

Chapter 658

RAVINE PROTECTION

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[HISTORY: Adopted by the Council of the City of Toronto 2002-10-03 by By-law No. 838-2002.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Heritage — See Ch. 103.
Fences — See Ch. 447.
Filling and grading — See Ch. 455.
Trees — See Ch. 813

¹ Editor's Note: This by-law was passed under the authority of sections 223.1 and 223.2 of the *Municipal Act*, R.S.O. 1990, c. M.45. This by-law repealed Chapter 455, Filling and Grading, of the City of Toronto Municipal Code; Chapter 276, Ravines, of the Municipal Code of the former City of Toronto; former Borough of East York By-law No. 117-97, "A by-law respecting the protection of trees and other vegetation in ravine," as amended; and former City of Scarborough By-law No. 23626, "A by-law respecting the protection of ravines," as amended.

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§ 658-1

§ 658-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated, and any abbreviation of a term as noted in brackets shall have a corresponding meaning:

APPLICANT — The registered owner of the property that is the subject of an application under this chapter.

APPLICATION — A permit application form to injure or destroy trees, to place or dump fill or refuse or alter the grade of land, or both.

ARBORIST — A person who is a specialist or expert in the area of the care and maintenance of trees and includes an arborist qualified by the Ontario Training and Adjustment Board Apprenticeship and Client Services Branch, a certified arborist qualified by the International Society of Arboriculture, a consulting arborist registered with the American Society of Consulting Arborists, a registered professional forester or a person with other similar qualifications as approved by the Commissioner.

COMMISSIONER — The Commissioner of Economic Development, Culture and Tourism or his or her delegate.

DESTROY — To remove, cut down or in any other way injure a tree to such an extent that it is deemed necessary to remove or cut down the tree, and “destruction” has a corresponding meaning.

EMERGENCY WORK — Includes work associated with drain repairs, utility repairs and structural repairs to a building, work to prevent soil erosion, slipping of soil or damage to trees and any other work of an emergency nature.

FILL — Earth, sand, gravel, rubble, rubbish, garbage, or any other material whether similar to or different from any of these materials, whether originating on the site or elsewhere, used or capable of being used to raise, lower, or in any way effect the contours of the ground.

GRADE — A defined elevation of land that has been established as a result of geologic, hydrologic, and other natural processes or by human alteration; that defines ravines, depressions, hills, stream channels, eskers and steepness of terrain.

HERITAGE TREE — A tree that has been designated under Part IV of the *Ontario Heritage Act*.²

IMMINENT HAZARD — Where a tree has been destabilized, the supporting roots have failed or are cut or a main stem has cracked and is in immediate danger of breaking causing potential damage or injury to life or property.

² Editor’s Note: See R.S.O. 1990, c. O.18.

INJURE — Not protecting trees in accordance with the City’s “Tree Protection Policy and Specifications for Construction Near Trees” or other standards set out by the Commissioner, or both, or any other acts or omissions which will harm a tree’s health in any manner, or both, and “injury” has a corresponding meaning.

OFFICER — Includes an inspector and means a person designated from time to time by Council to enforce this chapter.

ORNAMENTAL TREES — Plants cultivated for their beauty and intended to be managed or clipped on an annual or biannual basis, rather than for their natural use, including but not limited to foundation shrubbery, clipped hedges and fruit trees that produce fruit for human consumption.

OWNER:

- A. The registered owner of the property that is the subject of an application under this chapter.
- B. For purposes of making an application involving trees, “owner” shall include the owner of either property where the base of a tree straddles a property line or whose property is physically impacted by the roots or crown of a tree on adjacent property.

PERMIT — A permit required under this chapter.

PROTECTED AREA — A shaded area on any Data Map in Schedule A-2 at the end of this chapter. **[Amended 2004-07-22 by By-law No. 729-2004]**

RAVINE:

- A. A discernible natural landform with a minimum two-metre change in grade between the highest and lowest points of elevation, that may have vegetation cover and that has or once had water flowing through it or standing for some period of the year.
- B. Buffer areas and areas of contiguous tree canopy that contribute to the ecological functions of a ravine are, for purposes of this chapter, considered to be part of the ravine and within the protected area.

REFUSE — Includes leaves, branches and logs that have not fallen naturally, construction material debris and household garbage.

ROOFTOP GARDEN — Does not include the rooftops of parking garages or other structures at grade.

ROUGE PARK — The urban wilderness park as defined in the Rouge Park Management Plan, 1994, as amended from time to time.

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SPECIFICATIONS FOR CONSTRUCTION NEAR TREES — The most recent version of the City’s “Tree Protection Policy and Specifications for Construction Near City Trees.”

STANDARDS — Minimum requirements or guidelines established by the Commissioner pertaining to the protection and preservation of trees and ravines.

WOODLAND — A treed area that provides environmental benefits, including erosion prevention, water retention, provision of habitat and recreation.

§ 658-2. Permit required for prohibited activities.

- A. No person shall, on any land in a protected area, injure or destroy any tree unless authorized by permit to do so.
- B. No person shall, on any land in a protected area, place or dump fill or refuse or alter the grade of the land unless authorized by permit to do so.

§ 658-3. Interpretation.

[Amended 2004-07-22 by By-law No. 729-2004]

- A. The City Surveyor may provide a digital file or plot the boundary line defining a protected area on a plan or map drawn to a suitable scale, upon request, at the expense of the requestor.

§ 658-4. Exceptions.

[Amended 2003-02-07 by By-law No. 123-2003]

- A. Despite § 658-2A, a permit is not required in the following circumstances:
 - (1) Removal of a dead tree or a tree in declining or poor condition that cannot be maintained in a healthy and safe condition certified as such by the Commissioner.
 - (2) Destruction of a tree that represents an imminent hazard to persons or property.
 - (3) Pruning of a tree in accordance with good arboricultural practice to maintain the health of the tree.
 - (4) Pruning of tree branches that interfere with utility conductors as certified by the Commissioner.
 - (5) Pruning or removal of ornamental trees.

- (6) Injury or destruction of trees on rooftop gardens or in interior courtyards, solariums or raised podiums.
 - (7) Emergency work as certified by the Commissioner.
 - (8) Normal maintenance and play enhancement activities within manicured areas of turf of an existing golf course.
 - (9) Farming, maintenance and management activities associated with Agricultural Heritage Reserve Zones located within the Rouge Park.
 - (10) Maintenance and management activities and improvement of recreational opportunities and infrastructure associated with Special Management Zones within the Rouge Park
 - (11) The erection of any fence if the fence is erected in accordance with the applicable provisions of any zoning by-law and fence by-law, provided that the fence is maintained such that the uphill side of the fence is kept clear of refuse and fill.
- B. Despite § 658-2B, a permit is not required in the following circumstances:
- (1) Cultivation or tilling of garden beds as long as such work does not alter or create slopes at greater than 10 percent.
 - (2) Placing of soil involving an amount of less than five cubic metres for the purposes of maintaining existing manicured areas.
 - (3) Placing or dumping of fill or refuse or alteration of the grade of land on rooftop gardens or in interior courtyards, solariums or raised podiums.
 - (4) Emergency work as certified by the Commissioner.
 - (5) Grade changes within areas that are fill regulated by the Toronto and Region Conservation Authority.
 - (6) Normal maintenance and play enhancement activities within manicured areas of turf of an existing golf course.
 - (7) Farming, maintenance and management activities associated with Agricultural Heritage Reserve Zones located within the Rouge Park.
 - (8) Maintenance and management activities and improvement of recreation opportunities and infrastructure associated with Special Management Zones within the Rouge Park.
 - (9) The erection of any fence if the fence is erected in accordance with the applicable provisions of any zoning by-law and fence by-law, provided that the fence is maintained such that the uphill side of the fence is kept clear of refuse and fill.

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§ 658-5. Filing of applications; form and content.

An owner who wishes to injure or destroy a tree, place or dump fill or refuse or alter the grade of land shall submit an application to the Commissioner and shall provide the following:

- A. Name, address and telephone number.
- B. Purpose for which the permit is required.
- C. In the case of an application to injure or destroy a tree, an inventory of trees and other vegetation, tree protection plan, tree removal or replacement plan or woodland management or rehabilitation plan for the area of land affected.
- D. In the case of an application to dump fill or refuse or alter the grade of land, a grading plan, drainage plan and geotechnical report for the area of land affected.

§ 658-6. Review of applications; issuance of permits; conditions.

- A. Issuance of permits.

The Commissioner shall review all completed permit applications and is authorized to issue permits to injure or destroy trees and to place or dump fill or refuse or alter the grade of land in the following circumstances:

- (1) When trees cause or are likely to cause structural damage to load-bearing structures.
- (2) On property where a site plan approval, subdivision approval, consent or committee of adjustment approval under section 41, 51, 53 or 45 of the *Planning Act*,³ or where a building permit, front yard or boulevard parking permit or permission for driveway widening has been obtained, provided that the tree injury or destruction, the placing or dumping of fill or the alteration of the grade of land is required as a condition of the approval or as a requirement of the site plan agreement, subdivision or development agreement and is required to facilitate construction in accordance with the approved development, permit or permission and plans approved by the City.
- (3) Pruning of tree roots in accordance with good arboricultural practice causing minimal damage to the trees, provided that the pruning takes place under the direction of an arborist approved by the Commissioner.
- (4) The removal of trees, alteration of grade and placement of fill in protected areas in accordance with the City's "Guidelines for Management of Woodlands and Alteration of Grade" as amended from time to time.

³ Editor's Note: See R.S.O. 1990, c. P.13.

- (5) In protected areas that have undergone a Schedule B or C Municipal Class Environmental Assessment process.
- B. Conditions; replacement trees and site restoration.
- (1) Where a tree is to be destroyed, the issuance of a permit shall be subject to conditions ensuring that a replacement tree is planted to the satisfaction of the Commissioner in accordance with the approved tree removal or replacement plan or woodland management or rehabilitation plan submitted by the applicant.
 - (2) Where a property is not subject to site plan approval, the Commissioner shall obtain a written undertaking from the applicant to ensure that the tree removal or replacement plan or woodland management or rehabilitation plan is carried out, and where substantial replanting or site restoration is required or where the applicant has previously violated conditions to a permit, the Commissioner may require an applicant to post a letter of credit, acceptable to the City in an amount equal to 120 percent of the total cost of replanting and maintaining the trees for a period of two years or restoring the lands, or both.
 - (3) Where a tree is to be injured, the issuance of a permit shall be subject to conditions that ensure that the tree is protected in accordance with good arboricultural practices.

§ 658-7. Council approval required.

The injury or destruction of trees and the placing or dumping of fill or refuse or the alteration of the grade of land must be authorized by City Council in the following circumstances:

- A. The tree is a heritage tree.
- B. The tree is healthy and the management of the tree or forest cover does not meet the City's "Guidelines for Management of Woodlands and Alteration of Grade."

§ 658-8. Permit appeals.

- A. Where the Commissioner refuses to issue a permit, an applicant may within 30 days of the date of refusal appeal to City Council through the community council having jurisdiction over the area in which the subject property is located, by written notice delivered to the Commissioner setting out the reasons why the applicant believes a permit should be issued and requesting to be heard by the community council.
- B. Where an applicant has filed an appeal, the Commissioner shall prepare and forward a report on the application to the next community council meeting, setting out the grounds for refusal of the application.

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- C. Upon reviewing the recommendation on appeal of the community council, City Council may uphold the decision of the Commissioner or may direct the Commissioner to issue a permit subject to any conditions Council may deem appropriate.

§ 658-9. Designation of officers.

Those persons holding the positions of urban forestry co-ordinators, planners and supervisors, water and waste water engineers and planners and those persons designated as enforcement officers by the Toronto and Region Conservation Authority are designated as officers for purposes of enforcing this chapter.

§ 658-10. Restoration of site.

A person who injures or destroys a tree or places or dumps fill or refuse, or alters the grade of land in a protected area without a permit or in contravention of a condition of a permit, shall replant the tree and remove the fill, or refuse, regrade the area and take any other steps required to restore the site to its original condition to the satisfaction of the Commissioner.

§ 658-11. Offences; additional remedies.

- A. A person who contravenes any provision of this chapter is guilty of an offence.⁴
- B. A person convicted of an offence respecting the injury or destruction of trees under this chapter is liable: **[Amended 2004-07-22 by By-law No. 729-2004]**
- (1) On a first conviction to a maximum fine of not more than \$10,000 or \$1,000 per tree, whichever is greater.
 - (2) On any subsequent conviction to a maximum fine of \$20,000 or \$2,500 per tree, whichever is greater.
- C. A corporation convicted of an offence respecting the injury or destruction of trees under this chapter is liable: **[Added 2004-07-22 by By-law No. 729-2004]**
- (1) On a first conviction to a maximum fine of not more than \$50,000 or \$5,000 per tree, whichever is greater.
 - (2) On any subsequent conviction to a maximum fine of \$100,000 or \$10,000 per tree, whichever is greater.

⁴ Editor's Note: This section was passed under the authority of section 320 of the *Municipal Act*, R.S.O. 1990, c. M.45, and, under section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, a person convicted of an offence under this section is liable to a fine of not more than \$5,000.

- D. A person convicted of an offence respecting site alteration, fill or grading under this chapter is liable: **[Added 2004-07-22 by By-law No. 729-2004]**
- (1) On a first conviction to a maximum fine of \$10,000.
 - (2) On any subsequent conviction to a maximum fine of \$25,000.
- E. A corporation convicted of an offence respecting site alteration, fill or grading under this chapter is liable: **[Added 2004-07-22 by By-law No. 729-2004]**
- (1) On a first conviction to a maximum fine of \$50,000.
 - (2) On any subsequent conviction to a maximum fine of \$100,000.

§ 658-12. Exemption.

- A. Despite §§ 658-2 and 658-6A(2), where a site plan approval, subdivision approval, consent or committee of adjustment approval, under section 41, 45, 51 or 53 of the *Planning Act*,⁵ or where a building permit, front yard or boulevard parking permit or permission for driveway widening has been obtained on or before October 3, 2002, no permit is required.
- B. (Reserved)⁶

§ 658-13. Conflicting provisions.

To the extent of any conflict between the provisions of this chapter and any by-laws of the former municipalities respecting ravines, fill and grading and injury or destruction of trees, the provisions of this chapter shall prevail.

⁵ Editor's Note: See R.S.O. 1990, c. P.13.

⁶ Editor's Note: Former § 658-12B, regarding Hoggs Hollow Special Policy Area and Warren Park Ravine and private golf courses, was repealed 2002-11-28 by By-law No. 1081-2002.

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SCHEDULE A-1 TO CH. 658, INDEX MAPS, 1-4⁷
[Amended 2002-11-28 by By-law No. 1081-2002; 2003-02-07 by
By-law No. 123-2003; 2003-09-24 by By-law No. 940-2003; 2004-07-22 by
By-law No. 729-2004; 2004-09-30 by By-law No. 803-2004]

⁷ Editor's Note: The maps that comprise Schedule A-1 are on file in the City Clerk's office.

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SCHEDULE A-2 TO CH. 658, DATA MAPS⁸

[Amended 2004-07-22 by By-law No. 729-2004; 2004-09-30 by By-law No. 803-2004]

⁸ Editor's Note: The maps that comprise Schedule A-2 are on file in the City Clerk's office.