

1. INTERPRETATION

1.1. In this bylaw, unless context otherwise requires:

“**City**” means the Corporation of the City of Vernon.

“**Civic Tree Reserve Fund**” means a fund maintained by the **City** for the purpose of planting and maintaining **Trees** on property within the **City**.

“**Council**” means the governing body of the municipal corporation of the **City**.

“**Critical Root Zone**” means the area in which the majority of a **Tree’s** roots lay.

“**Damage**” means any human action that causes a **Tree** to decline in health or die, including but not limited to: excessive pruning (exceeding thirty percent (30%) of the live branches in a twelve (12) month period), cutting or removing bark, cutting roots, poisoning, burning, or infringing upon the **Critical Root Zone**.

“**Director**” means the Director of Planning and Community Services for the **City**, or an individual authorized to act in place of the **Director**.

“**FireSmart**” means FireSmart BC, a provincial extension of the national fire awareness program for increasing neighborhood resilience to wildfire and minimizing its negative impacts.

“**Hazardous Tree**” means a **Tree** or limb of a **Tree** that is in a condition that is likely to cause death, personal injury, or damage to structures or other property.

“**Person**” means an individual or a body corporate, trust, partnership, fund, an unincorporated association or organization.

“**Qualified Professional**” means

- a) a professional engineer licensed as required to practice in British Columbia,
- b) a member of the BC Society of Landscape Architects,
- c) a qualified environmental professional, as defined in the *Riparian Areas Protection Regulation*,
- d) an arborist certified by the International Society of Arboriculture licensed as required to practice in British Columbia, or
- e) another individual working within their scope of professional practice and deemed acceptable by the Director.

“**Remove**” means to cut down, kill, or eradicate a **Tree** by any means and includes to pull up, push, pull over, or otherwise fell a **Tree**.

“**Replacement Tree**” means a **Tree** a required to replace a **Tree** which has been removed or damaged on the same property.

“**Riparian Area**” means the area around a watercourse as defined in the *Riparian Areas Protection Regulation*.

“**Tree**” means a self-supporting woody plant that is a species of coniferous or deciduous genus which normally grows to a height of five (5) metres or greater, notwithstanding its current size.

“**Tree Cutting Permit**” means a permit to **Remove** a **Tree** issued by the **Director** pursuant to this bylaw.

- 1.2. Except as otherwise defined herein, words and phrases in this bylaw are to be construed in accordance with their meanings under the *Community Charter, Local Government Act* and *Interpretation Act*, as the context and circumstances require. A reference to an Act refers to a statute of British Columbia unless otherwise indicated and a reference to any statute, regulation, bylaw or other enactment refers to that enactment as it may be amended or replaced from time to time.
- 1.3. If any section, subsection or other portion of this bylaw is held to be invalid by a court of competent jurisdiction, the decision to sever that portion does not affect the validity of the remainder of this bylaw which continues to be valid.

2. PROHIBITION

- 2.1. Except as exempted under Section 5 of this bylaw or under another enactment of the **City**, British Columbia, or Canada, no **Person** shall:
 - a) **Damage**; or
 - b) **Remove** a **Tree** on any property within the **City** except in accordance with an issued **Tree Cutting Permit**.

3. TREE REMOVAL PERMIT REQUIREMENTS

- 3.1. Any **Person** who intends to **Remove** a **Tree** located within the **City** must submit an application to the **Director**, in a form approved by the **Director**, for a **Tree Cutting Permit**, along with the associated non-refundable application fee, as specified in Fees and Charges Bylaw #3909. At minimum, an application must include the following information:
 - a) a completed application form including the signatures of the applicant(s) and property owner(s) of all affected properties;
 - b) a site plan in metric scale showing the location of existing **Trees**, **Trees** to be **Removed**, proposed **Replacement Trees**, and any existing or proposed structures, paving, utilities, or easements on the property;
 - c) a written rationale that includes a description of the **Tree Removal** works and why the **Tree Removal** is required; and

- d) steps the applicant will take to ensure the proposed action will not contravene the *BC Wildlife Act*, *Riparian Areas Protection Regulation*, *Migratory Bird Regulations* or any other relevant enactments of the **City**, Province, or Canada.
- 3.2.** In reviewing an application, the **Director** may request additional information that the **Director** considers relevant, including:
- a) a signed report from a **Qualified Professional**; or
 - b) a **FireSmart** assessment conducted by a **FireSmart** representative appointed by the **City**.

4. EXEMPTIONS

- 4.1.** The following activities are exempt from the provisions of this bylaw:
- a) regular seasonal pruning that does not cause **Damage** to the **Tree**;
 - b) the **Removal** of **Trees** with a diameter less than ten centimeters (10 cm), when measured at one point four meters (1.4 m) above the ground unless situated in a **Riparian Area**, on a slope exceeding thirty percent (30%), or a **Replacement Tree**;
 - c) the **Removal** of **Trees** associated with an issued Building Permit for the construction of dwelling units on property within the MUS: Multi-Unit Small Scale Zone;
 - d) the **Removal** of **Trees** as prescribed by a landscape plan that has been accepted by the **City**, for which the **City** is holding landscape securities as part of an issued Development Permit under Development Application Procedure Bylaw #4103 or Subdivision under Subdivision & Development Servicing Bylaw #3843;
 - e) the **Removal** of fruit **Trees** or invasive species, as identified by the Invasive Species Council of British Columbia;
 - f) the **Removal** of **Trees** deemed necessary to comply with **FireSmart** requirements as determined by a **FireSmart** representative appointed by the **City**;
 - g) the emergency **Removal** of **Hazardous Trees** reported immediately to the **Director** by the end of the next business day after cutting, providing a written explanation on the hazard(s) posed by the **Tree** and any imminent danger posed to persons or property as deemed acceptable by the **Director**;
 - h) the **Removal** of **Trees** as deemed necessary by a utility, emergency service, or **City** public works department; or

- i) regular farm practices on commercial farms, fruit orchards, or agricultural properties in accordance with the *Farm Practices Protection Act*.

5. REPLACEMENT TREE REQUIREMENTS

- 5.1. The owner of property from which a **Tree** is **Damaged** or **Removed** must ensure that the **Tree** is replaced on the same property within twelve (12) months of the date that the **Tree Cutting Permit** was issued in accordance with the following:
- a) one (1) **Replacement Tree** for any **Tree** that is **Damaged** or **Removed** with a trunk diameter of less than fifteen centimeters (15 cm), when measured at one point four meters (1.4 m) above the ground;
 - b) two (2) **Replacement Trees** for any **Tree** that is **Damaged** or **Removed** with a trunk diameter of fifteen centimeters (15 cm) or greater, when measured at one point four meters (1.4 m) above the ground; or
 - c) for **Trees Damaged** or **Removed** from **Riparian Areas** or on slopes greater than thirty percent (30%), a **Qualified Professional** may specify the number of **Replacement Trees** in accordance with provincial **Tree** replacement criteria.

Location of Replacement Trees

- 5.2. In accordance with **Firesmart** guidelines, a new or **Replacement Tree** must not be planted within one point five meters (1.5 m) from a structure. **Replacement Trees** located within ten meters (10 m) of a structure must be deciduous. **Replacement Trees** located ten meters (10 m) or greater from a structure may be either coniferous or deciduous.

Size and Species of Replacement Trees

- 5.3. The species of a **Replacement Tree** must conform to those specified in Landscape Standards Bylaw #5015 or if not practical or feasible for a particular property, as deemed acceptable by the **Director**. A **Replacement Tree** must meet the following size requirements:
- a) The minimum size of a **Replacement Tree** shall be one point five meters (1.5 m) in height.
- 5.4. **Replacement Trees** must be maintained for a minimum of a two (2) year period following planting to ensure they are kept in good health in accordance with standard arboricultural practices.

6. SECURITY DEPOSIT

- 6.1. An applicant for a **Tree Cutting Permit** must provide the **City** with a security to ensure that the replacement **Trees** are planted and maintained in good health for a minimum of two (2) years. The total security will be equal to the full cost of

purchasing, planting, and maintaining required **Replacement Trees**, at a base rate of five hundred dollars (\$500) per **Tree Damaged** or **Removed**, or as reasonably estimated by a **Qualified Professional** and accepted by the **Director**.

- 6.2. The security must be provided either as a cash deposit, an irrevocable letter of credit drawn from a bank, or another form of security that is acceptable to the **Director**.
- 6.3. The **Director** may draw upon the security as the **Director** considers necessary for the purpose stated in Subsection 6.1. Any amount of the security not required for that purpose, including interest, will be returned to the applicant two (2) years after the date of permit issuance contingent upon the applicant's compliance with this bylaw and the successful establishment of the **Replacement Trees**. It is the applicant's responsibility to contact the Planning and Community Services Division to request a return of securities.

7. DELEGATION OF AUTHORITY

- 7.1. The **Director** may issue a **Tree Cutting Permit** upon being satisfied that the application and any related information is complete, the application fees have been paid, and the proposed work can be carried out as detailed in the application.
- 7.2. The **Director** may, as a condition of issuing a **Tree Cutting Permit**, impose conditions, requirements and restrictions that ensure the purposes of this bylaw can be met.
- 7.3. The **Director** may refuse, suspend, or cancel a **Tree Cutting Permit** if the **Director** considers the proposed work cannot be carried out in accordance with this or another bylaw of the **City**, and may suspend the permit if work is not being carried out in accordance with the permit or this or another bylaw of the **City**.
- 7.4. Where a **Qualified Professional** has determined that there is insufficient space on site or the adjacent boulevard to locate one or more **Replacement Trees**, the **Director** may accept a payment in lieu of the requirements of Section 5 and 6, in an amount equivalent to the security deposit that would otherwise be required under Section 6 for each **Replacement Tree**, to the **Civic Tree Reserve Fund**.

8. RECONSIDERATION

- 8.1. If an application for a **Tree Cutting Permit** is refused, suspended, or cancelled, or the applicant is unable or unwilling to meet any conditions, restrictions or requirements of the permit set out by the **Director**, the owner or occupier of the subject property may apply for reconsideration by **Council** by submitting a written request within thirty (30) days of the decision by the **Director**, setting out the applicant's reasons, to the **City** Corporate Officer, who will arrange for **Council** to hear the matter and notify as to the time and date of hearing.

8.2. Pursuant to a request under Section 8.1, **Council** may consider information provided by the **Director** and other staff, contractors or third parties, that **Council** considers relevant to reconsideration, and may affirm, vary, substitute or cancel the decision of the **Director**, as **Council** considers appropriate for the purposes of this bylaw.

9. TREE PROTECTION CRITERIA

9.1. Whenever there is an excavation, demolition, construction, or alteration activity on a property that could **Damage** a **Tree**, those **Trees** must be adequately safeguarded through the Tree Protection Criteria described in Schedule 'A' attached to this bylaw.

10. ENFORCEMENT, OFFENCE, AND PENALTY

10.1. This bylaw may be enforced by the **Director**, Bylaw Enforcement Officer, or another **Person** authorized by **Council**; and the **Director**, Bylaw Enforcement Officer, or other authorized **Person** may enter on the property for the purposes of and in accordance with Section 16 of the *Community Charter*.

10.2. Every **Person** who:

- a) contravenes or violates any provision of this bylaw;
- b) allows or permits any activity or thing to be done in contravention or violation of this bylaw; or
- c) neglects or fails to meet a requirement under this bylaw

commits an offence, and each day that a contravention or violation continues is a separate offence.

10.3. This Bylaw may be enforced by:

- a) a bylaw notice pursuant to the Bylaw Notice Enforcement Bylaw #5250;
- b) a municipal ticket pursuant to the Municipal Ticket Information Bylaw #5300;
- c) proceedings brought under the *Offence Act*, to pay a fine of not less than \$1,000 and not more than \$50,000 and such other amounts as the court may impose in relation to the offence; or
- d) any other remedy available to local governments.

10.4. The payment of a fine or other penalty imposed under this Bylaw does not relieve a person from paying amounts owing to the **City** under the Fees and Charges Bylaw or other bylaw in relation to the contravention or offence.

10.5. No **Person** shall provide false information, obstruct or interfere with the **Director**, Bylaw Enforcement Officer or any other **City** official in the exercise of their duties.

11. REPEAL

11.1. The City of Vernon Tree Protection Bylaw #4152, 1995, and all amendments hereto, are repealed.

Schedule A – Tree Protection Criteria

Prior to any excavation, demolition, construction, or alteration activity on a property that could potentially **Damage a Tree**, those **Trees** must be adequately safeguarded at the applicant’s expense through the practices described below:

- Physical barriers comprised of posts and continuous mesh screening one point two meters (1.2 m) in height installed around the **Critical Root Zone** of a **Tree** prior to any potentially damaging activity and maintained for the duration of the activity. Post placements are to avoid damaging roots.

Figure 1 – Elevation View

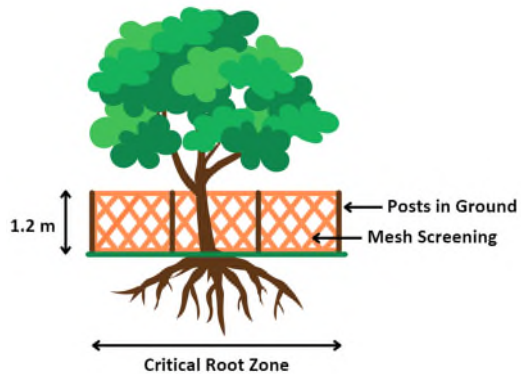
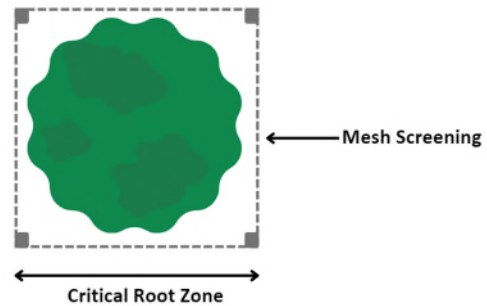


Figure 2 – Plan View



- The distance between the physical barrier and **Tree** trunk shall be determined by a **Qualified Professional** in accordance with current best practices for **Critical Root Zone** protection or using the table below:

Trunk Diameter at 1.4 m Above the Ground	Minimum Distance of Barrier to Trunk
10 cm / 100 mm	0.6 m
15 cm / 150 mm	0.9 m
20 cm / 200 mm	1.2 m
Calculation: divide trunk diameter at 1.4 m above ground (in mm) by 166 Example: 25 cm (250 mm) divided by 166 = 1.5 m minimum distance from trunk	

- Weatherproof signage must be posted on at least two sides of the barrier advising the following:

TREE PROTECTION ZONE – DO NOT ENTER
 If barrier has fallen over, report immediately for repair
 Phone: (###) ### - ####

- No incursions are permitted within the **Critical Root Zone**, including but not limited to material or equipment storage, soil piling, fill or grade changes, or using the **Trees** to support cables, fencing, or other structures.