

**CITY OF KIMBERLEY  
PROVINCE OF BRITISH COLUMBIA**

**BYLAW NO. 2170**

A BYLAW TO PRESERVE, REGULATE THE REMOVAL OF AND PROVIDE FOR THE REPLACEMENT OF TREES.

WHEREAS the Municipal Act authorizes Council by Bylaw to preserve trees, regulate the cutting and removal of trees, charge a fee for a permit to allow the cutting and removal of trees, and require the replacement of trees cut down;

NOW THEREFORE the Council of the City of Kimberley, in open meeting assembled, ENACTS AS FOLLOWS:

**CITATION:**

1. This Bylaw may be cited as "Tree Cutting Bylaw No. 2170, 2002."

**DEFINITIONS:**

2. In this Bylaw:

**CUTTING** shall mean the removal of the whole or selective parts of any tree by any means and shall include topping or selective pruning or any other activity that damages trees.

**MANAGER, OPERATIONS SERVICES** means that person appointed from time to time by City Council or a person designated by him.

**MUNICIPALITY** means the City of Kimberley.

**QUALIFIED PERSON** means one of the following persons as determined by the Manager, Operations Services at his sole discretion:

- (a) an Arborist, certified by the International Society of Arboriculture;
- (b) a Landscape Architect, registered with the Canadian Society of Landscape Architects;
- (c) a Geotechnical Engineer registered in the Province of British Columbia; and
- (d) a Landscape Technologist.

**TREE CUTTING PERMIT AREA** means

- (a) a development permit area designated in the Kimberley Alpine Village Official Community Plan;

- (b) any lot or portion thereof having a tree cutting covenant registered against title to the lot; or
- (c) any lot or portion thereof having any slope greater than 26%.

**TREE CUTTING PERMIT** shall mean a permit issued by the Manager, Operations Services in accordance with this Bylaw which will allow cutting and replacement of trees under conditions stipulated in the permit.

**TREE CUTTING PLAN** shall mean a plan which shows the trees proposed to be cut, the trees to be retained and the location, and the size and species of replacement trees to be planted upon a subject site.

#### **APPLICATION OF BYLAW:**

- 3. No person shall cut, remove or damage or allow to be cut, removed or damaged trees on any property in a tree cutting permit area without having first obtained a tree cutting permit.

#### **PERMIT APPLICATION PROCEDURE:**

- 4. (a) Applications for a tree cutting permit shall be made to the Manager, Operations Services by completing the application form attached hereto as Schedule A and forming part of this Bylaw. A tree cutting permit in the form attached hereto as Schedule "B" may be issued by the Manager, Operations Services if the application complies with this Bylaw.
- (b) Applications shall be accompanied by:
  - (i) a tree cutting plan;
  - (ii) a report from a qualified person, as determined by the Manager, Operations Services where required by the City;
  - (iii) a report from a Geotechnical Engineer confirming to the City's satisfaction that the proposed tree cutting plan shall not in any way create a danger to the lands or adjacent lands from flooding, erosion, land slip or potential tree falls, where required by the City;
  - (iv) proof of liability insurance carried by the tree removal company retained if tree cutting and removal is adjacent to a road Right of Way or adjoining City property; and
  - (v) a non-refundable permit application fee of \$50 for the cutting and removal of the first one-hundred trees or portion thereof and an additional fee of \$50.00 for every additional one-hundred trees or portion thereof to be cut and removed.

## **PERMIT CONDITIONS:**

5. Tree cutting and replacement shall be strictly in accordance with any special conditions specified in the tree cutting permit and with the conditions imposed by this Bylaw, including:
  - (a) Municipal officers, employees or other qualified persons may enter a tree cutting/replanting site at any reasonable time for inspection and to administer and enforce this Bylaw;
  - (b) The Manager, Operations Services may suspend or revoke a permit at any time if it is determined that tree cutting and replacement is not being undertaken according to the conditions of this Bylaw and tree cutting permit;
  - (c) Protective barriers shall be installed and approved prior to tree cutting; and
  - (d) Unless otherwise specified in the tree cutting permit, where the holder of a tree cutting permit does not substantially complete the tree cutting and planting of replacement trees specified therein within one year after the date of issuance, the tree cutting permit lapses; in this event, all security monies may be withheld and used by the City to ensure appropriate site reinstatement.

## **SECURITY DEPOSIT:**

6.
  - (a) If a report from a qualified person indicates replacement trees are required or other site reclamation or reinstatement is required as part of the tree cutting plan then the applicant will be required to submit a security deposit in the form of a cash deposit or irrevocable letter of credit drawn upon a chartered bank in a form acceptable to the City for full and proper compliance with all terms and conditions in the tree cutting permit, including provision of all replacement trees and materials required for site reinstatement.
  - (b) The amount of the security shall be 100% of the value of all replacement trees and site restoration measures required by the City, as estimated by a qualified person.
  - (c) There shall be a 10% holdback of the security deposit for a period of one year after the work has been completed to the satisfaction of the City.

- (d) Should the permit holder fail to comply with the terms and conditions of the tree cutting permit, the City may enter the property and perform such work as is necessary and may retain all or a portion of the security to cover the cost of such work.

#### **ASSESSMENTS AND INSPECTIONS:**

- 7. The City may by use of its officers, employees or other qualified persons, enter any property at any reasonable time to make an assessment or inspection of: trees prior to and during cutting; trees prior to removal; trees remaining after tree cutting; and replacement trees as shown on the plans approved with the tree cutting permit.

#### **BIRD NESTING TREES:**

- 8. No person shall cut, remove or damage or allow to be cut, removed or damaged any tree being used for bird nesting purposes during bird nesting season.

#### **EXEMPTIONS:**

- 9. The following activities are exempted from this Bylaw:
  - (a) removal or pruning of dead, diseased or damaged trees by standard arboricultural practices;
  - (b) cutting or removal of trees by the municipality or its' agent for municipal purposes;
  - (c) emergency removal of dangerous or hazardous trees and branches by standard arboricultural practices, provided that the City may require such trees to be replaced in accordance with the replacement tree standards of this Bylaw and provided the City is notified within seventy-two (72) hours of removal;
  - (d) cutting or removal of trees necessary to reduce fuel loading and forest fire potential, cutting or removal of trees necessary to prevent spreading of disease, provided however, that a report from a Geotechnical Engineer confirming to the City's satisfaction, that the proposed tree cutting or removal shall not, in any way, create a danger to the lands or adjacent lands from flooding, erosion, land slip or potential tree falls; if such report is required by the City.

**REPEAL:**

10. Bylaw No. 2038, Tree Cutting Bylaw No. 2038, 1999, is hereby repealed.

**PENALTY:**

11. Every person who violates any of the provisions of this Bylaw or acts in contravention of this Bylaw, shall upon Summary Conviction therefore be liable to any penalties that may be imposed pursuant to the Offence Act R.S.B.C. 1996, c.338 and where appropriate, an order to restore the damage caused by the offence by replanting.

**SEVERABILITY:**

12. If any section, subsection, clause, phrase or word of this Bylaw is held to be invalid by a decision of a court of competent jurisdiction, the invalid section, subsection, clause, phrase or word shall be severed, and the severance shall not affect the validity of the remainder.

"J.E. OGILIVE"

MAYOR

"G. STRATTON"

CHIEF CORPORATE  
ADMINISTRATION OFFICER

Read a first, second and third time on the 21st day of November, 2002  
Adopted on the 25th day of November, 2002

## **SCHEDULE "A"**

**TO**

**TREE CUTTING BYLAW NO. 2170**

### **APPLICATION FORM**

**CITY OF KIMBERLEY**

Application for Tree Cutting Permit

1. I, \_\_\_\_\_ of \_\_\_\_\_  
(Name) (Address)  
in the City of \_\_\_\_\_ hereby make application to cut and  
remove that tree (those trees) situate on property civically described as  
\_\_\_\_\_ in the City of Kimberley and  
(Address)  
legally described as \_\_\_\_\_ (Legal Description)  
\_\_\_\_\_ (the "Lands")  
identified, described and shown on the sketch of the Lands attached to  
this application.
2. Every application shall be accompanied by the following:
  - (i) a tree cutting plan;
  - (ii) a report from a qualified person, as determined by the  
Manager, Operations Services where required by the City;
  - (iii) a report from a Geotechnical Engineer confirming to the  
City's satisfaction that the proposed tree cutting plan shall  
not in any way create a danger to the lands or adjacent  
lands from flooding, erosion, land slip or potential tree falls,  
where required by the City;
  - (iv) proof of liability insurance carried by the tree removal  
company retained if tree cutting and removal is adjacent to a  
road Right of Way or adjoining City property; and
  - (v) a non-refundable permit application fee of \$50 for the cutting  
and removal of the first one-hundred trees or portion thereof  
and an additional fee of \$50.00 for every additional one-  
hundred trees or portion thereof to be cut and removed.

3. The tree cutting plan should correctly show:
- i) all property lines;
  - ii) all adjacent roadways complete with street names;
  - iii) a bar scale;
  - iv) a north arrow;
  - v) the location of all trees on the property and all trees immediately adjacent the property which have canopies or root systems infringing onto the property (including existing boulevard trees);
  - vi) the outline of all building envelopes, roadways, driveways, service lines, playing fields and any other existing or proposed features on the property which will affect tree preservation and replacement;
  - vii) the location of all trees proposed to be cut and removed; the location of all trees to be retained;
  - viii) the location, size and species of all proposed replacement trees, if required.
4. Where required by the City, the report from a qualified person shall be in a form and content to the satisfaction of the City and may include but is not restricted to the following:
- i) an aerial photograph of the site at a scale where trees and groups of trees are clearly visible (either one provided by the applicant or one of the City's aerial photographs);
  - ii) an overlay drawn to the same scale as the aerial photograph showing:
    - all property lines;
    - the road rights-of way of all proposed and existing roadways, lanes, easements and underground services;
    - the outline of all existing and proposed structures (including underground parking lots);
    - any watercourses and proposed major grade changes proposed;
    - the general condition and age of the majority of tree;
    - the dominant species and type of ecosystem;
    - a description of any extraordinary or outstanding trees on or immediately adjacent to the property;
    - the suitability for preservation of the trees on the site given the proposed development;

- the location, size and species of any trees which are valuable enough because of their size, condition, value as a landmark, their wildlife value or their historical significance to be protected;
  - the location of replacement trees.
5. I have read a copy of City of Kimberley Tree Cutting Bylaw No. 2170, 2002 and am aware of the regulations therein.
6. I understand that I will be required to provide a security deposit by way of cash or irrevocable letter of credit as required by the Bylaw to ensure compliance with all terms and conditions in the tree cutting permit including provision of all replacement trees and materials required for site reinstatement.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Applicant

Where Applicant is not the registered owner of the property, this Application will not be considered complete or processed until the registered owner signs below.

I, \_\_\_\_\_, the registered owner of the property described in this Application hereby consent to this Application being made and to the issuance of a permit to the Applicant. I certify that the information in this Application is correct and true and I acknowledge that I am the person responsible for compliance with all provisions of Tree Cutting Bylaw, No. \_\_\_\_\_.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Registered Owner

\_\_\_\_\_  
Address of Registered Owner

(Note: Wherever the trunk or any part of the trunk and major root structure of any tree are situated on more than one parcel of land any application to cut or remove such tree must be signed and consented to by all registered Owners of all properties)

**SCHEDULE "B"**  
**TO**  
**TREE CUTTING BYLAW NO. 2170**

**Tree Cutting Permit No.**

**TREE CUTTING PERMIT**

**CITY OF KIMBERLEY**

1. This Permit is issued pursuant to the City of Kimberley Tree Cutting Bylaw No.

2170, 2002 and applies to the following lands:

Civic Address:

Legal Description:

2. This Permit authorizes the Permittee to cut and remove only the trees listed and described on Appendix "A" of this Permit subject to the terms and conditions hereinafter set out.
3. This Permit is issued subject to the following terms and conditions:
  - (a) any tree authorized to be cut or removed by this Permit shall only be cut or removed in strict compliance with the provisions of the City of Kimberley Tree Cutting Bylaw No. 2170,2002;
  - (b) all trees cut or removed pursuant to this Permit shall be replaced in accordance with the tree cutting plan, if any, attached hereto as Appendix "B" to this Permit;
  - (c) all replacement trees shall be planted and maintained in accordance with the provisions of the City of Kimberley Tree Cutting Bylaw No. 2170, 2002;
  - (d) other conditions:

4. The authorization herein to cut or remove trees expires and is of no further force or effect one year after the date of issuance of this Permit, provided that any obligation to plant and maintain replacement trees survives the expiry of the authorization herein.
5. This Permit is issued on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.
6. A security deposit of \$\_\_\_\_\_ has been provided by the Permittee and is held by the City of Kimberley pursuant to the terms and conditions of Section 6 of the Tree Cutting Bylaw No. 2170, 2002.

\_\_\_\_\_ Manager, Operations Services

Note: The issuance of the permit does not in any way relieve the applicant from complying with any and all Provincial or Federal Statutes, rules and regulations governing the cutting and removal of trees.