

By-law 2016-167

**A By-law of the City of Greater Sudbury to Amend By-law 2011-243
being a By-law of the City of Greater Sudbury to Authorize, Regulate
and Protect the Planting, Maintenance, Protection and Removal
of Trees on Municipal Rights of Way**

Whereas the Council of the City of Greater Sudbury deems it desirable to amend By-law 2011-243 being a By-law of the City of Greater Sudbury to Authorize, Regulate and Protect the Planting, Maintenance, Protection and Removal of Trees on Municipal Rights of Way in order to provide for certain additional fees;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

Enact Subsections 6(3) and 6(4)

1. By-law 2011-243 being a By-law of the City of Greater Sudbury to Authorize, Regulate and Protect the Planting, Maintenance, Protection and Removal of Trees on Municipal Rights of Way is hereby amended by enacting the following subsections 6(3) and 6(4) immediately after subsection 6(2) and before section 7:

“6(3) An enforcement attendance fee in an amount determined in accordance with the City’s Miscellaneous User Fee By-law then in effect shall be payable on a time spent basis:

- (a) for the second and each subsequent inspection conducted by a By-law Enforcement Officer to ascertain compliance with a notice under subsection 6(1), which is conducted after the specified date for compliance; and
- (b) in the event that a By-law Enforcement Officer attends any remediation directed by or conducted by the City, pursuant to subsection 6(2).

(4) Any fee under subsection 6(3) shall be payable:

- (a) in accordance with the provisions of the City’s Miscellaneous User Fee By-law then in effect; and
- (b) in addition to any fine levied upon conviction of an offence under this By-law, and whether or not there is a charge laid, and whether or not any charge laid leads to a conviction.”

Replace Subsections 11(2) and 11(3)

2. By-law 2011-243 being a By-law of the City of Greater Sudbury to Authorize, Regulate and Protect the Planting, Maintenance, Protection and Removal of Trees on Municipal Rights of Way is hereby further amended by repealing subsections 11(2) and 11(3) and enacting the following subsections 11(2) to 11(6) inclusive in their place and stead:

“11(2) In the event that the applicant is not satisfied with the General Manager’s decision to not remove a healthy right of way tree the applicant may appeal the decision to the Hearing Committee by submitting a request in writing to the General Manager and paying an administrative fee in an amount determined in accordance with the City’s Miscellaneous User Fee By-law then in effect. Upon receipt of the fee and the written request, the General Manager shall request the City Clerk to schedule a hearing.

(3) The City Clerk shall schedule a meeting of the Hearing Committee and give notice of the day, time and place to the applicant and in appropriate circumstances, where more than one property is affected by an application to remove a healthy right of way tree, shall also give notice of the date, time and place of the hearing of the appeal to the affected adjoining Owners.

(4) On the day and time set by the City Clerk or such other day and time as may be established from time to time by the City Clerk or by the Hearing Committee, and the person appealing may present evidence and make submissions regarding the matter under appeal.

(5) At any such hearing the Hearing Committee may proceed to consider the matter, whether or not the person appealing is in attendance, and the Hearing Committee may make any decision the General Manager may have made in accordance with this By-law. The decision of the Hearing Committee shall be final and binding and takes effect upon being rendered.

(6) For the purposes of this By-law “Hearing Committee” means the Hearing Committee created pursuant to the City’s Procedure Bylaw 2011-235, as amended or replaced from time to time.”

Transition

3. Where a part of a by-law is repealed by this By-law, the repeal does not:
- (a) affect the previous operation of the part of the by-law so repealed;

- (b) affect any right, privilege, obligation or liability acquired, accrued, accruing, or incurred under the part of the by-law so repealed; or
- (c) affect any offence committed against any part of the by-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof; or affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

Effective

- 4. This By-law shall come into full force and effect upon passage.

Read and Passed in Open Council this 9th day of August, 2016



Mayor



Deputy
Clerk