

THE CORPORATION OF THE TOWNSHIP OF LANGLEY

TREE PROTECTION BYLAW 2019 NO. 5478

EXPLANATORY NOTE

Bylaw 2019 No. 5478 is to regulate, prohibit and impose requirements for tree cutting and tree protection.

THE CORPORATION OF THE TOWNSHIP OF LANGLEY

TREE PROTECTION BYLAW 2019 NO. 5478

WHEREAS the Community Charter, S.B.C. 2003 c. 26 authorizes *Council* to regulate, prohibit or impose requirements in relation to Trees;

AND WHEREAS *Council* deems it desirable to regulate, prohibit, and impose requirements for tree cutting and tree protection;

NOW THEREFORE, the *Council* of the Corporation of the Township of Langley in Open Meeting Assembled, ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited for all purposes as “Tree Protection Bylaw 2019 No. 5478.”

2. Definitions

For the purpose of this Bylaw the following words have the following meanings:

“**Council**” means the municipal Council of the Township of Langley.

“**Critical Root Zone**” means the area of land surrounding the trunk of a *tree* contained within a circle of radius equal to the *dbh* of the *tree* multiplied by 8.

“**Cutting or Removal or Cut or Remove**” means to kill, remove or substantially destroy a *tree* by any means, including without limitation, knocking down or cutting into the *tree*, the *topping* of a *tree* and the cutting of any main stem or other leader or trunk.

“**DBH or dbh (Diameter Breast Height)**” means the diameter of the trunk of a *tree* measured at a point 1.4 metres above the natural grade, except where the diameter of a *tree* having multiple trunks 1.4 metres above the natural grade shall be the sum of 100% of the diameter of the largest trunk and 60% of the diameter of each additional trunk.

“**General Manager**” means the individual appointed to be the General Manager of the Community Development Division or a person duly authorized to carry out the powers and duties of the General Manager of Community Development.

“**Drip Line**” means a circle on the ground around the trunk of a *tree*, the radius of which is the distance between the outermost twigs of the *tree* and the centre point of the trunk, or its vertical extension.

“**Hazard Tree**” means a *tree* identified in writing by a *certified tree risk assessor* as having defects sufficient to significantly increase the likelihood that all or part of the *tree* will fall resulting in a risk of personal injury or property damage.

“**Hedge**” means a row of three or more *trees* that through growth and *pruning* forms a continuous dense screen of vegetation from ground level that provides privacy, fencing, wind breaking, and/or boundary definition.

“**Highway**” includes a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right-of-way on private property.

“Municipality” means the Corporation of the Township of Langley.

“Parcel” means any lot, block or other area in which land is held or into which land is subdivided but does not include a *highway*.

“Permit” means a *permit* issued by the *General Manager* under authority of this bylaw to *cut or remove a tree or trees*.

“Pruning” means the selective removal of branches to improve timber quality, or to remove dead or diseased wood, or to correct undesirable growth patterns.

“Public Utility” means the *Municipality*, B.C. Hydro Authority, Telus, FortisBC, and any other utility company or its contractors providing a public service or utility.

“Qualified Tree Risk Assessor” means a Certified Arborist with additional current training and certification in tree risk assessment, certified by the International Society of Arboriculture.

“Replacement Tree” means a woody perennial plant with one or more substantially erect main trunks or stems, including its root system, that is required to be planted and maintained in accordance with Sections 9 and Schedule “A”. Accepted replacement tree species are identified in the Subdivision and Development Servicing Bylaw No. 4861, Schedule I, Appendix B, Section 5.

“Topping” means the removal of major portions of a tree crown by cutting branches to stubs or to the trunk or cutting of the main leader or branches, and includes re-topping of previously topped *trees* as defined by the International Society of Arboriculture.

“Tree” means:

- a) a woody perennial plant with one or more substantially erect main trunks or stems, including its root system, that has a *dbh* of at least 30 centimetres; not including Alder, Birch, and Cottonwood trees;
- b) a woody perennial plant with one or more substantially erect main trunks or stems, including its root system, regardless of height or *dbh*, where located on land within Streamside Protection and Enhancement Development Permit Areas, as defined in Langley Official Community Plan Bylaw 1979 No. 1842 Amendment (2013 Official Community Plan) Bylaw 2013 No. 5000, as amended from time to time; or
- c) a woody perennial plant with one or more substantially erect main trunks or stems, including its root system, regardless of height or *dbh*, where located on land that is in the ownership or possession of the *Municipality*.

“Tree Protection Barrier” means a sturdy protection barrier or temporary fence at least 1.2 metres in height, installed around the *drip line* or *critical root zone* of a *tree* that is to be retained.

“Tree Retention Area” means those areas within the Municipal boundary of the Township of Langley.

“Watercourse” means a channel through which water flows at any time of the year and includes a brook, river, stream, creek, lake, pond and any other body of water running through or situated partially or fully within the *Municipality*.

3. Application of Standards

Except as otherwise set out in this bylaw, the standards and requirements for property prescribed in this bylaw apply to *trees* which are:

- a) On land owned or in the possession of the *Municipality*
- b) On a privately-owned *parcel* of land in the *Municipality*
- c) within a development permit area;
- d) within a *tree retention area*; or
- e) identified for retention and protection as part of a subdivision, development permit or building permit approval process.

This bylaw does not apply to:

- f) private land used for the production or cutting of *trees* under a valid, existing licence for a tree farm, nursery or Christmas trees; or
- g) private land used for a golf course;
- h) land that is currently designated as Agricultural Land Reserve as defined under the Agricultural Land Commission Act; or
- i) land that is subject of a development application.

4. Schedule and Severability

If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

This Bylaw is cited as “Tree Protection Bylaw No. 5478”.

RESTRICTIONS AND EXEMPTIONS

5. Restrictions

- 5.1. A person must not *cut or remove* any *tree*, or cause, suffer or permit any *tree* to be *cut or removed*, 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*.
- 5.2. A person must comply with the terms and conditions of a *permit* issued under this bylaw.
- 5.3. Except to the extent permitted by a *permit*, or as provided for in section 6 a person must not damage a *tree* by carrying out any of the following activities:
 - a) cutting or damaging the roots of a *tree* growing within the *drip line*;
 - b) operating trucks, backhoes, excavators or other heavy equipment over the roots of a *tree* growing inside the *drip line*;
 - c) placing fill, building materials, asphalt or a building or structure on land inside the *drip line* of a *tree*;
 - d) denting, gouging or damaging 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 land inside the *drip line* of a *tree*;
- g) removing soil from inside the *drip line* of a *tree*;
- h) blasting inside the *drip line* of a *tree*;
- i) cutting back the top portion of a *tree*'s branches so as to significantly alter its normal canopy, except if the *tree* forms part of a *hedge*;
- j) undermining the roots of a *tree* growing inside the *drip line*; or
- k) altering the ground water or surface water level within the *drip line* of a *tree*.

6. Exemptions

6.1. A *permit* is not required to *cut or remove* a *tree* where:

- a) a development permit, rezoning and/or subdivision has been approved which addresses the removal of the *tree*;
- b) the *tree cutting or removal* is necessary for the purposes of farm operations as defined in the Farm Practices Protection (Right to Farm) Act, as amended from time to time;
- c) the *tree cutting or removal* is for the installation of roads or services shown on an engineering drawing approved by the *Municipality* in respect of a building permit or subdivision approval;
- d) a *tree* must be *cut or removed* on an emergency basis because it has been severely damaged by natural causes and poses an imminent danger of falling and injuring persons or property;
- e) the *tree cutting or removal* is carried out by the *Municipality* or its agents on public property;
- f) the *tree cutting or removal* is carried out using standard arboricultural practices for the maintenance of above ground utility conductors by a *public utility* or its contractors;
- g) the *cutting or removal* is of a *tree* less than 30 centimetres *dbh* by a British Columbia Land Surveyor when cutting survey lines of a width of less than two (2) metres;
- h) the *cutting or removal* constitutes normal *pruning* of *trees*, including *pruning* by a *public utility* in accordance with sound horticultural practice or as required for the safe operation of overhead transmission lines; or
- i) the *tree* is less than 30 centimetres *dbh*.
- j) it is required for the siting of a building, driveway, septic field, or water well as approved by the *Municipality* in conjunction with a building permit.

6.2. A *permit* is required but the permit fee and arborist report are not required to *cut or remove* two (2) *trees* per *parcel* during a 24-month period from the date of the last *permit* issued.

6.3. A *permit* is not required for the *pruning* of a *hedge*.

PERMIT APPLICATION PROCESS

7. General Conditions of Permit

- 7.1. A *permit* for the *cutting or removal* of any *tree* to which this bylaw applies shall be in the form issued by the *General Manager*.
- 7.2. A *permit* issued under this bylaw is non-transferable.
- 7.3. The *permit* shall be displayed in an accessible and visible location on the *parcel* to which it pertains no less than 72 hours prior to and during *tree cutting or removal* operations.

8. Application Requirements

- 8.1. Every application for a *permit* shall be made in writing to the *General Manager* and shall include:
 - a) a non-refundable application fee in the amount set from time to time in the Fees and Charges Bylaw 2007 No. 4616 unless the application is for permission to remove a *hazard tree* or one *tree* under section 6.2, in which case there shall be no fee;
 - b) the following documents, plans and information relating to the proposed *tree cutting or removal*:
 - i. a statement of purpose and rationale for the proposed *tree cutting or removal*;
 - ii. a tree cutting and replacement plan drawn to approximate scale identifying:
 - A. the boundaries of the subject *parcel*;
 - B. any abutting streets, lanes or public access rights of way;
 - C. the location of existing buildings and structures;
 - D. the location, species and *dbh* of those *trees* proposed to be *cut or removed*;
 - E. the location, species and *dbh* of those *trees* proposed to be retained and protected;
 - F. the location, species and *dbh* of proposed *replacement trees*;
 - G. the location of significant topographic and hydrographic features and other pertinent site information;
 - iii. the street location and legal description;
 - iv. the consent in writing of the registered owner of the property, if different from the applicant, authorizing the applicant to act as the owner's agent
 - v. the consent in writing of the registered owners of the *parcels* where the base of the *tree* to be *cut or removed* is located.
 - vi. the methods proposed for control of drainage and erosion impacts during and after the *tree cutting or removal*;
 - vii. the proposed methods for disposal of wood waste and other debris;
 - viii. the proposed methods of noise and dust control during the *tree cutting or removal* operation;

- ix. the proposed completion dates for *tree cutting or removal*;
- x. if required by the *General Manager*:
 - A. a report prepared by a professional engineer, professional biologist or certified arborist with experience in, as the circumstances require, geotechnical engineering, hydrology or tree management, certifying that the proposed *tree cutting or removal* will not create an adverse impact including flooding, erosion, land slip or contamination of a *watercourse*;
 - B. where the site of the *tree cutting or removal* is on a *parcel* adjacent to or containing any part of a *watercourse*, a survey plan prepared by a BC Land Surveyor or professional engineer showing the top-of-bank of such *watercourse*;
 - C. where the *tree cutting or removal* is for a *hazard tree*, a report prepared by a *certified tree risk assessor* certifying that the *tree* is dead, diseased, damaged or otherwise constitutes a physical hazard to persons or property; and
 - D. any applicable Federal or Provincial submissions for approvals, including a Bird Nesting Survey if removing trees between March 15 and August 1 as per the Wildlife Act (British Columbia) and its regulations.
- xi. such further and other information as the *General Manager* determines is necessary, such as an arborist report prepared by a *Qualified Tree Risk Assessor*, to adequately describe the nature and extent of the *tree cutting or removal* operation.

9. Replacement Trees

- 9.1. For *parcels* containing a one-family dwelling as a condition of issuing a *permit* under this bylaw it is required that one *replacement tree* be planted and maintained for each *tree cut or removed* on the applicant's *parcel* in accordance with the requirements of Schedule "A".

For tree replacements on all other *parcels*, the *General Manager*, as a condition of issuing a *permit* under this bylaw, shall require one or more *replacement trees* be planted and maintained on the applicant's *parcel* in accordance with the requirements of Schedule "A."

If a *tree* or *trees* located on any *parcel* form part of a *hedge*, the *General Manager* may require that less than one *replacement tree* be planted and maintained for each *tree* that is cut.

In the event that the *replacement tree* cannot, in the opinion of the *General Manager*, be accommodated on the *parcel*, the *General Manager* may require the applicant to plant the *replacement tree* on Municipal owned property in a location designated by the *General Manager*. Alternatively, a cash-in-lieu payment in an amount equivalent to 120% of the estimated cost of the *replacement tree*, including labour and installation, shall be paid to the Municipality to fulfil the requirements at a future date.

- 9.2. *Replacement trees* shall be planted and maintained in accordance with sound horticultural and arboricultural practices to the satisfaction of the *General Manager*.
- 9.3. *Replacement trees* are not required for *tree cutting or removal* permitted under section 6.2. or for the *cutting or removal* of a *hazard tree*.

10. Permit Issuance or Refusal

10.1. The *General Manager* may issue a *permit* if:

- a) an application for a *permit* complies with the requirements of this bylaw; and
- b) the proposed tree *cutting or removal* complies with this bylaw and all other applicable Municipal bylaws.

10.2. The *General Manager* may refuse to issue a *permit* if the proposed tree *cutting or removal* is within a *tree retention area*.

11. Expiry

11.1. Every *permit* shall expire 12 months from the date of issue or upon such earlier date as may be specified in the *permit*.

12. Renewal, Extension or Modification

12.1. 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 *General Manager* may renew, extend or modify the *permit* upon written request of the *permit* holder, subject to the following:

- a) a *permit* holder has no vested right to receive an extension, renewal or modification and the *General Manager* may require that a new *permit* be obtained;
- b) the *permit* holder shall pay a non-refundable fee in the amount set from time to time in the Fees and Charges Bylaw 2007 No. 4616;
- c) the *General Manager* may not renew or extend a *permit* for a period of more than two years from the date of issuance of the original *permit*;
- d) the *General Manager* 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
- e) 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.

REGULATIONS

13. Tree Cutting or Removal

13.1. Every *cutting or removal* of a *tree* shall comply with, and every *permit* issued under this bylaw is subject to, the observance or fulfilment of the following requirements, restrictions and regulations, to the satisfaction and approval of the *General Manager*:

- a) tree parts and woodwaste shall be properly disposed of by chipping or removal from site in accordance with all applicable Municipal bylaws and Provincial regulations;
- b) each *tree* to be *cut or removed* shall be clearly identified with a flag, paint, survey tape or other such method;

- c) a *tree protection barrier*, as shown on Schedule “B”, shall be placed around any *tree* or *trees* which are not to be *cut or removed*, in such a manner to ensure that the trunk, branches and root system are not damaged by the *cutting or removal* operations. The *tree protection barrier* must be constructed prior to the issuance of the *permit* and must remain intact for any construction or demolition site throughout the entire period of construction or demolition;
 - d) precautions shall be taken to ensure that *trees* which are not to be *cut or removed* are not subject to any of the damaging activities prohibited by subsection 5.3;
 - e) no *tree cutting or removal* activities may be carried out between the hours of 6:00 p.m. and 8:00 a.m. the following day, except in the event of a *hazardous tree*;
 - f) all damage to drainage facilities, *watercourses*, *highways* or other public or private property arising from the removal of a *tree* shall be promptly and properly repaired to the satisfaction of the *General Manager* at the expense of the *permit* holder, failing which the Municipality may undertake the necessary repairs and invoice the *permit* holder for immediate payment;
 - g) all *watercourses*, groundwater aquifers, waterworks, ditches, drains, sewers or other established drainage facilities shall be kept free of all wood waste arising from or caused by the *tree cutting or removal* operations;
 - h) all hazards or potential hazards arising from the *tree cutting or removal* operation shall be adequately fenced or otherwise protected for the safety of the public;
 - i) *tree cutting or removal* operations must not encroach upon, undermine, damage or endanger any adjacent property or any setback area prescribed in the *permit* or a bylaw; and
 - j) *tree cutting or removal* operations shall be limited only to the area specified in the *permit* which shall be clearly marked at the site and such markings maintained for the duration of the *permit*.
- 13.2. The *General Manager* may issue a *permit* subject to the observance or fulfilment of any additional conditions specified in the *permit* which in the opinion of the *General Manager* are necessary to achieve the purposes of this bylaw.

ADMINISITRATION

14. Inspection

- 14.1. The *General Manager* 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.
- 14.2. The *General Manager* may, at all reasonable times, assess or inspect, or cause an assessment or inspection to be made of any *trees* to which this bylaw applies, including an assessment of the location, size, species and condition of such *trees*, in the following circumstances:

- a) where land is subject to an application for subdivision, approval of a servicing plan prior to subdivision, a development permit, a development variance permit, a temporary commercial or industrial use permit or a building permit;
 - b) when *replacement trees* have been planted as required by this bylaw; or
 - c) when an application for a *permit* to carry out tree *cutting or removal* operations has been made under this bylaw.
- 14.3. No person shall prevent or obstruct or attempt to prevent or obstruct the *General Manager* or designate from entering upon lands as authorized by subsections 14.1 and 14.2.

15. Notice of Non-compliance

- 15.1. The *General Manager* may give notice, in the form established in Schedule “C”, 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 *General Manager*, and every owner of land shall refuse to suffer or permit further tree *cutting or removal* operations upon the owner’s land until such time as the breach or non-compliance is remedied to the satisfaction of the *General Manager*.

16. Failure to Remedy Non-compliance

- 16.1. In the event that a person having received notice under Section 15 fails within the time specified therein to remedy such breach, the *Municipality* or its appointed agents may enter upon the lands or any part thereof and carry out the works required to remedy the breach, and the expense of doing so shall be paid by the person in breach and, if not paid within 90 days, the expense, with interest at the prescribed rate and costs, shall be recovered from the owner of the lands in the same manner as municipal taxes.

17. Suspension or Cancellation of Permit

- 17.1. Without limiting the application of Part 19 (Offences and Penalties), 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 *General Manager* 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* with the consent of the *permit* holder.

18. Right of Reconsideration

- 18.1. Where an applicant or owner of property is subject to a requirement or a decision made by the *General Manager* under this bylaw and is dissatisfied with the requirement or decision, the applicant or owner may apply to the *Municipal Council* for reconsideration of the matter within 30 days of the requirement or decision being communicated to them.
- 18.2. An application for reconsideration must be delivered in writing to the Municipal Clerk and must set out the grounds upon which the applicant considers the requirement or decision of the *General Manager* is inappropriate and what, if any, requirement or decision the applicant or owner considers the *Council* ought to substitute.
- 18.3. At the meeting of *Council*, *Council* may hear from the applicant and any other person interested in the matter under reconsideration who wishes to be heard and may either confirm the requirement or decision of the *General Manager* or substitute its own requirement or decision.

OFFENCES AND PENALTIES

- 19.1. 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 this bylaw or any *permit* issued under this bylaw, or who fails or neglects to do anything required to be done under this bylaw or any *permit* issued under this bylaw, including a bylaw notice issued pursuant to the Bylaw Notice Enforcement Bylaw 2008, No. 4703, as amended from time to time, commits an offence; and where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence.
- 19.2. Where one or more *trees* is *cut or removed* or damaged, other than as authorized by this bylaw, or more than one *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*.
- 19.3. Every person who commits an offence against this bylaw is punishable on conviction by a fine of not less than \$75 and not more than \$10,000 for each day, per tree or per offence as such offence continues.
- 19.4. In addition to the penalties imposed under section 19.3, by order of the court, a person convicted of an offence under this bylaw may be directed to:
 - a) not do any act or engage in any activity that may result in the continuation or repetition of the offence;
 - b) pay the costs incurred by the *Municipality* in investigating and prosecuting the offence;
 - c) pay compensation to the *Municipality* for any damage or loss sustained by the *Municipality* because of the commission of the offence to a maximum of \$25,000 or higher monetary limit as may be specified under the Small Claims Act in force at the time of the offence;
 - d) take any action the court considers appropriate to remedy any harm that resulted from the commission of the offence.

- 19.5. Pursuant to section 19.4 (d) the *Municipality* may seek an order directing a person convicted of an offence under this bylaw to complete an education or training program for instruction in appropriate care and management of trees to a standard established by a provincial, national or international body for professional arboriculture, landscaping, or nursery practice.
- 19.6. In addition to any other penalty which may be imposed under this bylaw, where a person cuts, removes or damages, or causes, suffers or permits any *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 *General Manager*, shall:
- a) submit for the *General Manager'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 *General Manager* determines it is not feasible or practical to replace the trees on the same *parcel*, the *replacement trees* shall be planted on Municipal land in a location designated by the *General Manager*, or alternatively, a cash-in-lieu payment in an amount equivalent to 120% of the estimated cost of the *replacement tree*, including labour and installation, shall be paid to the Municipality to fulfil the requirements at a future date.

20. Repeal

- 20.1. Brookwood-Fernridge Tree Protection Bylaw 2017 No. 5301 is hereby repealed.

READ A FIRST TIME the	27	day of	May	, 2019
READ A SECOND TIME the	27	day of	May	, 2019
PUBLIC INPUT OPPORTUNITY		day of		, 2019
READ A THIRD TIME the		day of		, 2019
RECONSIDERED AND ADOPTED the		day of		, 2019

_____ Mayor _____ Township Clerk

SCHEDULE A to BYLAW NO. 5478

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) For *tree* removals not related to demolition or construction on *parcels* containing a one-family dwelling:
 - a) deciduous *replacement trees* are to be a minimum of 3m in height or of a minimum 6cm caliper*.
 - b) coniferous *replacement trees* are to be a minimum of 2.5m in height.
- 2) For *tree* removals for all other properties and permits related to construction, demolition, rezoning, development permits, subdivisions or building permits:
 - c) every deciduous *replacement tree* shall be of a minimum 6cm caliper*.
 - d) every coniferous *replacement tree* shall be a *tree* of a minimum 2.5m height.
- 3) Every *replacement tree* shall be spaced from existing trees and other *replacement trees* in accordance with an approved forest management plan or 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, and all *replacement trees* shall meet current BCSLA or BCLNA standards.

(*Caliper is the diameter of the trunk measured at 15cm above the ground)

SCHEDULE C to BYLAW NO. 5478

**NOTICE OF NON-COMPLIANCE
and
STOP WORK ORDER**

YOU ARE HEREBY NOTIFIED that the Township of Langley considers activity on this property to be in breach of its ***Tree Protection Bylaw Number 5478***,

AND ALL PERSONS SHALL IMMEDIATELY CEASE the following activity on this property:

EVERY PERSON WHO FAILS TO COMPLY WITH THIS ORDER MAY, UPON CONVICTION FOR AN OFFENCE AGAINST THE SAID BYLAW, BE LIABLE TO A PENALTY AS STIPULATED IN THE BYLAW.

Persons affected by this Order may seek further information at the Bylaws Department, Township of Langley Civic Facility at 20338 - 65 Ave, Langley, British Columbia V2Y 3J1.

ADDRESS of PROPERTY

DATE

GENERAL MANAGER

NO PERSON MAY REMOVE, REVERSE, ALTER, DEFACE, COVER, OR IN ANY WAY TAMPER WITH THIS NOTICE WITHOUT AUTHORIZATION BY THE TOWNSHIP OF LANGLEY.

THE CORPORATION OF THE TOWNSHIP OF LANGLEY
BYLAW NOTICE ENFORCEMENT BYLAW 2008 NO. 4703
AMENDMENT BYLAW 2019 NO. 5481

EXPLANATORY NOTE

Bylaw 2019 No. 5481 amends the Bylaw Notice Enforcement Bylaw 2008 No. 4703 by providing fine amounts and offences relating to Tree Protection Bylaw 2019 No. 5478.

THE CORPORATION OF THE TOWNSHIP OF LANGLEY

BYLAW NOTICE ENFORCEMENT BYLAW 2008 NO. 4703

AMENDMENT BYLAW 2019 NO. 5481

A Bylaw to Amend the Bylaw Notice Enforcement Bylaw 2008 No. 4703

WHEREAS it is deemed necessary and desirable to permit a violation of the Township of Langley Tree Protection Bylaw 2019 No. 5478 to be addressed through the issuance of a bylaw notice;

AND WHEREAS Council has adopted the Township of Langley Tree Protection Bylaw 2019 No. 5478;

NOW THEREFORE, the Municipal Council of the Corporation of the Township of Langley, in Open Meeting Assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as “Bylaw Notice Enforcement Bylaw 2008 No. 4703 Amendment Bylaw No. 5481”.
2. The “Township of Langley Bylaw Notice Enforcement Bylaw 2008 No. 4703” as amended is further amended by adding the following as part of Schedule “A”:

Township of Langley Tree Protection Bylaw 2019 No. 5478 (the “Bylaw”)

Column 1 Offence	Column 2 Bylaw Section	Column 3 Fine
• Failure to comply with terms and conditions of a valid permit	5.2	\$500
• Causing physical damage to any tree within the drip line including canopy, roots and trunk	5.3	\$500
• Failure to post a valid permit in a prescribed location for 72 hours prior to tree cutting or removal	7.3	\$75
• Failure to plant and maintain trees in accordance with sound horticultural and arboricultural practices	9.2	\$500
• Failure to dispose of tree parts and woodwaste in the prescribed manner	13.1(a)	\$500
• Failure to clearly identify in the prescribed manner a tree to be cut or removed	13.1(b)	\$75
• Failure to place or maintain a prescribed protection barrier around trees to be cut or removed for the duration of all construction or demolition	13.1(c)	\$500

- | | | |
|--|---------|-------|
| • Cutting or removing any tree or replacement tree between 6:00 pm and 8:00 am on the following day | 13.1(e) | \$250 |
| • Failure to keep watercourses including ditches, drains and sewers clear of tree parts and woodwaste | 13.1(g) | \$500 |
| • Failure to fence all hazards or potential hazards arising from tree cutting or removal | 13.1(h) | \$250 |
| • Cutting or removing any tree or replacement tree beyond the prescribed area set out in a valid permit | 13.1(j) | \$500 |
| • Failure to clearly mark or maintain the prescribed area for tree cutting or removal for the duration of a valid permit | 13.1(j) | \$250 |

READ A FIRST TIME the	27	day of	May	, 2019
READ A SECOND TIME the	27	day of	May	, 2019
READ A THIRD TIME the	27	day of	May	, 2019
RECONSIDERED AND ADOPTED the		day of		, 2019

_____	Mayor	_____	Township Clerk
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THE CORPORATION OF THE TOWNSHIP OF LANGLEY

FEES AND CHARGES BYLAW 2007 NO. 4616

AMENDMENT BYLAW 2019 NO. 5482

EXPLANATORY NOTE

Bylaw 2019 No. 5482 amends the Fees and Charges Bylaw 2007 No. 4616 by adding new fees and charges relating to Tree Protection Bylaw 2019 No. 5478.

THE CORPORATION OF THE TOWNSHIP OF LANGLEY

FEES AND CHARGES BYLAW 2007 NO. 4616

AMENDMENT BYLAW 2017 NO. 5482

A Bylaw to Amend the Fees and Charges Bylaw 2007 No. 4616

WHEREAS pursuant to section 194 of the *Community Charter*, Council may, by bylaw, impose a fee payable in respect of all or part of a fee or service of the municipality, the use of municipal property, or the exercise of authority to regulate, prohibit or impose requirements;

AND WHEREAS the Municipal Council deems it necessary and desirable to exercise the authority provided by the *Community Charter* to cover costs of providing various fees, services and information;

NOW THEREFORE, the Township of Langley Council, in Open Meeting Assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as "Fees and Charges Bylaw 2007 No. 4616 Amendment Bylaw 2019 No. 5482".
2. The "Township of Langley Fees and Charges Bylaw 2007 No. 4616" as amended is further amended by adding "Schedule 15 - Tree Protection", as follows:

SCHEDULE 15. TREE PROTECTION FEES AND CHARGES BYLAW 2007 NO. 4616 AMENDMENT BYLAW 2019 NO. 5482

TREE PROTECTION Fee Type	Description	Fees & Charges Without Tax
Permit to remove a hazard tree	Administration and inspection costs for permit	No Fee
Permit to remove two (2) <i>trees</i> per <i>parcel</i> during a 24 month period	Administration and inspection costs for permit	No Fee
Permit to remove three (3) or more <i>trees</i>	Administration and inspection costs for permit	\$100.00 per tree
Permit renewal, extension or modification	Administration and inspection costs for permit	\$100.00 per tree

READ A FIRST TIME the	27	day of	May	, 2019
READ A SECOND TIME the	27	day of	May	, 2019
READ A THIRD TIME the	27	day of	May	, 2019
RECONSIDERED AND ADOPTED the		day of		, 2019

_____ Mayor _____ Township Clerk



REPORT TO MAYOR AND COUNCIL

PRESENTED: MAY 27, 2019 - REGULAR EVENING MEETING
FROM: COMMUNITY DEVELOPMENT DIVISION
SUBJECT: TREE PROTECTION BYLAW

REPORT: 19-78
FILE: BA000025

RECOMMENDATIONS:

That Council give first and second reading to Tree Protection Bylaw 2019 No. 5478;

That Council give first, second and third reading to Bylaw Notice Enforcement Bylaw 2008 No. 4703 Amendment Bylaw 2019 No. 5481;

That Council give first, second and third reading to Fees and Charges Bylaw 2007 No. 4616 Amendment Bylaw 2019 No. 5482; and

That Council authorize staff to schedule a Public Hearing for Bylaw 2019 No. 5478.

EXECUTIVE SUMMARY:

At its Regular Evening Meeting on April 15, 2019, Council directed staff to bring forward a Tree Protection Bylaw, based on the City of Richmond's Tree Protection Bylaw.

In response to Council's direction, a proposed Tree Protection Bylaw has been prepared for Council's consideration. The proposed Bylaw includes additional provisions requested by Council, as follows:

- Trees less than 30 cm in diameter measured at 1.4 m height from the ground are exempt;
- Residents have the ability to remove two (2) trees per existing legal parcel every twenty-four (24) months with a permit without the requirements to pay a fee and submit an arborist report; and
- Incorporation of a species exclusion list.

Proposed amendments to the Bylaw Notice Enforcement Bylaw 2008 No. 4703 specify fines and penalties for contraventions; and proposed amendments to the Fees and Charges Bylaw 2007 No. 4616 provide for assessment of a permit application fee.

Subject to Council direction, staff will be preparing a series of information bulletins to summarize the highlights of the proposed Tree Protection Bylaw, outline the process of obtaining a Tree Cutting Permit, and specify the requirements for an arborist report, similar to the bulletins in the City of Richmond. Staff will aim to have these documents finalized and available for the public upon Council adoption of the proposed Bylaw.

Additional staff resources are expected to be required for the administration of the proposed Bylaw, such as clerical support for permit issuance and responding to inquiries, Certified Arborist for site inspections, and bylaw officers for enforcement. Having said that, in the interim, the additional workload generated by the proposed Bylaw is to be borne by existing staff resources with implications monitored for additional staffing needs identified and presented to Council as part of the 2020 budget process.

PURPOSE:

This report is in response to Council direction for staff to bring forward a Tree Protection Bylaw.

BACKGROUND/HISTORY:

At its Regular Evening Meeting on April 15, 2019, Council passed the following resolution:

Whereas several other municipal jurisdictions in the Lower Mainland have already adopted Tree Protection Bylaws over the last decade, including Delta, Richmond, Vancouver, Surrey, Maple Ridge and Abbotsford;

Whereas the City of Richmond BC has very clear and concise Tree Protection Bylaw standards easily available to the public on their City website, and their Tree Protection Bylaw has been in place since 2006;

Whereas the previous Township of Langley Council referred the matter of a Tree Protection Bylaw to the current Township of Langley Council;

Whereas in January 2019, the current Township of Langley Council identified Tree and Canopy Protection in the Township as one of their top 6 priorities for this term;

Whereas staff have requested Township Council to provide more direction on this matter; and

Whereas the recently formed Brookwood-Fernridge Neighbourhood Planning Committees will also need direction and standards relative to their advisory work on these new Neighbourhood Plans;

Therefore be it resolved that the Township of Langley (TOL) Council:

1. Request TOL staff to:

a) Bring forward a Township of Langley Tree Protection Bylaw, based on the City of Richmond Tree Protection Bylaw, for First and Second Reading”; and include the following provisions:

- That trees less than 30cms in diameter, at 1.4 metres from the ground are exempt from the proposed bylaw;*
- That residents have the ability to remove one tree every 24 months with a permit with no fee and no arborist report; and*
- A “Species Exclusion List” be developed in conjunction with the proposed Bylaw.*

b) Hold a Public Hearing on the proposed TOL Tree Protection Bylaw prior to Third Reading; and

c) Bring forward Final Reading of the proposed TOL Tree Protection Bylaw;

2. Request TOL staff to undertake an existing tree canopy review in the Township and to bring forward a Tree Canopy Protection Standard for the entire Township in the next 6-12 months, focusing first on the Brookwood-Fernridge area so that this standard is known by all the Brookwood-Fernridge Neighbourhood Planning Committees and TOL staff concurrent with their advisory work and Neighbourhood Plan recommendations to Council; and

3. Appoint an 8-12 month (maximum) Tree Protection Council Advisory Committee with broad-based representation from the entire Township in July 2020 to review both the 2019 TOL Tree Protection Bylaw and the subsequent 2019-2020 TOL Tree Canopy Protection Standard in order to ensure that the adopted 2019 TOL Tree Protection Bylaw is effective and that the Township’s Sustainability Charter will be met for the current and future generations who live in all communities of the Township of Langley.

DISCUSSION/ANALYSIS:

Tree protection has been recognized as an important priority by Township residents. Since 2014, tree protection measures have been in place in the Brookwood-Fernridge Community Plan. Most recently, the Brookwood-Fernridge Tree Protection Bylaw No. 5301 was adopted in 2017. Tree canopy protection has also been identified as one of Council's strategic priorities during the current term.

As requested by Council, a proposed Tree Protection Bylaw 2019 No. 5478 has been prepared, based on the City of Richmond Tree Protection Bylaw No. 8057. In conjunction, two bylaw amendments are proposed to facilitate effective implementation and efficient administration of the Tree Protection Bylaw, comprising of the Bylaw Notice Enforcement Bylaw 2008 No. 4703 Amendment Bylaw 2019 No. 5481, and the Fees and Charges Bylaw 2007 No. 4616 Amendment Bylaw 2019 No. 5482.

Policy Framework

The Township of Langley adopted a new Official Community Plan (OCP) in 2016. The OCP has the following policy that supports a tree protection bylaw:

- Urban Community and Neighbourhood Design: Protect the natural environment using land use planning, urban design, and development regulations, such as retaining existing significant trees and requiring the planting of new trees (s. 2.5.17)

The Sustainability Charter has the following goals that support tree protection and tree replacement:

- Promotes the environmental goals of reducing air pollution and promoting stewardship and the planting of trees.
- Promotes the social and cultural goal of nurturing a mindset of sustainability by incorporating a sustainability mentality into the community.

Tree Protection Bylaw No. 5478: Overview

The proposed tree protection bylaw consists of the following five components:

- Restrictions and exemptions
- Permit application process
- Regulations
- Administration
- Offences and Penalties

Based on the Richmond Tree Protection Bylaw, provisions have been added to include directives from Council, address conditions specific to the Township (i.e. septic fields and water wells), and ensure alignment with existing requirements in the Subdivision and Development Servicing Bylaw, as follows:

- Revised the definition of "Tree" to exclude Alder, Birch and Cottonwood trees (s. 2(a)), thereby exempting the requirement for a permit when cutting or removing.
- Included a reference to accepted replacement tree species as identified in Schedule "I" of the Subdivision and Servicing Bylaw 2011 No. 4861 to the definition of "Replacement Trees" (s. 2).
- Replaced the reference to "Environmentally Sensitive Areas" and the associated Schedule (s. 2(b)) with "Streamside Protection and Enhancement Development Permit Areas", as defined in the Langley Official Community Plan Bylaw 1979 No. 1842 Amendment (2013 Official Community Plan) Bylaw 2013 No. 5000.
- Added "Critical Root Zone" to the definition of "Tree Protection Barrier" (s. 2).
- Added a provision noting that the Tree Protection Bylaw does not apply to lands currently designated as Agricultural Land Reserve (s. 3(h)) (further rationale provided below).

- Revised the exemption whereby a permit is not required to cut or remove a tree from less than 20 centimetres dbh to 30 centimetres dbh as per Council direction (s. 6.1(i)).
- Added a new exemption to allow the cutting or removal of a tree without a permit where it is required to remove a tree for the purpose of siting a building, driveway, septic field, or a water well as approved by the Municipality in conjunction with a building permit (s. 6.1(j)).
- Revised the number of trees that can be removed per year with a permit without the requirement to pay the permit fee and submit an arborist report from “one (1) tree per calendar year” to “two (2) trees per parcel during a 24 month period from the date of the last permit issued” as per Council direction (s. 6.2).
- Included a requirement, at the discretion of the General Manager, to request a Bird Nesting Survey or other applicable Federal or Provincial submissions for approval as deemed necessary (s. 8.1(b)(x)(D)).
- Included reference to the requirement for an arborist report as part of the application requirements at the discretion of the General Manager (s. 8.1(b)(xi)).
- Added the option of providing a cash-in-lieu payment in the event that a replacement tree(s) cannot be accommodated on the parcel (s. 9.1, and s.19.6(b)).
- Added an allowance to the Tree Cutting and Removal regulations to permit the removal of hazardous trees between the hours of 6:00 p.m. and 8:00 a.m. (s. 13.1(e)).
- Added provisions to allow the Municipality to undertake necessary repairs and invoice the permit holder for immediate payment in the event that the removal of a tree causes damage to drainage facilities, watercourses, highways or other public or private property (s. 13.1(f)).
- Revised Schedule A to Bylaw No. 5478 (s. 1(a)) to increase the minimum height of a deciduous replacement tree from 2m to 3m for the removal of trees not related to demolition or construction on parcels containing a one-family dwelling.
- Revised Schedule A to Bylaw No. 5478 (s. 1(b), and 2(c), (d)) to align the minimum caliper width and tree height requirements for replacement trees related to development activity with the requirements of Schedule I – Tree Protection, in the Subdivision and Development Servicing Bylaw 2011 No. 4861.

The proposed Tree Protection Bylaw does not cover lands designated as Agricultural Land Reserve (ALR), as defined under the Agricultural Land Commission (ALC) Act. This approach is intended to avoid the need for provincial approval of the proposed Bylaw as it relates to the Township of Langley’s “regulated” status; and is similar to the approach adopted in the City of Abbotsford. The Cities of Richmond, Surrey, and Maple Ridge, on the other hand, which do not have the same “regulated” status as the Township of Langley and the City of Abbotsford, have adopted a different approach in that their respective bylaws apply to all lands, including those located in the ALR, with an exemption incorporated to recognize the jurisdictional authority of the Farm Practices Protection (Right-to-Farm) Act.

Further, the proposed Bylaw does not apply to lands that are subject of a development application. This is consistent with the existing provisions in the Brookwood-Fernridge Community Plan as approved by Council, based on such lands being subject to the tree protection and replacement provisions of the Subdivision and Development Servicing Bylaw.

Bylaw Notice Enforcement Bylaw 2008 No. 4703 Amendment Bylaw 2019 No. 5481

Proposed Bylaw No. 5481 provides fine amounts and offences in support of the Tree Protection Bylaw. The fine amounts have been adjusted to reflect the Township’s standards and practices. It should be noted that Richmond’s fine structure is based on a Municipal Ticket Information (MTI) Authorization Bylaw, whereas the Township is using a bylaw notice framework, enabled under the Local Government Notice Enforcement Act.

Fees and Charges Bylaw 2007 No. 4616 Amendment Bylaw 2019 No. 5482

To administer the Tree Protection Bylaw, amendments are proposed to the Fees and Charges Bylaw 2007 No. 4616 to include application fees for a tree cutting permit. The proposed fees have been revised to align with Township application fees and offset administrative costs associated with implementing the Tree Protection Bylaw.

Administration

Given the broad scope of the proposed Tree Protection Bylaw, its administration will require the cooperation of several municipal departments and involve staff across a wide range of service areas. Based on the experience of other municipalities with tree protection regulations, it is anticipated that the management, implementation and enforcement of the proposed Bylaw will require resources equivalent of one and a half full-time positions. This is a technical, professional position (i.e. "Certified Arborist" or similarly qualified), which will facilitate the review of tree removal applications, liaise with applicants and the general public, conduct required site inspections, analyze technical reports and plans, and participate in enforcement actions; as well as administrative, technical and enforcement support.

It is also anticipated that these positions would support the implementation of other actions, such as the anticipated Tree Canopy Protection Standards, subject to Council's approval.

Repeal of Tree Protection Bylaw 2019 No. 5301

Repealing the Brookwood-Fernridge Tree Protection Bylaw 2017 No. 5301 and replacing it with the proposed Tree Protection Bylaw 2019 No. 5478 would result in the following key changes for the Brookwood-Fernridge community:

- A tree removal permit would be required as per the Tree Protection Bylaw.
- Reduces the number of trees that can be cut without a permit to two trees every 24 months. The Brookwood-Fernridge Tree Protection Bylaw 2017 No. 5301 permits two trees to be removed per year on parcels less than 0.8 ha, and four trees per year on parcels equal or greater than 0.8 ha in size.
- Removes the ability to remove trees without a permit under the following condition:
 - a sight triangle as defined in the Township of Langley Highway and Traffic Bylaw 2010 No. 4758 as amended or replaced from time to time.
- Revises the dbh for protected trees from 20 centimeters to 30 centimetres

NEXT STEPS

Staff recommend, based on the April 15, 2019 Notice of Motion, that a Public Hearing be scheduled for the Tree Protection Bylaw 2019 No. 5478, to receive broad public input prior to Council's further consideration of the proposed Bylaw.

Staff will prepare communications materials, including a bulletin style format to clearly communicate the proposed Tree Protection Bylaw to the general public. The communications materials will include a brochure, webpage information, and application requirements, including application form and process. It is aimed that the delivery of these materials will be timed to coincide with Council's final adoption of the proposed Bylaw.

FINANCIAL CONSIDERATIONS

Staff resources will be required for the administration of the proposed Tree Protection Bylaw, such as clerical support for permit issuance and inquiries, Certified Arborist for site inspections, and officers for bylaw enforcement. However, it is proposed for the additional workload generated by the proposed Tree Protection Bylaw to be initially borne by existing staffing levels at the outset, with future staffing requests to be included as part of annual budget requests starting in 2020, based on monitoring of the workload.

It is also noted, subject to Council's approval, subsequent phases, such as undertaking a review of the existing tree canopy in the Township and preparation of a Tree Canopy Protection Standard (bullet #2 of Council resolution, see Background above) is expected to require financial resources currently projected at approximately \$150,000, which has been included as part of the 2019 budget approved by Council.

CONCLUSIONS

The proposed Tree Protection Bylaw No. 5478 has been prepared based on the Richmond Tree Protection Bylaw No. 8057, which was initially adopted in 2006, with subsequent amendments.

Changes to the proposed Tree Protection Bylaw have been made as per Council direction and include:

- an exemption for trees less than 30 centimetres in diameter at 1.4 metres from the ground are exempt;
- a provision for residents to be able to remove two (2) trees every twenty-four (24) months with a permit without the requirements to pay a fee and submit an arborist report;
- a species exclusion for alder, birch, and cottonwood trees.

In addition, the proposed Tree Protection Bylaw addresses conditions specific to the Township (i.e. septic fields and water wells), and ensures alignment with the Township's regulatory language (such as existing requirements in the Subdivision and Development Servicing Bylaw) and bylaw enforcement framework (such as bylaw notice enforcement versus municipal ticket information in Richmond).

Respectfully submitted,

Aubrey Jensen
COMMUNITY AND POLICY PLANNER
for
COMMUNITY DEVELOPMENT DIVISION