

Tree Preservation in the Town of Markham

Tree Preservation By-law Council Task Force Recommendations

March 4, 2008
Development Services Committee

Status Update

- ◆ On December 4, 2007, staff provided an update on the Proposed Tree Preservation By-law to Development Services Committee
- ◆ On December 11, 2007, Council approved the following recommendations:
 1. That a Tree Preservation By-law Task Force be formed, and
 2. That the Tree Preservation By-law Task Force report back to Development Services Committee

Status Update

- ♦ **The Tree Preservation By-law Task Force included Regional Councillor T. Wong; Regional Councillor J. Heath; Councillor V. Burke; Councillor E. Shapero; Linda Irvine and Carolyn Stobo met on:**
 - 1. December 18, 2007**
 - 2. December 19, 2007**
 - 3. January 16, 2008**
 - 4. February 7, 2008**

Task Force Recommendations

- ◆ **That a 20 cm (8") DBH standard be adopted for the entire Town of Markham (consistent with the neighbouring municipalities).**
- ◆ **(Note: Markham is also covered by the Region of York By-law which protects all woodlots 0.2 ha (0.5 acres) to 1.0 ha (2.47 acres) and woodlands of 1.0 ha (2.47 acres) or greater.)**

Exemptions

Exemptions under the *Municipal Act, 2001*:

1. tree removal undertaken by a municipality or local board.
(By-law to include the definition of a “local board” in the *Municipal Act, 2001*)
2. tree removal as a condition of approval of a site plan
3. tree removal as a condition of a plan of subdivision or consent
4. tree removal as a condition of a development permit
5. woodlots and woodlands covered by the Region of York By-law

Exemptions

ADDITIONAL EXEMPTIONS RECOMMENDED:

- 1. hazard tree removal**
- 2. property standards order removal.**
- 3. emergency work tree removal.**
- 4. maintenance or pruning in accordance with Good Arboricultural Practice.**
- 5. tree removal on rooftop gardens, in indoor courtyards, solariums or raised podiums.**
- 6. nursery business trees.**

DO NOT EXEMPT federal or provincial government activities

Permit System

- ◆ **Removal of trees other than Exempt trees will require a permit.**
- ◆ **PERMIT APPLICATIONS ARE REQUIRED AND SUBJECT TO REVIEW BY BY-LAW ADMINISTRATOR / COORDINATOR FOR:**
 1. **dead, diseased or damaged trees as certified by a qualified tree expert. (Administrator/ coordinator of the By-law has the authority to obtain third-party opinion.)**

Permit System

2. trees that are causing structural damage to load bearing structures, drains or buildings. (With resident to provide proof/evidence of problem and subject to Town inspection and a determination by the Administrator / Coordinator if removal is necessary.)
3. Tree removal associated with a building demolition permit (tree permit subject to parameters being set in permit for tree cutting zone)

Permit System Cont'd

4. Tree removal associated with a building permit for construction of a building or building addition/extension 10 m² or greater (tree removal permit subject to arborist's report confirming removal is necessary)
5. Tree removal associated with an in-ground pool enclosure permit (tree removal permit subject to Administrator / Coordinator being satisfied tree removal is required if there is no reasonable alternative location for the pool)

Permit System Cont'd

6. a tree is a “substantial nuisance” (substantial nuisance to be defined in by-law)

Note: Proposed “Invasive Tree Species” permit has been removed by the Tree Preservation By-law Task Force

Permit Conditions

PERMIT CONDITIONS MAY INCLUDE, WHERE APPROPRIATE:

- ◆ **Provision of a qualified arborist's report**
- ◆ **Replacement plantings for non-residential zoned properties**
- ◆ **Landscape and Restoration Plans**
- ◆ **One or more Tree Management Plans**

Tree Management Plans

- ◆ **Recommendation to allow golf courses and cemeteries etc. to have tree management plans prepared by a qualified arborist and approved by the Town of Markham**
- ◆ **Upon approval, the landowner would have to follow the plan when cutting or planting trees**
- ◆ **Any contravention of the Tree Management Plan would be a contravention of the By-law**
- ◆ **Permits to remove trees would be granted in accordance with the approved plan**

Permit Fees

Examples:

<i>Town of Richmond Hill:</i>	\$150 + \$50 for each extra tree
<i>City of Mississauga:</i>	\$200 - \$400 (depending on # trees)
<i>City of Pickering:</i>	\$100
<i>City of Stoney Creek:</i>	1 tree \$0; 2-10 trees \$25; 11-20 trees \$50, +20 trees \$100
<i>City of Vancouver:</i>	\$25 for 1 tree/year; \$45 for 2nd tree; \$74 for each tree after that
<i>City of Victoria:</i>	\$30
<i>Region of York:</i>	\$25 - \$500 depending on type of cutting

Recommended Permit Fee

- ◆ **Recommended permit fee of \$200 for the first tree and \$100 for each additional tree**
- ◆ **No charge for confirming exemptions from permit applications**
- ◆ **Revenue would be used to offset administration, enforcement and replanting program costs**

Appeals

- ♦ **Appeals to OMB from tree removal permit refusals are no longer available (former section 136 repealed).**
- ♦ **Recommendation that permit refusal appeals be heard by the Town's Licensing Committee.**

Additional Recommendations

- ◆ **By-law to include minimum fines as prescribed by Section 429 of the *Municipal Act, 2001***
- ◆ **Policy to be developed and approved by Council directing staff to seek higher fines than minimum due to environmental impacts and community health concerns associated with tree removal**
- ◆ **By-law to include provisions to seek orders under Section 431 to discontinue or to correct a contravention with other actions such as replanting.**

Staffing Implications

Based on a survey of other municipalities with tree by-laws, the consultant recommends that:

- ♦ **One new permanent full-time position be created (Technical Coordinator in Parks Operations) to administer the by-law and manage the associated educational program**
- ♦ **Staff at the Contact Centre and Town by-law enforcement officers be trained in the scope, application and enforcement of this by-law.**
- ♦ **Future staffing requirements will be determined based on annual monitoring of permit applications, permits approved and enforcement activities.**

Other Staffing Implications cont'd

- ♦ **Bylaw Enforcement has agreed to enforce the By-law using existing resources.**
- ♦ **The Contact Centre has agreed to: be the first point of contact; answer resident inquiries; and take in permit applications.**
- ♦ **Corporate Communications has agreed to assist with the promotion of the educational program using existing marketing tools only.**

Next Steps

- ◆ **Based on the recommendations of the Tree Preservation By-law Task Force, staff will bring forward a final report and Tree Preservation By-law for enactment as soon as possible**
- ◆ **The date the Tree Preservation By-law comes into effect is to coincide with the timing of filling the new Administrator / Coordinator position.**