



POLICY NO. 95

MAINTENANCE OF TREES

BE IT ENACTED by the Council of Region of Queens Municipality, under the authority of the Municipal Government Act, S.N.S. 1998, Chapter 18, as follows:

1. This policy shall be known as Policy Number 95 and may be cited as the “Maintenance of Trees Policy”.

POLICY PURPOSE

2. The purpose of this policy is to establish a standard method and clear process for ensuring that trees on private property do not create a safety problem for vehicles or members of the public using or accessing municipal property or infrastructure.

AUTHORITY

3. Section 63 of the *Municipal Government Act* provides that
 - (1) A municipality may
 - (a) remove dead, dying or diseased trees on public and private property;
 - (b) recommend and encourage
 - (i) the proper pruning, protection and repair of privately owned trees in the municipality,
 - (ii) the planting of trees of suitable species at desirable sites within the municipality.
 - (2) A municipality shall not remove trees from private property unless the owner has granted written permission or an order requiring the removal of the tree has been issued.

(3) The council may, by policy, authorize its employees to enter upon land within the municipality to

(a) treat the trees on the land as approved and recommended by Forestry Canada;

(b) inspect the trees to determine whether they are in a diseased condition or damaged to the extent that they constitute a hazard to the safety of persons or property.

(4) The council may, by policy, authorize an employee to order an owner of land, within thirty days of service of a copy of the order, to remove a tree or limb that is, in the opinion of the employee, hazardous to persons or property or so affected by disease or insect infestation as to endanger the life and health of trees in the vicinity.

(5) An order to remove a tree or limb shall contain a description of the location of the tree or limb directed to be removed and a copy of the order shall be served upon the owner of the land.

(6) Where the owner fails to remove the tree or limb described in the order within thirty days of service of a copy of the order, a person authorized by the employee may enter upon the land upon which the tree or limb is situate, without warrant or other legal process, and remove the tree or limb.

(7) The actual cost of removal of the tree or limb pursuant to subsection (6) may be recovered as a debt from the owner of the land upon which it was located and is a first lien on the real property of the owner of the land and may be collected in the same manner as taxes.

(8) An owner may appeal an order requiring the removal of a tree or limb to the Supreme Court of Nova Scotia within seven days of service of the order on the owner and the giving of a notice of appeal acts as a stay of proceedings until the appeal has been determined.

(9) Upon an appeal pursuant to subsection (8), the Supreme Court of Nova Scotia may confirm, modify or set aside the order.

(10) A municipality is not liable for failure to remove a diseased or dangerous tree or limb from property, whether publicly or privately owned.

(11) A person who defaces, mutilates or cuts a tree upon property of a municipality without the written consent of the municipality is guilty of an offence, and is guilty of a separate offence for each tree defaced, mutilated or cut.

SCOPE

4. This policy shall apply to all streets within Liverpool and municipal infrastructure within Queens County which are under the care and control of Region of Queens Municipality. This policy does not apply to tree maintenance issues between adjacent or neighbourhood properties of which municipal property and municipal trees are not impacted.

DEFINITIONS

5. Words in this policy shall have their normal Canadian dictionary meaning, except as follows:

“abutter” shall mean any person including an owner, lessee, or occupier of any premises or property that abuts a municipal street.

“Engineer” means Region of Queens Municipality’s Director of Engineering and Public Works or Assistant Director of Engineering and Public Works.

“municipal infrastructure” means any infrastructure that supports any municipal services including, but not limited to, public trees, street lights, traffic lights, traffic signs and other municipal signs, municipally owned or operated buildings, sidewalks, and public streets.

“owner” means a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building; and in the absence of proof to the contrary, the person or persons assessed for the property.

“person” means a natural person, corporation, partnership, association, society, firm, agent, trustee, or registered Canadian charitable organization, and includes the heirs, executors, and other legal representatives of a person, or owner.

“public tree” means a tree where the majority of the trunk is located within a street, street right-of-way, or on municipal property.

“street” means all municipally-owned public streets, roads, lanes, sidewalks, thoroughfares, bridges and squares, curbs, gutters, culverts, and retaining wall in connection therewith and without restricting the generality of the foregoing includes the full right-of-way width.

POLICY DETAILS

6. No person shall place, or permit the placing of, any bushes, shrubs, plants, trees, signs, lights, walkways, retaining walls, or other obstacles within a street or municipal infrastructure without the written authorization of the Engineer, and then only according to such terms and conditions noted in the authorization.
7. Where the Engineer believes that an abutting person or owner has a potentially dead or dying tree on public or private property that may constitute a hazard to the safety of persons or property, the Engineer is authorized to enter upon the private or public property to inspect such tree or trees to determine whether they are in a diseased or damaged condition.
8. When such an inspection is deemed required under Section 7, the Engineer will endeavour to notify the abutter prior to entering upon their property based on the level of risk to persons or property.
9. Where a tree or trees are believed by the Engineer to constitute a hazard to the safety of persons or property, the Engineer may issue an Order to the owner requiring that a tree or limb be removed, requiring that the order be complied with within 30 days. Should the owner fail to remove the tree or limb within 30 days, the Engineer or any person authorized by them may enter upon the land upon which the tree or limb is situate, without warrant or other legal process, and remove the tree or limb.
10. The actual cost of removal of any tree or limb carried out pursuant to Section 9 may be recovered as a debt from the owner of the land upon

which it was located and is a first lien on the real property of the owner of the land and may be collected in the same manner as taxes.

11. Notwithstanding Section 3(11), Utility contractors with aerial infrastructure and their agents and contractors are authorized to carry out its own required overhead infrastructure tree maintenance along streets at any time, without the prior written consent of the Engineer.

ACCOUNTABILITY

12. Responsibility for the oversight and implementation of this policy shall lie with the Municipality's Director of Engineering and Public Works.

EFFECTIVE DATE

13. This policy shall take effect from the date of approval by Council.