

**CITY OF BURNABY**

**BYLAW NO. 10482**

A BYLAW to regulate the removal and damaging of trees

The Council of the City of Burnaby **ENACTS** as follows:

1. This Bylaw may be cited as **BURNABY TREE BYLAW 1996**.
2. In this Bylaw, unless the context otherwise requires:
  - (a) "building permit" means a permit for the construction of a building or structure issued under the City's Building Bylaw;
  - (b) "certified arborist" means a person accredited as such by the International Society of Arboriculture;
  - (c) "covenanted tree" means a tree or plant that is required to be retained or required to be planted pursuant to a covenant granted to the City under section 215 of the *Land Title Act* R.S.B.C. 1979 ch. 19, pursuant to a comprehensive development plan forming part of the City's Zoning Bylaw or as a condition of the approval of the subdivision of land under the *Land Title Act*;
  - (d) "Council" means the City Council of the City of Burnaby;
  - (e) "cut down" means to cut down, remove or kill a tree by any means;
  - (f) "damage" means to carry out any activity that may kill or injure a tree, and includes:

- (i) the topping of or removal of branches from a tree other than in accordance with accepted arboricultural practice;
  - (ii) the cutting or shattering of the roots of a tree within its dripline other than in accordance with accepted arboricultural practice;
  - (iii) the scraping, gouging or denting of a tree's trunk, branches or roots within its dripline;
  - (iv) the compaction of the soil within a tree's dripline or within an area required to be enclosed by a protection fence pursuant to a tree cutting permit by the placement of soil, fill, heavy equipment, vehicles or building or other materials thereon or by the movement of vehicles or equipment thereover;
  - (v) the depositing within a tree's dripline of any toxic or harmful substance;
  - (vi) the placement of soil or other material within a tree's dripline or within an area required to be enclosed by a protection fence pursuant to a tree cutting permit to a depth of greater than 20 cm. (7.8 in.);
  - (vii) the removal of soil within a tree's dripline;
- (g) "dangerous tree" means a protected tree certified by a certified arborist as being or likely to become in the immediate future a danger to people or property;

- (h) "demolition permit" means a permit for the demolition of a building or structure issued under the City's Building Bylaw;
- (i) "diameter" of a tree means the diameter of the tree's trunk or, in the case of a multi-stemmed tree, the sum of the diameters of the three largest trunks or stems, measured 1.3m (4.265 ft.) above the ground level at the base of the tree;
- (j) "Director Planning" means the City's Director Planning and Building;
- (k) "dripline" means a circle on the ground at the base of a tree which has as its centre the centre of the tree's trunk and as its radius the distance from the centre to the end of its outermost branch;
- (l) "landscape architect" means a member in good standing of the British Columbia Society of Landscape Architects;
- (m) "lot" means an area of land designated as a separate and distinct legal parcel on a subdivision plan approved and registered in the Land Title Office pursuant to the provisions of the *Land Title Act* R.S.B.C. 1979 ch. 290;
- (n) "occupancy permit" means a permit or approval to occupy a building or structure issued or given under the City's Building Bylaw;
- (o) "protected tree" means:
  - (i) a tree, located on a residential lot, the diameter of which is greater than 20.3 cm (8 in.);

- (ii) a covenanted tree; or
- (iii) a tree or plant located within 15m (49.215 ft.) of a watercourse or ravine as measured horizontally from the top of the bank;
- (p) "pruning" means the selective removal of branches from a tree in accordance with accepted arboricultural practice;
- (q) "replacement tree" means a tree that is planted pursuant to a tree cutting permit or a notice issued under section 14;
- (r) "residential lot" means a lot designated for single or two family residential use under the City's Zoning Bylaw;
- (s) "retained tree" means a tree that is shown on a tree plan as a tree that will be retained;
- (t) "tree" means any living, erect, woody plant;
- (u) "tree cutting permit" means a permit issued under section 6(a);
- (v) "tree plan" means one or more plans, including a survey plan prepared by a B.C. licensed surveyor showing the legal boundaries and dimensions of the site to which it relates and the location and diameter of each protected tree on the site or within 2m (6.562 ft.) of the boundary of the site, and containing the following information:
  - (i) the type (coniferous or deciduous) of each protected tree;

- (ii) each protected tree proposed to be retained;
  - (iii) each protected tree proposed to be cut down;
  - (iv) the previous location and type of each protected tree that was cut down within the three (3) month period immediately preceding the date the tree plan is submitted;
  - (v) the location, species and size of all proposed replacement trees; and
  - (vi) the location and timing of any proposed demolition, excavation, construction or use of explosives on the site.
3. Except as permitted by this Bylaw, no person shall cut down or damage a protected tree unless that person holds a valid tree cutting permit.
4. A tree cutting permit is not required:
- (a) for pruning;
  - (b) to cut down or remove branches from a dangerous tree or a diseased or damaged protected tree where such measures are in accordance with the written recommendation of a certified arborist;
  - (c) to cut down or remove branches from a protected tree if the tree or limb, due to its condition, is a serious hazard to people, buildings or other property requiring immediate attention, the person who cuts down or removes branches from the tree immediately advises the Director Planning of that fact;

- (d) by the City to cut down a protected tree located in a City park in accordance with normal park maintenance procedures and the City's Tree Management Policy for Public Lands;
- (e) to cut down or damage a protected tree where necessary for the construction, installation, maintenance, repair, replacement or removal of:
  - (i) public roads, lanes, paths, sidewalks and boulevards;
  - (ii) rail lines;
  - (iii) the sewer, water and gas mains and ancillary works of the City, any other governmental authority or any public utility;
  - (iv) public drainage, dyking or flood control works;
  - (v) the electrical, telephone and telecommunication lines, cables, poles, supports, conduits and ancillary works of any public utility;
- (f) to cut down or damage a protected tree as defined in section 2(o)(i), but not as defined in sections 2 (o)(ii) and (iii), that is within the area bounded by the exterior walls or face, or within 1.5m (4.921 ft.) of the exterior walls or face, of any building or structure or planned building or structure for which a building permit has been issued;
- (g) to cut down or damage a protected tree as defined in section 2(o)(i), but not as defined in sections 2(o)(ii) and (iii), on any lot on which there is an existing residential dwelling at any time after one year from the date on which an occupancy permit was issued for that dwelling and at least three (3) months

before a demolition permit for that dwelling or a building permit for a new residential dwelling is applied for.

5.(1) An application for a tree cutting permit shall be made to the Director Planning in the form prescribed by the Director Planning accompanied by:

- (a) payment of a non-refundable application fee in the amount set forth in Schedule "A" of this Bylaw;
- (b) where the applicant is not the owner of the land on which the protected tree or trees proposed to be cut down or damaged are located, the signed written consent of the owner authorizing the applicant to make the application on behalf of and as agent of the owner;
- (c) a tree plan; and
- (d) if required by the Director Planning, a report prepared by a certified arborist in regard to any protected tree or trees proposed to be cut down or damaged and providing an assessment of the tree or trees' health, hazard potential and the feasibility of the retention of the tree or trees in accordance with the standard procedures prescribed by the International Society of Arboriculture.

(2) The applicant shall securely attach to each protected tree or cluster of protected trees required to be shown on the plan referred to in section 5 (1) (c) a clearly visible metal or durable plastic numbered identification tag provided by the City.

6. Upon receipt of an application for a tree cutting permit that complies with section 5, the Director Planning may:

- (a) issue a permit with or without conditions, including any of the following:
  - (i) the replacement of any protected tree that is cut down or was cut down within the three (3) month period immediately preceding the date the tree plan was submitted under section 5(1) with a tree or trees of a size and species and at such location or locations as the Director Planning may specify;
  - (ii) the erection of protection fences at such locations, and the maintenance of those protection fences for such periods of time, as the Director Planning may specify;
  - (iii) the posting of security with the City in accordance with section 7 as security for the planting and maintenance of replacement trees;
  - (iv) that the employees and authorized agents of the City be permitted to enter onto the site at any reasonable time to carry out assessments and inspections to determine whether the tree cutting permit is being complied with; or
- (b) refuse to issue a permit.

7. The security to be provided pursuant to section 6(a)(iii):

- (a) shall be equal to one hundred and twenty per cent of the cost of the replacement trees as reasonably estimated by a certified arborist or landscape architect retained by the applicant or, at the option of the applicant, by the Director Planning;



- (b) shall be in the form of a non-interest bearing cash deposit or an irrevocable unconditional letter of credit issued by a chartered Canadian bank;
- (c) shall be provided to the City before the tree cutting permit is issued;
- (d) may be held by the City until the conditions in the tree cutting permit have been satisfied and a period of one year from the planting of all replacement trees has elapsed as confirmed by the City;
- (e) shall, in the case of a letter of credit, be renewed as necessary so that it remains in effect throughout the period of time specified in subsection (d); and
- (f) may be used by the City to pay or offset any costs and expenses incurred by the City in taking any action under section 14 resulting from the non-compliance with the terms and conditions of the tree cutting permit or the requirements of this Bylaw.

8. Protection fences shall be:

- (a) not less than 1.2m (3.937 ft.) in height;
- (b) made of plastic snow fencing securely mounted on wooden posts or wooden or chain link fencing mounted on wooden or metal posts;
- (c) erected on or outside of the dripline of the protected tree or trees around which they are required to be erected or as otherwise directed or permitted by the Director Planning;

- (d) erected prior to the commencement of any demolition, excavation, construction or use of explosives; and
- (e) securely mounted at all times during the period that they are required to be maintained pursuant to section 11 or a tree cutting permit.

9. A tree cutting permit shall, insofar as it permits the permit holder to cut down or damage a protected tree or trees, be valid only for a period of six months from the date of its issuance.

10. If the permit holder fails to comply with the terms and conditions contained in a tree cutting permit the Director Planning may revoke the permit.

11.(1) Every application made to the City for the issuance of a demolition permit or a building permit on a residential lot shall be accompanied by a tree plan.

(2) The person making an application referred to in subsection (1) shall:

- (a) before the demolition permit or building permit is issued, securely attach to each protected tree or cluster of protected trees on the lot a clearly visible metal or durable plastic numbered identification tag provided by the City; and
- (b) erect and maintain in place around all protected trees on the lot, until all demolition or construction works authorized by the demolition permit or building permit have been completed, protection fences that comply with section 8.

12. The Director Planning may exempt a person from the requirements of

- (a) section 3 where:
  - (i) a scheme of tree removal, retention and replacement, or any one or more of them, for the site was previously made a part of a comprehensive development plan for the site under the City's Zoning Bylaw; or
  - (ii) a scheme of tree removal, retention and replacement, or any one or more of them, for the site was previously made a condition of the approval of the subdivision of land pursuant to the *Land Title Act* which created the site;
- (b) section 5(1)(c) or section 11(1) where the Director Planning is satisfied that such trees can be readily identified on the site from other information provided by the applicant.

13. Every replacement tree required to be planted pursuant to this Bylaw or a tree cutting permit and every retained tree shall be properly and adequately maintained in accordance with accepted arboricultural practice.

14. If a person fails to plant or maintain any replacement tree as required by a tree cutting permit or this Bylaw or otherwise fails to comply with the terms and conditions of the tree cutting permit the City by its employees or agents may enter upon the land in respect of which the replacement tree is required to be planted and maintained or the tree cutting permit was issued and take such action as it deems appropriate to remedy such failure.

15.(1) A person who cuts down a protected tree in contravention of this Bylaw shall, in addition to any other penalty that may be imposed under this Bylaw, upon receiving written notice from the Director Planning to do so, immediately plant a replacement tree of the same

species in approximately the same location as the tree cut down.

(2) A replacement tree planted pursuant to subsection (1) shall:

- (a) in the case of a coniferous species, be not less than 3m (9.843 ft.) in height;
- (b) in the case of a deciduous species, be not less than 8cm (3.15 in.) in diameter.

16. The employees or agents of the City may enter onto any land to carry out assessments or inspections of that land and the protected trees thereon:

- (a) at any time after a tree cutting permit has been applied for or issued in respect of that land and until all of the terms and conditions contained in that tree cutting permit have been satisfied;
- (b) for a period of one year from the planting of any replacement tree on that land;
- (c) at any time for the purpose of determining whether there has been a contravention of this Bylaw or to determine whether the requirements of this Bylaw are being complied with.

17. The Director Planning may exercise the powers and perform the duties of Council under sections 929.05 and 929.06 of the *Municipal Act*.

18.(1) The owner or occupier of land that is subject to:

- (a) a requirement imposed under section 5 (1)(c);
- (b) a condition imposed under section 6 (a); or

- (c) a decision under sections 6(b), 10 or 17;

may apply to Council to have the matter reconsidered.

- (2) An application under subsection (1) shall:

- (a) be made in writing;

- (b) set out:

- (i) the applicant's name, address and telephone number;
- (ii) the address of the site;
- (iii) the requirement, condition or decision to be reconsidered;
- (iv) the reasons why the applicant objects to the requirement, condition or decision;

- (c) state whether the applicant wishes to personally appear before Council when Council reconsiders the matter;

- (d) be signed by the applicant; and

- (e) be delivered to the City Clerk.

(3) Council shall reconsider the matter at a regular Council meeting within a reasonable time after receiving an application for reconsideration.

(4) Written notice of the time and place of the Council meeting at which Council will reconsider the matter shall be forwarded by regular mail to the applicant at the applicant's address shown in the application for reconsideration and the applicant shall be entitled to

attend such Council meeting and make submissions.



18. Any person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in violation of any of the provisions of this Bylaw is guilty of an offence punishable on summary conviction and is liable to a fine of not less than Two Thousand (\$2,000.00) Dollars for each violation.

Read a first time this 28th day of OCTOBER 1996

Read a second time this 28th day of OCTOBER 1996

Read a third time this 28th day of OCTOBER 1996

Reconsidered and adopted by an affirmative vote of at least two-thirds of all members of Council this 12th day of NOVEMBER 1996

  
ACTING MAYOR  
  
CLERK

***SCHEDULE 'A'***

***Fee***

For the first protected tree included  
in an application for a tree cutting  
permit \$25.00

For the second and each subsequent  
protected tree included in an application  
for a tree cutting permit (per tree) \$10.00

