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TOWN OF SIDNEY

BYLAW NO. 1663 (CONSOLIDATED)

Amendment Bylaws incorporated as listed at the end of the document.

TREE PRESERVATION BYLAW

WHEREAS:

- A. Pursuant to *Division 9 of Part 26* of the *Municipal Act*, the Council may by bylaw exercise certain powers to preserve and protect trees within the Town, to regulate their cutting down and removal, and to require their replacement; and
- B. The Council considers it in the public interest to provide for the protection and preservation of trees, the regulation of their cutting down and removal and their replacement;

NOW THEREFORE the Council of the Town of Sidney in open meeting assembled hereby enacts as follows:

This Bylaw is divided into the following parts relating to the following subjects:

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1. Citation

This Bylaw may be cited for all purposes as "**Sidney Tree Preservation Bylaw No. 1663-00; 2001**".

2. Definitions

In this Bylaw:

Arbourist - means a person certified as an arbourist by the American Society of Consulting Arbourists or the International Society of Arboriculture and registered as a Consulting Arbourist.

Building Footprint - means an area of the lot that is within 1.5 metres of where a building or buildings are actually situated or may be situated in conformity with the applicable Zoning Bylaw.

Cut, Cuts or Cutting - means to cut or remove all or any part of a protected tree by any means, for purposes other than for the health of the tree.

Development or Develop - shall mean the development of a lot, including excavation, construction or engineering works of any nature.

Diameter - subject to section 4, shall mean:

- i. the diameter of any protected tree
- ii. the diameter of any pruning cuts
- iii. the diameter of any cut made unlawfully
- iv. the diameter of any cuts made pursuant to a permit.

Drip Line - means a vertical line extending down from the tip of the outermost branches of a tree to the ground.

Owner - means the registered owner of a parcel of land.

Parcel - means any lot, block or other area in which land is held or into which it is subdivided, including a bare land strata lot under the *Condominium Act* (British Columbia), but not including a strata lot under the *Condominium Act* (British Columbia) or a highway.

Permit - means a permit issued under this Bylaw in the form prescribed in *Schedule "B"*.

Protected Species - shall mean Douglas Fir (*Pseudotsuga menziesii*) that has diameter of thirty (30) cm [12 inches] or more and Arbutus (*Arbutus menziesii*), Dogwood, and Garry Oak trees with a diameter of 20 cm. [8 inches] or more.

Protected Tree includes:

- i. any tree listed as a protected species;
- ii. any tree noted as a replacement tree;
- iii. any tree shown "as to be retained" on a plan attached to and forming part of a Development Permit
- iv. trees planted that were identified on a landscape plan forming part of a Development Permit.

Prune or Pruning shall mean the removal of any limbs, stems, roots or trunks less than fifty (50) mm in diameter.

Replacement Tree - means a tree required to be planted in accordance with section 10 of this Bylaw.

Superintendent of Parks and Works - means the person appointed by the Council of the Town as the Town of Sidney Superintendent of Parks and Works or a designate.

Town - means, as the context requires, the Town of Sidney or the area within the boundaries of the Town of Sidney.

Tree – a perennial plant with a woody self-supporting main trunk when mature and usually unbranched for some distance above the ground.

Zoning Bylaw - means the Town of Sidney's Zoning Bylaw No. 1660, 2001.

3. Application of this Bylaw

Subject to all sections in this Bylaw, this Bylaw applies to the following:

- i. any trees that are protected species;
- ii. a replacement tree planted pursuant to this Bylaw;
- iii. any tree shown on a plan attached to and forming part of a Development Permit;
- iv. any tree listed in *Schedule "A"* of this Bylaw

4. Measurements Applicable in this Bylaw

In this Bylaw:

- (a) The diameter of a protected tree shall be determined by dividing the measurement of the circumference of the trunk at a point one point four (1.4) metres [4.5 feet] above the average ground level at the base of the tree, by 3.142.
- (b) The diameter of a protected tree having multiple trunks one point four (1.4) metres [4.5 feet] above the ground shall be determined by the sum of:
 - i. one hundred (100%) percent of the diameter of the largest trunk; and
 - ii. sixty (60%) percent of the diameter of each additional trunk.
- (c) The location of a protected tree on a lot shall be measured at the point at which the trunk of the tree meets the ground.
- (d) Measurements of any pruning cut or cuts made unlawfully will be measured by measuring the diameter of the butt of the cut.

5. Cutting, Pruning or Removal of Trees

- (a) No person shall “cut” remove or damage any protected tree within the Town, or allow any protected tree to be cut down, removed or damaged, except where permitted by and carried out in accordance with this Bylaw.
- (b) Without limiting the generality of the foregoing, no person shall prune a protected tree other than for the health of the tree.

- (c) No person shall cut, prune or remove any limbs, stems, roots or trunks larger than one hundred (100) mm from a protected tree or protected trees unless the owner has a valid and subsisting permit to do so.

6. Emergency Removal of Trees

Notwithstanding any other provision in this Bylaw, a person may cut down any tree or limb of a tree that constitutes an imminent danger or hazard to persons or property. The Superintendent of Parks and Works may require an Arbourist's Report to determine the severity of the hazard.

7. Exception to this Bylaw

- (a) Any tree or protected tree that interferes with, or is in such close proximity to utility wires as to be a danger may be removed subject to a report submitted by an Arbourist.
- (b) Any tree or protected tree that has roots that interfere with, block or damage a drainage or sewage system or other underground improvements may be removed subject to a report submitted by an Arbourist.
- (c) Any tree or protected tree that is on or is impeding in use of any park or highway, as determined by the Director of Engineering and Works may be removed.
- (d) Any tree or protected tree that is within a proposed building footprint as approved by a Town of Sidney Building Permit is exempt from this Bylaw.

8. Development Works

- (a) The Superintendent of Parks and Works may review all applications for Demolition Permits and Building Permits to ensure compliance with this Bylaw.
- (b) The Superintendent of Parks and Works may review all Development Permit Applications for landscaping and may recommend to Council that a permit be issued subject to the following conditions:
 - i. a tree protection and retention strategy for protected trees shown as "to be retained" be adhered to;
 - ii. a replacement tree(s) be planted if trees or protected trees are removed;
 - iii. that services, roads and driveways be relocated to avoid the removal of a healthy tree or protected tree.

9. Tree Cutting Permits

- (a) Persons wishing to cut, remove or prune a protected tree shall apply to the Superintendent of Parks and Works on the tree cutting permit application as outlined in Schedule "B" of this Bylaw and shall accompany the application with the fee set out in Schedule "B".
- (b) The Superintendent of Parks and Works or the Development Service Department may ask the following be attached to the application for a protected tree cutting permit:

- i. the location and diameter of the tree(s) to be cut, removed or pruned
 - ii. the location of any proposed construction and/or excavation activities on the parcel
 - iii. the owner to state on the application the purpose for which the tree(s) are to be cut down.
- (c) The Superintendent of Parks and Works may require all or any of the following conditions as part of a permit:
 - i. a detailed report from an Arborist to support the application
 - ii. the protected trees on the parcel to be tagged with ribbon indicating the tree that the application is for.

10. Replacement Trees

- (a) When a replacement tree is required by permit, the applicant shall choose to either:
 - (amendment -01) i. plant a replacement tree of a native species on the same site; or
 - ii. pay seven hundred and fifty (\$750) dollars for each tree, so that the Parks and Public Works Department may plant a replacement tree of a native species on public lands.
- (b) Subject to subsection (a) a replacement tree planted on the same site shall be:
 - i. of a size and standard prescribed by the Superintendent of Parks and Works; or
 - ii. planted in accordance with the guidelines provided with the permit.
- (c) Notwithstanding anything herein where a protected tree is removed under section 7(d) the owner will:
 - (amendment -01) i. plant two (2) replacement trees of the same species on the same property; or
 - ii. pay seven hundred and fifty (\$750) dollars for each tree, so that the Parks and Public Works Department may plant trees that are native to the area on public lands.

11. Appeals

The owner of a parcel on which a tree is the subject to a decision of the Superintendent of Parks and Works may request that Council reconsider the decision or any condition attached to the decision.

12. Administration and Enforcement

- (a) The Superintendent of Parks and Works shall have the right to enter at any reasonable hour on any property to make an assessment or inspection for any purpose under this Bylaw.
- (b) Every person who violates any provision of this Bylaw, or who allows any act or thing to be done or omits to do anything required to be done in violation of any of the provisions

of this Bylaw, is guilty of an offence against the Bylaw and is liable to the penalties hereby imposed.

- (c) Each day that a violation is permitted to exist or continues shall constitute a separate offence.
- (d) Where more than one (1) tree is cut, removed or damaged in violation of this Bylaw a separate offence is committed in respect of each individual tree.
- (e) Every person who commits an offence against this Bylaw is liable to the penalties set out in the *Offence Act* (of British Columbia).

13. Repeal

That “Sidney Tree Preservation Bylaw No. 1394” and all amendments thereto are hereby repealed.

Read a first time this	23 rd	day of	April, 2001.
Read a second time this	23 rd	day of	April, 2001.
Read a third time this	23 rd	day of	April, 2001.
Adopted this	14 th	day of	May, 2001.

(original signed)
MAYOR

(original signed)
CORPORATE ADMINISTRATOR

SCHEDULE 'A'

TOWN OF SIDNEY

"SIGNIFICANT TREES"

TABLE OF CONTENTS

# OF TREE	TYPE OF TREE	LOCATION OF TREE(S)
A1	DUTCH ELM	2433 Malaview Avenue
A2	KILMARNOCK WILLOW	Brethour Cemetary
A3	RUSSIAN OLIVE	10085 Third Street
A4	NORWAY MAPLE	Municipal Hall Grounds
A5	INDIAN BEAN	9850 Fourth Street
A6	TULIP TREE	9850 Fourth Street
A7	WEeping LARCH	2333 Malaview Avenue
A8	DOUGLAS FIR	10219 Surfside Place
A9, A10	COPPER BEECH	10219 Surfside Place, 9883 Fifth St.
A11	PEAR TREE	10373 McDonald Park Road
A12	LONDON PLANE TREE	Saanich Memorial Grounds
A13	CAMPERDOWN ELM	Brethour Cemetary
A14	COULTER PINE	9751 First Street
A15, A16, A17	MONTEREY CYPRESS	2528, 2525, 2513 Shoreacres Road
A18	MOUNTAIN REDWOOD	2320 Harbour Road
A19	CAUCASIAN FIR	2255 Weiler Avenue

SCHEDULE "B"

APPLICATION FOR TREE CUTTING AND REMOVAL PERMIT

1. I, _____ of _____, Sidney, B.C.
(print name) (address)
hereby apply to cut down and remove the tree or trees identified on the attached sketch of the Town of Sidney, and legally described as:

(Legal Description)

(Civic Address)

2. Attached to and forming part of this application is an accurate sketch plan of the land drawn to a scale of _____, correctly showing:
- (a) the location, species and diameter of all trees presently on the parcel that are subject to the *Sidney Tree Preservation Bylaw No. 1663*;
 - (b) the proposed location and species of all replacement trees; and
 - (c) the location of all abutting streets and lanes.

Trees marked in *red* on the attached sketch are proposed to be cut down and removed and trees marked in *green* are proposed to be retained.

3. I have read *Sidney Tree Preservation Bylaw No. 1663* and I understand the regulations it contains, including its requirements for replacement trees.
4. (If applicable) I agree to provide replacement trees of the species required by the Bylaw, all of which replacement trees are shown by species and location on the attached sketch plan and marked in *black*.
5. If the application for tree cutting, pruning or removal of any limbs, stems, roots or trunks larger than one hundred (100) mm from a protected tree is approved. I will pay the necessary permit fees of one hundred (\$100) dollars for the first tree cut down, plus ten (\$10) dollars for each additional tree on the property that is part of the application for removal. I will pay \$25.00 for pruning a tree if work is done by Certified Arborist, if not then a fee of \$100 per tree applies.

Date

Signature of Applicant

Office Use Only

The tree(s) in this application is(are) approved / not approved to be cut down and removed.

If approved _____ replacement tree(s) are required to be planted or paid for (\$750/tree) as outlined in the Bylaw. Trees that are planted will be inspected in six (6) months time to ensure they are properly maintained.

Date

Signature of Superintendent