



City of Duncan

Tree Protection Bylaw No. 3135, 2014 (With Amendments to October 21, 2024)

Consolidated for Convenience Only

This consolidation is not a legal document. Certified copies of the original bylaws should be consulted for all interpretations and applications of the bylaws of this subject

Bylaw No. 3135.01, 2018 – Adopted April 16, 2018
Bylaw No. 3135.02, 2021 – Adopted November 1, 2021
Bylaw No. 3135.03, 2024 – Adopted October 21, 2024

CITY OF DUNCAN
BYLAW NO. 3135, 2014
TREE PROTECTION BYLAW

WHEREAS pursuant to Sections 8(3)(c) and 50 to 52 of the *Community Charter*, S.B.C. 2003, c.26, a Council may, by bylaw, exercise powers to preserve and protect **trees** within the City, and may regulate, prohibit and impose requirements in relation to the **cutting** and **removal** of **trees**;

AND WHEREAS Council considers it is in the public interest to provide for the protection and preservation of urban forest through the regulation of **tree cutting, removal** and replacement;

NOW THEREFORE the Council of the City of Duncan enacts as follows:

1. Title

This Bylaw may be cited as the “Tree Protection Bylaw No. 3135, 2014”

2. Application

This Bylaw applies to **trees** which are within the City of Duncan.

3. Definitions

In this Bylaw:

“Arborist”

means an arborist who:

- a) is certified by the International Society of Arboriculture; and
- b) is qualified as a **certified tree risk assessor** by the International Society of Arboriculture or is qualified by the Province of British Columbia as a Wildlife/Danger Tree Assessor;

“Arborist Report”

means a technical report prepared by an **Arborist** which:

- a) identifies information relevant to the purpose for which the report is to be submitted to the City including, but not limited to, surveyed location, species, size, and condition of the subject **tree** or trees;
- b) provides the reasons for any proposed removal of a **tree** or trees;

- c) describes the recommended **tree** protection and mitigation measures; and
- d) includes the proposed strategy for **replacement trees** or **substitute trees**.

“Boulevard”

means:

- a) the strip of land between the curb and the sidewalk and between the sidewalk and the property line, or
- b) Where there is no sidewalk, the strip of land between the curb and the property line, or
- c) Where there is no curb, the strip of land between the near edge of the road and the property line;

“Building Envelope”

means that part of a lot on which a building, including an accessory building, may be sited under the **setback** regulations of the **City’s** Zoning Bylaw, as varied by a Development Permit, a Development Variance Permit, a Heritage Alteration Permit, or the Board of Variance, if applicable;

“Certified Tree Risk Assessor”

means a Certified Arborist with additional current training and certification in tree risk assessment as determined by Worksafe BC.

“City”

means the City of Duncan.

“Council”

means the City Council of the City of Duncan.

“City Lands”

means property owned, controlled, or maintained by the City including parks, green-spaces, walkways, medians, **boulevards** and road rights-of-way;

**“Cut”
OR “Cutting”**

means to cut down a **tree** and shall include to pull up, push or pull over or otherwise fall or substantially destroy a **tree**.

**“Damage”
OR “Damaged”
OR “Damaging”**

means any action which will cause a **tree** to die or to decline, including, but not limited to, ringing, poisoning, burning, topping or excessive **pruning**.

3135.02

“DBH (Diameter Breast Height)”

means the diameter of the trunk of a **tree** measured at a point 1.4 metres above the natural grade; except where the diameter of a **tree** having multiple trunks 1.4 metres above the natural grade shall be the sum of 100% of the **diameter** of the largest trunk and 60% of the **diameter** of each additional trunk.

“Diameter “

means the circumference outside the bark of a **tree**, divided by 3.142;

3135.02

“Director”	means the Director of Public Works and Engineering and any person designated by the Director to act in his or her place.
“Drip Line”	means a circle on the ground around the trunk of a tree , the radius of which is the distance between the outermost twigs of the tree and the centre point of the trunk, or its vertical extension.
“Hazard Tree”	means a tree identified in writing by a Certified Tree Risk Assessor as having defects sufficient to significantly increase the likelihood that all or part of the tree will fall resulting in a risk of personal injury or property damage, and also includes trees that interfere with utility wires, drainage, water or sewer systems, or the movement of people and vehicles along public rights-of-way;
“Hedge”	means a row of three or more trees that through growth and pruning forms a continuous dense screen of vegetation from ground level which provides privacy, fencing, wind breaking, and/or boundary definition.
“Highway”	includes a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right-of-way on private property.
“Move”	means uprooting and transferring a tree from one location to another.
“Officer”	means the City of Duncan Fire Chief, Bylaw Enforcement Officer, RCMP Police Officer or appointed designates.
“Owner”	means a person who has any right, title, estate or interest in property, other than that of an occupant, and shall include the agent of any such person.
“Parcel”	means any lot, block or other area in which land is held or into which land is subdivided but does not include a highway .
“Permit”	means a permit issued by the Director under authority of this Bylaw to cut or remove a Protected Tree or Trees .
“Protected Root Zone”	means: a) the area of land surrounding the trunk of a tree that contains the bulk of the critical root system of the tree which has been specifically delineated on a tree protection plan prepared by an arborist and approved by the Director of Public Works; or b) in the absence of such information, the area of land surrounding the trunk of a tree contained within a

circle having a radius which is calculated by multiplying the DBH of the **tree** by 18.

“Protected Tree”

means any of the following **trees**:

- a) the following **tree** species 2.0 metres (6.67 feet) or more in height or **7** centimetres (2.8 inches) in **diameter** or more when measured 15 cm (6 inches) above natural grade:
 - i) Arbutus (*Arbutus menziesii*);
 - ii) Garry Oak (*Quercus garryana*);
 - iii) Pacific Dogwood (*Cornus nuttallii*);
 - iv) Pacific Yew (*Taxus brevifolia*).
- b) the following **tree** species when having a DBH of **20** centimetres (8 inches) or more:
 - i) Douglas-fir (*Pseudotsuga menziesii*);
 - ii) Grand Fir (*Abies grandis*);
 - iii) Big Leaf Maple (*Acer macrophyllum*);
 - iv) Western Red Cedar (*Thuja plicata*).
- c) any **tree** having a DBH that is **30** centimetres (12 inches) or more;
- d) any **replacement tree**;
- e) any **tree** located within an Environmental or Hazard Development Permit Area designated in the City of Duncan Official Community Plan;
- f) any **tree** planted or retained as a requirement of a subdivision application, development permit, , or building permit;
- g) any **Significant Tree**;
- h) any **tree** with evidence of a nest or use by:
 - i) raptors as defined in the *Wildlife Act*, R.S.B.C. 1996, c. 488;
 - ii) osprey; or
 - iii) a heron colony.

“Prune”
OR “Pruning”

means the selective cutting or removal of branches to improve timber quality, or to remove dead or diseased wood, or to correct undesirable growth patterns.

3135.02

“Qualified Professional Engineer”

means a person registered or licensed as a professional engineer in the Province of British Columbia, pursuant to the provisions of the *Professional Governance Act of British Columbia*, 2018, as amended, and such person having sufficient experience in related fields of engineering to provide a professional opinion.

**“Removal”
OR “Remove”**

means to “**cut**” a **tree** and to remove it from the location where it exists.

3135.02

“Replacement Tree”

means a woody perennial plant with one or more substantially erect main trunks or stems, including its root system, of a **tree** species that will grow to 30 cm **DBH** or greater at maturity, and which is required to be planted and maintained in accordance with Section 7.2 and Schedule "A".

“Setback”

means a property’s setback line established under the **City’s** Zoning Bylaw, as varied by a Development Variance Permit, a Heritage Alteration Permit, or the Board of Variance, if applicable;

“Significant Tree”

means a **tree** of significant size, species or heritage value, listed in SCHEDULE "B" of this Bylaw.

3135.02

“Substitute Tree”

means a woody perennial plant with one or more substantially erect main trunks or stems, including its root system, of a **tree** species that will grow to less than 30 cm **DBH** at maturity, and which is required to be planted and maintained in accordance with Section 7.2.

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“Top” OR “Topping”

means the cutting of a trunk, stem, main leader or scaffold limb of a **tree** back to a stub, bud or lateral branch not large enough to assume apical dominance.

“Tree”

means a living, erect, perennial woody plant, that is a species of coniferous or deciduous genus where the **DBH** of is six (6) cm or more and is capable of reaching a mature height of 4.5 m or greater within its natural range.

**“Tree Protection
Barrier”**

means a sturdy protection barrier or temporary fence at least 1.2 metres in height, installed around the **Drip Line** of a **tree** that is to be preserved.

“Watercourse”

means a channel through which water flows at any time of the year and includes a brook, river, stream, creek, lake, pond and any other body of water running through or situated partially or fully within the **City**.

4. **Boundary Trees**

- 4.1 For the purposes of this Bylaw, a **tree** straddling a property line shall be deemed to be located on a **parcel** if more than one-half of the area of land occupied by the base of the **tree** trunk is within that **parcel**.

5. **Restrictions and Exemptions**

5.1 **Restrictions**

- 5.1.1 A person must not **cut** or **remove**, or **move** any **Protected Tree**, or cause, suffer or permit any **Protected Tree** to be **cut** or **removed** or **moved**, except in accordance with the terms and conditions of a valid **permit** issued under this Bylaw. Without limiting the generality of the foregoing, this section includes **replacement trees**.
- 5.1.2 A person must comply with the terms and conditions of a **permit** issued under this Bylaw.
- 5.1.3 Except to the extent permitted by a **permit**, or as provided for in **Section 5.3** a person must not alter a **Protected Tree** by carrying out any of the following activities:
- (a) **Cutting, damaging** or undermining the roots of a **Protected Tree** growing within the **drip line**;
 - (b) Operating trucks, backhoes, excavators or other heavy equipment over the roots of a **Protected Tree** growing inside the **drip line**;
 - (c) Placing fill, building materials, asphalt or a building or structure on land inside the **drip line** of a **Protected Tree**;
 - (d) Denting, gouging or **damaging** the trunk of a **Protected Tree**;
 - (e) Removing from, or penetrating, the bark of a **Protected Tree**;
 - (f) Attaching a sign or poster to a **Protected Tree**;
 - (g) Depositing concrete washout or other liquid or chemical substances harmful to the health of a **Protected Tree** on land inside the **drip line** of a **Protected Tree**;
 - (h) Removing soil from inside the **drip line** of a **Protected Tree**;
 - (i) **Blasting** inside the **drip line** of a **Protected Tree**;
 - (j) **Topping** a **Protected Tree** branches so as to significantly alter its normal canopy; except if the **Protected Tree** forms part of a **hedge**;
 - (k) Altering the ground water or surface water level within the **drip line** of a **Protected Tree**; or
 - (l) **Cutting** or **removing** more than twenty-five (25) percent of the live crown of a **Protected Tree** in any twelve (12) month period.

3135.02

5.2 **City Lands**

A person shall not plant a **tree** or **hedge** on **City lands** or cause **trees** or **hedges** to be planted on **City lands** without prior written authorization from the **Director**.

5.3 Exemptions

5.3.1 A **permit** is not required to **cut** or **remove** a **Protected Tree** where:

3135.03

- (a) A Development Permit that authorizes the **removal** of a **Protected Tree** has been issued, subject to the following conditions:
 - i. If a building permit is required to facilitate the proposed development, **removal** of a **Protected Tree** is not permitted until the building permit has been issued; and
 - ii. Payment of the **Replacement Tree** fee established in the **City's** fees and charges bylaw for each **Protected Tree** proposed to be **removed**. For clarity, the fee must be paid prior to building permit issuance when a building permit is required or, when a building permit is not required, prior to removal of the **Protected Tree**;
- (b) The **Protected Tree cutting** or **removal** is located within the **building envelope** of a **parcel** and the **cutting** or **removal** of the **Protected Tree** is necessary for the purpose of lawfully constructing a building or accessory building, or an addition to a building or accessory building in respect of an approved Building Permit;
- (c) The **Protected Tree cutting** or **removal** is for the installation of roads or services shown on an engineering drawing approved by the **City** in respect of an approved Building Permit, an access permit, or subdivision approval;
- (d) A **Protected Tree** must be **cut** or **removed** on an emergency basis because it has been severely damaged by natural causes and poses an imminent danger of falling and injuring persons or property;
- (e) A **Protected Tree** must be **cut** or **removed** or **pruned** by emergency personnel responding to an emergency provided however that the emergency personnel must notify the **Director** within three business days of the emergency work done to the **Protected Tree** or **Trees**;
- (f) The **Protected Tree cutting** or **removal** is carried out by the **City** or its agents on public property;
- (g) The **Protected Tree cutting** or **removal** is carried out using standard arboricultural practices for the maintenance of above ground utility conductors by a public utility or its contractors, after giving the **Director** written notice of its intention to **cut** or **remove** at least three business days prior to commencing;

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3135.02

- (h) The **cutting** or **removal** constitutes normal **pruning** of **trees** in accordance with sound horticultural practice.

5.4 Removal or Pruning of Hazardous Trees or Hedges

- 5.4.1 A **permit** is not required for the **pruning** of a **hedge**.
- 5.4.2 **Owners** and occupiers of real property must cause any **trees**, **hedges** and shrubs on that property to be **pruned**, **cut** or **removed** 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
- 5.4.3 The **Director** may notify the **owner** or occupier of real property that the **City** will take, at the **owner's** or occupier's expense, the action required under **Section 5.4.2** if the **owner** or occupier does not take that action within five days of receiving the notice.
- 5.4.4 The City's employees or contractors may enter real property and undertake, at the **owner's** or occupier's expense, the work referred to in **Section 5.4.2** if the **owner** or occupier does not undertake or complete that work.

6. Permit Application Process

6.1 General Conditions of Permit

- 6.1.1 A **permit** for the **cutting** or **removal** of any **tree** to which this Bylaw applies shall be in the form issued by the **Director**.
- 6.1.2 Despite **Section 6.1.1** a person may only **prune** or **top** a **Significant Tree** with the permission of the **Director**.
- 6.1.3 Despite **Section 6.1.1** a person may only **cut** or **remove** a **Significant Tree** with the permission of **City Council**.
- 6.1.4 A **permit** issued under this Bylaw is non-transferable.
- 6.1.5 The **permit** shall be displayed in an accessible and conspicuous location on the **parcel** to which it pertains no less than 72 hours prior to and during **tree cutting** or **removal** operations.

6.2 Application Requirements

Every application for a **permit** shall be made in writing to the **Director** and shall include:

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6.2.1 A non-refundable application fee in the amount applicable under the City of Duncan Fees and Charges Bylaw unless the application is for permission to **remove a hazard tree**;

6.2.2 The following documents, plans and information relating to the proposed **tree cutting or removal**:

(a) A statement of purpose and rationale for the proposed **tree cutting or removal**;

3135.02

(b) At the request of the Director, an approved arborist report to the satisfaction of the Director.”

3135.02

(c) A **tree cutting** and replacement plan drawn to approximate scale identifying:

- (i) the boundaries of the subject **parcel**;
- (ii) any abutting streets, lanes or public access rights of way;
- (iii) the location of existing buildings and structures;
- (iv) the location, species and **DBH** of those **trees** proposed to be **cut or removed**;
- (v) the location, species and **DBH** of those **trees** proposed to be retained and protected;
- (vi) the location, species and **DBH** of proposed **replacement trees**;
- (vii) the location of significant topographic and hydrographic features and other pertinent site information; and
- (viii) the location of proposed **tree protection barriers** , which meet Schedule “E” of this Bylaw, **Tree Protection Barrier** Requirements.

(d) The street location and legal description;

(e) The consent in writing of the registered **owner** of the property, if different from the applicant, authorizing the applicant to act as the **owner's** agent;

(f) The consent in writing of the registered **owners** of the **parcels** where the base of the **tree** to be **cut or removed** is located;

(g) The methods proposed for control of drainage and erosion impacts during and after the **tree cutting or removal**;

(h) The proposed methods for disposal of wood waste and other debris;

- (i) The proposed methods of noise and dust control during the **tree cutting** or **removal** operation;
- (j) The proposed completion dates for **tree cutting** or **removal**;
- (k) If required by the **Director**:
 - (i) A Tree Protection Plan, in accordance with Schedule “D” of this Bylaw, prepared by an **arborist**;
 - (ii) A report prepared by a qualified professional engineer, professional biologist or certified **arborist** with experience in, as the circumstances require, geotechnical engineering, hydrology or **tree** management, certifying that the proposed **tree cutting** or **removal** will not create an adverse impact including flooding, erosion, land slip or contamination of a **watercourse**;
 - (iii) Where the site of the **tree cutting** or **removal** is on a **parcel** adjacent to or containing any part of a **watercourse**, a survey plan prepared by a BC Land Surveyor or qualified professional engineer showing the top-of-bank of such **watercourse**;
 - (iv) where the **tree cutting** or **removal** is for a **hazard tree**, a report prepared by a **certified tree risk assessor** certifying that the **tree** is dead, diseased, **damaged** or otherwise constitutes a physical hazard to persons or property;
- (l) Such further and other information as the **Director** determines is necessary to adequately describe the nature and extent of the **tree cutting** or **removal** operation, and
- (m) The security amount required by section 7.2.7.

6.2.3 In addition to the requirements in Sections 6.2.1 and 6.2.2 of this Bylaw, every applicant for a **permit to cut** or **remove** a **Protected Tree** shall:

- (a) Flag or mark with paint each **tree** proposed to be **cut** or **removed**; and
- (b) Mark on the ground with paint, stakes or flagging the **protected root zones** of all **trees** on the **parcel** and the boundaries of the areas within such **protected root zones** on which the proposed **tree-damaging** activities are proposed to be carried out.
- (c) Place a **tree protection barrier**, in accordance with Schedule “E” of this Bylaw, around any **tree** or **trees** which are not to be **cut** or **removed**, in such a manner to ensure that the trunk, branches and **protected root zone** are not **damaged** by the **cutting** or **removal** operations. The **tree protection barrier** must be constructed prior to

the issuance of the **permit** and must remain intact for any construction or demolition throughout the entire period of construction or demolition.

6.3 Permit Issuance or Refusal

6.3.1 The **Director** may do any of the following if a proposed activity would endanger the health or life of a **tree**:

- (a) Issue a **permit**;
- (b) Refuse to issue a **permit**;
- (c) Issue a **permit** subject to the observance or fulfilment of any additional conditions specified in the **permit** which in the opinion of the **Director** are necessary to achieve the purposes of this Bylaw.

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6.3.2 The **Director** may issue a **permit** if the **Director** is satisfied that one or more of the following conditions exist:

- (a) the **protected tree** is a **hazard tree**, or where the applicant has otherwise demonstrated to the satisfaction of the **Director** that the **tree** is dead, damaged, diseased, or in decline beyond expectation of recovery;
- (b) the **protected tree** is causing structure or infrastructure impairment, interference or risk, and the impairment, interference, or risk cannot be reduced or removed through any other reasonable solution other than the removal of the **protected tree**, as determined by the **Director** or a **qualified professional engineer** with the approval of the **Director**.
- (c) the removal of the **protected tree** is required for the construction or installation of a driveway, roads, or services, required off-street parking area, below ground service line, or an above ground utility corridor, and where no other suitable locations or low impact construction methods are available for the placement of the driveway, roads, services, parking area, service line or utility corridor, as determined by the **Director**.
- (d) the **protected tree** is located within the footprint of a proposed building or structure, underground service, driveway, or off-street parking area that would be permitted under the Development Procedures Bylaw, or that is required pursuant to any other City Bylaw, and that could not be modified or relocated on the parcel in order to retain the **protected tree**, as determined by the **Director**.
- (e) the **protected tree** is situated within two (2) metres of a lawfully constructed building foundation wall.

- (f) where the **Director** is satisfied that preservation of the **protected tree** will not meet the objectives of this Bylaw or the Urban Forest Strategy due to inappropriate siting or species selection.

6.4 Permit Expiry

- 6.4.1 Every **permit** shall expire 6 months from the date of issue or upon such earlier date as may be specified in the **permit**.

6.5 Permit Renewal, Extension or Modification

- 6.5.1 If the **tree cutting** or **removal** operations authorized by a **permit** are not completed before the **permit** expires, or it becomes necessary to alter or deviate from the particulars of the **permit** application or the **tree cutting** and replacement plan submitted for a **permit**, the **Director** may renew, extend or modify the **permit** upon written request of the **permit** holder, subject to the following:
 - (a) A **permit** holder has no vested right to receive an extension, renewal or modification and the **Director** may require that a new **permit** be obtained;
 - (b) The **permit** holder shall pay a non-refundable fee in the amount applicable under the City of Duncan Fees and Charges Bylaw;
 - (c) The **Director** may not renew or extend a **permit** for a period of more than two years from the date of issuance of the original **permit**;
 - (d) The **Director** may require that the **permit** holder provide additional information authorized by this Bylaw as a pre-condition to considering an application for a **permit** renewal, extension or modification; and
 - (e) All terms and conditions set out in the original **permit** shall apply to each renewal, extension or modification of the **permit** except as amended or modified by the renewal, extension or modification.

7. Regulations

7.1 Tree Cutting or Removal

- 7.1.1 Every **cutting** or **removal** of a **Protected Tree** or **Significant Tree** shall comply with, and every **permit** issued under this Bylaw is subject to, the observance or fulfilment of the following requirements, restrictions and regulations, as well as the practices outlined in Schedule "C" of this Bylaw, to the satisfaction and approval of the **Director**:

3135.02

- (a) **Tree** parts and wood waste shall be properly disposed of by chipping or removal from site in accordance with all applicable **City** Bylaws and Provincial regulations;
- (b) precautions shall be taken to ensure that **trees** which are not to be **cut** or **removed** are not subject to any of the **damaging** activities prohibited by **Section 5.1.3**;
- (c) no **tree cutting** or **removal** activities may be carried out between the hours of 6:00 p.m. and 8:00 a.m. the following day and between the hours of 6:00 p.m. and 9:00 a.m. on Sundays or holidays unless approved in writing by the **Director**;
- (d) all damage to drainage facilities, **watercourses**, **highways** or other public or private property arising from the **removal** of a **tree** shall be promptly and properly repaired to the satisfaction of the **Director** at the expense of the **permit** holder;
- (e) all **watercourses**, groundwater aquifers, waterworks, ditches, drains, sewers or other established drainage facilities shall be kept free of all wood waste arising from or caused by the **tree cutting** or **removal** operations;
- (f) all hazards or potential hazards associated with the **tree cutting** or **removal** operation shall be adequately fenced or otherwise barricaded so as to ensure the safety of the public;
- (g) **tree cutting** or **removal** operations must not encroach upon, undermine, damage or endanger any adjacent **parcel** or any **setback** area prescribed in the **permit** or a Bylaw; and
- (h) **tree cutting** or **removal** operations shall be limited only to the area specified in the **permit** which shall be clearly marked at the site and such markings maintained for the duration of the **permit**.

7.2 Replacement Trees

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- 7.2.1 Where the **Director** has issued a **permit**, the following **replacement tree** requirements shall be followed:
- (a) each **protected tree** removed shall require two (2) **replacement trees** up to a maximum total at which the parcel will reasonably be expected to achieve fifty (50) **protected trees** per hectare and the total number of **protected trees** required on the parcel shall be determined using the formula in Schedule "A".
 - (b) for the purpose of calculating whether the parcel will reasonably be expected to achieve fifty (50) **protected trees** per hectare under section 7.2.1(a), there shall be credit granted for:
 - i) Retained **protected trees** on the **parcel**, each of which

shall count as a credit of one **protected tree** except when it is a **significant tree**, which shall count as a credit of three (3) **protected trees**;

- ii) **Replacement trees** shall count as a credit of one **protected tree** only if the **replacement tree** is of a species capable of reaching 30 cm **DBH** or greater at maturity.
- iii) **Replacement trees** shall count as a credit of two **protected trees** if the **replacement tree** is of a species capable of reaching 60 cm **DBH** or greater at maturity.

- (c) Notwithstanding section 7.2.1(b)(i), no credit will be granted in the calculation of 50 **protected trees** per hectare on a **parcel** for an existing **protected tree** that is dead, damaged, diseased, or in decline beyond expectation of recovery.

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7.2.2 Notwithstanding section 7.2.1(a):

- (a) as an alternative to replacement trees, three (3) substitute trees may be planted for every protected tree that is removed, only on a parcel where at least one (1) protected tree is retained; and
- (b) if the protected tree removed is a hazard tree, only one (1) replacement tree shall be required up to a maximum total at which the parcel achieves 50 protected trees per hectare, or alternatively two (2) substitute trees shall be required on a parcel where at least one (1) protected tree is retained.

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7.2.3 If a **tree** or **trees** located on any **parcel** form part of a **hedge**, for each **tree** removed, the **Director** may assess that less than one **protected tree** has been removed, for the purpose of calculating the **replacement tree** requirements in 7.2.1.

7.2.4 In the event that the **replacement tree** cannot, or need not, in the opinion of the **Director**, be accommodated on the **parcel**, the **Director** may require the applicant to plant the **replacement tree** on **City** owned property in a location designated by the **Director**.

7.2.5 As an alternative to the planting of a **replacement tree** (or **replacement trees**) on the **parcel** from which a **tree** has been **removed**, the **Director**, upon application by the **owner** and after considering the state of development and landscaping of the **parcel**, may accept from the **owner** payment in an amount specified in the Fees and Charges Bylaw, for the costs of purchasing, planting and one year's maintenance of a **replacement tree** on land owned by the **City**, in which case the **Director** shall cause such **replacement tree** (or **trees**) to be purchased and planted not later than twelve (12) months after receipt of such payment.

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7.2.6 **Replacement trees** shall be planted and maintained in accordance with sound horticultural and arboricultural practices to the satisfaction of the **Director**.

7.2.7 Where the planting and maintenance of a **replacement tree(s)** or **substitute tree(s)** is required pursuant to this Bylaw, the owner shall provide a security in the amount of \$500 for each **replacement tree** to be planted and maintained on the applicant's **parcel**, or \$350 for each **substitute tree** to be planted and maintained on the applicant's **parcel**, in accordance with the requirements of Schedule "A", to a maximum of \$10,000 per application.

8. **Administration**

8.1 **Inspection**

8.1.1 The **Director** is hereby authorized at all reasonable times to enter upon and inspect any lands to determine whether the requirements, restrictions, regulations, terms, conditions and directions of this Bylaw or a **permit** issued under this Bylaw are being observed.

8.1.2 Without limiting the generality of s. 8.1.1, the **Director** may, at all reasonable times, assess or inspect, or cause an assessment or inspection to be made of any **Protected Trees** to which this Bylaw applies, including an assessment of the location, size, species and condition of such **trees**, in the following circumstances:

- (a) Where land is the subject of an application for subdivision, approval of a servicing plan prior to subdivision, a Development Permit, a Development Variance Permit, a Temporary Commercial or Industrial Use Permit or a Building Permit;
- (b) When **replacement trees** have been planted as required by this Bylaw; or
- (c) When an application for a **permit** to carry out **tree cutting** or **removal** operations has been made under this Bylaw.

8.1.3 No person shall prevent or obstruct or attempt to prevent or obstruct the **Director** or designate from entering upon lands as authorized by Sections 8.1.1 and 8.1.2.

8.2 **Notice of Non-compliance**

8.2.1 The **Director** may give notice to any person of a breach of, or non-compliance with, any of the provisions of this Bylaw or a **permit** issued under this Bylaw, and such person shall immediately cease all **tree cutting** or **removal** activities until such breach or non-compliance is remedied to the satisfaction of the **Director**, and every **owner** of real property shall refuse to suffer or permit further **tree cutting** or **removal** operations upon the real property until such time as the breach or non-compliance is remedied to the satisfaction of the

Director.

8.3 Failure to Remedy Non-compliance

- 8.3.1 In the event that a person having received notice under Section 8.2 fails within the time specified therein to remedy such breach, the **City** or its appointed agents may enter upon the real property and undertake, at the **owner's** or occupier's expense, the works required to remedy the breach.

8.4 Notice of Remedial Requirement

- 8.4.1 In addition to any other provision of this Bylaw, where a person **cuts, removes or damages**, or causes, suffers or permits any **Protected or Significant Tree** to be **cut, removed, or damaged** in contravention of this Bylaw or in violation of any term or condition of a **permit** issued under this Bylaw, that person, within 30 days of receiving notice of such requirement from the **Director**, shall:
- (a) Submit for the **Director's** approval a **tree cutting** and replacement plan in accordance with the requirements of **Schedule "A"**, specifying the location and species of all **replacement trees**; and
 - (b) Plant and maintain on the same **parcel** in accordance with the approved **tree cutting** and replacement plan a minimum of two (2) **replacement trees** for each **tree** unlawfully **cut, removed or damaged** and in the event the **Director** determines it is not feasible or practical to replace the **trees** on the same **parcel**, the **replacement trees** shall be planted on **City** land in a location designated by the **Director**.
- 8.4.2 In the event that a person having received notice under Section 8.2 fails within the time specified therein to remedy such breach, the **City** or its appointed agents may enter upon the real property and undertake, at the **owner's** or occupier's expense, the works required to remedy the breach.

8.5 Suspension or Cancellation of Permit

- 8.5.1 Without limiting the application of **Section 9** (Offences and Penalties), if:
- (a) There is a contravention of any term, condition, requirement or restriction of this Bylaw or a **permit** issued under this Bylaw; or
 - (b) A **permit** was issued under this Bylaw on the basis of statements made in the **permit** application or a report, declaration or record required under this Bylaw, that were false or misleading with respect to a material fact or that omitted to

state a material fact, the omission of which made the statement false or misleading; the **Director** may:

- (i) Suspend in whole or in part the rights of the **permit** holder under the **permit**;
- (ii) Cancel the **permit**; or
- (iii) Amend or attach new conditions to a **permit**.

8.6 Right of Reconsideration

8.6.1 Where an **owner** or occupier of real property is subject to a requirement or a decision made by the **Director** under this Bylaw, the **owner** or occupier may apply to the **City Council** for reconsideration of the matter.

8.6.2 There is no charge for an application for reconsideration.

8.6.3 An **owner** or occupier who wishes to have a decision reconsidered by **Council** must apply for the reconsideration by delivering to the Director of Corporate Services, within 30 days after the decision is communicated in writing to the **owner** or occupier, a reconsideration application in writing, which must set out all of the following:

- (a) The date of the decision and the nature of the decision;
- (b) Reasons why the **owner** or occupier considers the **Director's** decision or requirement to be inappropriate;
- (c) The decision the **owner** wishes to have **Council** substitute for the **Director's** decision, with brief reasons in support of the request; and
- (d) A copy of any materials considered by the **owner** to be relevant to the reconsideration by **Council**;

8.6.4 A reconsideration application must be considered by **Council** at a regular meeting of **Council** held no more than four weeks after the date on which the reconsideration application is delivered to the Director of Corporate Services;

8.6.5 The Director of Corporate Services must:

- (a) Place each reconsideration application on the agenda for a regular meeting of **Council** in accordance with Section 8.6.4;
- (b) Give notice of each reconsideration by **Council** in accordance with any notice requirements in respect of the original application that are set out in the Development Procedures Bylaw or the applicable legislation; and
- (c) Before each reconsideration by **Council**, deliver to each **Council** member a copy of the materials that were considered by the **Director** in making the decision that is to be reconsidered.

- 8.6.6 In reconsidering a decision, **Council** must consider the material that was considered by the **Director** in making the decision;
- 8.6.7 At a reconsideration of a decision, the **owner** or occupier and any other person who is interested in the decision are entitled to be heard by **Council**;
- 8.6.8 **Council** is entitled to adjourn a reconsideration of a decision; and
- 8.6.9 After having reconsidered a decision, **Council** may either confirm the **Director's** decision, amend the **Director's** decision, or may set aside all or part of the **Director's** decision and substitute the decision of **Council**.

8.7 Recovery of Costs And Fees From Real Property Taxes

- 8.7.1 The costs of fees and actions taken by the **City** under this Bylaw may be collected by the **City** in the same manner as real property taxes and will be added as arrears of taxes if unpaid by December 31 in the year in which the costs are incurred.

3135.02

8.8 Security for Replacement Trees or Substitute Trees

- 8.8.1 The security required in Section 7.2.7 may be submitted in the form of cash, cheque, or irrevocable letter of credit, bank draft or in a form satisfactory to the Director.
- 8.8.2 Full security for each **replacement tree** or **substitute tree** held by the City will, upon application by the owner, be returned to the permit holder no less than six (6) months from the date of planting, upon approval by the Director that each **replacement tree** or **substitute tree** has been planted in a healthy condition based on evidence provided by the owner.
- 8.8.3 If an owner fails to or refuses to plant the required number, size, and type of **replacement trees** or **substitute trees** in the specified locations within one year after the removal of a **protected tree**, the City will claim the securities.
- 8.8.4 If an owner determines it is not feasible or desirable to provide **replacement trees** or **substitute trees** on the same **parcel** on which the **protected trees** were removed, the owner may request the Director to convert the securities towards the cash-in-lieu payment specified in Section 7.2.5.

9. Offences and Penalties

- 9.1 Any person who contravenes or violates any provision of this Bylaw or of any **permit** issued under this Bylaw, or who suffers or allows any act or thing to be done in contravention or violation of any of the provisions of this Bylaw or any **permit** issued under this Bylaw, or who fails or neglects to obey any order,

direction or notice given under this Bylaw or any **permit** issued under this Bylaw, commits an **offence** against this Bylaw and is liable on summary conviction to a fine of \$10,000 in addition to the costs of prosecution.

- 9.2 Where one or more **Protected Tree** is **cut** or **removed** other than as authorized by this Bylaw, or more than one **Protected Tree** is not replaced or maintained in accordance with a **permit** issued under this Bylaw, a separate offence is committed in respect of each such **tree**.
- 9.3 Where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence.
- 9.4 Notwithstanding Section 9.1, any person who is guilty of obstructing the **Director** or **Officer** or their appointed designates while performing his/her duties in relation to this Bylaw is liable upon summary conviction to a fine of not less than \$1,000.00, or to imprisonment for not more than 6 months, and the cost of prosecution.

3135.02

10. **Severability**

- 10.1 If any part, section, sub-section, sentence, clause or sub-clause of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid section shall be severed and the decision that it is invalid shall not affect the validity of the remaining portions of this Bylaw.
- 10.2 Section headings do not form part of this Bylaw. They are included for convenience only and must not be used in interpreting this Bylaw.

11. **Repeal**

- 11.1 "Tree Regulation for Public Lands Bylaw No. 1765, 1995" and any amendments thereto are hereby repealed.

PASSED FIRST READING 2014-NOV-24
PASSED SECOND READING 2014-NOV-24
PASSED THIRD READING, AS AMENDED 2015-MAR-16
ADOPTED 2015-APR-20

Phil Kent, Mayor

Karen Robertson,
Director of Corporate Services

SCHEDULE "A"

REPLACEMENT TREES

Where **replacement trees** are required to be provided pursuant to this Bylaw, such **replacement trees** shall be provided and planted as follows:

1. For **tree removals** on properties containing a single family dwelling, **tree removal** not related to demolition or construction of a new single family dwelling requires the following **tree** replacement:
 - 1.1 Deciduous **replacement trees** are to be a minimum of 2m in height or of a minimum 6cm caliper*,
 - 1.2 Coniferous **replacement trees** are to be a minimum of 2m in height.
2. For **tree removals** under **permits** related to construction, demolition, Rezoning, Development Permits, Subdivisions or Building Permits for all properties other than properties containing single family dwellings:
 - 2.1 Every deciduous **replacement tree** shall be of the minimum caliper* specified in Column 3 of Table 1 of this Schedule,
 - 2.2 Every coniferous **replacement tree** shall be a **tree** of the minimum height specified in Column 2 of Table 1 of this Schedule.
3. Every **replacement tree** shall be spaced from existing **trees** and other **replacement trees** in accordance with an approved landscape plan and in all cases shall be planted in accordance with the current BCSLA (British Columbia Society of landscape architects) or BCLNA (British Columbia Landscape & Nursery Association) Landscape Standards, and all **replacement trees** shall meet current BCSLA or BCLNA standards.

Table 1		
DBH of Tree Cut or Removed	Minimum Height of Coniferous Replacement Tree	Minimum Caliper* of Deciduous Replacement Tree
COLUMN 1	COLUMN 2	COLUMN 3
Up to 30cm (12")	2.5 m (8.2 ft)	6 cm (2.5")
30-60 cm (12" – 24")	3.5 m (11.5 ft)	8 cm (3")
60cm + (24" +)	4.5 m (14.8 ft)	10 cm (4")

* Caliper size is the caliper width, or **diameter**, of a **tree** at 15cm height from the ground.

3135.02

4. The table below shall be used to reference the number of **protected trees** required to achieve 50 **protected trees** per hectare:

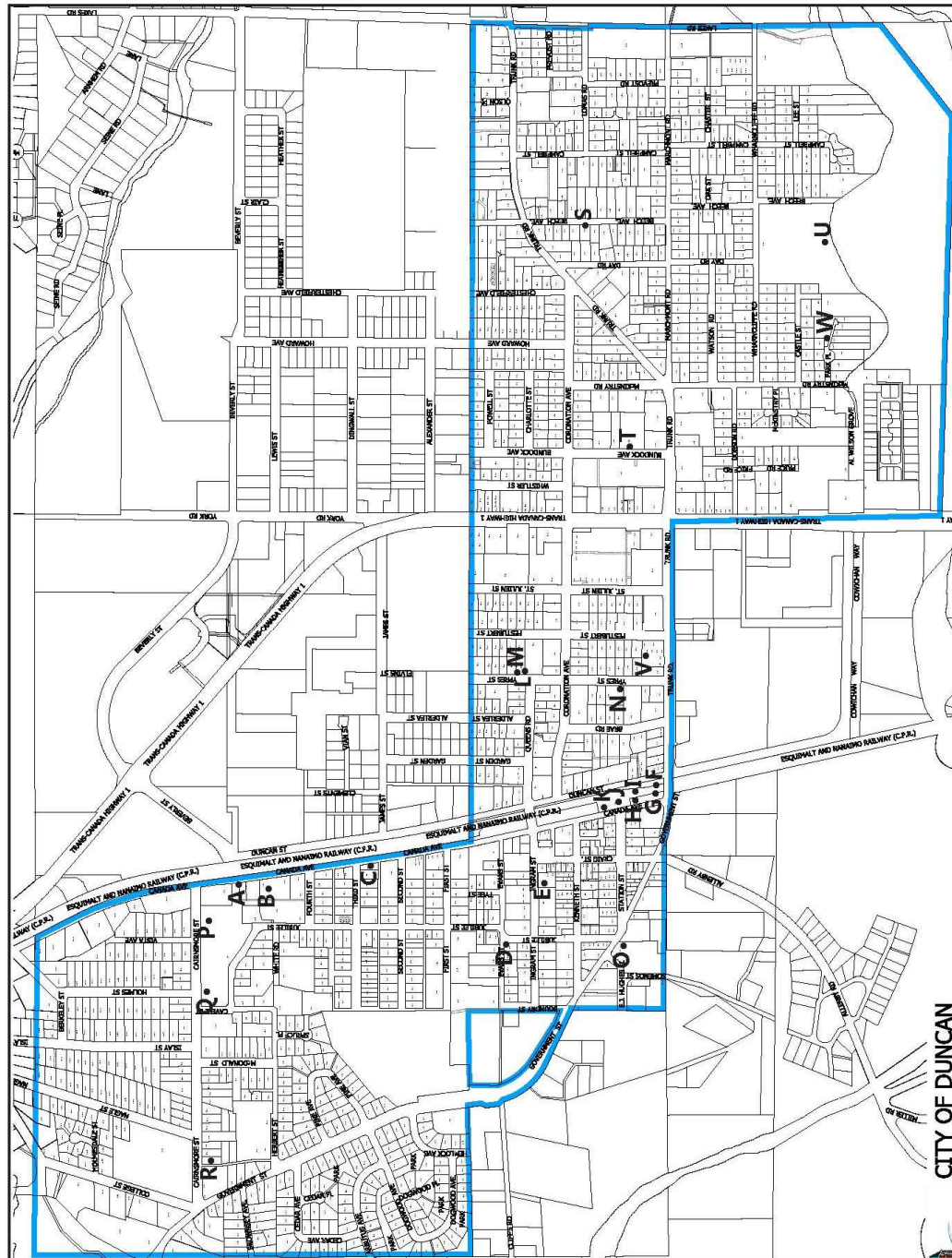
Table 2	
Parcel Size Area (m2)	Protected Trees Required
< 300	1
300 – 499	2
500 – 699	3
700 – 899	4

For any other **parcel**, the number of **protected trees** required to achieve 50 **protected trees** per hectare shall be calculated by the following formula:

$$\frac{\text{Parcel area (m2)}}{10,000 \text{ (m2)}} \times 50 = \text{Number of } \mathbf{protected\ trees} \text{ required (rounded)}$$

Schedule B replaced by Bylaw 3135.01

SCHEDULE B - SIGNIFICANT TREES
SIGNIFICANT TREE MAP



SCHEDULE “B” – SIGNIFICANT TREES

Label	Common Name	Botanical Name	DBH (cm)	Ht (m)	Overall Condition	Comments	Min. Root Protection Zone (m)
A	Garry Oaks (two trees)	<i>Quercus garryana</i>	65, 70	19	Good	Two trees located in a recently completed commercial development. They have both been pruned for overhead power lines and it appears their roots were managed for the parking nearby. Mulch has been placed around their bases. These are significant trees for the area due to their size, species, and condition.	12.6
B	Beech	<i>Fagus sylvatica</i>	60	12	Good	Located in commercial development; a healthy, young specimen.	10.8
C	London Plane	<i>Platanus x acerifolia</i>	84	17	Good	Beside power lines; pruned on east side; pavement surrounding base, large diameter tree in the downtown core.	15.1
D	London Plane	<i>Platanus x acerifolia</i>	84	17	Good	Beside power lines; pruned on east side and bottom; pavement surrounding base, large diameter tree in the downtown core.	15.1
E	Bigleaf Maple	<i>Acer macrophyllum</i>	84	22	Good	Adjacent to Green Door building; likely has historical significance.	15.1
F	London Plane	<i>Platanus x acerifolia</i>	48	18	Excellent	Large, open crown; good rooting zone	8.6
G	Red Oak	<i>Quercus rubra</i>	70	18	Good	Near train station, existing heritage tree; abundant soil available for rooting.	12.6
H	Red Oak	<i>Quercus rubra</i>	72	16	Good	Near train station, existing heritage tree; abundant soil available for rooting.	13.0
I	Red Oak	<i>Quercus rubra</i>	58	15	Good	Near train station, existing heritage tree; abundant soil available for rooting.	10.4
J	Red Oak	<i>Quercus rubra</i>	70	16	Good	Main stem has pruning wounds that have not completely closed over. Existing heritage tree; abundant soil available for rooting.	12.6
K	Red Oak	<i>Quercus rubra</i>	45	15	Good	Younger tree than neighbouring oaks; near train station; likely has historical significance; abundant soil available for rooting.	8.1
L	Black Locust	<i>Robinia pseudoacacia</i>	65	12	Good	Ivy growing at the base.	11.7
M	Black Locust	<i>Robinia pseudoacacia</i>	95	13	Fair	Tree has been topped in the past.	17.1
N	Red Maple	<i>Acer rubrum</i>	72	27	Fair	Tree has good form; roots were cut on the north side near the power lines.	13.0
O	Bigleaf Maple	<i>Acer macrophyllum</i>	66	19	Good	An open grown, well-formed tree. Tree has a 2.5 m rooting zone.	11.9
P	English Oak	<i>Quercus rubra</i>	67	15	Good	Tree has good form and health; base abuts sidewalk.	12.0
Q	Garry Oak	<i>Quercus garryana</i>	67	21	Good	A tall specimen with good form and vigour; evidence of large pruning cuts due to adjacency to power lines.	12.0
R	English Oak	<i>Quercus rubra</i>	85	17	Good	Tree shows good form and vigour; asphalt for parking has been laid over roots.	15.3
S	Douglas Fir	<i>Pseudotsuga menziesii</i>	74	32	Good	The base of the tree has begun to grow over the sidewalk and near power lines creating infrastructure conflict.	13.3
T	Western Redcedar	<i>Thuja plicata</i>	110	32	Good	Good form and health; located between the White house apartments and the sidewalk; ravens are often observed perching in the tree.	19.8
U	English Oak	<i>Quercus rubra</i>	8	7	Good	Planted in McAdam Park in 2008 by the Women's Institute in celebration of their 100 th anniversary. The tree was grown from an acorn produced by the coronation oaks, which were sent to Canada in 1937. The coronation oaks were grown from acorns from the famed Windsor oak in Berkshire, UK.	1.4
V	English Walnuts (two trees)	<i>Juglans regia</i>	80	18	Good	Two trees of similar height on the same property. One is located in the middle of the parking lot with asphalt surrounding and over the roots. The other is located at the edge of the parking area, partially on the neighbouring property.	14.4
W	Copper Beech	<i>Fagus sylvatica purpurea</i>	115	18	Good	Mature tree estimated at 110 years old. The tree is said to have been brought over from England as a sapling. Several bird species perch and nest in the tree, including a resident owl.	20.7

SCHEDULE "C"

TREE PROTECTION PRACTICES

1. Ensure all **Protected Trees** are tagged with uniquely-numbered plastic tree tags.
2. Have a Consulting **Arborist** prepare a Tree Protection Plan in accordance with Schedule "D" of this bylaw, and review with Proponent, Design Consultants (particularly **Qualified Professional Engineer**, Architect and Landscape Architect), General Contractor and relevant sub-contractors.
3. Erect sturdy, well-signed, **tree protection barriers** prior to commencement of demolition, site preparation or construction in accordance with Schedule "D", and continuously maintain the fence and signage until the completion of the work proposed to be carried out on the land to which the **permit** applies.
4. Conserve **trees** in groups, where possible. Conserve growing soils and "place-holders" for new **trees**, when planning your site.
5. Discuss site access, storage, servicing, blasting and work-sequencing requirements with your Contractor and resolve any conflicts with the **Protected Tree** areas or measures.
6. When blasting, ensure that explosive materials are selected that minimize combustible gases, which may otherwise harm roots. "Pre-shearing" and low "particle velocities" will also help to minimize root trauma.
7. Store all excavation and building material away from retained **trees**.
8. Use an access route to the subject site that avoids impact on the **protected root zones** of adjacent **trees**.
9. Locate concrete washout areas away from retained **trees** (preferably down slope) and away from proposed and existing garden areas.
10. Where **tree** roots are impacted by digging or other site activities, **damaged** roots should be **pruned** cleanly just before the point of impact with a sharp pruner or saw. Roots cut by excavation must be immediately wrapped in a root curtain of wire mesh lined with burlap surrounded by posts, and the root curtain must be kept moist throughout the construction process.
11. Make use of new techniques and products to broaden the number and efficiency of the proposed **tree** protection options (e.g. hydraulic excavation, vertical shoring, on-grade road or sidewalk construction, pier and post construction, structural soils, permeable pavers etc.). Consult a certified **arborist** or landscape architect.
12. Apply a 10cm layer of **tree** chip mulch to **Protected Tree** areas to retain moisture, improve nutrients and increase beneficial soil biology.

SCHEDULE "D"

TREE PROTECTION PLANS: **REPORTING STANDARDS FOR CONSULTING ARBORISTS**

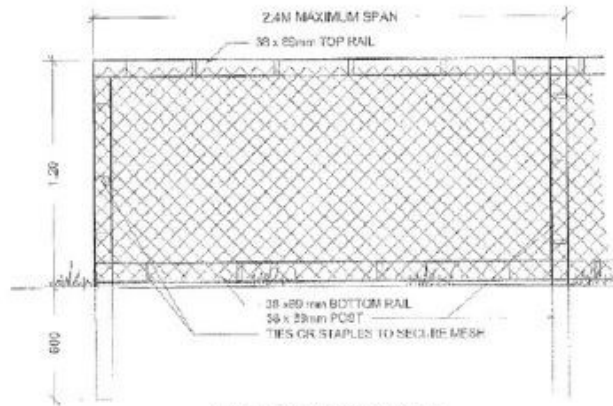
1. Written Report and Summary
 - (a) Executive Summary (project and proponent info, Summary Tree Resource stats, total **trees** proposed for **removal**, retention and replacement)
 - (b) Introduction (project background and consultant's assignment)
 - (c) Site observations (including aerial context photo)
 - (d) Description and Evaluation of Tree Resource, including risk assessment
 - (e) Discussion of Proposed Site Plan, including potential **tree** impacts. (Should address grading plan, site servicing, building elements and landscape grading, soil preparation, planting plan and proposed hardscape, irrigation and lighting elements.)
 - (f) Proposed classification of **trees** to be **removed** or retained.
 - (g) Discussion and recommendations for Tree Protection Measures
2. Tree Inventory Table (append to Plan)
 - (a) Tree tag #, Common Name, **DBH**, Canopy Breadth, **Protected Root Zones**, Biological Condition, Structural Condition, Defects, Micro-site conditions
3. Tree Protection Drawing (append to Plan)
 - (a) Topographic Tree Survey elements (north arrow, land contours, **tree** locations, property lines, roads, driveways, etc.)
 - (b) Site Plan Element overlays (architectural, grading, servicing, landscape)
 - (c) **Protected Tree** tag #s, labels, canopy extents, calculated and **protected root zone** extents
 - (d) **Replacement Tree** labels and locations
 - (e) Proposed **Tree Protection Barrier** alignment
 - (f) Protective measures notes
4. Tree Protection Fencing Detail (appended to Plan) in accordance with Schedule "E" to this Bylaw.

Amended by Bylaw 3135.01

SCHEDULE "E"

TREE PROTECTION BARRIER REQUIREMENTS

Schedule "E" TREE PROTECTION BARRIER REQUIREMENTS

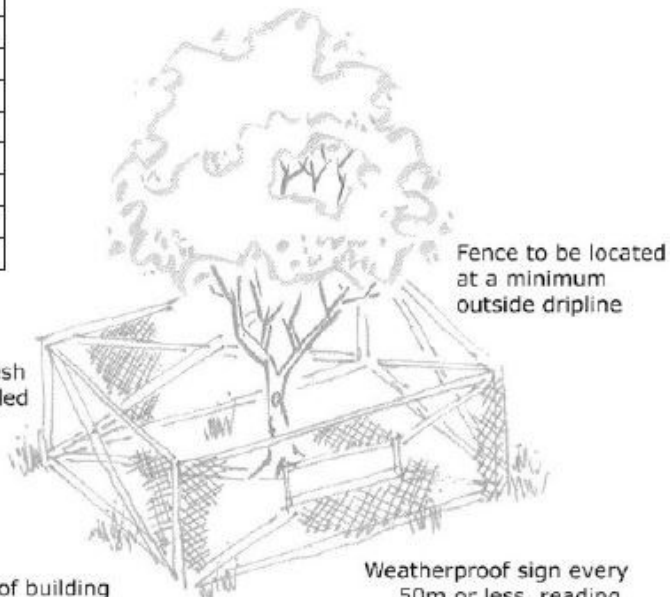


TREE PROTECTION FENCING
FENCE WILL BE CONSTRUCTED USING
38 X 89 mm (2"x4") WOOD FRAME;
TOP, BOTTOM AND POSTS. *
USE ORANGE SNOW FENCING MESH AND
SECURE TO THE WOOD FRAME WITH
"ZIP" TIES OR GALVANIZED STAPLES

* IN ROCKY AREAS, METAL POSTS (T-BAR
OR REBAR) DRILLED INTO ROCK WILL BE
ACCEPTED

TREE PROTECTION FENCING DISTANCE TABLE	
Trunk Diameter (cm)	Min. Distance From Tree (m) (= dia x 18)
10.0	1.8
20.0	3.6
30.0	5.4
40.0	7.2
50.0	9.0
60.0	10.8
70.0	12.6
80.0	14.4
90.0	16.2
100.0	18.0

Solid barrier fence with mesh
or plywood panels as detailed



NOTE: no storage of building
materials within or against protection barrier

Weatherproof sign every
50m or less, reading
"Tree Protection Area, Keep Out"