



TO: Mayor and Members of Council

C. Jim Baird, Catherine Conrad, Peter Loukes and Sheila Birrell

FROM: Linda A. Irvine, Manager, Parks and Open Space Development

DATE: May 22, 2008

Re: TREE PRESERVATION BY- LAW

A handwritten signature in black ink, appearing to read 'Linda A. Irvine', written over the printed name in the 'FROM' field.

At Development Services Committee on May 20, 2008, staff was requested to report back on the following matters:

In-effect Date of this By-law:

Discussions have taken place with staff of Community Services and By-law Enforcement about the possibility of having the by-law come into effect before September 1, 2008, prior to the full-time administrator being hired.

Community Services has indicated that it may be possible to assign certain duties related to the Tree Preservation By-law on an "interim basis" to existing staff to ensure that essential administrative processes and procedures associated with the By-law are in place while the permanent Tree Preservation Technical Coordinator/Administrator is being hired. By-law Enforcement has indicated that they need about a month before enactment of the By-law to prepare their staff.

Based on this, staff recommends that the Tree Preservation By-law come into effect on **June 30, 2008**. The draft By-law attached has been amended accordingly.

Exemption for Dead Trees:

The Tree Preservation By-law has been amended to make it clear that a "dead", "dying" or "diseased" tree is exempt from the By-law. This is defined separately from "Hazard Trees" and means a tree with no living tissue, a tree where seventy (70) percent or more of the crown is dead or a tree infected by a lethal pathogen, as certified by a Qualified Tree Expert.

Process for Exempt Trees:

The By-law has been amended to make it clear that if a tree to be destroyed is or may be exempt, the owner shall obtain prior written confirmation of the Administrator that the tree is exempt and there shall be no requirement for a permit application or fee payable for such

confirmation. Also, the By-law has been amended to make it clear that should the Administrator determine following review of a permit application, that a tree is exempt, then the permit fee shall be refunded to the owner.

Appeals:

The Town of Richmond Hill, City of Vaughan and Region of York enacted their by-laws when there was still provision in the Municipal Act for an appeal to the Ontario Municipal Board which is why these by-laws do not contain specific appeal provisions. These by-laws do not appear to have been updated since the provision of appeals to the OMB was repealed from the Municipal Act.

Staff remains of the opinion that a Committee of Council rather than a staff or citizen committee is best to hear appeals. Consequently, staff continues to recommend that appeals be heard by the Town's Licensing Committee but that this appeal process be monitored for one year after enactment of the By-law and that staff report back to Council on the success (or not) or using the Licensing Committee as the appeal body.

Regular Reporting:

Staff recommends annual reporting on the implementation of the Tree Preservation By-law to Committee and Council regarding the number of permit applications filed, number of contraventions of the by-law, number of orders to discontinue, as well as number of prosecutions and fines.