

CORPORATION OF THE CITY OF NEW WESTMINSTER



TREE PROTECTION AND REGULATION BYLAW NO. 7799, 2016

EFFECTIVE DATE: January 13, 2016

CONSOLIDATED FOR CONVENIENCE ONLY
(November 29, 2018)

This is a consolidation of the bylaws listed below. The amendment bylaws have been combined with the original bylaw for convenience only. This consolidation is not a legal document. Certified copies of the original bylaws should be consulted for all interpretations and applications of the bylaws on this subject.

AMENDMENT BYLAW
8052, 2018

EFFECTIVE DATE
November 19, 2018

The bylaw numbers highlighted in this consolidation refer to the bylaws that amended the principal Bylaw No. 7799, 2016. The number of any amending bylaw that has been repealed is not referred to in this consolidation.

Obtainable from the City Clerk's Office

CORPORATION OF THE CITY OF NEW WESTMINSTER

BYLAW NO. 7799, 2016

A bylaw to regulate and prohibit the cutting, removal and damage of trees,
the issuance of permits and setting of fees, and the requirement for
replacement trees and security for their provision and maintenance

WHEREAS the *Community Charter*, S.B.C. 2003, c.26 authorizes a local government to regulate, prohibit, and impose requirements in relation to trees;

NOW THEREFORE the Council of the Corporation of the City of New Westminster in open meeting assembled enacts as follows:

1.0 CITATION

1.1 This bylaw may be cited for all purposes as “Tree Protection and Regulation Bylaw No. 7799, 2016”.

2.0 INTERPRETATION

2.1 In this bylaw:

(a) “**applicant**” means the person who is applying to the City for a permit to cut or remove a protected tree;

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(b) “**arboricultural practice**” includes the practices recommended by the American National Standards Institute (ANSI) in their latest edition of the A300 Standards for the management of trees, shrubs and other woody plants;

(c) “**arborist**” means a person who:

(i) is certified as an arborist by the International Society of Arboriculture or certified as an arborist technician by the British Columbia Industry Training Authority; and

(ii) is certified as a tree risk assessor by the International Society of Arboriculture; and

(iii) holds a valid and subsisting business licence from the City or a valid and subsisting intermunicipal business licence from a participating municipality;

(d) “**arborist report**” means a report prepared by an arborist which:

(i) identifies information relevant to the purpose for which the report is to be

submitted to the City including, but not limited to, surveyed location, species, size, critical root zone, condition, and risk rating of onsite and offsite protected trees;

- (ii) provides photographs of protected trees in the context of the site;
 - (iii) provides the reasons for any proposed removal of a protected tree;
 - (iv) for protected trees that are part of a stand of trees, comments on the impact of tree removal on the stability of the remaining trees in the stand;
 - (v) for hazardous trees, provides any pruning mitigation options consistent with the latest edition of the American National Standards Institute (ANSI) A300 and the latest edition of the companion publication “Best Management Practices – Tree Pruning”, published by the International Society of Arboriculture, and reports residual risk;
 - (vi) for protected trees other than hazardous trees, describes the recommended tree protection and mitigation measures during site excavation, demolition, construction, or placement of fill and describes the recommended post-development tree maintenance measures; and
 - (vii) includes the arborist’s business licence or intermunicipal business licence number;
- (e) **“base”** means, in relation to a tree’s measurement:
- (i) the top of the root collar; or
 - (ii) the point where the existing grade of the ground comes into contact with a tree’s stump, trunk or trunks,
- whichever elevation is higher;
- (f) **“Bylaw Enforcement Officer”** means any employee of the City serving in the capacity of Bylaw Officer, Building Inspector, Animal Control Officer, Parking Patrol Officer, or City Arborist;

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- (g) **“caliper”** means the diameter of a tree at 15 centimetres above the natural grade of the ground, measured from the base of the tree;
- (h) **“canopy”** means the extent of the outer leaves or needles of an individual tree or group of trees;
- (i) **“City”** means the Corporation of the City of New Westminster;

- (j) **“City Arborist”** means a person employed and designated by the City as the City Arborist, Urban Forester, Arborist Technician, Tree Administrator, Landscape Architect, or Environmental Technician;
- (k) **“commitment letter”** means a letter to be provided by an applicant pursuant to subsection 5.4 of this bylaw;
- (l) **“Council”** means the Council of the City;

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- (m) **“critical root zone”** or **“CRZ”** means the area of land surrounding the trunk of a tree contained within a circle of radius equal to the DBH of the tree multiplied by 6, or one meter beyond the drip line of the tree, whichever is the greater distance;
- (n) **“crown”** means the entire system of branches, leaves and reproductive structures of a tree extending away from the trunk or main stem(s), measured from the lowest branch;
- (o) **“crown raising”** means to shorten or remove the lower branches of a tree;

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- (p) **“CRZ requestor”** means a person requesting a CRZ work authorization in accordance with subsection 8.1.1;

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- (q) **“CRZ Resident Requestor”** means a CRZ requestor described under subsection 8.1.3;

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- (r) **“CRZ work authorization”** means permission issued under subsection 8.1.2 to perform work within 4 metres of the critical root zone of a protected tree;
- (s) **“cut”** or **“cutting”** means to cut down a tree and shall include to pull up, push or pull over, or otherwise fall a tree;
- (t) **“damage”, “damaged”,** or **“damaging”** means any action which will cause a tree to die or to decline in health, including, but not limited to girdling, ringing, removing bark from a tree, denting, gouging, puncturing or damaging a tree trunk, poisoning, burning, undermining structural roots within the critical root zone of a tree, depositing or removing soil from the base of a tree, excessive pruning, excessive crown raising, topping, or pruning in a manner not in accordance with the most recent edition of the American National Standards Institute Publication (ANSI) A300 and the most recent edition of the companion publication “Best Management

Practices – Tree Pruning”, published by the International Society of Arboriculture;

- (u) “**DBH**” means the diameter of the trunk of a tree at 1.3 metres above the base of a tree. For multi-stemmed trees, each trunk shall be measured 1.3 metres above the highest point of the natural grade of the ground measured from grade and the DBH of the tree shall be calculated as the square root of the sum of all squared stem DBHs rounded to the nearest centimetre (e.g. $\sqrt{[(12\text{cm})^2 + (14\text{ cm})^2 + (17\text{ cm})^2]} = \sqrt{629} = 25\text{ cm}$);

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- (v) “**Director**” means the Director of Parks and Recreation, the Director of Development Services, or a person acting or delegated to act in one of those capacities;

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- (w) “**drip line**” means the outermost perimeter of the canopy of a tree or shrub;
- (x) “**engineer**” means a person registered or licensed as a professional engineer pursuant to the provisions of the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c.116, as amended;
- (y) “**hazardous tree**” means a tree identified in writing by an arborist as having defects sufficient to significantly increase the likelihood that all or part of the tree will fall, resulting in a risk of personal injury or property damage or loss;

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- (z) “**hedge**” means five or more trees or shrubs planted less than 1.25 metres apart;

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- (aa) “**hedge length**” means the longest distance from the drip line of one tree or shrub within a hedge to the drip line of another that can be measured along a horizontal plane;
- (bb) “**highway**” includes a public street, road, trail, lane, bridge, viaduct, walkway, and any other way open to public use, and excludes a Provincial highway;
- (cc) “**landscape architect**” means a landscape architect registered with the British Columbia Society of Landscape Architects;
- (dd) “**live crown ratio**” means the ratio of the height of the crown containing live foliage to the overall height of the tree;
- (ee) “**lot**” means land designated as a separate and distinct parcel on a legally recorded

subdivision plan or description filed in the records of the Land Title Office;

- (ff) **“natural causes”** means death or decline in health of a tree as a result of natural diseases, pests, climatic, hydrological and geotechnical conditions, inherent structural defects, or aging;
- (gg) **“owner”** includes a registered owner, an owner under agreement, an occupier of Crown lands, the City if the subject tree is on City-owned land or a highway, an owner of a strata lot if the subject tree is within the boundaries of the strata lot, a strata corporation if the subject tree is within the boundaries of the common property, and a cooperative association;
- (hh) **“permit”** means a permit issued by the Director under authority of this bylaw to cut or remove one or more protected trees;

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- (ii) **“planting approval”** means approval issued by the City that confirms all of the replacement trees required to be planted under a tree replacement plan have been satisfactorily planted;
- (jj) **“protected tree”** means:
 - (i) a tree or shrub of any size located on City-owned or occupied land;
 - (ii) a tree of any species, except when planted as a hedge, that has a DBH of 20 centimetres or greater, or has a combined DBH of its two largest trunks or stems of 20 centimetres or greater;
 - (iii) a retained tree identified on a tree protection plan;
 - (iv) a replacement tree identified on a tree replacement plan;
 - (v) a specimen tree;
 - (vi) a tree with evidence of nesting by a bird, as “bird” is defined in the *Wildlife Act*, RSBC 1996, c 488;

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- (vii) a hedge that is 5 metres or higher as measured from the trunk flare to the tip of the tallest branch;
- (kk) **“pruning”** means the cutting of twigs, branches or roots in accordance with the most recent edition of the American National Standards Institute (ANSI) A300 and the latest edition of the companion publication “Best Management Practices – Tree Pruning”, published by the International Society of Arboriculture;

- (ll) **“remove”, “removed”, “removal”, or “removing”** means to cut a tree and remove it from the lot where it exists;
- (mm) **“replacement tree”** means a tree required to be planted in accordance with this bylaw to replace a tree that is cut, removed, or damaged, as shown on a tree replacement plan;

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- (nn) **“Resident Applicant”** means a person who is both an owner and a resident of a lot who applies for a permit under this bylaw to cut or remove one or more trees on the lot for the purpose of:
 - (a) removing a hazardous tree;
 - (b) constructing an addition or alteration to an existing dwelling; or
 - (c) constructing an accessory building that is not a dwelling;
- (oo) **“retained tree”** means a protected tree that is not proposed to be cut;
- (pp) **“root collar”** means the upper-most portion of the root system of a tree where the major roots join together at the base of the trunk;
- (qq) **“shared tree”** means a tree with any part of its trunk or trunk flare crossing a property line, including where the adjacent property is a highway, park, or other City-owned property;
- (rr) **“shrub”** means a woody plant with one or more perennial stems and reaching a height at maturity of less than 4.5 metres;

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- (ss) **“site plan”** means a drawing of the lot or lots illustrating information required by the Director for the purpose of this bylaw, including the location of property lines and watercourses, the location and dimensions of existing and proposed buildings and structures, including fences and retaining walls, paths, patios, driveways, parking pads, above and below ground utilities, and the locations, species (deciduous or coniferous) and estimated size (DBH and canopy) of all protected trees proposed to be cut and all retained trees;
- (tt) **“specimen tree”** means a large and mature deciduous or coniferous tree with a DBH greater than 60 centimetres;
- (uu) **“structural root”** means the large, woody, roots of a tree that anchor and support the trunk and crown of that tree, characterized by secondary thickening and diameter greater than 2 centimetres, and giving form to the root system and

functioning in anchorage and support;

- (vv) **“topping”** or **“topped”** means the removal of significant portions of a tree crown by cutting branches to stubs or to the trunk, or cutting the main leader or branches, and includes re-topping of previously topped trees;
- (ww) **“tree”** means a self-supporting, perennial, woody plant that has a trunk or stem and a root system;

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- (xx) **“tree protection barrier”** or **“TPB”** means a barrier constructed around a tree in accordance with Schedule B of this bylaw to protect the tree from damage during site work or construction;
- (yy) **“tree protection plan”** means a plan prepared by an arborist or landscape architect in accordance with sound arboricultural practice that illustrates the location of protected trees in relation to the property lines of a lot and protected trees on adjacent lots that are within 4 metres of the property lines of the subject lot, including the size of such protected trees, and identifies the location of proposed tree protection zones for each retained tree;
- (zz) **“tree protection zone”** means the area inside a tree protection barrier;
- (aaa) **“tree replacement plan”** means a plan prepared by an arborist or landscape architect in accordance with sound arboricultural practice that identifies the number, location, species and size of replacement trees to be planted in accordance with section 7.0 of this bylaw;
- (bbb) **“tree survey”** means a survey plan prepared by a person registered as a British Columbia land surveyor that illustrates the location of protected trees in relation to the property lines of a lot, and includes any other information required by the Director for the purpose of assessing a permit application;

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- (ccc) **“trunk flare”** means the area at the base of a tree that swells and merges with the roots of that tree and in the case of a hedge means the area at the base of the tallest tree or shrub that swells and merges with the roots of that tree or shrub; and
- (ddd) **“Zoning Bylaw”** means Zoning Bylaw No. 6680, 2001, as amended or replaced from time to time.

3.0 APPLICATION

- 3.1 This bylaw applies to all protected trees within the City except as provided in subsection 3.2.

3.2 This bylaw does not apply to:

- (a) protected trees that are cut, removed, or damaged pursuant to the *Railway Safety Act*, S.B.C. 2004, c.8, the *Hydro and Power Authority Act*, R.S.B.C. 1996, c.212, or the *Oil and Gas Activities Act*, S.B.C. 2008, c. 36; and
- (b) protected trees on City-owned property or highways that are cut or removed by the City or its authorized agents in accordance with approved City operations.

4.0 PROHIBITIONS

- 4.1 No person shall cut, remove or damage any protected tree, or cause or allow any protected tree to be cut, removed or damaged, except where permitted by and in accordance with the terms of this bylaw.
- 4.2 No person shall fail to comply with the terms and conditions of a permit issued under this bylaw.
- 4.3 No person shall remove, conceal, or otherwise interfere with a posted Stop Work Order issued under this bylaw.
- 4.4 No person shall alter, falsify, or otherwise misrepresent any information on or for a permit or application.
- 4.5 No person shall fasten any sign, notice, or other object to, around, or through any tree or shrub of any size located on City-owned or occupied land, including any tree or shrub located on a highway.

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- 4.6 No person shall cut, remove, prune or damage any tree or shrub of any size on City-owned or occupied land, including any tree or shrub located on a highway.

5.0 PERMITS

- 5.1 A person wishing to cut or remove a protected tree shall apply to the Director for a permit to cut or remove the protected tree.
- 5.2 An application for a permit must be made in the form prescribed for that purpose from time to time by the Director, and must include all of the following:
 - (a) a non-refundable application fee in the amount set out in Schedule A;
 - (b) the address and legal description for the lot or lots on which the protected trees proposed to be cut or removed are located;
 - (c) unless the application is for the removal of a hazardous tree and no other tree, title searches for the lot or lots on which the protected trees proposed to be cut or

removed are located, obtained from the Land Title Office within the previous 72 hours, along with copies of any covenants or similar agreements registered against title to the lot and relating to the use of the lot or the cutting or removal of trees on the lot;

- (d) if the applicant is not the owner of the lot on which the protected tree proposed to be cut or removed is located, the written consent of all owners of that lot;
- (e) a statement of purpose and rationale for the proposed tree cutting or removal;
- (f) a site plan or a tree survey if required by the Director;
- (g) details of the scale, methods, and timing of the proposed cutting or removal of protected trees;
- (h) proposed methods to access the site, control erosion, manage runoff, and protect retained trees;
- (i) except as provided for under subsection 5.4, an arborist report from an arborist retained by the applicant, certifying that the protected tree(s) proposed to be cut or removed meet one or more of the conditions set out in subsection 5.3(a), and specifying any conditions under which the proposed cutting or removal of a protected tree may take place. In assessing the conditions under which the proposed cutting or removal of a protected tree may take place, the arborist report shall consider and recommend the appropriate extent, timing, and phasing of cutting and removal to address public health and safety concerns, minimize impacts to adjacent properties, protect retained trees, and protect other environmental features or functions;
- (j) except as provided under subsection 5.4, a tree protection plan;
- (k) except as provided under subsection 5.4, a tree replacement plan;
- (l) where the protected tree is a shared tree, a letter from the owners of the adjacent lot consenting to the cutting or removal of the shared tree, together with current contact information for each of those owners;
- (m) for those properties identified in the City's Official Community Plan as being located in a development permit area established for the purpose of protecting development from hazardous conditions, a report from an engineer assessing issues relating to slope stability, flooding, and erosion on the lot, certifying that the proposed cutting or removal of the protected tree(s) will not destabilize slopes or cause flooding or erosion, and specifying any conditions under which the proposed cutting or removal of the protected tree(s) may take place, including the appropriate extent, timing, and phasing of the cutting or removal to address public health and safety concerns, minimize impacts to adjacent properties, protect

retained trees, and protect other environmental features or functions.

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5.2.1 If the person applying for a permit under subsection 5.2 is a Resident Applicant:

- (a) the applicant may provide documents required under subsection 5.2(c) in a form prescribed by the Director;
- (b) the Director may waive the requirement to provide an arborist report under subsection 5.2(i) if the lot contains 3 or fewer protected trees, zero specimen trees and the Director considers that the proposed work on the lot to not be complex such that evaluating the work and its impact can be done without an arborist's report; and
- (c) the permit condition to provide an arborists approval of a tree protection barrier under subsection 6.1(c) shall be waived if:
 - (i) a person requests that the City inspect the tree protection barrier and pays the fee in the amount set out in Schedule A; and
 - (ii) the tree protection barrier is approved by the City following an inspection; and
- (d) the City may invoice the applicant for all costs agreed to by the applicant under subsection 5.2.1 and if any such costs go unpaid by December 31st of the year in which they were invoiced, the City may add those costs as taxes in arrear accruing on the lot for which the work was done.

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5.2.2 Upon receipt of an application, the Director may suggest to the applicant that work described in the site plan be modified so as to retain protected trees specified by the Director, and if the applicant elects to modify the application accordingly, the applicant shall be entitled to:

- (a) a 50% reduction in the amount of retained tree security applicable to the protected trees specified by the Director; and
- (b) upon application for a development variance permit to enable development in accordance with a revised site plan that accommodates the protected trees specified by the Director, pay the application fee for a Modified Site Plan (Protected Tree) Development Variance Permit Application as specified in Schedule C of Development Services Fees and Rates Bylaw No. 7683, 2014, which application fee is payable whether or not a development variance permit is granted.

5.3 The Director will issue a permit in the form prescribed for that purpose from time to time

if:

- (a) the Director is satisfied that one or more of the following conditions exists:
 - (i) the protected tree is a hazardous tree;
 - (ii) the protected tree is located within the footprint of a proposed building or structure, underground service, driveway, or off-street parking area that would be permitted under the City's Zoning Bylaw, or that is required pursuant to any other City bylaw, and that could not be modified or relocated on the lot so as to retain the protected tree, as determined by the Director;
 - (iii) the roots of the protected tree are impairing, interfering with, or present a risk or hazard to the operation of sewers, drains, water lines, septic fields, electrical lines, poles, or other similar equipment and appurtenances, as determined and confirmed in writing by an engineer retained by the applicant, and the impairment, interference, or risk cannot be reduced or removed in any way other than cutting or removal of the protected tree, as determined and confirmed in writing by the applicant's arborist;
 - (b) the Director has approved an arborist report, a tree protection plan, and a tree replacement plan, if required, and security has been provided in accordance with section 9.0;
 - (c) the applicant has paid the permit fee in the amount set out in Schedule A; and
 - (d) all other conditions of this bylaw have been met.
- 5.4 Notwithstanding subsections 5.2(i), (j) and (k), the Director may waive the requirement for an arborist report, a tree protection plan, and a tree replacement plan where the owner has otherwise demonstrated to the satisfaction of the Director, through photographs or other documentation, that the protected tree is hazardous, dead, damaged, diseased, or in health decline beyond expectation of recovery, and the owner has provided a commitment letter, in the form prescribed for that purpose from time to time by the Director, agreeing to plant replacement trees in accordance with subsections 7.2 and 7.4 of this bylaw, and has provided security in accordance with section 9.0.
- 5.5 Where an applicant wishes to cut or remove a protected tree and transplant it to another location, either on the same lot or on another lot within the City, the arborist report required pursuant to subsection 5.2(i) must include the proposed methodology for safely transplanting the tree and the tree replacement plan required pursuant to subsection 5.2(k) must show the proposed new location for the protected tree. Protected trees shall be transplanted, where possible, on the same lot, to the extent that the lot will accommodate the tree in another location in accordance with sound arboricultural practice. Where the lot will not accommodate the tree in another location, a protected

tree may be transplanted to another lot within the City. The security requirements for replacement trees shall apply to transplanted trees in accordance with section 9.0 and the permit fee for transplanting a protected tree shall be as set out in Schedule A.

- 5.6 In the event that a protected tree is in imminent danger of falling and injuring persons or property due to natural causes, and it is not possible to obtain a permit prior to the tree falling, the owner may cut the tree or have it cut, but shall report the cutting of the tree to the Director within the next business day along with a photograph of the tree prior to such cutting. The owner shall not remove the tree from the lot until the City has attended at the site and has confirmed that the tree was in imminent danger of falling and injuring persons or property. Trees that are cut pursuant to this section must be replaced in accordance with subsections 7.2 and 7.4, security for which must be provided in accordance with the security requirements for replacement trees set out in section 9.0. If the City determines that the tree was not in imminent danger of falling, or was in imminent danger of falling due to reasons other than natural causes, the owner may be subject to the offences and penalties in section 11.0.
- 5.7 A permit is not required for the pruning of a protected tree so long as pruning is carried out in accordance with sound arboricultural practice and the American National Standards Institute (ANSI) A300 and the latest edition of the companion publication "Best Management Practices – Tree Pruning", published by the International Society of Arboriculture. Pruning shall not include:
- (a) crown raising to the extent that the live crown ratio is less than 50%;
 - (b) the removal of more than 25% of the crown in a single season;
 - (c) topping; or
 - (d) pruning or removal of a structural root within the critical root zone of a protected tree.
- 5.8 Notwithstanding any provision of this bylaw, the Director may refuse to issue a permit if the issuance of that permit would be contrary to a covenant or similar agreement registered against title to the lot in the Land Title Office.
- 5.9 For the purposes of this bylaw, an arborist report will only be accepted by the City within 12 months of the date of issuance of the arborist report.
- 5.10 A permit issued under this bylaw is non-transferable.
- 5.11 Every permit shall expire 6 months from the date of issue, after which a time a new application must be made for any cutting or removal of a protected tree.

6.0 PERMIT CONDITIONS

- 6.1 Every cutting or removal of a protected tree shall comply with, and every 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) each protected tree to be cut or removed shall be clearly identified with a mark of paint;
- (b) public notice of a permit, in the form prescribed for that purpose by the Director, shall be posted on the lot for which the permit has been issued, in a location visible to the public and facing the street, prior to the commencement of any cutting or removal of a protected tree, which notice shall remain posted on the lot until the completion of all work related to the cutting or removal of protected trees on that lot;

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- (c) a tree protection barrier shall be placed around the critical root zone of all retained trees identified in the tree protection plan, in such manner to ensure that the trunk, branches and root structure are not damaged by the cutting or removal operations, in accordance with Schedule B and the approved tree protection plan. The tree protection barrier shall remain intact for the entire duration of the tree cutting and removal and shall remain intact for any construction, demolition, or fill site throughout the entire period of construction, demolition, or fill;
 - (d) precautions shall be taken to ensure that retained trees are not damaged by the cutting or removal operations;
 - (e) tree parts and woodwaste shall be properly disposed of by chipping or removal from the site;
 - (f) all watercourses, waterworks, ditches, drains, sewers, or other established drainage facilities shall be kept free of all woodwaste arising from or caused by the cutting or removal of a protected tree;
 - (g) fencing shall be installed and other protective measures shall be taken during the cutting or removal of a protected tree in order to protect the public from all hazards or potential hazards arising from or caused by the cutting or removal operations; and
 - (h) replacement trees shall be planted within 6 months following issuance of a permit, unless otherwise specified by the Director, and in accordance with the approved tree replacement plan or commitment letter, as applicable.
- 6.2 In addition to the conditions set out herein, the Director may impose conditions dealing with the extent, timing and phasing of tree cutting, removal and replacement if such conditions are considered necessary to address public health and safety issues, minimize impacts to adjacent properties, or protect other environmental features or functions.

7.0 REPLACEMENT TREES

7.1 Replacement trees shall be required in accordance with this bylaw for each lot from which any protected tree is cut, removed, or damaged.

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7.2 Where the only protected trees to be cut or removed from a lot are hazardous trees, the number of replacement trees required shall be 1 replacement tree for each 1 hazardous tree that is cut or removed. Where the protected tree is to be cut or removed is heavily diseased or showing signs of a significant decline in health and is not expected to recover according to an arborist's report, the number of replacement trees shall be 1 replacement tree for each 1 diseased tree that is cut or removed. In all other cases, the number of replacement trees required shall be 2 replacement trees for each 1 protected tree that is cut, removed or damaged.

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7.3 Except as provided in subsection 7.4 or in subsection 7.8, replacement trees must be of a size, species and location as recommended in the tree replacement plan, and replacement trees shall be planted under the direction and supervision of an arborist or landscape architect retained by the applicant, and in accordance with the latest edition of the American National Standards Institute (ANSI) A300, and in accordance with the approved tree replacement plan and all terms and conditions of the permit. Upon completion of a tree replacement, the applicant must provide the Director with written confirmation from the applicant's arborist or landscape architect, in the form prescribed for that purpose by the Director, that the replacement tree has been planted in accordance with this bylaw.

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7.4 Where the Director has waived the requirement for a tree replacement plan pursuant to subsection 5.4, replacement trees must:

- (i) be of a species;
- (ii) have a minimum caliper of 3cm to 5 cm; and
- (iii) be planted in a location;

as specified by the Director and with the Director having regard to which size and species of tree and tree planting location will provide the tree with the best chance of reaching maturity given the location of structures, the soil conditions and the light conditions on and near the lot and must be planted in a location satisfactory to the Director. Replacement trees must be planted in accordance with sound arboricultural practice and in accordance with the approved commitment letter and all terms and conditions of the permit. Upon completion of a tree replacement pursuant to this subsection, the owner must provide the

Director with written notice and one or more photographs confirming that the replacement tree has been planted in accordance with this bylaw.

- 7.5 No less than 1 replacement tree shall be planted on the same lot as the trees that are cut or removed. Additional required replacement trees shall be planted, where possible, on the same lot as the trees that are cut or removed, to the extent that the lot will accommodate such additional replacement trees in accordance with sound arboricultural practice. If, in the opinion of the applicant's arborist, the lot cannot accommodate some or all of the additional required replacement trees, the owner shall be required to pay cash-in-lieu to the City in the amount specified in Schedule A.
- 7.6 Replacement trees shall be maintained for a period of 1 year or a longer period of time if a longer period is recommended as part of the approved tree replacement plan, in accordance with sound arboricultural practice and the tree replacement plan, if applicable.

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- 7.7 If any replacement tree does not survive for 1 year or a longer period of time if a longer period of time is recommended as part of the approved tree replacement plan, the owner shall, within 6 months, replace the tree with a replacement tree that: is of a species, has a minimum caliper of 3cm to 5cm, and is planted in a location as specified by the Director with the Director having regard to which size and species of tree will provide the tree with the best chance of reaching maturity given the location of structures, the soil conditions and the light conditions on and near the lot, and the owner shall thereafter maintain the replacement tree in accordance with subsection 7.6.

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- 7.8 If the protected tree to be cut or removed from a lot is a hedge, subsection 7.3 shall apply to the planting of replacement trees except that the applicant shall plant either:
- (a) 1 tree per 4 metres of hedge length or part thereof removed; or
 - (b) a hedge with the same hedge length.

BYLAW 8052, 2018

- 7.9 An applicant may request a planting approval by submitting to the City written documentation of the planting together with photographs that show, to the satisfaction of the Director, the newly-planted replacement trees.

8.0 TREE PROTECTION DURING CONSTRUCTION AND DEMOLITION

BYLAW 8052, 2018

- 8.1 No person shall perform any excavation, demolition, construction, fill or engineering works within 4 metres of the drip line of a protected tree until that person has:

- (a) installed a tree protection barrier around the critical root zone of the protected tree; and
- (b) obtained a permit that includes the protected tree in the tree protection plan; or
- (c) if no trees are being cut or removed, obtained a CRZ work authorization issued in relation to the protected tree.

BYLAW 8052, 2018

8.1.1 A person may request a CRZ work authorization by submitting the form prescribed for that purpose by the Director from time to time and including:

- (a) a description of the work that will be performed within 4 metres of the of the drip line of a protected tree and a description of that tree or trees;
- (b) the address and legal description for the lot or lots on which the work and trees described in subsection 8.1.1(a) are located;
- (c) if the CRZ requestor is not the owner of every lot listed in subsection 8.1.1(b), the written consent of all owners of that lot or lots on which work within the CRZ is to be performed;
- (d) a site plan or a tree survey if required by the Director;
- (e) proposed methods to access the site, control erosion, manage runoff, and protect retained trees; and
- (f) except as provided by subsection 8.1.3, a tree protection plan and written confirmation with supporting photographs from an arborist that the tree protection barrier required under subsection 8.1(a) has been inspected and approved by the arborist.

BYLAW 8052, 2018

8.1.2 The Director will issue a CRZ work authorization in the form prescribed for that purpose from time to time if:

- (a) the Director has approved the tree protection plan, if a tree protection plan is required;
- (b) security has been provided in accordance with section 9.0; and
- (c) all other conditions of this bylaw have been met.

BYLAW 8052, 2018

8.1.3 The Director may waive the requirement to provide a tree protection plan and confirmation of an arborist's approval of a tree protection barrier if the CRZ requestor:

- (a) is the both the owner and a resident of the lot on which the work will be performed;
- (b) the CRZ requestor pays the fee in the amount set out in Schedule A for the inspection of the tree protection barrier; and
- (c) the tree protection barrier is approved by the City following the inspection.

BYLAW 8052, 2018

8.1.4 All work performed within 4 metres of the drip line of a protected tree, and every CRZ work authorization 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) public notice of a CRZ work authorization, in the form prescribed for that purpose by the Director, shall be posted on the lot for which the CRZ work authorization has been issued, in a location visible to the public and facing the street, prior to the commencement of any work, which notice shall remain posted on the lot until the completion of all work;
- (b) a tree protection barrier shall be placed around the critical root zone of all retained trees identified in the CRZ work authorization, in such manner to ensure that the trunk, branches and root structure are not damaged by work being performed by the CRZ requestor. The tree protection barrier shall remain intact for the entire duration of any construction, demolition, or fill on the site;
- (c) the CRZ work authorization shall be non-transferable; and
- (d) the CRZ work authorization shall expire 6 months from the date of issue.

BYLAW 8052, 2018

8.2 Where the drip line of a protected tree on an adjacent lot is within 4 metres from any excavation, demolition, construction, fill or engineering works proposed on a lot, the applicant or CRZ requestor shall, with the consent of the owner of the adjacent lot, install a tree protection barrier around the critical root zone of the protected tree on the adjacent lot, in accordance with Schedule B. In the event that the applicant or CRZ requestor cannot obtain such consent from the owner of the adjacent lot, the applicant or CRZ requestor shall install a tree protection barrier around the tree to the property line of the subject lot.

BYLAW 8052, 2018

8.3 No demolition permit, building permit, or fill permit shall be issued before the tree protection barrier has been installed and approved in writing by the applicant's or CRZ requestor's arborist, with supporting photographs, delivered to the City.

8.4 A tree protection barrier must remain in place and in accordance with Schedule B

throughout the entire period of any excavation, construction, demolition, or fill activity on the site, until the removal of the tree protection barrier is approved by the Director.

- 8.5 Site disturbance inside a tree protection zone is prohibited, including but not limited to site grading, deposition or storage of soil or any other material, disposal of any toxic material, access by any vehicular traffic or heavy equipment, use of the area as an amenity space during construction, or use of tree trunks as a winch support, anchorage, or temporary power pole.

BYLAW 8052, 2018

- 8.6 Notwithstanding subsections 8.4 and 8.5, a tree protection barrier may be temporarily removed or relocated in order to allow work to be done within or near a critical root zone if the applicant or CRZ requestor has, prior to such removal or relocation, provided the City with:

- (a) a report from the applicant's or CRZ requestor's arborist, satisfactory to the Director, setting out the reasons and proposed duration for such removal or relocation; and
- (b) a signed letter of undertaking from the applicant's or CRZ requestor's arborist, in the form prescribed for that purpose from time to time by the Director, confirming that the applicant's or CRZ requestor's arborist will be onsite and supervising all such work,

and thereafter the applicant or CRZ requestor shall only remove or relocate the tree protection barrier in accordance with the approved report and at those time during which the applicant's or CRZ requestor's arborist is onsite and supervising all such work.

9.0 SECURITIES

BYLAW 8052, 2018

- 9.1 Where replacement trees or retention and protection of retained trees are required as a condition of a permit or of a CRZ work authorization or as part of a penalty for cutting, removing or damaging protected trees without a permit, or cutting, removing or damaging protected trees in excess of the number allowed by a permit, or under subsection 5.6, the owner shall provide to the City a security deposit in the form of cash or letter of credit in the amount specified in Schedule A, for the period and on the terms specified in this bylaw. No interest shall be paid by the City on security deposits.
- 9.2 Any letter of credit required to be provided under this bylaw shall be a clean, unconditional and irrevocable letter of credit drawn from a Canadian financial institution acceptable to the City and in a form acceptable to the City. If, for any reason, the irrevocable letter of credit ceases to be effective security or becomes unenforceable so as to remove or reduce its purpose as full security for the due and proper performance of the requirements of this

bylaw, the owner shall replace it with a further letter of credit acceptable with the City no less than 21 days prior to the expiry of the letter of credit then held by the City. If the owner fails to do so, the City may draw down on the current letter of credit without notice or restriction and hold the cash as security.

- 9.3 If at any time an owner fails to comply with the provisions of this bylaw relating to planting and maintenance of replacement trees or retention and protection of retained trees, the City may by its employees or contractors enter upon the lands that are the subject of the requirements to plant and maintain replacement trees or retain and protect retained trees and fulfill the requirements of the owner and, for such purposes, the City may draw upon the securities provided and expend the funds to cover all costs and expenses of so doing.

BYLAW 8052, 2018

- 9.4 The City will release the security provided by the applicant for replacement trees under this bylaw by:
- (a) releasing 40% of the security upon the applicant providing written confirmation in a form prescribed for that purpose of the planting of the replacement trees and releasing the remainder of the security upon the applicant's arborist or landscape architect certifying to the satisfaction of the Director, in a form prescribed for that purpose by the Director, that the replacement trees have been planted and maintained for a period of 12 months or a longer period of time if a longer period is recommended as part of the approved tree replacement plan; or
 - (b) where the Director has waived the requirement for a tree replacement plan pursuant to subsection 5.4, releasing 40% of the security after the issue of planting approval and releasing the remainder of the security upon written confirmation from the applicant that the replacement trees have been maintained in accordance with this bylaw for a period of 12 months following the planting approval, together with recent photographs of the replacement trees and the retained trees, all to the satisfaction of the Director.

BYLAW 8052, 2018

- 9.5 The amount of security required for protected trees and specimen trees related to a request for a CRZ work authorization and for protected trees and specimen trees proposed to be retained and protected as a requirement of a subdivision application, a development permit, a development variance permit, a building permit, a demolition permit, a fill permit, or a permit under this bylaw shall be as set out in Schedule A.

BYLAW 8052, 2018

- 9.6 The security provided to the City under subsection 9.5 will be held by the City until final building inspection has been issued to ensure that the retained trees are not damaged, properly protected, and maintained in accordance with this bylaw and the applicable

permit. The security will be released upon receipt by the City of a letter from the applicant's enclosing photographs of the retained trees from the CRZ requestor's arborist or arborist confirming that the retained trees have not been damaged and have been properly protected and maintained in accordance with this bylaw and the applicable permit.

BYLAW 8052, 2018

- 9.7 For the purpose of calculating security requirements in relation to the replacement or retention of hedges that are protected trees, every 4 metres of hedge length or part thereof shall count as one tree.

10.0 INSPECTIONS AND ENFORCEMENT

BYLAW 8052, 2018

- 10.1 The Director, the City Arborist, Bylaw Enforcement Officers, and employees and contractors of the City are, after taking reasonable steps to advise the occupier, authorized to enter at all reasonable times without the consent of the owner on any lot that is subject to this bylaw to ascertain whether the regulations, prohibitions, and requirements of this bylaw or any permit are being met, or to assess or inspect any protected tree or remains of any protected tree on the lot.
- 10.2 No person shall prevent or obstruct or attempt to prevent or obstruct the Director, the City Arborist, a Bylaw Enforcement Officer, or any employee or contractor of the City from:
- (a) entering upon lands as authorized by subsections 9.3 and 10.1; or
 - (b) carrying out their duties under this bylaw.
- 10.3 The Bylaw Enforcement Officer may issue a Stop Work Order if any protected tree is being cut without a permit or contrary to a permit or this bylaw, or if any protected tree is being damaged in contravention of this bylaw. Upon receipt of a Stop Work Order, the owner and all persons having notice of the Stop Work Order shall immediately cease the tree cutting or damaging activity and shall not resume unless authorized by the Director.
- 10.4 Where a protected tree has been cut or damaged on a lot in violation of this bylaw, without a permit, or in excess of any permission or in violation of any terms and conditions of a permit, the trunk, limbs, roots and remains of the cut or damaged tree shall not be removed from the lot until an investigation and assessment by the City Arborist is complete and the removal is expressly authorized by the Director.
- 10.5 Without limiting the application of section 11.0, the Director may revoke a permit by providing notice to the owner if any provision of this bylaw or any permit condition is breached or the information on which the issuance of a permit was based is found to be incorrect.

10.6 If a permit has been revoked pursuant to subsection 10.5, all tree cutting and removal authorized by that permit must cease until the breach has been remedied or the effect of the incorrect information has been accommodated in a permit's condition and the Director has withdrawn the revocation of the permit in writing.

11.0 OFFENCES AND PENALTIES

11.1 Any person who:

- (a) contravenes or violates any provision of this bylaw or of any permit issued under this bylaw;
- (b) allows any act or thing to be done in contravention or violation of this bylaw or any permit issued under this bylaw; or
- (c) fails or neglects to do anything required to be done by this bylaw or any permit issued under this bylaw,

commits an offence, and where the offence is a continuing one, each day the offence is continued constitutes a separate offence.

11.2 Where one or more protected tree is cut, removed or damaged, other than as authorized by this bylaw, or more than one protected tree is not replaced or maintained in accordance with a permit issued under this bylaw, a separate offence is committed in respect of each protected tree.

11.3 Upon being convicted of an offence under this bylaw, a person shall be liable to pay a fine of not less than \$1,000 and not more than \$10,000.

11.4 In addition to any other penalty which may be imposed under this bylaw, where a person cuts, removes or damages, or causes or allows any protected tree to be cut, removed or damaged in contravention of this bylaw or in violation of any term or condition of a permit issued under this bylaw, that person shall, within 30 days of receiving notice of such requirement from the Director:

- (a) submit for the Director's approval a tree replacement plan prepared by an arborist or landscape architect retained by the owner in accordance with subsection 5.2(k), specifying the location and species of all replacement trees; and
- (b) plant and maintain on the same lot in accordance with the approved tree replacement plan a minimum of 5 replacement trees for each protected tree unlawfully cut, removed or damaged, and in the event that the owner's arborist or landscape architect determines it is not feasible or practical to plant the replacement trees on the same lot, pay cash-in-lieu to the City in accordance with Schedule A.

11.5 If any owner does not comply with a requirement under section 6.0 or subsection 11.4 of

this bylaw to plant and maintain replacement trees, a Bylaw Enforcement Officer may issue a written notice that the City will be entitled to plant and maintain replacement trees at the owner's expense if the owner does not take the required action within 30 days of service of the notice.

- 11.6 If the owner does not take the action required by a notice issued pursuant to subsection 11.5 within the specified time, the City may:
- (a) by its employees or others, enter onto the property and take the action at the expense of the owner, or take action to plant and maintain an equivalent number of replacement trees on City land at the expense of the owner; and
 - (b) if the City holds security for the provision, installation, and maintenance of replacement trees under this bylaw, draw upon the securities provided and expend the funds to cover all costs and expenses of carrying out the work described herein.

12.0 SEVERABILITY

- 12.1 If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

Adopted January 13, 2016

SCHEDULE A

FEES, PAYMENTS, AND SECURITIES

Application Fee

- | | |
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| 1. Application Fee | \$75.00 |
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| 2. Application Fee (Resident Applicant) | \$0.00 if addressing only a hazardous tree, |
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Permit Fee

- | | |
|-------------------------|---|
| 1. Permit fee (general) | \$75.00 per tree for first 10 trees to be cut or removed, \$150.00 per tree for each additional tree to be cut or removed |
|-------------------------|---|

- | | |
|--|--|
| 2. Permit fee for cutting or removal of hazardous trees only | |
|--|--|

Permit to cut or remove a single hazardous tree	\$50.00
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Permit to cut or remove multiple hazardous trees	\$50.00 for the first tree, plus \$25.00 for each additional tree to be cut
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| 3. Permit fee for transplanting a protected tree | \$0.00 |
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|------------------------------------|--|
| 4. Permit fee (Resident Applicant) | \$0.00 per hazardous tree and \$75.00 per tree for all other trees to a maximum fee of \$1,500.00. |
|------------------------------------|--|

Security or Cash-in-Lieu for Replacement Trees

- | | |
|--|----------|
| 1. Security or cash-in-lieu per replacement tree (general) | \$500.00 |
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- | | |
|---|----------|
| 2. Security or cash-in-lieu per replacement tree when replacing a hazardous specimen tree | \$500.00 |
|---|----------|

3. Security or cash-in-lieu per replacement tree when replacing a non-hazardous specimen tree \$10,000.00

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4. Security or cash-in-lieu per replacement tree for Resident-Applicant when replacing a non-hazardous non-specimen tree \$500.00 to a maximum fee of \$2,500.00

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5. Security or cash-in-lieu per replacement tree for Resident-Applicant when replacing a hazardous non-specimen tree \$250.00 to a maximum fee of \$1,250.00

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6. Security or cash-in-lieu per replacement tree for Resident-Applicant when replacing a hazardous specimen tree \$250.00 to a maximum fee of \$2,000.00

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7. Security or cash-in-lieu per replacement tree for Resident-Applicant when replacing a non-hazardous specimen tree \$5,000.00 to a maximum fee of \$10,000.00

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8. Maximum combined security or cash-in-lieu for all replacement trees for Resident Applicants \$10,000.00

Securities for Retained Trees

1. Security per retained protected tree, other than a specimen tree \$2,500.00
2. Security per retained specimen tree \$10,000.00

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3. Security per retained protected tree, other than a specimen tree, for Resident-Applicant or CRZ Resident Requestor \$2,500.00 to a maximum of \$10,000.00

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- | | |
|---|-------------|
| 4. Security per retained specimen tree for Resident-Applicant or CRZ Resident Requestor | \$10,000.00 |
|---|-------------|

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- | | |
|---|-------------|
| 5. Maximum combined security for retained protected trees, including specimen trees, for a Resident Applicant or a CRZ Resident Requestor | \$10,000.00 |
|---|-------------|

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Tree Protection Barrier Inspection Fees

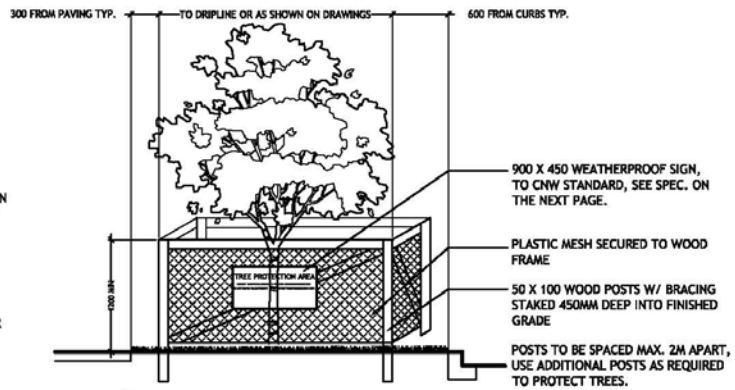
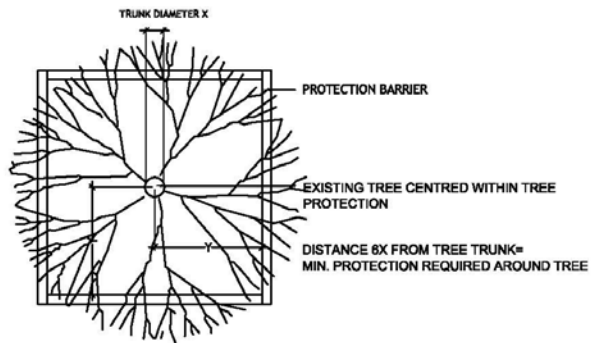
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| 1. Inspection of tree protection barriers | \$75.00 for first tree inspection barrier plus \$10.00 per each additional enclosure on a lot |
| 2. Return inspection of tree protection barriers | \$75.00 for all enclosures on a lot |

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SCHEDULE B

TREE PROTECTION BARRIER

TRUNK DIAMETER X (cm)	MINIMUM PROTECTION REQUIRED AROUND TREE-DISTANCE FROM TRUNK Y (m)
X	6X
20 cm	1.2 m
25 cm	1.5 m
30 cm	1.8 m
35 cm	2.1 m
40 cm	2.4 m
45 cm	2.7 m
50 cm	3.0 m
55 cm	3.3 m
60 cm	3.6 m
75 cm	4.5 m
90 cm	5.0 m
100 cm	6.0 m



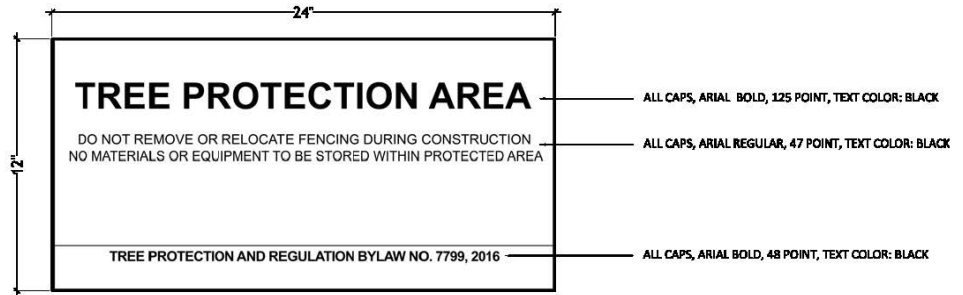
Tree Protection Fencing
NTS

NOTES:

- 1) REFER TO CITY OF NEW WESTMINSTER (CNW) TREE PROTECTION BY-LAWS FOR STANDARD REQUIREMENTS.
- 2) INSTALL TREE PROTECTION BARRIER BEFORE CONSTRUCTION BEGINS AND KEEP IN PLACE UNTIL LANDSCAPE CONSTRUCTION IS COMPLETE.
- 3) STORAGE OF BUILDING MATERIALS AND LITTER WITHIN OR AGAINST TREE PROTECTION BARRIER IS PROHIBITED. DEVELOPER/ OWNER RESPONSIBLE FOR MAINTENANCE WITHIN TREE PROTECTION BARRIER.
- 4) DAMAGED TREES TO BE REPLACED AT DEVELOPERS/ OWNER'S COST.
- 5) MAINTAIN EXISTING GRADES AT PROTECTION BARRIER FOR ALL PROTECTED AND RETAINED TREES.
- 6) REGRADING OUTSIDE OF THE PROTECTION BARRIER SHOULD NOT ADVERSELY COMPROMISE PROTECTED, RETAINED AND EXISTING TREES.

TREE PROTECTION BARRIER SIGN SPECIFICATIONS:

THE SIGN SHOULD BE PRINTED ON YELLOW CHLOROPLAST AT 24" WIDE AND 12" HIGH.



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SCHEDULE C DELETED