

Item:



## Committee of the Whole Report

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**DATE:** Tuesday, March 05, 2019

**WARD(S):** ALL

**TITLE: TREE BY-LAW AMENDMENTS RELATED TO TREE REMOVAL  
ON GOLF COURSES AND NURSERIES**

**FROM:**

Mary Reali, Deputy City Manager, Community Services

**ACTION:** DECISION

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### **Purpose**

After the adoption of a new [Tree By-law](#) 052-2018 and Tree Protection Protocol (2018) on March 20, 2018, staff explored whether golf courses and tree nurseries should continue to be exempt from the permitting process for tree removal. Staff now seek Council approval to discontinue the exemption for golf courses and tree nurseries, provide for a new exemption for nurseries relating to the trees purposely grown by nurseries for sale, as well as introducing language to further protect any trees identified under any other regulations.

### **Report Highlights**

- The proposed amendments will continue to ensure the protection of the City's tree canopy, while enabling golf courses and tree nurseries to continue to carry out the required tree removal required for their business activities.

### **Recommendations**

1. That Council adopt the recommendations provided in Attachment 1 of this report; and
2. That Council authorize staff to undertake any other actions required to implement the recommendations of this report, including any consequential amendments to other related by-laws and processes.

## **Background**

Council adopted a new Tree By-law 052-2018 and Tree Protection Protocol (2018) in March 2018, in line with requirements of Bill 68 and the Municipal Act to protect and enhance our municipal tree canopies. Council also directed staff to explore whether golf courses and nurseries should continue to be exempted from the requirement to obtain Tree Removal Permits or whether they should be required to obtain permits, in line with what is required from other private property owners.

## ***Stakeholder engagement and research***

By-law and Compliance, Licensing and Permit Services (BCLPS) staff proceeded to consult with members of the public, golf course owners and operators, tree nurseries, other City departments, such as from Transportation Services and Parks and Forestry Operations (TSPFO), Policy Planning and Environmental Sustainability and Development Planning. The Regional Municipality of York (York Region) was also engaged with respect to their Forest Conservation By-law 2013-68 and staff also engaged other local municipalities with respect to their regulations.

## ***What we heard from members of the public***

Staff considered input received from calls and emails from the public, as well as from public consultations. Through these channels, staff heard from various residents, including members of Keep Vaughan Green, the Village of Woodbridge Ratepayer's Association, West Woodbridge Homeowner's Association and the Kleinburg and Area Ratepayer's Association (KARA). The following concerns were expressed:

- **Clear-cutting in advance of sale:** By giving golf courses an exemption to the tree permitting process, golf courses might clear-cut trees on their land in advance of selling their property to a developer, so that the developer would not be required to undergo the municipal replacement and/or compensation requirements for development in the City.
- **Land development processes:** Unclear about the process of land development in the City as it pertains to evaluation of whether trees can be removed and/or requirements to replace trees or make cash-in-lieu payments.
- **Role of York Region:** Role of York Region in managing the tree canopy was unclear.
- **Harsher penalties for contraventions:** KARA suggested that fines for contraventions of the by-law should be increased, such as suggesting a fine of up to \$25,000 rather than \$10,000 for a first conviction, as well as increases of all fines.

- **Greater tree protection:** KARA also suggested greater tree protection on golf courses and special heritage areas.

### ***What we heard from tree nurseries***

Staff reached out to six tree nurseries in the City of Vaughan, including Tarantino Nursery, Terra Greenhouses, Angelo's Garden Centre, Weston Garden Center, Woodhill Garden Centre and Ontario Tree Farms. Most expressed that they did not grow trees in the ground and instead obtained them from other nurseries; those that grew their own trees explained that they often grew them in pots and/or sometimes stored them in dugout areas of the ground in order to protect roots from pests and cold weather. Trees purposely planted for future harvest and sale are clearly distinguishable.

In addition, the Thornhill Club golf course explained that their property is about 150 acres in size, and includes a fairly dense forest with ravines, gulleys and valleys, as well as several tree nurseries. They explained that they currently work with the Region to remove any of the trees addressed by the Regional by-law, such as "woodlands" and "woodlots", outside of the nursery.

The general consensus among stakeholders was that a Tree Removal Permit should not be required for nursery trees which are being removed for the purpose of sale, however that other trees on the property could be required to undergo the permitting process.

### ***What we heard from golf courses***

Staff reached out to eight golf courses, including Carrick Macross, Copper Creek, Eagles Nest, Maple Downs, National Golf Club of Canada, The Country Club, Thornhill Club and Uplands. Golf courses expressed the following:

- **The priority of tree care:** Every golf course stressed the importance of maintaining a healthy green space as a basic standard for golf courses, with each maintaining arborists, horticulturalists or other staff whose core responsibilities include maintaining a healthy green environment throughout the year. As well, as trees are considered an asset to golf courses green space and its attractiveness as a course, excessive tree removal is not in the interest of any golf course.
- **Tree removal permits from York Region:** The golf courses explained that they already work within York Region's tree removal permitting process for any trees on areas that are considered "woodlands", as per the Region's Forest Conservation By-law. York Region explained that a permit under By-law 2013-68 is required for the removal of woodland trees in golf courses. Part of the permitting process may be to request a "tree management plan" which includes the courses' plans for tree planting, removal, moving and other related activities.

- **Trends in the North American golf course industry:** Golf course operators explained that operators are not always golf course owners, and that over the last decade, they have seen a decline in levels of business, which has led to the closing of many North American courses as well as sale of portions of golf course lots for development. In instances where lands are sold, golf courses undergo the same development process as any developer and are subject to the appropriate tree requirements for removal and replacement.
- **Exemptions for course health and course playability:** These stakeholders explained that trees are often removed to support the health of other vegetation in that area, such as grasses (e.g. golf greens) or other plantings, as well as are sometimes removed and/or moved during course re-design. As this is part of golf courses regular maintenance and business activities, courses raised a concern that the introduction of a permitting process would have an adverse effect on their ability to operation their business and maintain that they continue to be exempted from Vaughan's Tree Removal Permit process.
- **Tree removal timelines:** Several golf courses noted that tree removal generally takes place in the winter months, in preparation for their busy spring and summer seasons. They also noted that if a permit process is required, that it would be important for it to be expedient in order to not disrupt business operations.

### ***Tree regulation in other municipalities***

Staff reviewed a number of jurisdictions to learn how they addressed golf courses in their tree legislation, specifically with respect to their provisions for tree removal. Municipalities reviewed including Hamilton, London (Ontario), Markham, Niagara Region, Ottawa, Richmond Hill, Toronto, Vancouver and York Region.

Three of nine municipal by-laws, (Markham, London, and Toronto) have specific provisions for golf courses around tree removal, including the following:

- **Provisions specifically for golf courses:** These by-laws include specific provisions for larger areas of land, such as cemeteries, golf courses, and "like commercial or institutional uses", with Toronto having a special provision for tree removal which exempts golf courses from a tree removal permit when trees are removed to maintain plant health and/or playability of course areas.
- **Tree plans:** These by-laws also require that golf courses submit an acceptable tree or forestry plan that addresses replacement of trees, in accordance with "good arboricultural practice", which Markham defines as, " the proper implementation of removal, renewal and maintenance activities known to be appropriate for individual trees in and around urban areas to minimize detrimental impacts on urban forest values, and includes pruning of trees to remove dead limbs, maintain structural stability and balance, or to encourage their natural form, provided that such pruning is limited to the appropriate

removal of not more than one-third of the live branches or limbs of a tree, but does not include pruning to specifically increase light or space”.

### ***York Region’s forest management and tree removal permitting***

[York Region](#) has managed forests since the early 1900s, which now include 18 tracts of forest on public land. Activities include installing and removing certain trees to enhance soil and shade conditions, in order to support the health of various native plants.

As per the Region’s [Forest Conservation By-law 2013-68](#), as amended, forests on private lands are also protected, requiring landowners to apply for a permit for any treed areas greater than 0.2 hectares, referred to as “woodlots” and “woodlands” depending on their size. For woodlots and woodlands, lot owners must apply for a permit to remove healthy trees, such as to maintain the health of the forest (such as for the practice of “tree thinning”) or for other reasons, such as to maintain the playability of courses; in the latter case, York Region advised that if a tree is allowed to be removed, this often requires additional tree planting on other areas on the property in proportion to the number and size of trees.

The Region’s staff have also explained that once a property owner has a *Planning Act* application and an approved agreement, then the owner is exempt from York Region’s Forest Conservation By-law, as per Section 3.1. At this time, the City’s Policy Planning and Environmental Sustainability department, who manages natural heritage matters under the City of Vaughan Official Plan 2010, would partake in the review of the application.

### ***Vaughan’s tree regulations and tree removal permitting***

The City’s [Tree By-law](#) requires that a permit be obtained to remove trees on private property that are 20 cm or more in diameter, however advises that a permit is not required to:

- prune or trim trees;
- remove dead branches;
- remove trees in the event of an emergency, such as if a tree becomes an imminent safety hazard;
- remove trees on rooftop gardens, interior courtyards, or solariums; and
- remove trees on golf courses and tree nurseries.

Tree Removal permit applications are submitted to TSPFO for review and approval. Key points of the permitting process are as follows:

- **Cost:** Tree removal applications are \$115 for non-residential trees.
- **Processing time:** Staff will process an application within 30 working days.
- **Removal fees:** If a tree removal is approved, a “removal fee” of \$142 per tree will apply, except for instances where a tree is deemed to be dead, hazardous or dying.

- **Tree replacement:** All tree removals will require replanting (except for those which are dead, hazardous or dying) within 12 months of the permit date. The number of replacements per tree is proportional to the diameter at the base of the original tree, with between one and four trees being generally required, along with other conditions related to species, quality and health.
- **When trees cannot be replaced:** If staff determine that the number of trees cannot be accommodated on site, applicants can make a cash-in-lieu payment to the Forestry Tree Reserve Fund, which will be reinvested into the tree canopy.

### ***Land development Vaughan and impact on trees***

In this period of rapid development and urbanization, the City continues to balance protection of the tree canopy with the need for trees to be removed and replaced, with the ongoing development of new homes, buildings and other structures to support our growing population and business community.

In the instance that an applicant would like to develop structures on property in the City, they are required to go through the Draft Plan of Subdivision and/or Site Plan Control processes with Development Planning. As part of this process, the following steps are taken with respect to tree protection:

- Following Council Approval of the Development Application, the applicant enters into a Tree Protection Agreement with the City that requires applicant to conduct a detailed Tree Inventory/Assessment and provide an Arborist Report identifying the trees that are to be removed and evaluate the replacement tree requirements as per City's tree compensation standard.
- Provide a Tree Preservation Plan identifying the protected trees and their Tree Protection Zones (TPZs).
- Post securities to ensure that the Tree Preservation Plan is implemented as per the Agreement.
- As part of this agreement, TSPFO conducts two inspections, with the first after the installation of the tree protection works and the final to ensure works have been completed in accordance with the terms of the Tree Protection Agreement, after which securities are released.

As such, this process is intended to ensure that removed trees are replaced either onsite or in another location.

### **Previous Reports/Authority**

[REVIEW OF CITY PROCESSES FOR PROTECTION OF TREES](#), Item 10, CW Report No. 26, June 27, 2017.

[REVIEW OF CITY PROCESSES FOR PROTECTION OF TREES](#) , Item 2, CW Report No. 10, March 20, 2018.

[TREE REMOVAL – STAKEHOLDER ENGAGEMENT AND RESEARCH PLAN FOR GOLF COURSES AND NURSERIES](#), Item No. 23, CW Report No. 14, April 11, 2018.

[THE COUNTRY CLUB, 20 LLOYD STREET, WOODBRIDGE – TREE PROTECTION](#), Item 48, CW Report No. 21, June 19, 2018.

### **Analysis and Options**

Below, staff have listed recommendations and reasoning, with the aim of supporting comprehensive and transparent tree canopy management, while ensuring services and regulations that support efficient operations for golf courses and tree nurseries.

***Table – Recommendations and impacts***

<b>No</b>	<b>Recommendation</b>	<b>Impact on trees</b>	<b>Impact on golf courses and nurseries</b>
1	To support the following recommendations, define the terms: <ul style="list-style-type: none"><li>• Golf Course</li><li>• Golf Course Owner</li><li>• Golf Course Operator</li><li>• Tree Nursery</li><li>• Protected Tree (a tree which is already protected by regulations outside of City jurisdiction, such as York Region’s Forestry By-law)</li><li>• Trees Grown for Sale</li><li>• Tree Management Plan</li><li>• Tree Nursery Owner</li><li>• Tree Nursery Operator</li></ul>	Ensure all trees are protected by one set of regulations, such as by the City or the Region, eliminating confusion about which regulations apply.  Acknowledge that some trees are protected by other regulations, building public awareness as to agencies that must be consulted with respect to tree injury or removal.	Establish clearer responsibilities for golf courses, tree nurseries and other businesses, as well as other persons who are considering tree removal.
2	Remove the blanket exemption for golf courses and tree nurseries from the tree removal permit process, however amend the by-law to advise that a	This will ensure all trees are protected in a consistent manner for all residents and businesses within the City.	Golf courses and tree nurseries will continue to be able to prune trees and remove dead trees without a permit.

No	Recommendation	Impact on trees	Impact on golf courses and nurseries
	<p>tree removal permit is not required for:</p> <ul style="list-style-type: none"> <li>• a Tree Nursery for those trees defined as “Trees Grown for Sale”;</li> <li>• A Golf Course for those trees removed to support the health of surrounding vegetation or playability of the course.</li> </ul>		<p>Nurseries will now be clearly allowed to remove any Trees Grown for Sale without a permit, thus ensuring their business can continue to operate.</p> <p>Golf Courses will be allowed to remove trees only for the health of vegetation or playability purposes.</p> <p>For all other trees, golf courses and nurseries will undergo the tree removal permit process, in line with other residents and businesses in the City.</p>
3	<p>There is existing regulation from the Region, Toronto and Region Conservation Authority (TRCA) and other areas that already protect some trees, as detailed in the by-law, and it can be unclear which regulations apply.</p> <p>Staff recommend amending the by-law to advise that Protected Trees, i.e., those trees whose removal are governed by other regulations, are not subject to by-law.</p>	<p>This will reduce confusion on which regulations apply to which trees, such as York Region for woodlands and woodlots, TRCA for specific areas or the City of Vaughan.</p>	<p>Golf course and tree nurseries will continue to work with the appropriate agencies to evaluate tree removal, such as York Region, the TRCA and the City.</p> <p>The only change would be that Golf Course and Tree Nurseries would now be subject to the City’s tree removal permitting process, rather than exempt, for other trees</p>



No	Recommendation	Impact on trees	Impact on golf courses and nurseries
			in Vaughan (except for Trees Grown for Sale other those removed to support the health of vegetation or playability).
4	Amend the by-law to advise that staff may request a Tree Management Plan as a component of the application, which provides information about which trees will be removed, moved and planted, timelines for changes, which qualified persons will be undertaking changes, and how the ecosystem will be protected.	<p>For lots where staff request this, this will enable greater understanding of the tree management, contributing to greater tree protection.</p> <p>In addition, in the event where any investigations are required, this plan will provide an additional tool to understand the tree canopy on a particular lot.</p>	<p>If submitting tree removal applications to the City (for trees to be removed for purposes other than the health of surrounding vegetation or playability), golf courses can utilize or expand upon their existing tree management plans, such as those that are submitted to the Region for their tree removal processes.</p> <p>For golf courses, nurseries or other businesses which do not have extensive tree canopies, staff may decide that this is not required.</p>

### **Financial Impact**

The requirement for golf courses and tree nurseries to apply for tree removal permits will likely result in an increase in applications, and thus, an increase in required staff time for review, site inspection and associated activities, as well as increased revenue for permit fees. As there are currently only a handful of golf courses and tree nurseries within the City, the financial impact is anticipated to be minimal.

## **Broader Regional Impacts/Considerations**

These amendments will enable the City of Vaughan tree protection regulations to work better in tandem with York Region and the TRCA, ensuring complementary tree protection for all trees. In addition to supporting tree protection at municipal and regional levels, it will ensure regulations that support the viable operation of the City's golf courses and tree nurseries, with appropriate oversight to ensure a clear understanding of mechanisms being applied to protect trees.

## **Conclusion**

These amendments will ensure the City of Vaughan prioritizes tree protection in collaboration with other public agencies and that the City continues to support a viable business environment for golf courses and tree nurseries.

**For more information**, please contact: Gus Michaels, Director, By-law and Compliance, Licensing and Permit Services Department, ext. 8735.

## **Attachments**

1. Proposed Amendments

## **Prepared by**

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