

The Corporation of the City of Pickering

Draft

By-law No. XXXX/XX

Being a by-law to prohibit and regulate the injuring, destruction or removal of trees in the City of Pickering

Whereas pursuant to Section 135(1) of the *Municipal Act*, 2001, S.O 2001, c. 25, as amended, a local municipality may prohibit or regulate the injuring, destruction, or removal of trees; and

Whereas the Council of The Corporation of the City of Pickering is desirous of repealing By-law 6108/03, as amended by By-laws 6191/03 and 7007/09 and enacting a by-law by increasing regulations with regards to the injuring, destruction or removal of trees in the City of Pickering.

Now therefore the Council of The Corporation of the City of Pickering hereby enacts as follows:

Part 1 – Interpretation

1.1 Short Title

This By-law may be cited as the “Tree Protection By-law”.

1.2 Interpretation

When reading and interpreting this By-law:

- (a) Unless otherwise specified, references in this By-law to parts, sections, clauses and schedules are references to parts, sections, clauses and schedules in the By-law;
- (b) References in this By-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted;
- (c) This By-law shall be read with all changes in gender or number as the context requires;
- (d) References in this By-law to items in the plural include the singular, and references to the singular include the plural, as applicable.

1.3 Conflicts

This By-law and the provisions contained within are intended to be complementary to provincial statutes and to other by-laws passed by the Region or Durham or the City of Pickering. In the event any other applicable law requires a higher standard than what this By-law requires, the higher standard shall apply.

1.4 Severability

Each and every one of the provisions of this By-law is severable and if any provision of this By-law should, for any reason, be declared invalid by any court, it is the intention and desire of this Council that each and every one of the remaining provisions hereof shall remain in full force and effect.

1.5 Scope

This By-law shall apply to all property in the City.

1.6 Schedule A

Schedule A attached hereto with notations and references shown thereon is hereby declared to be part of this By-law.

1.7 Definitions

In this By-law:

- (a) "City" shall mean the Corporation of the City of Pickering;
- (b) "Certified Arborist" shall mean an individual who holds a valid arborist certificate from the International Society of Arboriculture or similar qualifications as approved by the City.
- (c) "Clerk" shall mean the Clerk for the Corporation of the City of Pickering or his designate;
- (d) "Council" shall mean the Council of the Corporation of the City of Pickering;
- (e) "DBH" shall mean Diameter at Breast Height, being the diameter of the stem of a tree measured at a point that is 1.5 metres above ground;
- (f) "Declared Emergency" shall mean an event or situation, natural or otherwise that results in the declaration of an emergency by the federal, provincial or municipal government and requires the destruction, injury or removal of trees.
- (g) "Emergency Services" shall mean public organizations that respond to and deal with emergencies when they occur, especially those that provide police, ambulance, and firefighting services.
- (h) "Tree Protection Area A" includes areas identified as Significant Woodlands, Shorelines, Significant Valley Lands and Stream Corridors, and Wetlands, as set out in Schedule "A" attached hereto.

"Tree Protection Area B" include all areas not subject to "Tree Protection Area A".

- (i) "Good Arboricultural Practices" shall mean the proper planting and care of Trees in accordance with the most current version of the ANSI A300, American National Standards for Tree Care Operations.
- (j) "Good Forestry Practice" shall mean 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 which 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. Good forestry practice shall also include the cutting and removal of severely damaged, diseased and insect infested trees which must be removed in order to prevent contamination or infestation of other trees, or which no longer contribute to the achievement of forest values;
- (k) "Officer" shall mean a municipal law enforcement officer employed by the City or a police officer pursuant to subsection 42(1)(h) of the *Police Services Act*.
- (l) "Order" shall mean an order issued pursuant to this by-law and may require actions such as stopping an activity or replanting trees as may be required.
- (m) "Owner" shall mean the registered owner of land, or their agent, or anyone acting under the direction of the owner or their agent;
- (n) "Property Review Committee" shall mean the committee appointed by Council for the purposes of hearing appeals related to various property related matters including but not limited to this By-law.
- (o) "Property Standards Order" shall mean an order issued under the City of Pickering Property Standards By-law 7887/21, as may be amended.
- (p) "Site" shall mean the area of land containing any tree(s) proposed to be injured, destroyed or removed

Part 2 – Regulations

2.1 General Prohibitions

- (a) Unless otherwise exempted by this By-law, no person shall injure, destroy, or remove a tree in the City of Pickering without a permit issued under this By-law.
- (b) Unless otherwise exempted by this By-law, no person shall cause or permit any injury, destruction, or removal of a tree measuring 2.5 centimetres DBH or larger in Tree Protection Area A.

- (c) Unless otherwise exempted by this By-law, no person shall cause or permit any injury, destruction, or removal of a tree measuring 30 centimetres DBH or larger in Tree Protection Area B.
- (d) Where a permit has been issued pursuant to this By-law, no person shall cause or permit any injury, destruction or removal of a tree, except in accordance with the plans, conditions and any other information on the basis of which a permit was issued.

2.2 Exemptions

The provisions of this By-law do not apply to:

- (a) any tree with a measurement less than 2.5 centimetres DBH located inside Tree Protection Area A, or is less than 30 centimetres DBH located within Tree Protection Area B.
- (b) activities or matters undertaken by a municipality or a local board of a municipality;
- (c) lands owned by, regulated by or to activities or matters undertaken by the Toronto and Region Conservation Authority or the Central Lake Ontario Conservation Authority;
- (d) activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act*, 1994;
- (e) the injuring, destruction, removal 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;
- (f) the injuring, destruction, or removal of trees imposed 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;
- (g) the injuring, destruction, or removal of trees imposed 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;
- (h) the injuring, destruction, or removal 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;
- (i) the injuring, destruction, or removal of trees undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;

- (j) 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*;
- (k) trees measuring less than 2.5 centimetres DBH;
- (l) to activities or matters prescribed by regulations pursuant to the *Municipal Act, 2001*;
- (m) pruning that is necessary to maintain the health and condition of the tree and is carried out in accordance with Good Arboricultural Practices;
- (n) to woodlots that are governed by By-law Number 148-91 of the Regional Municipality of Durham or its successor;
- (o) the injuring, destruction, or removal of trees that are a noxious weed as defined in the *Weed Control Act*, R.S.O. 1990, c. W.5;
- (p) the injuring, destruction, or removal of trees undertaken by a Conservation Authority on its own lands or in response to a Declared Emergency;
- (q) the injuring, destruction, or removal of trees at the direction of Emergency Services;
- (r) the injuring, destruction, or removal of a tree located within an actively managed cultivated orchard, tree farm or plant nursery;
- (s) the injuring, destruction or removal of a tree as identified by a Certified Arborist is threat to health or safety;
- (t) the removal of a tree that has been damaged by a storm or other natural act that is an immediate danger to health and safety;
- (u) the injuring, destruction or removal of a tree that is required by a Property Standards Order issued under the *Building Code Act*;
- (v) the injuring, destruction or removal of a tree that is a Normal Farm Practice as defined in the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c.1.;

2.3 Requirements for an Application

- (a) A person applying for a permit under this By-law shall submit a completed application form, along with required plans, information, and a fee of:
 - i. \$100 for a permit requiring an inspection by the City's arborist, or
 - ii. \$50 for a permit accompanied by a Certified Arborist report, or
 - iii. \$0 for a permit for a dead tree.

- (b) Any permit issued under this By-law is valid for 6 months after the date of issuance.
- (c) A permit may be denied for the following reasons:
 - i. the application form is not complete;
 - ii. the tree is located on lands subject to an application for an official plan amendment, rezoning, consent to sever, a minor variance, a plan of subdivision, a plan of condominium a site plan, or a building permit, and the application has not yet received final approval, or the permit has not yet been issued;
 - iii. the removal of the tree is not consistent with an approved site plan, tree protection plan, or City-endorsed report of a Certified Arborist;
 - iv. the tree to be removed is an endangered species as defined by the *Endangered Species Act, 2007*;
 - v. the removal of the tree would be in contravention of the *Migratory Bird Convention Act, 1994*; or
 - vi. the tree to be removed is healthy, and meets the minimum size requirements as set out in this By-law.

2.4 Appeals

- (a) A person wishing to appeal an order made under this By-law may appeal to the Property Review Committee within 14 days of receiving an order.
- (b) Any applicant who is denied a permit under this By-law may appeal to the Property Review Committee within 14 days of receiving the denial.
- (c) The Property Review Committee shall be convened as soon as practicable after receiving an appeal. The decision of the Property Review Committee under this By-law is final and binding.
- (d) An appeal fee of \$100 is payable at the time of filing an appeal.

Part 3 – Enforcement

3.1 Enforcement and Administration

- (a) The administration and enforcement of this By-law shall be performed by the Manager, Municipal Law Enforcement Services and such persons tasked to administer the By-law.
- (b) If after an inspection, an Officer is satisfied that a contravention of this By-law has occurred, the Officer may order the person to discontinue the activity, and the order shall be served personally, by posting it in a conspicuous place on the subject property, or by prepaid registered mail to the last known address of the owner of the property.

- (c) An Officer alone, or in conjunction with a person possessing special or expert knowledge may, at any reasonable time, enter upon any property for the purpose of determining whether or not the provisions of this By-law have been complied with.
- (d) An Officer alone, or in conjunction with a person possessing special or expert knowledge, may conduct examinations, take photographs, or collect any evidence necessary for the purpose of determining if an offence of this By-law has occurred.
- (e) No person shall prevent, hinder or interfere, or attempt to prevent, hinder or interfere, with an Officer.
- (f) No person shall fail to provide any documents, or other relevant items related to a contravention of this By-law, to any Officer upon request. An Officer may remove and make copies of these documents and items.
- (g) Where an Officer has reasonable grounds to believe that an offence has been committed by any person, the Officer may require the name, address and proof of identity of that person, and no person shall fail to provide the requested information.
- (h) Unless authorized by a permit, no person shall cause or permit any injury, destruction or removal of a protected tree.
- (i) No person shall cause or permit any action contrary to an order issued under this By-law.
- (j) Where a permit has been issued pursuant to this By-law, no person shall cause or permit the injury, removal or destruction of any tree except in accordance with the conditions of the permit issued.

3.2 Offences and Penalties

- (a) Any person who contravenes any provision of this By-law, or any order pursuant to this By-law, is guilty of an offence and on conviction liable:
 - i. On first conviction, to a fine of not more than \$50,000 or \$2,000 per tree, whichever is greater.
 - ii. On any subsequent conviction, to a fine of not more than \$100,000 or \$5,000 per tree, whichever is greater.
- (b) Any business entity that contravenes any provision of this By-law, or any order pursuant to this By-law, is guilty of an offence and on conviction liable:
 - i. On first conviction, to a fine of not more than \$75,000 or \$3,000 per tree, whichever is greater.
 - ii. On any subsequent conviction, to a fine of not more than \$100,000 or \$7,500 per tree, whichever is greater.

- (c) A special fine may be imposed, in addition to any fine imposed under this By-law, in circumstances where there is an economic advantage or gain from the contravention of this By-law. The maximum amount of the special fine may exceed \$100,000. A special fine shall be calculated based on the number and significance of any trees injured, destroyed or removed.
- (d) If a person is convicted of an offence for contravening this By-law, or an order made under this By-law, the court of competent jurisdiction, may order the person to rehabilitate the land or to plant, or replant, trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

3.3 Fees

- (a) Tree Removal Application:
 - i. \$100 for a permit requiring an inspection by the City's arborist, or
 - ii. \$50 for a permit accompanied by a Certified Arborist report, or
 - iii. \$0 for a permit for a dead tree.
- (b) An appeal fee of \$100 is payable at the time of filing an appeal.

Part 4 – General

4.1 Repeal

By-law 6108/03, as amended by By-laws 6191/03 and 7007/09, is repealed.

4.2 Effective Date

By-law passed this XX day of XXXX, 2023.

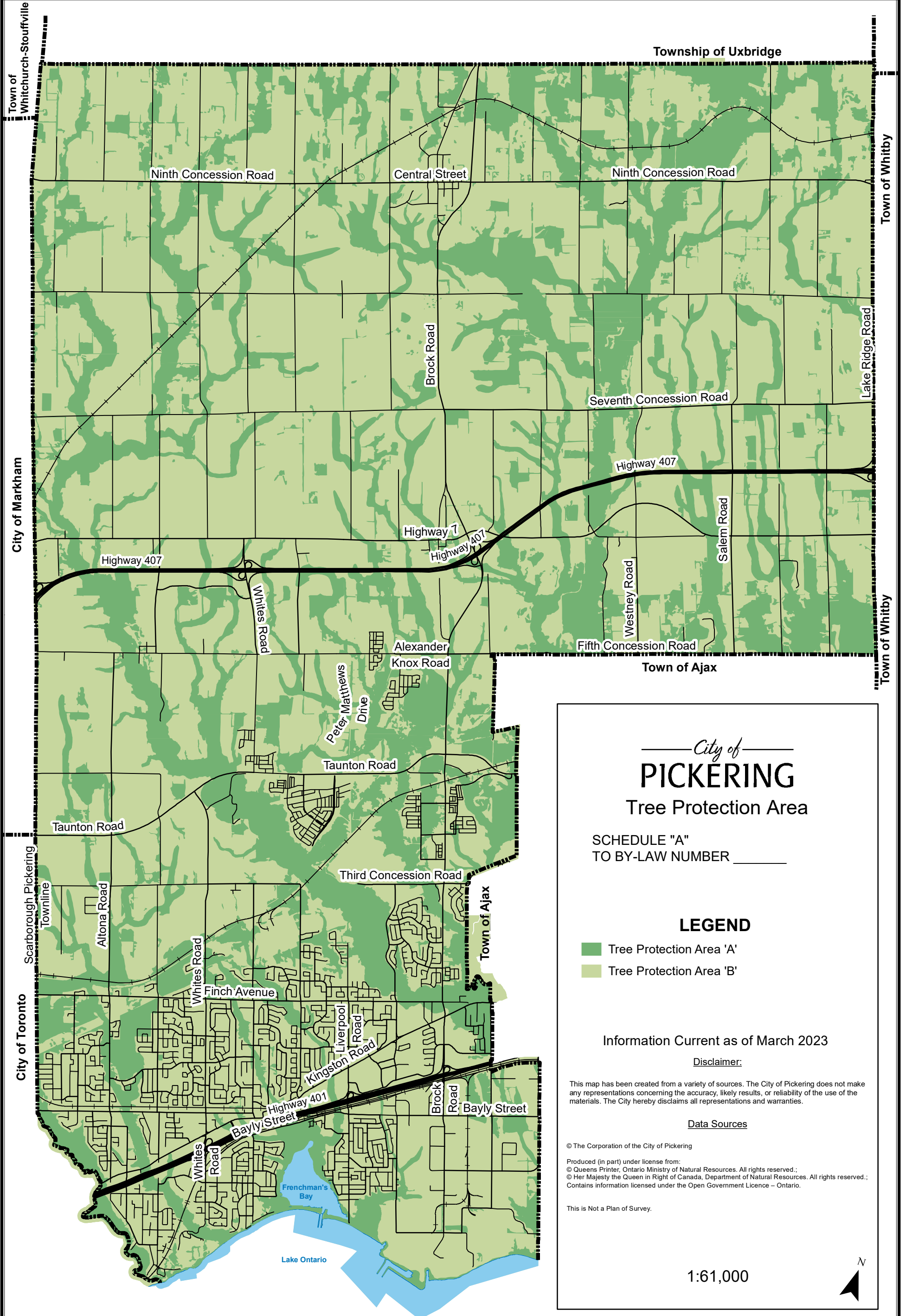
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Kevin Ashe, Mayor

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Susan Cassel, City Clerk

Proposed Tree Protection By-law Screening Areas



City of
PICKERING
 Tree Protection Area

SCHEDULE "A"
 TO BY-LAW NUMBER _____

LEGEND

- Tree Protection Area 'A'
- Tree Protection Area 'B'

Information Current as of March 2023

Disclaimer:

This map has been created from a variety of sources. The City of Pickering does not make any representations concerning the accuracy, likely results, or reliability of the use of the materials. The City hereby disclaims all representations and warranties.

Data Sources

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