



Corporate By-law
By-law Number 008-2005

AUTHOR: Shelley Vescio, City Forester
SUBJECT: Tree By-law
MEETING DATE: City Council - February 14, 2005
Authorization: Committee of the Whole - January 31, 2005 - Report No. 2005.018 (Parks)



THE CORPORATION OF THE CITY OF THUNDER BAY

BY-LAW NUMBER 008-2005

A By-law to authorize and regulate the planting, care, maintenance, protection, preservation and removal of public trees on municipal property, and to ensure the sustainability of the urban forest at various sites in the City of Thunder Bay, in the District of Thunder Bay.

Recitals:

1. Subsection 11(5) of the *Municipal Act, 2001* provides authority to municipalities for the control and regulation of parks, including trees within parks.
2. Section 44 of the *Municipal Act, 2001* provides that municipalities are responsible to maintain highways in a reasonably safe condition.
3. Sections 135 through 141 of the *Municipal Act, 2001* provide authority to municipalities to regulate the cutting of, planting of, and general maintenance of trees.
4. Sections 62 and 137 of the *Municipal Act, 2001*, authorize municipal officers to enter onto

private property, in prescribed circumstances, for the purposes of enforcement of tree by-laws.

5. Section 138 of the *Municipal Act, 2001* authorizes the imposition of penalties for the commission of an offence under a tree regulatory by-law.

THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

ARTICLE ONE: DEFINITIONS, INTERPRETATION

1.01 Definitions: Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this Section 1.01. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.

- (a) “**Accepted Arboricultural Standards and Practices**” are recommended methods and techniques based on scientific research or experience that have proven to be effective and/or defined by the relevant and current American National Standard Institute for Tree Care Operations.
- (b) “**Affect**” means fertilize, prune, plant, disturb or alter.
- (c) “**Applicant**” means any person **applying** for permission to take any action authorized by this By-law to be taken with the Corporation’s permission.
- (d) “**By-law**” means this by-law, as it may be amended from time to time. The Recitals and Schedules to this By-law are considered integral parts of it.
- (e) “**Corporation**” means The Corporation of the City of Thunder Bay.
- (f) “**Construction**” includes reconstruction.
- (g) “**Council**” means the elected municipal council for the Corporation.
- (h) “**Damage**” means mark, cut, break, debark, deface, damage or in any manner injure (short of destruction).
- (i) “**Drip Line**” means the outer boundary of an area on the surface of the ground that corresponds to the outer edge of the crown of a tree.
- (j) “**Emergency Personnel**” means any or all of: a police officer, a member of a fire protection or fire suppression service, a medical doctor, a nurse, a paramedic, or the staff or administration of any Public Utility.
- (k) “**Highway**” means every road and every road allowance under the Corporation’s authority, whether open or unopened, within Thunder Bay. The road allowance includes all of the property that makes up the road, including the traveled roadway, the shoulders, curbs, boulevards and sidewalks within the road allowance.
- (l) “**Manager**” means the General Manager of the Department of Community Services of the Corporation, or his or her designate.
- (m) “**Municipal Act, 2001**” means the provincial legislation cited as S.O. 2001, c. 25, as amended from time to time, including successor legislation.
- (n) “**Municipal Law Enforcement Officer**” means a member of any Police Service with jurisdiction in Thunder Bay or any person appointed by the Corporation for the enforcement of municipal by-laws.

- (o) **“Municipal Property”** means any and all land owned by the Corporation, including: Highways, parks, trails, planned properties, any of the Corporation’s facilities, and open space lands.
- (p) **“Private Property”** means any and all land in Thunder Bay which is not Municipal Property.
- (q) **“Public Utility”** means a board, commission or corporation, including a municipal corporation that owns or operates a Public Service.
- (r) **“Public Service”** means works supplying utilities and similar services and includes: works for the production, supply and transmission of gas, oil, sewer, water and electric power or energy, street signs and street lighting, and all telephone, cable television and other telecommunications lines.
- (s) **“Public Tree”** means any Tree or Woody Shrub, for which the trunk is totally or partially located on Municipal Property.
- (t) **“Qualified Arborist”** means a person in possession of one of the following:
- (i) a valid International Society of Arboriculture Certification as an Arborist;
 - (ii) a Journeyman Arborist Trades Certification from the Ontario Ministry of Education and Training with both a Certificate of Apprenticeship and a Certificate of Qualification; or
 - (iii) a diploma signifying successful graduation from a Community College level program specializing in Arboriculture and/or Ornamental Tree Care; or
 - (iv) qualifications considered by the Manager to be the equivalent to those set out in a, b and c.
- (u) **“Thunder Bay”** means the geographic area within the jurisdiction of the Corporation.
- (v) **“Tree”** means any woody plant of a species which at maturity is usually five (5) or more metres in height, having one or more self-supporting trunks, and the term includes the whole and/or all parts of: the roots, branches, trunk, and crown.
- (w) **“Tree Planting Details”** means the Corporation’s standards for tree planting, maintained by the Engineering Services Division of the Transportation & Works Department.
- (x) **“Tree Planting Guidelines”** means the Corporation’s standards for tree planting, maintained by the Parks Division of the Community Services Department, entitled “Guidelines and Specifications for the Planting of Boulevard Trees”.
- (y) **“Tree Protection Details”** means the Corporation’s standard for tree protection, maintained by the Engineering Services Division of the Transportation & Works Department.
- (z) **“Tree Protection Standards”** means the Corporation’s standards for tree protection, maintained by the Parks Division of the Community Services Department.
- (aa) **“Tree Pruning Guidelines”** means the Corporation’s standards for tree pruning of public trees by homeowners, maintained by the Parks Division of the Community Services Department, entitled “Guidelines for Pruning Municipal

Trees”.

(bb) “Tree Value” means the monetary value of a tree as determined through the most current methods and procedures established by the International Society of Arboriculture, the Council of Tree and Landscape Appraisers or any other specifications adopted by the Corporation.

(cc) “Urban Forest” refers to the City’s total complement of owned Trees on Municipal Property

(dd) “Woody Shrub” means any woody plant of a species which at maturity is usually less than five (5) metres in height, having usually more than one self-supporting stems, and the term includes the whole and/or all parts of: the roots, branches, stems, and crown.

1.02 Interpretation Rules:

(a) Wherever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.

(b) References to items in the plural include the singular, as applicable.

(c) The words “include”, “includes”, and “including” are not to be read as limiting the phrases or descriptions that precede them.

(d) Words in this By-law requiring a person to act include the requirement or authority to cause or permit the action in question to be done by others.

1.03 Severability: If a court or tribunal of competent jurisdiction declares any portion of this By-law to be illegal or unenforceable, that portion of this By-law will be considered to be severed from the balance of the By-law, which will continue to operate in full force.

1.04 References to Legislation: Each reference to Provincial legislation in this By-law is printed in *Italic font* and, unless otherwise specified, is a reference to the Revised Statutes of Ontario, 1990 edition, and, in every case, includes all applicable amendments to the legislation, including successor legislation. Each reference to a By-law in this By-law, unless otherwise specified, is a reference to a By-law of the Corporation, and, in every case, includes all applicable amendments to the By-law, including successor by-laws.

ARTICLE TWO: PHILOSOPHY

2.01 Tree Preservation: The Corporation adopts a philosophy which seeks to preserve rather than remove Public Trees wherever possible and expedient.

2.02 Explanation: In determining whether something is “possible and expedient” as outlined in Section 2.01, the Manager shall consider:

(a) the feasibility of relocating facilities to preserve the Tree;

(b) the use of alternate technologies for the facility or Construction that would, if implemented, preserve the Tree;

- (c) the availability of the alternate technologies noted in (b) above in Thunder Bay;
- (d) whether prudent advance planning could have preserved the Tree; and
- (e) the cost associated with any feasible preservation alternatives.

ARTICLE THREE: AUTHORITY OF THE MANAGER IN IMPLEMENTING THIS BY-LAW

3.01 Assignment: The Manager is assigned the authority for the implementation of this By-law.

3.02 Planting and Transplanting: The Manager is authorized to plant or transplant any and all Public Trees on Municipal Property. Article Four of this By-law applies.

3.03 Care and Maintenance: The Manager is authorized to care for and maintain all Public Trees. Care and maintenance includes: pruning; fertilizing; providing support systems; and implementing preventative measures to protect Public Trees from insect or disease problems.

3.04 Removal of Objects: The Manager has the authority to remove any object or thing that has been placed on Municipal Property and which adversely affects a Public Tree. Unless the object or thing results in a hazard (in which case, Section 7.07 will be utilized), seventy-two (72) hours' verbal notice under Section 7.03 shall be provided. The notice shall be sent to either or both of the owner of the object (where ownership can be reasonably determined) or the owner of the Private Property nearest the offending object or thing. The notice shall require the person notified to remove the object or thing within the notice period. Where the notice period expires and the person notified has not taken steps to remove the object or thing adversely affecting a Public Tree, the Corporation shall remove the object or thing without any further requirement to provide notice or compensation to any person. The Manager has the authority to extend the notice period prescribed by this Section in circumstances where people wish to comply but require more time to do so, and the Tree in question will not suffer irreparable damage through the time extension. In no case, however, can the notice period exceed six (6) months.

3.05 Removal of Non-Viable Public Trees: The Manager may remove Public Trees which are dead, which are no longer viable to maintain, or which, for any reason, constitute a hazard or a potential hazard to the public. In implementing this Section, the Manager shall have due regard to Article Two of this By-law.

3.06 Removal/Injury of Public Trees: Emergencies: The Manager may authorize the removal of, or any injury to, Public Trees where same is required to facilitate emergency work. In implementing this Section, the Manager shall have due regard to Article Two of this By-law.

3.07 Removal of Healthy Public Trees: The Manager may remove healthy Public Trees

following the conditions outlined in Article Five of this By-law.

3.08 Removal of Public Trees That Contravene the By-law: Any Public Tree planted or growing on Municipal Property contrary to the provisions of this By-law, or contrary to any Council-approved agreements, may be removed by the Manager.

3.09 Requests By Others to Prune Public Trees: Any person may apply to the Manager for permission to prune small branches on a Public Tree in accordance with the Tree Pruning Guidelines, or to have a Qualified Arborist prune the branches or roots of Public Trees. Public Utilities are exempt from a requirement to obtain permission, subject to Section 6.10. This Section does not operate to prevent the City from embarking on its own programs with respect to Public Trees which may or may not involve Qualified Arborists.

3.10 Conditions: When approving any application for any permission authorized by Sections 5.01, 5.03 or 5.05 of this By-law, the Manager will impose the following conditions:

- (a) Adherence to the Tree Protection Standards and/or other standards approved by Council;
- (b) Payment of the removal costs of the Public Tree;
- (c) Payment of the tree stump removal costs, if applicable;
- (d) Payment for the purchase and planting of two trees, of the minimum size and quality required by the Tree Planting Guidelines, to replace the Public Tree that is removed; and
- (e) Where any replacement tree is on Municipal Property adjacent to the applicant's property, responsibility for the watering of that replacement tree for a two-year period.

3.11 Standards: All work done to or in the vicinity of Public Trees under the Authority of this By-law or otherwise must conform to the Tree Protection Standards, Tree Protection Details, Tree Planting Details, Tree Planting Guidelines, and Tree Pruning Guidelines, as applicable. The Manager has the authority to inspect Municipal Property, and, where standards are not adhered to, to issue written notice by way of an Order to any person involved in the work. The Order shall specify the nature of the non-compliance and require correction within a reasonable time frame.

3.12 Appeal to Council: Any Applicant for permission for any matter governed by this By-law whose application is turned down by the Manager may appeal that denial to the Council. The Applicant must make a request for deputation before the Council (sitting as committee of the whole) in accordance with the requirements of the Corporation's procedure by-laws.

ARTICLE FOUR: PUBLIC TREE PLANTING

4.01 Approval of Planting Public Trees: Any person who wishes to plant a Tree on Municipal Property, making it a Public Tree by definition, must apply to the Manager for

permission to do so. Approval by the Manager will include the planting location, species, and source of stock, size and condition. Adherence to the standards referenced in Section 3.11 is required.

ARTICLE FIVE: PUBLIC TREE REMOVAL, CONDITIONS AND COMPENSATION

5.01 Requests for Removal or Alteration of Public Trees by the Public: Any person who wishes to remove or Affect a Public Tree, for reasons other than those covered by Sections 5.03 and 5.05 must apply to the Manager for permission to do so. The Manager shall not grant applications for permission to remove a Public Tree unless in the opinion of the Manager all alternatives to removal have been explored and exhausted or there are exceptional circumstances which warrant such removal. Section 3.10 applies.

5.02 Requests for Removal of Public Trees from Highway for Public Service Construction: Any person who wishes to remove or alter a Public Tree for the purpose of Construction being undertaken by a Public Utility must apply to the Manager for permission to do so. The Manager may direct the removal of any Public Tree which, in the opinion of the Manager, warrants removal, and, in particular, where the Public Tree in any way interferes with or endangers Public Services. Article Two applies. A landscape plan or tree replacement plan must be received that is satisfactory to the Manager.

5.03 Requests for Removal of Public Trees from Highway for Driveway Construction in Urban Residential and Suburban Residential Land Use Designations: Any person who wishes to remove or alter a Public Tree for purposes of driveway Construction on lands designated as urban residential or suburban residential by the City's Official Plan must apply to the Manager for permission to do so. The Manager shall not grant applications for permission to remove a Public Tree when, in the opinion of the Manager, practical or economic alternatives for proper access exist. When evidence has been provided by the owner to the Manager that no other practical or economical option for proper access is possible, the Manager may direct the removal of a Public Tree from a highway which, by its very existence, denies an owner of Private Property abutting a Highway proper access to the property. Section 3.10 applies. The location of any replacement Public Tree will either be determined by the Manager, in circumstances when Site Plan Control is not required, or in accordance with Site Plan Control approval in circumstances when Site Plan Control is required.

5.04 Requests for Removal of Public Trees for Highway Construction: Any person who wishes to remove or alter a Public Tree for the purpose of Highway Construction being undertaken by the Corporation must apply to the Manager for permission to do so. The Manager may direct the removal of any Public Tree for Highway Construction, only after all alternatives to removal are explored and exhausted and all current technologies are considered for protection of existing Trees. Any plan for Highway Construction shall illustrate those Public Trees which are required to be removed due to the Construction, together with a report on the number, species and size of Public Trees being removed and the number, types and sizes of Public Trees which will replace those being removed. The

tree replacement plan must be satisfactory to the Manager.

5.05 Requests for Removal of Public Trees for Land Development: Any person who wishes to remove or alter a Public Tree for the purposes of land development must apply to the Manager for permission to do so. The Manager may direct the removal of any Public Tree for land development, only after a plan is received that includes documentation of the Trees to be removed, and a landscape plan or tree replacement plan that is satisfactory to the Manager.

ARTICLE SIX: OFFENCES AND ENFORCEMENT

6.01 Affect Public Tree Without Consent: It constitutes an offence to Affect a Public Tree, either above ground or below ground, without the prior written consent of the Manager. Adherence to the standards referenced in Section 3.11 is required.

6.02 Public Utility Exemption: Section 6.01 does not prevent the pruning of Public Trees by any Public Utility as necessary to comply with safety regulations and to maintain safe operation of its facilities provided that:

- (a) At least three business days prior to commencing any pruning, the Public Utility provides the Manager with written notice of its intention to prune;
- (b) The pruning is carried out in accordance with Accepted Arboricultural Standards and Practices; and
- (c) The Public Utility follows any specific directions of the Manager as to how the work shall be carried out.

The Manager may order the Public Utility to stop any pruning performed by a Public Utility if appropriate arboricultural practices are not being followed.

6.03 Emergencies: Where removal or pruning of a Public Tree is determined to be necessary by Emergency Personnel responding to an emergency situation, such Public Tree or part of it may be cut or removed without first obtaining written authorization to do so. Emergency Personnel shall notify the Manager of the emergency and work done on the Public Tree as soon as possible but no later than three days after the removal or pruning of the Public Tree.

6.04 Damage a Public Tree: It constitutes an offence to Damage a Public Tree, or any part of a Public Tree, above ground or below ground.

6.05 Apply Substance to or Near Public Tree: It constitutes an offence to place, apply or spray any substance other than water on or near any Public Tree. An exception will be made for properly applied control measures around Public Trees which are placed to control insect infestations and removed before the end of that year's growing season.

6.06 Harmful Substances: It constitutes an offence to cause or permit any gaseous, liquid or solid substance which is harmful or toxic to Public Trees to come into contact with any

Public Tree.

6.07 Harmful Activity: It constitutes an offence to undertake any activities on Municipal Property or on Private Property in the vicinity of a Public Tree which are contrary to the Tree Protection Standards.

6.08 Posting: It constitutes an offence to tack, paste or attach a bill, note, sign or poster or any other thing to a Public Tree, or to any stake, post, guard or other object supporting a Public Tree.

6.09 Attachments: It constitutes an offence to use any part of any Public Tree to secure or support any object, structure or animal.

6.10 Municipal Policies and Programs: Sections 6.08 and 6.09 do not operate to prohibit activities that are sanctioned by the Council through policies or programs for beautification or otherwise. For example, the placement of strings of lights in Public Trees in strict accordance with the conditions approved under the Corporation's "decorative tree lighting protocol" would not violate Section 6.08 or Section 6.09. Any person relying upon this exemption must ensure that he or she adheres to any conditions, guidelines or regulations respecting the program (including, for example, the location of electrical cords), and shall at all times ensure that he or she does not create a safety hazard.

6.11 Fire: It constitutes an offence to set or maintain a fire, or to permit another to set or maintain a fire where its location will cause damage, by either flame or heat, to any part of a Public Tree.

6.12 Protective Devices: It constitutes an offence to interfere in any way with fences, boxes or other protective devices placed around Public Trees.

6.13 Failure to Eliminate Hazard: It constitutes an offence to fail to comply with notice issued under Section 9.02 of this By-law.

6.14 Failure to Adhere to Standards: It constitutes an offence to fail to comply with notice issued under Section 3.11 of this By-law.

6.15 Destroy or Remove a Public Tree: It constitutes an offence to destroy or remove a Public Tree without the City's prior authorization.

6.16 Activity Contrary to Conditions: Where any person has been granted any permission pursuant to this By-law, it constitutes an offence to take activity under that permission which is contrary to the conditions under which the permission was granted.

ARTICLE SEVEN: ENFORCEMENT AND PENALTIES

7.01 Penalties: Any person convicted of an offence created by this By-law is subject to the penalties prescribed by the *Provincial Offences Act*.

7.02 Enforcement: This By-law may be enforced by any Municipal Law Enforcement Officer, or any other person duly appointed by law.

7.03 Verbal Notices: Where verbal notice is required pursuant to this By-law, it shall be provided by telephone or direct conversation. Verbal notice requires discussion directly with the person to whom the notice is addressed, and shall not be considered to have been delivered by messages left with other persons or left electronically.

7.04 Written Notices: Where written notice is required pursuant to this By-law, it shall be either personally delivered to the recipient, delivered to an appropriate mail receptacle at the address, or provided by regular, first class mail to the owner of the Private Property affected at the last address known to the Corporation through the municipal assessment rolls. Where the address of the owner is different than the address of the Private Property affected, and the Private Property is occupied as a residence, notice shall also be provided to the address of the affected Private Property, addressed to "occupant".

7.05 Deemed Receipt of Notice: Verbal notice under Section 7.03 is deemed to have been received by the person notified at the time of the conversation held. Written notice which is mailed under Section 7.04 is deemed to have been received by the person notified five (5) business days after the mailing of the notice. Written notice which is personally delivered to the recipient under Section 7.04 is deemed to have been received by the person to whom it was hand delivered at the time of delivery. Written notice which is delivered to an address but not handed to a person is deemed to have been received by the person to whom it was addressed on the business day next following the date of delivery.

7.06 Entry to Private Property: Where a person fails to comply with notice issued under Section 9.02 of this By-law, the Manager is authorized to enter onto the land and do, or cause to be done, any acts deemed necessary to eliminate the hazard, including removal of the Tree.

7.07 Entry to Private Property (Emergency Basis): Where, in the opinion of the Manager, a Tree is in such a condition that it constitutes an imminent danger to public safety associated with persons using a Highway, the Manager may enter onto the Private Property without notice, and do, or caused to be done, any acts considered necessary to eliminate the danger, including removal of the Tree. Where, in the opinion of the Manager, a Tree is in such a condition that it constitutes an imminent danger to public safety associated with persons using Municipal Property other than a Highway, the Manager shall take steps on the Municipal Property to isolate the danger and may, upon seventy-two (72) hours' verbal notice, enter onto the Private Property, and do, or caused to be done, any acts considered necessary to eliminate the danger, including removal of the Tree.

7.08 Cost Recovery: Where the Manager does carry out, or causes to be carried out, work pursuant to Sections 7.06 or 7.07 of this By-law, subject to the requirements of the *Municipal Act*, the cost of doing the work is a debt due and owing to the Corporation by the owner of the Private Property. This debt may be added to the municipal tax roll for the Private Property and collected as municipal taxes.

ARTICLE EIGHT: DAMAGE TO PUBLIC TREES

8.01 Costs for Damaged Public Trees: Any person who accidentally, negligently or willfully damages a Public Tree shall reimburse the Corporation for the cost of treatment. Alternatively, and with the Manager's prior written authorization, the person who caused the damage may cause the Public Tree to be repaired by a Qualified Arborist, and shall in those circumstances bear the cost of repairs, materials and labour.

8.02 Costs for Replaced Public Trees: Where a Public Tree is irreparably damaged (as determined by the Manager in his or her sole discretion), the person who caused the damage must replace the Tree. The conditions to be imposed by the Manager under Section 3.10 apply in these circumstances as if the person who caused the damage had applied for permission to do so. Where the damage was caused willfully, cost for the Tree Value will be also be applied. The time and location of tree planting will be determined by the Manager.

8.03 Remedies Cumulative: The damages and costs payable under Sections 8.01 and 8.02 of this By-law are in addition to, and not in substitution for, the payment of any penalty imposed by a court of law for the commission of an offence under this By-law or any other applicable legislation.

ARTICLE NINE: PUBLIC NUISANCE FROM PRIVATE TREES

9.01 Prevention of Hazards: Every person owning, occupying or controlling land or premises in Thunder Bay shall ensure that Trees on his, her or its property do not constitute hazards to members of the general public utilizing Municipal Property.

9.02 Removal of Hazards: Where a Tree exists which, in the opinion of the Manager, constitutes a hazard to members of the general public utilizing Municipal Property, the Manager shall provide written notice by way of an Order to any person owning, occupying or controlling Private Property upon which that Tree is located. The Order shall require that person to carry out any work necessary to eliminate the hazard within a minimum notice period of seven (7) days.

9.03 Restrictions/Notices: Where the Manager issues notice under Section 9.02 of this By-law, he or she shall, in addition, secure the Municipal Property that is affected by the hazard.

ARTICLE TEN: GENERAL PROVISIONS

10.01 Repeal: By-law No. 78-1972 is repealed.

10.02 Force and Effect: This By-law shall come into force and take effect upon the date of its final passing.

Enacted and passed this 14th day of February, A.D. 2005 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Andrew Bentz

Acting Mayor

Rosalie A. Evans

Acting City Clerk

Read a First and Second time this 14th day of February, A.D., 2005

Read a Third Time and finally passed this 14th day of February, A.D., 2005



Corporate By-law

By-law Number 144-2006

- AUTHOR:** Dwight Gessie, Manager - Parks
Parks, Community Services
- SUBJECT:** Amendment to By-law 8-2005 being a By-law to authorize and regulate the planting, care, maintenance, protection, preservation and removal of public trees on municipal property, and to ensure the sustainability of the urban forest at various sites in the City of Thunder Bay, in the District of Thunder Bay with respect to Article 5 – Public Tree Removal, Conditions and Compensation – Item 5.03 and add Item 5.06 respecting “discretion with respect to the imposition of conditions for a certain class of suburban development”.
- MEETING DATE:** **City Council - December 18, 2006**
- Authorization:** Report No. 2006.205 (Parks) to COW October 16, 2006



THE CORPORATION OF THE CITY OF THUNDER BAY

BY-LAW NUMBER 144-2006

Recital:

1. It is deemed necessary and expedient to amend By-law Number 8-2005 of The Corporation of the City of Thunder Bay, by Resolution dated October 16, 2006, with respect to Article 5 – Public Tree Removal, Conditions and Compensation – Item 5.03 and add Item 5.06 respecting “discretion with respect to the imposition of conditions for a certain class of suburban development”.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

1. THAT By-law 8-2005 Article 5 – Public Tree Removal, Conditions and Compensation Item 5.03 is amended by deleting the following section:

5.03 Requests for Removal of Public Trees from Highway for Driveway Construction in Urban Residential and Suburban Residential Land Use Designations: Any person who wishes to remove or alter a Public Tree for purposes of driveway Construction on lands designated as urban residential or suburban residential by the City's Official Plan must apply to the Manager for permission to do so. The Manager shall not grant applications for permission to remove a Public Tree when, in the opinion of the Manager, practical or economic alternatives for proper access exist. When evidence has been provided by the owner to the Manager that no other practical or economical option for proper access is possible, the Manager may direct the removal of a Public Tree from a highway which, by its very existence, denies an owner of Private Property abutting a Highway proper access to the property. Section 3.10 applies. The location of any replacement Public Tree will either be determined by the Manager, in circumstances when Site Plan Control is not required, or in accordance with Site Plan Control approval in circumstances when Site Plan Control is required.

And substituting with the following:

5.03 Requests for Removal of Public Trees from Highway for Driveway Construction in Certain Urban Residential and Suburban Residential Land Use Designations: Any person who wishes to remove or alter a Public Tree for purposes of driveway construction on all lands designated as urban residential or on those lands designated suburban residential within plans of subdivision registered after January 1, 1970 as shown in the City's Official Plan must apply to the Manager for permission to do so. The Manager shall not grant applications for permission to remove a Public Tree when, in the opinion of the Manager, practical or economic alternatives for proper access exist. When evidence has been provided by the owner to the Manager that no other practical or economical option for proper access is possible, the Manager may direct the removal of a Public Tree from a highway which, by its very existence, denies an owner of Private Property abutting a Highway proper access to the property. Section 3.10 applies. The location of any replacement Public Tree will either be determined by the Manager, in circumstances when Site Plan Control is not required, or in accordance with Site Plan Control approval in circumstances when Site Plan Control is required.

2. AND THAT By-law 8-2005 be further amended with respect to Article 5 – Public Tree Removal, Conditions and Compensation by creating Item 5.06 and by inserting the following section:

5.06 Requests for Removal of Public Trees from Highways for Driveway Construction in all Other Suburban Residential Lands Not Covered in 5.03: Any person who wishes

to remove or alter a Public Tree for the purposes of Driveway Construction on lands designated suburban residential outside of plans of subdivision registered after January 1, 1970 as shown in the City's Official Plan must apply to the Manager for permission to do so. The Manager shall not grant applications for permission to remove a Public Tree when, in the opinion of the Manager, practical or economic alternatives for proper access exist. When evidence has been provided by the owner to the Manager that no other practical or economical option for proper access is possible, the Manager may direct the removal of Public Trees for up to two 9 metre-wide entrances from a highway which, by its very existence, denies an owner of Private Property abutting a Highway proper access to the property. Section 3.10 does not apply.

3. By-law 8-2005 is hereby amended.

4. This By-law shall come into force and take effect upon the final passing thereof.

Enacted and passed this 18th day of December, A.D. 2006 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Iain Angus

Acting Mayor

John S. Hannam

City Clerk

