

K. BYLAWS

K.1 Bylaw for Tree Preservation Amendments

Moved By Mayor Helps
Seconded By Councillor Potts

That the following bylaw **be given first, second, and third readings:**

1. Tree Preservation Bylaw, Amendment Bylaw (No. 1) No. 19-082

FOR (7): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Isitt, Councillor Loveday, Councillor Potts, and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (7 to 1)

F. STAFF REPORTS

G.2 Tree Preservation Bylaw Update

Committee received a report dated September 12, 2019 from the Director of Parks, Recreation and Facilities regarding the proposed amendments to the Tree Preservation Bylaw to address the immediate need to clarify certain definitions, standardize information requirements and strengthen tree protection.

Committee discussed:

- *Sizes of protected trees in other municipalities*
- *Public input and consultation*

Moved By Councillor Isitt

Seconded By Councillor Loveday

That staff bring forward for the attached Tree Preservation Bylaw, Amendment Bylaw (No.1) No. 19-082 for first, second and third readings.

Amendment:

Moved By Councillor Isitt

Seconded By Mayor Helps

That “i” be changed from 80 centimeters to 60 centimeters.

CARRIED UNANIMOUSLY

Amendment:

Moved By Councillor Isitt

Seconded By Mayor Dubow

That Council direct staff to convene an opportunity for public comment as part of the bylaw approval process.

FOR (6): Councillor Dubow, Councillor Isitt, Councillor Loveday, Councillor Potts, Councillor Thornton-Joe and Councillor Young

OPPOSED (2): Mayor Helps and Councillor Alto,

CARRIED (6 to 2)

Amendment:

Moved By Mayor Helps

Seconded By Councillor Loveday

That the permit fee goes from \$30 to \$50.

CARRIED UNANIMOUSLY

Amendment:

Moved By Mayor Helps

Seconded By Councillor Isitt

That the security deposit goes from \$350 to \$700

CARRIED UNANIMOUSLY

Councillor Isitt left the meeting at 12:07 p.m.

Main Motion as Amended:

That staff bring forward for the attached Tree Preservation Bylaw, Amendment Bylaw (No.1) No. 19-082 for first, second and third readings.

1. That "i" be changed from 80 centimeters to 60 centimeters.
2. That Council direct staff to convene an opportunity for public comment as part of the bylaw approval process.
3. That the permit fee goes from \$30 to \$50.
4. That the security deposit goes from \$350 to \$700.

FOR (6): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Loveday, Councillor Potts and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (6 to 1)

Councillor Isitt returned to the meeting at 12:11 p.m.



Committee of the Whole Report

For the Meeting of September 12, 2019

To: Committee of the Whole **Date:** September 12, 2019
From: Thomas Soulliere, Director of Parks, Recreation and Facilities
Subject: Tree Preservation Bylaw Update

RECOMMENDATION

That staff bring forward for the attached Tree Preservation Bylaw, Amendment Bylaw (No.1) No. 19-082 for first, second and third readings.

EXECUTIVE SUMMARY

The purpose of this report is to provide Council with an initial list of proposed amendments to the Tree Preservation Bylaw (2005).

In 2019, Council approved a Strategic Plan action to “undertake a comprehensive review and update the Tree Preservation Bylaw”, as well as funding to support a project within the Financial Plan. Staff have developed a project that consists of two phases. The first phase is focused on updates to certain definitions and requirements, based on assessments by staff and research of similar bylaws in other jurisdictions. The second phase of work is intended to be a comprehensive review led by an external consultant, including public consultation and technical analysis, which will progress over the next several months.

Staff recommend that Council support the bylaw amendments proposed in this report. This action will provide immediate benefits, including improved clarity for residents and contractors, when considering options for private property development, and allow for an increased level of tree protection in the city.

PURPOSE

The purpose of this report is to seek Council approval to amend the Tree Preservation Bylaw. The proposed amendments address the immediate need to clarify certain definitions, standardize information requirements and strengthen tree protection.

BACKGROUND

The City's urban forest is composed of approximately 150,000 trees. At present, the City directly manages roughly one-quarter (32,950) of the urban forest inventory. The other three-quarters consists of trees on private land.

In the past four years, the City has experienced a period of high population growth. The associated urban development and densification has provided opportunities, while also presenting new challenges including those relating to the protection of trees and other “green” assets.

Trees are a critically important community asset providing a wide range of benefits, from positive mental health impacts, to environmental attributes such as regulating temperature, mitigating stormwater runoff, and providing wildlife habitat. The value of the urban forest will continue as the city adapts to climate change.

An assessment of the current tree canopy coverage is presently underway, and the results anticipated in the coming months will inform further planning and protection efforts. While this local analysis is in progress, staff have observed the impact that pressures from urban development and the changing climate have had on the city’s urban forest.

The original Tree Preservation Bylaw was established in 1999. In 2005, after a review process that included public input, the City updated the Bylaw with measures to prevent unnecessary harm or removal of trees on private land.

Council approved the Urban Forest Master Plan (UFMP) in 2013, following extensive consultation with community members, staff and industry experts. The plan guides the long-term management and enhancement of the urban forest, with 26 recommendations to be completed over the next few decades. Updating the Tree Preservation Bylaw is one of the recommendations listed in the UFMP.

Earlier this year, Council directed staff to update the Tree Preservation Bylaw. This work is being pursued in a phased approach and planned to be complete by the end of 2020. Phase 1 focuses on updating specific definitions and requirements, and Phase 2 will consist of a more comprehensive process that will include community engagement and technical analysis.

ISSUES & ANALYSIS

Phase 1 of the Tree Preservation Bylaw Update project focuses on a variety of amendments that update certain definitions and requirements. Changes strengthen tree protection and concentrate on three areas: definitions, tree assessment qualifications, and requirements.

1. Clarifying Definitions

Staff identified the following terms as problematic in their current definitions: “Building envelope”, “Building envelope line” and “Tree”.

Building Envelope and Building Envelope Line

Current Definition	Issue
Building Envelope is defined in relation to the primary building and accessory buildings .	<ul style="list-style-type: none">A protected tree can be removed anywhere that the accessory building is placed on a lot
Proposed Definition	Impact
Building Envelope and Building Envelope Line are defined in relation to only the primary building .	<ul style="list-style-type: none">Accessory buildings are placed in locations that limit the removal of protected trees

Through the proposed change to the definition of “building envelope” and “building envelope line”, the City limits the construction impact of accessory buildings on bylaw protected trees. This means that, generally speaking, a permit will not be issued to cut down a protected tree that is outside of the primary building envelope, even if it is within the building envelope for an accessory building (as permitted under the current Bylaw). The graphics included on pages four and five of this report help to illustrate the proposed changes.

The proposed change also addresses the issue of inconsistency between the regulations relating to accessory buildings and garden suites, in relation to tree protection. Currently, residents submitting building permit applications for accessory buildings (i.e. garages) rather than garden suites may apply later to convert the structure to a garden suite or simply not build a structure, in order to circumvent the Garden Suite Design Guidelines that give consideration to trees and mature landscape features. The proposed change to the Tree Protection Bylaw would offer stronger protection of the design guidelines.

It is important to note that with the revised definitions of “building envelope” and “building envelope line”, a Board of Variance order varying setbacks will no longer have the potential consequence of expanding the building envelope, thereby expanding the area in which bylaw protected trees can be cut down.

Tree

The change to the “Tree” definition eliminates confusion regarding permit requirements for dead and dying trees.

Current Definition	Issue
Trees are defined as living trees.	<ul style="list-style-type: none"> • Dead protected trees can be cut down without a permit • Replacement trees are not required with the removal of protected trees that are dead
Proposed Definition	Impact
Trees are defined as all living or dead trees.	<ul style="list-style-type: none"> • All protected trees require a permit for removal • Two replacement trees are required once a protected tree is removed

This change in definition will ensure that all protected trees will have the same review process and replacement requirements.

2. Tree Assessment Qualification

The International Society of Arboriculture Tree Risk Assessor Qualification (TRAQ) certification is the industry standard for individuals conducting tree condition assessments. Staff recommend that this qualification be explicitly identified in the Bylaw as a requirement for those conducting assessments and providing reports relating to work covered by the Bylaw. It is common for municipalities to require TRAQ certification for an arborist to confirm whether a tree is posing a risk to people or property. This update will ensure that the City receives a consistent and professional level of technical assessments, based on leading practice.

3. Clarifying Requirements

Staff also recommend revising the Bylaw to clarify that a permit to cut down or alter a bylaw protected tree will not be issued if the applicant's driveway, parking, utility connections or accessory buildings can be located in a manner that allows the tree to be retained (provided the location is still in compliance with other bylaws). These changes will limit the construction impact of such lot development activities on bylaw protected trees.

Other minor items are proposed to be addressed within the amended Bylaw that provide increased clarity for readers. The intent of the updated sections would not be changed.

The following scenario demonstrates the impact of the proposed changes:

A tree removal permit application is submitted to the City to remove; i) protected trees within the building envelope of an accessory building, and ii) a tree in conflict with a new driveway.

Current Condition:

Under the present condition, a tree removal permit would be issued, simply because the trees are located within the lot's building envelope and proposed driveway, consistent with the current definitions and subsection 5(2) of the Bylaw.

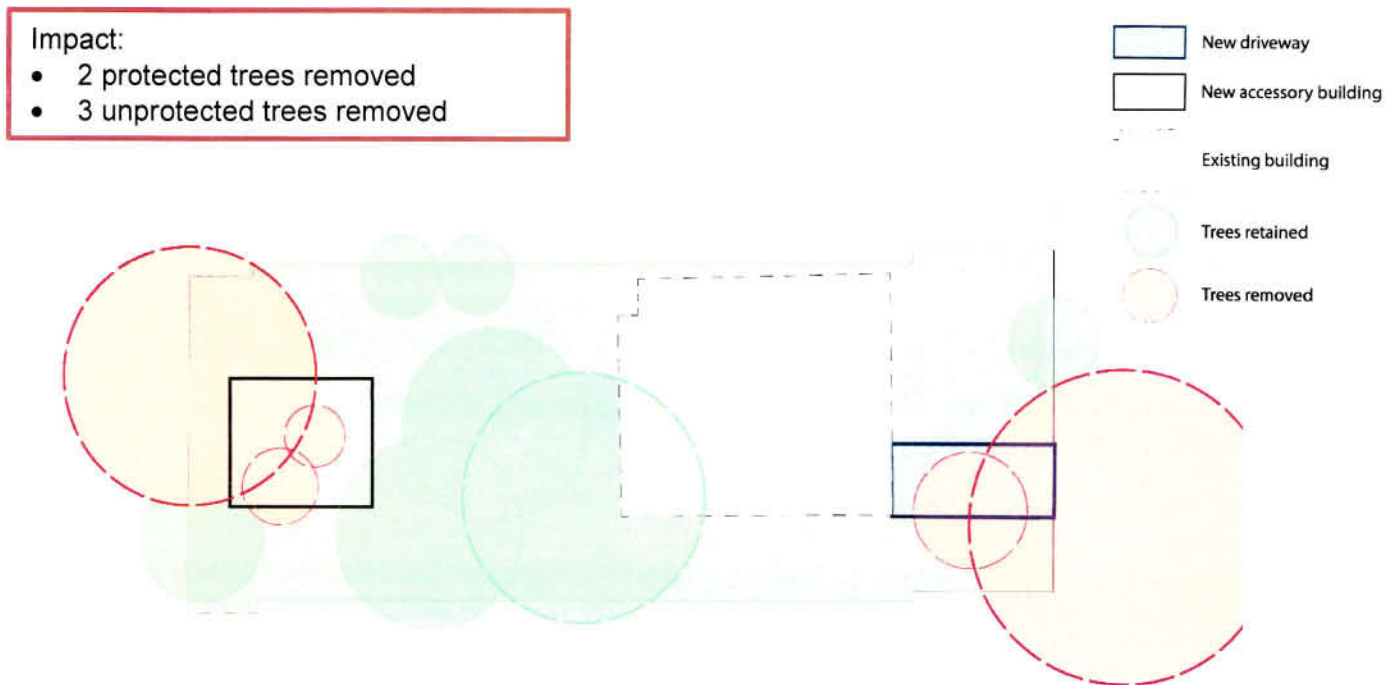


Figure 1. The new accessory building and driveway could be placed to require the removal of several protected trees under the current bylaw.

Proposed Future Condition:

The updated definitions and requirements would allow the City to work with the permit applicant to preserve the protected trees outside of the primary building envelope. Staff would only issue the permit once the applicant demonstrated that the accessory building and driveway would be placed in locations that are not in conflict with trees (and are otherwise in compliance with City bylaws).

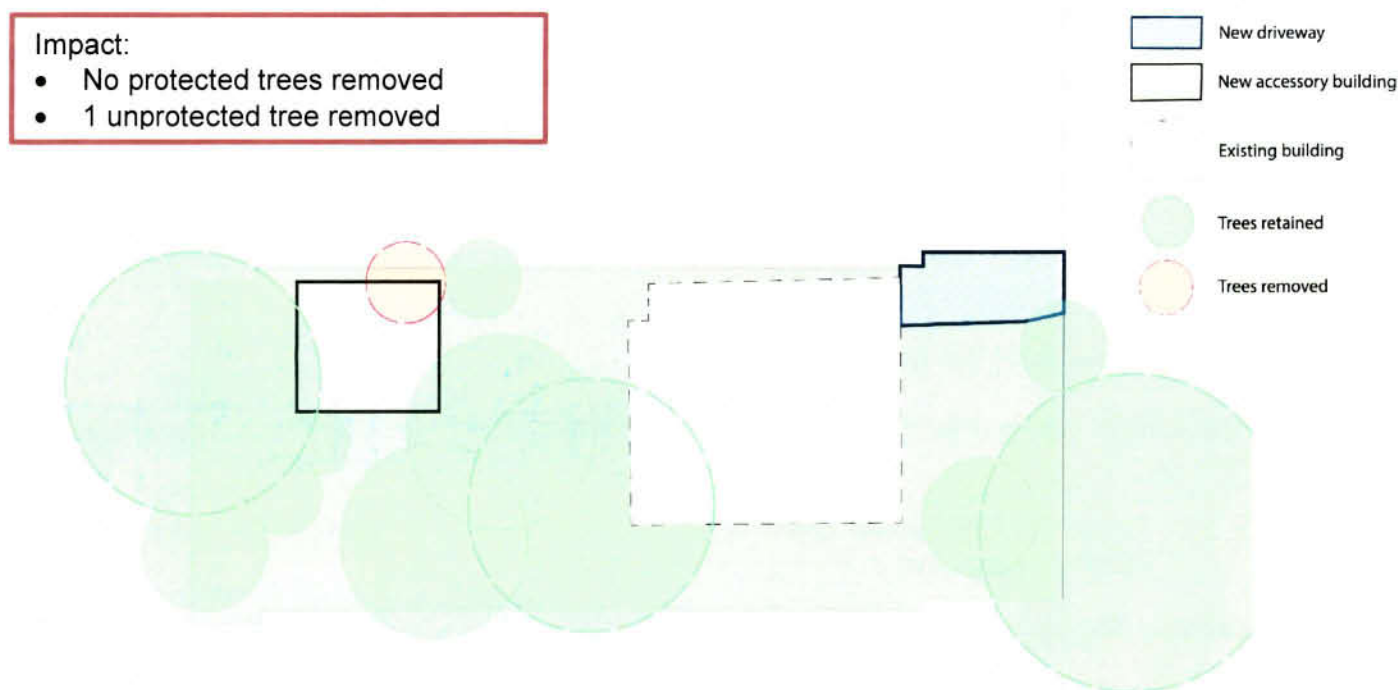


Figure 2. Under the amended Bylaw, the City could require that the accessory building and driveway be placed in locations that make unnecessary the removal of as many protected trees as possible.

OPTIONS AND IMPACTS

That Council give first, second and third readings for the attached Tree Preservation Bylaw, Amendment Bylaw (No.1) No. 19-082 and direct staff to return for adoption of the bylaw, and then proceed with the implementation of the proposed bylaw amendments

Staff recommend that Council support the proposed amendments for Phase 1 of the Tree Preservation Bylaw update, as outlined in Attachment B. Staff propose that these amendments take effect on November 1, 2019. These updates will ensure that tree protection is immediately strengthened in anticipation of the second phase of the project, to be completed by the end of 2020.

Pending Council approval of the proposed amendments, staff will coordinate communication material for the public outlining the changes to the Bylaw, per our standard process for such updates.

Accessibility Impact Statement

The proposed amendments noted above are not anticipated to have a direct or indirect impact on accessibility. Through the second phase of the project, opportunities will be provided to consider further refinements to the Bylaw that may identify and address barriers to accessibility, in relation to tree protection.

Impacts to Financial Plan

No significant impact to the Financial Plan is anticipated from the proposed actions outlined in this report. A slight increase to the application fee for a Tree removal permit to account for inflation since the last increase in 2005, is included in the proposed changes.

2019 – 2022 Strategic Plan

The proposed Bylaw amendments are actions identified with Strategic Plan Objective #6: *Climate Leadership and Environmental Stewardship*.

Official Community Plan Consistency Statement

The Official Community Plan contains the following objectives with respect to urban forest management:

- 10 (d) That the urban forest is enhanced to support a wide range of ecological and community benefits.

CONCLUSIONS

The City has committed to the protection and enhancement of the urban forest, as outlined in the Urban Forest Master Plan (2013) and Strategic Plan (2019). Council has also directed increased financial investments to support efforts to preserve existing trees, as well as seek out opportunities to expand the number of trees in the city. The Tree Preservation Bylaw is one important tool in these efforts to reduce negative impacts, such as the loss of valuable trees on privately owned land.

The proposals in this report are aligned with Council's strategic direction, and as such, staff recommend that the amendments be approved.

Respectfully submitted,



Nav Sidhu
Assistant Director
Parks and Recreation



Thomas Soulliere
Director
Parks, Recreation and Facilities

Report accepted and recommended by the City Manager:

Date:

Jocelyn Jenkins
Sept. 6, 2019

List of Attachments

Attachment A: Tree Preservation Bylaw, Amendment Bylaw (NO. 1)

Attachment B: Tree Preservation Bylaw (amended)

Attachment A: Tree Preservation Bylaw, Amendment Bylaw (NO .1)

TREE PRESERVATION BYLAW, AMENDMENT BYLAW (NO. 1)

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the *Tree Preservation Bylaw* to:

1. ensure that trees are not cut down unnecessarily in the process of construction; and
2. update definitions and internal references so that they are accurate and current.

Contents

- 1 Title
- 2-4 Amendments
- 5 Commencement

Under its statutory powers, including section 8(3)(c) of the *Community Charter*, the Council of the Corporation of the City of Victoria in a public meeting assembled enacts the following provisions:

Title

- 1 This Bylaw may be cited as the "TREE PRESERVATION BYLAW, AMENDMENT BYLAW (NO. 1)".

Amendments

- 2 Bylaw No. 05-106, the Tree Preservation Bylaw, is amended in section 2 as follows:

- (a) by repealing the definition for "building envelope" and substituting the following definition:

"means that part of a lot on which the primary building may be sited under the setback regulations of the City's Zoning Regulation Bylaw or Zoning Bylaw 2018, as varied by a development permit, a development variance permit or a heritage alteration permit;"

- (b) by repealing the definition for "building envelope line" and substituting the following definition:

"means the setback of the primary building established under the City's Zoning Regulation Bylaw or Zoning Bylaw 2018, as varied by a development permit, a development variance permit or a heritage alteration permit;" and

- (c) under the definition of "tree", by striking out "living,".

- 3 The Tree Preservation Bylaw is further amended in section 5 as follows:

- (a) in subsection (2)(c)(i), by striking out “85” and replacing it with “112(2)”, and
- (b) by inserting the following new subsection directly after subsection (2)(c)(ii):

“(3) For the purposes of subsection (2), it is deemed not to be necessary or required to remove, cut down or alter the protected tree or protected tree seedling if it is possible to construct or install the accessory building, driveway, off-street parking or utilities service connections in a different location on the lot without removing, cutting down or altering the tree.”.

4 The Tree Preservation Bylaw is further amended as follows:

- (a) in section 11, by inserting the following directly after “falling”:

“, as confirmed by a certified arborist who holds the International Society of Arboriculture’s Tree Risk Assessment Qualification (TRAQ)”, and

- (b) in section 19(1)(a), by striking out “\$30.00” and replacing it with “\$40.00”.

Commencement

5 This Bylaw comes into force on adoption.

READ A FIRST TIME the	day of	2019
READ A SECOND TIME the	day of	2019
READ A THIRD TIME the	day of	2019
ADOPTED on the	day of	2019

CITY CLERK

MAYOR

Attachment B: Tree Preservation Bylaw (amended)

NO. 05-106

TREE PRESERVATION BYLAW

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to provide for the protection and preservation of trees.

Contents

PART 1 – INTRODUCTION

- 1 Title
- 2 Definitions
- 3 Location & measurements of tree
- 4 Bylaw does not apply to public works

PART 2 – REGULATIONS

- 5 Cutting protected or replacement trees
- 6 Cutting or removal on slope
- 7 Cutting near watercourse
- 8 Tree retained by plan, permit, application
- 9 Significant trees
- 10 Construction activity
- 11 Pruning & cutting of dying, damaged, unstable trees
- 12 Beneficial pruning
- 13 Removing hazardous trees
- 14 Emergency removal

PART 3 – TREE PERMITS

- 15 Applying for permit
- 16 Marking trees to be cut down or removed
- 17 Conditions of permit
- 18 Director's powers to issue or refuse permit
- 19 Permit fee
- 20 Right of appeal

PART 4 – GENERAL

- 21 Inspections
- 22 Recovery of costs and fees from real property taxes
- 23 Offences and Penalties
- 24 Repeal

Schedule A – Significant Trees

Under its statutory power, including sections 8(3)(c), 16, 17, and 258 of the *Community Charter*, the Municipal Council of The Corporation of the City of Victoria enacts the following provisions:

{00033446.4}

PART 1 – INTRODUCTION

Title

- 1 This Bylaw may be cited as the "TREE PRESERVATION BYLAW".

Definitions

- 2 In this Bylaw,

"alter"

means

- (a) to remove the top portion of a tree or tree seedling,
- (b) to remove from a tree or tree seedling any branch, trunk or piece of tree bark that is 10cm (3.9 inches) or more in diameter,
- (c) to cut, damage or destroy by any means the roots of a tree or tree seedling within the protected root zone;

"building envelope"

means that part of a lot on which the primary building may be sited under the setback regulations of the City's Zoning Regulation Bylaw or Zoning Bylaw 2018, as varied by a development permit, a development variance permit or a heritage alteration permit;

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 Regulation Bylaw as varied by a development permit, a development variance permit, a heritage alteration permit or the Board of Variance;

"building envelope line"

means the setback of the primary building established under the City's Zoning Regulation Bylaw or Zoning Bylaw 2018, as varied by a development permit, a development variance permit or a heritage alteration permit;

means a building's setback established under the City's Zoning Regulation Bylaw as varied by a development permit, a development variance permit, a heritage alteration permit or the Board of Variance;

"certified arborist"

means a person currently certified by the International Society of Arboriculture;

"cut down"

means to cut, saw or chop down, kill or otherwise remove a tree or tree seedling
by any means;

"Director"

means the City's Director of Parks, Recreation & Community Development and includes any person lawfully acting under the Director's authority;

"hazardous" includes:

- (a) unstable or severely leaning and in danger of falling,
- (b) interfering with, or in such proximity to, utility wires as to create a dangerous situation,
- (c) interfering with, blocking or damaging a drainage, water or sewer system or other parts of the improvement;

"lot"

means a parcel of land;

"protected root zone"

- (a) means the area of land surrounding the trunk of the tree that contains the bulk of the critical root system of the tree, as defined on a plan prepared by a certified arborist, that the Director approves,
- (b) where a plan within the meaning of subsection (a) of this definition has not been prepared and approved, means the area of land surrounding the trunk of a tree contained within a circle having a radius which is calculated by multiplying the diameter of the tree by 18;

"protected tree"

means any of the following trees:

- (a) Garry Oak (*Quercus garryana*),
- (b) Arbutus (*Arbutus menziesii*),
- (c) Pacific Yew (*Taxus brevifolia*) over 50cm in height,
- (d) Pacific Dogwood (*Cornus nuttallii*),
- (e) Douglas Fir (*Pseudotsuga menziesii*) over 60cm in trunk diameter,
- (f) Western Red Cedar (*Thuja plicata*) over 60cm in trunk diameter,

(g) Big Leaf Maple (*Acer macrophyllum*) over 60cm in trunk diameter,

(g)

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 2.54 cm + Tab after: 3.81 cm + Indent at: 3.81 cm

- (h) a significant tree,
- (i) any tree over 80cm in trunk diameter,
- (j) a tree on a steep slope,
- (k) a tree that
 - (i) is retained voluntarily by the owner as part of an application for a permit that would affect the tree, and
 - (ii) is protected by a restrictive covenant in favour of the City;

"protected tree seedling"

means any of the following tree seedlings:

- (a) Garry Oak (*Quercus garryana*),
- (b) Pacific Dogwood (*Cornus nuttallii*),
- (c) Arbutus (*Arbutus menziesii*);

"significant tree"

means any tree identified on Schedule "A" of this Bylaw;

"steep slope"

means any part of a parcel of land where the grade of the incline is 2:1 or greater;

"tree"

means any ~~living~~ erect, woody plant that is

- (a) 10cm or more in diameter, or
- (b) 5m or more in height, or
- (c) a replacement tree of any size planted as a condition of a tree permit;

"tree permit"

6

means a permit as issued under this Bylaw;

"tree seedling"

means any young, independent, living, erect, woody plant that has a height of more than 50cm and less than 5m.

Location & measurements of tree

3 For the purposes of this Bylaw:

- (a) the location of a tree or tree seedling on a lot must be measured at the point at which the trunk of the tree or tree seedling meets the ground;
- (b) a tree or tree seedling is considered to be located on the same side of a building envelope line that the major part of the trunk of that tree or tree seedling is located;
- (c) the diameter of a tree is determined by dividing the circumference of its trunk, measured at 1.4m above the ground, by 3.142;
- (d) the diameter of a tree having multiple trunks 1.4m above the ground is the sum of
 - (i) 100% of the diameter of the largest trunk, and
 - (ii) 60% of the diameter of each additional trunk.

Bylaw does not apply to public works

- 4** (1) This Bylaw does not apply to the installation, repair, or maintenance of public works or services carried out by or under the authority of the City.
- (2) Works or services referred to in subsection (1), other than emergency repairs, must be reviewed and approved by the Director before they are carried out.

PART 2 – REGULATIONS

Cutting protected or replacement trees

- 5** (1) A person must not cut down, alter, or damage, and must not cause or permit the cutting down, altering, or damaging of:
 - (a) a protected tree or protected tree seedling;
 - (b) a replacement tree planted as a condition of a tree permit.
- (2) Subsection (1) does not apply where a tree permit has been issued to cut down or alter a protected tree, other than a significant tree or a tree growing on a steep slope, or protected tree seedling, in any of the following circumstances:

- (a) the protected tree or protected tree seedling is located within the building envelope of a lot and the removal of the tree is necessary for the purpose of constructing a building, an addition to a building or construction of an accessory building;
- (b) cutting down or altering the protected tree or protected tree seedling is required for the construction or installation of any of the following works:
 - (i) a driveway,
 - (ii) any off-street parking required under the Zoning Regulation Bylaw,
 - (iii) municipal or public utilities service connections;
- (c) cutting down or altering the protected tree or protected tree seedling is required or permitted under any of the following provisions of the City's Bylaws:
 - (i) section 112(2)85 of the Streets and Traffic Bylaw,
 - (ii) sections 4, 6, or 7 of the Trees and the Insect Control Bylaw.

(3) For the purposes of subsection (2), it is deemed not to be necessary or required to remove, cut down or alter the protected tree or protected tree seedling if it is possible to construct or install the accessory building, driveway, off-street parking or utilities service connections in a different location on the lot without removing, cutting down or altering the tree.

Formatted: Body Text Indent 2, No bullets or numbering

Formatted: Body Text Indent 2, Indent: Left: -1.27 cm, Tab stops: 2.54 cm, Left + Not at 1.27 cm

Cutting or removal on slope

6 A person must not do any of the following without first obtaining a tree permit:

- (a) cut down any trees growing on a steep slope;
- (b) remove the stumps and roots of any trees on a steep slope.

Cutting near watercourse

- 7 (1) A person must obtain a tree permit before cutting down or altering a tree growing within 15m of the natural boundary of a watercourse.
- (2) Subsection (1) does not apply where a tree or the roots of a tree are blocking a watercourse or reducing its drainage capacity.

Tree retained by plan, permit, application

- 8** A person must not cut down a tree shown as "to be retained" on a plan attached to a development permit, building permit, rezoning application or subdivision application.

Significant trees

- 9 (1) The trees identified on Schedule A are designated as "significant trees" because of their importance to the community, including importance for heritage or landmark value or as wildlife habitat.
- (2) The Director may place a marker or tag on or near each significant tree upon receiving permission to do so from the owner of the property on which the tree grows;
- (3) Despite section 5(1)(a) [*cutting protected tree*], a person may cut down or alter a significant tree only with the permission of City Council.

Construction activity

- 10 A person must not carry out or cause any of the following activities unless a tree permit is first obtained and the activity is carried out strictly in accordance with that permit:
- (a) cutting or damaging the roots of the tree growing inside its protected root zone;
 - (b) placing fill, building materials, asphalt, or a building or structure, or storing or stockpiling of organic material within a protected root zone;
 - (c) operating trucks, backhoes, excavators, or other heavy equipment within a protected root zone;
 - (d) denting, gouging, damaging, or affixing anything to the branches or the trunk of a tree;
 - (e) removing bark from a tree;
 - (f) depositing concrete, washout, or other liquid or chemical substances harmful to the health of a tree, on a protected root zone;
 - (g) removing soil from a protected root zone;
 - (h) blasting operations within a protected root zone;
 - (i) blasting operations outside of a protected root zone that would damage roots or disturb soil inside a protected root zone;
 - (j) undermine a tree's roots growing within its protected root zone.

Pruning & cutting of dying, damaged, unstable trees

- 11 — The owner of a protected tree may apply for a tree permit to prune or cut down a tree if it is dead, dying, severely damaged, unstable, or severely leaning and in danger of falling, as confirmed by a certified arborist who holds the International Society of Arboriculture's Tree Risk Assessment Qualification (TRAQ).

Beneficial pruning

- 12 The owner of a protected tree may apply for a tree permit to prune a tree if a certified arborist confirms that the proposed pruning will benefit the tree.

Removing hazardous trees

- 13 (1) Owners and occupiers of real property must cause all trees, hedges, and shrubs on that property to be trimmed, removed, or cut down 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.
- (2) 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 subsection (1) if the owner or occupier does not take that action within five days of receiving the notice.
- (3) The City's employees may enter real property and undertake, at the owner's or occupier's expense, the work referred to in subsection (1) if the owner or occupier does not undertake or complete that work.

Emergency removal

- 14 Despite any other provision in this Bylaw, a person may cut down a tree or limb of a tree that is prohibited from removal under this Bylaw if the tree or limb
- (a) has been severely damaged by a natural cause; and
 - (b) is in imminent danger of falling and injuring individuals or property.

PART 3 – TREE PERMITS**Applying for permit**

- 15 The request for a tree permit must be made to the Director and must be accompanied by a plan identifying all of the following:

- (a) the location, species and diameter of the trees proposed to be cut down or altered;

(a)

{00033446 4}

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.27 cm + Tab after: 2.54 cm + Indent at: 2.54 cm

- (b) the location, species and diameter and protected root zones of the trees in respect to which tree-damaging activities are to be carried out;
- (c) the location of any proposed construction activities, excavation activities, and blasting activities in relation to a tree;
- (d) the protected root zone of each tree on the parcel of land;
- (e) the purpose for which the tree is to be cut down or altered.

Marking trees to be cut down or removed

- 16
- (1) An applicant for a tree permit must flag or mark with paint each tree proposed to be cut down or removed.
 - (2) An applicant for a tree permit must mark all of the following on the ground with paint, stakes, or flagging:
 - (a) the protected root zone of each tree shown on the plan accompanying the application for a tree permit;
 - (b) the boundaries of the areas within the protected root zones on which the proposed excavation, blasting or other tree-damaging activity is to be carried out.

Conditions of permit

- 17
- (1) The holder of a tree permit must comply with all of the following conditions:
 - (a) before excavation, blasting, construction, or other tree-damaging activity is carried out on the land to which the permit applies, the permit holder must install a fence of at least 1.2m high, or take other protective measures approved by the Director, to separate that land from the remainder of the protected root zone of a tree to which the permit applies;
 - (b) the permit holder must continuously maintain the fence or other protective measure until the completion of the work proposed to be carried out on the land to which the permit applies;
 - (c) the permit holder must post and continuously maintain on the fence or other protective measure an all-weather sign stating "Protected Root Zone – No Entry";
 - (d) if tree roots are cut by excavation, the permit holder must immediately wrap the remaining roots in a root curtain of wire mesh lined with burlap surrounded by posts;
 - (e) the permit holder must continuously keep a root curtain of wire mesh moist throughout the holder's construction process;

(e)

Formatted: Outline numbered + Level: 1 + Numbering
Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned
at: 2.54 cm + Tab after: 3.81 cm + Indent at: 3.81 cm

- (f) the permit holder may prune and cut a protected tree's branches, limbs, or roots only under the supervision of a certified arborist;
- (g) if the permit holder cuts down or removes a protected tree or a protected tree seedling, the permit holder must plant and maintain two replacement trees or tree seedlings
 - (i) of the same species and in the same location as that cut down or removed, or of a different species authorized by the Director in accordance with accepted arboricultural practices, and
 - (ii) that have at least one of the following sizes:
 - (A) a height of at least 1.5m planted,
 - (B) a diameter of at least 4cm,
 - (iii) which, if replacements for the tree species *Arbutus menziesii*, must be contained in a #5 pot when acquired from a nursery or a landscaper-supplier.
- (2) For the purpose of ensuring the performance of the requirements set out in paragraph (g), the applicant for a tree permit must provide to the City \$350.00 security in the form of cash or a letter of credit for each replacement tree or protected tree seedling that is required
- (3) A cash security provided under subsection (1) must be refunded to the applicant when the replacement planting requirements under paragraph (g) have been carried out.

Director's powers to issue or refuse permit

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

- (a) refuse to issue a tree permit;
- (b) issue a tree permit subject to conditions;
- (c) issue a tree permit to allow a tree to be removed.

Permit fee

19 (1) An application for a tree permit must be accompanied by a fee of:

- (a) \$430.00 for the first three trees or seedlings;
- (b) \$5.00 for each tree or seedling that is additional to the first three.

(b)

- (2) A fee listed under subsection (1) is not refundable.
- (3) There is no charge for a tree permit issued for the purposes of
 - (a) section 11 [*Pruning & removal of dying, damaged, unstable trees*];
 - (b) section 12 [*Beneficial pruning*];
 - (c) section 13 [*Removal of hazardous trees*];
 - (d) section 14 [*Emergency removal*].

Formatted: Bylaw4, Outline numbered + Level: 1 +
 Numbering Style: a, b, c, ... + Start at: 1 + Alignment:
 Left + Aligned at: 2.54 cm + Tab after: 3.81 cm +
 Indent at: 3.81 cm, Tab stops: Not at 1.27 cm

Right of appeal

- 20 (1) The owner or occupier of a real property that is subject to a decision of the Director to grant or refuse a tree permit, or to impose conditions on the granting of a tree permit is entitled to apply to Council to have the decision reconsidered.
- (2) An application for reconsideration must be made in writing to the City's Corporate Administrator.
- (3) There is no charge for an application for reconsideration.

PART 4 – GENERAL

Inspections

- 21 (1) The Director or a City employee authorized by the Director may enter at all reasonable times on any property to make an assessment or inspection for any purpose under this Bylaw.
- (2) A person must not prevent or obstruct, or attempt to prevent or obstruct, an entry authorized under subsection (1).

Recovery of costs and fees from real property taxes

- 22 The costs of fees and actions taken by the City under this Bylaw will 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.

Offences and Penalties

- 23 (1) A person who contravenes a provision of this Bylaw commits an offence and is subject to the penalties imposed by this Bylaw, the Ticket Bylaw, and the *Offence Act*.

- (2) The minimum penalty for each protected tree that is cut down, altered, or damaged in contravention of this Bylaw is a fine of not less than
 - (a) \$1,500.00 for a first offence; and
 - (b) \$3,000.00 for a second or subsequent offence.
- (3) The minimum penalty for each protected tree seedling that is cut down, altered, or damaged in contravention of this Bylaw is a fine of not less than
 - (a) \$250.00 for a first offence; and
 - (b) \$250.00 for a second or subsequent offence.

Repeal

24. Bylaw No. 99-103, the Tree Protection Bylaw, is repealed.

READ A FIRST TIME THIS **10th** day of **November,** 2005.

READ A SECOND TIME THIS **10th** day of **November,** 2005.

AMENDED AND
READ A THIRD TIME THIS **24th** day of **November,** 2005.

ADOPTED on the **15th** day of **December,** 2005.

"ROBERT G. WOODLAND"
CORPORATE ADMINISTRATOR

"ALAN LOWE"
MAYOR

Schedule A
Significant Trees

<i>Civic Address</i>	<i>Location</i>	<i>Type & Size</i>	<i>Tag #</i>

Tree Preservation Bylaw Update

Committee of the Whole

September 12, 2019



Purpose

Provide Council with an initial list of proposed amendments to the Tree Preservation Bylaw



Background

- 1999** Tree Preservation Bylaw was established
- 2005** Bylaw updated with new measures to prevent unnecessary harm or removal of trees
- 2013** Council approved the Urban Forest Master Plan
- 2019** Council adopted Strategic Plan action; “*undertake a comprehensive review and update the Tree Preservation Bylaw*”



Bylaw Update – Phased Approach

Phase One

Updates to certain definitions and requirements

Phase Two

Comprehensive review led by an external consultant, including public consultation and technical analysis



Analysis

Updated Definitions

- “Building Envelope” and “Building Envelope Line”
- “Tree”

Updated Tree Assessment Qualifications

- Align with industry standards for tree condition assessments

Updated Requirements

- Driveways, parking, utility connections and accessory buildings



Scenario

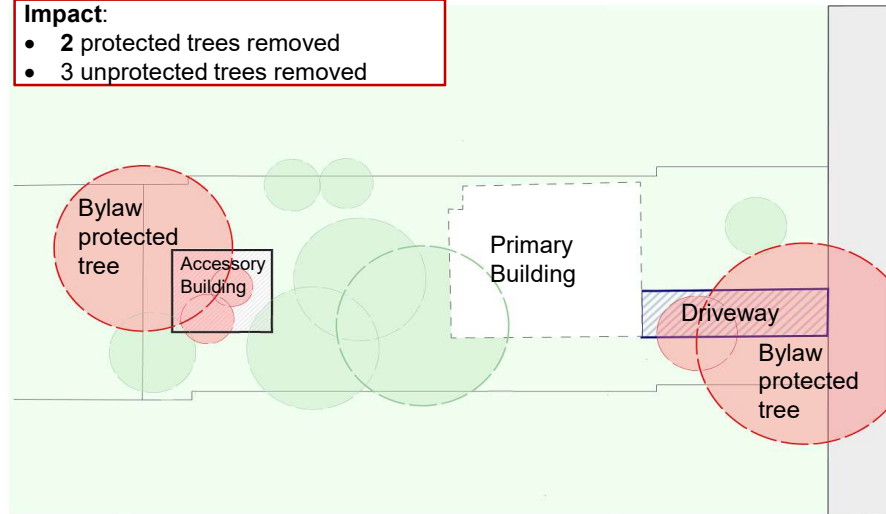
A tree removal permit application is submitted to the City to remove; i) protected trees within the building envelope of an accessory building, and ii) a tree in conflict with a new driveway.



Current State

Impact:

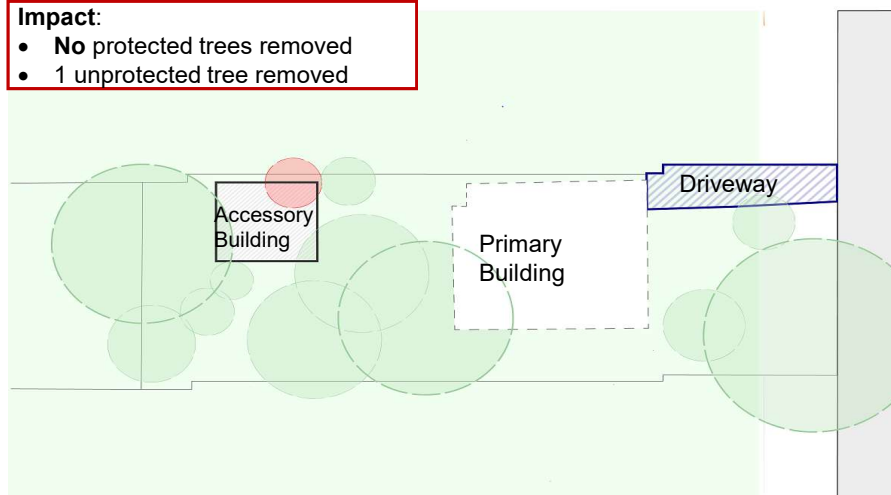
- 2 protected trees removed
- 3 unprotected trees removed



Proposed State

Impact:

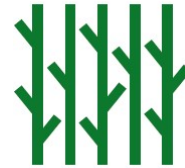
- No protected trees removed
- 1 unprotected tree removed



Next Steps

First, Second and Third readings brought forward at September 19th Council meeting.

Communication material outlining changes to the bylaw posted on the City's website and shared with stakeholders.



Recommendation

That staff bring forward for the attached Tree Preservation Bylaw, Amendment Bylaw (No.1) No. 19-082 for first, second and third readings.

