

**THE CORPORATION OF THE DISTRICT OF SAANICH**

**BYLAW NO. 9272**

**A BYLAW TO REGULATE AND PROHIBIT THE CUTTING, REMOVAL AND DAMAGE OF TREES, THE SETTING OF FEES AND ISSUANCE OF PERMITS FOR THE SAME AND THE REQUIREMENT FOR REPLACEMENT TREES AND OF SECURITY FOR THEIR PROVISION AND MAINTENANCE**

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WHEREAS pursuant to Sections 8(3)(c) and 50 to 52 of the *Community Charter*, S.B.C. 2003, c.26, a Council may, by bylaw, exercise certain powers to preserve and protect trees within the District, regulate the cutting and removal of trees and require replacement;

AND WHEREAS Council considers it is in the public interest to provide for the protection and preservation of trees, the regulation of their cutting and removal and their replacement;

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

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**SCHEDULE A - STEEP SLOPE AREAS****SCHEDULE B - SIGNIFICANT TREES****SCHEDULE C - TREE PROTECTION BARRIER DETAIL****PART 1  
Introductory Provisions and Definitions****PURPOSE**

1. This Bylaw is intended to:
  - a) Regulate the altering, cutting, damaging or removing of trees within the District of Saanich through a permit process;
  - b) Describe the conditions under which permits will be granted for the altering, cutting, damaging or removing of trees;
  - c) Prohibit the altering, cutting, damaging or removal of protected trees without a permit;
  - d) Set requirements for replacement, mitigation or other forms of compensation for the altering, cutting, damaging or removal of trees; and
  - e) Establish provisions relating to inspection and enforcement of tree altering, cutting, damaging or removing in relation to the established permit process and offences.

**DEFINITIONS**

2. In this Bylaw:

**AGRICULTURAL USE** means a use providing for the production, keeping, or maintenance 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, boarding, and grazing of any or all of such animals, and the operation of a riding stable, bees and apiary products, fur animals, trees and forest products, fruits of all kinds, vegetables, nursery, floral, ornamental, and greenhouse products; or land devoted to a soil conservation or forestry management program; includes the storage, repair, and use of machinery and equipment used in conjunction with the agricultural activity carried thereon; excludes feedlots, manufacturing, and livestock processing.

**ALTER** means any of the following:

- a) to remove the top portion of a tree;

- b) lift prune where the lower branches of the live crown (green branches) of the tree are removed to reduce the live crown to less than 50 percent of the total tree height;
  - c) to have more than twenty five (25) percent of the live crown of a tree removed in any twelve (12) month period; or
  - d) to cut off or destroy by any means the roots of a tree within its protected root zone.
- ALTERED, ALTERING, ALTERATION AND EXCESSIVE PRUNING** shall have the same meaning as **ALTER**.

**ALR LAND** means those lands included within the Agricultural Land Reserve established under the *Agricultural Land Commission Act*, S.B.C. 2002, c.36.

**APPLICANT** means the owner or agent for the owner of the land as defined by this Bylaw who is applying to the Director of Parks and Recreation for a tree cutting permit.

**ARBORIST** means an arborist who:

- a) is certified by the International Society of Arboriculture;
- b) is qualified as a tree risk assessor by the International Society of Arboriculture or is qualified by the Province of British Columbia as a Wildlife/Danger Tree Assessor; and
- c) is qualified by the Province of British Columbia as a Wildlife/Danger Tree Assessor.

**ARBORIST REPORT** means a technical written report prepared by an Arborist which may include one or more of the following:

- a) relevant information including, but not limited to, surveyed location, species, size and condition of the subject tree or trees;
- b) the reasons for any proposed removal of a tree or trees;
- c) the recommended tree protection and mitigation measures; and
- d) a tree replacement strategy.

**APPROVING OFFICER** means the person appointed by the Municipal Council to be the Approving Officer and includes the Deputy Approving Officer.

**B.C. LANDSCAPE STANDARD** means the latest edition of the British Columbia Landscape Standard endorsed by the B.C. Society of Landscape Architects and B.C. Nursery Association.

**BUILDING FOOTPRINT** means the actual area of land enclosed by the foundations of the principal building and accessory buildings plus room for construction of the foundation as shown on the plans and specifications attached to the approved building permit.

**BYLAW ENFORCEMENT OFFICER** means a Bylaw Enforcement Officer employed by the District of Saanich.

**COUNCIL** means the Municipal Council of The Corporation of the District of Saanich.

**CUT** means to cut down a tree and shall include to pull up, push or pull over or otherwise fall a tree. **CUTTING** shall have the same meaning as **CUT**.

**DAMAGE** means any action which will cause a tree to die or to decline, including, but not limited to, ringing, poisoning, burning, topping or excessive pruning. **DAMAGED** and **DAMAGING** shall have the same meaning as **DAMAGE**.

**DEVELOPMENT** means the construction of buildings, roads, services or other improvements to land.

**DIRECTOR OF ENGINEERING** means the person duly appointed by Council to serve as Director of Engineering and includes any employee authorized to act on his or her behalf.

**DIRECTOR OF PARKS AND RECREATION** means the person duly appointed by Council to serve as Director of Parks and Recreation and includes any employee authorized to act on his or her behalf.

**DIRECTOR OF PLANNING** means the person duly appointed by Council to serve as Director of Planning and includes any employee authorized to act on his or her behalf.

**D.B.H.** means the diameter of a tree at roughly breast height (1.4 metres (4.6 feet)) above the highest point of natural grade of the ground measured from the base of a tree. For multi-stemmed trees, the three largest stems shall be measured 1.4 metres (4.6 feet) above the highest point of natural grade and the D.B.H. of the tree shall equal the cumulative total of the D.B.H. of the three largest stems.

**DRIP LINE** means a circle drawn on the ground having a radius of the outermost branch tips.

**ENGINEER** means a person registered or licensed as a professional engineer in the Province of British Columbia, pursuant to the provisions of the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c.116, as amended.

**HAZARDOUS TREE** means a tree identified in writing by a "Qualified Tree Risk Assessor" as having defects sufficient to significantly increase the likelihood that all or part of the tree will fall resulting in a risk of personal injury or property damage.

**LANDSCAPE ARCHITECT** means a landscape architect registered with the British Columbia Society of Landscape Architects.

**LOT** means land designated as a separate and distinct parcel on a legally recorded subdivision plan or description filed in the records of the Land Title Office.

**MANAGER OF INSPECTION SERVICES** means the Manager of Inspection Services of the District of Saanich or any employee authorized to act on his or her behalf.

**NATURAL CAUSES** means death or decline of a tree as a result of natural diseases, pests, climactic conditions, inherent structural defects, or senescence.

**NATURAL GRADE** means the elevation of the ground surface of land prior to any disturbance, alteration, excavation or filling.

**OWNER** means the registered owner in fee simple of a lot upon which a tree is located.

**PROTECTED ROOT ZONE** means:

- a) the area of land surrounding the trunk of a tree that contains the bulk of the critical root system of the tree which has been specifically delineated on a tree plan prepared by an arborist and approved by the Director of Parks and Recreation; or
- b) 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 D.B.H. of the tree by 18.

**PROTECTED TREE** means any of the following trees:

- a) the following tree species 2.0 metres or more in height or 4 centimetres in diameter or more when measured 15 cm above natural grade:
  - i) Arbutus (*Arbutus menziesii*);
  - ii) Garry Oak (*Quercus garryana*);
  - iii) Pacific Dogwood (*Cornus nuttallii*);
  - iv) Pacific Yew (*Taxus brevifolia*).
- b) the following tree species when having a D.B.H. of 30 centimetres or more:
  - i) Douglas-fir (*Pseudotsuga menziesii*);
  - ii) Grand Fir (*Abies grandis*);
  - iii) Big Leaf Maple (*Acer macrophyllum*);
  - iv) Western Red Cedar (*Thuja plicata*).
- c) any tree having a D.B.H. that is 60 centimetres or more;
- d) any replacement tree;
- e) any tree located within the Streamside Development Permit Area designated in the Saanich Official Community Plan;;
- f) any tree planted or retained as a requirement of a subdivision application, development permit, blasting permit, building permit, fill permit or a plumbing permit;
- g) any Significant Tree;
- h) any tree with evidence of a nest or use by:
  - i) raptors as defined in the *Wildlife Act*, R.S.B.C. 1996, c. 488;
  - ii) osprey; or
  - iii) a heron colony.

**PRUNE** means to cut or remove any 5 centimetre diameter or greater live limb or root of a tree.

**QUALIFIED TREE RISK ASSESSOR** means a person qualified by the International Society of Arboriculture as a Tree Risk Assessor or by the Province of British Columbia as a Wildlife/Danger Tree Assessor.

**REPLACEMENT TREE** means a tree required to be planted to replace a tree altered, cut, damaged or removed in accordance with this Bylaw.

**REMOVE** means to “Cut” a tree and to remove it from the lot where it exists. **REMOVED, REMOVAL** and **REMOVING** shall have the same meaning as **REMOVE**.

**RURAL LAND** means a parcel of land located outside the Urban Containment Boundary defined by the Saanich Official Community Plan, but does not include a municipal park or a highway.

**SAANICH** means The Corporation of the District of Saanich.

**SAANICH OFFICIAL COMMUNITY PLAN** means the Official Community Plan adopted by the "Official Community Plan Bylaw, 2008, No. 8940" and includes any successor community plan.

**SCAFFOLD LIMB** means one of the primary limbs radiating from the trunk of the tree. Secondary branches that emerge from scaffold limbs are laterals.

**SIGNIFICANT TREE** means a tree listed in SCHEDULE "B" of this Bylaw.

**SOUND ARBORICULTURAL PRACTICE** means in accordance with American National Standards Institute (ANSI) Publication - A-300. -Tree Care Operations and the companion Best Management Practices Series of the International Society of Arboriculture (ISA).

**TOP** means the cutting of a trunk, stem or scaffold limb of a tree back to a stub, bud or lateral branch not large enough to assume apical dominance. **TOPPING** shall have the same meaning as **TOP**.

**TREE** for purposes of s. 8 and s. 9 means any living, erect, woody plant that is 5 metres or more in height, or having a D.B.H. of 10 centimetres or more.

**TREE CUTTING PERMIT** means the written authority granted by the Director of Parks and Recreation pursuant to this Bylaw for the altering, cutting, damaging, pruning or removal of a specified protected tree(s).

**TREE PROTECTION BARRIER** means a barrier constructed around a tree in accordance with SCHEDULE "C" of this Bylaw to protect the tree from damage during site work or construction.

**TREE SURVEY** means a survey plan prepared by an engineer or by a surveyor registered as a British Columbia land surveyor, that illustrates the location of trees in relation to the property lines of a lot, along with the size and species of each tree, plus any other

information required by the Director of Parks and Recreation for the purpose of assessing a tree cutting permit application.

**VEGETATION** for the purposes of s.8 means trees under 5 metres in height or 10 cm in D.B.H. and plants including mosses, lichens, herbs, grasses and shrubs.

**ZONING BYLAW** means the Saanich Zoning Bylaw, 2003, No. 8200 and includes any successor bylaw.

## **PART 2**

### **Application and Exemptions**

3. This Bylaw does not apply to protected trees, that are altered, cut, damaged or removed, pursuant to the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 212 or the *Pipeline Act*, R.S.B.C. 1996, c. 364.
4. This Bylaw does not apply to trees on Saanich-owned property or highways that are cut or removed by Saanich or its authorized agents in accordance with approved Saanich operations.
5. This Bylaw does not apply to trees on property owned by either the Government of Canada or the Province of British Columbia that are cut or removed by that entity or its authorized agents.
6. This Bylaw does not apply to trees described in s. 50(1) a) b) and c) of the Community Charter.

## **PART 3**

### **Prohibitions**

7. No person shall alter, cut, damage or remove any protected tree or cause, suffer or permit any such tree to be altered, cut, damaged or removed, except where permitted by and in accordance with the terms of this Bylaw.
8. No person shall alter, cut, damage or remove any tree, the removal of which requires a development permit under the Saanich Official Community Plan, prior to the issuance of a development permit. Nothing contained in this section shall be construed to authorize the removal of vegetation which is otherwise prohibited under the Streamside Development Permit Areas Regulations contained in Saanich Official Community Plan Bylaw.
9. Steep Slope
  - a) No person shall 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" without first obtaining a tree cutting permit.

- b) The stumps and roots of any tree removed without a tree cutting permit pursuant to this section shall not be removed from the steep slope areas without specific written permission from Saanich.
  - 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 or any other Bylaw.
10. In the event that a protected tree is in imminent danger of falling and injuring persons or property due to natural causes, and it is not possible to obtain a tree cutting permit prior to the tree falling, the owner may cut the tree or have it cut, but shall report the cutting to the Director of Parks and Recreation within the next business day. The owner shall not remove the tree from the lot until Saanich has visited the lot and confirmed that the tree was in imminent danger of falling and injuring persons or property. If Saanich determines that the tree was not in imminent danger, or was in imminent danger, but due to reasons other than natural causes, Saanich may impose a penalty on the owner in accordance with Part 11.
11. No person shall fail to comply with the terms of a tree cutting permit issued pursuant to this Bylaw.

#### **PART 4 Significant Trees**

12. The trees identified on SCHEDULE "B" attached hereto are hereby designated as "Significant Trees" because of their importance to the community, including importance for heritage, landmark value or as wildlife habitat.
13. The Director of Parks and Recreation, with the consent of the owner, may direct a plaque or marker, which provides information about the Significant Tree, to be placed on or near the tree.
14. No person shall alter, cut, damage or remove a Significant Tree.
15. No person shall prune the branches or roots of a Significant Tree without first obtaining a tree cutting permit to do so in accordance with Part 5. There is no fee for such a permit.

#### **PART 5 Tree Cutting Permits**

16. A person wishing to alter, cut, damage or remove a protected tree shall apply to the Director of Parks and Recreation for a tree cutting permit to alter, cut, damage or remove the tree. The tree cutting permit shall determine the number, size, species and location of replacement trees and required security.
17. No person shall prune a protected tree except in accordance with sound arboricultural practices. A tree cutting permit is not required for the pruning of a protected tree, other than a Significant Tree when the pruning is done in accordance with sound arboricultural practices. The pruning and treatment of diseased trees in accordance with sound

arboricultural practice shall be practiced where possible and practical as an alternative to the cutting or removal of a protected tree. Sound arboricultural practice shall not include the topping of protected trees, except where the trees have previously been topped and evidence satisfactory to the Director of Parks and Recreation is provided to establish that the tree in question has been previously topped and the re-topping is necessary to mitigate for the risk associated with a hazardous tree.

18. A person wishing to prune a Significant Tree shall apply to the Director of Parks and Recreation for a tree cutting permit to prune the Significant Tree. It shall be a condition of every permit issued under this Section that all pruning of a Significant Tree shall be carried out under the supervision of an arborist.
19. A tree cutting permit to alter, cut, damage or remove a protected tree, other than a Significant Tree, may be issued by the Director of Parks and Recreation in the following circumstances:
  - a) Where the applicant has demonstrated that the protected tree is a hazardous tree or is dead, damaged, diseased or in decline beyond expectation of recovery. If during a visual assessment by Saanich the condition of the tree is not apparent, the applicant may be required to provide an arborist report to the satisfaction of the Director of Parks and Recreation that the tree is an unreasonable hazard to safety of persons or property;
  - b) Where the Director of Parks and Recreation, an engineer employed by any public utility, or an arborist determines that the protected tree is impairing, interfering with, or presents a risk or hazard to the operation of sewers, drains, water lines, septic fields, electrical lines, poles or similar equipment and appurtenances and that the impairment, interference or risk cannot be reduced or removed in any other way than the removal of the tree;
  - c) Where:
    - i) the protected tree has a mature height of eight (8) metres or less and the centre of the trunk is situated within two (2) metres of an existing foundation wall and that any impairment, interference or risk to the foundation walls cannot be reduced or removed in any way other than the removal of the tree; or
    - ii) where the tree has a mature height of more than eight (8) metres and the centre of the trunk is situated within three (3) metres of an existing building foundation wall and that any impairment, interference or risk to the foundation walls cannot be reduced or removed in any way other than the removal of the tree;
  - d) Where the owner of a protected tree other than a Significant Tree submits an arborist report which documents that the protected tree, by virtue of its size and species, is inappropriate for its location and includes the reasons that it is deemed to be inappropriate for its location, all to the satisfaction of the Director of Parks and Recreation;
  - e) Where a protected tree is located within the Interface Fire Development Permit Area and has been identified as a fire hazard to property. In these cases, a report may be required from a Saanich Fire Prevention Officer, Registered Forester, Certified Arborist, Registered Forest Technician or Registered Professional Engineer that the

- protected tree poses a fire hazard to property and the risk cannot be reduced or removed in any other way than the removal of the protected tree;
- f) Where a protected tree is located within the Agricultural Land Reserve (ALR) or outside the ALR on land zoned for agricultural use and the protected tree must be removed to permit the land to be used for an agricultural use. The application must be accompanied by a sworn declaration (affidavit) from the owner stating that the protected tree(s) is to be cut or removed to permit agricultural use and that the agricultural use cannot be located elsewhere on the lot so as to accommodate the protected tree;
  - g) Where protected trees are growing on Rural Lands, the property owner will be permitted to remove one protected tree for each .40458 hectare (1 Acre) in a lot per calendar year. This yearly allowance is in addition to protected trees permitted for removal under s. 19. a), b), c), d) and e);
  - h) Where the protected tree is growing within the building foot print and the removal of the tree is required to accommodate the construction of a building for which a building permit has been issued;
  - i) Where the removal of the protected tree 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 no other locations are available where the driveway, parking area, septic tank or field or utility corridor may be located;
  - j) Where the removal of the protected tree is required for the installation of roads or services shown on an engineering drawing that has been approved by the Director of Engineering; and
  - k) Where the removal of the protected tree is required for the installation of an access route or above ground or underground service of a bare land strata subdivision that has been approved by the Director of Engineering.
20. The Director of Parks and Recreation may, as a condition of an application for a tree cutting permit:
- a) Require a tree survey, arborist report, or both, accompany the tree cutting permit application;
  - b) Require preliminary lot grading and servicing plans accompany the tree cutting permit application;
  - c) Require the applicant to mark on the ground with paint, stakes or flagging 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;
  - d) Require that the applicant state on the application the purpose for which the trees are to be removed;
  - e) Require the applicant to flag each tree proposed for removal.
21. For the purposes of this Bylaw, an arborist report will only be accepted by Saanich within two (2) years of the date of issuance of the arborist report.

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22. The Director of Parks and Recreation may:
- a) refuse to issue a tree cutting permit;
  - b) issue a tree cutting permit subject to conditions;
  - c) issue a tree cutting permit to alter, cut, damage or remove a protected tree;
  - d) require that the cutting and removal of trees and specific trees be carried out under the supervision of an arborist;
  - e) require that diseased trees be treated in accordance with sound arboricultural practices as an alternative to the removal of a protected tree; and
  - f) require as a condition of a tree cutting permit that a replacement tree or trees be planted on the property for each tree cut or removed in accordance with Part 7 of this Bylaw.
23. a) The Director of Parks and Recreation may revoke a tree cutting permit if the terms and conditions of the permit have been breached or the information supplied by the applicant in support of the permit is found to have been inaccurate, incomplete or erroneous.
- b) The Director of Parks and Recreation may retain the services of an independent arborist to peer review an arborist report submitted to Saanich in support of an application for a tree cutting permit, where the original arborist report submitted to Saanich is shown to be incomplete or inaccurate. The cost of the independent arborist report shall be paid by the owner and collected by Saanich, prior to the issuance of the related tree cutting permit.
24. STEEP SLOPE AREAS
- a) Every application for a tree cutting permit pursuant to Section 9 shall be accompanied by a report prepared by an engineer, at the applicant's expense, that the proposed tree altering, cutting, damage or removal will not create a danger of flooding, erosion, landslip or avalanche.
  - b) If the report of the 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 Saanich in the amount of 120 percent of the costs of the works as estimated by the engineer.
  - c) The applicant shall be responsible for and at his own expense execute all work required by the engineer in his report in order to ensure the stability of the slope.
  - d) Upon completion of the required works and certification by the engineer that the works satisfy his/her requirements to maintain the stability of the slope, the surety bond will be released.

- e) The work shall be completed within the period specified on the tree cutting permit. Should the works not be completed within the stated period, Saanich may have the works completed at the owner's/applicant's expense using the surety bond.

## 25. 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 Director of Parks and Recreation considers that it is:
  - i) a hazard to safety of persons;
  - ii) likely to damage public property; or
  - iii) seriously inconveniencing the public.
- b) The Director of Parks and Recreation 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 owner or occupier does not take the required action within 5 business days of the notice upon him.
- c) If the person referred to in the previous 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.

## TREE DAMAGING ACTIVITIES

- 26. 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 tree cutting permit is first obtained and the activity is carried out strictly in accordance with the permit:
  - a) cutting or damaging the roots of a tree growing inside the protected root zone;
  - b) 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;
  - c) operating trucks, backhoes, excavators or other heavy equipment inside the protected root zone;
  - d) denting, gouging or damaging the trunk of a tree;
  - e) removing bark from a tree;
  - f) depositing concrete washout or other liquid or chemical substances harmful to the health of a tree on the protected root zone;
  - g) removing soil from the protected root zone;
  - h) 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; or

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- i) undermining the roots of a tree inside the protected root zone.
27. An applicant for a permit to work within the protected root zone or perform a tree damaging activity may be required to mark on the ground with paint, stakes or flagging;
- a) the protected root zone of each tree shown on the plan accompanying the permit application; and
  - b) 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.
28. Where the proposed activity will endanger the health or life of the tree, the Director of Parks and Recreation may:
- a) refuse to issue a tree cutting permit;
  - b) issue a tree cutting permit subject to conditions;
  - c) issue a tree cutting permit to allow the tree to be removed;
  - d) require as a condition of a tree cutting permit issued under s. 28 (c) of this subsection, that replacement tree(s) are planted in accordance with Part 7 of this Bylaw.
29. It shall be a condition of every tree cutting permit issued to carry out a tree damaging activity that:
- a) a Tree Protection Barrier 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 tree cutting permit allows the tree damaging activity to occur from the remainder of the protected root zone of the tree;
  - b) no excavation, blasting, construction or other tree damaging activities shall be carried out until the fence described in this section has been installed;
  - c) 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;
  - d) there shall be posted and continuously maintained on the fence an all weather sign stating "Warning – Habitat Protection Area"; and
  - e) 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.

**PART 6**  
**Permit Fees and Securities**

30. There will be no permit fee for tree cutting permits issued pursuant to s. 18, 19 a), b), c), d), e), f) and g) of this Bylaw.
31. Every application for a tree cutting permit on lots pursuant to s.19 h), i), j), k) or s. 26 where no rezoning or development permit is required for the development or tree damaging activity for which the protected tree alteration, cutting, damaging or cutting or removal is required shall be made to the Director of Parks and Recreation and shall be accompanied by a non-refundable application fee and per unit fee, plus a security deposit for replacement trees as set out in the table below:

<b>Section Number</b>	<b>Tree Cutting Permit Application Fee</b>	<b>Per Unit Fee</b>	<b>Replacement Tree Security Deposit</b>
<b>s. 19 h), i), j), k) or s. 26</b>	<b>\$40.00</b>	<b>\$25.00 per additional tree</b>	<b>\$300.00 per replacement tree</b>

32. Every application for a tree cutting permit on lots pursuant to s. 19 h), i), j), k) or s. 26 where a rezoning or development permit is required for the development for which the protected tree alteration, cutting, damaging or removal is required shall be made to the Director of Parks and Recreation and shall be accompanied by a non-refundable application fee and per unit fee, plus a security deposit for replacement trees as set out in the table below:

<b>Section Number</b>	<b>Tree Cutting Permit Application Fee</b>	<b>Per Unit Fee</b>	<b>Replacement Tree Security Deposit</b>
<b>s. 19 h), i), i), k) or s. 26</b>	<b>\$75.00</b>	<b>\$25.00 per additional tree</b>	<b>\$300.00 per replacement tree</b>

33. Where the replacement trees are part of the overall landscaping required under a development permit or development variance permit, the security is to be the amount specified in the approved landscape cost estimate associated with the approved development permit or development variance permit.
34. Where a tree cutting permit must be amended to show a change in the number or location of trees to be retained or removed after the tree cutting permit has been issued, the permit holder will be required to pay a non-refundable administration fee in the amount of \$35.00 plus additional unit fees and security deposits required under s. 31 or s. 32.
35. Where replacement trees or retention of existing trees are required as a condition of a tree cutting permit or as part of a penalty for altering, cutting, damaging, pruning or removing protected trees without a tree cutting permit or altering, cutting, damaging, pruning or removing trees in excess of the number allowed by the tree cutting permit, the owner or persons responsible for the altering, cutting, damaging, pruning or removal shall provide to Saanich a security deposit in cash, bank draft, certified cheque or letter of credit in the

amount specified in the tree cutting permit or penalty notice, for the period and on the terms specified in Part 6 of this Bylaw.

36. Any letter of credit required to be provided under this Bylaw shall be a clean, unconditional and irrevocable letter of credit drawn from a Canadian financial institution acceptable to Saanich and in a form acceptable to Saanich. If, for any reason, the irrevocable letter of credit ceases to be effective security or becomes unenforceable so as to remove or reduce its purpose as full security for the due and proper performance of the requirements of this Bylaw, or is due to expire, the owner shall replace it with a further letter of credit acceptable to Saanich within twenty-one (21) days prior to the expiry of the letter of credit held by Saanich. If the owner fails to do so, Saanich will draw down on the current letter without notice or restriction and hold the monies in lieu thereof.
37. If at any time the owner fails to comply with the provisions of this Bylaw relating to requirements for retention of existing trees or replacement trees and their maintenance, Saanich may by its employees or others under its direction enter upon the lands that are the subject of the requirements to plant replacement trees or maintain protected trees and for such purposes may draw down upon the securities provided and expend the funds to cover all costs and expenses in doing so. Alternatively, Saanich may use the securities to plant trees elsewhere on any Saanich owned property.
38. The amount of security deposit collected to cover the cost and maintenance of a replacement tree set out in s. 31 and s. 32 shall be released as follows:
  - a) By fifty (50) percent of the original amount after the planting of replacement trees has been approved in accordance with the inspection requirement set out in Part 9; and
  - b) By the balance of the deposit after one year from the date of the first reduction provided the condition of the replacement trees has been approved in accordance with the inspection requirements set out in Part 9.
39. Pursuant to s. 31 and s. 32, a security deposit collected to cover the total costs of the required landscaping, including replacement trees shall be released as follows:
  - a) By ninety (90) percent of the original amount after the landscaping is completed and approved in accordance with the inspection requirements set out in Part 9; and
  - b) By the balance of the deposit after one year from the date of the first reduction provided that the landscaping is approved in accordance with the inspection requirements in Part 9.

## **PART 7 Replacement Trees**

40. Replacement trees required for trees permitted for removal under s. 19. a), b), c) and d) may be provided to the owner of a residential lot free of charge by Saanich provided that the property meets the criteria for replacement tree planting and the owner follows sound arboricultural practices. The property owner shall agree to the planting and maintenance of the tree as per the Saanich Acceptable Replacement Trees and Planting Requirements.

41. No replacement trees are required for protected trees permitted for removal under s. 19 e), f) and g).
42. Replacement trees required for trees permitted for altering, cutting, damaging or removal under s. 19 h), i), j), k), and s. 26. shall be planted, where possible, on the same lot on which the protected tree is altered, cut, damaged or removed, to the extent that the lot will accommodate such replacement trees in accordance with sound arboricultural practice.
43. Replacement trees required pursuant to Part 11 (Offences) shall be of a size, species and location as determined by the Director of Parks and Recreation.
44.
  - a) The required size of a replacement tree that is deciduous shall be 4 cm in diameter measured at 15 cm above ground. The required size of a replacement tree that is coniferous shall be a minimum of 3 metres in height.
  - b) The number of replacement trees required under s. 40 and s. 42 shall be one (1) replacement tree for each one (1) tree that is altered, cut, damaged or removed, except that where:
    - i) the protected tree to be altered, cut, damaged or removed is permitted under s.19 j) or k) to accommodate development on the property associated with a rezoning or development permit application, two (2) replacement trees are required for each one (1) tree permitted for removal.
45. If, in the assessment of the Director of Parks and Recreation, the lot cannot accommodate a replacement tree for each protected tree that is altered, cut, damaged or removed without compromising sound arboricultural practices, due to the size or other characteristics of the lot, the owner shall be required to pay cash-in-lieu to The Corporation of the District of Saanich in the amount of THREE HUNDRED (\$300.00) DOLLARS for each replacement tree that cannot be accommodated.
46. Under s. 44, where it is determined that the required number of replacement trees cannot be accommodated on the property based on sound arboricultural practices due to the size or other characteristics of the property, the owner may request the Director of Parks and Recreation to reduce the number of replacement trees required by one (1), and if such request is granted, the size of the required replacement tree that is deciduous shall be 8 cm diameter in diameter measured at 15 cm above ground. The size of the required replacement tree that is coniferous shall be 5 metres in height. The corresponding required security deposit will also be increased to SIX HUNDRED (\$600.00) DOLLARS per each replacement tree permitted to be increased in size.
47. Under s. 44, where a non-protected tree is proposed to be retained within a development and the tree meets the latest edition of the "B.C. Landscape Standard" for condition and structure, and where the tree is the same size or larger than the size of the required replacement tree as outlined in s. 44 a), the retained tree may be considered by the Director of Parks and Recreation as one (1) of the replacement trees required for that lot.
48. Under s. 44, where the number of non protected trees that meet the latest edition of the "B.C. Landscape Standard" for condition and structure are proposed to be retained on one (1) lot, exceeds the number of replacement trees required for that lot, the extra trees may be credited against other lots within the same subdivision. This transfer of credits from one

- (1) lot to another will be limited to a maximum of two (2) credits per new lot, provided that a minimum of one (1) replacement tree is planted in the front yard of each new lot.
49. Replacement trees must meet the plant condition and structure requirements set out in the latest edition of the "B.C. Landscape Standard" to be considered acceptable by the Director of Parks and Recreation.
50. Replacement trees must be planted and maintained in accordance with the requirements set out in the latest edition of the "B.C. Landscape Standard".
51. Replacement trees shall not be planted:
- a) in the case of trees having a mature height of eight (8) metres or less, within two (2) metres of a building foundation wall; or
  - b) in the case of trees having a mature height of greater than eight (8) metres, within three (3) metres of a building foundation wall; or
  - c) within one (1) metre of a property line.
52. Where no construction or site disturbance is proposed that would affect the planting of replacement trees, the replacement trees must be planted within ninety (90) days of the date of issuance of the tree cutting permit.
53. Where the planting of replacement trees would hinder proposed construction or where proposed construction would jeopardize the survival of replacement trees, the replacement trees must be planted within ninety (90) days of the final occupancy approval for the last building being constructed that would jeopardize the survival of the tree, but in any case, within two (2) years of the date of the issuance of the tree cutting permit when the date of construction completion is not known, except where an extension of time is granted in writing by the Director of Parks and Recreation.
54. Where a replacement tree is to be planted pursuant to Part 11 (Offences) of this Bylaw, it must be planted within the time period specified in a written notice delivered by Saanich.

## **PART 8 Tree Protection**

55. Where the drip line of any protected tree, either on the lot or on an adjacent property is within four (4) metres of any excavation, demolition, construction or engineering works, the owner must install a tree protection barrier around the tree, in accordance with SCHEDULE "C", Tree Protection Fence Details. It shall be an offence under this bylaw for any person to carry out any excavation, demolition, construction or engineering works within 4 metres of the dripline of a protected tree without the tree protection barrier being in place.
56. No tree cutting permit shall be issued before:
- a) the tree protection barrier has been installed and approved by either the Director of Parks and Recreation, or

- b) the applicant's arborist provides a letter to the Director of Parks and Recreation that states he or she has inspected the tree protection barrier and expresses the opinion that it satisfies Saanich's requirements.
57. A tree protection barrier must remain in place and in accordance with SCHEDULE "C" until the removal of the tree protection barrier is approved by the Director of Parks and Recreation.

## **PART 9**

### **Inspection and Assessment**

58. The Director of Parks and Recreation, the Director of Engineering, the Manager of Inspection Services, Bylaw Enforcement Officers and any municipal employee authorized by one of the aforesaid officials is authorized to enter at all reasonable times without the consent of the owner on any lot that is subject to this Bylaw to ascertain whether the regulations, prohibitions and requirements of this Bylaw or any cutting permit are being met or to assess or inspect any tree or tree remains on the lot.
59. Where a protected tree has been altered, cut or damaged on a lot in violation of this Bylaw, without a tree cutting permit, or in excess of any permission or in violation of any terms and conditions of a tree cutting permit, the trunks, limbs, roots, and remains of the altered, cut or damaged tree shall not be removed from the lot until an investigation and assessment by the Director of Parks and Recreation is completed and the removal is expressly authorized by the Director of Parks and Recreation.
60. 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.
61. In accordance with Part 7, once all replacement trees required under a tree cutting permit have been planted, or once the landscaping requirements of a development permit or building permit have been substantially completed the owner may either:
- a) request that the Director of Parks and Recreation conduct a field review to confirm that the replacement trees or landscaping have been provided and installed in accordance with this Bylaw and any related permits, and if a reduction or release of securities is in order; or
  - b) have a landscape architect submit a report to the Director of Planning that the replacement trees or landscaping have been provided and installed in accordance with this Bylaw and any related permits, and if a reduction or release of securities is in order.
62. AN EIGHTY-FIVE (\$85.00) DOLLARS re-inspection fee may be charged for every field review that has been requested and conducted after the first field review for any project where no reasonable attempt has been made by the owner to correct the deficiencies identified during the previous field review. No further field reviews will be conducted until the re-inspection fee has been paid in full.

## 63. Stop Work Order

- a) If a contravention of this Bylaw occurs in a location where excavation, construction or other development is occurring, the Director of Parks and Recreation, Bylaw Enforcement Officer, Arboriculture Inspector or any other person authorized by a resolution of Council may place a "Stop Work Order" on the property halting all work associated with the tree cutting or tree damaging activity until the contravention is resolved to the satisfaction of the Director of Parks and Recreation.
- b) No person shall disobey a Stop Work Order.
- c) It is an offence to remove a Stop Work Order unless removed by written notice.

**PART 10**  
**General Provisions**

## 64. 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 Council to have the decision reconsidered.
- b) An application for reconsideration shall be made in writing to the Municipal Clerk within 30 days of the date of the decision.
- c) There shall be no charge for an application for reconsideration under this bylaw.

**PART 11**  
**Offences**

65.
  - a) Any person who contravenes section 7, 8 or 9 of this bylaw is guilty of an offence and is liable on summary conviction to a fine of not less than \$1,000 for a first offence and not less than \$2,000 for a second or subsequent offence.
  - b) Notwithstanding s. 65(a), any person who contravenes s. 14 of this bylaw is guilty of an offence and is liable on summary conviction to a fine of not less than \$5,000.
  - c) Any person who contravenes s. 11, 15, 17, 26, 55, 57, 59, 60 or 63 of this bylaw is guilty of an offence and is liable on summary conviction to a fine of not less than \$250.
66. For the purposes of this Bylaw, each tree altered, cut, damaged or removed in violation of this Bylaw and each day that a violation of this Bylaw is caused or permitted to exist by any person shall constitute a separate offence.

67. In addition to the penalties provided under s. 65 of this Bylaw, where an owner alters, cuts, damages or removes, or suffers or permits any tree to be altered, cut, damaged or removed in contravention of this Bylaw, or in excess of any permission, or in violation of any terms and conditions of a tree cutting permit issued pursuant to this Bylaw, the owner shall:
- a) plant on the same parcel of land one replacement tree for each tree unlawfully altered, cut, damaged or removed, of a size and species and in a location as determined by the Director of Parks and Recreation and within the time period set out in the notice as described in s. 54 in accordance with this Bylaw; and, in addition,
  - b) provide to Saanich a security deposit in the amount of 120% of the total cost of replacing and maintaining the tree for a period of 2 years in the form of cash, bank draft, certified cheque or letter of credit to guarantee the performance of the requirements of this section.
68. In the event that the owner of the lot described in s. 37 fails to pay the costs of compliance before the 31<sup>st</sup> day of December in the year following the year that the compliance was effected by Saanich, the costs shall be added to and form part of the taxes payable on the lot as taxes in arrears.

## **PART 12**

### **Bylaw Repeal and Effective Date**

#### 69. Repeal

The “Tree Preservation Bylaw, 1997, No. 7632” and amendments thereto are hereby repealed except insofar as they may repeal any other bylaw.

70. All Schedules referred to herein are attached to and form part of this Bylaw.

71. The provisions of this Bylaw are several and the invalidity of any part of this Bylaw shall not affect the validity of the remainder of this Bylaw.

72. This Bylaw shall come into force on July 1, 2014.

73. This Bylaw may be cited for all purposes as “**TREE PROTECTION BYLAW, 2014, NO. 9272**”.

## **PART 13**

### **Transition**

#### 74. Transition

- a) The provisions of this bylaw shall not apply to an application for approval of a building permit received by Saanich before the date this bylaw comes into force provided all applicable fees for such applications have been paid.

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- b) For a period of twelve (12) months following the effective date of this bylaw the provisions of this bylaw shall not apply to an application for approval of a subdivision or bare land strata subdivision received by Saanich before the date this bylaw comes into force provided all applicable fees for such applications have been paid.
  - c) The provisions of this bylaw shall not apply to:
    - i) an application for a rezoning or development permit received by Saanich before the date this bylaw comes into force provided all applicable fees for such applications have been paid; and
    - ii) an application for a building permit for a building proposed to be built on land included in an application described in s. 74 c) i) received by Saanich during a period of 24 months following the date of approval of such application.
  - d) The applications described in s. 74 a), b) and c) shall be processed and administered in accordance with the provisions of the Saanich Tree Preservation Bylaw, 1997, No. 7632, and notwithstanding s. 69, such bylaw shall remain in effect for the purpose of processing these applications. Upon completion of the development contemplated by the applications described in s. 74 a), b) and c) the provisions of this bylaw shall apply to the lands that are subject to the applications.

**Includes Bylaw Amendment No.9467**