

# TOWN OF GIBSONS



## TREE PRESERVATION BYLAW BYLAW No. 1282, 2020

Adopted: Month #<sup>th</sup>, 2020

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# **TOWN OF GIBSONS BYLAW NO. 1282**

A Bylaw to provide for the protection and preservation of Trees  
within the Town of Gibsons.

**WHEREAS** it is deemed desirable to regulate the removal and retention of trees within the Town of Gibsons; and

**WHEREAS** trees are recognized as a Natural Asset of the community; and

**WHEREAS** trees and tree cover provide many services for the Town,

**THEREFORE**, the Municipal Council of the Town of Gibsons, in open meeting assembled, enacts as follows:

## **SECTION 1 INTRODUCTION**

### **1.1 SHORT TITLE**

This Bylaw may be cited for all purposes as "Tree Preservation Bylaw No. 1282, 2020".

### **1.2 REPEAL**

Tree Cutting Permit Bylaw No. 623, 1990 is hereby repealed.

### **1.3 PURPOSE**

This Bylaw is enacted for the purposes of regulating the damaging, removal and replacement of trees within the Town of Gibsons and to preserve the overall ecological function of the Urban Forest by:

1.3.1 Regulating the altering, cutting, damaging or removing of trees within the Town of Gibsons;

1.3.2 Describing the conditions under which permits will be granted for the altering, cutting, or removal of trees.

### **1.4 BYLAW SCHEDULES**

Attached as integral parts of the Bylaw are the following Schedules:

1.4.1 SCHEDULE "A" - PROTECTED TREE SPECIES

1.4.2 SCHEDULE "B" - PROTECTED TREE SEEDLINGS

1.4.3 SCHEDULE "C" - TREE PROTECTION PRACTICES

1.4.4 SCHEDULE "D" - REPLACEMENT TREE STOCK AND PLANTING REQUIREMENTS

1.4.5 SCHEDULE "E" - RECOMMENDED REPLACEMENT TREE SPECIES

## SECTION 2 DEFINITIONS AND APPLICATION OF BYLAW

### 2.1 DEFINITIONS

In this Bylaw, unless the context requires otherwise, the following words and terms shall have the meanings hereinafter assigned to them:

<b>ANTI-NOISE BYLAW</b>	means <i>Anti-Noise Bylaw No. 364, 1980</i> , as amended or replaced from time to time.
<b>BOULEVARD</b>	means an improved portion of land, within a Highway dedication adjacent to a Road surface, sidewalk or Lot.
<b>CERTIFIED ARBORIST</b>	means an Arborist who is certified and in good standing with the International Society of Arboriculture.
<b>CONIFEROUS</b>	a tree that bears cones and needle-like or scale-like leaves that are typically evergreen.
<b>COUNCIL</b>	means the municipal Council of the Town of Gibsons.
<b>CROWN</b>	means the entire system of branches, leaves and reproductive structures of a Tree extending away from the trunk or main stem(s).
<b>CUT</b>	means to limb, trim, Top, or prune any parts of a Tree, or by any mechanical means remove any branch, foliage, root, stem, or other part of a Tree, and "Cutting" shall have a corresponding meaning.
<b>DAMAGE</b>	means to take any action that may cause a Tree to die or decline, including but not limited to: <ul style="list-style-type: none"><li>a) girdling;</li><li>b) ringing;</li><li>c) poisoning;</li></ul>

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- d) burning;
- e) soil compaction;
- f) depositing, undermining or removing soil from around the Tree;
- g) depositing toxins on any part of a Tree or into groundwater taken up by a Tree;
- h) placing concrete or any other hard surface within the Protected Root Zone of a Tree without authorization from the Town;
- i) blasting within 5 metres of the Protected Root Zone;
- j) penetrating or removing any part of the bark of the Tree;
- k) excessive Crown lifting, excessive pruning of the Crown, branches, limbs and or roots; or
- l) any other pruning in a manner not in accordance with Sound Arboricultural Practices as set out by the International Society of Arboriculture.

**DIAMETER AT BREAST HEIGHT or DBH**

means diameter of the stem of a Tree at breast height, except where the Tree has multiple stems at such a point, in which case the DBH of such Tree shall be the sum of 100% of the diameter of the largest stem and 60% of the diameter of each additional stem, all measured at breast height, and breast height for the purposes of such measurements shall be deemed to be 1.3 metres above the natural grade on the uphill side of the Tree.

**DECIDUOUS**

means a Tree which sheds all leaves annually at the end of the growing season followed by a dormant period without leaves.

**DEPOSIT**

means place, move, discharge, spray, spill, leak, seep, pour, emit, store, stockpile, or release directly or indirectly into or onto the land, air, soil and groundwater such that Damage to a

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Tree results, and Depositing has a corresponding meaning.

**DEVELOPMENT**

means an activity which requires a building permit under Town of Gibsons Building and Plumbing Bylaw, No. 822, 1996

**DPA 2**

means Environmentally Sensitive Development Permit Area No. 2 as defined in the Official Community Plan Bylaw No. 985, 2005, as amended or replaced from time to time.

**DIRECTOR**

means the person appointed by the Town as Director of Infrastructure Services, their deputy, or a person authorized by the Director to perform duties of the Director under this bylaw.

**FEES AND CHARGES BYLAW**

means the *Town of Gibsons Rates, Fees and Charges Bylaw No. 1196, 2014*, as amended or replaced from time to time.

**HAZARDOUS TREE**

means a Tree or a portion of a Tree that:

- a) in the opinion of a Certified Arborist or the Director, poses an unacceptable level of risk to people or property because of location, lean, physical damage, overhead hazards, deterioration of limbs, stem or root system, or a combination thereof;
- b) in the opinion of the utility having jurisdiction, interferes with, or is in such proximity to, utility wires as to create a dangerous situation; or
- c) in the opinion of the Director, interferes with, blocks or damages a drainage, water or sewer system or other parts of an improvement.

**HEDGE**

means a row of three or more Trees that through growth and pruning form a continuous dense screen of vegetation from ground level which provides privacy, fencing, wind breaking, and/or boundary definition.

**HERITAGE TREE**

means a designated Tree that has been

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determined by Council to be of significant value to the community because of special characteristics such as size, age, uniqueness of species, uniqueness of ecosystem, historical or landmark value.

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

**LOT** is as defined in the Zoning Bylaw.

**NATIVE SPECIES** means a Tree species that occurred naturally in the Town of Gibsons prior to European contact.

**NATURAL ASSET** means a feature or features in the natural environment that perform a civil function.

**PROTECTED TREE** means

- a) any Tree on land owned by or under the jurisdiction of the Town, including, without limitation, a Tree in a park or on a Boulevard, road, lane allowance or right of way;
- b) any Tree having a DBH of 10 cm or more on Sloping Terrain;
- c) any Tree having a DBH of 10 cm or more located in DPA 2;
- d) any Replacement, Retained, Heritage or Wildlife Tree;
- e) any Tree with evidence of nesting or use that is protected under federal or provincial regulations including the B.C. Wildlife Act, Migratory Birds Convention Act, and Species at Risk Act;
- f) any Tree listed in Schedule “A” with a DBH of 20 cm or more;
- g) any Protected Tree Seedling;
- h) any Tree, including multi-stemmed Trees, regardless of species, having a DBH of 30 cm or more.



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<b>PROTECTED TREE SEEDLING</b>	means any young, independent, living, erect, woody plant that is listed in Schedule "B" and has a height of more than 50cm and less than 5m, regardless of DBH
<b>PROTECTED ROOT ZONE</b>	means <ul style="list-style-type: none"><li>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 a Certified Arborist and approved by the Director;</li><li>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 DBH of the Tree by 18.</li></ul>
<b>QUALIFIED ENVIRONMENTAL PROFESSIONAL</b>	means an individual holding one of the following designations: <ul style="list-style-type: none"><li>a) Agrologist;</li><li>b) Professional biologist;</li><li>c) Professional engineer;</li><li>d) Professional forester;</li><li>e) Professional geoscientist; and</li><li>f) Registered forest technologist.</li></ul>
<b>REPLACEMENT TREE</b>	means a Tree required in accordance with this Bylaw to be planted to replace a Tree that has been Cut, Removed or Damaged, or a Tree planted as a condition of subdivision or other municipal approval.
<b>RETAINED TREE</b>	means a Tree not to be Cut, Removed or Damaged and must be permanently protected.
<b>REMOVE</b>	means to entirely sever the main stem of a Tree, and "Removed", "Removal" and "Removing" shall have corresponding meanings.

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<b>SLOPING TERRAIN</b>	means land with a slope angle greater than 20%, measured over a horizontal distance of 6.0 m (19.7 ft) or more.
<b>SOUND ARBORICULTURAL PRACTICE</b>	means in accordance with the Best Management Practices Series of the International Society of Arboriculture (ISA).
<b>TOP</b>	means to entirely sever the stem of a Tree such that the upper stem and branches of the Tree are completely removed, resulting in an abruptly truncated stem, and “Topping” and “Topped” shall have corresponding meanings.
<b>TOWN</b>	means the Town of Gibsons.
<b>TREE</b>	means a woody perennial plant having one or more stems, and includes any part of the Tree or root system which is above or below ground.
<b>TREE PERMIT</b>	means a permit issued pursuant to this Bylaw by the Director authorizing the pruning, Cutting or Removal of one or more Protected Trees.
<b>TREE PROTECTION BARRIER</b>	means a sturdy temporary or permanent fence or barrier at least 1.2 metres in height, with wood-framed top and side rails or equivalent.
<b>URBAN FOREST</b>	means the Trees, forests, greenspace and related abiotic, biotic and cultural components located within the Town.
<b>WILDLIFE TREE</b>	means any standing dead or live Tree having special characteristics that provide valuable habitat for the conservation or enhancement of wildlife, as determined and classified by the Director, in accordance with criteria contained in the “Wildlife/Danger Tree Assessor’s Course Workbook – Parks and Recreation Sites”.
<b>ZONING BYLAW</b>	means the <i>Town of Gibsons Zoning Bylaw No. 1065, 2007</i> , as amended or replaced from time to time.

**2.2 APPLICATION OF BYLAW**

2.2.1 This Bylaw applies to all land within the Town.

- 2.2.2 This Bylaw does not apply to Protected Trees on Town-owned property or highways that are Cut or Removed by the Town or its authorized agents in accordance with approved Town operations.

## **SECTION 3 RESTRICTIONS AND EXEMPTIONS**

### **3.1 RESTRICTIONS**

- 3.1.1 No person shall Cut, Remove, or move any Protected Tree, or cause, suffer or permit any Protected Tree to be Cut, Removed or moved, except in accordance with the terms and conditions of a valid Tree Permit issued under this Bylaw.
- 3.1.2 No person shall fail to comply with the terms and conditions of a Tree Permit issued under this Bylaw.
- 3.1.3 Except to the extent granted by a Tree Permit, or as provided for in Section 3.3 a person must not:
- a) Damage a Protected Tree;
  - b) Top a Protected Tree except if the Protected Tree forms part of a Hedge;
  - c) Attach a sign or poster to a Protected Tree in any manner that may Damage the Protected Tree.

### **3.2 PUBLIC LANDS**

No person shall plant a Tree or Hedge on Town lands or cause Trees or Hedges to be planted on Town lands without prior written authorization from the Director.

### **3.3 EXEMPTIONS**

- 3.3.1 A Tree Permit is not required to Cut or Remove a Hedge or a Protected Tree where:
- a) A Development Permit and/or Rezoning has been approved which addresses the Removal of the Protected Tree;
  - b) The Protected Tree Cutting or Removal is located within the building envelope of a Lot and the Cutting or Removal of the Protected Tree is deemed by the Director to be necessary for the purpose of lawfully constructing a building or accessory building, or an addition to a building or accessory building in respect of an approved Building Permit;
  - c) The Protected Tree Cutting or Removal is for the installation of

roads or services shown on an engineering drawing approved by the Town in respect of an approved Development, an access permit, or subdivision approval;

- d) A Protected Tree has been deemed to be a Hazardous Tree and is in imminent danger of falling;
- e) The Cutting or Removal constitutes normal pruning of Trees in accordance with Sound Arboricultural Practice.

## **SECTION 4 TREE PERMIT APPLICATION**

### **4.1 GENERAL CONDITIONS OF TREE PERMIT**

- 4.1.1 An application for a Tree Permit shall be in the form prescribed for that purpose by the Director from time to time.
- 4.1.2 A Tree Permit issued under this Bylaw is non-transferable.
- 4.1.3 The Tree Permit shall be displayed in an accessible and conspicuous location on the Lot to which it pertains no less than 72 hours prior to and during Tree Cutting or Removal operations.

### **4.2 APPLICATION REQUIREMENTS**

Every application for a Tree Permit shall include:

- 4.2.1 A non-refundable application fee in the amount applicable under the Fees and Charges Bylaw unless the application is for permission to remove a Hazardous Tree, in which case no application fee is required;
- 4.2.2 The following documents, plans and information relating to the proposed Tree Cutting or Removal:
  - a) A statement of purpose and rationale for the proposed Tree Cutting or Removal;
  - b) The street location and a title search for the Lot dated no more than 14 days prior to the date of application;
  - c) The consent in writing of the registered owner of the Lot, if different from the applicant, authorizing the applicant to act as the owner's agent;
  - d) The consent in writing of the registered owner(s) of the Lot(s) where the base of the Tree to be Cut or Removed is located and current contact information for that owner or owners;

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- e) The methods proposed for control of drainage and erosion impacts during and after the Tree Cutting or Removal;
  - f) The proposed methods for disposal of wood waste and other debris;
  - g) The proposed methods of noise and dust control during the Tree Cutting or Removal operation;
  - h) The proposed completion dates for Tree Cutting or Removal;
  - i) Where the Tree(s) proposed to be Cut or Removed are on Sloping Terrain, a report signed by a Geotechnical Engineer certifying that the proposed Cutting or Removal shall not result in an increased risk or danger of flooding, erosion or slope instability;
  - j) The proposed location of Replacement Trees required in accordance with Section 5.2;
  - k) If required by the Director:
    - i) A Tree Cutting and replacement plan drawn to approximate scale identifying:
      - ii) the boundaries of the subject Lot;
      - iii) any abutting streets, lanes or public access rights of way;
      - iv) the location of existing buildings and structures;
      - v) the location, species and DBH of those Trees proposed to be Cut or Removed;
      - vi) the location, species and DBH of those Trees proposed to be Retained and protected;
      - vii) the location, species and DBH of proposed Replacement Trees;
      - viii) the location of significant topographic and hydrographic features and other pertinent site information; and
      - ix) the location of proposed Tree Protection Barriers.
    - x) A report certifying that the proposed Tree Cutting or Removal will not create an adverse impact including flooding, erosion, land slip or contamination of a watercourse prepared by a Qualified Environmental Professional qualified to provide such certification;
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- xi) Where the site of the Tree Cutting or Removal is on a Lot adjacent to or containing any part of a watercourse, a survey plan prepared by a BC Land Surveyor or professional engineer showing the top-of bank of such watercourse;
  - xii) Where the Tree Cutting or Removal is for a Tree that the applicant purports to be a Hazardous Tree, a report prepared by a Certified Arborist certifying that the Tree is dead, diseased, damaged or otherwise constitutes a physical hazard to persons or property; and
- (k) Such further and other information as the Director determines is necessary to adequately describe the nature and extent of the Tree Cutting or Removal operation.
- l) In addition to the requirements in Sections 4.2.1 and 4.2.2 of this Bylaw, any Lot undergoing subdivision or Development shall place a Tree Protection Barrier around any Tree or Trees which are not to be Cut or Removed, in such a manner to ensure that the trunk, branches and Protected Root Zone are not Damaged by the Cutting or Removal operations. The Tree Protection Barrier must be constructed prior to the issuance of the permit and must remain intact for any construction or demolition throughout the entire period of construction or demolition.

### 4.3 PERMIT ISSUANCE OR REFUSAL

- 4.3.1 The Director will issue a Tree Permit in the form prescribed for that purpose from time to time by the Director if:
- a) the applicant has submitted an application for the Tree Permit in accordance with the conditions of this Bylaw;
  - b) the applicant has paid the application fee;
  - c) the proposed Cutting is not contrary to the provisions of this Bylaw;
  - d) there is no covenant or similar agreement registered against title to the Lot that prohibits the proposed activity;
  - e) the Director deems the proposed activity as necessary where any of the following conditions apply:
    - i) The Tree is located within a proposed building envelope and the Removal of the Tree is necessary for the purpose of

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constructing a building, an addition to a building, or construction of an accessory building;

- ii) The Tree is dead, dying, severely Damaged, unstable or Hazardous;
  - iii) The Tree must be removed for the construction or installation of a driveway, off-street parking required by zoning, or municipal or public utilities service connections and where no other reasonable alternative exist;
  - iv) The roots of the protected tree are interfering with, or presenting a hazard to, underground or overhead services and utilities where removal of the tree is the only means to address the issue; or
  - v) Any part of the tree is causing damage or may be reasonably expected to cause damage to any permanent building and where removal of the tree is the only means to address the issue.
- f) the Proposed Cutting will not, in the opinion of the Director, cause an unacceptable impact on engineered infrastructure, other Trees or other Natural Assets; and
- g) if required by this Bylaw, the applicant has provided security in accordance with Section 5.2.5 of this Bylaw for the planting and maintenance of Replacement Trees on the Lot.
- 4.3.2 The Director may issue a permit subject to the observance or fulfilment of additional conditions specified in the permit which in the opinion of the Director are necessary to achieve the purposes of this Bylaw.
- 4.3.3 The issuance of a Town Tree Cutting Permit does not authorize the permit holder to undertake any work that will contravene the Wildlife Act.

### **4.4 PERMIT EXPIRY**

- 4.4.1 Every Tree Permit shall expire two (2) months from the date of issue or upon such earlier date as may be specified in the permit.

### **4.5 PERMIT RENEWAL, EXTENSION OR MODIFICATION**

- 4.5.1 The Director may renew, extend or modify a Tree Permit upon written request of the permit holder, subject to the following:
- a) A permit holder has no vested right to receive an extension, renewal or modification and the Director may require that a new

permit be obtained;

- b) The permit holder shall pay a non-refundable permit extension fee in the amount applicable under the Fees and Charges Bylaw;
- c) At the discretion of the Director the permit may be extended for the period of two months;
- d) The Director may require that the permit holder provide additional information authorized by this Bylaw as a precondition to considering an application for a Tree Permit renewal, extension or modification; and
- e) All terms and conditions set out in the original permit shall apply to each renewal, extension or modification of the Tree Permit except as amended or modified by the renewal, extension or modification.

## **SECTION 5 Regulations**

### **5.1 TREE CUTTING OR REMOVAL**

5.1.1 Every Cutting or Removal of a Protected Tree shall comply with, and every Tree Permit issued under this Bylaw is subject to, the observance or fulfilment of the following requirements, restrictions and regulations, to the satisfaction and approval of the Director:

- a) Flag or mark with red or orange paint each Tree proposed to be Cut or Removed;
- b) Mark on the ground with paint, stakes or flagging the Protected Root Zones of all Trees on the Lot and the boundaries of the areas within such Protected Root Zones on which the proposed Tree-activities are proposed to be carried out;
- c) Tree parts and wood waste shall be removed from the land and properly disposed of;
- d) precautions shall be taken to ensure that Trees which are not to be Cut or Removed are not subject to any Damage;
- e) no Tree Cutting or Removal activities may be carried out between the hours of 6:00 p.m. and 8:00 a.m. or in a manner contrary to the Anti-Noise Bylaw, whichever is more stringent, unless approved in writing by the Director;
- f) all damage to drainage facilities, watercourses, highways or other public or private property arising from an activity in respect of which a Tree Permit was issued under this Bylaw shall be promptly and



properly repaired to the satisfaction of the Director at the expense of the permit holder;

- g) all watercourses, groundwater aquifers, waterworks, ditches, drains, sewers or other established drainage facilities shall be kept free of all wood waste arising from the activity in respect of which a Tree Permit was issued under this Bylaw;
- h) all hazards or potential hazards associated with the Tree Cutting or Removal operation shall be adequately fenced or otherwise barricaded to ensure the safety of the public;
- i) Tree Cutting or Removal operations must not encroach upon, undermine, damage or endanger any adjacent Lot or any setback area prescribed in the Tree Permit or a Bylaw; and
- j) Tree Cutting or Removal operations shall be limited only to the area specified in the Tree Permit which shall be clearly marked according to Section 4.2.2xii)l) and such markings maintained for the duration of the Tree Permit.
- k) For any subdivision and Development, every Cutting or Removal of a Protected Tree, Specimen Tree or Significant Tree shall comply with, and every Tree Permit issued under this Bylaw is shall be subject to, the observance or fulfilment of the requirements, restrictions and regulations outlined in 5.1.1, to the satisfaction and approval of the Director, as well as the practices outlined in Schedule "C" of this Bylaw.

## **5.2 REPLACEMENT TREES**

- 5.2.1 For Lots containing a single-family dwelling, as that term is defined in the Zoning Bylaw, as a condition of any permit issued under this Bylaw, the owner shall plant and maintain two (2) Replacement Trees for each 20-30cm DBH Protected Tree Cut or Removed, and shall plant and maintain three (3) Replacement Trees for each 30 cm or greater DBH Protected Tree Cut or Removed,, on the subject Lot in accordance with the requirements of Schedule "D".
- 5.2.2 For all other Lots, as a condition of permit issuance under this Bylaw, the owner shall plant and maintain two (2) Replacement Trees for each Protected Tree Cut or Removed on the subject Lot in accordance with the requirements of Schedule "D."
- 5.2.3 For Lots within DPA 2, the owner shall plant and maintain three (3) Replacement Trees of Native Species on the subject Lot for each Protected Tree Cut or Removed, in accordance with the requirements of Schedule "D".

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- 5.2.4 If a Tree or Trees located on any Lot form part of a Hedge, the Director may require that less than one Replacement Tree be planted and maintained for each Tree that is Cut or Removed.
- 5.2.5 Where the planting and maintenance of a Replacement Tree is required pursuant to this Bylaw, the owner shall provide to the Town prior to issuance of a Tree Permit a security deposit in the amount of \$300 cash for each Replacement Tree to be planted and maintained. If at any time the owner fails to comply with the provisions of this Bylaw relating to the planting and maintenance of Replacement Trees, the Town may by its employees or contractors enter upon the subject Lot to fulfil the obligations of the owner and, for such purposes, the Town may draw upon the security deposit to cover any costs of doing so. The security deposit or portion remaining thereof, if any, shall be released to the owner 24 months after planting provided the Director is satisfied the Tree is in good health.
- 5.2.6 If, in the opinion of the Director, Replacement Trees cannot, or need not, be accommodated because of the configuration of buildings or proposed buildings on the Lot, or constraints due to lack of acceptable planting areas, the Director may accept from the owner payment in lieu in an amount of \$300 into the Tree Planting and Replacement Reserve Fund for each Replacement Tree not planted.
- 5.2.7 Replacement Trees shall be planted and maintained in accordance with Sound Arboricultural Practice to the satisfaction of the Director.
- 5.2.8 Replacement Trees are not required for Tree Cutting or Removal of a Hazardous Tree.

## **SECTION 6 Administration**

### **6.1 INSPECTION**

- 6.1.1 The Director is hereby authorized at all reasonable times to enter upon and inspect any lands to determine whether the requirements, restrictions, regulations, terms, conditions and directions of this Bylaw or a Tree Permit issued under this Bylaw are being observed.
- 6.1.2 Without limiting the generality of 6.1.1, the Director may, at all reasonable times, assess or inspect, or cause an assessment or inspection to be made of any Protected Trees to which this Bylaw applies, including an assessment of the location, size, species and condition of such Trees, in the following circumstances:
- a) Where land is the subject of an application for subdivision, approval of a servicing plan prior to subdivision, a development

permit, a development variance permit, a temporary commercial or industrial use permit or a building permit;

- b) When Replacement Trees have been planted as required by this Bylaw; or
- c) When an application for a Tree Permit has been made under this Bylaw.

6.1.3 No person shall prevent or obstruct or attempt to prevent or obstruct the Director from entering upon lands and carrying out the activities authorized by Sections 6.1.1 and 6.1.2.

6.1.4 Where a Protected Tree has been Cut or Damaged in contravention of this Bylaw or the terms of a Tree Permit, no person shall remove from a Lot the stem, limbs, roots and remains of a tree Cut or Damaged until an investigation and assessment by the Director is complete and the Director has expressly authorized the removal of the remains of the Tree.

## **6.2 NOTICE OF NON-COMPLIANCE**

6.2.1 The Director may give notice to any person of a breach of, or noncompliance with, any of the provisions of this Bylaw or a Tree Permit issued under this Bylaw, and such person shall immediately cease all Tree Cutting or Removal activities until such breach or non-compliance is remedied to the satisfaction of the Director, and every owner of real property shall refuse to suffer or permit further Tree Cutting or Removal operations upon the real property until such time as the breach or non-compliance is remedied to the satisfaction of the Director.

## **6.3 FAILURE TO REMEDY NON-COMPLIANCE**

6.3.1 In the event that a person having received notice under Section 6.2 fails within the time specified therein to remedy such breach, the Town or its appointed agents may enter upon the real property and undertake, at the owner's or occupier's expense, the works required to remedy the breach.

## **6.4 NOTICE OF REMEDIAL REQUIREMENT**

6.4.1 In addition to any other provision of this Bylaw, where a person cuts, removes or damages, or causes, suffers or permits any Protected Tree to be cut, removed, or damaged in contravention of this Bylaw or in violation of any term or condition of a Tree Permit issued under this Bylaw, that person, within 30 days of receiving notice of such requirement from the Director, shall:

- a) Submit for the Director's approval a Tree Cutting and Replacement Plan in accordance with the requirements of Section 4.2.2i),

- specifying the location and species of all Replacement Trees; and
- b) Provide twice the number of Replacement Trees required by section 5.2.1, 5.2.2, 5,2,3 and 5.2.4; and
- c) Provide a security deposit in accordance with section 5.2.5 of this Bylaw; and
- d) Plant and maintain Replacement Trees in accordance with Section 5.2 of this Bylaw and the Tree Cutting and Replacement Plan approved by the Director.

## **6.5 SUSPENSION OR CANCELLATION OF PERMIT**

6.5.1 Without limiting the application of Section 7 (Offences and Penalties), if:

- a) There is a contravention of any term, condition, requirement or restriction of this Bylaw or a Tree Permit issued under this Bylaw; or
- b) A Tree Permit was issued under this Bylaw on the basis of statements made in the permit application or a report, declaration or record required under this Bylaw, that were false or misleading with respect to a material fact or that omitted to state a material fact, the omission of which made the statement false or misleading;

the Director may:

- i) Suspend in whole or in part the rights of the permit holder under the Tree Permit;
- ii) Cancel the Tree Permit; or
- iii) Amend or attach new conditions to a Tree Permit.

## **6.6 RIGHT OF RECONSIDERATION**

6.6.1 Where an owner or occupier of real property is subject to a requirement or a decision made by the Director under this Bylaw, the owner or occupier may apply to Council for reconsideration of the matter.

6.6.2 There is no charge for an application for reconsideration.

6.6.3 An owner or occupier who wishes to have a decision reconsidered by Council must apply for the reconsideration by delivering to the Director of Corporate Services, within 30 days after the decision is communicated in writing to the owner or occupier, a reconsideration application in writing, which must set out all of the following:

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- a) The date of the decision and the nature of the decision;
  - b) Reasons why the owner or occupier considers the Director's decision or requirement to be inappropriate;
  - c) The decision the owner wishes to have Council substitute for the Director's decision, with brief reasons in support of the request; and
  - d) A copy of any materials considered by the owner to be relevant to the reconsideration by Council.
- 6.6.4 A reconsideration application must be considered by Council at a regular meeting of Council held no more than six weeks after the date on which the reconsideration application is delivered to the Director of Corporate Services;
- 6.6.5 The Director of Corporate Services must:
- a) Place each reconsideration application on the agenda for a regular meeting of Council;
  - b) Give notice of each reconsideration by Council in accordance with any notice requirements in respect of the original application that are set out in the Development Procedures Bylaw or the applicable legislation; and
  - c) Before each reconsideration by Council, deliver to each Council member a copy of the materials that were considered by the Director in making the decision that is to be reconsidered.
- 6.6.6 In reconsidering a decision, Council must consider the material that was considered by the Director in making the decision;
- 6.6.7 At a reconsideration of a decision, the owner or occupier and any other person who is interested in the decision are entitled to be heard by Council;
- 6.6.8 Council is entitled to adjourn a reconsideration of a decision; and
- 6.6.9 After having reconsidered a decision, Council may either confirm the Director's decision, amend the Director's decision, or may set aside all or part of the Director's decision and substitute the decision of Council.

### **6.7 RECOVERY OF COSTS AND FEES FROM REAL PROPERTY TAXES**

- 6.7.1 The costs of actions taken by the Town to remedy a default or breach of this Bylaw may be collected by the Town in the same manner as real

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property taxes, and will be added as arrears of taxes if unpaid by December 31 in the year in which the costs are incurred.

### **SECTION 7      Offences and Penalties**

- 7.1.1 Any person who contravenes or violates any provision of this Bylaw or of any Tree Permit issued under this Bylaw, or who suffers or allows any act or thing to be done in contravention or violation of any of the provisions of this Bylaw or any Tree Permit issued under this Bylaw, or who fails or neglects to obey any order, direction or notice given under this Bylaw or any Tree Permit issued under this Bylaw, other than an offence referred to in Section 7.1.4, below, commits an offence against this Bylaw and is liable on summary conviction to a fine of up to \$5,000 in addition to the costs of prosecution.
- 7.1.2 Where one or more Protected Trees is Cut or Removed other than as authorized by this Bylaw, or more than one Protected Tree is not replaced or maintained in accordance with a Tree Permit issued under this Bylaw, a separate offence is committed in respect of each such Tree.
- 7.1.3 Where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence.
- 7.1.4 Notwithstanding Section 7.1.1, any person who is guilty of obstructing the Director or Officer or their appointed designates while performing his/her duties in relation to this Bylaw is liable upon summary conviction to a fine of not less than \$2,000.00, or to imprisonment for not more than 6 months, and the cost of prosecution.

### **SECTION 8      Severability**

- 8.1.1 If any part, Section, sub-Section, sentence, clause or sub-clause of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid Section shall be severed and the decision that it is invalid shall not affect the validity of the remaining portions of this Bylaw.
- 8.1.2 Section headings do not form part of this Bylaw. They are included for convenience only and must not be used in interpreting this Bylaw.