

# CITY OF PORT COQUITLAM

## TREE BYLAW, 2019

### Bylaw No. 4108

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The Council of the Corporation of the City of Port Coquitlam enacts as follows:

#### 1. CITATION

1.1 This bylaw is cited as “Tree Bylaw, 2019, No. 4108 ”

#### 2. REPEAL

2.1 City of Port Coquitlam Tree Bylaw, 2005, NO. 3474, as amended, is repealed.

#### 3. INTERPRETATION

3.1 In this bylaw, unless the context indicates otherwise:

- (a) **Arborist Report** means a document indicating the location, species, diameter, height, habitat features, and condition, in addition to relevant site conditions (e.g. infrastructure, watercourses, floodplain, etc.) produced and signed by a certified arborist and/or qualified tree risk assessor, as applicable;
- (b) **Bylaw Enforcement Officer** means an individual designated as a Bylaw Enforcement Officer;
- (c) **Caliper diameter** means the width of the main stem of a juvenile tree, measured at a height of 15 cm above the root ball;
- (d) **Certified Arborist** means a person certified by the International Society of Arboriculture as an arborist;
- (e) **City** means the City of Port Coquitlam;
- (f) **Cut** or **Cutting** means the severing, or knowingly allow to be severed the trunk or stem of a tree;
- (g) **Damage** means to conduct, or to knowingly allow to be conducted:
  - (i) severing or harming the roots growing inside the root protection zone of a tree;

- (ii) placing fill, building materials or structure upon land inside the root protection zone of a tree;
  - (iii) operating trucks, backhoes, excavators or other heavy inside the root protection zone of a tree;
  - (iv) denting, gouging or harming the stem of a tree;
  - (v) removing bark from a tree;
  - (vi) depositing concrete washout or other liquid or chemical substances harmful to the health of a tree on land inside the root protection zone of a tree;
  - (vii) adding or removing soil from land inside the root protection zone of a tree which changes the original soil grade;
  - (viii) undermining the roots inside the root protection zone of a tree;
  - (ix) pruning a tree in such a way that may cause the instability or death of the tree; or
  - (x) topping a tree by removing the vertical stem and upper primary limbs of a tree;
- (h) **Development** means any building modification requiring a building permit from the City;
- (i) **Diameter** means the width of the stem(s) of a tree, such that:
- (i) the diameter is the circumference of the stem of a tree measured 1.4 metres above natural grade, divided by 3.142;
  - (ii) where natural grade is sloped, diameter shall be measured 1.4 metres above the mid-point between high and low sides of the natural grade;
  - (iii) The diameter of a tree having multiple stems 1.4 metres above the natural grade shall be the sum of:
    - A. 100% of the diameter of the largest stem; and
    - B. 60% of the diameters of each additional stem;
- (j) **Drip line** means perimeter of the area directly beneath the ends of the outermost branches of a tree;

- (k) **“Hedge** means a set of trees, bushes, or shrubs grown closely together and pruned to form a fence or boundary. For the purposes of this bylaw, a hedge is not a tree.”
- (l) **Hazardous tree** means any tree which due to its condition, health or any other circumstances has been determined by a Qualified Tree Risk Assessor to present a hazard to the safety of persons, private property, or other tree(s);
- (m) **ISA** means International Society of Arboriculture;
- (n) **Location** of a tree means the point at which the main stem of a tree meets the ground;
- (o) **Lot** means a parcel of land registered in the Land Title Office and includes parcels created by bare land strata subdivision and common property shown on a strata plan;
- (p) **Parks Section Manager** means the person appointed by the City as Parks Section Manager and any duly authorized delegate of the Parks Section Manager;
- (q) **Owner** means in respect of a lot:
  - (i) the registered owner;
  - (ii) the holder of the last registered agreement for sale;
  - (iii) a strata corporation if the lot is common property; or
  - (iv) an agent authorized in writing by the owner to act on the owner’s behalf;
- (r) **Permit** means a permit issued by the City, including a building permit, demolition permit, development permit, development variance permit, heritage alteration permit, soil removal and deposit permit, temporary use permit, or any other permit deemed applicable by the City;
- (s) **Protective barrier** means fencing constructed around a tree in accordance with Schedule “B” of this bylaw to protect the tree from damage during site work or construction;
- (t) **Prune** or **Pruning** means the removal of living or dead parts of a tree, including branches, in order to maintain shape, health, flowering or to regulate growth;

- (u) **Qualified Tree Risk Assessor** means any person possessing a valid Tree Risk Assessment Qualification from International Society of Arboriculture;
- (v) **Remove** or **Removing** means to uproot, or cause or allow to be uprooted, or to move, or cause or allow to be taken off a lot;
- (w) **Replacement tree** means a tree with a minimum caliper diameter of 5.0 cm if deciduous, or a minimum height of 2.0 m if coniferous, planted on a lot to replace a tree which has been cut down on the same lot;
- (x) **Retained tree** means a tree on a lot in respect of which a tree cutting permit is issued that is not permitted to be cut;
- (y) **Root protection zone** means a circular area extending outward from the stem of a tree, whose radius is equal to six times the diameter of the tree;
- (z) **Shared tree** means a tree with any part of its trunk crossing a property line, including where the adjacent property is a highway, park, or other City-owned property;
- (aa) **Significant tree** means a tree listed and identified in Schedule 'A';
- (aa) **Snag** means any dead standing tree;
- (bb) **Stem** means a main segment of a tree which grows upward from the ground;
- (cc) **Tree** means a woody perennial plant having a single stem or group of stems with a diameter of at least 15 cm measured 1.4 metres above natural grade or a height of at least 5 metres; but does not include a hedge. For the purposes of this definitions, and includes:
  - (i) a replacement tree; or
  - (ii) a tree planted as a condition of a development permit;
- (dd) **Tree Cutting Permit** means a permit issued by the Parks Section Manager in accordance with this bylaw, which shall permit the cutting and replacement of trees under the conditions stipulated in the permit;
- (ee) **Tree Cutting Plan** means a plan based on the tree survey, which shows the trees proposed to be cut;
- (ff) **Tree Replacement Plan** means a plan which shows the location, size (height and/or caliper diameter) and species of replacement trees to be planted upon a subject lot; and

(gg) **Tree Risk Assessment** means an analysis of tree hazard that includes documented assessment of site factors, tree health and species profile, load factors, tree defects and conditions affecting the likelihood of failure, risk categorization, and mitigation options.

- 3.2 A reference in this bylaw to an enactment is a reference to that enactment as amended or replaced from time to time.
- 3.3 Words used in the singular form in this bylaw include the plural and gender specific terms include all genders and corporations.
- 3.4 Headings in this bylaw are for convenience only and must not be construed as defining or in any way limiting the scope or intent of this bylaw.
- 3.5 A decision by a court that any part of this bylaw is illegal, void or unenforceable severs that part of this bylaw and does not affect the validity of the remainder of this bylaw.

#### **4. APPLICATION OF BYLAW**

- 4.1 This bylaw applies to all trees within the City except as provided in section 4.2.
- 4.2 This bylaw does not apply to:
- (a) trees that are cut, removed, or damaged pursuant to the *Railway Safety Act*, SBC 2004, c.8, the *Hydro and Power Authority Act*, RSBC 1996, c.212, or the *Oil and Gas Activities Act*, SBC 2008, c.36; and
  - (b) 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.

#### **5 PROHIBITIONS**

- 5.1
- (a) No person shall cut or remove a tree (tree other than a significant or heritage tree) without a tree cutting permit.
  - (b) No person shall damage or allow a tree (tree other than a significant or heritage tree) to be damaged without a permit
  - (c) No person shall cut or remove a tree (designated as a significant tree) without a tree cutting permit issued under this bylaw.
  - (d) No person shall damage or allow a tree (designated as a significant tree) to be damaged without permit
  - (e) No person shall cut or remove a tree (designated as a significant tree, further defined as a heritage tree) without a tree cutting permit.

- (f) No person shall damage or allow a tree (designated as a significant tree, further defined as a heritage tree) to be damaged without permit.
- (g) Failure to adhere to the terms or conditions of a permit.

## 6 TREE CUTTING PERMITS

6.1 An owner may apply to the Parks Section Manager for a tree cutting permit.

6.2 No tree-cutting permit is required

- (a) to prune a tree in accordance with ISA guidelines; or
- (b) prior to tree cutting where a hazardous tree is in imminent danger of falling and injuring persons or property due to natural causes and it is not possible to obtain a tree cutting 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 Parks Section Manager the next business day along with a photograph of the tree prior to such cutting. Following reporting, the owner shall apply for a tree cutting permit within ten business days of the tree cutting. The owner shall not remove the tree from the lot until the City has attended at the site. If the Parks Section Manager 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 of this bylaw.

6.3 An application for a tree cutting permit must be made in the form prescribed for that purpose from time to time by the Parks Section Manager and must include all of the following:

- (a) the civic address and legal description of the lot or lots on which the trees proposed to be cut or removed are located;
- (b) if the applicant is not the owner of the lot on which the tree proposed to be cut or removed is located, the written consent of all owners of that lot;
- (c) a statement of purpose and rationale for the proposed tree cutting or removal;
- (d) a non-refundable application fee set out in the *Fees and Charges Bylaw, 2015, No. 3892*;
- (e) a tree replacement plan in accordance with section 7 of this bylaw;
- (f) a security deposit in accordance with section 8 of this bylaw;
- (g) details of the scale, methods, and timing of the proposed cutting or removal

of trees;

- (h) where the 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; and

6.4 In addition to the requirements in section 6.3, the Parks Section Manager may also require an applicant for a tree cutting permit to provide:

- (a) an arborist report, a tree risk assessment, and a tree cutting plan;
- (b) a title search for the lot or lots on which the trees proposed to be cut or removed are located, obtained from the Land Title Office, 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;
- (c) where a tree is proposed to be cut for the purpose of a development, the permits associated with the property on which the tree is to be cut; and
- (d) if the tree cutting permit is sought in respect of a lot in a development permit area identified in the *Official Community Plan, 2013, No. 3838*:
  - (i) where applicable, 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 tree(s) will not destabilize slopes or cause flooding or erosion, and specifying any conditions under which the proposed cutting or removal of the 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;
  - (ii) where applicable, proof of approval from the Ministry of Environment & Climate Change Strategy, Fisheries and Oceans Canada, or both for areas protected for fish habitat or flood-proofing purposes; and
  - (iii) where applicable, adherence to the watercourse development permit area designation in the Official Community Plan.

6.5 The Parks Section Manager may:

- (a) issue a tree cutting permit; or
- (b) issue a tree cutting permit subject to terms and conditions with respect to the extent, timing and phasing of tree cutting, removal and replacement; the

location of replacement trees to be planted; and proposed methods to access the site, control erosion, manage runoff, and protect retained trees.

- 6.6 The Parks Section Manager may refuse to issue a tree cutting permit where:
- (a) the proposed tree cutting would take place during the active nesting season of any given year, except where:
    - (i) the applicant submits a biological survey prepared by a Qualified Environmental Professional identifying any active nests located upon or in the vicinity of the lot, the removal of any significant vegetation, and the disturbance of grassy areas for ground nesters; and
    - (ii) the applicant provides detailed measures to be taken for the protection of such nests in accordance with any requirements under the Wildlife Act, RSBC 1996, c.488, and other applicable legislation or regulation; or
  - (b) the tree proposed to be cut is a significant tree, unless:
    - (i) the significant tree is a hazardous tree; or
    - (ii) the Parks Section Manager determines following review of engineering, architectural, or landscaping drawings and an arborist report that cutting is necessary for:
      - A. the construction of or addition to a building;
      - B. the construction of required off-street parking or an underground or above ground utility corridor; or
      - C. the construction of required roads or services.
  - (c) the removal would adversely affect property owned or held by the City; or
  - (d) the tree is located in a Development Permit Area where hazardous conditions such as steep slopes are present, and the removal of the tree would impact site retention
- 6.7 The Parks Section Manager may suspend or revoke a tree cutting permit at any time if the Parks Section Manager determines that:
- a) tree cutting and replacement is not being carried out in accordance with the terms of this bylaw, the tree cutting permit or both; or
  - b) the information on which the issuance of the tree cutting permit was based is incorrect.
- 6.8 Unless otherwise specified in a tree cutting permit, a tree cutting permit shall expire within one year after the date of issuance.



- 6.9 Every person issued a tree cutting permit shall post a copy of the permit in a conspicuous place at the front of the lot to which the tree cutting permit relates for the duration of the activities permitted in the tree cutting permit and for one week following tree removal.
- 6.10 A tree cutting permit only grants permission pursuant to this bylaw and does not relieve the owner from complying with all other laws, regulations and requirements of any public authority having jurisdiction, nor relieve the holder from complying with civil, common law or contractual obligations.

## **7. TREE REPLACEMENT**

- 7.1 Every applicant for a tree cutting permit shall provide a tree replacement plan acceptable to the Parks Section Manager.
- 7.2 A tree replacement plan shall provide for one replacement tree to be planted for each tree proposed to be cut, except as provided in sections 7.3 and 7.4.
- 7.3 A tree replacement plan shall provide for two replacement trees to be planted for each significant tree 60 cm DBH or greater proposed to be cut.
- 7.4 No replacement tree shall be required where the largest stem of the tree to be replaced is within a 5 metre radius of the largest stem of another tree on the subject property.
- 7.5 Every owner who is issued a tree cutting permit shall, in accordance with the associated tree replacement plan, plant replacement trees:
- (a) Within six months of the date the permit was issued, except:
- (i) when a tree is proposed to be cut for the purpose of a development where permitted construction on the site would adversely affect the health of the replacement tree planted.
- 7.6 If the tree replacement plan is not carried out as approved and within the approved timeline, the owner will be issued a fine and the deposit shall be forfeited to the City as cash in lieu.
- 7.7 Where an owner submits an arborist report that demonstrates compliance with s. 7.4 and/or a report that indicates that the subject lot cannot accommodate a replacement tree or replacement trees, the Parks Section Manager will review the arborist report and the tree replacement plan in the context of the proposed development and the context of the lot.

- (a) Upon review, the Parks Section Manager may require submission of a revised tree replacement plan that increases the retention or replacement of trees on the subject property.
  - (b) If the Parks Section Manager approves the tree management plan under this section, the owner shall be required to contribute \$500 in lieu of each replacement tree not planted.
- 7.8 Every owner shall maintain in good health in accordance with sound arboricultural practice every replacement tree planted pursuant to a tree replacement plan for a period of 1 year after planting.
- 7.9 Where a replacement tree does not survive for 1 year after planting, the owner shall, within 6 months, remove the deceased tree and provide a new replacement tree in a location satisfactory to the Parks Section Manager. The owner shall thereafter maintain the new replacement tree in accordance with section 7.8.

## **8. SECURITY DEPOSITS**

- 8.1 Every applicant for a tree cutting permit shall submit with the application a security deposit, in the form of cash or irrevocable letter of credit drawn upon a chartered bank in a form acceptable to the Parks Section Manager, for full and proper compliance with all the terms in a tree cutting permit, including the planting and maintenance of all replacement trees.
- 8.2 The amount of security shall be \$500 per required replacement tree.
- 8.3 If at any time an owner fails to comply with the provisions of this bylaw, a tree cutting permit or a tree replacement plan, the City may by its employees or contractors enter upon the lot that is the subject of the requirements and fulfill the requirements of the owner and, for such purposes, the City may draw upon the security provided and expend the funds to cover its costs and expenses of so doing.
- 8.4 The City shall release the security provided by an owner in respect of each replacement tree when the Parks Section Manager determines, in his or her sole discretion, that a replacement tree has been planted and maintained in good health for a period of 1 year. In the event that the Parks Section Manager determines an owner has not maintained a replacement tree in good health for 1 year, the City may retain the security until the Parks Section Manager is satisfied that the replacement tree, or a tree planted to replace a deceased replacement tree, is in good health and is expected to grow to maturity.

- 8.5 The Parks Section Manager may waive the requirement to post security under this section 8 if the owner has provided other security relating to a development on the lot that permits the City to draw down on such security to fulfill the owner's obligations under a tree cutting permit, tree replacement plan and this bylaw.
- 8.6 The Parks Section Manager may waive the requirement to post security under this section 8 if the owner carries on an institutional or single residential use as set out in the Zoning Bylaw, 2008, No. 3630.

## **9. TREE PROTECTION DURING CONSTRUCTION AND DEMOLITION**

- 9.1 Where the drip line of a tree is within 4 metres from any excavation, demolition, construction, fill or engineering works proposed on a lot, the owner shall install a protective barrier around the root protection zone of the tree.
- 9.2 Where the drip line of a tree on an adjacent lot is within 4 metres from any excavation, demolition, construction, fill or engineering works proposed on a lot, the owner shall, with the consent of the owner of the adjacent lot, install a protective barrier around the root protection zone of the tree. In the event that the owner cannot obtain such consent from the owner of the adjacent lot, the owner shall install a protective barrier around the tree to the property line of the owner's lot.
- 9.3 No demolition permit, building permit, or fill permit shall be issued before the installation of protective barriers has been satisfactorily demonstrated to the City, if such barriers are required in accordance with sections 9.1 and 9.2.
- 9.4 A protective barrier must remain in place for the duration of all excavation, construction, demolition, or fill activity on the lot until removal of the protective barrier is approved by the Parks Section Manager.
- 9.5 No person shall disturb the area within a root protection zone by 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, use of tree trunks as a winch support, anchorage, or temporary power pole or in any other manner.

9.6 Notwithstanding sections 9.4 and 9.5, a protective barrier may be temporarily removed or relocated in order to allow work to be done within or near a root protection zone if the owner has, prior to such removal or relocation, provided the City with:

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

and thereafter the owner shall only remove or relocate the protective barrier in accordance with the approved report and at those times during which the certified arborist is onsite and supervising all such work.

## **10. INSPECTIONS AND STOP WORK ORDERS**

10.1 Bylaw enforcement officers and any other employees or agents of the City authorized to administer or enforce this bylaw may, in accordance with section 16 of the *Community Charter*, enter any lot at all reasonable times without the consent of the owner to ascertain whether the requirements of this bylaw or a tree cutting permit are being observed.

10.2 No person shall obstruct or attempt to obstruct any bylaw enforcement officer, employee or agent of the City in the exercise of any of that person's duties under this bylaw.

10.3 A Bylaw Enforcement Officer may issue a Stop Work Order if any tree is being cut or damaged in contravention of this bylaw or a tree cutting permit. A Bylaw Enforcement Officer may post the Stop Work Order in a conspicuous location near the front of the lot.

- a) The owner of a property on which a Stop Work Order has been posted, and every other person, shall cease all work regulated by this bylaw immediately and shall not do any work until all applicable provisions of this bylaw have been substantially complied with and the Stop Work Order has been rescinded in writing by a Bylaw Enforcement Officer.

- 10.4 Where a tree has been cut or damaged in contravention of this bylaw or a tree cutting permit, the trunk, limbs, roots and remains of the tree shall not be removed from the lot until an investigation and assessment is complete and the removal is expressly authorized by the Parks Section Manager.
- 10.5 Where a tree has been cut and removed from the lot without an investigation and assessment as per s. 10.4, the cutting shall be considered a contravention of this bylaw, and the fine for removing a significant tree shall apply.

## 11. OFFENCES AND PENALTIES

11.1 This bylaw may be enforced by the provisions of the *Bylaw Notice Enforcement Bylaw No. 3814, 2013*, and the *Ticket Information Utilization Bylaw, 1992, No. 2743*.

11.2 Any person who:

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

11.3 Where one or more tree is cut, removed or damaged in contravention of this bylaw or a tree cutting permit or one or more tree is not replaced or maintained in accordance with a tree replacement plan, a separate offence is committed in respect of each tree.

11.4 Upon being convicted of an offence under this bylaw, a person shall be liable to pay penalties not exceeding the amounts provided for in the *Offence Act, RSBC 1996, c.338*.

11.5 In addition to any other penalty which may be imposed under this bylaw, where an owner cuts, removes or damages, or causes or allows any tree to be cut, removed or damaged in contravention of this bylaw or of any term or condition of a tree cutting permit issued under this bylaw, the owner shall, within 30 days of receiving notice of such requirement from the Parks Section Manager:

- (a) submit for the Manager of Parks Service’s approval a tree replacement plan prepared by a certified arborist providing for 3 replacement trees to be planted for each tree unlawfully cut and specifying the location of such replacement trees; and
- (b) submit security in accordance with section 8 of this bylaw.

11.6 Every owner who submits a tree replacement plan and security under section 11.5 of this bylaw shall plant replacement trees in accordance with the approved tree replacement plan and sections 7.5, 7.6, 8.3 and 8.4 of this bylaw shall apply to the replacement trees and the security.

READ A FIRST TIME this	12 <sup>th</sup> day of	February, 2019
READ A SECOND TIME this	12 <sup>th</sup> day of	February, 2019
READ A THIRD TIME this	12 <sup>th</sup> day of	February, 2019
ADOPTED this	26 <sup>th</sup> day of	February, 2019

Brad West  
 \_\_\_\_\_  
 Mayor

Gabryel Joseph  
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 Corporate Officer

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RECORD OF AMENDMENTS

<u>Bylaw No.</u>	<u>Section</u>	<u>Date</u>
4146	5.1	2019-10-22
4197	various sections	2020-11-24

**SCHEDULE "A"**

**SIGNIFICANT TREES**

<b>Type</b>	<b>Minimum Size</b>
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Rare Native Tree Species

- |   |                |
|---|----------------|
| ▪ Pacific Dogwood ( <i>Cornus nuttallii</i> )   | 10 cm diameter |
| ▪ Arbutus ( <i>Arbutus menziesii</i> )          | 10 cm diameter |
| ▪ Western Yew ( <i>Taxus brevifolia</i> )       | 10 cm diameter |
| ▪ Western white pine ( <i>Pinus monticola</i> ) | 10 cm diameter |
| ▪ Garry oak ( <i>Quercus garryana</i> )         | 10 cm diameter |
| ▪ Oregon ash ( <i>Fraxinus latifolia</i> )      | 10 cm diameter |

Wildlife Trees

- Any dead, standing snag used as wildlife habitat.

Heritage Trees

- Any tree designated and registered by size, age or cultural significance that has been entered upon a list of heritage trees.

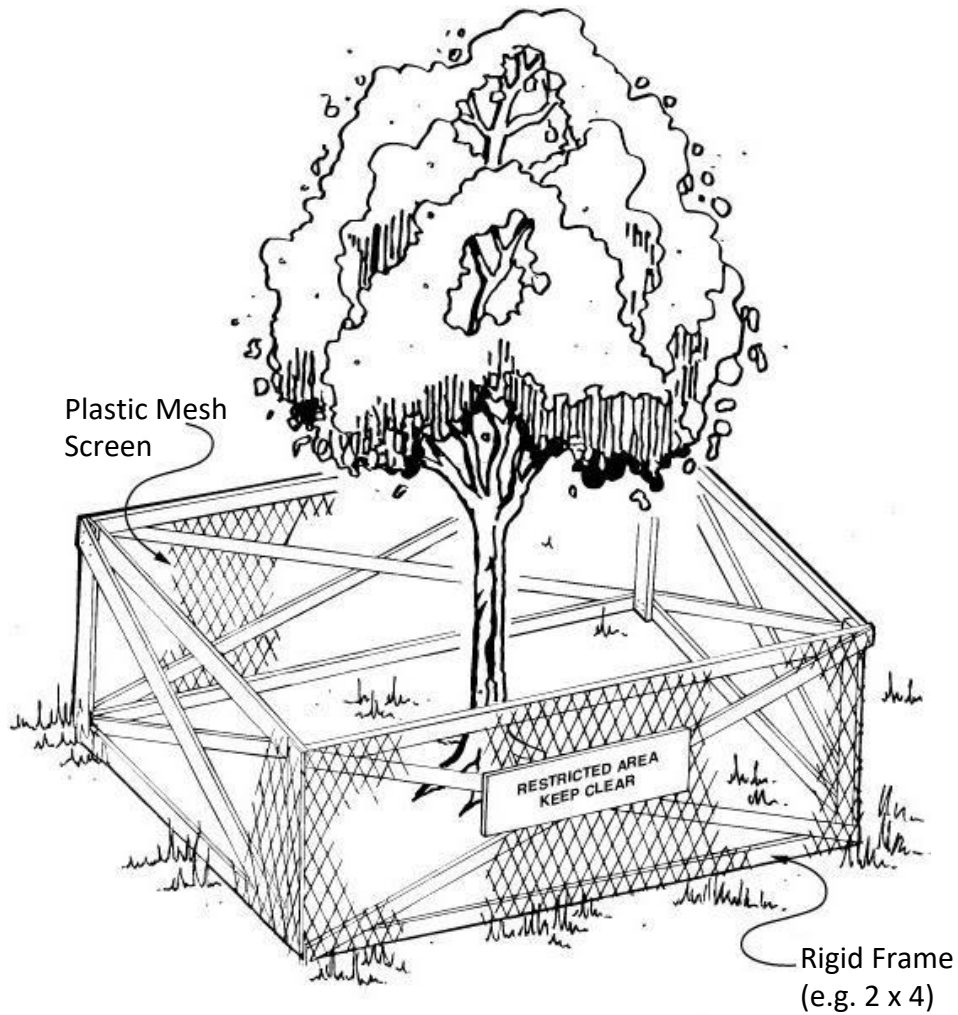
Specimen Trees

- Any tree with a diameter of 45 cm or greater, excluding Black cottonwood (*Populus balsamifera* ssp. *Trichocarpa*), Balsam poplar (*Populus balsamifera* ssp. *Balsamifera*), and Trembling aspen (*Populus tremuloides*).

**SCHEDULE "B"**

**BYLAW 4108**

**PROTECTIVE BARRIER**



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Tree Diameter (cm)	20	25	30	35	40	45	50	55	60	75	90	100
Minimum Distance from tree to Protective Barrier (m)	1.2	1.5	1.8	2.1	2.4	2.7	3.0	3.3	3.6	4.5	5.4	6.0