or grading activities on the site and are to remain in place throughout the entire duration of the project. The barriers shall be maintained erect and in good repair throughout the duration of construction operations, with breaks and unsupported sections repaired immediately. Tree protection may not be removed prior to the completion of construction without written authorization from the Town's Director of Operations or designate.
3. All supports and bracing used to safely secure the barrier should be located outside the MTPZ. All supports and bracing should minimize damage to roots.
4. Where some fill or excavated material must be temporarily located near a MTPZ, a wooden barrier with silt fencing must be used to ensure no material enters the MTPZ.
5. No materials or fill may be stored within the MTPZ.
6. Equipment or vehicles shall not be operated, parked, repaired, or refueled within the MTPZ.
7. No construction activity, grade changes, surface treatment or excavations of any kind are permitted within the MTPZ without written authorization from the Town's Director of Operations or designate.
8. A laminated Minimum Tree Protection Zone sign (See Detail TP-4 – MTPZ Sign) must be attached to the side of the tree protection barrier where it will be visible to persons entering the site. The minimum size must be 10" x 14".



NOTE:

For excavations perpendicular to the curbing (ie. sidewalk, curbing, water or sewer laterals renewal)

- (a) The contractor is to use a trench box to minimize the width of the open cut.
- (b) When the lateral replacement is within the Tree Protection Zone of a tree, the contractor is to complete the works using trenchless technologies.





TREE PROTECTION ZONE (TPZ)

No equipment or vehicles shall be operated, parked, repaired or refuelled within the Tree Protection Zone.

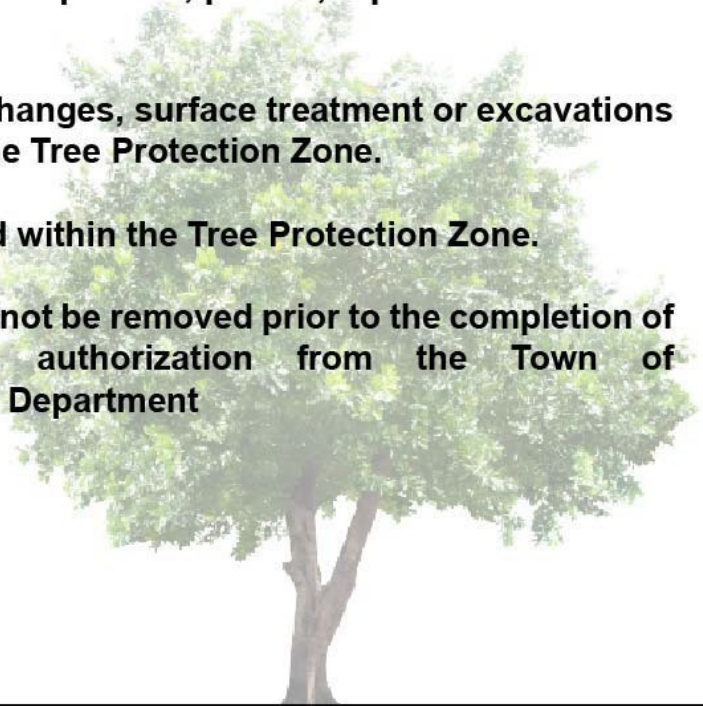
No construction activity, grade changes, surface treatment or excavations of any kind is permitted within the Tree Protection Zone.

No materials or fill may be stored within the Tree Protection Zone.

This tree protection barrier must not be removed prior to the completion of construction without written authorization from the Town of Niagara-on-the-Lake, Operations Department

For more information, please contact:

info@notl.com or 905-468-3266



Chautauqua Community Tree Plan

Table of Contents Condensed Version

Community Tree Plan Intent

Mandate

Distinctive Qualities of Chautauqua

Recommended Species for Private Property Planting

Recommended Design Guidelines

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September 2017
UPDATE
October 2023

Chautauqua Community Tree Plan

The layers of our history are evident in our landscape. Let our era be the one that ensures the future of the Great Chautauqua Tree Canopy.

The following is based on the findings made in the 2016-2017 Chautauqua Tree Inventory.

Community Tree Plan Intent

To provide guidelines for future municipal street tree and park plantings.

To provide recommendations for private property plantings.

To be used in conjunction with any tree protection bylaws or policies by providing area specific guidelines for discretionary decisions regarding trees.

Mandate

To maintain the distinctive landscape of Chautauqua:

- Respect the unique beauty & harmony of the Chautauqua tree canopy.

- Respect the historical layers while accommodating contemporary conditions.

- Retain distinctive streetscapes, vistas, focal points & landscape gestures.

- Identify and protect the Iconic landmark heritage trees.

- Recognize that, in addition to healthy habitat & public safety, the aesthetic & experiential aspects of the landscape are essential considerations.

Distinctive Qualities

Atmosphere: Throughout Chautauqua there is a relaxed ambience. Although year round residences predominate the area, it still maintains a cottage resort atmosphere. The architecture is eclectic and the curb free roads feel more like large sidewalks. The epic tree canopy, however, is responsible for the strong 'sense of place'. It has been nicknamed the Cathedral of the Everyday. The feelings it evokes are paradoxicalmajestic & cozy....uplifting & grounded. Dichotomy is the key to the distinct quality of Chautauqua.

The majestic, uplifting aspect is achieved by the signature 'regal' form of the native Oaks,.... the predominant trees of Chautauqua. The high limbed, soaring trunks culminate in a canopy of large, artfully meandering branches that draw the eye upward.

The cozy, grounded aspect is created by the understory of 'cottagey' flowering shrubs and small trees. The multi-stemmed mounding forms create a comforting nest from which to view the majestic Oaks.

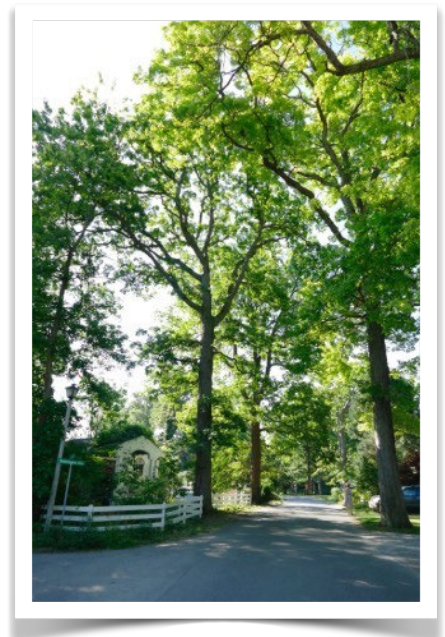
It is the strong contrast between the cozy and the uplifting that makes the big impact. Key to this, is the minimal presence of low branches or mid sized trees that would undermine the effect. This remarkable relationship needs to be preserved.

Arrangement: The elegant, noble trees are in a random arrangement scattered across many properties. It implies a natural forest setting rather than developers' regimentation. Formal silhouettes, layouts, and arrangements recall urban formality and are at odds with the relaxed informal atmosphere of Chautauqua.

Harmony: A very limited range of species creates this very harmonious canopy. Widespread planting of other species will dilute the tranquil unity of this arboreal wonder.

Specific species in a specific relationship defines the The Great Chautauqua Tree Canopy.

Please refer to the Design Guidelines & Recommended Planting lists for information on how to retain the distinctive Chautauqua landscape. For more information on the history and distinctive beauty of Chautauqua please refer to the Chautauqua Tree Inventory Report and ChautauquaOaksProject.ca



Chautauqua Community Tree Plan

Recommended Species for Private Property Plantings

The following list provides choices for homeowners to plant on their own property. It includes native species as well as species now naturalized and deemed compatible with the native species. The rationale for this list is explained in the Chautauqua Tree Inventory Report. Please refer to the Recommended Design Guidelines for the relationships within which they should be planted. Please also visit ChautauquaOaksProject.ca for more information on planting in Chautauqua. **** Denotes those species particularly iconic of the distinctive Chautauqua landscape.

Major Deciduous Trees:

Native to Chautauqua Oak Savannah:

Sugar Maple	Acer saccharum 'Green Mountain'
Shagbark Hickory	Carya ovata
Shellbark Hickory	Carya lacinoisa
American Beech	Fagus grandifolia
Black Walnut	Juglans nigra
Sycamore/Buttonwood	Platanus occidentalis
Black Cherry	Prunus serotina
White Oak	Quercus alba ****
Swamp White Oak	Quercus bicolor
Pin Oak	Quercus palustris ****
Red Oak	Quercus rubra ****

Naturalized & Compatible:

Silver Maples	Acer saccharinum
Northern Catalpa	Catalpa speciosa ****
Purple European Beech	Fagus sylvatica
Columnar Oak	Quercus alba fastigiata
Scarlet Oak	Quercus coccinea

Major Evergreen Trees:

Native to Chautauqua Oak Savannah:

Balsam Fir	Abies balsamea
White Pine	Pinus strobus ****
White Spruce	Picea glauca ****

Small Deciduous Trees: Note.....Multi-stem versions are recommended

Native to Chautauqua Oak Savannah:

Service Berry	Amelanchier ****
Pawpaw	Asimina triloba
Paperbark Birch	Betula papyrifera
Blue Beech	Carpinus caroliniana
Flowering Redbud	Cercis canadensisincluding purple cultivar 'Forest Pansy' ****
Flowering Dogwood	Cornus florida ****
Pagoda Dogwood	Cornus alternifolia
Witch Hazel	Hamamelis virginiana
Ironwood or Hop Hornbeam	Ostrya virginiana
Sumac	Rhus typhina

Naturalized & Compatible:

Japanese Maples	Acer palmatum
Magnolia	Magnolia soulangiana and
Mock Orange	Philadelphus coronarius ****
Ornamental Purple Plum	Prunus cerasifera 'Atropurpurea' Pissard Plum
Ornamental Cherry	Prunus subhirtella 'Autumnalis' or serrulata 'Kwanzan'
Lilac	Syringa ****

Small Evergreen Trees:

Naturalized & Compatible: Note.....good for hedges & walls

Yew	Taxus cuspidata
Emerald Cedar	Thuja occidentalis 'smaragd'

Chautauqua Community Tree Plan

Recommended Design Guidelines

It is recognized that specific species in a specific relationship are the key to the unique harmony of the Great Chautauqua Tree Canopy. It is also recognized that within this harmony, individual streetscapes provide variations on the theme. The following outlines the general framework.

Design Guidelines.....General Arrangements:

Canopy Trees:

Maintain 'remnants of the forest' quality with non formal, scattered arrangements that create the effect of a grove of trees spanning many properties.

Achieved best with staggered groups...clusters of 'a pair and a friend nearby'.

Street Trees: Placed off centre and not rigidly aligned along the street.

Private Property: Placed at the edges & corners of the property will preclude interference with the house, and safeguard against future removal for renovations and rebuilds.

Mid story Trees:

Street Trees: None should be planted on the road allowances.

Private Property: Best placed in back yards or closer to houses.

Understory Trees:

Street Trees: None should be planted on the road allowances.

Private Property: Clusters of multi-stemmed or mounding small trees & shrubs creates the comforting nest aspect of Chautauqua.

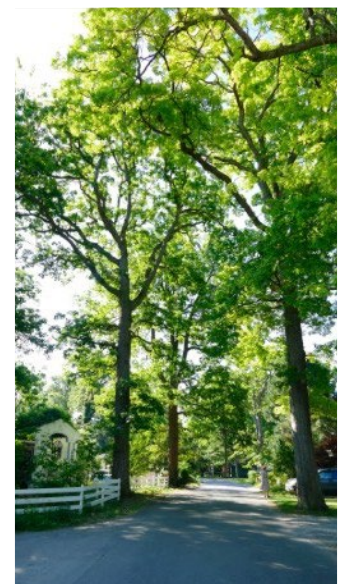
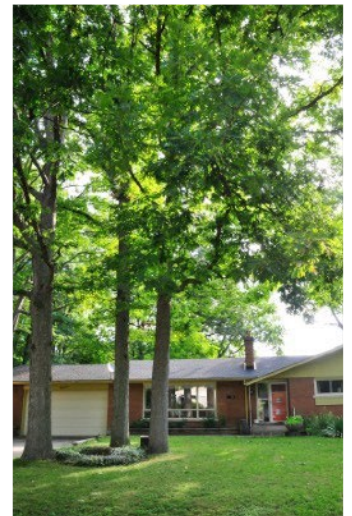
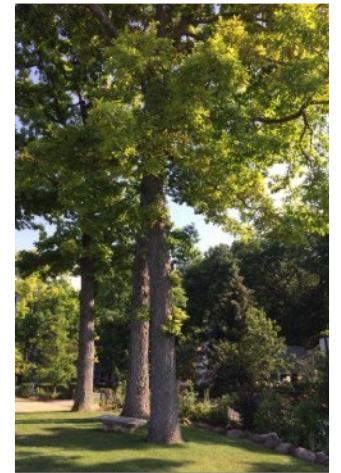
Design Guidelines.....General Trimming:

Canopy Trees:

Street Trees: Prune as high limbed to maintain the iconic Cathedrals of the Everyday, and to prevent interference with large municipal vehicles such as garbage trucks and ploughs.

Private Property: There are some exceptions but generally prune to high limbed as well. This is more compatible with small lots by allowing large trees to 'live above' the houses. It also allows air movement and prevents claustrophobia.

All pruning should be done by a certified arborist.



UPDATE 2023 Please visit ChautauquaOaksProject.ca for more information on the distinctive Chautauqua landscape.