



An Introduction to the City of Kelowna Tree Protection Bylaw No. 8041

The purpose of this information bulletin is to introduce you to the provisions of the Tree Protection Bylaw No. 8041 which Kelowna City Council adopted on April 14, 1997 and amended in May 1998.

Trees provide important environmental benefits and enhance the quality of life in our City. This bylaw stems from concern of residents of Kelowna to prevent the removal of trees within environmentally sensitive areas including steep slopes and stream corridors.

Under the Kelowna Tree Protection Bylaw, applications for tree removal will be assessed for tree protection measures. Private property owners, developers, designers or contractors applying for a tree cutting permit should be familiar with the requirements of the tree protection bylaw.

The information provided here is intended for convenience only and cannot be used as a substitute for the Kelowna Tree Protection Bylaw No. 8041.

Legislative Mandate

In response to growing public concerns about the need to have regulatory powers to protect trees, the Provincial government amended the Municipal Act in July 1992 to enable municipalities to pass local tree protection bylaws. Recognizing that the needs, resources and circumstances of municipalities vary greatly throughout the province, the legislation allows each municipality to determine to what extent it wishes to establish regulations for tree cutting.

When is a Tree Cutting Permit Required?

The issuance of a Tree Cutting Permit is required in order to cut down a **protected tree** on those lands designated as **tree protection areas**.

A **protected tree** is defined in the bylaw as all coniferous and deciduous trees with a diameter greater than 150 mm (6 inches) measured 1 m above ground level. A **tree protection area** is defined as a stream corridor Leave Strip area and/or a hillside with a slope of 30% or greater within a **Natural Environment/Hazardous Condition Development Permit Area**, as identified on Map 13.2 of the Official Community Plan.

A **stream** is defined in the bylaw as a natural watercourse or source of water supply, whether usually containing water or not, ground water, lake, river, creek, spring, ravine, swamp and gulch.

A Tree Cutting Permit is also required for lands listed in **Schedule A - Tree Cutting Permit Areas** of Bylaw No. 8041. Please consult the bylaw for further information.

When is a Tree Cutting Permit Not Required?

A Tree Cutting Permit is not required:

- a) when the Director of Planning and Development Services approves, in writing, the removal or pruning of a **dead, diseased or damaged tree** as identified by a qualified person;
- b) for the emergency removal of a **dangerous or hazardous tree** which is likely to become in the immediate future a danger to people or property. The Director of Planning and Development Services must be notified immediately.

A **qualified person** is defined in the bylaw as a professional engineer, landscape architect or a certified arborist.

Delegation of Authority

The enabling legislation provides for Council to designate an employee or officer to act on Council's behalf by applying some discretion when administering the provisions of a tree protection bylaw, subject to any limits and conditions as established by Council. The intent of this provision is to address unique circumstances that may arise on individual properties and to expedite the approval process.

The Kelowna Tree Protection Bylaw makes provision for City Council to delegate authority to the **Director of Planning & Development Services** to issue tree cutting permits.

Tree Cutting Permit Requirements

If the applicant proposes to cut down any protected tree, an application for a permit must be made in writing to the City of Kelowna **Planning & Development Services Department** and must supply all of the following information unless a requirement is waived by the Director of Planning & Development Services:

- a) a **site plan** showing the legal boundaries and dimensions of the property;
- b) the **location of each protected tree** or group of protected trees on the property within a stream corridor Leave Strip area and/or area of slope with a grade equal to or greater than 30% (tree protection area), including trees located within two metres of the property line on an adjacent property;
- c) a site plan clearly identifying which **tree(s)** are **requested to be cut down**;
- d) a site plan clearly identifying which **tree(s)** are **to be retained**;
- e) a replacement plan showing the proposed **location of proposed replacement trees**;
- f) a **report prepared**, to the satisfaction of the City, **by a qualified person(s)** stating whether or not the proposed cutting will create such adverse impact as danger of flooding, erosion, land slip or contamination of watercourses;
- g) a **permit fee** of \$50.00 (This fee may be waived if applications for a Tree Cutting Permit and Development Permit relating to the same property are submitted to the Planning and Development Services Department concurrently.

When a Tree Cutting Permit is issued

As a condition of issuing a Tree Cutting Permit, the Director of Planning & Development Services may require any of the following:

- a) the **replacement of any protected tree** that is cut down with a tree or trees of a size and species and at such location or locations as the Director may specify;
- b) the **posting of a security deposit** equal to the value of 125% of the cost for the planting and maintenance of replacement trees;
- c) that the employees and authorized agents of the City of Kelowna be permitted to enter onto the land at any reasonable time to carry out **assessments and inspections** to determine whether the terms of the tree cutting permit are being complied with;
- d) that a permit issued be valid for a period not to exceed one year with the potential for one additional year subject to the approval of the Director.

Tree Replacement

As a condition of issuing a Tree Cutting Permit, the Director of Planning & Development Services may require that any protected tree that is cut down be replaced. Unless this provision is waived, any tree(s) cut down must be replaced within one growing season at a ratio of **two replacement trees for each tree removed**. The minimum size of replacement trees is 3.0 m (10 feet) in height for conifers and 80 mm (3.2 inches) in diameter measured 1 m above ground level for deciduous species.

When a permit is issued, maintenance requirements will be specified in the replacement plan and carried out in accordance with the specifications.

Penalties

Any person who violates the provision of the Kelowna Tree Protection Bylaw is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$2,000.00 for each violation. Where more than one tree is cut down, a separate offence is committed in respect to each tree.

In addition to any penalty that may be imposed under the bylaw, where a person cuts down a protected tree, the person may be required to replace the tree at a ratio of two replacement trees for each tree removed.

**For more information about the Kelowna Tree Protection Bylaw No. 8041,
please contact the Planning & Development Services Department at 862-3304.**