

Tree Canada

STEPS IN TREE PROTECTION

There are some basic steps in the protection of trees, most of which involves your local authorities.

- *Step 1*

There are a number of basic tools that every municipality should have in place to protect its trees. These include:

- Implementing the best management practices for urban forests - compendium of these practices [can be found here](#)
- Formulating a strategic plan for the management of the urban forest
- Articulating a tree policy
- Passing a tree cutting bylaw
- Preparing a registry of heritage trees
- Ensuring that qualified personnel be in place, and
- An informed Council through presentations from time to time on the value of urban trees to their communities

If your municipality does not have these tools in place you should work with your Council to ensure it does. **The most basic requirements of a modern municipality are a tree cutting bylaw, a registry of heritage trees and the hiring of qualified personnel (usually with certification from the International Society of Arboriculture and/or a provincially-based forestry body).**

- *Step 2*

If a tree cutting bylaw is in place, find out if it requires a permit to be obtained and if neighbours can be informed when the permit is being considered.

- *Step 3*

Understand in advance, the reasons for why the tree(s) is being cut down and whether all possible alternatives have been considered prior to its removal. Speak to a Certified Arborist to get information on the subject.

- *Step 4*

Get to know your municipal and elected officials in advance to ensure prompt action. Know who on Council may be sympathetic and who truly understands the value of trees.

City of Toronto

A permit is required to remove, cut down or in any other way injure a tree with a diameter of 30 cm (12 inches or the approximate thickness of a telephone pole) or more on private property. The tree diameter measurement must be taken at 1.4 m (4.5 feet or approximately at chest height) above ground level. It applies to trees on all land use types including, single family residential properties.

City of Vancouver

Protection of Trees Bylaw 9958

This bylaw affects all private property owners in Vancouver wanting to remove a tree.

If you want to remove a tree, you need a tree removal permit for every tree that has a diameter (width) of 20 cm or greater, measured at 1.4 m above the ground. A tree trunk with a diameter of 20 cm will have a circumference of approximately 64 cm.

Port Coquitlam

Significant trees are defined in four categories:

NATIVE TREE SPECIES • Pacific Dogwood – diameter at least 10 cm (4") • Douglas Fir – diameter at least 70 cm (28") • Sitka Spruce – diameter at least 70 cm (28") • Grand Fir – diameter at least 70 cm (28") • Western Red Cedar – diameter at least 70 cm (28") • Arbutus – diameter at least 70 cm (28") • Western Yew – diameter at least 10 cm (4")

WILDLIFE TREES • Any tree currently being used for bird nesting. • Any dead standing snag or hazardous trees being used as wildlife habitat.

HERITAGE TREES • Any tree designated and registered by size, age or cultural significance on a list of heritage trees.

SPECIMEN TREES • Any unusual specimen tree as designated and registered by a Certified Arborist upon inspection.



An Introduction to the City of Kelowna Tree Protection Bylaw No. 8041

The purpose of this information bulletin is to introduce you to the provisions of the Tree Protection Bylaw No. 8041 which Kelowna City Council adopted on April 14, 1997 and amended in May 1998.

Trees provide important environmental benefits and enhance the quality of life in our City. This bylaw stems from concern of residents of Kelowna to prevent the removal of trees within environmentally sensitive areas including steep slopes and stream corridors.

Under the Kelowna Tree Protection Bylaw, applications for tree removal will be assessed for tree protection measures. Private property owners, developers, designers or contractors applying for a tree cutting permit should be familiar with the requirements of the tree protection bylaw.

The information provided here is intended for convenience only and cannot be used as a substitute for the Kelowna Tree Protection Bylaw No. 8041.

Legislative Mandate

In response to growing public concerns about the need to have regulatory powers to protect trees, the Provincial government amended the Municipal Act in July 1992 to enable municipalities to pass local tree protection bylaws. Recognizing that the needs, resources and circumstances of municipalities vary greatly throughout the province, the legislation allows each municipality to determine to what extent it wishes to establish regulations for tree cutting.

When is a Tree Cutting Permit Required?

The issuance of a Tree Cutting Permit is required in order to cut down a **protected tree** on those lands designated as **tree protection areas**.

A **protected tree** is defined in the bylaw as all coniferous and deciduous trees with a diameter greater than 150 mm (6 inches) measured 1 m above ground level. A **tree protection area** is defined as a stream corridor Leave Strip area and/or a hillside with a slope of 30% or greater within a **Natural Environment/Hazardous Condition Development Permit Area**, as identified on Map 13.2 of the Official Community Plan.

A **stream** is defined in the bylaw as a natural watercourse or source of water supply, whether usually containing water or not, ground water, lake, river, creek, spring, ravine, swamp and gulch.

A Tree Cutting Permit is also required for lands listed in **Schedule A - Tree Cutting Permit Areas** of Bylaw No. 8041. Please consult the bylaw for further information.

When is a Tree Cutting Permit Not Required?

A Tree Cutting Permit is not required:

- a) when the Director of Planning and Development Services approves, in writing, the removal or pruning of a **dead, diseased or damaged tree** as identified by a qualified person;
- b) for the emergency removal of a **dangerous or hazardous tree** which is likely to become in the immediate future a danger to people or property. The Director of Planning and Development Services must be notified immediately.

A **qualified person** is defined in the bylaw as a professional engineer, landscape architect or a certified arborist.

Delegation of Authority

The enabling legislation provides for Council to designate an employee or officer to act on Council's behalf by applying some discretion when administering the provisions of a tree protection bylaw, subject to any limits and conditions as established by Council. The intent of this provision is to address unique circumstances that may arise on individual properties and to expedite the approval process.

The Kelowna Tree Protection Bylaw makes provision for City Council to delegate authority to the **Director of Planning & Development Services** to issue tree cutting permits.

Tree Cutting Permit Requirements

If the applicant proposes to cut down any protected tree, an application for a permit must be made in writing to the City of Kelowna **Planning & Development Services Department** and must supply all of the following information unless a requirement is waived by the Director of Planning & Development Services:

- a) a **site plan** showing the legal boundaries and dimensions of the property;
- b) the **location of each protected tree** or group of protected trees on the property within a stream corridor Leave Strip area and/or area of slope with a grade equal to or greater than 30% (tree protection area), including trees located within two metres of the property line on an adjacent property;
- c) a site plan clearly identifying which **tree(s)** are **requested to be cut down**;
- d) a site plan clearly identifying which **tree(s)** are **to be retained**;
- e) a replacement plan showing the proposed **location of proposed replacement trees**;
- f) a **report prepared**, to the satisfaction of the City, **by a qualified person(s)** stating whether or not the proposed cutting will create such adverse impact as danger of flooding, erosion, land slip or contamination of watercourses;
- g) a **permit fee** of \$50.00 (This fee may be waived if applications for a Tree Cutting Permit and Development Permit relating to the same property are submitted to the Planning and Development Services Department concurrently.

When a Tree Cutting Permit is issued

As a condition of issuing a Tree Cutting Permit, the Director of Planning & Development Services may require any of the following:

- a) the **replacement of any protected tree** that is cut down with a tree or trees of a size and species and at such location or locations as the Director may specify;
- b) the **posting of a security deposit** equal to the value of 125% of the cost for the planting and maintenance of replacement trees;
- c) that the employees and authorized agents of the City of Kelowna be permitted to enter onto the land at any reasonable time to carry out **assessments and inspections** to determine whether the terms of the tree cutting permit are being complied with;
- d) that a permit issued be valid for a period not to exceed one year with the potential for one additional year subject to the approval of the Director.

Tree Replacement

As a condition of issuing a Tree Cutting Permit, the Director of Planning & Development Services may require that any protected tree that is cut down be replaced. Unless this provision is waived, any tree(s) cut down must be replaced within one growing season at a ratio of **two replacement trees for each tree removed**. The minimum size of replacement trees is 3.0 m (10 feet) in height for conifers and 80 mm (3.2 inches) in diameter measured 1 m above ground level for deciduous species.

When a permit is issued, maintenance requirements will be specified in the replacement plan and carried out in accordance with the specifications.

Penalties

Any person who violates the provision of the Kelowna Tree Protection Bylaw is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$2,000.00 for each violation. Where more than one tree is cut down, a separate offence is committed in respect to each tree.

In addition to any penalty that may be imposed under the bylaw, where a person cuts down a protected tree, the person may be required to replace the tree at a ratio of two replacement trees for each tree removed.

**For more information about the Kelowna Tree Protection Bylaw No. 8041,
please contact the Planning & Development Services Department at 862-3304.**



**THE CORPORATION OF THE CITY OF MISSISSAUGA
PRIVATE TREE PROTECTION
BY-LAW 254-12**

(amended by 13-13)

WHEREAS section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (“*Municipal Act, 2001*”) provides that the powers of a municipality under any act shall be interpreted broadly so as to confer broad authority on a municipality to enable it to govern its affairs as it considers appropriate;

AND WHEREAS section 11(2)5 of the *Municipal Act, 2001* provides that a local municipality may adopt by-laws for the economic, social and environmental well-being of the municipality;

AND WHEREAS section 11(3)5 of the *Municipal Act, 2001* provides that a local municipality may pass a by-laws in the areas of culture, parks, recreation and heritage;

AND WHEREAS, without limiting the broad municipal powers, section 135 and sections 139 to 141 of the *Municipal Act, 2001* provide municipalities with further authority to regulate and prohibit the destruction or injuring of trees;

AND WHEREAS section 429(1) of the *Municipal Act, 2001* provides that a municipality may establish a system of fines for a by-law passed under this Act;

AND WHEREAS section 436 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law or an order made pursuant to the by-law;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that a municipality may make an order to require a Person to discontinue contravening a by-law and to do the work required to correct the contravention;

AND WHEREAS section 445 of the *Municipal Act, 2001* provides that a municipality may make an order requiring a Person who contravened a by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS section 446 of the *Municipal Act, 2001* provides that a municipality may proceed to do things at a Person’s expense which that Person is otherwise required to do under a by-law but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS the Council of The Corporation of the City of Mississauga recognizes the ecological and aesthetic value of trees and is desirous of managing the injury and destruction of trees;

NOW THEREFORE the Council of The Corporation of the City of Mississauga ENACTS as follows:

PART I: DEFINITIONS

1. In this By-law,

“**Arborist**” means a person with a diploma or degree involving arboriculture from an accredited college or university, a Registered Professional Forester, an accredited Certified Arborist under the International Society of Arboriculture or with a demonstrated history of tree preservation experience or a Registered Consulting Arborist with the American Society of Consulting Arborists.

“Arborist Report” means a report prepared by an Arborist which provides details on the species, size, and health of a Tree to be Destroyed, Injured, removed or retained and describes tree protection measures or other mitigating measures to be implemented.

“Calendar Year” means the timeframe from the beginning of January 1 to the end of December 31 of that same year.

“Commissioner” means the City’s Commissioner of Community Services or his/her designate.

“City” means The Corporation of the City of Mississauga or where the context requires the geographical jurisdiction of the City of Mississauga.

“Council” means the elected Council of the City.

“Dead” means a Tree that has no living tissue.

“Destroy” or “Destruction” means to cause directly or indirectly, the removal, ruin, uprooting or death of a Tree whether by accident or by design, and includes the removal, ruin, uprooting or death of a Tree caused by any one or more of the following activities:

- (a) removing, cutting, girdling, or smothering of the Tree or roots;
- (b) interfering with the water supply;
- (c) setting fire to a Tree;
- (d) the application of chemicals on, around, or near the Tree;
- (e) compaction or re-grading within the tree protection zone up to any existing paved surfaces;
- (f) damage caused by new development or construction related activities including driveways;
- (g) storing any materials within a tree protection zone; or
- (h) neglect.

“Diameter” means:

- (a) the measurement of the diameter of the trunk of a Tree measured from outside the bark at a height of 1.4 metres above existing grade of the ground adjoining its base; or
- (b) where there are multiple stems on a Tree, the total of the diameters of the stems measured from outside the bark on each stem at a height of 1.4 metres above existing grade of the ground adjoining its base.

“Dying” means a Tree that is terminally diseased or will no longer be viable to maintain in a safe or healthy condition.

“Emergency Work” means work necessary to terminate an immediate danger to life or property and includes work associated with watermain repairs, utility repairs and structural repairs to a building where the work is necessary to terminate an immediate danger to life or property.

“Fees and Charges By-law” means the City’s Fees and Charges By-law 307-11, as amended, or its successors.

“Golf Course” means an area of land laid out and operated as a golf course and includes putting greens and driving ranges.

“Government Body” means the City of Mississauga, Regional Municipality of Peel, a conservation authority established under provincial legislation and any Ministry or agent of the Federal or Provincial government.

“Hazard” means a tree that is a potential safety concern to property or life but not an immediate threat.

“Heritage Advisory Committee” means the advisory committee of Council which makes recommendations on the identification, conservation, preservation and designation of the City’s cultural heritage property.

“Heritage Tree” means a Tree that has received designation under Part IV of the *Ontario Heritage Act, 2005*, S.O. 2006, c.6, as amended.

“Hoarding” means a fence or similar structure used to enclose a portion of a property to protect an existing Tree(s) or other vegetation.

“Injure” or “Injury” means to cause, directly or indirectly, whether by accident or design, lasting damage or harm to a Tree, and includes any damage or harm to a Tree caused by one or more of the following activities:

- (a) removing, cutting, girdling, or smothering of the Tree or roots;
- (b) interfering with the water supply;
- (c) setting fire to a Tree;
- (d) the application of chemicals on, around, or near the Tree;
- (e) compaction or re-grading within the tree protection zone up to any existing paved surfaces;
- (f) damage caused by new development or construction related activities including driveways;
- (g) storing any materials within a tree protection zone; or
- (h) neglect.

“Lot” means a parcel of land having specific boundaries which is capable of legal transfer.

“Nursery” means a Lot on which the principal business of selling plants, shrubs, and Trees occurs.

“Officer” means a person employed by the City to perform the duties of enforcing By-laws and appointed by Council as a Municipal Law Enforcement Officer as designated in the City of Mississauga By-law 299-04, as amended, or its successors.

“Owner” means the registered owner of a Lot, and his or her respective successors and assigns, or his or her agent.

“PDC” means the City of Mississauga Planning and Development Committee.

“Permit” means a permit issued under this By-law to Injure or Destroy a Tree on private property within the City.

“Person” means any individual, public or private corporation, partnership, association, firm, trust, public agency, municipality, or other entity and includes any legal representative(s) acting on behalf of or under the authority of such an entity.

“Pruning” means the appropriate removal of not more than one-third of the live branches or limbs of a Tree or more than one-third of the live branches or limbs on a Tree as part of a consistent annual pruning program.

“Replacement Tree(s)” means a tree(s) that is required under this By-law to replace an existing Tree that is approved for Destruction.

“Replacement Tree Planting Fund” means the fund set aside for the purpose of planting Trees in locations within the City other than the Lot where a Tree has been Injured or Destroyed.

“Tree” means a self-supporting woody plant which may reach a height of at least 4.5 metres at maturity.

PART II: SCOPE

2. This By-law shall apply to all private property within the City.

PART III: ADMINISTRATION AND ENFORCEMENT

3. The Commissioner shall be responsible for the administration and enforcement of this By-law, which shall include, but not be limited to, the administration and management of the City’s Replacement Tree Planting Fund.
4. The Commissioner shall prescribe all forms necessary to implement this By-law, and may amend such forms from time to time as the Commissioner deems necessary.

PART IV: APPLICATION FOR DESIGNATION UNDER THE ONTARIO HERITAGE ACT

5. An application to designate a Tree(s) to be of cultural heritage value or interest shall be made in accordance with the *Ontario Heritage Act, 2005*.

PART V: GENERAL PROHIBITION AND EXCEPTIONS

6. (1) No Person shall Injure or Destroy a Heritage Tree unless they receive approval to do so under the requirements of the *Ontario Heritage Act, 2005*.
- (2) No Person shall Injure or Destroy 3 or more Trees each with a Diameter greater than 15 centimetres on a Lot within one Calendar Year without first obtaining a Permit pursuant to this By-law.
- (3) Despite subsection (2), a Permit is not required to Injure or Destroy a Tree:
 - (a) if the number of Trees with a Diameter greater than 15 centimetres being Injured or Destroyed on the Lot in a Calendar Year is 2 or less;
 - (b) where the Tree has a Tree Diameter of 15 centimetres or less;
 - (c) for Emergency Work;
 - (d) as a result of activities or matters undertaken by a Governmental Body or a school board for the construction of a school building or part thereof;
 - (e) for the purpose of Pruning the Tree;
 - (f) for Trees located on rooftop gardens, interior courtyards, or solariums;

- (g) for Trees on a Nursery or Golf Course;
- (h) by a Person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his agent while making a survey;
- (i) for the purpose of satisfying a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act*, as may be amended or replaced from time to time, or as a requirement of an agreement entered into under the regulation;
- (j) for the purpose of satisfying a condition to the approval of a site plan, a plan of subdivision, or a consent under sections 41, 51, and 53 of the *Planning Act*, as may be amended or replaced from time to time, or as a requirement of a site plan or subdivision agreement under those sections of the Act;
- (k) where the removal of a Tree(s) is specifically required in an order made under the City's Property Standards By-law;
- (l) by a transmitter or distributor as defined in the *Electricity Act, 1998* for the purpose of constructing and maintaining a transmission system or a distribution system, as defined under that Act;
- (m) if an approval has been provided under subsection 6(1); or
- (n) where an Owner is required to comply with the requirements of a Province of Ontario forest management plan that specifically encompasses the Owner's Lot.

PART VI: PERMIT

7. Where an Owner applies for a Permit for the Injury or Destruction of a Tree(s) on the Owner's Lot, he or she shall submit the following to the Commissioner:
 - (a) a completed application form;
 - (b) a plan to the satisfaction of the Commissioner illustrating the Trees to be Injured or Destroyed, the Tree(s) to be retained, and any other measures to be taken in relation to the Injury or Destruction of the Tree(s) or Tree preservation, as required by the Commissioner;
 - (c) the fees as described in the Fees and Charges By law;
 - (d) an Arborist Report, if required by the Commissioner;
 - (e) the written consent of the adjacent property Owner if the base of the Tree(s) to be Injured or Destroyed is partially located on the adjacent property Owner's property; and
 - (f) the written consent of the Owner of the Lot where the subject Trees are located, if the Person who is applying for the Permit is not the Owner of the Lot.
8. If an applicant for a Permit under section 7 does not provide all the required documentation to the Commissioner within the timeframe as specified by the Commissioner, or if the application is 2 years old, the applicant shall be deemed to withdraw the application and shall not be entitled to any refunds of any payments made.
9. Despite section 8, the Commissioner may extend the timeframe for an application where the Commissioner determines that the applicant is actively taking steps to move the application forward.

PART VII – ISSUANCE OF A PERMIT

10. The Commissioner may issue a Permit for any one or more of the following reasons:
 - (a) the Tree is Dead or Dying;

- (b) the Tree is a Hazard;
 - (c) the Tree location conflicts with any of the following:
 - (i) the proposed building permit plans that comply with the zoning of the land;
 - (ii) a proposed pool enclosure; or
 - (iii) the expansion of parking areas that complies with the zoning of the land;
 - (d) there will be no negative impact on flood or erosion control, or slope stability;
 - (e) the Lot on which the Tree is located is designated under the *Ontario Heritage Act, 2005* and a written report by the City's Heritage Coordinator has been provided, indicating that:
 - (i) the Tree is not relevant to the heritage designation of the Lot; or
 - (ii) the Tree is relevant to the heritage designation of the Lot but the City's Heritage Advisory Committee has approved the Injury or Destruction of the Tree, or
 - (f) the Injury or Destruction of the Tree is otherwise acceptable to the Commissioner.
11. (1) The Commissioner may issue a Permit subject to conditions which may include but are not limited to any one or more of the following:
- (a) the requirement for a Replacement Tree(s);
 - (b) satisfactory plans for Tree preservation and replanting; and
 - (c) Hoarding to be provided around a Tree(s) not subject to Injury or Destruction, and plans indicating the location and type of Hoarding to the satisfaction of the Commissioner.
- (2) Where the planting of a Replacement Tree(s) has been imposed as a condition, the Commissioner may require any one or more of the following:
- (a) the Replacement Tree(s) be located on the same Lot in a location, number, size; and/or species to the satisfaction of the Commissioner;
 - (b) a replanting plan be filed to the satisfaction of the Commissioner;
 - (e) a written undertaking by the Owner to carry out the replacement planting;
 - (f) monies or a letter of credit in a form satisfactory to the Commissioner be delivered to the Commissioner to cover the costs of the Replacement Trees, and the maintenance of the Tree(s) for a period of up to two (2) years; or
 - (g) payment of each Replacement Tree not replanted on the Owner's Lot be made into the City's Replacement Tree Planting Fund. The payment for each such Tree shall be the cost of each street Tree planting as provided in the Fees and Charges By-law.
12. (1) A Permit shall be valid for a maximum of one (1) year from the date of issuance.
- (2) For the purposes of this By-law, a Permit holder includes any one (1) or more of the following:
- (a) the Owner of a Lot;
 - (b) an agent that has obtained a Permit on behalf of the Owner; and
 - (c) any Person conducting any work pursuant to a Permit.

13. (1) A Permit holder shall comply or ensure the compliance of all the provisions and conditions of the Permit and this By-law.

(2) In addition to subsection (1), a Permit holder shall ensure that the Permit is securely posted on the Lot from which the Trees are to be Injured or Destroyed, in a location visible from the street for the period during which work is undertaken to Injure or Destroy a Tree.
14. The issuance of a Permit under this By-law does not relieve any person from the necessity of acquiring any other license or permit or complying with any other applicable laws, by-laws, regulations, and requirements of other governmental authority.

PART VIII – REFUSAL OF A PERMIT

15. Where the Commissioner has decided not to issue a Permit under sections 10 or 11, the application for the Permit has been refused.
16. In addition to section 15, the Commissioner may refuse to issue a Permit, for any one (1) or more of the following reasons:
 - (a) where the application for a Permit is incomplete;
 - (b) where an application for rezoning, a consent, a minor variance, a plan of subdivision or a site plan to the land on which the Tree is located has been submitted to the City but has not received final approval;
 - (c) where the Tree is an endangered, threatened or special concern Tree species as defined in the provincial *Endangered Species Act, 2007*, S.O. 2007, c.6, as may be amended or replaced from time to time;
 - (d) where the Tree belongs to a Tree species of special concern, as defined in the *Species at Risk Act, 2002*, S.C. 2002, c. 29, as may be amended or replaced from time to time;
 - (e) where environmentally sensitive areas, ecological systems, natural landforms or contours will not be adequately protected and preserved;
 - (f) where significant vistas will not be adequately protected and preserved; or
 - (g) where the Tree is relevant to the heritage designation of a Lot as determined by the City's Heritage Coordinator.
17. If the Commissioner refuses to issue a Permit, he or she shall advise the Owner and provide the Owner with written reasons for the refusal.

PART IX – PERMIT REVOCATION

18. The Commissioner may revoke a Permit at any time, for any one (1) or more of the following reasons:
 - (a) the Permit was issued because of mistaken, false, or incorrect information received from the Owner;
 - (b) the Owner has failed to comply with any conditions attached to the Permit;
 - (c) the Owner has failed to comply with any order issued under this By-law; or
 - (d) the Owner has failed to comply with any of the provisions in this By-law.
19. The Permit holder of a revoked Permit shall immediately cease or ensure the immediate cessation of all the activities for which a Permit has been issued upon revocation of the Permit.

20. Where a Permit holder of a revoked Permit has Injured or Destroyed any Tree under the revoked Permit, the Permit holder may be ordered to replace the Tree at the expense of the Permit holder.
21. If the Permit holder fails to comply with an order made under section 20 the City may replace the Tree and use any securities posted by the Permit holder under the revoked Permit to pay for any costs associated with carrying out the work.
22. If the costs incurred by the City in carrying out any work under section 21 are greater than the securities posted by the Permit holder under the revoked Permit, any costs not covered by the securities shall be a debt owed by the Permit holder to the City and the City may recover the costs of carrying out the work by adding the costs to the tax roll of the property in question and collecting them in the same manner as property taxes.
23. A Permit is the property of the City and is not transferable unless otherwise authorized by the Commissioner.

PART X: ORDER

24. (1) If an Officer determines that a Person has caused or permitted the contravention of this By-law, the Officer may issue an order requiring the Person who caused or permitted the contravention to discontinue the contravention.
 - (2) An order issued under subsection (1) shall include:
 - (a) the particulars of the contravention;
 - (b) the steps necessary to rectify the contravention; and
 - (c) the date by which there must be compliance with the order.
25. Without limiting subsection 24(1) an order may be issued to a Person to immediately cease and desist all work relating to the Injury or Destruction of a Tree without a Permit.
26. (1) Without limiting subsection 24(2)(b) the order may require that any Injured or Destroyed Tree be replaced on the Lot with a Replacement Tree, and further specify the species and location of any Replacement Tree.
 - (2) Where an Officer determines that an Injured or Destroyed Tree cannot be replaced on the Lot, the Officer may order that the Replacement Tree be located on City property in an area to be determined by the Officer or that payment in lieu of the replacement Tree be provided to the City's Replacement Tree Planting Fund.
27. An order may be served by:
 - (a) delivering it personally to the Owner and/or the Person conducting work on the Owner's property;
 - (b) sending it by registered mail to the last known address of the Owner, which service shall be deemed five (5) days after mailing; or
 - (c) posting it on the Owner's property.
28. (1) No Person shall fail to comply with an order.
 - (2) If the Person fails to comply with an order the City may replace the Tree and use any securities posted by the Person to pay for any costs associated with carrying out the work required under the order.

- (3) If no securities are posted by the Person or if the securities posted are insufficient to cover the costs incurred by the City in carrying out any work where the Person has failed to do so under an order, the costs incurred by the City shall be a debt owed by the Person to the City and the City may recover the costs of carrying out the work by adding the costs to the tax roll of the Lot in question and collecting them in the same manner as property taxes.

PART XI: APPEAL TO PDC

29. An Owner who has been refused the issuance of a Permit may appeal the refusal to the PDC within 30 days after the issuance of the Permit by sending a written request with reasons for the appeal and the applicable appeal fee, in person or by registered mail, to the City Clerk.
30. For greater clarity, section 29 does not include an appeal of any condition under a Permit.
31. For the purposes of section 29, a written request shall include reasons for the appeal and the applicable appeal fee as provided under the Fees and Charges By-law.
32. An appeal shall not be processed if the Owner fails to provide written reasons for the appeal or the applicable fee has not been paid.
33. Where an appeal date before the PDC has been scheduled and the appellant who has been given notice of the hearing does not attend at the appointed time and place, the PDC may proceed in the absence of the appellant and the appellant will not be entitled to any further notice in the proceedings.
34.
 - (1) The PDC may uphold or reverse or vary the Commissioner's decisions, and/or may subject the appellant to conditions as the PDC deems appropriate. The PDC shall set out the reasons of its decision in writing.
 - (2) Council may uphold or reverse PDC's decision, or do any act or make any other decision as it deems appropriate.
 - (3) Council's decision is final and binding.
35. An appeal made under this Part does not act as a stay of any order issued under this By-law, which shall take effect on the day it is served or deemed served, and shall continue to be effective until Council renders a decision indicating otherwise.

PART XII - INSPECTION

36. An Officer acting under this By-law may, at any reasonable time, enter and inspect any property, including all buildings and structures thereon, to determine any one (1) or more of the following:
 - (a) whether there is compliance with this By-law;
 - (b) whether there is compliance with a Permit issued under this By-law;
 - (c) whether there is compliance with any conditions that may be attached to a Permit; or
 - (d) whether there is compliance with any order issued under this By-law.

PART XIII: OFFENCE AND PENALTY

37. Every Person who contravenes any provision of this By-law, including an order made under this By-law, is guilty of an offence and is liable to a fine, including the fines set out in this Part, and such other penalties as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended and the *Municipal Act, 2001*, as each may be amended from time to time.

38. For the purposes of section 40 the Injuring or Destroying of more than two (2) Trees in contravention of this By-law or an order made under this by-law shall be designated as a multiple offence.
39. (1) Any Person who contravenes any provision of this By-law or an order is guilty of an offence and is liable:
- (a) on a first conviction, to a fine of not more than \$25,000; and
 - (b) on any subsequent conviction, to a fine of not more than \$50,000.
- (2) Notwithstanding subsection (1), where the Person convicted is a corporation, it is liable:
- (a) on a first conviction, to a fine of not more than \$50,000; and
 - (b) on any subsequent conviction, to a fine of not more than \$100,000.
40. (1) Any Person who Injures or Destroys more than two (2) Trees with a Diameter greater than 15 centimetres in contravention of this By-law or an order is guilty of an offence and is liable:
- (a) on a first offence, to a fine of not more than \$2,500 per Tree, and
 - (b) on any subsequent conviction, to a fine of not more than \$5,000 per Tree.
- (2) Notwithstanding subsection (1), where the Person convicted is a corporation, it is liable:
- (a) on a first conviction, to a fine of not more than \$5,000 per Tree; and
 - (b) on any subsequent conviction, to a fine of not more than \$10,000 Tree.
- (3) The minimum fine for subsection 40(1) shall be \$500 per Tree.
- (4) The total of all fines in subsection 40(1) may exceed \$100,000.
41. In addition to any regular fine for an offence under this By-law, a Person, which includes a corporation for the purposes of this section, is liable to a special fine where the Person has obtained or can obtain an economic advantage or gain from the contravention of any provision of this By-law or order made under this By-law. The minimum fine under this section shall be \$500 and the maximum fine may exceed \$100,000.
42. If a person is convicted of an offence for contravening the provisions of this By-Law, or an order issued pursuant to this By-Law, in addition to any fine, the Court in which the conviction has been entered, may order the person to correct the contravention, which may include but is not limited to: planting or replanting such Tree(s) in such manner and within such time period as the Court considers appropriate, such as replacement of a comparable species and /or payment of the Tree(s) amenity value as determined by the Commissioner.

PART XIV: VALIDITY AND INTERPRETATION

43. Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law otherwise requires.
44. If a court of competent jurisdiction declares any provisions or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

PART XV: EFFECTIVE DATE & REPEAL

45. This By-law shall come into force and effect on March 1, 2013. (13-13)
46. After the effective date of this By-law, By-law 0474-2005, as amended shall apply only to properties where a complete Tree Permit application was received prior to the effective date of this By-law or if an order or Permit has been issued prior to the effective date, and then only to such properties until such time as the work or actions prescribed pursuant to the order or Permit have been completed or otherwise been concluded.

PART XVI: SHORT TITLE

47. This By-law may be referred to as the “Private Tree Protection Bylaw”.

ENACTED and PASSED this 12th day of December, 2012.

Signed by: Hazel McCallion, Mayor and Crystal Greer, City Clerk

CITY OF NANAIMO

BYLAW NO. 7126

A BYLAW FOR THE MANAGEMENT AND PROTECTION OF TREES
WITHIN THE CITY OF NANAIMO

WHEREAS a Council may, in accordance with the *Community Charter*, regulate, prohibit and impose requirements in relation to trees;

WHEREAS a Council may, pursuant to Heritage Conservation provisions of the *Local Government Act* designate trees that Council considers to have cultural or historical value;

WHEREAS a Council may, pursuant to the *Wildlife Act* of British Columbia, designate trees that Council considers valuable as wildlife habitat;

WHEREAS Council's objective is to ensure the long term sustainability of the trees within Nanaimo's urban forest and the preservation of existing trees as a priority;

NOW THEREFORE the Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as the "Management and Protection of Trees Bylaw 2013 No. 7126".

2. Interpretation

In this Bylaw, unless the context otherwise requires:

"Bylaw Enforcement Officer"	means a person or persons appointed from time to time by resolution of the City Council pursuant to Section 36 of the <i>Police Act</i> , to enforce regulatory bylaws of the municipality.
"Boulevard Tree"	means a tree planted on the boulevard beside the sidewalks managed by either the property owner or the City of Nanaimo.
"Branch"	means the lateral secondary woody growth originating from the stem of a tree.
"Building Permit"	means a permit required by the City of Nanaimo for any construction, alteration, reconstruction, demolition, removal or relocation of any building or structure.

"Certified Arborist"	means a person certified by the International Society of Arboriculture or the National Arborist Association as an Arborist.
"City"	means the City of Nanaimo.
"City Tree"	means any tree located on property owned or in the control of the City including a street tree, a Boulevard Tree and a median tree.
"Cut"	means to cut down, kill or remove a tree by any means and without limiting the generality of the foregoing includes the topping of a tree or stem of a tree.
"Dbh"	means diameter of a stem at 1.4 metres off the ground.
"Diseased or Damaged Tree Limbs"	means a tree limb identified by a qualified person that may be considered to be a potential hazard to people or property or a significant risk to the health of other trees in the immediate future.
"Development Permit Area" or "DPA"	an area of land designated as such in an Official Community Plan of the City.
"Director"	means the person or persons appointed from time to time by Council as the Director of Development and any duly authorized designate of the Director.
"Drip Line"	means a line on the ground around the stem of a tree directly beneath the ends of the outermost twigs and branches of a tree.
"Fire Interface Tree"	means a tree designated and listed in Schedule J of this Bylaw.
"Guide For Plant Appraisal"	means the standard guide for tree appraisals as published by the International Society of Arboriculture and authored by representatives of the Council of Tree and Landscape Appraisers.
"Hardscape"	includes a sidewalk, footpath or other surface installed as a means of public passage or to surface an area of public assembly.
"Hazard Tree"	means any tree which due to its location, condition, health or any other circumstances has been determined by a Certified Arborist as presenting a hazard to the safety of persons or to the public or to private property.

"Hedge"	means a row of shrubs, bushes or trees planted close together, especially when forming a fence or boundary.
"Heritage Tree"	means a tree designated and listed in Schedule A of this Bylaw.
"Landmark Tree"	means a tree of the genus or species and size outlined in Schedule C of this Bylaw.
"Median Tree"	means a tree growing in a hard or soft surface between traffic lanes.
"Permit"	means written permission from the Director authorizing the <i>pruning, cutting or removal</i> of one or more trees from a specified parcel of land.
"Protected tree"	means: <ul style="list-style-type: none">(a) a City tree;(b) a significant tree;(c) a tree within a Development Permit Area;(d) a tree within an area designated by a covenant to:<ul style="list-style-type: none">(i) protect stability of a slope; or,(ii) provide a landscape buffer;(e) a tree designated to be retained within an area pursuant to an approved development permit landscape plan; or,(f) a tree with scientific value.
"Protection"	means taking any and all actions necessary to ensure that trees on a parcel of land are not in any way damaged.
"Prune"	means the removal of living or dead parts of a tree, including branches, in order to reduce size, to maintain shape, health, and flowering or to regulate growth, but does not include topping.
"Provincial Crown Land"	means Crown Land under the administration and control of Her Majesty in right of a province or any agency thereof, e.g. DL56 / Newcastle Island / Brannen Lake Correctional Centre.
"Qualified Environmental Professional" or "QEP"	means an applied scientist or technologist, registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association's code of ethics and subject to disciplinary action by that association. The applicable professional may be a professional Biologist, Agrologist, Forester, Geoscientist, Engineer, or Technologist.

"Registered Professional Forester" or "RPF"	means a person who is registered under the <i>Foresters Act</i> .
"Replacement Tree"	means any tree, regardless of size, that is shown on a tree management or landscape plan, as a replacement for a tree which has been removed or damaged on the same property.
"Retained Tree"	means a tree not to be cut, removed or damaged.
"Riparian areas"	means the areas of land and vegetation adjacent to watercourses that need to remain in a largely undisturbed state in order to maintain healthy watercourse environments, as defined in DPA 1 of the Official Community Plan as amended from time to time.
"Scientific Value"	means a tree may be considered to be of scientific value when it: <ul style="list-style-type: none">(a) is evidence of the former range limits or extent of the species or an ecological community; or,(b) is endangered or vulnerable species that is endemic to the territory or local region now reduced in range or abundance; or,(c) demonstrates a likelihood of providing information which will contribute significantly to a wider understanding of natural history by virtue of its use as a research site, teaching site, type locality or benchmark site; or,(d) is of botanical or genetic value and is not well represented elsewhere in the City; or,(e) significant habitat element for a threatened native species.
"Significant Tree"	means any tree that is of particular significance to the City, due to size, age, landmark value, overall cultural, ecological, heritage or social impact, scientific value, and any tree that is protected as wildlife habitat for an egg or nest as defined in the <i>Wildlife Act</i> and has been listed in Schedules A, B or C.
"Stem"	means the main ascending axis of a woody plant.
"Steep slope"	means land, in its natural state, that has a slope angle of 20% or greater.
"Street Tree"	means a tree planted within the public right-of way in a hardscape (sidewalks) managed by the City of Nanaimo.

"Subdivision"	means the process of dividing a parcel of land into two or more parcels under the <i>Land Title Act</i> or the division of land into strata lots under the <i>Strata Property Act</i> .
"Top" or "Topping"	means the removal of crown branches and main leader to stubs or lateral branches that are not large enough to assume the terminal role.
"Tree"	means a living native or non-native, living self-supporting perennial woody plant, including native shrubs, that is a species of coniferous or deciduous genus where the diameter of tree stem is six (6) cm or more and is capable of reaching a mature height of 4.5 m or greater within its natural range.
"Tree Management Plan"	means a plan of a parcel of land prepared by or for an owner identifying the trees proposed to be cut or removed, the retained trees, replacement trees and any tree protection area.
"Tree Protection Area"	means an area of treed land to be protected within a development as laid out in a Tree Management Plan.
"Urban Forest Plan"	means a plan developed to preserve, protect and enhance the green spaces in Nanaimo.
"Wildlife Tree"	means a tree or dead tree which: (a) contains the nest of an eagle, peregrine, falcon, gyrfalcon, osprey or heron; or, (b) the nest of a bird not referred to in paragraph (a) when the nest is occupied by a bird or its egg; or, (c) contains a nest of a forest mammal; or, (d) is listed in Schedule B of this Bylaw.

3. Application

This Bylaw applies within the City of Nanaimo.

4. Tree Designation

In Schedules A, B, C and J, the City hereby designates the trees listed in:

- (a) Schedule A to this Bylaw as Heritage Trees.
- (b) Schedule B to this Bylaw as Wildlife Trees.
- (c) Schedule C to this Bylaw as Landmark Trees.
- (d) Schedule J to this Bylaw as Fire Interface Trees.

5. Prohibitions

- (1) No person shall carry out any of the following activities in respect of a tree without first obtaining a Permit issued by the Director for that purpose:
 - (a) cut any tree or suffer any tree to be cut;
 - (b) undertake any activity contrary to any permit conditions;
 - (c) cut or damage the roots of a tree inside the drip line;
 - (d) place fill, building materials or asphalt or deposit concrete washout or other liquid or chemical substances or any other materials harmful to a tree on land inside the drip line of a tree;
 - (e) operate trucks, backhoes, bobcats, excavators or other construction equipment over the roots of a tree inside the drip line;
 - (f) dent, gouge or damage the trunk or branches of a tree;
 - (g) remove bark from a tree;
 - (h) construct or place a building or structure on land inside the drip line of the tree;
 - (i) remove soil from land inside the drip line of a tree, except that a person may remove a small quantity of soil if the act of doing so is not likely to damage the health of the tree;
 - (j) blast inside the drip line of a tree or blast outside the drip line so as to damage roots or disturb soil inside the drip line;
 - (k) undermine the roots inside the drip line;
 - (l) cable or brace a tree for purposes other than tree support and protection;
 - (m) top or prune a tree except as permitted under section 6(1) of this Bylaw;
 - (n) attach a sign to a tree.

6. EXEMPTIONS

- (1) Notwithstanding Section 5, a person may cut or remove a tree, other than a protected tree, without first obtaining a Permit if:
 - (a) a Certified Landscape Horticulturist or Certified Arborist has determined that a tree, tree limb or root is diseased, damaged or hazardous and:
 - (i) prior to any removal or pruning written approval from the Director has been received;
 - (ii) the removal or pruning is undertaken using standard arboricultural practices; and
 - (iii) if a significant tree is removed, another tree is planted as required by this Bylaw.
 - (b) the tree is located on lands to which the *Private Managed Forest Land Act* applies;
 - (c) the tree is a City tree and the pruning or removal by the City is required to facilitate the repair of City works or to correct intersection sight lines;
 - (d) the tree is a City tree and the work is being done as part of a tree maintenance schedule by the City or one of its contractors;
 - (e) the tree is cultivated as part of commercial tree farms or nursery operations;
 - (f) the cutting and removal of trees is undertaken by a BC Land Surveyor cutting survey lines which have a width of less than 2 m and the trees are not a protected tree or trees growing in riparian assessment areas;

- (g) an owner is removing or pruning an existing hedge located on their parcel of land;
 - (h) an owner is removing a tree other than a significant tree from that owner's parcel of land, to a maximum total of four (4) trees in a calendar year on their parcel of land (this exemption is void where a subdivision or other development permit has been applied for);
 - (i) the tree is affecting overhead utility lines and pruning operations are not considered practical; as determined by a Certified Arborist.
 - (j) the tree is dead; or,
 - (k) pruning is carried out as part of the customary care and maintenance of a tree using standard arboricultural practices.
- (2) In addition to the powers of the Director under Section 11, the Director may refuse approval under subsection (1) if the Director considers that the hazard presented by the tree can reasonably be addressed in some way other than tree removal.

7. EMERGENCY REMOVAL

- (1) Emergency removal of a hazard tree or branches as the result of a weather event or motor vehicle accident is permitted without a permit if the removal is undertaken using standard arboriculture practices and:
- (a) an owner notifies the City within forty-eight (48) hours of the removal; and
 - (b) an owner replaces such tree or trees as required in accordance with the requirements of this Bylaw.

8. TREE PERMIT REMOVAL CRITERIA

The Director may approve removal of a tree when one or more of the following criteria have been met:

- (1) the tree has been determined to be a hazard tree and at risk of failure that cannot be mitigated by pruning or other practical means;
- (2) the tree is endangering the health or stability of other trees;
- (3) the tree is interfering with or inhibiting the normal development of a more desirable tree;
- (4) the tree poses an extreme public nuisance or hazard due to its species, size, location or position;
- (5) the tree's removal has been approved as part of a park plan;
- (6) the tree is impeding the development of highways, utilities, public works or facilities;

- (7) the removal of the tree is expressly authorized or reasonably necessary to permit development authorized under a building permit or development permit and is not a retained tree or a tree within a tree protection area.

9. TREE PERMIT APPLICATIONS

- (1) The owner of a parcel of land shall make application for a permit on forms, as provided for this purpose, by the City of Nanaimo.
- (2) An application for a permit and Tree Management Plan shall be reviewed by the Director to ensure compliance with the Official Community Plan.
- (3) The City of Nanaimo shall make application for a permit prior to the removal of trees for its own development purposes.
- (4) The owner must provide with the application, a Tree Management Plan which clearly indicates the species, size and locations of the trees to be removed and retained. The plan must also show in detail how the retained trees will be protected. (See Tree Removal Permit application requirements for details.)
- (5) An application for a permit and all supporting drawings and documents shall become the property of the City.
- (6) When an application for a permit is submitted, the City may inspect all trees on the parcel of land that are to be removed or retained for verification of species, location, size, condition or impact.
- (7) If an application is received proposing that one or more protected trees are to be cut during the course of the development of a parcel of land, the Director may authorize removal of such trees subject to submission of a Tree Management Plan with the application that indicates trees will be replaced with species in accordance with Schedule H of this Bylaw.
- (8) Where the application for a permit is to facilitate the subdivision of a parcel of land, the owner shall submit to the Director a Tree Management Plan which shall provide for:
 - (a) the protection or replacement of all protected trees on the parcel of land or an approved replanting plan of appropriate urban trees on or near the site such as an adjacent park, boulevard or median strip, and
 - (b) the protection of at least 20% of the trees on the parcel of land exclusive of any area set aside for the park dedication, pursuant to the provisions of the *Local Government Act*, when the parcel of land to be subdivided is greater than 0.5 ha (1.0 acre) in size, and
 - (c) the replanting of one tree per lot, for single-family and duplex dwellings, not before and within six (6) months following the issuance of an Occupancy Permit, in accordance with a Tree Management Plan approved by the Director.

- (9) An application for a Permit to facilitate the logging of commercial timber shall not be granted if the parcel is subject to an application for rezoning or development and the outcome of the rezoning or development process could affect the logging or Tree Management Plan.
- (10) An owner applying for a permit to facilitate logging of commercial timber on a parcel of land 0.5 ha or greater in size, shall provide information through a Tree Management Plan prepared by a Registered Professional Forester on the logging methods and measures for the protection of trees which are to be retained on the parcel of land.
- (11) A Tree Management Plan developed to facilitate the issuance of a permit to facilitate logging of commercial timber on a parcel of land under subsection (10) shall include provision for the retention of at least 20% of the trees 6 cm or more in diameter on the parcel of land over a five (5) year period as well as the replanting of forest seedlings in accordance with a reforestation plan approved by the Director.
- (12) An application for a Permit to facilitate development shall not be considered until completion of logging operations and expiry of the Tree Removal Permit.
- (13) Every application for a permit in respect to a Steep Slope Area shall be accompanied by a report prepared by a qualified geotechnical engineer, at the applicant's expense, to ensure that the proposed tree removal will not create a danger from flooding, erosion, landslip or avalanche.

10. Tree Permit Approval and Conditions

- (1) A permit which has been issued under this Bylaw may not be assigned or transferred to any other person except with the consent of the Director and under the following conditions:
 - (a) the person applying for the transfer of the permit is an owner of the parcel of land in respect of which the permit has been issued;
 - (b) the person to whom the permit was issued is not in breach of any condition of the permit or any provision of this Bylaw; and,
 - (c) the person seeking transfer of the permit has paid to the City of Nanaimo a permit transfer fee as required pursuant to Section 16 of this Bylaw.
- (2) An owner who has been issued a permit must notify the Director prior to commencing any work authorized by the permit and upon completion of the work authorized by the permit.
- (3) An owner who has been issued a permit must notify the Director of any work that cannot be carried out in accordance with the permit.
- (4) The owner must clearly mark in a manner satisfactory to the Director by methods such as flagging tape, tree tags or surveyor's paint, all trees that the owner is applying to remove prior to the issuance of the permit.

- (5) Where a permit is issued to prune a tree, the owner shall ensure that the tree is pruned in accordance with proper arboricultural / horticultural practices.
- (6) Where a permit is issued to prune or remove a tree or trees, all pruned or cut materials must be removed from the site and the site must be cleaned up and left safe within thirty (30) days of completion or cessation of the work.
- (7) Where a permit has expired, all work permitted under the permit must cease until the owner applies for and obtains a new permit.
- (8) The Director has authority to impose conditions in a permit as reasonably required to effectively administer this Bylaw in accordance with the *Community Charter*, based on the review of the application and all supporting drawings and documents.

11. Tree Removal Refusals

- (1) The Director may refuse an application for the cutting or removal of a tree if the purpose is to:
 - (a) maintain or enhance view corridors;
 - (b) prevent a City tree or a tree on Provincial Crown Land from shading areas on private property;
 - (c) cut or remove a City tree or a tree on Provincial Crown Land due to issues with leaf, flower or seed litter; or,
 - (d) cut or remove a tree in contravention of the Development Permit Area Guidelines as defined in the City's Official Community Plan.
- (2) The Director may refuse an application for the cutting or removal of a tree if this would cause a breach of the City's obligations under the Riparian Areas Regulation.

12. Expiry, Renewal and Revocation of Permits

- (1) All permits expire after 12 months from the date of issuance.
- (2) A permit may be renewed under the following conditions:
 - (a) the permit holder applies for renewal of the permit prior to the expiry date of the issued permit;
 - (b) an application for renewal shall be subject to all bylaw requirements that are in effect at the time of the renewal application.
- (3) The Director may revoke a permit where:
 - (a) there is a contravention of any provision of this Bylaw;
 - (b) there is a contravention of any term or condition under which the Permit was issued;
 - (c) the permit was issued on the basis of incorrect information supplied by the applicant;

- (d) in the case of a permit to permit the logging of a parcel of land, where the applicant failed to prepare a Tree Management Plan required by this Bylaw.
- (4) The owner shall be notified in writing of the revocation of the permit.
- (5) The owner shall not be entitled to recover permit fees originally paid in the case of a revocation or an expired permit.

13. Replacement of Trees Unlawfully Removed

- (1) An owner must replace every tree that is removed contrary to this Bylaw as prescribed pursuant to Schedule G of this Bylaw.

14. Replacement of Trees

- (1) A tree replacement:
 - (a) shall be in accordance with Schedules D and G – Tree Replacement, and Schedule H in the case of a protected tree to which section 9 (7) applies;
 - (b) in the case of a silviculture operation to which this Bylaw applies, includes replacement with forest seedlings in accordance with a reforestation plan prepared by a Registered Professional Forester; and,
 - (c) include substitute species replacement under Schedule D Option 1 and 2 only where the original species is not available or practical and the substitution is approved by the City.

- (2) Where any person:
 - (a) cuts down a tree or allows a tree to be cut down contrary to the provisions of this Bylaw or a tree cutting permit; or,
 - (b) cuts down a protected tree, with or without a permit;

and is required to plant one or more replacement trees pursuant to this Bylaw, the person must submit a Tree Management Plan to the Director. (See Schedules D, G and H for replacement guidelines.)

- (3) The Tree Management Plan required under subsection (2) must include a detailed and comprehensive maintenance agreement.
- (4) Where a person is required to plant one or more replacement trees pursuant to this Bylaw, the person must provide security as required pursuant to Section 15 of this Bylaw.
- (5) Where replacement trees are required in relation to a development, the number of trees required to be replaced may be reduced by the number of trees proposed in a Landscape Plan approved by the City included as part of a development permit.

15. Security Deposit for Replacement or Retention Trees

- (1) Where replacement trees or retained trees are required as a condition of a permit or as a consequence for cutting or removing trees without a permit, or damaging trees beyond repair, or cutting or removing trees in excess of the number allowed by the permit, the owner or person responsible for the cutting, removal or damage shall provide to the City a security deposit and the security deposit:
 - (a) shall be in the form of a cash deposit or an automatically renewable, irrevocable letter of credit drawn upon a chartered bank in the form acceptable to the City of Nanaimo;
 - (b) shall be equal to 120% of the value of all the replacement trees or retained trees, site restoration and clean up measures required by the City of Nanaimo. Replacement trees or retained trees, restoration and clean up values shall be estimated by a Qualified Environmental Professional, Certified Arborist or Landscape Architect having reference to the *Guide for Plant Appraisal* or similar reference.
- (2) 50% of the value of the security shall be withheld for the first year, commencing after the landscape installation has been completed, inspected and approved by the City and 10% for the second year to ensure the replacement or retention is successful.
- (3) Should the permit holder fail to comply with the terms and conditions of a permit or a requirement of this Bylaw, the City of Nanaimo may enter the property and perform the necessary work, and may retain all or a portion of the security deposit to cover the cost of the work.

16. Fees

- (1) The fees for applications, permits, transfers and renewals shall be prescribed in Schedule E of this Bylaw.
- (2) Notwithstanding subsection (1), a person who cuts or removes a tree without holding a permit must pay a fee equal to twice the amount of the fee payable otherwise.
- (3) The City is exempt from fees.

17. Reconsideration

- (1) If a decision is made by the Director with regards to the issuance or refusal of a permit, the owner has a right to have Council reconsider the matter.
- (2) If an owner would like Council to reconsider a decision, the owner shall deliver written notice to the Corporate Officer within fourteen (14) days of receiving notice of the decision.

- (3) The owner shall be notified by the Corporate Officer of the date that Council will reconsider the decision.
- (4) Council may confirm, overturn or modify the decision of the Director.

18. Penalty

- (1) A person who contravenes, violates or fails to comply with any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this Bylaw, or who fails to do anything required by this Bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than ten thousand dollars(\$10,000) and not less than the fines prescribed in Schedule F of this Bylaw, the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* (British Columbia) or the *Offence Act* (British Columbia) as amended from time to time.
- (2) Each day that an offence against this Bylaw continues or exists shall be deemed to be a separate and distinct offence.

19. Enforcement

- (1) The Director and bylaw enforcement officers are authorized to enforce this Bylaw and for that purpose, to enter onto real property in accordance with the *Community Charter*.

20. Schedules

- (1) The following Schedules attached to and forming a part of this Bylaw are:
 - (a) Schedule A – Identified Heritage Trees
 - (b) Schedule B – Identified Wildlife Trees
 - (c) Schedule C – Landmark Trees – Native Trees of Nanaimo
 - (d) Schedule D – Landmark Tree Replacement
 - (e) Schedule E – Fees
 - (f) Schedule F – Fines
 - (g) Schedule G – Street and Natural Areas Tree Replacement
 - (h) Schedule H – Regulations for Protected Tree Replacement
 - (i) Schedule I – Tree Removal Guidelines
 - (j) Schedule J – Fire Interface Trees

21. Severability

- (1) If any section, subsection, sentence or phrase of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, it shall not affect the validity of the remaining parts of this Bylaw or the validity of this Bylaw as a whole.

22. Repeal

- (1) City of Nanaimo "Tree Protection Bylaw 1993 No. 4695" and all amendments thereto are hereby repealed.

PASSED FIRST READING 2013-NOV-18
PASSED SECOND READING 2013-NOV-18
PASSED THIRD READING 2013-NOV-18
ADOPTED 2013-DEC-02

J. R. RUTTAN

MAYOR

K. KING

CORPORATE OFFICER

SCHEDULE A

IDENTIFIED HERITAGE TREES

Trees that Council considers important to the community for heritage value.

SPECIES	NO.	ADDRESS (or abbreviated Legal Description)
Pseudotsuga menziesii (Douglas Fir)	2	Pipers Lagoon (Hammond Bay/Chinook)
	Collection	Bowen Park (<i>original trees cannot be distinguished from others</i>)
	2	Lot 1, Plan 34409 (5890 Waldbank Road)
	5	Sealand Park
	3	Rosstown Road, Blvd. 2474, 2498, 2502
Sequoiadendron giganteum Sierra Redwood	1	480 Caledonia Avenue
	1	3255 Stephenson Point Road
Quercus robur (English Oak)	4	577 Sixth Street Strata P.L. 519, Lots 1-24 (Howard Avenue)
	19	Row from Jingle Pot to Third Street – R/A+ Addison Road Blvd or Lot 3, Plan 35726, VIP 71816 1780, 1900 Jingle Pot Road Lot 1, Plan 28980 (Buttertubs Marsh)
	3	165 Pryde Avenue, Rem. Sec. 13, Range 8
	3	Seventh Street and Howard Avenue (2 Blvd)
	3	Sixth Street at Howard Avenue, adj 577 Sixth Street
	60	Millstone River Bank south and east side (from Pryde to Bowen) – <i>ownership uncertain</i>
	Chamaecyparis lawsoniana (Lawson-Cyprus)	2
Acer macrophyllum (Big Leaf Maple)	4	911 Comox Road
Catalpa bignonioides (Indian Bean Tree)	1	129 Milton Street
	1	321 Wesley Street

SPECIES	NO.	ADDRESS (or abbreviated Legal Description)
Araucaria araucana (Monkey Puzzle Tree or Chilean Pine)	1	225 Vancouver Avenue
	1	536 Kennedy Street
	1	330 Machleary Street
	1	120 Victoria Road
	1	100 Cameron Road (Museum)
Robinia pseudoacacia (Black Locust or False Acacia)	Collection	Third Street blvd, adj to Vancouver Island University)
	7	324 Howard Avenue (Third Street)
Fagus sylvatica atropunicea (Copper Beech)	1	126 Mount Benson Street
Trachycarpus fortunei (Windmill Palm)	1	897 Howard Avenue
Castanea sativa (Spanish Chestnut)	1	745 Townsite Road
Albizzia julibrissin (Mimosa or Silk Tree)	1	522 Victoria Road
Juglans nigra (Black Walnut)	1	215 Newcastle Avenue
Aesculus hippocastanum (Chestnut)	1	Lot 1, Plan 14199 – Corner of 575 Albert Street and 510 Prideaux Street
Robins Gardens – selection of tree genera		Lots 1 – 8, Blk 2, Plan 584 1150 Milton Street
Quercus garryana (Garry Oak)	Collection	Neck Point Park
	Collection	Pipers Lagoon Spit
	Collection	Nob Hill Park
	1	Below Bastion, Lot A, P.L. 44834 94 Front Street
	1	By Lighthouse Bistro, part of Blk 56 40 Anchor Way

SPECIES	NO.	ADDRESS (or abbreviated Legal Description)
	3	Bowen Park
Thuja plicata (Native Red Cedar or Western Cedar)	1	Lot 1, Plan 34409 Waldbank Road
	2	Sealand Park
Abies grandis (Grand Fir)	6	Bowen Park
Tsuga heterophylla (Western Hemlock)	1	Bowen Park
Populus trichocarpa (Western Black Poplar)	1	Charlaine Boat Ramp
Pinus ponderosa (yellow) (Yellow Pine)	1	150 Townsite Road (Vancouver Avenue blvd)
Ulmus glabra (Camperdown Elm, or Wych Elm)	1	555 Bowen Road
Platanus x acerifolia (London plane)	8	200 Irwin Street and Milton Street adjacent to Deverill Square Park
Tilia cordata (Linden tree)	6	200 Irwin Street and Milton Street adjacent to Deverill Square Park

SCHEDULE B
IDENTIFIED WILDLIFE TREES

Trees that Council considers important to the community as wildlife habitat.

Bald eagle (BAEA), Great blue heron (GBHE)

REFERENCE NUMBER	TREE SPECIES	LOCATION	WILDLIFE
<i>BAEA-105-115</i>	<i>Douglas fir</i>	<i>6695 Seabold Road</i>	<i>Bald eagle</i>
<i>BAEA-105-114</i>	<i>Douglas fir</i>	<i>6294 Icarus Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-113</i>	<i>Douglas fir</i>	<i>6258 Icarus Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-305</i>	<i>Douglas fir</i>	<i>6166 Icarus Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-112</i>	<i>Douglas fir</i>	<i>6098 Icarus Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-111</i>	<i>Douglas fir</i>	<i>5890 Waldbank Road</i>	<i>Bald eagle</i>
<i>BAEA-105-038</i> <i>BAEA-105-039</i> <i>BAEA-105-040</i>	<i>Douglas fir</i> <i>Douglas fir</i> <i>Douglas fir</i>	<i>6100 Driftwood Place</i>	<i>Bald eagle</i>
<i>BAEA-105-110</i>	<i>Douglas fir</i>	<i>5410 Bayshore Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-037</i>	<i>Douglas fir</i>	<i>5398 Bayshore Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-036</i> <i>BAEA-105-078</i>	<i>Douglas fir</i>	<i>3947 Gulfview Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-109</i>	<i>Douglas fir</i>	<i>1055 Morningside Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-035</i>	<i>Douglas fir</i>	<i>970 Morningside Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-101</i>	<i>Douglas fir</i>	<i>3455 Stephenson Point Road</i>	<i>Bald eagle</i>
<i>BAEA-105-100</i>	<i>Douglas fir</i>	<i>3455 Stephenson Point Road</i>	<i>Bald eagle</i>
<i>BAEA-105-079</i>	<i>Douglas fir</i>	<i>250 Dogwood Road</i>	<i>Bald eagle</i>
<i>BAEA-105-029</i>	<i>Douglas fir</i>	<i>501 Duke Point Hwy</i>	<i>Bald eagle</i>
<i>BAEA-105-332</i>	<i>Douglas fir</i>	<i>501 Duke Point Hwy</i>	<i>Bald eagle</i>
<i>BAEA-105-333</i>	<i>Douglas fir</i>	<i>501 Duke Point Hwy</i>	<i>Bald eagle</i>
<i>BAEA-105-030</i>	<i>Douglas fir</i>	<i>501 Duke Point Hwy</i>	<i>Bald eagle</i>
<i>BAEA-105-060</i>	<i>Douglas fir</i>	<i>1140 Hooker Road</i>	<i>Bald eagle</i>
<i>BAEA-105-059</i>	<i>Douglas fir</i>	<i>1150 Hooker Road</i>	<i>Bald eagle</i>
<i>BAEA-105-065</i>	<i>Douglas fir</i>	<i>1180 Phoenix Way</i>	<i>Bald eagle</i>
<i>BAEA-105-058</i>	<i>Douglas fir</i>	<i>1060 Phoenix Way</i>	<i>Bald eagle</i>
<i>BAEA-105-032</i>	<i>Douglas fir</i>	<i>900 Douglas Avenue</i>	<i>Bald eagle</i>

REFERENCE NUMBER	TREE SPECIES	LOCATION	WILDLIFE
<i>BAEA-105-304</i>	<i>Douglas fir</i>	<i>6466 Lewis Road</i>	<i>Bald eagle</i>
<i>BAEA-105-078</i>	<i>Douglas fir</i>	<i>3947 Gulf View</i>	<i>Bald eagle</i>
<i>BAEA-105-108</i>	<i>Douglas fir</i>	<i>3600 Place Road</i>	<i>Bald eagle</i>
<i>BAEA-105-307</i>	<i>Douglas fir</i>	<i>ROW Bonnie Drive</i>	<i>Bald eagle</i>
<i>BAEA-105-033</i>	<i>Douglas fir</i>	<i>150 Dogwood Road</i>	<i>Bald eagle</i>
<i>BAEA-105-313</i>	<i>Douglas fir</i>	<i>2243 Arbot Road</i>	<i>Bald eagle</i>
<i>BAEA-105-308</i> <i>BAEA-105-309</i>	<i>Douglas fir</i>	<i>3945 Biggs Road</i>	<i>Bald eagle</i>
<i>BAEA-105-061</i>	<i>Douglas fir</i>	<i>N Jack Point (central)</i>	<i>Bald eagle</i>
<i>BAEA-105-341</i>	<i>Douglas fir</i>	<i>N Jack Point (water)</i>	<i>Bald eagle</i>
<i>BAEA-105-062</i>	<i>Douglas fir</i>	<i>S Jack Point</i>	<i>Bald eagle</i>
<i>BAEA-105-063</i>	<i>Douglas fir</i>	<i>Biggs Point- Jack Point</i>	<i>Bald eagle</i>
<i>BAEA-105-031</i>	<i>Douglas fir</i>	<i>1141 Frew Road – estuary</i>	<i>Bald eagle</i>
<i>BAEA-105-339</i>	<i>Douglas fir</i>	<i>1560 Island Hwy S - estuary</i>	<i>Bald eagle</i>
<i>BAEA-105-059</i>	<i>Douglas fir</i>	<i>Jackson Road</i>	<i>Bald eagle</i>
<i>BAEA-105-102</i>	<i>Douglas fir</i>	<i>Leask Road</i>	<i>Bald eagle</i>
<i>BAEA-105-057</i>	<i>Douglas fir</i>	<i>Dodd Narrows (South)</i>	<i>Bald eagle</i>
<i>BAEA-105-106</i>	<i>Douglas fir</i>	<i>960 Phoenix Road</i>	<i>Bald eagle</i>
<i>BAEA-105-064</i>	<i>Douglas fir</i>	<i>732 Maughan Road</i>	<i>Bald eagle</i>
<i>BAEA-105-080</i>	<i>Douglas fir</i>	<i>1390 Fielding Road</i>	<i>Bald eagle</i>
<i>BAEA-105-330</i>	<i>Douglas fir</i>	<i>48 Cutlass Lookout</i>	<i>Bald eagle</i>
<i>New location</i>	<i>Atlas cedar</i>	<i>104 Esplanade</i>	<i>Bald eagle</i>
<i>BAEA-105-326</i> <i>BAEA-105-327</i>	<i>Douglas fir</i>	<i>86 Captain Morgans Blvd</i>	<i>Bald eagle</i>
<i>BAEA-105-070</i> <i>BAEA-105-071</i> <i>BAEA-105-072</i> <i>BAEA-105-073</i> <i>BAEA-105-323</i> <i>BAEA-105-324</i>	<i>Douglas fir</i>	<i>Newcastle Island</i>	<i>Bald eagle</i>
<i>GBHE-105-031</i>		<i>5414 Lost Lake Road</i>	<i>Great blue heron</i>
<i>GBHE-105-009</i>		<i>3669 Rock City Road</i>	<i>Great blue heron</i>
<i>GBHE-105-021</i>		<i>2140 Departure Bay Road</i>	<i>Great blue heron</i>
<i>GBHE-105-007</i>		<i>11 Capt. Kidds Terrace</i>	<i>Great blue heron</i>
<i>GBHE-105-037</i>		<i>140 Tenth Street</i>	<i>Great blue heron</i>
<i>GBHE-105-025</i>		<i>1105 Old Victoria Road</i>	<i>Great blue heron</i>

List not comprehensive

SCHEDULE C

**LANDMARK TREES
NATIVE TREES OF NANAIMO**

Trees that Council considers important to the community for landmark value.

TREE	STATUS	SIZE OF TREE DIAMETER FOR RETENTION
Western White Pine (<i>Pinus monticola</i>)	Very Uncommon	20 cm +
Shore Pine (<i>Pinus contorta</i> vari. <i>contorta</i>)	Fairly Common	20 cm +
Sitka Spruce (<i>Picea sitchensis</i>)	Very Uncommon	80 cm +
Western Hemlock (<i>Tsuga heterophylla</i>)	Common	50 cm +
Douglas-Fir (<i>Pseudotsuga menziesii</i>)	Abundant	80 cm +
Grand Fir (<i>Abies grandis</i>)	Fairly Common	80cm +
Western Red-Cedar (<i>Thuja plicata</i>)	Common	80cm +
Rocky Mountain Juniper (<i>Juniperus scopulorum</i>)	Uncommon	10 cm +
Western Yew (<i>Taxus brevifolia</i>)	Uncommon	15 cm +
Trembling Aspen (<i>Populus tremuloides</i>)	Very Uncommon	20 cm +
Black Cottonwood (<i>Populus balsamifera</i>)	Fairly Uncommon	80 cm +
Pacific Willow (<i>Salix lasiandra</i>)	Fairly Uncommon	15 cm +
Hooker's Willow (<i>Salix hookeriana</i>)	Very Uncommon	15 cm +
Sitka Willow (<i>Salix sitchensis</i>)	Fairly Uncommon	15 cm +
Red Alder (<i>Alnus rubra</i>)	Common	30 cm +
Garry Oak (<i>Quercus garryana</i>)	Fairly Uncommon	10 cm +
Pacific Crabapple (<i>Malus fusca</i>)	Uncommon	10 cm +
Black Hawthorne (<i>Crataegus douglasii</i>)	Uncommon	10 cm +

TREE	STATUS	SIZE OF TREE DIAMETER FOR RETENTION
Bitter Cherry (Prunus emarginata)	Fairly Uncommon	30 cm +
Bigleaf Maple (Acer macrophyllum)	Common	80cm +
Douglas Maple (Acer glabrum)	Very Uncommon	40 cm +
Cascara (Rhamnus purshiana)	Fairly Common	15 cm +
Pacific Dogwood (Cornus nuttallii)	Common	10 cm +
Arbutus (Arbutus menziesii)	Common	50 cm +

SCHEDULE D

LANDMARK TREE REPLACEMENT

RECOMMENDED REPLACEMENT TREE GENUS AND SPECIES:

Tree Species Removed	Replacement Required	Unable to replant with replacement required Option 1	Unable to replant with replacement required Option 2
Pinus monticola	Pinus monticola	Pinus ponderosa - Ponderosa Pine	Pinus sylvestris - Scots Pine
Pinus contorta vari. contorta	Pinus contorta vari. contorta	Pinus nigra - Austrian Pine	Pinus strobus – Eastern White Pine
Picea sitchensis	Picea sitchensis	Picea abies - Norway Spruce	Picea omorika - Serbian Spruce
Tsuga heterophylla	Tsuga heterophylla	Pseudotsuga menziesii - Douglas Fir	Abies concolour - White Fir
Pseudotsuga menziesii	Pseudotsuga menziesii	Tsuga heterophylla - Western Hemlock	Abies concolour - White Fir
Abies grandis	Abies grandis	Abies amabilis - Amabilis Fir	Pseudotsuga menziesii - Douglas Fir
Thuja plicata	Thuja plicata	Thuja occidentalis 'Nigra' – Eastern cedar	Chamaecyparis nootkatensis - Yellow Cypress
Taxus brevifolia	Taxus brevifolia	Taxus baccata - English Yew	Taxus cuspidata - Japanese Yew
Populus tremuloides	Populus tremuloides	Betula utilis 'jacquemontii' – White barked Himalayan birch	Betula papyrifera - White Birch
Populus balsamifera	Populus balsamifera	Betula utilis 'jacquemontii' – White barked Himalayan birch	Betula papyrifera – White Birch
Salix lasiandra	Salix lasiandra	Salix alba – White willow	Salix capre – Pussy willow
Salix hookeriana	Salix hookeriana	Salix capre - Pussy willow	Salix alba – White willow
Salix sitchensis	Salix sitchensis	Salix hookeriana – Hookers willow	Salix alba – White willow
Alnus rubra	Alnus rubra	Alnus glutinosa – Black alder	Fagus sylvatica - Beech
Quercus garryana	Quercus garryana	Quercus robur – English oak	Quercus rubra "Red Oak"
Malus fusca	Malus fusca	Malus floribunda – Japanese crabapple	Pyrus calleryana – Callery pear
Crataegus douglasii	Crataegus douglasii	Crataegus columbiana - Columbia Hawthorn	Crataegus oxyacantha - Hawthorn
Prunus emarginata	Prunus emarginata	Prunus virginiana - Choke Cherry	Prunus padus – common bird cherry

Tree Species Removed	Replacement Required	Unable to replant with replacement required Option 1	Unable to replant with replacement required Option 2
Acer macrophyllum	Acer macrophyllum	Acer platanoides - Norway Maple	Acer pseudoplatanus - Sycamore Maple
Acer glabrum	Acer glabrum	Acer circinatum - Vine Maple	Acer ginnala - Amur Maple
Rhamnus purshiana	Rhamnus purshiana	Cornus nuttallii - Western Dogwood	Cornus kousa – Kousa dogwood
Cornus nuttallii	Cornus nuttallii	Cornus nuttallii - White Wonder Dogwood	Cornus kousa – Kousa dogwood
Arbutus menziesii	Arbutus menziesii	Acer griseum – Paperbark maple	Prunus serrula – paperbark cherry

SCHEDULE E

FEES

- (1) The minimum charge for a tree permit will be fifty dollar (\$50) (application fee) plus the cost of each tree as indicated below.
- (2) Prior to issuance of a permit, the applicant shall pay the municipality a fee of:
 - (a) Ten dollars (\$10) for each tree of 6 cm Dbh or more, other than a significant tree, to be cut or pruned; and
 - (b) One Hundred dollars (\$100) for each significant tree to be cut or pruned.
- (3) Notwithstanding subsections (1) and (2) of this section, the fee for a permit shall not exceed:
 - (a) Five hundred dollars (\$500) per hectare of land upon which trees are to be cut; or,
 - (b) Twenty-five hundred dollars (\$2500) in total.
- (4) There shall be no fee charged for a permit authorizing the removal of a hazardous tree.
- (5) The fee for transfer of a permit shall be fifty dollars (\$50).
- (6) The fee for renewal of an expired permit shall be fifty dollars (\$50) and may require an updated application.

Application Fee – New Permit	\$50.00
Trees, other than significant, over 6 cm diameter	\$10.00 each tree
Significant Trees	\$100.00 each tree
Permit Transfer Fee	\$50.00
Permit Renewal Fee	\$50.00

SCHEDULE F

FINES

Fines for tickets issued pursuant to this Bylaw, shall be as follows:

<i>DESCRIPTION OF OFFENCE</i>	<i>SECTION #</i>	<i>FINE</i>
Cut any tree	5(1)(a)	500.00
Work contrary to tree removal permit conditions	5(1)(b)	250.00
Cut or damage roots	5(1)(c)	500.00
Place prohibited material inside the drip line	5(1)(d)	150.00
Operate equipment inside drip line	5(1)(e)	250.00
Damage trunk or branches	5(1)(f)	250.00
Remove bark	5(1)(g)	500.00
Place structure inside drip line	5(1)(h)	150.00
Remove soil from inside drip line	5(1)(i)	150.00
Blast inside drip line	5(1)(j)	500.00
Undermine roots inside drip line	5(1)(k)	500.00
Improper cable or brace	5(1)(l)	250.00
Improper pruning or topping	5(1)(m)	500.00
Attach sign to tree	5(1)(n)	150.00
Fail to notify within 48 hours	7(1)(a)	150.00
Fail to replace tree	7(1)(b)	150.00
Illegal transfer of permit	10(1)	150.00
Failure to notify the Director	10(2)	150.00
Failure to notify the Director for work not carried out	10(3)	150.00
Failure to mark trees	10(4)	150.00
Failure to prune with proper practices	10(5)	150.00
Failure to clean up site	10(6)	300.00
Work after expiry of permit	10(7)	500.00
Fail to replace tree	13(1)	150.00

SCHEDULE G

STREET AND NATURAL AREA REPLACEMENT GUIDELINES

A person who cuts or removes a tree, including cutting or removal contrary to the Bylaw, shall replace the tree by planting one or more replacement trees as set out below and maintain the replacement trees for a minimum of at least two years:

- (a) Table 1 in the case of a Street Tree; and,
- (b) Table 2 in the case of other trees

Table 1

Dbh of trees cut or removed	Replacement Criteria
Less than 300mm	1 replacement tree
301mm to 600mm	2 replacement trees
601mm or greater	3 replacement trees

Table 2

Dbh of trees cut or removed	Replacement Criteria
100 mm to 151mm	2 replacement trees (min height of 1.5m)
152mm to 304mm	3 replacement trees (min height of 1.5m)
305mm to 456mm	4 replacement trees (min height >2.0m)
457mm to 609mm	6 replacement trees (min height > 2.0m)
610mm of greater	8 replacement trees (min height 2.0m)

SCHEDULE H
REGULATIONS FOR PROTECTED TREE REPLACEMENT

LOCATION	SIGNIFICANT TREES (per tree)	INDIVIDUAL TREES (per tree)	SPECIES	SIZE
Watercourse Leave Strip	Ratio of replaced/removed trees ≥ 3 , and minimum density of 1 tree per 10 sq. m over affected area	Ratio of replaced/removed trees ≥ 2 and minimum density of 1 tree per 10 sq. m. over affected area	Native trees and shrubs	Maximum size which is free to grow after 2 years
Steep Slope and Similar DPA's	Ratio of replaced/removed trees ≥ 2 , and minimum density of 0.5 trees per 10 sq. m. over affected area	Ratio of replaced/removed trees ≥ 1 and minimum density of 0.5 trees per 10 sq. m. over affected area	Native trees and shrubs	Maximum size which is free to grow after 2 years
Character Protection and Tree Protection Zones	Sufficient number to provide screening pursuant to the City of Nanaimo Official Community Plan - Nanaimo Parkway Design Guidelines	Sufficient number to provide screening per Nanaimo Parkway Design Guidelines	Pursuant to the City of Nanaimo Zoning Bylaw	Pursuant to the City of Nanaimo Zoning Bylaw
Other Areas	Ratio of replaced/removed trees ≥ 1 or per current Zoning Bylaw regulations	Current Zoning Bylaw regulations	Pursuant to the City of Nanaimo Zoning Bylaw	Pursuant to the City of Nanaimo Zoning Bylaw

SCHEDULE I

TREE REMOVAL GUIDELINES

	Repair and Maintain 1	Repair and Maintain 2	Repair and Maintain 3	Remove	Remove ASAP
General Condition	Fair	Poor	Very poor and / or minor indication of poisoning	Unlikely to recover and/ or indication of mortal poisoning	Dead
Trunk	1 or 2 wounds < diameter of the trunk in any dimension	1 or 2 wounds > diameter but <2x diameter of the trunk in width, or 2-4x diameter in height or 3-5 wounds < diameter but <2x diameter of the trunk in any dimension	1 wound >2x diameter of the trunk in width, or > 4x diameter but <6x diameter in height or 3-5 wounds > diameter but <2x diameter of the trunk in any dimension	Less than 1/10 of the circumference of bark and cambium alive at any height of 2 or more wounds >2x diameter of the trunk in width, or >4 x diameter in height or biological attack present that will make the tree structurally unsafe within five years	Structurally unsafe due to physical or biological damage
Branches	Less than ¼ of branches dead, removed or damaged but acceptable structure remains	¼ to ½ of branches dead, removed or damaged but acceptable structure remains	More than ½ of branches dead, removed or damaged but acceptable structure remains or can be developed.	Branch(es) dead, removed or damaged such that acceptable structure redevelopment is unlikely	Branch(es) removed or damaged making the tree unstable
Canopy	Less than ¼ foliage killed or damaged but should recover within two years	¼ to ½ foliage dead or badly damaged, may take more than two years to recover	More than ½ of foliage dead or badly damaged, may take more than five years to recover	Most of foliage destroyed, recovery of the tree is unlikely	
Young Tree	Loss of less than 25% of roots between circles of radius 5x and 10x DbH of trunk	Loss of >25% but <50% of roots between circles of radius 5x and 10x DbH of trunk or loss of < 20% of roots within circle of radius 5x DbH of trunk	Loss of >50% but <75% of roots between circles of radius 5x and 10x DbH of trunk or loss of >20% but <40% of roots within circle of radius 5x DbH of trunk	Loss of >75% of roots between circles of radius 5x and 10x DbH of trunk or loss of >40% of roots within circle of radius 5x DbH of trunk	Tree unstable due to root loss or damage or loss of more than 75% of roots
Roots	Loss of <10% of roots between circles of radius 10x and 15x DbH of trunk	Loss of >10% but <25% of roots between circles of radius 10x and 15x DbH of trunk	Loss of >25% but <50% of roots between circles of radius 10x and 15x DbH of trunk or loss <10% of roots between circles of radius 10x DbH of trunk	Loss of >50% of roots between circles of radius 10x and 15x DbH of trunk or loss of >10% of roots within circle of radius 10x DbH of trunk	Tree unstable due to root loss or damage or loss of more than 60% of roots

SCHEDULE J

FIRE INTERFACE TREES

The following table indicates some characteristics of flammable versus fire resistant vegetation. Nursery and landscape professionals are a source of information on species appropriate for your area that may also be fire resistant.

Flammable Vegetation	Fire Resistant Vegetation
Areas of largely dead vegetation (forest with disease or insect infestation)	Little or no accumulation of dead vegetation
Resinous plants that produce flammable sap or pitch (e.g. pine or juniper)	Non-resinous plants (most other deciduous species)
Drought intolerant plants (many shallow rooted or wetland species subjected to drought)	Drought tolerant plants (e.g. deeply rooted plants with thick heavy leaves)
Trees with lots of lower branches that can "ladder" a ground fire into the crown	Trees with fewer branches between the ground and the canopy
High maintenance vegetation (plants that grow or reproduce rapidly such as annual grasses)	Low maintenance vegetation (slow growing plants that require little care)
"Flash Fuel" vegetation (plants that ignite easily and burn rapidly (such as dry grass)	Plants that require prolonged heating to ignite (those with woody stems and branches)

Resort Municipality of Whistler Backgrounder

Proposed Environmental Protection Bylaw

January 2014

Protecting Whistler's natural beauty and environmental resources has been identified as a priority since Whistler's creation as a resort municipality, and is highlighted in [Whistler2020](#), and the Resort Municipality of Whistler's (RMOW) [Corporate Plan](#) and [Official Community Plan](#) (OCP).

Through significant development over the last 40 years, Whistler's natural areas and local biodiversity have been challenged by land conversion and habitat fragmentation, and the municipality is committed to mitigating the impacts.

The proposed Environmental Protection Bylaw No. 2000, 2012 is intended to assist the RMOW in meeting community goals for protecting the environment. The bylaw will give the RMOW a clear, consistent and comprehensive tool to:

- protect streams;
- meet and exceed the Province's requirements under the Riparian Area Regulations;
- provide a clear tree cutting permit process;
- manage invasive species; and
- enforce the [OCP's Development Permit environmental guidelines](#).

Protecting Streams

Prior to the introduction of this proposed bylaw, there was no municipal legislation in place to address pollution to streams or drainage works. Such Provincial and Federal legislation does exist but monitoring and enforcement at the local level can be challenging. With the introduction of this proposed bylaw, the RMOW will be directly enabled to issue fines for the pollution or obstruction of waterways.

Trees

The RMOW has an existing Rural Area Tree Protection Bylaw No. 1038, 1994 which applies only to lands zoned RR1. It is narrow in scope and difficult to apply for both property owners and the municipality. It will be rescinded when the new bylaw is passed. The proposed Environmental Protection Bylaw will apply to trees within 20-metres of the Highway 99 right of way, heritage trees, and trees in covenanted areas requiring municipal approval to alter. A tree cutting permit process will be introduced that provides a clear and comprehensive process for addressing the alteration or removal of trees on all applicable lands. The proposed Environmental Protection Bylaw will provide a clear means of enforcement in the case of non-compliance related to tree cutting in applicable areas.

Minimizing the Spread of Invasive Plant Species

[Invasive plant species](#) are a growing problem and not only threaten biodiversity, but some species can also damage property or cause injury to humans. The RMOW will continue to partner with the Sea to Sky Invasive Species Council on a regional approach to the management of invasive species, including continuing public education and assisting land owners who have invasive plants on their properties. The RMOW does not currently have any legislation in place prohibiting the planting of invasive species in Whistler. The proposed Environmental Protection Bylaw will achieve this, as well as facilitating enforceable notice to remove invasive plant species from a person's land.

Enforcing Environmental Conditions in Development Permits

The update of the [OCP](#) in 2013 included the creation of new [Development Permit Areas](#) for the protection of the natural environment, including wetlands, riparian areas and other sensitive ecosystems. While most developers are compliant with the conditions, it is prudent to provide for the enforcement of specific environmental guidelines and conditions attached to relevant Development Permits. The proposed



Environmental Protection Bylaw will give the RMOW the ability to issue tickets for non-compliance with relevant permit conditions.

Introduction of the Proposed Environmental Protection Bylaw

The proposed Environmental Protection Bylaw is being introduced via a phased approach. Phase I will occur from January to March 2014, and will include streams and drainage works, and trees under certain conditions. Phase II is anticipated to conclude by May 2014, and will include invasive species and Development Permit conditions for the protection of the natural environment.

About the Resort Municipality of Whistler

The Resort Municipality of Whistler (RMOW) is Whistler's local government led by an elected council and administered by an executive team and staff on behalf of 9,824 residents and two million annual visitors. The RMOW manages municipal planning and development, park and Village operations, sports facilities and recreation, public utilities and environmental services, bylaws and enforcement, fire rescue, fiscal planning and financial services, legislative services, human resources, communications and the administration of the Whistler2020 Comprehensive Sustainability Plan and Whistler's Official Community Plan. The RMOW collaborates with in-resort and external partners to create visitor experiences and enrich community life.

Whistler's vision is to be the premier mountain resort community as it moves toward sustainability. Whistler was the proud Host Mountain Resort for the 2010 Olympic and Paralympic Winter Games.

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