



**DISTRICT OF HIGHLANDS**

**BYLAW NO. 10**

**DISTRICT OF HIGHLANDS TREE MANAGEMENT BYLAW NO. 10, 1994**

**This Bylaw is consolidated by the Corporate Officer in accordance with Bylaw No. 301.**

**It includes amendments up to October 15, 2001 (Bylaw No. 167)**

*This bylaw has been consolidated for convenience purposes only and may or may not contain the latest amendment (s). Electronic and On-Line Consolidated bylaws are not certified copies and they should not be used in place of actual district bylaws. If you require an accurate, up to date copy of the district bylaw, please contact the District Office.*



## DISTRICT OF HIGHLANDS

### BYLAW NO. 10

**\*\* OFFICE CONSOLIDATION  
For convenience purposes only:  
it is not a certified copy**

#### **A By-Law of the District of Highlands 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 by-law 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 Highlands in open meeting assembled enacts as follows:

#### **1. DEFINITIONS** In this

By-Law:

- (a) **"Administrator"** means the person appointed from time to time by Council as the Administrator of the Municipality.
- (b) **"Council"** means the duly elected Council of the District of Highlands.
- (c) **"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).
- (d) **"Drip Line"** means a circle on the ground around the trunk of a tree, the radius of which is the distance between the outermost twigs of the tree and the centre point of the trunk, or its vertical extension.
- (e) **"Environmental Protection Area"** means those lands designated as an Environmental Protection Area under the Langford Zoning By-Law, 1981, No. 980 [Langford Electoral Area] or any successor By-Law.
- (f) **"Highway"** includes a street, road, lane, bridge, viaduct and any other way open to the use of the public, but does not include a private right-ofway on private property.
- (g) **"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 in any .4 hectares (1 acre) area of land in a parcel for any reason in any 12 month period, or

- ii) 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 (1acre) in area.

- (h) "**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.

- (i) "**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 Cascara tree (*Rhamnus Purshiana*);
- vi. A Manzanita tree (*Arcotostaphylos Columbiana*);
- vii. A Douglas Fir tree (*Pseudotsuga menziesii*), having a diameter greater than 60 centimetres (24 inches).
- viii. Any tree having a diameter greater than 80 centimetres (31.5 inches).

*Added under Bylaw No. 167, 2001*

- (j) "**Steep Slope**" shall mean any area having an average slope greater than 30% measured over a distance of six (6) metres (19.7 feet).

- (k) "**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.

- (l) "**Watercourse**" shall mean any natural or man-made depression with well defined banks and a bed 0.6 m or more below the surrounding land serving to give direction to a current of water at least six months of the year or having a drainage area of 2 square kilometres or more as required by a designated official of the Ministry of Environment of the Province of British Columbia.

## **2. MEASUREMENT**

In this By-Law:

- (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.
- (d) Where the trunk of a tree is growing on a building envelope line or other setback line prescribed by this by-law, the tree shall be deemed to be located on the same side of the line as the majority of the trunk is located.

### **3. TREE CUTTING**

- (a) No person shall, without first obtaining a tree cutting permit, cut down a protected tree.
- (b) No person shall cut down a tree growing on any land designated as an Environmental Protection Area in the Langford Official Community Plan By-Law, 1981, No. 980 or any successor by-law, under section 945 (4) of the Municipal Act prior to the issuance of a development permit and a tree cutting permit.
- (c) No person shall cut down a tree shown as "to be retained" on a plan attached to a development permit.
- (d)
  - i) No person shall, without first obtaining a tree cutting permit, carry out logging on a parcel of land.
  - ii) Logging practices shall be consistent with sustainable forest practices suitable to the area and local ecosystem.
- (e) No person shall, without first obtaining a tree cutting permit, cut down any tree in the following designated buffer areas:
  - i) within 20 metres of any lot line adjacent to or abutting a highway or road, or trail, right-of-way; or
  - ii) within 10 metres of any other lot line.

### **5. WATERCOURSES**

No person shall, without first obtaining a tree cutting permit, cut down a tree growing within 30 metres of the natural boundary of Millstream Creek or within 15 metres of any other watercourse, except where a tree or the roots of a tree are blocking a watercourse or reducing its drainage capacity.

## 6. LAKES

No person shall cut down a tree, without first obtaining a tree cutting permit, growing within 30 metres of the natural boundary of Teanook, Matson, Fizzle, Fork, Eagles, Mitchell, Second, Third or Pease Lakes or within 15 metres of the natural boundary of any other lake.

## 7. STEEP SLOPE AREAS

- (a) No person shall, without first obtaining a tree cutting permit, cut down more than 2 trees in any one calendar year growing on any steep slope that is not designated as an Environmental Protection Area.
- (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 Administrator.

## 8. SIGNIFICANT TREES

- (a) The trees identified on Schedule "A" 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 Administrator shall place a plaque or marker 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 as such under section 8(a) of this by-law.

## 9. TREE DAMAGING ACTIVITIES

- (a) No person shall carry out or allow to be carried out any of the following tree damaging activities unless a permit to do so is first obtained:
  - i) Cutting or damaging the roots of a tree growing inside the drip line of that tree;
  - ii) Placing fill, building materials, asphalt or a building or structure upon land inside the drip line of a tree;
  - iii) Operating trucks, backhoes, excavators or other heavy equipment over the roots of a tree growing inside the drip line;
  - 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 land inside the drip line of the tree;
  - vii) Removing soil from land inside the drip line of a tree;

- viii) Blasting inside the drip line of a tree or outside the drip line so as to damage roots or disturb soil inside the drip line;
  - ix) Undermining the roots of a tree growing inside the drip line of that tree;
- (b) Where the proposed activity may endanger the health or life of the tree, the Administrator may:
- i) Refuse to issue a permit, or
  - ii) Issue a permit subject to conditions.

## **10. PERMITS**

- (a) Every application for a permit shall be made to the Administrator and shall be accompanied by an application fee. The fee shall be \$25.00 for each 50 trees or portion thereof except as otherwise permitted in this bylaw. If a permit is not issued then the amount of the application fee in excess of \$25.00 shall be refunded.
- (b) The application for a permit shall be made on the form prescribed by the Administrator 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 and diameter 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 trees.
- (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) The provisions of this by-law 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 by-law, other than an emergency repair, the proposed works shall first be reviewed and approved by the Administrator.
- (f) If the Administrator is satisfied that all of the conditions required by this by-law have been met he may issue a permit or issue a permit subject to conditions.

## **11. PERMITS IN RESPECT TO STEEP SLOPE AREAS**

- (a) Any applicant for a permit pursuant to section 7 may be required to supply 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) 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/applicant's expense using the surety bond.
- (f) 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.

## **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) A seriously inconvenience to 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 the time period specified by Council and stated in the notice.
- (c) If the person given the notice does not take the required action within the time period specified in the notice, the municipality, by its employees or others, 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 sub-section does not pay the costs of the action taken on or before December 31st 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.
- (e) Where a tree cutting permit is required to carry out work required under this section there shall be no application fee charged.

### **13. DAMAGED, DYING AND DEAD TREES**

- (a) The owner of a tree which, pursuant to this by-law, 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, the Administrator may issue a permit to cut down or prune the tree.
- (b) There shall be no charge for a permit issued under this section.

### **14. EMERGENCY REMOVAL**

Notwithstanding any other provision in this by-law, a person may cut down a tree or limb of a tree prohibited from removal under this by-law 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. REPLACEMENT TREES**

In addition to any other remedy, any person who cuts down or damages a tree in contravention of this by-law or a permit issued under this by-law 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 by, and within a time period prescribed by, the Administrator.
- (b) Water, fertilize and maintain the replacement tree strictly in accordance with good horticultural practices.
- (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.



**16. ADMINISTRATION AND ENFORCEMENT**

- (a) The Administrator, the By-law Enforcement Officer and any other person 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 by-law.
- (b) No person shall prevent or obstruct or attempt to prevent or obstruct entry of any person or persons authorized to enter upon property by this by-law.

**17. OFFENCE**

*Added under Bylaw No. 70, 1996*

- (a) Every person who violates any provision of this bylaw or fails to comply with any permit issued under this Bylaw commits an offence punishable on summary conviction and shall be liable to a fine not exceeding \$10,000.00.
- (b) It shall be an offence under this by-law for any owner or occupier of land or any person acting under the authority of an owner or occupier to hire, permit or suffer another person to cut down or damage a tree, or do any other act prohibited by this by-law.

**18. SEVERABILITY:**

If a portion of this By-Law is found invalid by a decision of a Court of competent jurisdiction the invalid portion shall be severed without effect on the remainder of the By-Law.

**19. CITATION**

This By-Law may be cited for all purposes as "Tree Management By-Law No. 10 , 1994".

Read a first time this 31st day of January, 1994.

Read a second time this 31st day of January, 1994.

Read a third time this 31st day of January, 1994.

Reconsidered and finally passed and adopted this 7th day of February, 1994

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Mayor

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Clerk

**SCHEDULE "A"**  
**SIGNIFICANT TREES**

*Added under Bylaw No. 70, 1996*

<b>Number</b>	<b>Class</b>	<b>Species</b>	<b>Common Name</b>	<b>Location</b>
188	F	Arbutus Menziesii	Arbutus	Caleb Pike Homestead 1589 Millstream Road
191-1	CE	Malus	Apple (Several Types)	Caleb Pike Homestead 1589 Millstream Road
191-3	CE	Prunus	Cherry	Caleb Pike Homestead 1589 Millstream Road
191-2	CE	Pyrus Communis Bartlett	Bartlett Pear	Caleb Pike Homestead 1589 Millstream Road

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