

**TOWN OF QUALICUM BEACH  
BYLAW NO. 725, 2023  
TREE PROTECTION BYLAW**

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**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 Town, and may regulate, prohibit and impose requirements in relation to the **Cutting, Replacement 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 Town of Qualicum Beach enacts as follows:

**1. Title**

This Bylaw may be cited as "Town of Qualicum Beach Tree Protection Bylaw No. 725, 2023".

**2. Definitions**

In this Bylaw:

- |  |   |
|--|---|
| <b>"Arborist"</b>                                    | means a <b>Qualified Professional</b> who is holding a current certification by the International Society of Arboriculture.   |
| <b>"Alter" or<br/>"Altering" or<br/>"Alteration"</b> | means any of the following:<br>a. to <b>Remove</b> the top portion of a <b>Tree</b> ;<br>b. lift and <b>Prune</b> where the lower branches of the live crown (green branches) of the <b>Tree</b> are <b>Removed</b> to reduce the live crown to less than 50% of the total <b>Tree</b> height;<br>c. to <b>Cut</b> off or destroy by any means the roots of a <b>Tree</b> within its <b>Protected Root Zone</b> . |
| <b>"Council"</b>                                     | means the <b>Town Council</b> of the Town of Qualicum Beach.  |
| <b>"Cut"<br/>or "Cutting"</b>                        | means to <b>Cut</b> down a <b>Tree</b> and shall include to pull up, push or pull over or otherwise fall or substantially destroy a <b>Tree</b> .   |
| <b>"Damage"<br/>or "Damaged"<br/>or "Damaging"</b>   | means any action which will cause a <b>Tree</b> to die or to decline, including, but not limited to, ringing, poisoning, burning, <b>Topping</b> or excessive <b>Pruning</b> .  |
| <b>"DBH" (Diameter<br/>at Breast Height)</b>         | means:<br>a. the diameter of a <b>Tree</b> measured at 1.4 meters (4.6 feet)  |

above the highest point of natural grade of the ground measured from the base of a **Tree** or the diameter of the remaining stump; or

- b. for multi-stemmed **Trees**, the three largest stems shall be measured 1.4 meters (4.6 feet) above the highest point of natural grade and the **DBH** of the **Tree** shall equal the cumulative total of the **DBH** of the three largest stems.

<b>“Director”</b>	means the Director of Planning or their designate.
<b>“Disturbance”</b>	means any disturbance of the ground, soil, <b>Tree</b> roots or vegetation within the <b>Protected Root Zone</b> of a <b>Protected Tree</b> .
<b>“Hazard Tree”</b> or <b>“Hazardous Tree”</b>	means a <b>Tree</b> identified in writing by a <b>Qualified Tree Risk Assessor</b> as having defects sufficient to significantly increase the likelihood that all or part of the <b>Tree</b> will fall resulting in a risk of personal injury or property <b>Damage</b> , and also includes <b>Trees</b> that interfere with utility wires, drainage, water or sewer systems, or the movement of people and vehicles along public rights-of-way.
<b>“Hedge”</b>	means a row of three or more <b>Trees</b> less than 6.0 metres in height 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.
<b>“Move”</b>	means uprooting and transferring a <b>Tree</b> from one location to another.
<b>“Officer”</b>	means a Town of Qualicum Beach Fire Chief, Bylaw Enforcement Officer, RCMP Police Officer or appointed designates.
<b>“Owner”</b>	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.
<b>“Parcel”</b>	means any lot, block or other area in which land is held or into which land is subdivided but does not include a highway.
<b>“Permit”</b>	means a permit issued by the <b>Director</b> under authority of this Bylaw to <b>Cut</b> or <b>Remove</b> a <b>Protected Tree</b> or <b>Trees</b> .
<b>“Protected Root Zone”</b>	means: <ul style="list-style-type: none"><li>a. the area of land surrounding the trunk of a <b>Tree</b> that contains the bulk of the critical root system of the <b>Tree</b> which has been specifically delineated on a <b>Tree Protection Plan</b> prepared by an <b>Arborist</b> and approved by the</li></ul>

**Director;** 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 50 centimetres (20 inches) or more in height, or 5 centimetres (2 inches) or more in diameter 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*);
  - v. Cascara (*Rhamnus purshiana*);
  - vi. Manzanita (*Arcotostaphylos columbiana*);
  - vii. Seaside Juniper (*Juniperus maritima*);
  - viii. Trembling Aspen (*Populus tremuloides*);
  - ix. Oregon Ash (*Fraxinus latifolia*);
- b. any **Tree** having a **DBH** that is 30 centimetres (12 inches) or more;
- c. any **Replacement Tree** planted as a condition of a prior **Permit**;
- d. any **Tree** within an Environmental or Hazard Development Permit Area as designated in “Town of Qualicum Beach Official Community Plan Bylaw No. 800”;
- e. any **Tree** planted or retained as a requirement of a subdivision application, Development Permit or Building Permit;
- f. 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
  - iv. any cavity-nesting bird species

**“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.

**“Qualified Professional”**

means a registered professional consultant with relevant expertise and experience in the specific domain for which an opinion is being given.

<b>“Qualified Tree Risk Assessor”</b>	means an <b>Arborist</b> with additional current training and a qualification in <b>Tree</b> risk assessment as determined by the International Society of Arboriculture and endorsed by Worksafe BC.
<b>“Removal”</b> or <b>“Remove”</b>	means to <b>Cut</b> a <b>Tree</b> and to <b>Remove</b> it from the location where it exists.
<b>“Replacement Tree”</b>	means a <b>Tree</b> required to be planted to replace a <b>Tree Altered, Cut, Damaged</b> or <b>Removed</b> in accordance with this Bylaw.
<b>“Town”</b>	means the Town of Qualicum Beach.
<b>“Topping”</b> or <b>“Topped”</b>	means to entirely sever the stem of a <b>Tree</b> such that the upper stem and branches of the <b>Tree</b> are completely removed, resulting in an abruptly truncated stem.
<b>“Tree”</b>	means a living, erect, perennial woody plant, that is a species of coniferous or deciduous genus where the <b>DBH</b> is six (6) cm or more and is capable of reaching a mature height of 4.5 m or greater within its natural range.
<b>“Tree Protection Barrier”</b>	means a sturdy protection barrier or temporary fence at least 1.2 metres in height, installed around the <b>Protected Root Zone</b> of a <b>Tree</b> that is to be preserved.
<b>“Watercourse”</b>	watercourse means any natural or man-made depression with well-defined banks and a bed of 0.6 m or more below the surrounding land serving to give direction to or containing a current of water at least six months of the year and includes the sea or any lake, river, stream, creek, spring, ravine, swamp, gulch, surface source of water supply or source of groundwater supply whether enclosed or in a conduit.
<b>“Wetland”</b>	means land consisting of marshes, swamps, or saturated land.

### 3. Application and Purpose

#### 3.1 Application

- 3.1.1 This Bylaw applies to **Trees** which are within the Town of Qualicum Beach.
- 3.1.2 This Bylaw does not apply to **Trees** on provincial or federal lands.
- 3.1.3 This Bylaw does not apply to **Trees** on land where “Silviculture” is a permitted use in the zoning, as described in Town of Qualicum Beach Land Use and Subdivision Bylaw No. 580, 1999.

3.2 Purpose

This Bylaw is intended to:

- 3.2.1 Regulate the **Altering, Cutting, Damaging or Removing of Protected Trees** within the Town of Qualicum Beach through a **Permit** process;
- 3.2.2 Describe the conditions under which **Permits** will be granted for the **Altering, Cutting, Damaging or Removing of Protected Trees**;
- 3.2.3 Prohibit the **Altering, Cutting, Damaging or Removal of Protected Trees** without a **Permit**;
- 3.2.4 Set requirements for replacement, mitigation or other forms of compensation for the **Altering, Cutting, Damaging or Removal of Trees**; and
- 3.2.5 Establish provisions relating to inspection and enforcement of **Tree Altering, Cutting, Damaging or Removing** in relation to the established **Permit** process and offences.

4. Prohibitions, Exemptions and Permissions

4.1 Prohibitions

- 4.1.1 A person must not **Cut or Remove, or Move any Protected Tree**, or cause, suffer or permit any **Protected Tree** to be **Cut, 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** planted as a condition of a prior **Permit**.
- 4.1.2 A person must comply with the terms and conditions of a **Permit** issued under this Bylaw.
- 4.1.3 Except to the extent permitted by a **Permit**, or as provided for in Section 4.2 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 **Protected Root Zone**;
  - b. Operating trucks, backhoes, excavators or other heavy equipment within the **Protected Root Zone** of a **Protected Tree**;

- c. Placing fill, building materials, asphalt or a building or structure on land inside the **Protected Root Zone** of a **Protected Tree**;
- d. Denting, gouging or **Damaging** the bark, trunk, branches or roots of a **Protected Tree**;
- e. Depositing concrete washout or other liquid or chemical substances harmful to the health of a **Protected Tree** on land inside **Protected Root Zone**;
- f. Removing soil from inside the **Protected Root Zone** of a **Protected Tree**;
- g. Blasting within 2x the **Protected Root Zone** radius of a **Protected Tree**;
- h. **Topping a Protected Tree**;
- i. **Altering** the ground water or surface water level within the **Protected Root Zone** of a **Protected Tree**; or
- j. **Cutting** or **removing** more than twenty-five (25) percent of the live crown of a **Protected Tree** in any twelve (12) month period.

4.1.4 A person shall not plant a **Tree** or **Hedge** on **Town** lands or cause **Trees** or **Hedges** to be planted on **Town** lands without prior written authorization from the **Town**.

#### 4.2 Exemptions

4.2.1 A **Permit** is not required for the pruning of a **Hedge**, except within the Steep Slope Development Permit Area, as defined in "Town of Qualicum Beach Official Community Plan Bylaw No. 800".

4.2.2 A permit is not required prior to **Cutting** or **Removing a Protected Tree** where:

- a. the **Protected Tree** poses an imminent danger of falling and injuring persons or property, provided that the homeowner or property manager notifies the **Director** within three business days following the work done to the **Protected Tree**, including photos or other documentation to justify the **Removal**; or

- b. The **Protected Tree Cutting or Removal** is carried out by the **Town** or its agents on public property.

4.2.3 Where the **Protected Tree** is located on a residential lot with an occupied dwelling, the lot **Owner** will be authorized to **Remove** one **Protected Tree** per 2 calendar years; this permission does not apply in the following exceptions:

- a. the **Protected Tree** is a Garry Oak, Arbutus, Pacific Yew or Pacific Dogwood;
- b. any **Tree** having a **DBH** that is 75 centimetres (29.5 inches) or more;
- c. **Protected Trees** within a Hazardous Lands Development Permit Area or Ecological Development Permit Area, as defined in Town of Qualicum Beach Official Community Plan Bylaw No. 800, 2018.

4.2.4 Where **Protected Trees** are growing on properties with a lot size greater than .4046 hectare (1 Acre), the property **Owner** is authorized to **remove** one **Protected Tree** for each .4046 hectare (1 Acre) in a lot per calendar year, up to a maximum of ten **Trees** per lot per calendar year; this permission does not apply in the following exceptions:

- a. the **Protected Tree** is a Garry Oak, Arbutus, Pacific Yew or Pacific Dogwood;
- b. any **Tree** having a **DBH** that is 75 centimetres (29.5 inches) or more;
- c. **Protected Trees** within a Hazardous Lands Development Permit Area or Ecological Development Permit Area, as defined in Town of Qualicum Beach Official Community Plan Bylaw No. 800, 2018.

#### 4.3 Permissions

A **Permit to Alter, Cut, Damage or Remove** a **Protected Tree** may be issued by the **Director** in the following circumstances:

4.3.1 Where the applicant has demonstrated that the **Protected Tree** is a **Hazardous Tree** or is dead, **Damaged**, diseased or in decline beyond expectation of recovery. If during a visual assessment by the Town of Qualicum Beach the condition of the **Tree** is not apparent, the applicant may be required to provide an **Arborist** report to the satisfaction of the

- Director** that the **Tree** is an unreasonable hazard to safety of persons or property;
- 4.3.2 Where a **Qualified Professional** determines that the **Protected Tree** is impairing, interfering with, or presents a risk or hazard to the operation of sewers, drains, water lines, septic fields, electrical lines, poles or similar equipment and appurtenances and that the impairment, interference or risk cannot be reduced or removed in any other way than the **Removal** of the **Tree**;
- 4.3.3 Where a **Protected Tree** has been identified as a fire hazard to property. In these cases, a report may be required from a Qualicum Beach Fire Prevention Officer, **Arborist**, or **Qualified Professional** that the **Protected Tree** poses a fire hazard to property and the risk cannot be reduced or removed in any other way than the **Removal** of the **Protected Tree**;
- 4.3.4 Where a **Protected Tree** is located within the Agricultural Land Reserve (ALR) or outside the ALR on land zoned for agricultural use and the **Protected Tree** must be **Removed** to permit the land to be used for an agricultural use. The application must be accompanied by a sworn declaration (affidavit) from the **Owner** stating that the **Protected Tree(s)** is to be **Cut** or **Removed** to permit agricultural use and that the agricultural use cannot be located elsewhere on the lot so as to accommodate the **Protected Tree**;
- 4.3.5 Where the **Protected Root Zone** of a **Protected Tree** extends into an approved building footprint for which a building permit has been issued and a **Qualified Professional** determines that the building location cannot be adjusted to avoid **Tree Removal**;
- 4.3.6 Where the **Removal** of a **Protected Tree** is required for the construction or installation of a driveway, required off-street parking area, septic tank or field, or underground or above ground utility corridor, and where no other locations are available where the driveway, parking area, septic tank or field or utility corridor may be located;
- 4.3.7 Where the **Removal** of the **Protected Tree** is required for the installation of roads or services shown on an engineering drawing that has been approved by the Director; or where the **Removal** of the **Protected Tree** is required for the installation of an access route or above ground or underground service of a subdivision that has been approved by the Town of Qualicum Beach Approving Officer;
- 4.3.8 Where the **Protected Tree** is located within a designated view corridor identified in existing Policy 4002-4 and authorized in writing by the



**Director; or**

4.3.9 Where **Removal** of the **Protected Tree** is required for implementation of an approved Development Permit.

4.4 Mandatory Removal or Pruning of Hazardous Trees or Hedges

4.4.1 **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;
- c. seriously inconveniencing the public; or
- d. a fire hazard.

4.4.2 The **Director** may notify the **Owner** or occupier of real property that the **Town** will take, at the **Owner's** or occupier's expense, the action required under Section 4.4.1 if the **Owner** or occupier does not take that action within ten days of receiving the notice. Notice from the **Town** will be provided by Registered mail.

4.4.3 The **Town's** employees or contractors may enter real property and undertake, at the **Owner's** or occupier's expense, the work referred to in Section 4.3.1 if the **Owner** or occupier does not undertake or complete that work.

5. Permit Requirements and Application Process

5.1 General Conditions of Permit

5.1.1 A **Permit** for the **Cutting, Removal or Disturbance** of any **Tree** to which this Bylaw applies shall be in the form issued by the **Director**.

5.1.2 A **Permit** issued under this Bylaw is non-transferable.

5.1.3 A **Permit** for the **Cutting or Removal** of any **Tree** to which this Bylaw applies shall include a requirement for one or more **Replacement Trees** to be planted and maintained in a viable condition for at least two growing seasons following planting.

5.2 Application Requirements

5.2.1 Every application for a **Permit** shall be made in writing to the **Director** and shall include the following documents, plans and information relating to the proposed **Tree Cutting or Removal** or

**Disturbance:**

- a. The civic address or a legal description of the **Parcel** on which the **Tree Cutting** is proposed to occur;
- b. A brief statement explaining the purpose or rationale for the proposed **Tree Cutting, Removal or Disturbance**;
- c. The consent in writing of the registered **Owner** of the property where the proposed **Tree Cutting** is to occur, if different from the applicant, authorizing the applicant to act as the **Owner's** agent;
- d. A sketch 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, removed or disturbed**;
  - v. for **Trees** proposed for **Cutting or Removal** only, the location, species and **DBH** of proposed **Replacement Trees** (see Section 6 below);
- e. The proposed methods for disposal of wood waste and other debris;
- f. The proposed completion dates for **Tree Cutting, Removal or Disturbance**;
- g. Where the **Tree Cutting or Removal** is for a **Hazard Tree**, a report prepared by a **Qualified Tree Risk Assessor** certifying that the **Tree** is dead, diseased, damaged or otherwise constitutes a physical hazard to persons or property;
- h. Such further and other information as the **Director** determines is necessary to adequately describe the nature and extent of the **Tree Cutting, Removal or Disturbance** operation.

5.2.2 Where **Disturbance** activities such as excavation, tilling, trenching, addition of soils or machine use are proposed that may encroach

into the **Protected Root Zone** of one or more **Protected Trees**, application for a **Permit** shall include the following additional information and measures:

- a. A **Tree Protection Plan** prepared by an **Arborist** in accordance with Schedule "B" of this Bylaw that documents the **Tree** protection measures and best practices to be followed by the applicant in order to minimize impacts from the proposed disturbance to the **Protected Tree's** health, condition and growing environment.
- b. Mark on the ground with paint, stakes or flagging the **Protected Root Zones** of all **Trees** on the **Parcel** and from **Trees** located on adjacent properties that encroach into the applicant's **Parcel** within which activities are proposed to occur.

5.2.3 Any **Treed Parcel** that is the subject of an application for rezoning, subdivision, development-permit, demolition permit or building-permit shall include the following plans prepared by an **Arborist** in accordance with Schedule "B" of this Bylaw:

- a. A **Tree Plan Drawing and Report** that describes and evaluates the existing **Tree** resource and relevant site conditions and land-use (current or historical);
- b. A **Tree Protection Plan Drawing and Report** that indicates the following for each stage of construction (e.g. site servicing, demolition and building permit):
  - i. measures taken at the site planning stage to minimize loss of **Protected Trees**;
  - ii. **Protected Trees** proposed for **Removal and Retention**;
  - iii. measures proposed for the effective protection of **Trees** proposed for retention, including the mitigation of development-related **Disturbance** and additional measures to restore or enhance the **Tree** habitat within the **Protected Root Zone** of **Trees** proposed for retention.

5.2.4 On parcels within the Steep Slope or Ecological Development Permit Areas, as defined in "Town of Qualicum Beach Official Community Plan Bylaw No. 800", every application for a permit shall include the following documents in addition to the relevant requirements in

Sections 5.2.1, 5.2.2 and 5.2.3:

- a. Where the site of the **Tree Cutting, Removal or Disturbance** is within a Steep Slope Development Permit Area, a report prepared by a **Qualified Professional** certifying that the proposed **Tree Cutting, Removal or Disturbance** will not create an adverse impact including flooding, erosion, land slip or contamination of a **Watercourse**.
- b. Where the site of the **Tree Cutting, Removal or Disturbance** is on a **Parcel** adjacent to or containing any part of a **Watercourse or Wetland**, a report prepared by a **Qualified Professional** certifying that the proposed **Tree Cutting or Removal** will not create an adverse impact to the **Watercourse, Wetland** or its associated riparian area.

5.3 Permit Fee:

5.3.1 Permit fees are exempted in the following cases:

- a. No permit application fee shall be charged for applications to **Remove** dead, dying or **Hazard Trees**;
- b. No permit application fee shall be charged for applications granted for the **Removal** of one **Protected Tree** in a given two calendar-year period.

5.3.2 A non-refundable application fee of \$100 is required on all parcels when applying for the **Removal** of two or more **Trees** within a given two calendar-year period.

5.3.3 A refundable security deposit of \$700 per **Replacement Tree** is required before a **Tree Cutting** permit is issued. The security deposit will be refunded to the applicant:

- a. Two years after planting if the **Replacement Tree(s)** is in good health and the applicant requests the security refund in writing; or
- b. After expiration of a permit without completion of any **Tree** removals and the applicant requests the security refund in writing.

5.4 Permit Issuance or Refusal

5.4.1 The **Director** may:

- a. Issue a **Permit**;

- b. Issue a **Permit** with additional conditions specified in the permit which in the opinion of the **Director** are necessary to achieve the purposes of this Bylaw; or
- c. Refuse to issue a permit.

5.5 Permit Expiry

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

5.6 Permit Renewal, Extension or Modification

- 5.6.1 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:

- d. 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;
- e. 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**;
- f. 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
- g. 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.

6. Replacement Trees

- 6.1 For all **Parcels**, as a condition of any **Permit** issued under this Bylaw, two **Replacement Trees** must be planted and maintained for each **Tree Cut** or **Removed** on the applicant's **Parcel**, in accordance with the requirements of Schedule "A".

- 6.2 If a **Tree** or **Trees** located on any **Parcel** form part of a **Hedge**, the **Director** may require that less than two **Replacement Trees** be planted and maintained for each **Tree** that is **Cut** or **Removed**.
- 6.3 As an alternative to the planting of two or more **Replacement Trees** on the **Parcel** from which one or more **Trees** have 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 Section 6.5, for the costs of purchasing, planting and one year's maintenance of the requisite **Replacement Trees** elsewhere in the **Town**.
- 6.4 **Replacement Trees** shall be planted and maintained in accordance with sound horticultural and arboricultural practices to the satisfaction of the **Director**.
- 6.5 If the lot cannot accommodate the planting of the required **Replacement Trees**, or if the **Director** has otherwise waived the requirement for a **Replacement Tree**; for each **Protected Tree** that is **Altered, Cut, Damaged, or Removed** the **Owner** shall be required to pay the Town of Qualicum Beach, cash in lieu, for each **Tree Altered, Cut, Damaged or removed**, the sum of ONE THOUSAND (\$1000) DOLLARS per replacement **Tree**.
- 6.6 Where no construction or site **Disturbance** is proposed that would affect the planting of **Replacement Trees**, the **Replacement Trees** must be planted within ninety (90) days of the date of issuance of the **Tree Cutting** permit.

## 7. Inspection and Enforcement

### 7.1 Inspection

- 7.1.1 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.
- 7.1.2 No person shall prevent or obstruct or attempt to prevent or obstruct the **Director** or designate from entering upon lands (see Sections 8.1 and 8.4 of this Bylaw).

### 7.2 Notice of Non-compliance

- 7.2.1 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**. Notice from the Town will be given by Registered mail.

7.3 Failure to Remedy Non-compliance

7.3.1 In the event that a person having received notice under Section 7.2 fails within the time specified therein to remedy such breach, the **Town** 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.

7.4 Notice of Remedial Requirement

7.4.1 In addition to any other provision of this Bylaw, where an **Owner** **Cuts, removes or Damages**, or causes, suffers or permits any **Protected 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 **Town** land in a location designated by the **Director**.

7.4.2. In addition to any other provision of this Bylaw, where an **Owner** fails to properly maintain a **Replacement Tree** such that the **Tree** is judged by the **Director** to be dead or in poor health or condition at the end of its second growing season after planting, that **Owner** will be considered to be in violation of the terms and conditions of the **Permit** issued under this Bylaw and shall, within 30 days of receiving notice of such requirement from the **Director**:

- a. 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 failed **Replacement Tree**.

- b. In the event the **Director** determines it is not feasible or prudent to replace the **Tree(s)** on the same **Parcel**, the **Replacement Trees** shall be planted on **Town** land in a location designated by the **Director** at a charge of \$1,250 per **Replacement Tree** to the applicant.

7.4.3 In the event that a person having received notice under Section 7.3.1 fails within the time specified therein to remedy such breach, the **Town** 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.

## 7.5 Suspension or Cancellation of Permit

7.5.1 Without limiting the application of **Section 8** of this Bylaw, 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**.

## 7.6 Right of Reconsideration

7.6.1 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 **Council** for reconsideration of the matter.

7.6.2 There is no charge for an application for reconsideration.

7.6.3 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 request for reconsideration which includes 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** or occupier 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** or occupier to be relevant to the reconsideration by **Council**.

7.6.6 In reconsidering a decision, **Council** will consider the material that was considered by the **Director** in making the decision.

7.6.9 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**.

#### 7.7 Recovery of Costs and Fees from Real Property Taxes

7.7.1 The costs of fees and actions taken by the **Town** under this Bylaw may be collected by the **Town** 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.

### 8. Offences and Penalties

8.1 In addition to other bylaw enforcement powers, enforcement of this Bylaw against a person may be by Municipal Ticket Information ("MTI") and if convicted, that person shall be liable to pay the full amount of the penalty and fine prescribed in the Town of Qualicum Beach Municipal Ticket Information Bylaw No. 626.

8.2 For greater certainty, an **Owner** of a property who permits a person to violate any provision of this Bylaw is in violation of this Bylaw.

8.3 If the penalty indicated on a MTI is not paid, and the Municipal Ticket is not disputed within fourteen (14) days of the date of service of MTI, the amount in full becomes due and payable to the Town of Qualicum Beach.

- 8.4 Any person who fails to pay the penalty indicated may have the amount transferred to a collection agent or be subject to collection through other legal processes.
- 8.5 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 \$50,000 in addition to the costs of prosecution.
- 8.6 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**.
- 8.7 For the purposes of this Bylaw, each **Tree Altered, Cut, Damaged** or **Removed** in violation of this Bylaw and each day that a violation of this Bylaw is caused or permitted to exist by any person shall constitute a separate offence.
- 8.8 Notwithstanding Section 9.1, any person who is guilty of obstructing the **Director** or **Officer** or their appointed designates while performing their duties in relation to this Bylaw is liable upon summary conviction to a fine of not less than \$2,000.00 and up to \$50,000.00, or to imprisonment for not more than 6 months, and the cost of prosecution.

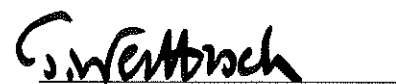
9. **Severability**

- 9.1 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.
- 9.2 Section headings do not form part of this Bylaw. They are included for convenience only and must not be used in interpreting this Bylaw.

**READ A FIRST TIME** this 22<sup>nd</sup> day of March, 2023.  
**READ A SECOND TIME** this 22<sup>nd</sup> day of March, 2023.  
**READ A THIRD TIME** this 22<sup>nd</sup> day of March, 2023.  
**ADOPTED BY** Council this 24<sup>th</sup> day of March, 2023.



Heather Svensen  
Corporate Administrator



Teunis Westbroek  
Mayor

**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:

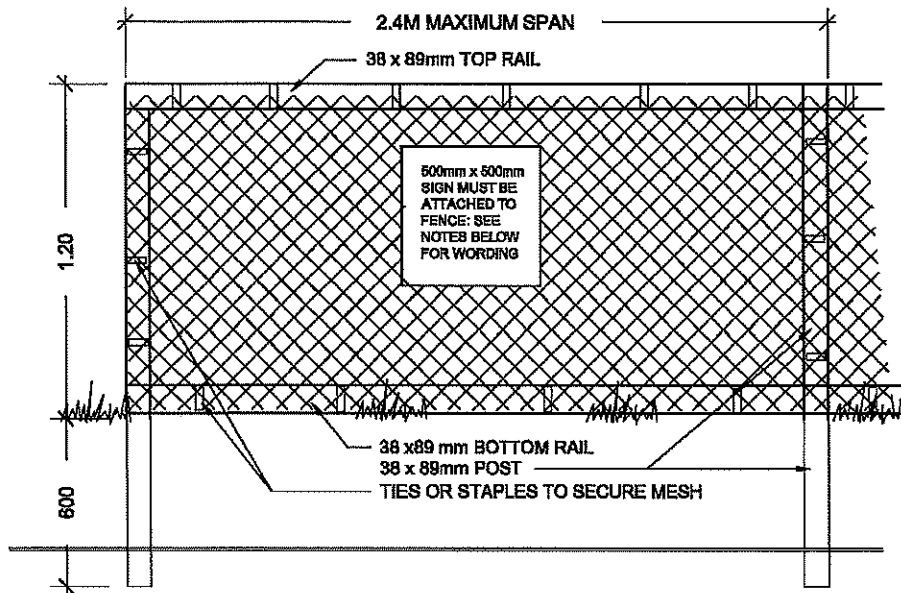
1. **Minimum Replacement Tree Sizes** (at time of planting):
  - 1.1 **Deciduous Replacement Trees** are to be a minimum of 2m in height and a minimum 4cm caliper\*,
  - 1.2 **Coniferous Replacement Trees** are to be a minimum of 3m in height.
2. Every **Replacement Tree** shall be spaced from existing **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.
3. All **Replacement Trees** shall meet current BCSLA or BCLNA standards.
4. The type, size, condition and location of **Replacement Trees** must be approved by the **Director**.

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

**SCHEDULE "B"**  
**TREE PROTECTION PLANS: REQUIRED CONTENT**

1. Written Report and Summary
  - Executive Summary (project and proponent info, Summary statistics, total **Trees** proposed for removal, retention and replacement).
  - Introduction (project background and consultant's assignment).
  - Site observations (including aerial context photo).
  - Description and Evaluation of **Tree Resource**, including risk assessment.
  - 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).
  - Proposed classification of **Trees** to be removed or retained.
  - Discussion and recommendations for **Tree Protection Measures**.
  
2. Tree Inventory Table (append to Plan)
  - **Tree tag #, Common Name, DBH, Canopy radius, Protected Root Zone radius, Biological Condition, Structural Condition, Comments and Recommendations**
  
3. Tree Protection Drawing (append to Plan)
  - Topographic **Tree Survey** elements (north arrow, land contours, **Tree** locations, property lines, roads, driveways, etc.)
  - Site Plan Element overlays (architectural, grading, servicing, landscape)
  - Protected **Tree tag #s**, labels, canopy extents, calculated and protected root zone extents
  - **Replacement Tree** labels and locations
  - **Proposed Tree Protection Barrier** alignment
  - Comprehensive and relevant annotated **Tree Protection Measures**
  
4. Tree Protection Fencing Detail (appended to Plan) in accordance with Schedule "C" to this Bylaw.

**SCHEDULE "C"**  
**TREE PROTECTION BARRIER REQUIREMENTS**



**TREE PROTECTION FENCING**

**NOTES:**

1. 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.
  2. ATTACH A 500mm x 500mm SIGN WITH THE FOLLOWING WORDING:  
**WARNING-HABITAT PROTECTION AREA.** THIS SIGN MUST BE AFFIXED ON EVERY FENCE FACE OR AT LEAST EVERY 10 LINEAR METRES.
- \* IN ROCKY AREAS, METAL POSTS (T-BAR OR REBAR) DRILLED INTO ROCK WILL BE ACCEPTED

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DETAIL NAME: **TREE PROTECTION FENCING**