

TOWN OF MARKHAM
ONTARIO



BY-LAW 68-92

**BEING A BY-LAW TO AUTHORIZE AND REGULATE
THE PLANTING, TRIMMING AND REMOVAL OF
TREES ON THE HIGHWAYS OF THE
TOWN OF MARKHAM**

This By-law is printed under and
by authority of the Council of
the Town of Markham

(Consolidated for convenience only
to 26 June, 2002)

AMENDED BY:

By-law 2002-115 - June 26, 2002

THE CORPORATION OF THE TOWN OF MARKHAM
BY-LAW NUMBER 68 -92

Being a by-law to authorize and regulate the
planting, trimming and removal of trees on the
highways of the Town of Markham

WHEREAS section 312 of the Municipal Act, R.S.O. 1990, chapter M.45 permits municipalities to pass by-laws to authorize, regulate and prohibit the planting of trees upon any highway.

NOW THEREFORE THE COUNCIL OF THE TOWN OF MARKHAM ENACTS AS
FOLLOWS:

DEFINITIONS

1. In this by-law,
 - (a) "Highway" means any common or public highway or any part thereof under the jurisdiction of the Town of Markham, including the boulevard and all land dedicated or assumed as a road allowance, and includes a street and a bridge forming part of a highway;
 - (b) "Person" includes a company, a corporation, a partnership or an individual person, and the singular shall include the plural;
 - (c) "Town" means The Corporation of the Town of Markham;
 - (d) "Tree" means any shade or ornamental tree, all or part of which is located on, above or below a highway.

PLANTING AND MAINTENANCE OF TREES

2. The species of trees set out in Schedule "A" to this by-law are hereby prohibited, and shall not be planted or maintained on any part of a highway under the jurisdiction of the Town of Markham.
3. No person shall plant a tree on any highway in the Town without first receiving the written approval of the Town, and such planting shall be done under the supervision and control of the Town's representatives.
4. The written approval of the Town may be granted upon receipt of a Tree Planting Plan, indicating by plans, sketches or word descriptions, the location, spacing and type of trees to be located within a designated area, and' trees shall not be planted thereafter in such area except in accordance with the approved plan.

5. The Town may plant, at its own expense and with the consent of the owner of lands, shade or ornamental trees within 2.5 metres of any highway, provided that any trees so planted will be the property of the owner of the said lands, and the Town will not be liable for the maintenance, repair or removal of any such trees.
6. The Town may supervise the planting of trees upon any highway and the trimming of trees planted upon a highway or on private property where the branches extend over a highway.

REMOVAL AND INJURY TO TREES

7. The following types of trees may be removed by the Town without notice to any person:
 - (a) prohibited species of trees as set out in Schedule "A" to this by-law; and
 - (b) any decayed or dangerous tree.
8.
 - (1) The Town may cause any tree planted on a highway to be removed when such removal is considered necessary in the public interest by the Town.
 - (2) The owner of the land to which the tree is appurtenant shall be given ten (10) days notice of the Town's intention to enact a by-law to remove such tree.
9.
 - (1) No person shall, without the written consent of the Town, attach any object or thing to a tree, or injure or destroy a tree, or suffer or permit any animal to injure or destroy such tree.
 - (2) Where any person has injured or permitted the injury to a tree, such person shall pay to the Town all costs for the repair of the tree, or for the removal and replacement of a tree that is damaged beyond repair.
10. Any person who intends to do or cause to be done any new construction or excavation on a highway, or on public or private property within a 2 metre radius of a tree, shall obtain the written consent of the Town prior to the commencement of any such works. In the event that any tree is damaged or removed without consent, such person shall pay to the Town all costs for the repair of the tree, or for the removal and replacement of any tree that is damaged beyond repair.
11. The provisions of sections 7, 8, 9 and 10 shall not limit the rights and obligations of the Town, a public utility or Bell Canada to construct, install, maintain and repair any road, sidewalk, sewer, watermain, public utility or telephone installation pursuant to any statute or regulation.

GENERAL PROVISIONS

12. Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine in the amount provided for by section 61 of the Provincial Offences Act, R.S.O. 1990, c.P.33, or any successor legislation in substitution therefor.

13. In addition to the penalty provided for in section 12 above, where any person is required under this by-law to pay to the Town the costs of repairs to or removal and replacement of a tree, the Town may recover all expenses incurred by placing such costs on the assessment rolls in the same manner as provided for in section 326 of the Municipal Act, R.S.O. 1990, c.M.45.

14. Town of Markham By-law Number 386-86 is hereby repealed.

SCHEDULE "A"
TO TOWN OF MARKHAM BY-LAW NO. 68-92

TREES PROHIBITED FROM BEING PLANTED ON THE
UNTRAVELLED PORTION OF A HIGHWAY

POPULUS - All Species

POPLARS

SALIX - All Species

WILLOWS

ACER - saccharinum

SILVER MAPLE

ACER - negundo

MANITOBA MAPLE

Chinese Elm

Coniferous Trees

Fruiting Trees

(amended by By-law 2002-115)