

Public Release
June 12, 2017



Town of Aurora
Additional Items to
Heritage Advisory Committee
Meeting Agenda

Monday, June 12, 2017
7 p.m., Holland Room

- **Additional Item 4 – Memorandum from Parks, Recreation and Cultural Services, Re: Tree Removal Permit Application – 81 Catherine Ave.**



100 John West Way
Box 1000
Aurora, Ontario
L4G 6J1
Phone: 905-727-3123 ext. 3223
Email: stienkamp@aurora.ca
www.aurora.ca

Town of Aurora
Parks Recreation and Cultural
Services

MEMORANDUM

DATE: June 8, 2017

TO: Heritage Advisory Committee

FROM: Sara Tienkamp, Acting Manager of Parks

CC: Marco Ramunno, Director of Planning and Building Services

RE: **Tree Removal Permit Application – 81 Catherine Ave.**

RECOMMENDATIONS

- 1. That the memorandum regarding Tree Removal Permit Application for 81 Catherine Ave be received; and**
- 2. That the Heritage Advisory Committee provides comment with respect to the proposed Tree Removal Permit Application for 81 Catherine Ave; and**
- 3. That the Heritage Advisory Committee provides direction to Council**

BACKGROUND

The subject property is listed within the heritage conservation district as designated under, Part V of the OHA. Under Tree Protection Bylaw 5850-16, Section 9 (1) (b) states:
If a tree subject to an application is found by the Director to be a Heritage Tree, the director shall not issue a permit unless the injury, destruction or removal is approved by Council following a review by the Town's Heritage Advisory Committee.

The Owner proposes to remove the six (6) mature trees to facilitate the installation of a pool and patio/cooking area under Building permit # PR2017070-POL1.
Four (4) of the trees are located at 81 Catherine and two(2) of the trees are on the adjacent property of 82 Centre St., very close to the property line dividing both properties.
Home owner at 82 Centre is agreeable to the removal of the trees on their property and has given consent on the tree permit application.

The consulting arborist report provided by Griffith Property Services Inc., describes the health of the existing trees and the impact construction will have on their health, provides recommendations for removal.



ATTACHMENTS

Attachment #1 – Tree Removal Permit Application

Attachment #2 – Griffith Property Arborist Report

Attachment #3 – Tree Protection Bylaw 5850-16

TREE PERMIT APPLICATION



APPLICATION # _____

**Application to Permit the
Injury or Destruction
Of Trees on Private Property**

**Town of Aurora
Municipal Drive
Box 1000
Aurora, Ontario L4G 6J1
Phone 905-727-3123**

ext.3222

The personal information on this form is collected under Bylaw 5850-16 and will be used for the purposes of this application only. Questions should be directed to the Freedom of Information Co-ordinator, Office of the Town Clerk, 1 Municipal Drive Box 1000, Aurora, Ontario L4G 6J1, Tel. 905-727-3123 ext. 3222

THIS IS NOT A PERMIT

Instructions for Completion of Application:

1. Application form to be completed by applicant. Please type or print CLEARLY. Incomplete applications will delay approval.
2. Municipal address: Street name and number must be included for applications to be considered complete.
3. Provide an Arborist Report completed by an Arborist as defined in the by-law, at the direction of the Parks Manager.
4. If replanting, provide 2 copies of the replanting plan or landscape plan.
5. Payment of the required fees: See item 12 on page 2 for fee requirements. Written consent is necessary from an adjacent property owner where the base of a tree straddles a property line.
6. If this application is signed by an applicant other than the owner, or by an agent, the written authorization of the owner is required.
7. File this application and other supporting documentation to the Department of Parks and Recreation 100 John West Way Aurora, Ontario L4G 6J1.
8. Applications submitted after 3:30 p.m. local time will not be processed until the next business day.

I am applying for a permit to remove tree/s on private property (please check one)

- Three (3) or more trees 20cm (8 inches) in diameter measured at 1.37 m in a 12 month period
- Two (2) trees have already been removed between 20cm (8 inches) in diameter measured at 1.37 m in a 12 month period and require a permit for the removal of the third (3rd) or more tree/s in the same 12 month period
- One (1) or more tree/s larger than 70cm (30 inches) in diameter measured at 1.37
- One (1) or more tree/s in the designated heritage district
- One (1) or more designated heritage tree/s

APPLICANT INFORMATION

1. Municipal address of subject property: 31 Catherine Ave. Aurora
2. Name of Applicant/Agent: Griffith Property Services Ltd. c/o Jeremy Hamlin
3. Mailing Address of Applicant: 1843 Bethesda Side Road, Richmond Hill, ON L4E 1A2
4. Telephone: 905-888-5084 Work No.: 416-678-2791 Fax: 905-888-5094
5. Name of Registered Owner (if different from above): Craig & Jennifer Bentley
6. Mailing address of Owner (if different from above): _____
7. Existing Land Use: residential
9. Are the tree(s) located on or near any neighbouring property line resulting in the joint ownership of the tree/s. Yes No
10. If yes, do you have authorization from the neighbouring property owner to act as their representative in this application to injure or remove tree(s). Yes No
11. Reason why trees are being injured or removed. Please circle letter:
 - (A) trees interfere with proposed construction
 - (B) Landscaping on the property
 - C. all trees are dead, dying or hazardous
 - D. trees are interfering with utilities/dwelling/foundation
 - (E) installing pool
 - F. other (please specify): _____

TREE PERMIT APPLICATION

12 Fee Requirements:

If all trees are considered dead, dying or hazardous by the Parks Manager

No Fee but permit must still be obtained

Trees over 20cm in diameter

3 trees	\$200.00
4 trees	\$300.00
5 trees	\$400.00
6 trees	\$500.00
7 trees	\$700.00
8 or more trees	\$100.00 per additional tree to a maximum of \$2,500.00

total fees = \$1,300

Trees over 70 centimeters in diameter

\$500.00 per tree x 2

(Methods of payment major credit cards, interact, cash, or cheque fees are non-refundable and must be remitted at the time of initial permit application)

ADDITIONAL REQUIREMENTS

- I am the owner of the property or acting on behalf of the owner with written authorization (attached)
- The property is not a designated Heritage Property under the Town of Aurora designation
- the property is designated Heritage and the Heritage Advisory Committee has approved the injury or destruction of the tree/s as per the attached Approved Heritage Permit
- Applicable fees have been submitted

DECLARATION 1

I/we Jeremy Hamlin hereby declare print name that I have read and understand the required procedures and provisions under the Town of Aurora's Private Tree By-law and the statements and plans made by me upon this application are, to the best of my belief and knowledge, a true and complete representation of the purpose and intent of this application. I consent to allowing Town of Aurora employees to enter the property to conduct inspections

Signed at the Town of Aurora this 6 day of June, 2017

Signature of Applicant: [Signature]

DOES THE TRUNK OF THE TREE/S AT GROUND LEVEL BISECT OR STRADDLE A PROPERTY LINE? YES NO

IF YOU ANSWERED YES PLEASE COMPLETE DECLARATION 2 BELOW

DECLARATION 2

I/we Farshad Ahmadzadeh hereby declare print name That I am the owner of the adjacent property have read and understand the required procedures and provisions under the Town of Aurora's Private Tree By-law and I/we consent to the intentions respecting the proposed work for which this application is being made and that the statements and plans made by me upon this application are, to the best of my belief and knowledge, a true and complete. I consent to allowing Town of Aurora employees to enter the property to conduct inspections

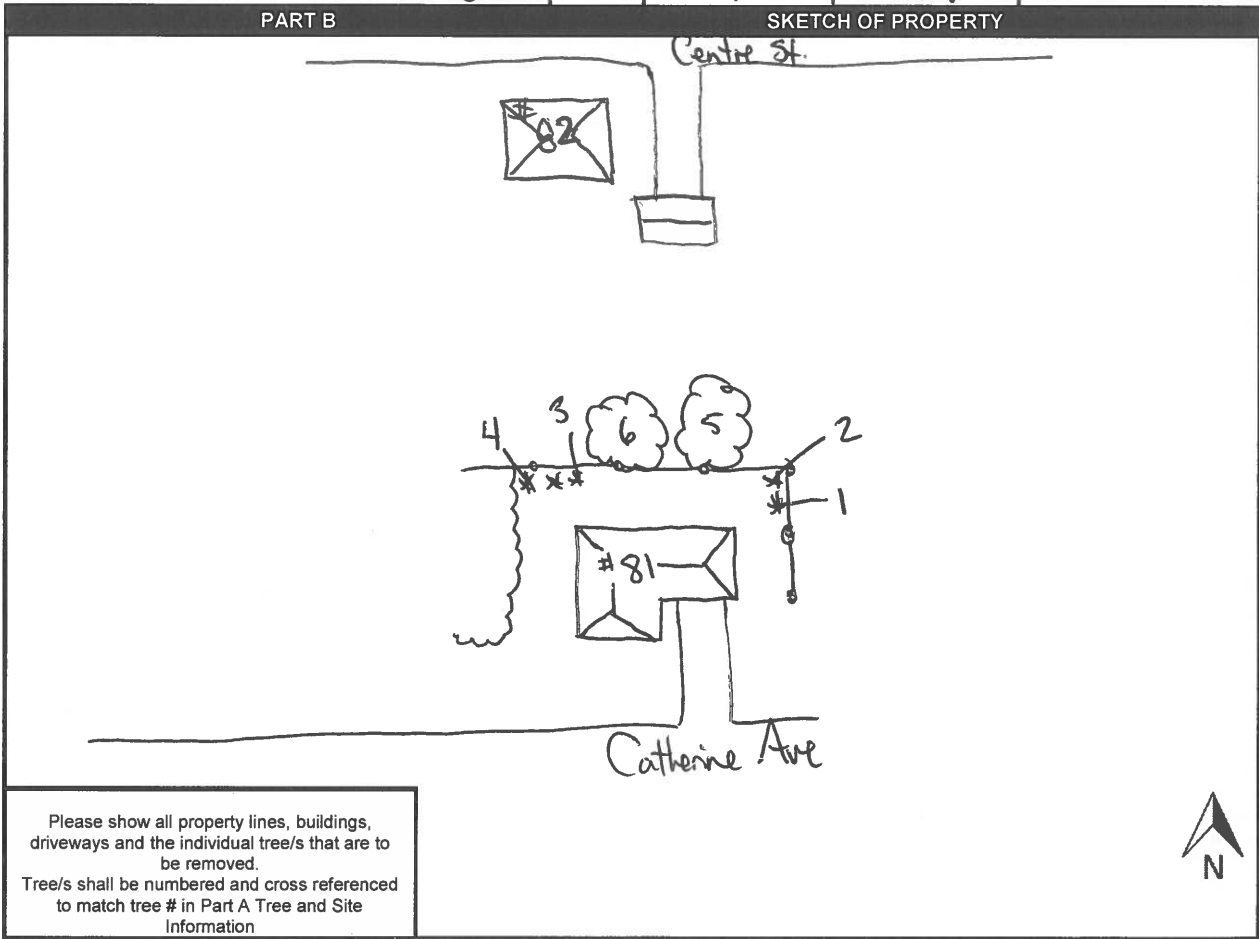
Signed at the Town of Aurora this 06 day of June, 2017

Signature of Adjacent property owner [Signature]

Address 82 Centre St Aurora L4G 1T8

TREE PERMIT APPLICATION

PART A				Tree and Site Information						
TREE #	TREE SPECIES	TREE DIA. IN CM. MEASURED AT 1.37M	DRIP LINE	HEALTH			STRUCTURAL INTEGRITY			
				POOR	FAIR	GOOD	POOR	FAIR	GOOD	
1	Spruce	35	4m		✓		✓ ↔ ✓			
2	Spruce	35	4m		✓		✓ ↔ ✓			
3	Spruce	35	6m		✓		✓ ↔ ✓			
4	Spruce	23	3m		✓		✓ ↔ ✓			
5	maple	147	30m			✓		✓		
6	maple	105	30m	(IF MORE THAN 5 ATTACH ADDITIONAL PAGES)						✓



PART C ARBORIST CONFIRMATION

I / WE Jeremy Hamlin CERTIFY THAT THE INFORMATION IN PARTS A, B & C IS CORRECT
PLEASE PRINT

SIGNATURE (INCLUDES PROFESSIONAL DESIGNATION WHERE APPLICABLE) [Signature] ISA# ON 09916-A
(INCLUDE PROFESSIONAL DESIGNATION and # WHERE APPLICABLE)

NOTE: COMPLETION OF PARTS A, B & C WILL BE RECOGNISED AS AN ARBORISTS REPORT
DATE June 6/17.

Arborist Report



GRIFFITH

PROPERTY SERVICES LTD.

Submitted To:
Town of Aurora
Municipal Drive
Box 1000Aurora, ON
L4G 6J1

Prepared For:
Craig and Jennifer Bentley
75 Hemmingway Cres.
Markham, ON
L3R 2S4

Prepared By:
Griffith Property Services Ltd.
C/O Jeremy Hamlin
ISA Certified Arborist ON 0996-A

Work site:
81 Catherine Ave.
Aurora, ON

Project Overview:

The homeowner will be building a functioning outdoor living space. The space is to include a pool, sitting area and outdoor cooking area, (Town of Aurora Building Division Permit #PR20170707-POL1). In order for this to be possible 5 spruce trees will need to be removed and root damage is likely to occur to adjacent maple trees.

Species:

1. White Spruce (*Picea glauca*) 35cm DBH
2. White Spruce (*Picea glauca*) 35cm DBH
3. White Spruce (*Picea glauca*) 35cm DBH
4. White Spruce (*Picea glauca*) 23cm DBH
5. Red Maple (*Acer rubrum*) 147cm DBH
6. Red Maple (*Acer rubrum*) 105cm DBH

Explanation of Actions:

1. Removal is required to accommodate new landscape construction
2. Removal is required to accommodate new landscape construction
3. Removal is required to accommodate new landscape construction
4. Removal is required to accommodate new landscape construction
5. Removal is desired by both property owners to improve the function of their property, provide a safe environment for outdoor recreation, and eliminate significant costs associated with foreseeable die back following construction.
6. Removal is desired by both property owners to improve the function of their property, provide a safe environment for outdoor recreation, and eliminate significant costs associated with foreseeable die back following construction.



1843 Bethesda Side Road, Richmond Hill, Ontario L4E 1A2

Tel: (905) 888-5084 Fax: (905) 888-5094

Arborist Comments:

Regarding trees 1 through 4- These trees are shallow rooted and have grown in the shade of two large neighboring maples, as a result the foliage is unbalanced and the root plate is anticipated to be very shallow. Construction plans for the yard will certainly create conditions that will no longer be suitable for any of these trees to thrive.

Regarding trees 5 and 6- The two large maples located on the neighbor's property are currently healthy and vigorous with only a few structural concerns. Based on the age and the impending root damage (during pool and landscape construction) the maintenance requirements to preserve these trees will be very substantial. The tree owners and the Bentley's have discussed the long-term impacts and have concluded that removal is the best option for all parties. I have advised them of anticipated costs associated with root protection and future maintenance concerns, as well we have discussed the option of a future removal and how the new pool will impact the cost. I have recommended that removal of both trees is the best option for the future safety of persons and property.

Tree #5



Trees #3 & #4



Tree #6



Trees#1 & #2



THE CORPORATION OF THE TOWN OF AURORA

By-law Number 5850-16

BEING A BY-LAW to prohibit and/or regulate the Injury or Destruction of Trees on Private Property in the Town of Aurora.

WHEREAS subsection 135(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the "Act") provides that a local municipality may prohibit or regulate the destruction or injuring of trees;

AND WHEREAS trees provide real value in the ecological, social, economic and communal fabric of the community;

AND WHEREAS trees are among the most important living organisms in their ability to absorb air pollutants, expel life giving oxygen and provide a host of other environmental goods and services;

AND WHEREAS subsection 135(7) of the Act provides that a municipality may in a by-law require that a permit be obtained to injure or destroy trees and may impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees;

AND WHEREAS the Council of The Corporation of the Town of Aurora (the "Town") desires to repeal By-law Number 4474-03.D, as amended, and enact a new replacement by-law to deal with matters relating to injury and destruction of trees located wholly on private property within the jurisdiction of the Town;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AURORA ENACTS AS FOLLOWS:

1. DEFINITIONS

1.(1) The following words as set out in this by-law shall have the following meanings:

- (a) "Act" means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;
- (b) "Applicant" means the Owner or an authorized agent of the Owner who submits an Application under the provisions of this by-law;
- (c) "Application" means an application for a Permit on a form prescribed by the Director;
- (d) "Arborist" means an expert in the care and maintenance of trees, and includes:
 - (i) an arborist qualified by the Ontario Ministry of Training, Colleges and Universities;
 - (ii) a Forest Technician or Forestry Technologist with an applicable college diploma and a minimum of two (2) years urban forestry experience;
 - (iii) a certified arborist qualified by the Certification Board of the International Society of Arboriculture;
 - (iv) a consulting arborist registered with the American Society of Consulting Arborists;
 - (v) a Registered Professional Forester designated pursuant to the *Professional Foresters Act, 2000*, S.O. 2000, c. 18, as amended; or
 - (vi) such other person with other similar qualifications as approved by the Director;

- (e) "Arborist's Report" means a technical report prepared by an Arborist or Registered Professional Forester which identifies the surveyed location, species, size and condition of a tree, provides the reasons for any proposed Injuring or Destruction of a tree, and describes tree protection measures or other mitigating activities to be implemented;
- (f) "Council" means the Council of The Corporation of the Town of Aurora;
- (g) "Cultivated Orchard" means a property that is used for the dominant purpose of growing and maintaining fruit or nut Trees for the commercial harvesting and sale of their fruits or nuts;
- (h) "DBH" means the diameter at breast height, which shall be the diameter of the trunk of a Tree at a point of measurement 1.37 metres above the ground. DBH of multi-trunk Trees shall be measured as prescribed by the Director. Where a Tree has been cut down and the remaining stump is less than 1.37 metres in height, the DBH shall be the extrapolated as prescribed by the Director;
- (i) "Destroy" and/or "Destruction" means to kill by cutting, burning, uprooting, chemical application, or other means;
- (j) "Director" means the Director of Parks & Recreation Services for the Town or his/her designate;
- (k) "Emergency Work" means work necessary to terminate an immediate threat to life or property and includes maintenance works arising from natural events (e.g. ice storm, high winds, lightning, etc.) as well as maintenance works associated with emergency drain repair, utility repair and building repairs;
- (l) "Golf Course" means a property that is used to commercially operate a golf course in compliance with all applicable laws;
- (m) "Hazard Tree" means a Tree that is a safety concern to property or life but not an immediate threat;
- (n) "Heritage Tree(s)" means any Tree, including but not limited to, pairs of Trees, avenues or windrows of Trees, grove or arboreal remnants, or one (1) or more Trees that form part of a cultural heritage landscape that is on private property and is:
 - (i) located within a heritage conservation district as designated under Part V of the *OHA*;
 - (ii) designated under, or located on a property designated under, Part IV of the *OHA*;
 - (iii) designated by the Ontario Urban Forest Council;
 - (iv) listed on the Town's Register of Properties of Cultural Heritage Value or Interest;
- (o) "Injure and/or Injury" means to damage or attempt to Destroy a Tree by:
 - (i) removing, cutting, girdling, or smothering of its roots;
 - (ii) interfering with its water supply;
 - (iii) setting fire to it;
 - (iv) applying chemicals on, around, or near it;
 - (v) compacting or re-grading within the drip line of it;
 - (vi) causing damage by new development or construction related activities that are not evaluated as part of an approval under the *Planning Act*;
 - (vii) storing any materials within the drip line; or

- (ff) "Tree Inventory and Preservation Plan" means a plan required by the Town as a condition of development or re-development approval pursuant to sections 41, 51, or 53 of the *Planning Act*, which plan determines, among other things, the Trees to be: (i) preserved through an assessment process identifying Trees, shrubs and other specific areas of natural habitat and their ecological function or importance; (ii) the impacts of any proposed development on the Trees, shrubs, and other specific areas of natural habitat and their ecological function or importance; (iii) mitigation measures and measures to protect and manage Trees to be preserved (not limited to protective barriers and/or hoarding); and (iv) proper practices to remove Trees to be destroyed;
- (gg) "Woodlands" means land at least one (1) hectare in area and with at least:
- (i) 1000 trees, of any size, per hectare;
 - (ii) 750 trees, measuring over five (5) centimeters DBH, per hectare;
 - (iii) 500 trees, measuring over twelve (12) centimeters DBH, per hectare; or
 - (iv) 250 trees, measuring over twenty (20) centimeters DBH, per hectare;
- but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees or Nursery Stock;
- (hh) "York Region Forest Conservation By-law" means by-law No. TR-0004-2005-036, as amended, or successor thereto, as enacted by the Region.

2. APPLICATION OF THE BY-LAW

- 2.(1) Except as otherwise provided in this by-law, the provisions of this by-law shall apply to any Tree whose trunk is located wholly on private property.
- 2.(2) Despite subsection (1), the Region shall have jurisdiction over the issuance of any type of permit allowing the Injury or Destruction of Trees on Woodlands.

3. EXEMPTIONS FROM THE BY-LAW

- 3.(1) The provisions of this by-law do not apply to:
- (a) activities or matters within Woodlands that are governed by the York Region Forest Conservation By-law;
 - (b) activities or matters within a building or structure, a solarium, rooftop garden, or an interior courtyard having a soil depth of less than one and a half (1.5) metres above a built substructure;
 - (c) activities or matters undertaken by the Town or a Local Board;
 - (d) activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act, 1994*, S.O. 1994, c. 25, as amended, or successor thereto;
 - (e) Trees having its trunk located wholly or partially on municipal lands;
 - (f) the Injuring or Destruction of Trees within a Tree Farm that are being actively managed and harvested for the purpose for which the Trees were planted;
 - (g) the Injuring or Destruction of Trees within a Cultivated Orchard;

- (viii) any other means resulting from neglect, accident or design;
- (p) "Local Board" means a municipal service board, public library board, transportation commission, board of health, police services board, or any other board, commission, committee, body or local authority established or exercising any power under any legislation with respect to the affairs or purposes of the Town, but does not include a school board, a conservation authority, or a private cemetery corporation;
- (q) "Municipal Law Enforcement Officer" means an individual appointed by the Town by by-law pursuant to subsections 15(1) and 15(2) of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended, for the administration and enforcement of Town by-laws;
- (r) "Nursery Stock" means coniferous or hardwood seedlings, transplants, grafts, or trees propagated or grown in a nursery and with the roots attached, and includes cuttings with or without the roots attached;
- (s) "OHA" means the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended;
- (t) "Owner" means the person having the right, title, interest or equity in the land containing a subject Tree, or his or her agent authorized in writing;
- (u) "Permit" means a permit to Injure or Destroy a Tree issued by the Director;
- (v) "Permit Application Fee" means the prescribed fee as set out in the Town's Fees and Charges By-law, as may be amended from time to time;
- (w) "Person" and/or "Persons" includes a corporation, a partnership, an individual, a public utility and its heirs, executors, directors, or other legal representatives of a person to whom the context can apply according to law;
- (x) "*Planning Act*" means the *Planning Act*, R.S.O. 1990, c. P. 13, as amended;
- (y) "Property" means a parcel of real property under registered ownership;
- (z) "Pruning" means the removal of branches from living Trees by cutting at a point outside the branch collar (but does not include the removal of more than one-quarter (¼) of a Tree's leaf-bearing crown), for the purpose of thinning the crown of a Tree to increase light penetration and air movement, providing clearance and eliminating interference with utility lines, buildings, pedestrians or vehicles, or eliminating dead, hazardous or diseased wood;
- (aa) "Registered Professional Forester" means a member of The Ontario Professional Foresters Association entitled to use the designation of "Registered Professional Forester" pursuant to subsection 14(6) of the *Professional Foresters Act, 2000*, S.O. 2000, c. 18, as amended;
- (bb) "Region" means The Regional Municipality of York;
- (cc) "Town" means The Corporation of the Town of Aurora;
- (dd) "Tree" means any perennial woody plant, including its root system, which has reached or can reach a height of at least four and a half (4.5) meters at physiological maturity and having its trunk located wholly on private property;
- (ee) "Tree Farm" means a property on which Trees are grown and maintained for the dominant purpose of commercial sale;

- (b) to perform Pruning;
- (c) where the Injury or Destruction of a Tree is specifically required in an order made under this by-law, the Act or the Town's Property Standards By-law;
- (d) to Injure, Destroy or remove any Tree located on a Golf Course.

5. DEAD, DISEASED AND HAZARD TREES

- 5.(1) Where a person wishes to Injure, Destroy or remove any dead, diseased or Hazard Tree, or any portion of such a Tree, such a person shall provide to the Town an Arborist certificate, or a report satisfactory to the Director, confirming that any such Tree is dead, diseased or a Hazard Tree along with an application required pursuant to section 8.
- 5.(2) Notwithstanding subsection 8(1), an Application fee is not required to be submitted in relation to an Application relating to a dead, diseased or Hazard Tree. However, should the Director deem a certificate or report provided under subsection (1) to be incomplete, insufficient or deficient in any way, the Director shall not issue a Permit until a satisfactory certificate or report is provided or a new Application is submitted to the Town that satisfies all the requirements of this by-law, including the fee requirement.
- 5.(3) No Injury, Destruction or removal activity shall be taken by any person beyond what is contemplated in any applicable certificate or report provided under subsection (1).

6. EMERGENCY WORK

- 6.(1) Injury, Destruction and removal of any Tree may be conducted without a Permit provided that any such Injury, Destruction or removal was necessary and a part of Emergency Work.
- 6.(2) Following any Emergency Work, the Owner of the property on which Tree(s), for which a Permit would have otherwise been required, affected by any such Emergency Work are located shall, within seventy-two (72) hours of completing or abandoning such Emergency Work, submit evidence satisfactory to the Director that any Injury, Destruction or removal of a Tree was required as part of the Emergency Work.
- 6.(3) The Director has the authority to deem any Injury, Destruction or removal of a Tree, or of any portion of a Tree, done pursuant to subsection (1), to not have been necessary and/or not in the category of Emergency Work based on the materials provided under subsection (2) and any other information deemed relevant by the Director, in which case, the Director may require that a retroactive Permit application be made and/or pursue any enforcement steps permitted under this by-law.

7. ADMINISTRATION

Administration Authority Delegated to the Director

- 7.(1) The Director is hereby delegated the authority and responsibility for the administration of this by-law, including the authority to receive Applications, certificates from Arborists, and any associated fees, to issue, to revoke and to refuse to issue Permits and also to impose conditions on any Permits in accordance with this by-law.
- 7.(2) The Director is authorized to delegate responsibilities for the administration and enforcement of this by-law to any Town staff or external third parties deemed to be qualified and appropriate by the Director for such purposes.

- (h) the Injuring or Destruction of Trees by a person licensed under the *Surveyors Act*, R.S.O. 1990, c. S.29, as amended, or successor thereto, to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- (i) the Injuring or Destruction of Trees imposed after December 31, 2002, as a condition to the approval of an site plan, plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act*, or as a requirement of a development agreement, including a site plan agreement and a subdivision agreement, entered into under those sections (including the Injury or Destruction of a Tree in compliance with a Tree Inventory and Preservation Plan);
- (j) the Injuring or Destructing of Trees imposed after December 31, 2002, 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;
- (k) the Injuring or Destruction of Trees by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A, as amended, or successor thereto, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (l) the Injuring or Destruction of Trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended, or successor thereto;
- (m) the Injuring or Destruction of Trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land:
 - (i) that has not been designated under the *Aggregate Resources Act* or predecessor legislation; and
 - (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*;

4. PERMIT REQUIREMENT

4.(1) Unless otherwise exempted under this by-law, no person shall permit or cause the Injury or Destruction of:

- (a) more than two (2) Trees on any one Property less than 0.25 hectares in area within any twelve (12) month period having a trunk diameter of more than twenty (20) centimetres DBH and less than seventy (70) centimeters DBH;
- (b) on Properties greater than 0.25 hectares in area, more than two (2) Trees per every 0.25 hectares of area on a given Property within any twelve 12 month period having a trunk diameter of more than twenty (20) centimeters DBH and less than seventy (70) centimeters DBH
- (c) any Tree having a trunk DBH greater than seventy (70) centimeters; or
- (d) any Heritage Tree;

without first obtaining a Permit pursuant to this by-law.

4.(2) Where a Permit has been issued under this by-law, no person shall permit or cause the Injury or Destruction of any Tree unless it is done in accordance with the conditions of the Permit and any other supporting documentation relevant to the issuance of the Permit.

4.(3) Despite subsection (1), a Permit is not required:

- (a) to Injure, Destroy or remove any Tree, or a part of a Tree, as a necessary part of Emergency Work pursuant to section 6;

Enforcement

- 7.(3) The Director and Municipal Law Enforcement Officers of the Town are hereby delegated the authority to enforce this by-law, including the authority to conduct inspections of Tree(s) pursuant to the exercise of their authority under this by-law and any other enacted Town by-law or legislation.

Fees

- 7.(4) All fees and charges pursuant to this by-law may be set by the Town's Council from time to time and shall be set out in the Town's Fees and Charges By-law.

8. PERMIT APPLICATIONS

Permit Application Requirements

- 8.(1) Where an Applicant applies for a Permit for the Injury or Destruction of a Tree(s), he/she shall submit the following to the Director:
- (a) an Application form completed to the satisfaction of the Director;
 - (b) the name, address and telephone number of the Owner;
 - (c) Application fee;
 - (d) description of the purpose for which the Permit is required;
 - (e) an Arborist's Report, if deemed to be required by the Director;
 - (f) where the trunk of a Tree straddles a property line, the written consent to the Permit issuance from the property owner(s) on whose property the affected Tree is partially located; and
 - (g) where the Applicant is not the Owner, the written authorization of the Owner consenting to the Application;
 - (h) any other information deemed necessary by the Director.

Director's Authority to Refund and Waive Fees

- 8.(2) Notwithstanding 8(1)(c), should the Director determine that a Permit is not required for an activity, matter or Tree subject to an Application or that such activity, matter or Tree is exempt from this by-law, any application fee submitted as part of such an Application shall be refunded to the Applicant, unless it is determined by the Director, at his/her discretion, that Town staff had expended considerable time and resources to process such Application due to an error on the part of the Applicant.
- 8.(3) Notwithstanding 8(1)(c), the Director is authorized to reduce or waive the Application fee if deemed appropriate, at his/her discretion.

False or Misleading Information

- 8.(4) No person shall submit false or misleading information in support of an Application. Together with any other penalties or fines that may be otherwise imposed, if such false or misleading information is found to have been submitted in support of an Application, the Director will have the authority to refuse any such Application under consideration by the Town and to revoke any Permit issued by the Town on the basis of any such false or misleading information.

9. ISSUANCE OF A PERMIT

Permit Approval Process

- 9.(1) Upon receipt of an Application, the Director shall:
- (a) Make a decision as to whether or not a Permit will be issued and whether any conditions will be imposed on such a Permit considering the following:
 - (i) the species of the Tree;
 - (ii) the condition of the Tree;
 - (iii) the location of the Tree;
 - (iv) the protection of ecological systems and their functions, including the protection of native flora and fauna;
 - (v) erosion, sedimentation of watercourses, and flood control;
 - (vi) impacts to surrounding properties, including loss of shade, vistas or privacy;
 - (vii) any public comments received;
 - (viii) comments received from such persons, staff and agencies as deemed necessary, in the Director's opinion, for the proper review of the Application;
 - (ix) whether or not a Tree is a Heritage Tree;
 - (x) any conflicts with existing agreements or plans of the Town; and
 - (xi) any other information that the Director deems to be relevant to the Application.
 - (b) If a Tree subject to an Application is found by the Director to be a Heritage Tree, the Director shall not issue a Permit unless the Injury, Destruction or removal is approved by Council following a review by the Town's Heritage Advisory Committee.
 - (c) If the Director determines that a Permit will not be issued pursuant to an Application, the Director shall notify the Applicant of the decision in writing and provide reasons for the refusal.

Signage

- 9.(2) Upon receipt of an Application, the Director may Post an informational sign, as established by the Director, relating to the Application in a conspicuous place at or near the property on which the Tree subject to the Application is located and leave such sign in place for a period determined by the Director.
- 9.(3) No person shall temper with or remove any sign posted pursuant to subsection (2), unless following an Application, a Permit is issued and work pursuant to such Permit is completed, a Permit is issued and expires or it is otherwise directed by the Director.

Permit Not Issued

- 9.(4) A Permit shall not be approved or issued where:
- (a) a Tree to be Injured or Destroyed is an endangered species as defined in the *Endangered Species Act, 2007*, S.O. 2007, c. 6, as amended, or the *Species at Risk Act*, S.C. 2002, c. 29, as amended;
 - (b) approval would be in contravention of the *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22, as amended;
 - (c) issuance of a Permit is under the jurisdiction of the Region and/or addressed under the York Region Forest Conservation By-law; or
 - (d) approval is inconsistent with an approved Tree Inventory and Preservation Plan.

Subdivision Not Yet Draft Approved

- 9.(5) Where an Application is made with respect to a Tree that is located on land that is subject to an application for a subdivision approval or a consent that has not received a draft approval or a provisional consent, the Director shall not issue a Permit until such approval or consent is obtained or Application otherwise approved by Council.

Planning Application Not Approved

- 9.(6) Where an Application is made with respect to a Tree that is located on land that is subject to a re-zoning application, an application for site plan approval, or an application to amend the official plan that has not received final approval, the Director shall not issue a Permit until such approval or consent is obtained or Application otherwise approved by Council.

Permit Approved Subject to Conditions

- 9.(7) The issuance of a Permit may be subject to conditions imposed by the Director or Council, as the case may be, which may include any or all of the following requirements:
- (a) submission of a Vegetation Management Plan ("VMP"), satisfactory of the Director, prepared by a certified Landscape Architect and, if required by the Director or Council, an Arborist and the VMP may include, but not be limited to, the following:
 - (i) a vegetation inventory and assessment, including species size and condition, identifying all vegetation greater than 80mm DBH for individual Tree assessments, the perimeter at canopy of woodlands, groups or stands of vegetation, and trees and vegetation on adjacent properties that may be impacted;
 - (ii) identification of all vegetation removals and protection measures for vegetation designated to be preserved, including an impact assessment to support vegetation removals and/or preservation measures;
 - (iii) provision of compliance monitoring and protection/mitigation specifications including all arboricultural requirements for Trees designated to be preserved during construction;
 - (iv) provision of post-construction performance monitoring and rehabilitation specifications;
 - (v) an estimate of the monetary replacement value of the Tree(s) as set out in the International Society of Arboriculture ("ISA") Guide for Plant Appraisal or approved equivalent completed by an Arborist and financial compensation, paid to the Town based on the aforementioned ISA appraisal process for Tree(s)/vegetation lost or destroyed; and
 - (vi) provision for replacement plantings at another suitable location on the property including provision of cash securities in an amount equal to one-hundred and twenty percent (120%) of the cost of replanting and maintaining the Trees for a period of two (2) years or where restoration planting is not physically possible on the site for which the Permit is being issued, provision of a cash payment to the Town to be placed in the Town's Tree Planting reserves for future Tree planting by the Town in an alternative location in the Town of Aurora;
 - (b) the submission of a written undertaking and release to ensure that replacement plantings are carried out and maintained in accordance with landscaping and restoration plans approved by the Director; and/or
 - (c) undertaking that the tree cutting work only occur under the supervision of an Arborist.

Permit Expiry Date

- 9.(8) The Director shall include an expiration date on any Permit being issued by Town, which shall not exceed one (1) year from the date of issuance, upon taking into account the work to be completed under the Permit and any third party or Town activities or interests that might be affected by the work. No Injury or Destruction activity is permitted pursuant to any Permit after the expiration date.

10. APPEALS

- 10.(1) Where the Director refuses to issue a permit, an Applicant may, within five (5) business days of the date of receipt of a written refusal, appeal the decision of the Director to the Council, or such other tribunal or committee designated by Council, by submitting a written request to the Town Clerk.

11. SEVERABILITY

- 11.(1) If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid or to be of no force and effect, it is the intention of the Town in enacting this by-law that such provision or part of a provision shall be severable, and such a decision shall not affect the validity of the remaining sections, subsections, clauses or phrases of this by-law.

12. ENFORCEMENT**Power of Entry – Inspection**

- 12.(1) The Director and/or a Municipal Law Enforcement Officer may, at any reasonable time, enter on any land for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) this by-law;
 - (b) direction or order made pursuant to this by-law or the Act;
 - (c) condition of a Permit issued under this by-law; or
 - (d) an order made under section 431 of the Act.
- 12.(2) For the purposes of an inspection under subsection (1), the person conducting the inspection may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 12.(3) The Director and/or a Municipal Law Enforcement Officer may undertake an inspection pursuant to an order issued under section 438 of the Act.
- 12.(4) Submission of an Application is deemed to be a consent of the Owner for persons designated as an inspector by the Canadian Food Inspection Agency, pursuant to the *Plant Protection Act*, S.C. 1990, c. 22, as amended, or successor thereto, to inspect the lands subject to the Application for the presence of pests (as defined in the said legislation) and to take any and all action deemed appropriate by such an inspector, including the removal of any

Tree(s) on such private property of the Owner, in accordance with the said legislation.

Contravention Orders

12.(5) Where the Director or any Municipal Law Enforcement Officer is satisfied that a contravention of this by-law or a Permit has occurred, such Director or Municipal Law Enforcement Officer may make an order requiring that the person who caused or permitted such contravention or the Owner or occupier of the land on which the contravention occurred to discontinue the contravening activity and/or to do work to correct the contravention.

12.(6) An order pursuant to subsection (5) shall set out the following:

- (a) the municipal address and/or the legal description of the land or property on which the contravention occurred;
- (b) reasonable particulars of the contravention;
- (c) what is required of the person subject to the order (i.e., what activity is to be seized and/or actions or work to be done);
- (d) the date by which there must be compliance with the order and/or, if any work is ordered, the date by which any such work must be done;
- (e) if any work is required to be done, a statement that if such work is not done in compliance with the order and within a specified time period, the Town will have the work done at the expense of the person directed or required to do it; and
- (f) information regarding the Town's contact person.

12.(7) An order issued pursuant subsection (5) may be served:

- (a) personally on the person that is subject to the order; or
- (b) by sending it by prepaid registered mail to the last known address of the Owner or occupier of the land on which the contravention occurred or, if the person subject to the order is not the Owner or occupier, to the last known address of such person subject to the order.

12.(8) Where service of an order is made by registered mail, the service shall be deemed to have been made on the fifth (5th) day after the day of mailing.

12.(9) In the event that service of an order cannot be effected under subsection (7), the Director or a Municipal Law Enforcement Officer may place a placard containing the terms of the order in a conspicuous place on the property subject to the order and the placing of the placard shall be deemed sufficient service of the order on the Owner and/or occupier of such subject property.

12.(10) Wherever this by-law or an order issued under this by-law directs or requires any matter or thing to be done by any person within a specified time period, in default of it being done by the person directed or required to do it, the action may be taken under the direction of Director or a Municipal Law Enforcement Officer at that person's expense and the Town may recover the costs incurred through a legal action or by recovering the costs in the same manner as taxes.

12.(11) For the purposes of taking remedial action under subsection (10), the Town, its staff and/or its agents may enter, at any reasonable time, upon any lands on which a default to carry out a required thing or matter occurred.

13. OFFENCES

13.(1) Any person who contravenes any provision of this by-law or an order issued pursuant to this by-law or the Act, or fails to comply with an order issued pursuant to this by-law or the Act, is guilty of an offence.

13.(2) Pursuant to paragraph (a) of subsection 429(2) of the Act, all contraventions of this by-law or of orders issued under this by-law are designated as multiple offences and continuing offences. A multiple offence is an offence in respect of two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this by-law. For greater certainty, when multiple Trees are Injured or Destroyed, the Injury or Destruction of each Tree is a separate offence.

14. PENALTIES

14.(1) Upon conviction of an offence under this by-law a person is liable to a fine as follows:

- (a) a minimum fine for any offence under this by-law is five-hundred dollars (\$500.00) and the maximum fine is one-hundred-thousand dollars (\$100,000).
- (b) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be five-hundred dollars (\$500.00) and the maximum fine shall be ten-thousand dollars (\$10,000.00). Despite paragraph (a), the total of all the daily fines for an offence is not limited to one-hundred-thousand dollars (\$100,000).
- (c) in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be five-hundred dollars (\$500.00) and the maximum fine shall be ten-thousand dollars (\$10,000.00). Despite paragraph (a), the total of all fines for each included offence is not limited to one-hundred-thousand dollars (\$100,000).

14.(2) In addition to fine under subsection (1), a person convicted of an offence under this by-law may be liable to a special fine in the amount of the economic advantage or gain that such a person obtained from the contravention of this by-law.

15. REPEAL

15.(1) By-law Number 4474-03.D, as amended, is hereby repealed on the day of this by-law coming into full force and effect.

16. SHORT TITLE


16.(1) This by-law shall be known and may be cited as the "Private Tree Protection By-law".

17. EFFECTIVE DATE

17.(1) This by-law comes into full force and effect on May 24, 2016.

READ A FIRST AND SECOND TIME THIS 24th DAY OF MAY, 2016.

READ A THIRD TIME AND FINALLY PASSED THIS 24th DAY OF MAY, 2016.

*Approved as to Form
By Legal Services*
Signature: 
Date: May 15, 2016

GEOFFREY DAWE, MAYOR

LISA LYONS, TOWN CLERK