

**PROVINCE OF QUEBEC
CITY OF CÔTE SAINT-LUC**

BY-LAW NO. 2217-28

**BY-LAW TO AMEND CHAPTER 11
OF THE ZONING BY-LAW NO. 2217
OF THE CITY OF
CÔTE SAINT-LUC CONCERNING
THE PROTECTION OF TREES**

At a Regular Monthly meeting of the Municipal Council of the City of Côte Saint-Luc, held at the City Hall, 5801 Cavendish Boulevard, on **August 13, 2007**, at which were present:

Mayor Anthony Housefather, B.C.L., L.L.B., M.B.A.

Councillor Dida Berku, B.C.L.

Councillor Mitchell Brownstein, B. Comm., B.C.L., L.L.B.

Councillor Michael Cohen, B.A.

Councillor Steven Erdelyi, B.Sc., B.Ed.

Councillor Sam Goldbloom, B.A.

Councillor Ruth Kovac, B.A.

Councillor Allan J. Levine, B.Sc., M.A., DPLI

Councillor Glenn J. Nashen

ALSO PRESENT:

Mr. Angelo Marino, City Treasurer

Mr. Jonathan Shecter, Director of Legal Services and City Clerk

IT IS ENACTED AND ORDAINED as follows:

SECTION 1. REPLACEMENT

Sections 11-1 to 11-8 of Zoning By-Law 2217 of the City of Côte Saint-Luc are replaced by the following provisions:

“CHAPTER 11

PROTECTION OF TREES

11-1 DEFINITIONS

"Alter" means:

- (a) to remove from a Tree any branch, trunk or piece of Tree bark that is 10 cm (3.9 inches) or more in diameter;
- (b) to cut, damage or destroy by any means the roots of a Tree within the Safety belt.

"City" the City of Côte Saint-Luc

"City Tree" means a Tree (as hereinafter defined) that is located on the property of the City. Where the base of a Tree straddles a City property line, the Tree is deemed to be a City Tree.

"Cut down" means to cut, saw or chop down, kill or otherwise remove a Tree by any means;

"Director" means the Director of urban planning for the City of Côte Saint-Luc;

"Fell", "Felled", "Felling" operation which consists in eliminating a Tree by cutting its trunk crosswise;

"Hazard" includes:

- (a) Unstable or severely leaning and in danger of falling;
- (b) Interfering with, or in such proximity to, utility wires as to create a dangerous situation;
- (c) Interfering with, blocking or damaging a drainage, water or sewer system or other parts of an improvement.

"Over-pruning" means cutting branchlets and branches so as to reduce the crown (aerial part of a Tree) of the Tree by more than 20% or again shortening the Tree framework branches of more than half (branches directly attached to the trunk), all in a single operation during the same year;

"Safety belt" means:

- (a) the area of land surrounding the trunk of the Tree that contains the bulk of the critical root system of the Tree;
- (b) where a plan within the meaning of subsection (a) of this definition has not been prepared and approved, "Safety belt" means the area of land surrounding the trunk of a Tree contained within a circle having a radius which is calculated by multiplying the diameter of the Tree by 10.

"Tree" means any living, erect, woody plant, including its protected root system, that is:

- (a) 10 cm (3.9in) or more in diameter measured at a height of 1.4 m (4ft 7in) above ground level;
- (b) a replacement Tree of any size planted as a condition of a certificate of authorization.

11-2. APPLICATION

The present By-law applies to:

- (a) any Tree located on a private land;
- (b) any City Tree.

11-3 POWERS AND DUTIES

In addition to the powers already contemplated in article 1-4 of this present By-law, the Director is responsible for the inventory, care, protection and planting of City Trees, and the issuance of a certificate of authorisation concerning a Tree located on private land.

11-4 TREES LOCATED ON LAND IN THE CITY

No person shall, through their own actions or through any other person, Alter, Cut down or Fell any living Tree situated on a land in the City, unless the person first obtains a certificate of authorization to Alter or Fell a Tree listed in Section 11-6 of this By-law. The topping, Over-pruning, Tree poisoning and Tree trunk girdling are, in all events, strictly prohibited.

11-5 CITY TREE

- 11-5-1 In the case of a City Tree, only the City is authorized to proceed with the maintenance or the Felling of one of these Trees.
- 11-5-2 No person but the City, through their own actions or through any other person, shall Alter, Cut down or Fell a City Tree. Anyone acting contrary to the forgoing is liable to a fine fixed in the present By-law and is responsible for damages caused to the City Tree and for incurred losses by the City as a result of such acts.

11-6 EXCEPTIONS

- 11-6-1 The owner of a Tree may apply for a certificate of authorization for the Altering or the Felling of a Tree when one of the following conditions are met:
 - (a) the Tree is dead;
 - (b) the Tree is afflicted by an incurable disease or is in irreversible state of decline;
 - (c) the Tree is infested with a pathogenic element and represents a risk of infestation or epidemic;
 - (d) the Tree constitutes a danger¹ for the health and safety of the people;
 - (e) the Tree inflicts considerable damage to private or public property or is in danger of falling;

¹ Explanatory note : this includes a "hazard" – see French version

- (f) the Tree must necessarily be Felled or Altered for the carrying out of public works or for the maintenance of public utility network;
- (g) the Tree must necessarily be Felled or Altered for the carrying out of a building or landscaping project authorised by the City;
- (h) the Tree no longer provide a significant benefit to the City.

11-6-2 The owner of a Tree may also apply for a certificate of authorization for the Altering or the Felling of a healthy Tree, provided that this Tree is located in the Rear or Lateral Yard of a private property and that the Lateral Yard is not adjacent to a public way or to a public property.

11-6-3 Paragraph 11-6-1 applies to City Trees, *mutatis mutandis*.

11-7 REPLACEMENT TREES

11-7-1 Where a certificate of authorization is issued to Fell a Tree under Paragraphs 11-6-1, save and except paragraph 11-6-1 f), and 11-6-2 of Section 11-6, the City Council may require, as a condition of its issuance that any or all Tree(s) to be Felled must be replaced, within six (6) months, by the same species or equivalent species of Trees, unless said species are banned, with a 5 cm (2in) diameter at 1.4 M (4ft 7in) from the ground, according to the following chart, and that they be planted, at the expense of the applicant at such location in the City as the City Council may direct.

Diameter of existing Tree taken at 1.4 M (4ft 7in) from the ground	Number of Tree(s) required to replace the Tree(s) removed min. 5 cm (2in) diameter 1.4M (4ft 7in) from the ground.
From 10.0 cm to 13.0 cm (3.9in to 5in)	Minimum of 1 and maximum of 2
From 13.0 cm to 20.5 cm (5in to 8in)	Minimum of 2 and maximum of 4
From 20.5 cm to 30.5 cm (8in to 12in)	Minimum of 3 and maximum of 6
From 30.5 cm to 45.4 cm (12in to 18in)	Minimum of 4 and maximum of 8
45.5 cm and more (18in and more)	Subject to a written recommendation by a forestry engineer

11-7-2 The obligation to replace a Felled Tree by a new Tree does not apply in the case where the Director deems that the space is insufficient to allow for the planting and normal growth of a Tree.

11-8 RULES CONCERNING PLANTING

11-8-1

- (a) No Tree may be planted on private property less than 1m (3 ft.3 in.) from the municipal land line.
- (b) No shrub may be planted such that it will encroach within 1m (3 ft.3 in.) of the City sidewalk or pavement edge where there is no sidewalk.
- (c) No Tree or shrub may be planted such that it will encroach within 1m (3 ft.3 in.) from any fire hydrant.

- (d) No Tree or shrub may be planted such that it will encroach within 1m (3 ft.3 in.) from any light standard.
- (e) No fruit-producing Tree shall be planted in such a place that the fruit thereof might fall on a public sidewalk or street.
- (f) From and after the date the coming into force of the present By-Law, the planting of any one of the following varieties, namely:
 - i) Eastern cottonwoods (populus deltoïdes)
 - ii) Lombardy poplar (populus nigra Italica)
 - iii) Trembling poplar (populus tremuloides)
 - iv) Silver maple (acer saccharinum)
 - v) Manitoba maple (acer negundo)
 - vi) "Long-stemmed" willow (Salix)
 - vii) American elm (ulmus americana)
 - viii) All types of Aspens (populus tremula)is prohibited.

11-9 CITY'S ORDER

- 11-9-1 Owners and occupants of land must cause all Trees, hedges, and shrubs on that land to be trimmed, removed, or Cut down if the Director considers that the Trees, hedges, or shrubs are:
- (a) a Hazard to the safety of persons, namely, by compromising the visibility for motorists and pedestrians of vehicular traffic by its foliage or its branches;
 - (b) likely to damage public property; or
 - (c) seriously inconveniencing the public and/or in violation with section 8-2

11-10 NUISANCE

- 11-10-1 The fact of:
- (a) Felling, damaging or destroying a Tree without the certificate of authorization from the City;
 - (b) Altering the bark or cambium, cutting the roots of a Tree or attaching an object to a Tree in any way whatsoever;
 - (c) carrying out changes to the soil within a Tree's Safety belt, with the exception of works described in Article 11-12; or
 - (d) bringing a contaminant in contact with a Tree or part hereof;

is hereby declared to be a nuisance and is prohibited.

11-11 CONSTRUCTION ACTIVITY

- 11-11-1 During construction or landscaping work, any Tree susceptible to be damaged must be protected. The following precautionary measures shall be taken:

- (a) A fence of at least 1.2 m in height must be installed and maintained in good condition throughout the work in order to form a protection perimeter around the Tree Safety belt;
- (b) Tree trunks located near or inside the soil perimeter where an encroachment is required must be protected against physical damages by covering them with planks fixed from the exterior by means of two plastic or steel bands and by placing two rubber bands between the planks and the trunk;
- (c) During permanent lowering or raising of the natural ground level, the measures provided in Section 5.4.2 of the 2001 version of the standard of the *Bureau de normalisation du Québec* entitled: *NQ 0605-100-IX* must be applied to minimize loss of roots.

11-12 EMERGENCY AND PUBLIC SAFETY

11-12-1 Sections 11-6-1 and 11-6-2 of the present By-Law do not apply in an emergency where a rapid intervention is required to protect the life, health, safety and/or property of anyone;

11-12-2 Where a Tree or any of its parts endangers the life, health, safety or property of anyone, the Director shall require that such Tree be Felled, or any dangerous part thereof be removed at the sole expense of the owner of such Tree;

- (a) Where the Director determines that a Tree or part thereof is diseased and presents a risk of infestation or epidemic, he shall issue a directive to the owner of such Tree to have it treated or Felled at the said owner's sole expense;
- (b) Where an owner fails to comply with a directive stipulated above within twenty-four (24) hours of receipt thereof, the Director shall cause such work to be carried out at the cost and expenses of the owner. Any such action by the Director shall not relieve the owner of any penal consequences of his failure to conform to Director directives.

11-13 APPLICATION REQUIREMENTS

11-13-1 Where a certificate of authorization is required under this By-law, the owner or applicant shall submit:

- (a) the name and address of the applicant; and
- (b) if they are different from the above, the name and address of the owner;
- (c) the prescribed fee;
- (d) for each Tree covered by the Cutting Down operation :
 - a summary plan showing the location of the Tree;
 - the species, diameter, approximate height of the Tree;
 - the reason (or reasons) for Felling the Tree;
- (e) In the event of an application covering a heavily wooded land, the said application shall include the following information:
 - i) a summary plan showing the general location of the Trees involved in the operation, their number, their

- species and diameter;
 - ii) the reason for the Felling;
 - iii) a Tree replacement plan for the area affected.
- 11-13-2 Following the receipt of an application, the Director may confer with such persons, staff, qualified professionals, and agencies as he or she considers necessary for the proper review of the application. The Director may also determine whether or not a certificate of authorization should be issued, and identification of any conditions thereto.
- 11-13-3 In addition to the powers stipulated within section 1-4 of this zoning by-law (2217), following the receipt of an application, the Director and any person acting under the Director's direction may enter and inspect the land(s) upon which the Tree(s) is/are located and the submission of the application shall constitute irrevocable permission to the City or its agents to enter the property for the purpose of administering the present chapter of the present By-law.
- 11-13-4 Where, in the opinion of the Director, additional information is necessary to evaluate the application, he may require the applicant to submit a professional report prepared by a forestry engineer respecting the reasons for the proposed Alteration or Felling of the Tree(s) and/or certifying that the proposed Alteration or Felling of the Tree(s) is in accordance with good forestry or arboricultural practices.

11-14 PENALTY

- 11-14-1 No person, through their own actions or through any other person shall:
- (a) fail to comply with a provision of this By-law;
 - (b) fail to comply with an order issued under this By-law;
 - (c) contravene the terms or conditions of a certificate of authorization issued under this By-law.
- 11-14-2 Any person who Fells or damages any Tree in the City in a manner contrary to the terms of the present By-Law and (or) without obtaining a certificate of authorisation, commits an offence and shall be liable to a fine and costs as stipulated in the *Code de procédure pénale*, R.S.Q. c. C-25.1. The minimum fine for Felling Trees in contravention of this By-Law is \$500 plus,
- (a) for Felling Trees on less than one hectare of land, an amount varying from \$100 to \$200 per Tree illegally Felled, up to a total of \$5,000; or
 - (b) for Felling Trees on one or more hectares of land, a fine varying from \$5,000 to \$15,000 per hectare deforested, in addition to an amount determined in accordance with subparagraph (a) for each fraction of a hectare.
- The amounts specified in 11-14-2 are doubled for a second or subsequent offense.
- 11-14-3 In addition to any other remedy or any penalty provided by law, the court of competent jurisdiction may make an order prohibiting the continuation or repetition of the offence by any person.
- 11-14-4 In addition to the fines and costs contemplated in this by-law and the *Code de procédure pénale*, R.S.Q. c. C-25.1, the Director may order the person to replant or have replanted such Trees in such manner and within such time period as the Director considers appropriate, including any silvicultural treatment necessary to re-establish the Trees, as well as paying to the City,

an amount equal to the value of the Tree or Trees Felled or damaged, as determined by a forestry engineer or City Parks foreman, plus all costs incurred by the City.

- 11-14-5 No penal sanction imposed in virtue of the violation of any of the provisions thereof shall relieve the offender, or any other person responsible, from replanting or from doing any other act required under the terms of this Chapter, or from reimbursing the City for the cost of doing such work because the offender or other person failed to do it."

SECTION 2. ADMINISTRATION

If any Section or Sections of this By-law or parts thereof are found by any court to be illegal or beyond the power of the City Council, such Section or Sections or parts thereof shall be deemed to be severable and all other Sections or parts of this By-law shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found illegal.

SECTION 3. COMING INTO FORCE

This By-law shall come into force according to law.

ANTHONY HOUSEFATHER
MAYOR

JONATHAN SHECTER
DIRECTOR OF LEGAL SERVICES
AND CITY CLERK

ORIGINAL

PROVINCE OF QUEBEC
CITY OF CÔTE SAINT-LUC

BY-LAW No. 2217-28

**BY-LAW TO AMEND CHAPTER 11 OF
THE ZONING BY-LAW NO. 2217 OF
THE CITY OF CÔTE SAINT-LUC
CONCERNING THE PROTECTION OF
TREES.**

ADOPTED ON: _____

IN FORCE ON: _____

ORIGINAL