

THE CORPORATION OF THE DISTRICT OF COLDSTREAM

BYLAW NO. 1198

A BYLAW TO REGULATE AND PROHIBIT THE CUTTING DOWN AND REMOVAL OF TREES

WHEREAS pursuant to Part 28, Division 4.1 of the *Municipal Act*, Council may prohibit the cutting, removal and damaging of trees and for such purpose may require permits to cut or remove trees and establish fees for those permits;

AND WHEREAS the District of Coldstream considers it to be in the public interest to provide for the protection and preservation of trees and the regulation of the cutting down and removal of trees;

NOW THEREFORE, the Council of the District of Coldstream in open meeting assembled ENACTS AS FOLLOWS:

1. This bylaw may be cited for all purposes as "THE CORPORATION OF THE DISTRICT OF COLDSTREAM TREE MANAGEMENT BYLAW NO. 1198, 1995".
2. Definitions
  - a. In this bylaw:

|                 |                                                                                                                                                                                                                       |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| "ADMINISTRATOR" | means the Administrator appointed by the Council of the District;                                                                                                                                                     |
| "ARBORIST"      | means a person certified as an arborist by the International Society of Arboriculture or the National Arborists Association, or a registered professional forester of the Association of B.C. Professional Foresters; |
| "CUT DOWN"      | means to cut down, remove or cause the destruction of a tree by any means and includes the topping of a tree or the pruning of roots;                                                                                 |
| "DISTRICT"      | means the District of Coldstream;                                                                                                                                                                                     |

2. a. "DRIP LINE" means a vertical line extending down around the entire circumference of a tree from the tips of the outermost branches of the tree;
- "OWNER" means the registered owner of a parcel subject to this bylaw;
- "PARCEL" means any lot, block or other area in which land is held or into which it is subdivided, including a bare land strata lot under the *Condominium Act* (British Columbia) or a highway;
- "PERMIT" means a permit issued under this bylaw;
- "PROTECTED TREE" means any tree of the species:
- (1) Douglas-fir (*Pseudotsuga menziesii* (Mirb.) Franco);
  - (2) ponderosa pine (*Pinus ponderosa* Laws);
  - (3) lodgepole pine (*Pinus contorta* Dougl. var. *latifolia* Engelm.);
  - (4) western red cedar (*Thuja plicata* Donn);
  - (5) western larch (*Larix occidentalis* Nutt.);
  - (6) western hemlock (*Tsuga heterophylla* (Raf.) Sarg.);
  - (7) subalpine fir (*Abies lasiocarpa* (Hook.) Nutt.);
  - (8) Engelmann spruce (*Picea engelmannii* Parry);
- that is greater than five (5) meters in height;
- "STEEP SLOPE AREA" means all areas of the District having a slope in excess of twenty-five percent (25%).

3. Prohibitions

- a. No person shall cut down or caused to be cut down a protected tree without first obtaining a permit issued pursuant to this bylaw.
- b. No person shall damage, or caused to be damaged, a protected tree.
- c. No person shall carry out or cause to be carried out any of the following activities in respect of a protected tree:
  - (1) cut or damage the roots of the tree within the tree's drip line;
  - (2) place fill, building materials, paving or a building or structure upon land inside the drip line;
  - (3) operate heavy equipment or vehicles over the roots of the tree within the drip line;
  - (4) damage or deface the trunk;
  - (5) remove the bark;
  - (6) deposit a substance harmful to the health of the protected tree on land within the drip line;
  - (7) remove soil from land inside the drip line; or
  - (8) damage a protected tree in any manner which will jeopardize the health of the protected tree.

4. Exemptions

- a. Despite Section 3., this bylaw does not apply:
  - (1) to highways, the soil and freehold of which are vested in the Crown or title to which is registered in the name of the District;
  - (2) to land within a statutory right of way registered in the name of the District;
  - (3) to a tree on land that is included within the Agricultural Land Reserve under the *Agricultural Land Commission Act* (British Columbia);

4. a. (4) to parks dedicated by subdivision plan or title to which is held in the name of the District or the Regional District of North Okanagan, or land managed by the District or the Regional District of North Okanagan;
- (5) to a tree on land that is:
  - (a) classified as managed forest land under the *Assessment Act* (British Columbia) located within a licence area under the *Forest Act* (British Columbia), so long as the land continues to be used for the production and harvesting of timber, or
  - (b) land to which Section 17 of the *Forest Land Reserve Act* (British Columbia) applies;
- (6) to any tree that constitutes an imminent danger or hazard to persons or property;
- (7) any parcel less than 0.5 hectares in size;
- (8) to any tree which is diseased or infested with parasites and which threatens the health of other trees.
- b. Without limiting the exemptions in Section 4.a. and despite Section 3., protected trees on a parcel having an area in excess of 0.5 hectares, may be cut or removed from any portion or portions of such parcel having a slope of less than twenty-five percent (25%) provided that:
  - (1) a tree cutting permit has been issued authorizing the trees to be cut or removed and the total aggregate areas of such portions does not exceed ten percent (10%) of the total area of the parcel per year;
  - (2) no portion or portions of a parcel as referred to in Section 4.b.(1) fall within:
    - (a) a required setback area abutting either a controlled access or arterial highway as designated or classified pursuant to the *Highway Act* (British Columbia); or
    - (b) any area of a parcel on which the construction of buildings or structures is prohibited by the "Corporation of the District of Coldstream Zoning Bylaw No. 931, 1986", and amendments thereto;

4. b. (3) a tree cutting permit has first been issued pursuant to this bylaw authorizing the trees to be cut or removed and one or more of the following conditions exist:
  - (a) a valid and subsisting building permit has been issued authorizing construction of a building or structure on the parcel;
  - (b) a preliminary approval of subdivision has been granted by the Approving Officer on the condition that proposed highways and statutory rights of way be surveyed and cleared in anticipation of or for the purpose of dedication, transfer and installation of works and services required to be provided by the Approving Officer or by bylaw.
- c. Without limiting the exemptions contained in Section 4.0 and despite Section 3. a person may without a permit cut a maximum of two (2) protected trees in one calendar year on any parcel having an area in excess of 0.5 hectares.

5. Steep Slope Area

- a. Despite Section 4.c., no person shall, without first obtaining a permit, cut down any tree greater than five (5) meters in height, growing on any parcel of land within a Steep Slope Area.
- b. Without limiting the exemptions contained in Section 4.a. and despite Section 3., a person may cut or remove trees in that part of the parcel in a Steep Slope Area, on which it is lawful for the owner to construct a building or structure under "Corporation of the District of Coldstream Zoning Bylaw No. 931, 1986", provided that a tree cutting permit has first been issued pursuant to this bylaw.

6. Permits

- a. An application for a permit shall:
  - (1) be made on a form supplied by the District;
  - (2) be signed by the owner of the parcel for which the permit is required;
  - (3) be accompanied by a plan drawn to a measurable scale showing the location, species and diameter of any trees proposed to be cut down;
  - (4) provide all the information required on the permit;

6. a. (5) be accompanied by a report by an arborist or registered forester certifying that the proposed cutting down of protected trees on the parcel will not damage other protected trees in the parcel or on adjacent parcels.
- b. The Administrator, or designate, shall issue a permit to cut down or remove trees where:
  - (1) the tree or trees to be cut down or removed are located within the part of the parcel upon which it is lawful for an owner to construct a building or structure, including a residence, under the "Corporation of the District of Coldstream Zoning Bylaw No. 931, 1986", and amendments thereto;
  - (2) it is required for the construction or installation of a highway, or works or services required to be constructed or installed by the bylaws of the District in connection with the subdivision of land, and the Approving Officer has approved the subdivision plan or issued a letter of preliminary layout approval;
  - (3) the proposed cutting as shown on the plan prepared under 6.a.(3) would comply with Section 4.b.
- c. Notwithstanding anything to the contrary in this bylaw, every permit shall be subject to the following terms and conditions:
  - (1) permit holder covenants and agrees to indemnify, save harmless, release and discharge the District from actions, claims and suits;
  - (2) protective barriers surrounding trees to be retained shall be installed before tree cutting;
  - (3) disposal of tree parts on site shall be by chipping or burning in accordance with the District of Coldstream Fire Prevention Bylaw;

7. Inspection and Enforcement

- a. When an application for a permit is made under this bylaw, the Administrator, or his designate, may inspect or cause an inspection to be made of any trees and the site on which they grow and may assess the location, size, condition and species of the trees.
- b. A Bylaw Enforcement Officer may enter on any property subject to this bylaw for the purposes of assessing and inspecting trees under this bylaw to determine whether a requirement is being met or regulations are being observed.

7. c. The Administrator or designate may suspend or revoke any permit if the tree cutting is not being undertaken in accordance with the terms and conditions of the permit.

8. Subsequent Permits

Despite Section 4.b., no tree cutting permit shall be issued in respect of trees on land where a previous tree cutting permit has already authorized tree cutting or removal of trees, except where the extent of cutting and removing previously authorized was less than the limit established by Section 4.b.(1), or where the previous tree cutting permit has expired and was not exercised to the full extent of the authorization. In such instances, a further tree cutting permit may be issued by the District pursuant to an application by the owner, but only to the extent that such authorization, when combined with the actual exercise of rights under a previous tree cutting permit, does not in the aggregate exceed the limitation provided in Section 4.b.(1).

9. Replacement

- a. In addition to any penalty that may be imposed under this bylaw, where a person cuts down, removes or damages any tree, or permits any tree to be cut down, removed or damaged, in violation of this bylaw, or in violation of any permit issued under this bylaw, that tree shall be replaced within three months by a tree planted and maintained on the same parcel.
- b. An owner of a replacement tree planted as such under this bylaw for a permit shall maintain it in accordance with professional arboricultural practice generally accepted in British Columbia.

10. Offence

Every person who violates any provision of this bylaw, or who allows any act or thing to be done or omits to do anything required to be done in violation of any provisions of this bylaw, is guilty of an offence against this bylaw and is liable to the penalties imposed in this bylaw.

Each day that a violation occurs, is permitted to exist or continues shall constitute a separate offence.

Where more than one tree is cut down, removed or damaged in violation of this bylaw, a separate offence is committed in respect of each tree.

Every person who commits an offence against this bylaw is liable to a fine of not more than \$2,000.00 for each offence.

11. This bylaw shall come into force and take effect upon the final reading and adoption thereof.

|                        |             |              |
|------------------------|-------------|--------------|
| READ a first time this | 21st day of | March, 1995. |
|------------------------|-------------|--------------|

|                         |             |              |
|-------------------------|-------------|--------------|
| READ a second time this | 21st day of | March, 1995. |
|-------------------------|-------------|--------------|

|                        |             |              |
|------------------------|-------------|--------------|
| READ a third time this | 21st day of | March, 1995. |
|------------------------|-------------|--------------|

|                                 |             |              |
|---------------------------------|-------------|--------------|
| FINALLY PASSED AND ADOPTED this | 23rd day of | March, 1995. |
|---------------------------------|-------------|--------------|

\_\_\_\_\_  
Clerk

Mayor

**CORPORATION OF THE  
DISTRICT OF COLDSTREAM**

**TREE CUTTING PERMIT**  
*Application*

1. Name of Owner(s): \_\_\_\_\_
2. Legal Description of parcel on which tree cutting to occur: \_\_\_\_\_  
\_\_\_\_\_
3. Civic Description of Parcel on which tree cutting to occur: \_\_\_\_\_  
\_\_\_\_\_
4. This Application shall be accompanied by:
  - (i) a plan drawn to a measurable scale showing the location, species and diameter of any trees proposed to be cut down (the "Plan").
  - (ii) a report of an arborist or registered forester certifying that the proposed cutting down of trees will not damage other protected trees on the parcel or on an adjacent parcel.
  - (iii) a topographical map showing the location of all areas in the parcel having a slope in excess of twenty five percent.

In consideration of the issuance of a tree cutting permit I/we agree to release, indemnify, save harmless the District of and from all actions, claims and suits arising from or in any way connected with the issuance of a tree cutting permit or on the cutting of any tree or trees under the permit.

\_\_\_\_\_  
Owners(s)

The Corporation of the District of Coldstream authorizes the cutting down and removal of the trees shown to be cut down on the Plan attached to this permit on the lands set out above.

\_\_\_\_\_  
Administrator

## LIST OF COMMERCIAL TIMBER SPECIES FOR COLDSTREAM'S BYLAW

|                                                            |                    |
|------------------------------------------------------------|--------------------|
| <i>Pseudotsuga menziesii</i> (Mirb.) Franco                | Douglas-fir;       |
| <i>Pinus ponderosa</i> Laws                                | ponderosa pine;    |
| <i>Pinus contorta</i> Dougl. var. <i>latifolia</i> Engelm. | Lodgepole pine;    |
| <i>Thuja plicata</i> Donn                                  | western red cedar; |
| <i>Larix occidentalis</i> Nutt.                            | western larch;     |
| <i>Tsuga heterophylla</i> (Raf.) Sarg.                     | western hemlock;   |
| <i>Abies lasiocarpa</i> (Hook.) Nutt.                      | subalpine fir      |
| <i>Picea engelmannii</i> Parry                             | Engelmann spruce.  |