

THE CORPORATION OF THE DISTRICT OF SAANICH

BYLAW NO. 7632

TO REGULATE AND PROHIBIT THE CUTTING OF TREES

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WHEREAS the Council may pursuant to Division 4.1 of Part 28 of the *Municipal Act* enact a bylaw to protect and preserve trees;

AND WHEREAS it is Council's intention to regulate the removal and damaging of trees;

NOW THEREFORE the Municipal Council of The Corporation of the District of Saanich in open meeting assembled enacts as follows:

1. **DEFINITIONS:**

In this Bylaw,

- a) **"A.L.R. LAND"** means those lands included within the Agricultural Land Reserve establish under the *Agricultural Land Commission Act, 1979, R.S.B.C. c.9.*
- b) **"AGRICULTURAL USE"** means a use providing for the production, keeping or maintenance, for sale, lease or personal use, of plants and animals, including but not limited to forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products, fur animals; fruits of all kinds, vegetables, nursery, flora, ornamental and greenhouse products but does not include the production, growing or harvesting of trees.
- c) **"BUILDING ENVELOPE"** shall mean that part of a lot on which the principal building may be sited under the setback requirements of the "Zoning Bylaw, 1988, No. 6120", or any successor bylaw, as varied by any variances to a setback distance approved by development variance permit, development permit or the Board of Variance.
- d) **"CERTIFIED ARBORIST"** means a person holding a current certification of "certified arborist" issued by the International Society of Arboriculture.

- e) **“CLEARCUT LOGGING”** means the cutting down of trees on a parcel of land but does not include:
- i) the cutting down of not more than 3 trees for every full .4 hectares (1 acre) of land in a parcel for any reason in any one calendar year, or
  - ii) the cutting down of trees required to clear a site for a building, driveway, septic field or utility corridor, or
  - iii) the cutting down of trees which are dead, diseased or damaged by a natural cause.

In this definition a parcel less than .4 hectares (1 acre) in area shall be deemed to be .4 hectares (1 acre) in area.

- f) **“CUT DOWN”** means to cut down, kill or remove a tree by any means and includes the topping of a tree and the removal of any branch or trunk of a tree having a diameter of more than 10 centimetres (3.9 inches).
- g) **“DIRECTOR OF PARKS AND RECREATION”** means the person duly appointed by Council to serve as Director of Parks and Recreation and includes any person lawfully acting under his or her authority.
- h) **“FLOODPLAIN”** means those lands contained in the Floodplain Development Permit Area designated in the “Official Community Plan Bylaw, 1993, No. 7044” or any successor bylaw.
- i) **“HOLDING ZONE”** means urban land contained in a zone which does not permit the land to be subdivided into urban lots but which is shown in the current Saanich Official Community Plan as having future subdivision potential.
- j) **“MANAGER OF INSPECTION SERVICES”** means the person duly appointed by Council to serve as the Manager of Inspection Services and includes any person lawfully acting under his or her authority.
- k) **“NATURAL BOUNDARY”** means the visible high water mark of any watercourse where the presence and action of the water are so common and usual and so long contained in all ordinary years as to mark upon the soil of the bed or bank of the watercourse a character distinct from the lands adjacent thereto in respect of vegetation as well in respect to the nature of the soil itself.
- l) **“PROTECTED ROOT ZONE”** means the area of land surrounding the trunk of a tree which has been specifically delineated on a plan by a certified arborist or such other person as approved by permit issued by the Director of Parks and Recreation, or in the absence of such information, the area of land surrounding the trunk of a tree contained within a circle having a radius which is calculated by multiplying the diameter of the tree by 18.

- m) **“PROTECTED TREE”** shall mean:
- i) A Garry Oak tree (*Quercus garryana*),
  - ii) An Arbutus tree (*Arbutus menziesii*),
  - iii) A Pacific Dogwood tree (*Cornus nuttallii*),
  - iv) A Pacific Yew tree (*Taxus brevifolia*),
  - v) A Douglas Fir tree (*Pseudotsuga menziesii*) having a diameter greater than 60 centimetres,
  - vi) A Western Red Cedar tree (*Thuja plicata*) having a diameter greater than 60 centimetres,
  - vii) Any tree having a diameter greater than 80 centimetres.
- n) Clause deleted in Bylaw amendment 8761.
- o) **“RESIDENTIAL ZONE”** shall mean any single family dwelling or two-family dwelling zone under the Saanich “Zoning Bylaw, 1988, No. 6120” or any successor bylaw.
- p) **“RURAL LAND”** means a parcel of land located outside the Urban Containment Boundary defined by the Saanich Official Community Plan, as amended from time to time, but does not include a municipal park or a highway.
- q) **“TREE”** means any living, erect, woody plant which is:
- i) 5 metres (16.3 feet) or more in height, or
  - ii) 10 centimetres (3.9 inches) or more in diameter, or
  - iii) a replacement tree planted pursuant to Section 16 of this bylaw of
  - iv) a replacement tree planted as a condition of a permit issued under this bylaw.
- r) **“URBAN LAND”** shall include those parcels of land located in a residential zone or holding zone inside the Urban Containment Boundary defined by the Saanich Official Community Plan as amended from time to time but does not include a municipal park or highway.
- s) **“URBAN LOT”** shall mean a parcel of land which under the Zoning and Subdivision bylaws of the municipality may not be further subdivided but does not include any lot in a holding zone.
- t) **“WATERCOURSE”** shall mean a watercourse or portion of a watercourse shown on Schedule “B” of the “Watercourse and Drainage Regulation Bylaw, 1996, No. 7501”, or any successor bylaw, but shall not include any watercourse or portion thereof wholly contained within a drain or culvert.

## 2. Measurement

In this bylaw:

- (a) The diameter of a tree shall be determined by dividing the circumference of the trunk measured 1.4 metres (4.5 feet) above the ground by 3.142.
- (b) The diameter of a tree having multiple trunks 1.4 metres (4.5 feet) above the ground shall be the sum of:
  - (i) 100% of the diameter of the largest trunk, and
  - (ii) 60% of the diameter of each additional trunk.
- (c) The location of a tree on a lot shall be measured at the point at which the trunk of the tree meets the ground.

## 3. Urban Land

- a) No person shall cut down a protected tree growing on urban land.
- b) Subsection (a) shall not apply to the removal of a protected tree:
  - i) growing on the building envelope of an urban lot less than 1,500 m<sup>2</sup> (16,146 sq.ft.) in area,
  - ii) growing on the building envelope of an urban lot 1,500 m<sup>2</sup> (16,146 sq.ft.) in area or larger if the removal of the tree is necessary for the purpose of constructing a building or an addition to a building,
  - iii) required for the installation of roads or services shown on an engineering drawing approved by the Director of Engineering,
  - iv) required for the installation of an access route or above ground or underground services on the common property of a bare land strata subdivision.
  - v) which is shown as “to be removed” on a plan attached to a letter of Conditional Approval of a subdivision plan.
- c) No person shall cut down a tree growing on any land designated as a Development Permit Area in the Saanich Official Community Plan under section 945 (4) of the *Municipal Act* prior to the issuance of a development permit.

- d) No person shall cut down a tree shown as “to be retained” on a plan attached to a development permit.
- e) Where the trunk of a protected tree is growing on a boundary of a building envelope on an urban lot, the tree may be removed provided:
  - (i) if the tree is growing on a lot 1,500 m<sup>2</sup> (16,146 sq. ft.) in area or larger, the removal of the tree is necessary for the purpose of constructing a building or an addition to a building,
  - (ii) if the tree is growing on a lot of any size a permit is first obtained, and
  - (iii) it shall be a condition of every permit issued under this subsection that two replacement trees be planted on the lot for every tree removed of a size, species and in a location to be determined by the Director of Parks and Recreation.

#### **4. Rural Land**

- a) No person shall carry out clearcut logging on a parcel of rural land.
- b) Subsection (a) shall not apply to the cutting down of trees growing on A.L.R. land provided,
  - i) a permit is first obtained to authorize the removals pursuant to this bylaw; and
  - ii) the purpose of the tree removal is to enable the land on which the trees are growing to be used for an agricultural use and the owner files with the municipality an affidavit verifying the purpose.

#### **5. Streams**

No person shall cut down a tree growing within 15 metres of the natural boundary of a watercourse, except where a tree or the roots of a tree are blocking a watercourse or reducing its drainage capacity.

#### **6. Floodplains**

No person shall cut down a tree growing on a floodplain.

#### **7. Steep Slope Areas**

- a) No person shall without first obtaining a permit cut down more than 2 trees in any one calendar year growing on any parcel of land designated as a steep slope area on the plans attached hereto and marked Schedule “A”.

- b) The stumps and roots of any tree removed without a permit pursuant to this section shall not be removed from the steep slope areas without specific written permission from the municipality.
- c) Nothing contained in this section shall be construed to authorize the cutting down of any tree which is otherwise prohibited from removal under this bylaw.

## **8. Significant Trees**

- a) The trees identified on Schedule "B" attached hereto are hereby designated as "Significant Trees" pursuant to section 929.03 of the *Municipal Act* because of their importance to the community, including importance for heritage or landmark value or as wildlife habitat.
- b) The Director of Parks and Recreation shall place a plaque or marker on or near each significant tree upon receiving permission to do so from the owner of the property on which the tree grows.
- c) No person shall cut down a significant tree designated under this bylaw.

## **9. Tree Damaging Activities**

- a) No person shall carry out any of the following tree damaging activities in respect to any tree the cutting down of which is prohibited by this bylaw unless a permit is first obtained and the activity is carried out strictly in accordance with the permit.
  - i) cutting or damaging the roots of a tree growing inside the protected root zone,
  - ii) placing fill, building materials, asphalt or a building or structure or storing or stockpiling piles of organic material within the protected root zone of a tree,
  - iii) operating trucks, backhoes, excavators or other heavy equipment inside the protected root zone,
  - iv) denting, gouging or damaging the trunk of a tree,
  - v) removing bark from a tree,
  - vi) depositing concrete washout or other liquid or chemical substances harmful to the health of a tree on the protected root zone,

- vii) removing soil from the protected root zone,
  - viii) blasting within the protected root zone of a tree or outside the protected root zone of a tree so as to damage roots or disturb soil inside the protected root zone of a tree,
  - ix) undermining the roots of a tree growing inside the protected root zone.
- b) Where the proposed activity will endanger the health or life of the tree, the Director of Parks and Recreation may:
- i) refuse to issue a permit,
  - ii) issue a permit subject to conditions,
  - iii) issue a permit to allow the tree to be removed,
  - iv) require, as a condition of a permit issued under clause (iii) of this subsection, that two replacement trees be planted on the property for each tree removed of a size, species and in a location to be determined by the Director of Parks and Recreation.

## 10. Permits

- a) Every application for a permit shall be made to the Director of Parks and Recreation and shall be accompanied by a non-refundable application fee and unit tree fee as follows:
- i) \$25.00 application fee for the first 3 trees,
  - ii) \$5.00 fee for each additional tree,
  - iii) there shall be no permit fee charged for the removal of a tree pursuant to section 12.
- b) The application for a permit shall be made on the form prescribed by the Director of Parks and Recreation and shall be accompanied by a plan identifying:
- i) the location, species and diameter of the trees proposed to be cut down,
  - ii) the location, species, diameter and protected root zone of the trees in respect to which tree damaging activities are to be carried out,
  - iii) the location of any proposed construction activities, excavation activities, blasting activities in relation to the tree, and

- iv) the protected root zone of each protected tree on the parcel of land.
- c) The applicant for a permit shall state on the application form the purpose for which the trees are to be removed.
- d) The applicant shall flag or mark with paint each tree proposed for removal.
- e) An applicant for a permit under section 9 of this bylaw shall mark on the ground with paint, stakes or flagging,
  - i) the protected root zone of each tree shown on the plan accompanying the permit application under s. 10(b).
  - ii) the boundaries of the areas within the protected root zones on which the proposed excavation, blasting or other tree damaging activity is to take place.
- f) It shall be a condition of every permit issued under this bylaw that all pruning or cutting of branches, limbs or roots of a protected tree shall be carried out under the supervision of a certified arborist.
- g) It shall be a condition of every permit issued to carry out a tree damaging activity that:
  - i) a fence at least 1.2 metres (4.0 feet) high containing solid wood or metal posts shall be installed to separate the area of land on which the permit allows the tree damaging activity to occur from the remainder of the protected root zone of the tree.
  - ii) no excavation, blasting, construction or other tree damaging activities shall be carried out until the fence described in this section has been installed.
  - iii) the fence described in this section shall be kept in place continuously until the completion of the work proposed to be carried out on the parcel of land,
  - iv) there shall be posted and continuously maintained on the fence an all weather sign stating "Protected Root Zone - No Entry", and
  - v) wherever in the course of an excavation tree roots are cut, the remaining exposed roots shall immediately be wrapped in a root curtain of wire mesh lined with burlap supported by posts and the root curtain shall be kept moist throughout the construction process.

- h) It shall be a condition of every permit issued which requires the planting of replacement trees that the owner provides to the Municipality, upon issuance of the permit, security in the amount of 120% of the total cost of planting the replacement tree in the form of cash or Letter of Credit to guarantee performance of the requirement.

## **11. Permits in Respect to Steep Slope Areas**

- a) Every application for a permit pursuant to section 7 shall be accompanied by a report prepared by a qualified geotechnical engineer, at the applicant=s expense, that the proposed tree removal will not create a danger from flooding, erosion, landslip or avalanche.
- b) If the report of the geotechnical engineer requires the construction of works necessary to prevent slippage or erosion, no permit shall be issued unless the applicant provides to the municipality a surety deposit or bond in favour of the municipality in the amount of 120% of the cost of the works as estimated by the geotechnical engineer.
- c) The applicant shall enter into an agreement with the municipality with respect to any surety bonding required.
- d) The applicant shall be responsible for and at his own expense execute all work required by the geotechnical engineer in his report in order to ensure the stability of the slope.
- e) Upon completion of the required works and certification of the geotechnical engineer that the works satisfy his requirements to maintain the stability of the slope, the surety bonding will be released.
- f) The works shall be completed within the period specified on the permit. Should the works not be finalized within the stated period, the municipality may have the works completed at the owner=s/applicant=s expense using the surety bond.

## **12. Removal of Hazardous Trees**

- a) Every owner or occupier of real property shall cause all trees, hedges, bushes or shrubs on the property to be trimmed, removed or cut down if the Council considers that it is:
  - i) a hazard to the safety of persons,
  - ii) likely to damage public property, or
  - iii) seriously inconveniencing the public.

- b) The Council may serve upon the owner or occupier of the property notice that the municipality will be entitled to take the required action at the expense of the person given the notice if the person does not take the required action within 5 days service of the notice upon him.
- c) If the person given the notice does not take the required action within 5 days of service, the municipality, by its employees or other, may enter the real property and take the action specified in the notice at the expense of the person given the notice.
- d) If the person referred to in the preceding subsection does not pay the costs of the action taken on or before December 31<sup>st</sup> in the year in which the costs were incurred, the costs shall be added to and form part of the taxes payable on the real property as taxes in arrear.

### **13. Removal and Pruning by Permit**

- a) The owner of a tree which, pursuant to this bylaw, may not be cut down may apply to the municipality for a permit to cut down or prune the tree, and if,
  - i) the tree is dead, dying, severely damaged, unstable or severely leaning and in danger of falling, or
  - ii) interfering with, or in such close proximity to utility wires as to be a danger, or
  - iii) the roots of the tree are interfering with, blocking or damaging a drainage or sewer system or other improvement, or
  - iv) the removal of the trees is required for the construction or installation of a driveway, required off-street parking area, septic tank or field, or underground or above ground utility corridor, and where, in the opinion of the Director of Parks and Recreation in consultation with the Manager of Inspection Services, no other acceptable locations are available where the driveway, parking area, septic tank or field or utility corridor may be located, the Director of Parks and Recreation may issue a permit to cut down or prune the tree.
- b) The owner of a tree, which pursuant to this bylaw may not be cut down, may apply to the municipality for a permit to prune the tree and if a certified arborist confirms that the proposed pruning will benefit the tree, the Director of Parks and Recreation may issue a permit to prune the tree.
- c) There shall be no charge for a permit issued under subsections (a) (i), (ii), (iii) or subsection (b) of this section.

- d) In this section “the owner of a tree” includes any permit who has the right, at common law, to prune or remove a limb or root of a tree.

#### **14. Emergency Removal**

Notwithstanding any other provision in the bylaw, a person may cut down a tree or limb of a tree prohibited from removal under this bylaw if:

- a) the tree or limb of the tree has been severely damaged by a natural cause, and
- b) the tree or limb of the tree is in imminent danger of falling and injuring persons or property.

#### **15. Public Works**

The provisions of this bylaw shall not apply to the installation, repair or maintenance of any public works or service carried out by or under the authority of the municipality, provided that whenever it is proposed to cut down a tree or carry out a tree damaging activity described in section 9 of this bylaw, other than an emergency repair, the proposed works shall first be reviewed and approved by the Director of Parks and Recreation.

#### **16. Replacement Trees**

In addition to any other remedy, any person who cuts down or damages a tree in contravention of this bylaw or a permit issued under this bylaw shall:

- a) Plant a replacement tree of the same species in approximately the same location as the tree removed of a size to be determined in accordance with the Tree and Vegetation Retention, Relocation and Replacement Guidelines of The Corporation of the District of Saanich within a time period prescribed by the Director of Parks and Recreation.
- b) Water, fertilize and maintain the replacement tree strictly in accordance with the Tree and Vegetation Retention, Relocation and Replacement Guidelines of The Corporation of the District of Saanich.
- c) Provide to the municipality security in the amount of 120% of the total cost of replacing and maintaining the tree for a period 3 years in the form of cash or letter of credit to guarantee performance of the requirements of this section.

**17. Removal of Replacement Trees**

Subject to section 3 (b), no person shall cut down any tree planted as a replacement tree pursuant to section 16 of this bylaw or a replacement tree planted as a condition of a permit issued under this bylaw.

**18. Administration and Enforcement**

- a) The Director of Parks and Recreation, the Director of Engineering, the Manager of Inspection Services, the Bylaw Enforcement Officers and any municipal employee authorized by one of the aforesaid officials shall have the right to enter at all reasonable times on any property to make an assessment or inspection for any purpose under this bylaw.
- b) No person shall prevent or obstruct or attempt to prevent or obstruct entry of any municipal employee authorized to enter upon property by this bylaw.

**18.1 Right of Reconsideration**

- (a) The owner or occupier of real property that is subject to a decision of the Director of Parks and Recreation under this bylaw to grant or refuse a permit, or to impose conditions on the granting of a permit is entitled to apply to the Council to have the decision reconsidered.
- (b) An application for reconsideration shall be made in writing to the Municipal Clerk.
- (c) There shall be no charge for an application for reconsideration under this bylaw.

**19. Offense**

- a) Any person who contravenes section 9 (a) of this bylaw by doing any act which it forbids or failing to do any act which is required to be done is guilty of an offence and is liable on summary conviction to a fine of not less than \$100.00 for each tree unlawfully damaged, for a first offence, and for each subsequent offence to a fine of not less than \$500.00 for each tree unlawfully damaged.
- b) Any person who contravenes any provision of this bylaw other than section 9 (a) or 10 by doing any act which it forbids or failing to do any act which is required to be done is guilty of an offence and is liable on summary conviction to a fine of not less than \$500.00 for each tree unlawfully cut down, for a first offence, and for each subsequent offence to a fine of not less than \$1000.00 for each tree unlawfully cut down.

- c) Any person who contravenes a condition of a permit issued under this bylaw by doing any act which it forbids or failing to carry out an action it requires commits an offence and is liable on summary conviction to a fine of not less than \$100.00 for each contravention, for a first offence and for each subsequent offence to a fine of not less than \$500.00 for each contravention.
- d) It shall be an offence under this bylaw for any owner or occupier of land or any person acting under the authority of any owner or occupier to hire, permit or suffer another person to cut down or damage a tree, or do any other act in contravention of this bylaw.

**20. Repeal**

The “Tree Preservation Bylaw, 1993, No. 6991” is hereby repealed except insofar as it may repeal any other bylaw.

**21. Citation**

This Bylaw may be cited for all purposes as the “**TREE PRESERVATION BYLAW, 1997, NO. 7632**”.

Note:

- < Schedule “A” is available from the Office of the Municipal Clerk by contacting (250) 475-1775 and is comprised of maps.
- < Schedule “B” is available online at [treepreserve\\_schedb.pdf](#) or can be made available by contacting the Office of the Municipal Clerk at (250) 475-1775.

Includes Bylaw Amendments No. 7751, 7861, 8016, 8668 and 8977 .