

# CITY OF SALMON ARM

## BYLAW NO. 4637

### A bylaw to regulate the cutting down and protection of trees

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WHEREAS pursuant to section 8(3)(c) of the *Community Charter [S.B.C. 2003, Ch. 26]*, the City of Salmon Arm may by bylaw, regulate, prohibit and impose requirements in relation to trees;

AND WHEREAS pursuant to section 500 of the *Local Government Act [S.B.C. 2015, Ch. 1]* a municipality may require permits to cut trees on areas of land that it considers may be subject to flooding, erosion or land slip;

AND WHEREAS Council considers it in the public interest to provide for the protection and preservation of trees, and the regulation of their cutting down and removal;

NOW THEREFORE the Council of the City of Salmon Arm in open meeting assembled enacts as follows:

#### 1. DEFINITIONS

In this Bylaw:

“Boundary Tree” means a tree where the base of the tree trunk straddles a property line.

“Certified Tree Risk Assessor” means a Certified Arborist or a Qualified Professional who has completed an Urban Forestry degree, or the “Tree Risk Assessment” course or the “Wildlife Danger Tree Assessment” course and passed the Assessment Exam under the authority of the International Society of Arboriculture (ISA) or the Wildlife Danger Tree Committee of B.C., as applicable.

"Certified Arborist" means a person certified by the International Society of Arboriculture or the National Arborist Association as an Arborist.

“City” means the City of Salmon Arm.

“Cut” means to cut down, kill or remove a tree by any means and without limiting the generality of the foregoing includes the topping of a tree or stem of a tree.

“Drip Line” means the area at the base of a tree created by a vertical line extending down from the outermost branches of a tree to the ground;

“Floodplain” means the same as the definition provided in the City’s Zoning Bylaw No. 2303, as amended from time to time, and as delineated in the City’s Official Community Plan Bylaw No. 4000, as amended from time to time.

“Landscape Tree” means any tree listed and identified on Schedule “A” to this bylaw;

“Municipality” means as the context requires the City of Salmon Arm, or the area within the boundaries of the City of Salmon Arm;

“Officer of the Municipality” means any officer or employee of the City of Salmon Arm appointed by the City’s Chief Administrative Officer;

“Owner” means the registered owner in fee simple of a parcel of land and the trees growing on it;

“Permit” means an authorization provided by the City in accordance with Section 5 of this Bylaw.

“Top of Bank” means the point closest to the active floodplain of a watercourse where a break in the slope of the land occurs such that the grade beyond the break is flatter than 3:1 at any point for a minimum distance of 15.0 m measured perpendicularly from the break or as determined by a qualified professional with relevant experience in Watercourses or fisheries.

“Watercourse” means:

- a) a natural flowing river or stream or a standing body of water which forms a wetland, marsh or an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions;
- b) a natural depression in the land 0.5 metres or more in depth usually containing water;
- c) a creek, lake, pond, basin, pool, lagoon, reservoir, ditch, waterfall, or spring;
- d) any combination of a), b) and c) above.

## 2. APPLICATION

This Bylaw applies to all trees within the City, having a minimum trunk circumference of 30.0 centimetres (cm), when measured at 1.5 metres (m) above the level of the natural ground.

## 3. EXCEPTIONS

The following are exempted from the provisions of this Bylaw:

- a) any tree that constitutes a danger or hazard to persons or property, as determined by a Certified Tree Risk Assessor or Certified Arborist;
- b) any tree on land that is classified as managed forest land under the *Assessment Act* [S.B.C. 1996, Ch. 20] or located within a licence area under the *Forest Act* [S.B.C. 1997, Ch. 157], or located on land subject to the provisions of the *Private Managed Forest Land Act* [S.B.C. 2003, Ch. 80], so long as the land continues to be used for the production and harvesting of timber; or
- c) any tree on any park, highway or utility right-of-way either of the municipality or of a public utility subject to public utilities legislation of Canada or any tree that is impeding, damaging or inhibiting the use of any such park, highway or utility right-of-way or utility located thereon;
- d) any tree required to be cut to enable the owner of a Parcel on which an agricultural use is permitted under the City’s Zoning Bylaw No. 2303 as amended from time to time, to use the land for that purpose, in so far as the cutting down and removal of trees is necessary to accommodate the agricultural use, and subject to the owner filing with the City an affidavit verifying the purpose;

- e) on a parcel of land that is zoned for residential uses and is 1,500 square metres (16,145 square feet) or less in area, no more than three (3) trees in any calendar year;
- f) on a parcel of land that is zoned for residential uses and is larger than 1,500 square metres (16,145 square feet) in area, and up to 0.4 hectares (43,056 square feet / 1 acre) in area, no more than six (6) trees in any calendar year;
- g) on parcels zoned for residential use larger than 0.4 hectare (1 acre), the removal of no more than 12 trees per hectare in any calendar year, to a maximum of 100 trees annually, regardless of the parcel size;
- h) any tree required to be cut down or removed to comply with the provisions of the City's Property Maintenance Bylaw No. 3137, as amended from time to time;
- i) any tree required to be cut down or removed to comply with the provisions of the City's Traffic Bylaw No. 1971, as amended from time to time;
- j) any tree authorized to be cut down or removed under the provisions of a valid development permit issued by the City;
- k) any tree that is authorized to be cut down or removed to accommodate the construction of a building, structure, off-street vehicular parking area or driveway that is the subject of a building permit issued by the City in accordance with its bylaws;
- l) any tree authorized to be cut down or removed by an approval under the provisions of the City's Subdivision and Development Servicing Bylaw No. 4163, as amended from time to time;
- m) any tree required to be cut down or removed by the City Fire Department or the Province in conjunction with firefighting activity or as a fire prevention measure;
- n) any tree recommended to be cut down or removed to align with an Advanced Home Assessment report under the Firesmart Program, conducted by a formally trained assessor (Certified Tree Risk Assessor, Certified Arborist, Fire Department Official) within the home ignition zone.
- o) any tree required to be cut down or removed pursuant to the Sterile Insect Control Program of the Columbia Shuswap Regional District;
- p) any tree required to be cut down or removed to facilitate airport operations;
- q) emergency situations where a tree or limb of a tree has been damaged by natural causes, and the tree or limb is in imminent danger of falling and causing injury to persons or damage to property.

#### **4. CUTTING OF TREES AND DAMAGE TO TREES**

4.1 No tree may be cut, removed or damaged except where its' Owner holds a valid and subsisting Permit to do so, or where excepted subject to Section 3 of this Bylaw.

4.2 For the purposes of this section, damage includes actions resulting in the death of the tree, or pruning or removing any limb where the diameter of the limb at the point of pruning or removal is larger than:

- a) 5% of the diameter of the trunk of the tree if the tree is a coniferous species; or
- b) 15% of the diameter of the trunk of the tree where the tree is of the broadleaf species.

4.3 No Landscape Tree defined in Schedule "A" may be cut down or removed, except where its' Owner holds a valid and subsisting Permit to do so.

4.4 No tree on land with a slope in excess of thirty per cent (30%) may be cut down, removed or damaged under this section, unless a report from a an appropriate qualified geotechnical professional prepared at the Owner's expense, indicates that slope stability will not be negatively impacted or that increased soil erosion will not result.

4.5 No tree located within fifteen (15) metres of the Top of Bank of a Watercourse may be cut down, removed or damaged under this section, except where a tree or the roots of a tree are blocking a Watercourse or reducing its drainage capacity and creating a risk of flooding of property, unless a report from an appropriate qualified environmental professional prepared at the Owner's expense, indicates that negative environmental impacts will not be created in the riparian area.

4.6 No tree located within the 1:200 year Floodplain may be cut down, removed or damaged under this section, unless a report from a qualified hydrological engineer, requested by the City and prepared at the Owner's expense, indicates that there are no negative Floodplain impacts on the Owner's lands or any adjacent lands.

## 5. PERMITS & CONDITIONS

5.1 Any Owner seeking permission to cut or remove a tree, must make an application for a Permit to the City, using a form approved by the Officer of the Municipality.

5.2 Every application for a Permit made to the Officer of the Municipality shall be accompanied by a non-refundable application fee as set out in the City's Fee For Service Bylaw No. 2498, as amended from time to time.

5.3 The application for a Permit shall contain:

- a) the name, address and signature of the Owner or agent of the Owner (along with any required agent authorization) or the names and addresses of both owners in the case of a Boundary Tree;
- b) the legal description and address of the property on which the trees are to be cut or removed;
- c) a dimensioned plan of the property identifying the property's boundaries, any structures, physical features and watercourses;
- d) a dimensioned plan identifying the location, type and trunk diameter of all trees that are proposed to be cut or removed;
- e) a dimensioned plan identifying the general location of any trees or groups of trees that will remain on the property within 30 metres of the tree or trees proposed to be cut or removed;
- f) confirmation from the Owner or applicant that there are no active bird's nests in the trees to be cut, and if requested, a report and nest survey prepared by an appropriate qualified environmental professional that the tree cutting and removal can be conducted in accordance with the provisions of the *Wildlife Act* [S.B.C. 1996, Ch. 488] or the federal *Migratory Birds Convention Act* [S.C. S.C.1994, Ch. 22] and/or the *Species at Risk Act* [S.C. 2002, Ch. 29];
- g) if requested, a report prepared by an appropriate qualified geotechnical professional regarding the impact of the proposed cutting or removal of any tree located on land with a slope in excess of thirty per cent (30%);
- h) if requested, a report prepared by an appropriate qualified professional regarding the environmental impact of the proposed cutting or removal of any

tree located within fifteen (15) metres of the Top of Bank of a Watercourse or within the Floodplain.

5.3 When making a Permit application to cut or remove a tree or trees, the Owner shall clearly mark with ribbon or paint each tree or group of trees that are proposed to be cut or removed.

5.4 The Officer of the Municipality is hereby appointed to grant Permits issued pursuant to this Bylaw, and to enforce the provisions herein, except for applications to cut or remove a Landscape Tree defined in Schedule "A", where only Council may issue a Permit.

5.5 The term of any Permit issued under this Bylaw shall be for a period of one (1) year from the date of issuance of the Permit.

5.6 As a condition to the granting of a Permit under this Bylaw, the Officer of the Municipality is authorized, if they deem it in the public interest, to require the Owner to provide:

- a) security in the form of a cash deposit or letter of credit to secure the full amount of the cost of replacing, planting and maintaining the trees that are to proposed be retained in any Permit application and which may be damaged or removed;
- b) security in the form of a cash deposit or letter of credit to secure the full amount of the cost of any environmental protection or remediation that may be required in areas within fifteen (15) metres of the Top of Bank of a Watercourse;
- c) security in the form of a cash deposit or letter of credit to secure the full amount of the cost of any measures taken to ensure slope stability on slopes in excess of thirty per cent (30%), in the amount of no less than one hundred and twenty per cent (120%) of any actions or measures required by the geotechnical professional's report;
- d) that the tree cutting or removal be delayed or timed to comply with the "least-risk windows" that have been developed by the Province as best management practices for the protection of birds and bird's nests;
- e) requirements for fences or barriers to ensure the physical protection of any trees that are to proposed be retained in any Permit application.

5.7 The Officer of the Municipality may refuse to issue a Permit if:

- a) the removal of trees is to proposed to facilitate development of the parcel, in advance of an approval by the City under Sections 3 (g), (h) or (i) of this Bylaw;
- b) the removal of the tree or trees would reasonably be expected to create a hazard to the safety of persons or to the public or to private property;
- c) the removal of the tree or trees could negatively affect the stability of a slope, regardless of whether or not the slope is in excess of thirty per cent (30%);
- d) the removal of the tree or trees would have a negative environmental impact that cannot be remediated in areas located within fifteen (15) metres of the Top of Bank of a Watercourse;
- e) the removal of the tree or trees would have a negative impact on the flooding or flood flows, or result in the transfer of flooding risk from the Owner's lands to any adjacent property or properties;
- f) the removal of the tree or trees would result in increased, adverse siltation in a Watercourse.

## 6. INSPECTIONS

6.1 When an application for a Permit is made under this bylaw, an Officer of the Municipality may inspect or cause an inspection and assessment 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.

6.2 When an application for a Permit is made under this bylaw, an Officer of the Municipality may inspect or cause an inspection and assessment to be made of any trees and the site on which they grow, in order to determine if any work is being performed in accordance with any Permit.

## 7. STOP WORK ORDERS

7.1 The Officer of the Municipality may issue a Stop Work Order and revoke a Permit issued under this Bylaw and direct immediate suspension of tree cutting authorized by this Bylaw, when a person has acted contrary to this Bylaw or to any condition attached to a Permit.

7.2 The Officer of the Municipality shall inform the owner of the reason for the issuance of a Stop Work Order and revocation of a Permit, in writing, within 48 hours of the revocation of the Permit.

7.3 The Officer of the Municipality may, through issuance of an Order, require an Owner of property to cut or remove a tree, if the Officer of the Municipality considers that the tree:

- a) poses a hazard to the safety of persons on public property; or
- b) poses a hazard or is likely to damage public property.

## 8. REPLACEMENT TREES

8.1 The Officer of the Municipality may, through issuance of an Order, require that any Owner or person in violation of this Bylaw shall replace the tree or trees that have been cut, removed or damaged upon a violation of this Bylaw, with a tree of like or similar species that is suited to its' natural environment, be planted with a distance of no less than 2.0 metres between individual trees, and be of a species from an appropriate species listing provided by the City and capable of growing to a height of no less than 9.0m in height when mature. An Order issued requiring the replacement of trees may require that the Owner or applicant provide security to secure the costs of the tree planting and replacement work, and ensure that the trees are adequately maintained for a period of up to two (2) years.

8.2 Pursuant to Section 8.1, the replacement of any tree or trees shall be according to the following:

Minimum trunk circumference of tree(s) damaged, destroyed or removed	Replacement Criteria
30 to 45.0 centimetres	2 replacement trees with a minimum height of 2.0m each
45.1 to 60 centimetres	3 replacement trees with a minimum height of 2.0m each
Over 60 centimetres	5 replacement trees with a minimum height of 2.0m each

8.3 Notwithstanding Section 8.2, the Officer of the Municipality may require a different species or size of tree to replace a tree that is damaged, destroyed or removed in violation of this Bylaw on the basis that a replacement tree of like species and size will:

- a) interfere with and/or damage underground services;
- b) interfere with and/or damage aboveground services;
- c) interfere with and/or damage roads, driveways or sidewalks;
- d) be subject to damage from road salts or other contaminants; or
- e) be susceptible to overexposure or underexposure to sunlight.

8.4 Where tree removal is permitted in accordance with Sections 3(g), (h) and (i) of this Bylaw for the following applications:

- a) a residential building permit (that results in the construction of a dwelling unit (excepting those for a secondary suite within an existing building); or
- b) a multi family residential development permit (that results in the creation of dwelling units); or
- c) a residential subdivision approval (that results in the creation of a new parcel);

the Owner or applicant shall provide the information required by Section 5.3 of this Bylaw, and shall replace and maintain a tree density on the parcel or parcels of land where trees were removed in accordance with the following:

<b>TREE REPLACEMENT &amp; MAINTENANCE REQUIREMENTS</b>	
Parcel Area (m <sup>2</sup> ):	Number of trees required:
0 - 365	2
365 - 450	3
451 - 565	4
566 - 750	5
751 - 1,000	6
1,001 - 1,250	7
1,251 - 1,600	8
1,601 - 1,850	9
1,851 - 2,200	12
2,201 - 2,550	16
2,551 - 2,900	20
2,901 - 3,250	25
Over 3,250	30  Plus one (1) additional tree for each 200m <sup>2</sup> in parcel area above 3,250m <sup>2</sup>

and the number of trees shall be specified in a permit provided by the City under this Bylaw.

8.5 Any tree provided as a replacement tree to maintain the required tree density pursuant to Section 8.4, shall have a minimum height of 2.0 metres when planted, be planted with a distance of no less than 2.0 metres between individual trees, and be of a species from an appropriate species listing provided by the City and capable of growing to a height of no less than 9.0m in height when mature.

8.6 Pursuant to Section 8.4, an Owner or applicant may achieve the required tree density target by:

- a) retaining existing trees on the parcel or parcels of land where trees were removed, and any existing retained tree (having a minimum trunk circumference of 30.0 centimetres (cm), when measured at 1.5 metres (m) above the level of the natural ground) may be counted as two (2) trees in any calculation of tree density;
- b) by providing and planting replacement trees in accordance with Sections 8.4 and 8.5 of this Bylaw; or
- c) by paying an amount to the City (with the consent of the City) in the amount indicated in the Fee For Service Bylaw No. 2498, as amended from time to time, which shall be deposited into a City reserve fund for tree planting.

8.7 Any existing tree on a parcel or parcels of land where trees were removed that is proposed by an Owner or applicant to be counted towards the required tree density pursuant to Section 8.6(a) of this Bylaw, shall be in good health and not be a hazard that constitutes a danger to persons or property.

8.8 The required tree density provided in Section 8.4 of this Bylaw is exclusive of any street trees that may be required to be planted by the City, pursuant to the Subdivision and Development Servicing Bylaw No. 4163, as amended from time to time.

8.9 Where a replacement tree plan or tree density plan is required pursuant to a development permit, building permit or subdivision approval decision by the City, the City may require that the Owner or applicant provide security to secure the costs of the tree planting and replacement work in accordance with Section 5.6 of this Bylaw.

## 9. RECONSIDERATION

9.1 A person that is subject to a decision of, or Order from, the Officer of the Municipality under this Bylaw may have Council reconsider the decision or Order.

9.2 A person wishing reconsideration under Section 9.1 of this Bylaw shall apply in writing to the City's Corporate Officer, within thirty (30) days of receipt of the decision or Order of the Officer of the Municipality, and shall include in the application:

- a) the name and signature of the Owner or agent of the property to which the Order or decision applies;
- b) the legal description and address of the property to which the Order or decision applies;
- c) the reason for the request for reconsideration; and
- d) the relief or remedy being sought.

9.3 The person seeking reconsideration shall be notified of the date and time that Council will reconsider the decision or Order, by the Corporate Officer, no less than five (5) days prior to the Council meeting.



9.4 In reconsidering the matter, Council may confirm, set aside, replace or otherwise modify the decision or Order of the Officer of the Municipality.

9.5 A person may not request reconsideration to Council of any decision relating to tree replacement and tree density requirements imposed by the City as part of a development permit, building permit or subdivision approval, pursuant to Sections 8.4, 8.5, 8.6, 8.7 and 8.8 of this Bylaw.

## **10. OFFENCE & PENALTY**

10.1 Every person who violates any provision of this Bylaw, or who allows or permits any act of thing to be done in violation of this Bylaw, is guilty of an offence against this Bylaw and each day that a violation continues is deemed to be a separate offence against this Bylaw.

10.2 Where more than one (1) tree is cut down, removed or damaged in violation of this Bylaw, a separate offence is committed in respect of each individual tree.

10.3 Every person who violates any provision of this Bylaw, or who allows or permits any act of thing to be done in violation of this Bylaw, is guilty of an offence against this Bylaw, and is liable upon summary conviction, to a fine not exceeding the maximum set out in the *Offence Act [SBC 1996, Ch. 338]*.

10.4 Every person who violates any provision of this Bylaw, or who allows or permits any act of thing to be done in violation of this Bylaw, is guilty of an offence against this Bylaw, and is liable to a fine if issued a ticket under the Ticket Information Utilization Bylaw No. 2760.

## **11. SEVERABILITY**

If any part, section, sub-section or clause of this bylaw for any reason is held to be invalid by the decision of a Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remaining portions of this bylaw.

## **12. ENACTMENT**

Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto as amended, revised, consolidated or replaced from time to time.

## **13. EFFECTIVE DATE**

This bylaw shall come into full force and effective upon adoption of same.

**14. REPEAL BYLAWS**

Upon adoption of this bylaw, District of Salmon Arm Tree Removal and Protection Bylaw No. 2305 is hereby repealed in its entirety.

**15. CITATION**

This bylaw may be cited as "**City of Salmon Arm Tree Protection Bylaw No. 4637**"

READ A FIRST TIME THIS	10	DAY OF	JUNE	2024
READ A SECOND TIME THIS	10	DAY OF	JUNE	2024
READ A THIRD TIME THIS	10	DAY OF	JUNE	2024
ADOPTED BY COUNCIL THIS	24	DAY OF	JUNE	2024

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"A. HARRISON"

MAYOR

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"R. WEST"

CORPORATE OFFICER

**Schedule "A"**  
**Landscape Trees**

1. Willow, Poplar and Cottonwood trees within Marine Park and adjacent to the westerly boundary of Marine Park Drive on Statutory Right of Way Plan KAP 76224 and Lot 1, Plan KAP48068, Section 14, Township 20, Range 10.