
TOWN OF VIEW ROYAL

BYLAW NO. 695

Consolidated for Convenience – January 2017

Amended by Bylaws No. 846, 895 and 958

**A BYLAW TO REGULATE
THE PROTECTION OF TREES**

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The Council of the Town of View Royal, in open meeting assembled, enacts as follows:

Title

1. This Bylaw may be cited as “Tree Protection Bylaw No. 695, 2009”.

PART 1 - INTRODUCTION

Definitions:

2. In this Bylaw,

“alter” means:

- a) to remove the top portion of a tree;
- b) to remove from a tree or damage any trunk, piece of tree bark or any branch that is 5 centimeters or more in diameter;
- c) to cut, damage or destroy by any means the roots of a tree within the protected root zone; and
- d) to change the drainage characteristics of the area within the drip line of a tree

“building envelope” means the part of a parcel that, on application of the applicable provisions of the Official Community Plan and the Land Use Bylaw, is available for the placement of a building;

“building envelope line” means a building’s setback established under the Town’s Land Use Bylaw as varied by a development permit, a development variance permit or the Board of Variance;

“Bylaw Enforcement Officer” means the person appointed, from time to time, as the Town’s Bylaw Enforcement Officer, and shall include any acting or assisting Officer;

“certified arborist” means a person holding a current certification of “certified arborist” issued by the International Society of Arboriculture;

“Council” means the elected council of the Town of View Royal;

“cut down” means to cut, saw or chop down, kill or otherwise remove a tree by any means;

“developable area” means that portion of a parcel upon which improvements, driveway access, off-street parking, buildings or structures may be located in accordance with the Land Use Bylaw and as varied by a Development Permit, Development Variance Permit or the Board of Variance;

“Director” means the Town’s Director of Engineering, and for the purposes of this Bylaw, includes any person, whether employed or contracted by the Town, who assists the Director of Engineering in administering or enforcing this bylaw;

“drip line” means the outermost limit of the canopy of a tree as delineated by the perimeter of its branches and which, extended perpendicularly to the ground, encloses the tree;

“owner” means the registered owner of a parcel subject to this bylaw;

“parcel” has the same meaning as in the *Community Charter*;

“protected root zone”

- a) means the area of land surrounding the trunk of the tree that contains the bulk of the critical root system of the tree, as defined on a tree plan prepared by a certified arborist, that the Director approves; or

- b) where a plan within the meaning of subsection a) of this definition has not been prepared and approved, means the area of land surrounding the trunk of a tree contained within a circle having a radius which is calculated by multiplying the diameter of the tree by 18.

“protected tree” means

- a) Garry Oak (*Quercus garryana*);
- b) Arbutus (*Arbutus menziesii*);
- c) Pacific Dogwood (*Cornus nuttallii*);
- d) Pacific Yew (*Taxus brevifolia*);
- e) Douglas Fir (*Pseudotsuga menziesii*);
- f) Grand Fir (*Abies grandis*);
- g) Big Leaf Maple (*Acer macrophyllum*);
- h) Sitka Spruce (*Picea sitchensis*);
- i) Sequoia (*Sequoiadendron giganteum*);
- j) Coast Redwood (*Sequoia sempervirens*);
- k) Western Red Cedar (*Thuja plicata*);
- l) Any tree having a diameter greater than 30 centimetres; and
- m) Any tree protected by a restrictive covenant.

“replacement tree” means a replacement tree as required by this bylaw and shown on a tree plan as a tree which is intended to replace an existing tree in a location approved by the Director;

“significant tree” means any tree identified by Council and listed on Schedule “A” of this bylaw because of its importance to the community, including importance for heritage or landmark value or as a wildlife habitat.

“steep slope” means any part of a parcel of land where the grade of the incline is 2:1 or greater;

“Town” means the Town of View Royal;

“permit” means a permit issued under this bylaw;

“tree plan” means a plan, when viewed from above, which indicates the location of one or more trees and which forms part of an approved tree permit, driveway access permit, development permit or building permit or an application for a development permit; and

“tree retention and protection plan” means a plan prepared by an arborist that establishes the health of the trees on the site and a plan for their protection during construction.

Location & measurements of trees

3. For the purpose of this Bylaw:

- a) the location of a tree on a parcel shall be measured at the point at which the trunk of the tree meets the ground;
- b) a tree is considered to be located on the same side of a building envelope line that the major part of the trunk of the tree is located;

- c) the diameter of a tree is determined by dividing the circumference of its trunk, measured at 1.2 m above the ground by 3.142; and
- d) the diameter of a tree having multiple trunks is the sum of:
 - (i) 100% of the diameter of the largest trunk
 - (ii) 60% of the diameter of each additional trunk

Exemptions

- 4. (1) The following are general exemptions from this Bylaw:
 - a) cutting down and alteration of trees by the Town, through its officers, employees, agents or contractors; or
 - b) the tree is located within the building envelope of a lot and the removal of the tree is necessary for the purpose of constructing a building, an addition to a building or construction of an accessory building. Accessory buildings shall be situated in order to give consideration to the preservation of existing trees.

Trees on parcels abutting Town-owned land

- 5. (1) Pruning for aesthetic reasons may be performed by a homeowner whose property abuts Town-owned land with permission from the Director. This pruning must be carried out in accordance with BC Landscape Standards (current edition).

PART 2 – REGULATIONS

Requirement for permit

- 6. (1) A person shall not cut down or alter, and shall not cause or permit the cutting down or alteration of:
 - a) a protected tree;
 - b) a significant tree; and
 - c) a replacement tree planted as a condition of a tree permit.without first obtaining a permit.

Replacement Trees and Maintenance

- 7. (1) A replacement tree shall be planted according to a tree plan approved by the Director and in accordance with BC Landscape Standards (current edition) and must be:
 - a) outside the building envelope of the subject lot;
 - b) at least 1.5 metres away from a side property line;
 - c) at least 3 metres away from a principle building, accessory building and any other structure or thing likely to be affected by the tree, to the satisfaction of the Director;
 - d) at least 2.5 metres away from another tree;
 - e) planted prior to building occupancy or within six months of permit issuance, whichever is less; and

- f) maintained in good health by the property owner for a period of two years.
- (2) If there is insufficient area on a parcel to accommodate the required replacement tree(s) or if the quantity of replacement tree(s) cannot be accommodated on the parcel, either section 16. (1)(f) or section 16. (1)(g) or both must be followed.

Amendment Bylaw No. 895, 2014

Significant Trees

- 8. (1) The Director may place a marker or tag on or near each significant tree.
- (2) A person shall cut down or alter a significant tree only with the permission of Council.

Alteration or cutting down on steep slope

- 9. No person shall do any of the following without first obtaining a tree permit:
 - a) alter or cut down any tree growing on a steep slope; or
 - b) remove stumps and roots of any trees on a steep slope.

Cutting near watercourse

- 10. No person shall cut down or alter a tree within 15 metres of a watercourse without a tree permit.

Construction activity

- 11. Any person applying for a building permit or driveway access permit may be required to submit an arborist report and tree retention and protection plan, and/or obtain a tree permit for the purpose of protecting existing trees during the construction process.

No person shall carry out or cause to be carried out any of the following activities:

- a) cutting or damaging the roots of the tree growing inside its protected root zone;
- b) placing fill, building materials, asphalt or a building or structure, or storing or stockpiling of organic material within a protected root zone;
- c) operating trucks, backhoes, excavators or other heavy equipment within a protected root zone;
- d) denting, gouging, damaging or affixing anything to the branches or the trunk of a tree;
- e) removing bark from a tree;
- f) depositing concrete, washout or other liquid or chemical substances harmful to the health of a tree, on a protected root zone;
- g) removing soil from a protected root zone;
- h) blasting operations within a protected root zone;
- i) blasting operations outside of a protected root zone that would damage roots or disturb soil inside a protected root zone;
- j) undermine a tree's roots growing within its protected root zone; or
- k) change the drainage characteristics within the drip line of a tree.

Hazardous trees

12. (1) Owners and occupiers of real property shall cause all trees, hedges and shrubs on that property to be trimmed, removed or cut down if the Director considers that the trees, hedges or shrubs are:
- a) a hazard to the safety of persons;
 - b) likely to damage public property; or
 - c) seriously inconveniencing the public.
- (2) The Director may notify the owner or occupier of real property that the Town will take, at the owner's or occupier's expense, the action required under subsection (1) if the owner or occupier does not take that action within five days of receiving the notice.
- (3) The Town's permanent or contracted employees may enter real property and undertake, at the owner's or occupier's expense, the work referred to in subsection (1).

Emergency removal

13. (1) Despite any other provision in this Bylaw, a person may cut down a tree or limb of a tree that is prohibited from removal under this Bylaw if the tree or limb
- a) has been severely damaged by a natural cause within the preceding 24 hour period; and
 - b) is in imminent danger of falling and injuring individuals or property.
- (2) Following the alteration or removal of a tree under subsection (1), a person must
- a) contact the Director within 72 hours of the alteration or removal; and
 - b) provide photographic documentation demonstrating necessity.

PART 3 – TREE PERMITS**Applying for permit**

14. (1) Application for a tree permit shall be made to the Director on the prescribed form which is attached to this Bylaw as Schedule "B", and shall be accompanied by a tree plan which identifies all of the following:
- a) a site plan which demarcates the position of all trees and structures located upon the relevant parcel;
 - b) the location, species, protected root zones and diameter of the trees proposed to be cut down or altered;
 - c) the location, species and diameter and protected root zones of all trees on the parcel which may be affected by tree damaging activities;
 - d) the location of any proposed construction activities, excavation activities and blasting activities in relation to all trees on the parcel;
 - e) the protected root zone of each tree on the parcel; and
 - f) the purpose for which the tree or trees is proposed to be cut down or altered.
- (2) The Director may require an applicant to provide, at the applicant's expense, a report prepared by a Town approved certified arborist that identifies the location, species, size

and condition of trees on the relevant parcel and describes protection measures to be implemented.

Amendment Bylaw No. 895, 2014

- (3) An application made by the owner of a bare land strata lot shall be accompanied by a letter of approval from the strata corporation which includes the signatures of 3 current executives.

Marking trees to be cut down or altered

15. (1) An applicant for a tree permit shall flag each tree proposed to be altered or cut down;
- (2) An applicant for a tree permit shall mark the protected root zone of each tree shown on the plan accompanying the application for a tree permit

Conditions of permit

16. (1) The holder of a tree permit shall comply with all of the following conditions
- a) before excavation, blasting, construction or other tree-damaging activity is carried out on the land to which the permit applies, the permit holder must install a fence which is:
- i) at least 1.2m in height; and
 - ii) constructed using 2"x4" dimensional lumber and safety fence material and firmly affixed to the ground.

or take other protective measures approved by the Director, to separate that land from the remainder of the protected root zone of a tree to which the permit applies;

- b) the permit holder shall continuously maintain the fence or other protective measure until the completion of the work proposed to be carried out on the land to which the permit applies;
- c) the permit holder shall post and continuously maintain on the fence or other protective measure an all-weather sign stating "Protected Root Zone – No Entry";
- d) if roots are cut by excavation, the permit holder shall:
- i) immediately wrap the cut roots that are still attached to the tree in a root curtain of wire mesh lined with burlap supported by posts; and
 - ii) continuously keep the root curtain of wire mesh and burlap moist throughout the permit holder's construction process.
- e) for each (1) tree removed by a permit holder, two (2) replacement trees shall be planted
- i) of a species and in a location authorized by the Director, in accordance with accepted arboricultural practices and shall be maintained according to the most current edition of BC Landscape Standard in place at the time of planting; and
 - ii) that have at least one of the following sizes:
 - A) a height of at least 1.5 metres; and
 - B) a diameter of at least 5 centimetres

Amendment Bylaw No. 895, 2014

- iii) which, if replacements for the tree species *Arbutus menziesii*, shall be contained within a #5 or larger pot when acquired from a nursery or a landscaper-supplier.
- f) at the Director's sole discretion, a permit holder may be required to provide and/or plant replacement trees on Town property, and at the Director's sole discretion, such replacement trees may be required to be larger than prescribed in section 16. (1)(e).

Amendment Bylaw No. 895, 2014
- g) at the Director's sole discretion, the applicant may be permitted to pay:
 - the amount specified within Fees and Charges Bylaw No. 958 per protected replacement tree as defined in Section 2, item l) or
 - the amount specified in Fees and Charges Bylaw No. 958 per protected replacement tree as defined in Section 2, items a) to m), excluding item l).

Bylaw No. 958, 2016
- (2) For the purpose of ensuring the performance of the requirements set out in paragraph (e), the applicant for a tree permit may be required to provide to the Town, upon issuance of a permit, security in the form of cash or letter of credit in the amount of 120% of the total cost of the purchase, planting and two years of maintenance of the required number of replacement trees.
- (3) A security provided under subsection (2) shall be refunded to the applicant when the replacement purchase, planting and maintenance requirements under paragraph (e) and subsection (2) have been carried out to the satisfaction of the Director.

Permits with respect to steep slope areas

- 17.**
- (1) Every application for a permit pursuant to section 9 shall be accompanied by a report prepared by a qualified geotechnical engineer, at the applicant's expense, stating that the proposed tree removal will not create a danger from flooding, erosion, landslip or avalanche.
 - (2) 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 Town a surety deposit in the amount of 120% of the cost of the works as estimated by the geotechnical engineer.
 - (3) The applicant shall enter into an agreement with the Town with respect to any security required.
 - (4) 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.
 - (5) 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 shall be released.
 - (6) The works shall be completed within the period of time specified on the permit. Should be works not be finalized within the stated period of time, the Town may have the works completed at the owner's/applicant's expense using the surety bond.

Director's powers to issue, refuse or revoke permit

- 18.**
- (1) The Director may do any of the following:
 - a) refuse to issue a tree permit;

- b) issue a tree permit subject to conditions;
 - c) issue a tree permit to allow a tree or trees to be removed; and
 - d) issue a tree permit for the protection of existing trees during construction
- (2) The Director may revoke a permit after written notice to the permit holder if:
- (a) there is contravention of any condition under which the permit was issued;
 - (b) the permit was issued in error; or
 - (c) the permit was issued on the basis of false or incorrect information.

Right of Appeal

19. (1) The owner or occupier of real property that is subjected to a decision of the Director to grant or refuse a tree permit, or to impose conditions on the granting of a tree permit is entitled to apply to Council to have the decision reconsidered.
- (2) An application for reconsideration shall be made in writing to Council.
- (3) There is no charge for an application for reconsideration.

Permit application fee

20. (1) An application for a tree permit shall be accompanied by the fee set out in Fees and Charges Bylaw No. 958.
- Bylaw No. 958, 2016***
- (2) A fee listed under subsection (1) is not refundable.

PART 4 – GENERAL

Inspections and Assessment

21. (1) The Director, the Bylaw Enforcement Officer or any other city employee authorized by the Director or the Bylaw Enforcement Officer may enter any property at any reasonable time for the purpose of inspecting and assessing trees to ascertain if there is compliance with the provisions of this Bylaw or any condition of a permit which relates to the property and includes a reference to trees.
- (2) No person shall prevent the Director or any Town employee authorized by the Director from carrying out a lawful inspection pursuant to this Bylaw.

Orders

22. The Director, the Bylaw Enforcement Officer or any other person authorized by a resolution of Council may order or direct any person to do any one or more of the following:
- a) discontinue or refrain from proceeding with any work that is in contravention of this Bylaw;
 - b) carry out any work or do anything to bring any land into conformity with this Bylaw;

- c) discontinue doing anything that is in contravention of any term or condition of a tree permit, a tree plan or any other plan showing trees which was approved in conjunction with or forms part of a development permit or a building permit; and
- d) carry out any work or do anything to bring land into conformity with any terms or conditions of a tree permit, a tree plan or any other plan showing trees which was approved in conjunction with or forms part of a development permit or a building permit.

Recovery of costs from real property taxes

23. If unpaid on December 31 of the year in which the costs are incurred, the cost of actions taken by the Town under this Bylaw shall be collected by the Town in the same manner as real property taxes, and will be added as arrears of taxes.

Offences and Penalties

24. (1) Any person who violates any of the provisions of any other section of this Bylaw or who suffers or permits any act or thing to be done in contravention of this Bylaw, or who refuses, omits or neglects to fulfil, observe, carry out or perform any duty or obligation imposed by this Bylaw commits an offence and is subject to the penalties imposed by this Bylaw, the Municipal Ticket Bylaw and the *Offence Act*.

Amendment Bylaw No. 846, 2012

Severability

25. Any section, subsection, sentence, clause or phrase of this Bylaw, which is for any reason held to be invalid by the decision of any Court of competent jurisdiction, may be severed from the balance of this Bylaw without affecting the validity of the remaining portions of this Bylaw.

Repeal

26. Tree Protection Bylaw, 1994, No. 193 and all amendments thereto are hereby repealed.

READ A FIRST TIME THIS 16th DAY OF MARCH, 2010
READ A SECOND TIME THIS 16th DAY OF MARCH, 2010
READ A THIRD TIME THIS 16th DAY OF MARCH, 2010

RECONSIDERED, FINALLY PASSED AND ADOPTED BY COUNCIL, SIGNED BY THE MAYOR AND THE CLERK AND SEALED WITH THE SEAL OF THE TOWN OF VIEW ROYAL THIS 6th DAY OF July, 2010

MAYOR

CLERK

Schedule “A”

Significant Trees in the Town of View Royal

Schedule “B”

Application for Permit

Pursuant to Section 14

Application/File No. _____

Town of View Royal
Application for Permit – *Tree Removal/Alteration*

Please complete the following to help us process your application. This includes the written information on the front of this form and a **sketch of the property** where indicated. (If more room is required, please attach additional pages to this application form). Note: permits take 6-8 weeks to process.

Site Address: _____

Name of Applicant: _____

Phone Number of Applicant: _____ Email _____

Address of Applicant: _____

Name of Owner (if different from above): _____

Phone Number of Owner: _____ Email _____

Address of Owner: _____

Nature of proposed construction, if applicable: _____

Related Permit(s) if applicable: _____

Type and number of tree(s) proposed to be removed: _____

Diameter of tree(s) proposed to be removed (determined by dividing the circumference of the trunk, measured at 1.2 m above the ground, by 3.142):

Type of proposed replacement trees: _____

Reason for removal (please circle the one item below that best describes your situation)

1. Too close to foundation
2. Too close to garage
3. Dead or dying
4. Unattractive
5. Too large for size of property
6. Blocking sunlight
7. Attracting wildlife
8. Causing sidewalk problems
9. Leaves causing problems
10. Blocking site access
11. Affecting house value
12. Hazardous
13. Interfering with utility wires
14. Interfering with water/sewer/drains
15. Interfering with view
16. Other _____

Supplementary documents may be required in support of this application and may include:

- a copy of a State of Title Certificate, or a copy of a Certificate of Indefeasible Title, dated no more than thirty (30) days prior to submission of the application
- a report prepared by an I.S.A. Certified Arborist, at the applicant's expense.

As owner or owner's agent, I have verified that the information contained within this document and associated applications and plans is correct. I acknowledge that responsibility for bylaw compliance rests with the owner and the owner's employees, agents and contractors. I will indemnify and save harmless the Town of View Royal, its officials, employees and agents against claims, liabilities and expenses of every kind, in respect of anything done or not done pursuant to this application or fact sheet or ensuing permit, including negligence and/or failure to observe all bylaws, conditions, acts or regulations.

Signed at View Royal, BC this _____ day of _____ year _____

Signature of Applicant _____

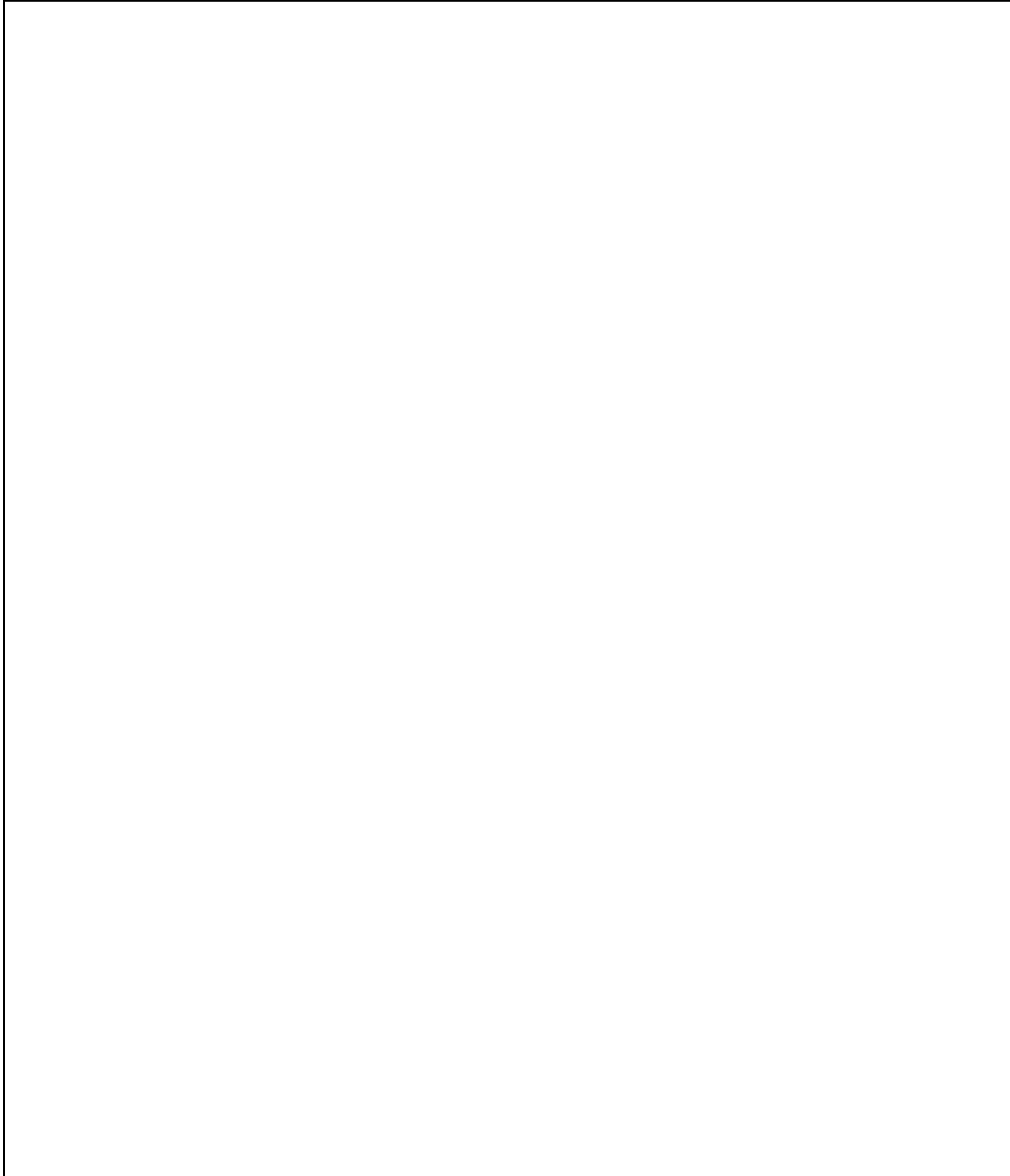
Signature of Owner _____

Property Sketch

Site Address: _____

Your property sketch must include:

- The dimensions of the property and location of the street(s)
- The location of the house and other buildings on the property
- The exact location and type of trees that you wish to remove
- The planting location and type of replacement tree
- The location and types of all other trees on the property
- The type and location of proposed construction activities, including accesses, if applicable



To ensure an accurate on-site inspection, please mark with string, ribbon or flag tape all trees that you propose to remove/alter.

FOR OFFICE USE ONLY

<input type="checkbox"/> Application approved <input type="checkbox"/> Application denied
--

- Arborist report required**
- Title certificate required**
- Removal/Alteration**
- Pruning**
- Replanting Required Removal/Alteration Complete**

Signature of Official: _____

Date: _____

- Replanting Complete**

Signature of Official: _____

Date: _____

Notes: _____

Forms and required documents duly completed, received.

Signature of Official: _____

Date: _____

Fees

Deleted by Bylaw No. 958, 2016