

Below is an example of a private tree by-law based on the feedback from community engagement and Council workshops. This example will be used to have a full discussion to consider a made-in-Halton Hills by-law.

The information includes: the latest (2013) framework recommended by the Ontario Woodlot Association Lower Tier Municipality By-Law Advisory Group, and defines clauses from the Municipal Act to be included in a private tree by-law. For example where other provincial acts take precedent over municipal tree by-laws, and authority to enforce offences and penalties. In addition, there are opportunities to include a made-in-Halton Hills private tree by-law throughout the Ontario Woodlot Association Lower Tier Municipality By-Law Advisory Group framework. For example, in the definitions, exemptions, size and locations of trees to be regulated, permit application requirements and penalties for non-compliance.

Item #	Description
0 Preamble	
0.1	Whereas, sections 9 to 11 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended or replaced from time to time, provide that a municipality has broad authority, and may pass by-laws respecting the economic, social and environmental well-being of the municipality, including respecting climate change;
0.2	and whereas without limiting sections 9, 10, 11 of the Municipal act, sections 135, 139 to 141, 429, 431 and 444 of the Municipal Act provides municipalities with further authority to prohibit or regulate the destruction or injuring of trees and to provide for a further system of fines and other enforcement orders; and
0.3	and whereas Council has determined that it is desirable to enact a Private Tree By-law to prohibit or regulate the destruction or injuring of trees [for the purpose of]:
0.4	<div><div>- Shade which reduces air conditioning loads and the urban heat island effect</div><div>- Erosion control/abatement-Reduced air pollution through filtering and sequestration</div><div>- Habitat for native flora and fauna</div><div>- Storm water management-Increased adjacent property value</div><div>- Aesthetics and neighbourhood-scale beautification</div><div>- A source of renewable fuels and materials for construction</div><div>- Wind and snow drift abatement</div><div>- Forms an integral component of the community’s visual identity</div><div>- Mitigates climate change</div></div>
1 Definitions	
1.1	“Accessory Building” means a detached building or structure, the use of which is naturally and normally incidental to, subordinate to, or exclusively devoted to the principal use or building, and located on the same lot that is not used for human habitation.
1.2	"Applicant" means the person, either the owner or owner's authorized agent, who submits an application for a permit under this By-law;
1.3	"Arborist" means an expert in the care and maintenance of trees and includes an arborist certified by the Ontario Ministry of Training, Colleges and Universities or the International Society of Arboriculture, or a Consulting Arborist registered with the American Society of Consulting Arborists;
1.4	"Authorized Agent" means an arborist or Registered Professional Forester, authorized in writing by an Owner to make an application for permit to destroy or injure a tree;
1.5	“Building” means a structure occupying an area greater than 10 square metres consisting of any combination of a wall, roof and floor, or a structural system serving the function thereof, including all associated works, fixtures and service systems.
1.6	"Building Permit" means a Building Permit issued under the Building Coed Act, 1992, S.O. 1992, c.23, as amended or replaced from time to time;
1.7	"Council" means the Council of the Town of Halton Hills and includes its successor;
1.8	"destroy" means the removal of trees or harm resulting in the death or ruin of trees by cutting, burning, uprooting, chemical application or other means including irreversible injury that may result from neglect, accident or design and the term “destruction” shall have a corresponding meaning;
1.9	"diameter" means the diameter of the stem of a tree measured outside the bark at a specified point of measurement;
1.10	“DBH” (Diameter at Breast Height) means the diameter of the stem of a tree at a point of measurement that is 1.37 metres above the existing ground adjoining its base or where there are multiple stems, the total of the diameters of the stems measured from outside the bark on each stem;
1.11	<div>Burlington Definition - “Emergency Work” means any work of an urgent nature, including but not limited to work associated with drain repairs, utility repairs, structural repairs to a building and work required to prevent soil erosion, slipping of soil or damage to trees and must be corroborated with supporting documentation, including, but not limited to photographs, work orders, and [arborist] reports;</div> <div>Cambridge Definition - "Emergency Work" means where work is required to be carried out immediately in order to prevent imminent dangers to life, health or property, and includes the destruction or inuring of trees required because of the state of the trees resulting from natural events (including lightning, wind, hail or extreme snow event) or unforeseen causes (including automobile accident);</div>
1.12	“Good Arboriculture Practice” means the proper implementation of removal, renewal and maintenance activities known to be appropriate for individual trees and includes pruning of trees to remove dead limbs, maintain structural stability and balance, or to encourage their natural form, provided that such pruning is limited to the appropriate removal of not more than one-third of the live branches or limbs of a tree, but does not include pruning to specifically increase light or space;
1.13	“good forestry practices” means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape;
1.14	“Heritage Tree” means Trees designated under Part IV of the Ontario Heritage Act or Trees recognized as heritage trees by the Ontario Heritage Tree Program of Trees Ontario;
1.15	“Imminently Hazardous Tree” a destabilized or structurally compromised Tree that is in imminent danger of causing damage or injury to life or property as verified or confirmed by an Arborist, Registered Professional Forester or Officer using the International Society of Arboriculture Tree Risk Assessment method for risk assessment;
1.16	"Injure" means to harm, damage or impair a tree and includes, but is not limited to, harm damage or impairment caused by changing grades around a tree, compacting soil over root areas, severing roots, improper application of chemicals, improper pruning or the removal of branches and bark and the term “Injury” shall have a corresponding meaning;

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1.17	"Landscape Architect" means a Full Member of the Ontario Association of Landscape Architects under the Ontario Association of Landscape Architects Act Professional Foresters Act 1984, unless a suspension, term, condition or limitation applies which would restrict the member from carrying out responsibilities under this By-law;
1.18	<p>“Normal Farm Practice” means a practice that:</p> <p>i.is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar Agricultural Operations under similar circumstances, or</p> <p>ii.makes use of innovative technology in a manner consistent with proper advanced farm management practices.</p> <p>Whether a farm practice is a Normal Farm Practice shall be determined in accordance with the provisions of the Farming and Food Production Protection Act 1998, S.O. 1998, c.1, including the final arbitration on Normal Farm Practices Protection Board under the Act.</p>
1.19	“Occupied Building” means a building used for human habitation and does not include an Accessory Building or Structure;
1.20	Burlington Definition - “Officer” means a Town employee whose duties include the enforcement of this by-law, including but not limited to those persons holding the positions of Director of [], Manager of [], Supervisor of [], [Town Forester, Forestry Technician, and Arborist], a police officer, a Municipal Law Enforcement Officer or other person appointed by Council for the administration and enforcement, qualified to carry out the specific responsibility;
1.21	"Private Settlement Area Lands" means lands that are legally owned by private individuals and/or entities and located within the Town’s Urban Boundaries, its Rural Settlement Areas and its Rural Clusters as defined by the Halton Hills Official Plan, as amended; [reference the schedule in the official plan]
1.22	“Qualified OPFA Member” means a Registered Professional Forester, Associate Member or Temporary Member of the Ontario Professional Foresters Association under the Professional Foresters Act 2000, c.18, as amended, certified to practice professional forestry, unless a suspension, term, condition or limitation of certification applies which would restrict the Member from carrying out responsibilities under this By-law;
1.23	"Private Rural Lands" means lands that are legally owned by private individuals and/or entities and located outside of the Town’s Urban Boundaries, its Rural Settlement Areas and its Rural Clusters as defined by the Halton Hills Official Plan, as amended; [reference the schedule in the official plan]
1.24	“Public Property” means any land or property owned by the Town of Halton Hills;
1.25	“Registered Professional Forester” means a person as defined in the Professional Foresters Act, 2000, S.O. 2000, c.18., as amended, and/or is a member or an associate member in good standing of the Ontario Professional Foresters Association, certified to practice professional forestry, unless a suspension, term, condition or limitation of certification applies which would restrict the Member from carrying out responsibilities under this By-law;
1.26	“terminally diseased” means advanced and irreversible decline in tree health, that has resulted in the majority of crown die back or failure, due to severe insect infestation or infection by a pathogen;
1.27	”tree” means any species of woody perennial plant including its root system that has reached or can reach a height of at least 4.5 metres at physiological maturity;
2 Application	
2.1	This by-law shall apply to all trees [20] centimeters diameter at breast height growing or living on Private Lands within [Urban Boundary and Hamlet Boundary areas defined in the Official Plan] in the Town of Halton Hills, but does not apply to woodlands that are regulated by the Region of Halton by-law 121-05, as amended or replaced.
3 Exemptions	
3.1	This by-law does not apply where there is a conflict with Regional, Provincial or Federal legislation
3.2	activities or matters undertaken by a municipality or a local board of a municipality;
3.3	activities or matters undertaken under a licence issued under the Crown Forest Sustainability Act, 1994;
3.4	the injuring or destruction of trees by a person licensed under the Surveyors Act to engage in the practice of cadastral surveying or his or her agent, while making a survey;
3.5	the injuring or destruction of trees imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the Planning Act or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
3.6	the injuring or destruction of trees imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the Planning Act or as a requirement of an agreement entered into under the regulation;
3.7	the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the Electricity Act, 1998, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
3.8	the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act; or
3.9	the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land, - that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and - on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act. 2001, c. 25, s. 135 (12); 2002, c. 17, Sched. A, s. 27 (3, 4).
3.10	if the Tree is classified as prohibited or restricted as defined in the provincial Invasive Species Act, 2015, S.O. 2015, c. 22- Bill 37, or if the Tree is listed as a noxious weed as defined by the Weed Control Act, R.S.O. 1990, c. W5;
3.11	where injuring, destruction or removal of a tree is specifically required by an order made under the Town's Property Standards By-law 2008-0137, as amended or replaced;
3.12	where injuring, destruction or removal of a private tree is specifically required by an order made under the Town's Planting, Trimming, Propagation, Preservation and Removal of Trees on Highways Under the Jurisdiction of the Town of Halton Hills By-law 93-1067, as amended or replaced;
3.13	where injuring, destruction or removal of a tree(s) is undertaken as part of Normal Farm Practices, as ruled by the Normal Farm Practices Protection Board for the subject land.
	Potential Made in Halton Hills Optional Exemptions:
3.14	a tree is located within a cultivated fruit or nut orchard being actively managed and harvested for the purposes of producing fruit or nuts;

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3.15	a tree is located within a plantation established, actively managed and harvested for the purpose of producing Christmas trees;
3.16	a tree is located within a nursery where trees are planted, cultivated, actively managed and harvested for the purpose of live tree sales;
3.17	for Emergency Work. Where Emergency Work is required, the owner shall notify the City as soon as may be practical, but no later than [72] hours, with documentation including but not limited to an arborist report, if available, and photographs of the size/height of the tree;
3.18	for an Imminently Hazardous Tree;
3.19	for the purpose of pruning to maintain the health and condition of the tree in accordance with Good Arboricultural Practices;
3.20	the tree is located within a building or structure, a solarium, a rooftop garden, or an interior courtyard;
3.21	A tree certified by a building inspector or engineer as causing structural damage to a drain, load-bearing structure or roof structure;
3.22	the tree is located on Conservation Authority Lands;
3.23	for a tree that is terminally diseased, as confirmed by an Arborist, Registered Professional Forester or Officer;
3.24	for a tree that is dead, as confirmed by an Arborist, Registered Professional Forester or Officer;
4 Authority	
4.1	The [Officer] is responsible for the administration and enforcement of this by- law.
4.2	<p>The [Officer] is authorized to:</p> <p>(a) Issue permits for the Destruction or Injury of trees and impose terms and conditions to the permit;</p> <p>(b) Refuse to issue permits for the Destruction or Injury of trees;</p> <p>(c) Require an applicant to post a letter of credit or alternate form of security and content acceptable to the [] to ensure compliance with conditions of permit issuance.</p> <p>(d) Issue notices of contravention, orders to comply and orders to discontinue activity in relation to contraventions of this by-law or contratary to the terms and conditons of a permit;</p> <p>(e) Issue work orders directing as to how and when particular aspects of any authorized work is to be conducted; and</p> <p>(f) Make forms, notices, applications, policies, guidelines and documents not otherwise prescribed by this by-law for the administration and enforcement of this by-law.</p>
5 General Prohibitions	
5.1	<p>No person shall destroy or injure, cause, or permit or arrange for the destruction or injury of any tree described in Section [] Application of this By-law:</p> <p>(a) unless exempted under the provisions of this By-law; or</p> <p>(b) except in accordance with a valid permit issued pursuant to the provisions of this By-law.</p>
5.2	<p>No person shall:</p> <p>(a) fail to comply with an Order issued under this By-law; or</p> <p>(b) remove or deface an Order that has been posted pursuant to this By-law.</p>
5.3	No person shall contravene, or cause or permit the contravention of the terms or conditions of a Permit issued under this By-law.
5.4	cause or permit the Injury, destruction or removal of a Heritage Tree, unless they receive approval to do so under the requirements of the Ontario Heritage Act, 2005;
5.5	cause or permit the injury, destruction or removal of any tree classified as an endangered, threatened, or at risk species, as defined in the provincial Endangered Species Act, 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;
6 Permit Application Process	
6.1	An owner or authorized agent seeking to undertake any of the activities described in Section [] General Prohibitions shall apply to [] for a Tree Permit to undertake or do the specified activity.
6.2	<p>An application for a Permit shall include the following:</p> <p>(a) a complete signed application form as provided by the Town;</p>
6.3	<p>(c) where, in the opinion of the [Officer], additional information is necessary, the [Officer] may require the submission of;</p> <p>(i) A Tree Preservation Plan prepared by or prepared under the direction of an Arborist or Registered Professional Forester;</p> <p>(ii) A Tree Compensation Planting Plan prepared under the direction of an Arborist, Registered Professional Forester or Landscape Architect;</p>
6.4	Following the receipt of a complete application, the [Officer] shall consider the criteria as outlined in the “Guidelines for Reviewing an Application to Destroy or Injure a Tree”.
6.5	<p>The [Officer] shall determine the appropriate conditions to attached to the Tree Permit, in accordance with Good Arboricultural Practices. The conditions for the issuance of a Tree Permit may include, among other things:</p> <p>(a) The species, size, number, and location of the replacement tree(s);</p> <p>(b) The number of replacement trees to be planted;</p> <p>(c) The date by which any replacement tree(s) is/are to be planted;</p> <p>(d) The maintenance and care of any replacement tree(s) to the satisfaction of the [Officer]</p> <p>(e) Where replacement planting is not physically possible on site, the requirement to plant trees at another suitable location or accept a cash in lieu payment in an amount equal to the cost of replanting and maintaining the trees for a period of two years.</p> <p>(f) A requirement to pay all associated permit fees, securities and compensation as cash in lieu of replacement to ensure that the performance of the work is in accordance with the conditions of the Tree Permit;</p> <p>(g) A requirement that the authorized work be carried out under the supervision of an Arborist;</p> <p>(h) A requirement that a Tree Protection Zone be established with the installation of tree preservation fencing around any Trees that will be preserved on the property in accordance with the Town's relevant policies and procedures.</p>

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6.6	The Officer may refuse to issue a Tree Permit if he or she determines that: (a) the application for a Tree Permit is incomplete; (b) the proposal is for the Injuring, removal or destruction of a healthy Tree; (c) the methods proposed to be used or the results to be achieved are not in accordance with Good Arboricultural Practice; (d) a person or property will be adversely affected; (e) a nuisance or unsightly appearance may occur; (f) as a result of the removal of the Tree, flood or erosion control, slope stability or the ecological integrity of a natural area will be negatively affected; or (g) the Tree is relevant to the heritage designation of a Lot as determined by the City in accordance with the Ontario Heritage Act.
6.7	A Tree Permit may be revoked by the [Officer] if: (a) it was issued on mistaken, misleading, false or incorrect information; (b) it was issued in error; (c) the owner or applicant requests in writing that it be revoked; (d) an owner fails to comply with any provision of the Permit or this By-law.
6.8	When a Tree Permit is revoked, the owner and/or applicant shall immediately cease all operations being conducted under the authority of the revoked Permit.
6.9	Any Tree Permit issued pursuant to this by-law shall be valid for a period of [one (1)] year from the date of issuance.
7 Appeal	
7.1	An applicant for a permit may appeal to Council by filing a notice of appeal personally or by registered mail to the Town if; (a) an Officer refuses to issue a Permit; or (b) an Officer fails to make a decision on an application, within [60] days after receipt of a complete application; (c) the applicant objects to a term or condition of the Permit; or (d) a person objects to an order made under Section 8 or Section 9 of this By-law.
7.2	Where an appeal is filed under 7.1(a) or 7.1 (c) or 7.1 (d), the notice of appeal shall be filed within thirty (30) days of the date of the decision.
7.3	Where an appeal is filed under 6.1 (b), notice of appeal shall be filed within seventy-five (75) days after receipt of the complete application but not prior to forty-five (45) days after receipt of a complete application.
7.4	An appeal made under this section does not act as a stay of any orders issued, which shall take effect on the day it is served or deemed served, and shall continue to be effective until Council renders a decision indicating otherwise.
7.5	Circulation of Notice of Hearing (a) The Clerk shall circulate by regular mail [] days prior to the Council meeting notice of a hearing; (b) Notice shall be circulated to the applicant and all assessed owners of land that directly abut the property subject to the hearing; (c) The Owner shall post [] days prior to the hearing a notice that is clearly visible and legible from a public highway or other place to which the public has access on the property that is subject to the hearing. (d) Notice shall contain the following information: i) Name of the Owner(s) ii) The address of the lands subject to the hearing iii) Purpose of the application/appeal iv) The date or dates for which the application is sought v) The date and time the matter will be heard by Council vi) Contact information should an individual wish to address Council regarding the matter.
7.6	Decision (a) In hearing the matter, Council shall give the Owner(s) and any person opposed to or in favour of the application an opportunity to be heard and may consider such other matters including the Officer’s comments as it deems appropriate. (b) Council may: i) issue a Permit; or ii) issue a Permit with terms and conditions; or iii) vary the terms or conditions on a permit; or iv) refuse to issue a Permit. (c) The Clerk shall notify the Owner(s) in writing of Council’s decision.
7.7	The proceedings at the hearing held by the Council shall be in accordance with the provisions of the Statutory Powers Procedures Act, R.S.O. 1990, c.22. The decision of the Council under this section is final.
8 Order to Discontinue Activity	
8.1	Where an Officer believes that a contravention of this By-law has occurred, the [Officer] may issue an Order requiring the person who contravened the By-law or who caused or permitted the Destruction or Injuring of Trees in contravention of the By-law to stop and discontinue the Destruction or Injuring of Trees.
8.2	The Order to Discontinue Activity shall set out: (a) the name of the owner and the municipal address or the legal description of the land; (b) reasonable particulars of the contravention; and (c) the date and time by which the order must be in compliance with the By-law; and (d) contact information of the [Officer].
9 Work Order	
9.1	Where an Officer determines that a contravention of this By-law has occurred, the Officer may issue a Work Order requiring the person to rehabilitate the land as may be required and plant or re-plant Trees.

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9.2	The order shall set out: (a) the name of the owner(s) and the municipal address or the legal description of the land; (b) reasonable particulars of the contravention; (c) the work to be done; (d) a statement that if the work is not done in compliance with the order within a specified time period, the Town may have the work done at the expense of the owne(s)r; and (e) the date and time by which the work must be done; and (f) contact information of the [Officer].
10 Service of an Order	
10.1	An Order issued under this By-law shall be served on the Owner(s) of the property and such other persons affected by it as the Officer determines and a copy of the Order may be posted on the property.
10.2	An Order issued under this By-law may be served personally or by registered mail sent to the last known address of the person to whom the Order is to be given or that person’s agent for service.
10.3	If an Order is served by registered mail, the service shall be deemed to have been made on the seventh day after the day of mailing.
10.4	Where service cannot be served as per 10.1, 10.2 or 10.3 the Officer shall place a placard containing the terms of the order in a conspicuous place on the owners property, and the placing of the placard shall be deemed to be sufficient service of the order on the person(s) to whom the order is directed.
11 Remedial Action	
11.1	Where an Owner(s) fails to comply with a Work Order issued under this By-law, the Town may do the work directed or required to be done at the person’s expense.
11.2	The Town may recover the costs of doing a matter or thing under this section of the By-law from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
11.3	Where the Town chooses to do the work directed or required to be done in a Work Order it shall serve notice to the person personally or by registered mail sent to the last known address of the person(s) to whom the notice is to be given or that person’s agent for service.
11.4	The Notice shall set out: (a) the municipal address or the legal description of the land; and (b) reasonable particulars of the contravention; and (c) the date the Town will be entering the property to do the work directed or required to be done; and (d) a statement that the work being completed will be at the Owner(s) expense.
11.5	If a Notice is served by registered mail, the service shall be deemed to have been made on the seventh day after the day of mailing.
12 Enforcement	
12.1	An Officer may enforce the provisions of this By-law.
12.2	An Officer may at any reasonable time enter and inspect any land to determine whether this Bylaw, an Order, Court Order or a condition of a Permit is being complied with.
12.3	An Officer exercising a power may be accompanied by a person under their direction.
12.4	No person shall hinder or obstruct an Officer or attempt to hinder or obstruct an Officer who is performing a duty under this By-law.
12.5	Any person who provides false information to an Officer shall be deemed to have hindered or obstructed the Officer in the execution of their duties.
13 Penalty	
13.1	Any person who contravenes any provisions of this by-law or an Order issued under this by-law is guilty of an offence.
13.2	Any person who obstructs an Officer in carrying out an inspection or who provides false or misleading information to an Officer is guilty of an offence.
13.3	Upon conviction of an offence under this by-law, a person is liable to a fine as follows: a) the minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000; b) in the case of a continuing offence, in addition to the penalty mentioned in clause (a) above, 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; c) in the case of multiple offences, for each offence included in the multiple offence, 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; and (d) In accordance with Subsection 429(2)(d) of the Municipal Act a special fine may be imposed and may exceed \$100,000 in circumstances where there is an economic advantage or gain from the contravention of this By-Law or an Order under this By-Law.
13.4	The Town may designate that the Destruction or Injuring of each Tree is one offence in a series of multiple offences.
13.5	If a person is convicted of an offence for contravening this By-law or an Order issued under this By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant Trees in such a manner and within such period as the court considers appropriate, including any Silvicultural treatment necessary to re-establish the Trees.
13.6	If a court makes an Order under section 11 “Remedial Action” of this By-law, the Town relies on Section 446(3) and 446(4) of the Municipal Act, as amended, for the recovery of costs.
14 Administration	
14.1	Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its remaining terms to the extent possible under law.
14.2	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.
14.3	The short title of this By-law is the "Private Tree By-law"

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