

DISTRICT OF HOPE

TREE PROTECTION BYLAW, 1995

Bylaw No. 20/95

WHEREAS Section 929 of the Municipal Act provides that Council may, by bylaw, allow for the protection and preservation of trees, and the issuance of tree cutting permits;

NOW, THEREFORE, the Council of the District of Hope, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the “Tree Protection Bylaw, 1995”.
2. In this bylaw, unless the context otherwise requires:

“Barrier” means any physical barrier including a fence, frame or guard, or any conspicuous identification, survey tape, or any other device placed on, around, or near a tree for the purpose of protecting it from injury, harm or to indicate retention;

“Clearcut 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 for every full 0.5 hectares of land in a parcel for any reason in any 12-month period, or
- (ii) the cutting down of trees required to clear a site for a building, driveway, septic field or utility corridor, or
- (iii) the cutting down of trees which are dead, diseased or damaged by a natural cause.

“Cutting” or “Cut” means the cutting or knocking down or cutting into any or all parts of any tree and shall include “topping”;

“Municipal Engineer” means the Municipal Engineer of the District of Hope, or designate;

“Owner” means the registered owner or owners of an estate in fee simple in respect of which a permit is applied for, or a person authorized by the owner or owners in writing;

“Pruning” means the cutting away of dead or overgrown branches;

“Qualified Person” means a registered professional forester, registered landscape architect, professional arborist or a professional engineer with experience in geotechnical engineering, hydrology, and tree management;

“Replacement Tree” means a tree planted on a property to replace a tree which has been cut down on the same property;

“Security” means the monies required by the municipality as assurance of the successful completion of all works and site reinstatement according to this bylaw and the tree cutting permit;

“Topping” means the removal of the dominant leader or leaders of a tree;

“Tree” means a member species of coniferous or deciduous genus with a diameter greater than 20 cm (8 inches) measured 90 cm (3 feet) above the ground;

“Tree Cutting Permit” means a tree cutting/removal permit issued in the form of Schedule A;

“Tree Cutting and Replacement Plan” means a plan based on the tree survey which shows the trees proposed to be cut and the location, size (height and caliper) and species of replacement trees to be planted upon the subject site;

“Tree Survey” means a plan showing the location, species and trunk diameter of all existing trees on a subject site having a diameter greater than 20 cm (8 inches) at a point 90 cm (3 feet) above the ground. In the case of multi-stemmed trees, the diameter shall be measured around all the stems together.

3. With the exception of trees within 5 m, measured horizontally from the top of the bank of all stream courses or ravines, and trees on steep slopes with grades in excess of 2 horizontal to 1 vertical, the following are exempt from the provisions of this bylaw:
 - (a) all lots designated single-family residential, rural residential, agricultural, commercial or industrial in the Official Community Plan, as amended, which are without sufficient lot area to create two or more new lots within the requirements of the existing zoning, pursuant to the Zoning Bylaw, as amended, and in no case are greater than 0.5 ha in area;
 - (b) surveyors cutting survey lines having a width of less than 2 m;
 - (c) removal or pruning of dead, diseased or damaged trees or the removal of hazardous trees or branches by standard arboricultural practices including topping;
 - (d) municipal road and utility rights-of-way in order to facilitate the construction of municipal capital works;
 - (e) pruning;
 - (f) lands classed as tree farms by the British Columbia Assessment Authority;
 - (g) where lands are rendered undevelopable by any provision of this bylaw, cutting of trees to allow a use and development to the density permitted by the Zoning Bylaw by a permit issued in accordance with the other provisions of this bylaw;
 - (h) where 2% or less of all trees on a property are being removed;
 - (i) municipal park and recreation facilities.
4.
 - (a) No person shall cut any tree in the District without first applying for a tree cutting permit as required under this bylaw.
 - (b) A permit shall be issued in the form attached as Schedule A.
 - (c) For the duration of the permit, the permit shall be visibly displayed in a protected, accessible, conspicuous position on the subject lands and shall be made available to the Municipal Engineer upon request.
 - (d) On receipt of a completed application for a tree cutting permit, the Municipal Engineer may:
 - (i) issue the permit under such terms and conditions as are deemed appropriate;
 - (ii) refuse to issue the permit and shall provide written notice of the reasons for refusal within 15 days of the date of refusal.

- (e) Without affecting the generality of the bylaw, tree cutting permits shall be governed by the following regulations:
 - (i) When subdivision or development of a property is not contemplated;
 - (1) a tree cutting permit may be granted for a maximum period of one year;
 - (2) trees shall not be removed within 5 m of the interior lot line boundary;
 - (3) trees shall not be removed within 10 m of an exterior lot line, except for area required for driveway access and service connections.
 - (f) When a subdivision or a development application has been filed with the municipality, the applicant may be required to submit:
 - (i) a tree survey as defined in this bylaw;
 - (ii) where the tree stand is so dense as to render individual tree enumeration difficult, the tree survey may show clusters of trees;
 - (iii) except as specifically approved in the permit, a tree cutting and replacement plan in accordance with good arboricultural practice as determined by a qualified person.
 - (g) Prior to issuance of a tree cutting permit, an applicant may be required to submit, at his expense, a report prepared by a qualified person, justifying the need for tree removal and demonstrating that the proposed cutting will not create such adverse impact as danger of flooding , erosion, land slip or contamination of watercourses.
5. (a) Municipal staff may enter any property at any reasonable time for the purposes of administering and enforcing this bylaw, or carrying out an assessment or inspection of specified trees or sites for the purposes of this bylaw.
- (b) The Municipal Engineer may suspend work carried out under a tree cutting permit if the tree cutting is not being undertaken in accordance with the terms and conditions of the permit.
6. (a) Applications for a tree cutting permit shall be made to the Municipal Engineer by completing the form attached as Schedule B.
- (b) Unless otherwise required by the Municipal Engineer, applications shall be accompanied by:
 - (i) a letter explaining the reasons for the proposed tree cutting;
 - (ii) letter of authorization where the applicant does not own the subject land;
 - (iii) a tree survey;
 - (iv) a tree cutting and replacement plan where applicable;
 - (v) a report from a qualified person, where required;
 - (vi) proof of liability insurance carried by the tree removal company retained.
7. Tree cutting and replacement shall be strictly in accordance with the conditions imposed by this bylaw and any conditions specified in the permit including:
 - (i) protective barriers shall be installed and approved prior to tree cutting;
 - (ii) disposal of tree parts on site shall be by chipping or burning in accordance with provincial and municipal regulations;

- (iii) restricted hours of operation pursuant to the Noise Prevention Bylaw No. 370, 1963, as amended.
8. A non-refundable application fee shall be paid, as follows: A base fee of \$25.00, plus \$2.00 per tree proposed to be removed.
9. (a) The applicant is required to submit a security deposit for full and proper compliance with the provisions of this bylaw and the performance of all terms and conditions expressed in the permit, including provision of all replacement trees and materials required for site reinstatement.
- (b) The security shall be in the form of a cash deposit or irrevocable letter of credit drawn upon a chartered bank in a form acceptable to the municipality.
- (c) The amount of the security deposit shall be 100% of the value of all replacement trees and site restoration materials and measures required by the municipality, as estimated by a landscape architect and/or other qualified persons.
- (d) There shall be a 10% holdback of the value of all restoration materials for a period of one year after the date of expiry of the permit, or in cases in which the work has not been completed to the satisfaction of the municipality, the holdback period shall be one year from a date determined by the municipality.
- (e) Should the permit holder fail to comply with the said terms and conditions of the permit, the municipality may have its forces or contractors enter onto the property and perform such work as is necessary to restore the lands to the conditions specified in the permit, and may retain all or a portion of the security to cover the cost of such work.
10. (a) The Council may require the owner or occupier of real property to trim, remove or cut down a tree, hedge, bush or shrub on the property if the Council considers that it is:
- (i) a hazard to the safety of persons;
 - (ii) likely to damage public property; or
 - (iii) seriously inconveniencing the public.
- (b) Council may serve notice upon the owner that the municipality will take the required action at the expense of the owner, if the owner does not take the required action.
- (c) In the case of Section 10(a) of this bylaw, the owner shall have five days from service to comply.
- (d) If the owner does not take the required action within the time period referred to in Section 10(c), the municipality, by its employees or others, may enter the real property and effect that action at the expense of the owner.
- (e) If the owner does not pay the costs of the action under that section on or before December 31 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 arrears.
11. Unless otherwise specified in the permit, where the holder of a permit does not substantially complete the tree cutting and planting of replacement trees specified in the permit within one year after the date of issuance, the permit lapses. In this event, all security monies may be withheld and used by the municipality to ensure appropriate site restoration.

12. Where trees are removed in contravention of this bylaw:
- (a) the appropriate penalty as provided in the bylaw shall apply;
 - (b) remedial measures stipulated hereunder shall be taken:
 - (i) a replacement plan shall be submitted;
 - (ii) replanting is required at a ratio of two replacement trees for each tree removed;
 - (iii) replacement trees shall be specified in accordance with good arboricultural practice as determined by a qualified person but need not be of the same species as those which were removed;
 - (iv) the minimum size of replacement trees shall be a height of 4.0 m for conifers and a trunk diameter of 8.0 cm measured at 50 cm above the root crown for deciduous species;
 - (v) maintenance requirements shall be specified in the replacement plan and carried out in accordance with the specifications.
13. (a) Every person who violates any of the provisions of this bylaw, or acts in contravention of this bylaw, shall upon summary conviction therefor, be liable to a fine of not more than \$2,000.00 for each tree unlawfully cut down or damaged.
- (b) The terms of this section shall apply upon the municipality serving notice to an owner or person who violates any of the provisions of this bylaw.
- (c) Where appropriate, an order to restore the damage caused by the offence by replanting and other means shall be made.

READ A FIRST TIME THIS 14th DAY OF August, 1995.

READ A SECOND TIME THIS 14th DAY OF August, 1995.

READ A THIRD TIME THIS 14th DAY OF November, 1995.

ADOPTED THIS 27th DAY OF November, 1995.

MAYOR

MUNICIPAL CLERK

I HEREBY CERTIFY THIS IS A TRUE AND CORRECT COPY OF THE "TREE PROTECTION BYLAW, 1995".

MUNICIPAL CLERK

TREE PROTECTION BYLAW

Bylaw No. 20/95

SCHEDULE A

DISTRICT OF HOPE

TREE CUTTING PERMIT

Permit No. _____

Date: _____

This Permit is issued to:

(Name and address of Permittee)

for tree cutting on _____
(Civic address and legal description of Cutting Site)

pursuant to the provisions of Tree Protection Bylaw, Bylaw No. 20/95, subject to:

1. Tree cutting being undertaken strictly in accordance with the terms and conditions of this permit, and any plans and specifications attached hereto as part of this permit.
2. Deposit of the required security (Section 9, Bylaw No.20/95) and permission being given to the Municipal Engineer to enter the Cutting Site when necessary.
3. Other conditions as follow:

THIS PERMIT EXPIRES ON _____
(Date)

Municipal Engineer

TREE PROTECTION BYLAW

Bylaw No. 20/95

SCHEDULE B

DISTRICT OF HOPE

APPLICATION FOR TREE CUTTING PERMIT

Date: _____

NAME: _____

ADDRESS: _____

PHONE: _____

1. The above-named hereby applies for a Tree Cutting Permit as required by the Tree Protection Bylaw, Bylaw No. 20/95 (the Bylaw) for the subject lands identified as:

(Civic address and legal description of Cutting Site)

2. Cash or an irrevocable Letter of Credit in the amount of \$_____ is herewith deposited with the District of Hope as required by the Bylaw to ensure site restoration and/or installation of replacement trees on the Cutting Site.

3. The above-named applicant hereby covenants and agrees as follows:
- (a) To complete the planting of the said replacement trees and/or site restoration work within the time specified in the permit.
 - (b) To grant permission to the Municipal Engineer, or his designate, to enter the Cutting Site as required to ensure the terms of the Tree Cutting Permit are being met.
 - (c) To obtain from any person to whom the applicant proposes to transfer the Cutting Site, or any interest therein, prior to the substantial completion of the said planting of replacement trees or site restoration, a form of permission as noted in the previous section duly executed by the transferee, and to deliver the form to the District of Hope.

4. Accompanying this application are:
- (a) a letter explaining the reasons for the proposed tree cutting;
 - (b) a letter of authorization from the owner of the Cutting Site, if the applicant is not the owner;
 - (c) a tree survey of the Cutting Site;
 - (d) a tree cutting and replacement plan where applicable;
 - (e) a report from a qualified person, where required; and
 - (f) name, address and telephone number of the tree removal company retained and proof of liability insurance carried by the company.

(Signature of Applicant)