



City of Vernon

***TREE
PROTECTION
BYLAW***

#4152

Consolidated for Convenience

THE CORPORATION OF THE CITY OF VERNON

BYLAW NUMBER 4152

AMENDMENTS

BYLAW NO.	DATE	AMENDMENT
4252	May 27, 1996	Change Sections 4, 9(c)(i), 10(a)

THE CORPORATION OF THE CITY OF VERNON

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THE CORPORATION OF THE CITY OF VERNON

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A bylaw for the Management and Protection of
Trees Within the City of Vernon

WHEREAS pursuant to Section 929.01 of the Municipal Act, Chapter 290 R.S.B.C., Council may, by bylaw, prohibit the cutting and removal of trees; regulate the cutting and removal of trees; prohibit the damaging of trees; regulate activities that may damage trees; require the replacement, in accordance with the Bylaw, of trees that have been cut, removed or damaged; and establish exemptions from the application of the Bylaw;

AND WHEREAS pursuant to Section 929.02 of the Municipal Act, Chapter 290 R.S.B.C., the Bylaw may require permits to cut or remove trees; establish fees for those permits; and establish terms and conditions for the granting, refusal and use of such permits;

AND WHEREAS pursuant to Section 929.03 of the Municipal Act, Chapter 290 R.S.B.C., Council may, by bylaw, identify trees that Council considers significant because of their importance to the community, including importance of heritage or landmark value;

THEREFORE BE IT RESOLVED that the Council of The Corporation of the City of Vernon, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the "City of Vernon Tree Protection Bylaw Number 4152, 1995".

Tree Inventory on Public Property

2. Council hereby appoints the Director of Operations to do a computerized inventory of all trees on City-owned property and on road allowances within the City, excluding:
 - (a) those trees grown for replanting or for propagation;

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- (b) those trees on lands within G.V.P.R.D. parks; and
- (c) those trees that are on lands used for spray irrigation.

Significant Trees

3. Council hereby appoints the Community Development Director to:

- (a) identify those trees that are significant to the City, whether on public or private lands, because of their heritage, landmark or wildlife habitat value (hereinafter referred to as "Significant Trees");
- (b) catalogue and map the above trees on the City computer system; and
- (c) with the assistance of the utility companies involved, identify those Significant Trees that are a present or will be a future hazard to public safety and/or utility works and/or equipment and/or employees (hereinafter referred to as "Hazardous Trees").

Permits

- 4. (a) The Community Development Director is hereby appointed to grant permits issued pursuant to Sections 5 and 8 herein, and to enforce the provisions of Section 7 herein;
- (b) Subject to paragraph (c) below, the term of any permit issued under this Bylaw shall be for a period of one (1) year from the date of issuance of the permit;
- (c) The term for any permit issued under Section 9 herein shall be for a period of up to five (5) years from the date of issuance of the permit.

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Prohibitions and Exception

5. (a) No person shall damage, destroy or remove (hereinafter collectively referred to as "destroy") any tree, the stem of which exceeds eight (8) centimetres at one (1) metre above the average ground level of the base of the tree, without a permit to do so. The Section does not apply to:
- (i) trees on privately-owned land that are contained on any lot zoned R1, R2, R3 and R4 that is less than 1,114 sq.m. (11,991.14 square feet); or
 - (ii) those trees that are part of a commercial fruit orchard; or
 - (iii) those trees that are Hazardous Trees and the damage is done by a utility company;
- (b) For the purposes of this section, damage includes pruning or removing any limb where the diameter of the limb at the point of pruning or removal is larger than:
- (i) 5% of the diameter of the trunk of the tree if the tree is a coniferous species; or
 - (ii) 15% of the diameter of the trunk of the tree where the tree is of the broadleaf species;
- (c) The diameter of the trunk of the tree is to be measured at one (1) metre above the average ground level of the base of the tree, and, notwithstanding the above, in no case may any limbs be pruned or removed which exceed eight (8) centimetres in diameter at the point of pruning or removal;
- (d) No person shall be issued a permit to destroy a tree growing within fifteen (15) metres of the natural boundary of a water course, except where a tree or the roots of a tree are blocking a water course or reducing its drainage capacity.

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Replacements

6. (a) Subject to subsection (b) below, any person in violation of Section 5 herein shall replace the tree with a tree of like species and size, notwithstanding (b) and (c);

(b) Notwithstanding subsection (a) above:

(i) where a broadleaf tree is damaged, destroyed or removed in violation of Section 5 herein that is six (6) metres or more in height above the ground, it need only be replaced by a tree that is six (6) metres in height;

(ii) where a coniferous tree is damaged, destroyed or removed in violation of Section 5 herein that is five (5) metres or more in height above the ground, it need only be replaced by a tree that is five (5) metres in height;

(c) Notwithstanding subsection (a) above, the Community Development Director may require a different species or size of tree to replace a tree that is damaged, destroyed or removed in violation of Section 5 herein on the basis that a replacement tree of like species and size will:

(i) interfere with and/or damage underground services;

(ii) interfere with and/or damage aboveground services;

(iii) interfere with and/or damage roads, driveways or sidewalks;

(iv) be subject to damage from road salts or other contaminants; or

(v) be susceptible to overexposure or underexposure to sunlight;

(d) If any person refuses to comply with subsection (a) above after thirty (30) days' notice to him, the City may replace the tree at the cost of that person; and if that person is the registered owner, or his agent, of the lands on which the offence under Section 4 herein took place, the provisions of Section 929.05 of the Municipal Act, R.S.B.C. 1979 and all amendments thereto apply.

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Permit Conditions

7. As a condition to the granting of a permit under Section 4 herein, the Community Development Director is authorized, if he deems it in the public interest, to require the applicant to provide:
 - (a) a security in the form of a cash deposit or letter of credit to secure the full amount of the cost of replacing the trees that are to be destroyed pursuant to the said permit; and
 - (b) a plan or plans identifying:
 - (i) the trees proposed to be cut or removed;
 - (ii) the trees proposed to be retained; and
 - (iii) the trees proposed to be provided in replacement of the trees that are to be cut or removed.

Development Agreement

8. (a) If a permit under this Bylaw is applied for in conjunction with a subdivision development and the Community Development Director deems it in the public interest for the applicant to prepare a plan as provided for in Section 7 above, no permit shall be issued except on condition that the applicant enter into an agreement with the City whereby:
 - (i) a permit will be granted to destroy those trees that are impeding the construction and use of the roads and services within the subdivision; and
 - (ii) notwithstanding Section 5(a)(i) herein, a permit will be required pursuant to individual lot plans to destroy any remaining trees in the subdivision, and it will be granted for those trees that are within a building and driveway envelope;

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- (b) Upon the granting of an Occupancy Permit under the Building and Plumbing Bylaw of the City for a lot governed by sub-paragraph (a)(ii) above, the provisions of Section 5(a)(i) herein shall reapply.

Logging

- 9. (a) If a permit is applied for to harvest timber on lands that are zoned Agricultural Districts 1 and 2, Country Residential, Small Holdings, Large Holdings and Non-Urban, the terms granting a permit shall provide that:
 - (i) the lands in question cannot be clear cut as defined herein;
 - (ii) a plan showing all roads and skidding trails is to be provided, and such plan must ensure that damage to the lands is minimized, both from an ecological and aesthetic point of view;
 - (iii) on parcels five (5) hectares or less, no more than 10% of the total trees (as defined by Section 5(a) herein) on the parcel will be harvested in any one year and cumulatively no more than 50% of the trees over a 10-year period;
 - (iv) on parcels over five (5) hectares, no more than 5% of the total trees (as defined by Section 5(a) herein) on the parcel will be harvested in any one year and cumulatively no more than 50% of the trees over a 10-year period;
- (b) The provisions of sub-paragraphs (i) to (iv) above do not apply where the purpose of the destruction of the trees is for a bona fide agricultural use and all of the owners or owner of the lands, as the case may be, file an affidavit verifying same;
- (c) For the purposes of this Section, the following definitions apply:
 - (i) "clear cut" means the destroying of trees on a parcel of land but does not include:

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- (aa) the cutting down of not more than three (3) trees for every full .4 hectares (1 acre) of land in a parcel;
 - (bb) the cutting down of trees required to clear a site for a road: and
 - (cc) the cutting down of trees which are dead, diseased or damaged by a natural cause;
- (ii) "agricultural uses" means the use providing for the production, keeping or maintenance for sale, lease or personal use of plants and animals, including but not limited to forages and sod crops; greens and seed crops; dairy animals and dairy products; poultry and poultry products; livestock including beef cattle, sheep, swine horses, ponies, mules and goats; or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; fruits of all kinds; vegetables; nursery flora; ornamental and greenhouse products; but does not include the production, growing or harvesting of trees.

Permits in Respect to Steep Slope Areas

10. (a) The Community Development Director may require that an application for a permit pursuant to Sections 7 and 9 shall be accompanied by a report by a qualified geotechnical engineer, at the applicant's expense, that the proposed tree removal will not create a danger from flooding, erosion, landslip or avalanche;
- (b) If the report of the geotechnical engineer requires the construction of works necessary to prevent slippage or erosion, no permit shall be issued unless the applicant provides to the Municipality a surety deposit or bond in favour of the Municipality in the amount of 120% of the cost of the works as estimated by the geotechnical engineer;

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- (c) The applicant shall enter into an agreement with the Municipality with respect to any surety bonding required;
- (d) The applicant shall be responsible for and at his own expense execute all work required by the geotechnical engineer in his report in order to ensure the stability of the slope;
- (e) Upon completion of the required works and certification of the geotechnical engineer that the works satisfy his requirements to maintain the stability of the slope, the surety bonding will be released;
- (f) The works shall be completed within the period specified on the permit. Should the works not be finalized within the stated period, the Municipality may have the works completed at the owner's/applicant's expense using the surety bond;
- (g) For the purposes of this Section, "steep slope areas" must be those areas on a parcel whose slope is 30% or more.

Emergency Removal

- 11. Notwithstanding any provision in this Bylaw, a person may destroy a tree or a limb of a tree without a permit if:
 - (a) the tree or a limb of the tree has been severely damaged by a natural cause; and
 - (b) the tree or a limb of the tree is in imminent danger of falling and injuring persons or property.

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Notice

12. Any person who is subject to a decision by the Community Development Director may apply to Council to reconsider the decision by notifying the City Clerk in writing, and:
 - (a) such notice may be delivered in person to the office of the City Clerk, or by facsimile at (604) 545-7876, or sent by registered or certified mail to 3400 - 30th Street, Vernon, B.C. V1T 5E6;
 - (b) such notice must be delivered within thirty (30) days. If sent by registered or certified mail, it shall be deemed to be delivered three (3) working days after the date of posting of same;
 - (c) such notice must contain the address for delivery of the person applying for reconsideration, the particulars of the tree or trees involved, and the reason why the decision of the Community Development Director should be reconsidered;
 - (d) the Clerk, upon receipt of the notice, shall advise the applicant in writing, in person, by facsimile or by registered or certified mail, of the date and approximate time that Council will reconsider the decision of the Community Development Director. Such notice shall be not less than seven (7) days before the date of the hearing;
 - (e) at the reconsideration hearing, the applicant may address Council and Council may question the applicant and have the Community Development Director present to be questioned by Council or the applicant;

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- (f) if the applicant does not appear, then Council may proceed in his or her absence.

READ A FIRST TIME this 8th day of August, 1995.

READ A SECOND TIME this 8th day of August, 1995.

READ A THIRD TIME this 8th day of August, 1995.

ADOPTED this 18th day of March, 1996.

"Wayne McGrath"
Mayor:

Acting City Clerk: "B.M. Kimura"