



THE CORPORATION OF THE CITY OF ROSSLAND

AGENDA

**PLANNING AND DEVELOPMENT COMMITTEE MEETING
CITY HALL COUNCIL CHAMBER
Wednesday, July 23, 2008
5:00 P.M. – 7:30 P.M.**

- (1) CALL TO ORDER**
- (2) ADOPTION OF AGENDA**
- (3) BUSINESS**

Tree Retention Bylaw

OCP

- 1. Draft of the Tree Retention Bylaw for Council consideration.
- 2. Official Community Plan – Continuation of review of the Public Input and draft OCP.

CLOSE OF MEETING

BYLAW NO. 2389

**A BYLAW TO REGULATE AND PROHIBIT
THE CUTTING DOWN, DAMAGING AND
REMOVAL OF TREES.**

WHEREAS the **Council** may by bylaw enacted pursuant to Division 1 of Part 2 of the Community Charter exercise certain powers to preserve and protect **Trees** to regulate their cutting down and removal, and to require their replacement.

AND WHEREAS the **Council** considers it in the public interest to provide in certain areas for the protection and retention of **Trees**, the regulation of their cutting down and removal, and their replacement;

NOW THEREFORE the Council of the City of Rossland, in open meeting assembled, enacts as follows:

1. CITATION

This Bylaw may be cited for all purposes as “City of Rossland Tree Retention Bylaw No. 2389, 2007”.

2. DEFINITIONS

In this Bylaw:

“**Applicant**” means the **Owner** of a parcel of land and the **Trees** growing on it or a person authorized by the registered owner to make application under this Bylaw.

“**Arborist**” means a person with sufficient credentials to perform the requirements of this Bylaw and approved by the **Manager of Planning and Development Services**.

“**Buffer Area**” means an area 6 metres in width adjacent to the whole of a **Tree Retention Area**.

“**City**” mean the Corporation of the City of Rossland.

“**City’s Arborist**” means an individual designated by the **City**.

“**Council**” means the City Council of Rossland.

“**Development Approval**” includes the approval of a rezoning, a subdivision, the issuance of a development permit or building permit.

“**Development Period**” means the time between adoption of this Bylaw and the completion of all buildings, works and services authorized or required by a

Development Approval granted after the enactment of this Bylaw for land which is subject to this Bylaw.

“Diameter” means the diameter of the trunk of a **Tree**, measured 1.3 metres above the level of the natural ground at the base of the **Tree**.

“Drip Line” means a line around a **Tree** formed by the intersection of the ground and a vertical line extending down from the outermost branches of the **Tree**.

“Hazard Tree” means a **Tree** identified in writing by an **Arborist** 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, death or property damage.

“Manager of Planning and Development Services” means the person appointed by the Chief Administrative Officer as the Manager of Planning and Development Services and includes any employee or agent of the **City** acting under the direction of the **Manager of Planning and Development Services**.

“Owner” means the registered owner in fee simple of a parcel of land and the **Trees** growing on it.

“Occupancy Permit” means a permit to occupy a residential structure issued pursuant to the City of Rossland Building Bylaw.

“Raptor Nest” means a nest used by birds of prey.

“Ravine Setback” means any land within 6 metres of the top of the banks of any ravine formed by a creek, stream or other watercourse.

“Replacement Tree” means a **Tree** required to be planted in accordance with Section 9 of this Bylaw.

“Replanting Plan” means a plan delineating the species and location of **Replacement Trees** to be planted in accordance with Section 6.

“Retained Tree” means a **Tree** identified in a **Tree Removal Permit** as a **Tree** that is not to be cut, removed or damaged.

“Significant Tree” means a **Tree** identified by an **Arborist** considered significant because of its importance to the community, including importance for heritage or landmark value or as wildlife habitat, or as identified in a tree inventory which was commissioned by the **City**.

“Site Assessment” means a report and plan prepared by an **Arborist** in accordance with Section 6 of this Bylaw.

“Tree” means any living, erect, woody plant with a **diameter** greater than 10 centimetres.

“**Tree Protection Fence**” means a fence, a minimum of 1.2 metres in height, mounted on sturdy wooden stakes with a minimum width of 10 centimetres, or metal stakes securely driven into the ground to a depth of at least 50 centimetres; or approved alternate fence as authorized by the **Manager of Planning and Development Services**.

“**Tree Removal Permit**” means a permit in the form of Schedule C to this Bylaw, issued by the **Manager of Planning and Development Services** under Section 6 of this Bylaw, or a permit incorporated in a **Development Approval** authorized by “**Council**”.

“**Tree Retention Area**” means any part of a parcel that is designated as a **Tree Retention Area**, any **Ravine Setback** and the site of any retained **Trees** within the parcel that are proposed for retention.

“**Tree Retention Plan**” means a report and plan as in accordance with Section 5 of this Bylaw.

“**Wildlife Tree**” means a **Tree** that provides present or future habitat for the maintenance or enhancement of wildlife, and as defined in the British Columbia’s Wildlife Tree Classification System published in “Wildlife Tree Management in British Columbia”.

3. APPLICATION

A. This Bylaw applies:

1. to **Trees** on all land within the **City** except and specifically excluded in Part 3(B);
2. to **Trees** on public lands owned and controlled by the **City**;
3. to **Trees** on slopes having a grade greater than three (3) horizontal to one (1) vertical (3H:1V);
4. **Wildlife Trees**;
5. to **Trees** within any **Ravine Setbacks**;
6. to **Trees** on any parcel of private land which requires **Development Approval** except as excluded in Part 3(B);
7. to **Trees** on private lands which will be dedicated to tree retention through covenants, rights of public access or other means;

8. to **Trees** designated as **Significant Trees**;
9. except as otherwise provided, only until the end of the **Development Period** for that Parcel;
10. following the **Development Period**, to those **Trees** identified to be preserved or retained as part of the **Tree Retention Plan**.

B. This Bylaw does not apply to:

1. to any **Tree** that must be removed in order to permit the construction and safe occupancy of buildings authorized by a **Development Approval** or the development of highways, utilities, public works and facilities, golf courses and ski terrain.
2. cutting within a calendar year of either:
 - i) less than 5% of the **Trees** on a lot, provided that the following conditions are met:
 - a) no **Trees** shall be removed within 5 metres from the perimeter of a lot; and
 - b) no **Trees** shall be removed within 10 metres from a highway; or
 - ii) one **Tree** per lot
3. to a single family residential lot of less than 600 m² and once an **Occupancy Permit** has been issued except in the case of a **Significant Tree(s)** or to a **Tree(s)** identified in a **Tree Retention Plan** approved by the **City**.

4. CUTTING AND REMOVAL OF TREES

A **Tree** may only be cut down or removed where a valid and subsisting permit to do so has been issued under this Bylaw.

5. SITE ASSESSMENT AND TREE RETENTION

- a) Prior to any **Development Approval** for any parcel, the **Applicant** shall submit a **Site Assessment** prepared by an arborist to the **City** for review.
- b) The **Site Assessment** shall include:
 - i) a plan drawn to scale, showing all existing **Tree Retention Areas** within or adjacent to the parcel, all areas where **Trees** are proposed to be removed, and all proposed **Tree Retention Areas**;

- ii) the boundaries of all highways, rights-of-way, private roads and cleared areas proposed to be created on or after development;
- c) The **Site Assessment** and a **Tree Retention Plan** will be prepared by an arborist approved by the **Manager of Planning and Development Services** at the **Applicant's** expense.
- d) The **Tree Retention Plan** will include the following and will be in accordance with Schedule A: Guidelines for the Design of Tree Retention Areas:
 - i) a plan drawn to scale, showing all existing **Tree Retention Areas** within or adjacent to the parcel and all new areas where **Tree** are to be removed, and all **Tree Retention Areas**;
 - ii) a determination whether any **Trees** within a **Tree Retention Area** on the parcel are diseased or potentially hazardous (i.e. which in the opinion of an **Arborist** will constitute a danger to persons or property following development) and a **Replanting Plan** with respect to those **Trees**;
 - iii) a determination and location of any **Raptor Nests, Significant Trees** or **Wildlife Trees**;
 - iv) identification of the fencing boundary proposed to enclose the **Tree Retention Area**; and
 - v) the boundaries of all highways, rights-of-way, private roads and cleared areas proposed to be created upon or before subdivision oblique stroke development.

6. TREE REMOVAL PERMIT

Upon:

- a) submission of a completed permit application in the form attached as Schedule "B" to this Bylaw;
- b) submission of a **Site Assessment** and a **Tree Retention Plan** prepared in accordance with Section 5 of this Bylaw; and
- c) payment of a non-refundable permit fee in accordance with the Fees & Charges Bylaw, the **Manager of Planning and Development Services** provided the **Site Assessment** meets the requirement of this Bylaw shall issue a **Tree Removal Permit** in the form of Schedule "C" to this Bylaw, which shall identify the **Retained Trees**.

7. REMOVAL AND REPLACEMENT OF HAZARDOUS AND DISEASED TREES

- a) Prior to construction of the **Tree Protection Fence**, the **Applicant** shall remove the diseased and hazardous **Trees** identified in the **Site Assessment** and carry out the tree replacement and related measures prescribed in Schedule A: Guidelines for the Design of Tree Protection Areas.
- b) During the **Development Period** the **Tree Retention Area** may be periodically inspected by the City's **Arborist** to ensure that the **Retained Trees** are sound and that no incursion has taken place into the **Tree Retention Area**. Any **Tree** found to be unhealthy or hazardous shall be marked and be removed by the **Applicant** under the guidelines in Section 7 (a) above.
- c) Following the completion of the development and final landscaping and prior to the issuance of an occupancy permit, the City's **Arborist** will examine the **Trees** in the **Tree Retention Area**, including any newly planted **Trees** and prepare an assessment of these **Trees** for hazard and health, which shall be submitted to the **City**. Any hazardous **Trees** or diseased **Trees** shall be replaced in accordance with Schedule A: Guidelines for Design of Tree Protection Areas.

8. PROTECTION OF RETAINED TREES

- a) Prior to any works taking place on the site, other than the removal of hazardous and diseased trees, **Tree Protection Fences** shall be installed in accordance with the guidelines of Schedule A, to protect all **Tree Retention Areas**.
- b) None of the following activities shall be permitted within the area enclosed by a **Tree Protection Fence**:
 - i) no clearing, grading, filling, or excavation within the **Drip Line** of any **Retained Tree** is allowed except as outlined in section 8(f);
 - ii) passage of vehicular traffic including trucks, excavators, backhoes, forklifts and similar vehicles including the use of grubbing buckets or blades to remove vegetation;
 - iii) storage or piling of construction materials such as sand, aggregates, lumber, formwork, pipes, or similar items;
 - iv) disposal of waste materials such as paint, solvents or gyproc mud, the washing of cement or stucco machines, or the piling of other waste construction materials;
 - v) the location of portable toilets, generators, ancillary service machines, portable sheds and other storage units; or

- vi) the disposal of excess water accumulating within the land subdivided.
- c) No person shall damage, destroy or alter a **Tree Protection Fence**.
- d) The **Tree Protection Fence** shall be maintained by the **Applicant** in good condition throughout the **Development Period**.
- e) No **Tree** within a **Tree Retention Area** shall be used to support signs, fencing, lights, cables, hoarding or any other equipment or structure.
- f) No excavation trenches or soil removal shall be carried out within the **Drip Line** of a **Retained Tree**. Any soil deposit within the **Drip Line** of a **Retained Tree** shall be limited to a depth of not more than 15 centimetres and no soil deposit shall be made within one metre of the trunk of any **Retained Tree**.
- g) **Tree Protection Fencing** shall be removed by the **Applicant** within seven days of the end of the **Development Period** or a longer period as approved by the **Manager of Planning and Development Services**.

9. REPLACEMENT TREES

In addition to any penalty that may be imposed under this Bylaw, where a person cuts down, removes or damages, or suffers or permits any **Tree** within a **Tree Retention Area** to be cut down, removed or damaged in contravention of this Bylaw, or in violation of any terms and conditions of a permit issued under this Bylaw, such tree shall be replaced by the **Applicant** within one month (or within such further time allowed by the **Manager of Planning and Development Services**) by a minimum of two **Trees** on the same parcel, in accordance with the provisions of the Tree Replacement Guidelines, Section 3 of Schedule A.

10. SECURITY FOR REPLACEMENT TREES

Wherever in this Bylaw, or by the terms of a permit granted hereunder, a **Replacement Tree** is to be planted and maintained, the **Applicant** of the parcel on which it is to be planted shall first provide to the **City** a security deposit in cash or letter of credit, in the amount and for the period specified in Security Deposit Provisions that follow, to secure the maintenance and survival of the **Replacement Tree**. Security for a **Replacement Tree** which is part of a **Development Approval** may be included in the general security requirements of the **Development Approval**.

- a) The amount of any deposit to secure the provision of **Replacement Trees** required to be planted and maintained shall be \$300.00 per **Replacement Tree**, or as provided in the **Development Approval** security.

- b) The amount of such security deposit held by the **City** shall be reduced in stages over a period of two years as provided in Section (c) below. It shall be a condition precedent to each reduction of the security deposit that the **Manager of Planning and Development Services** be satisfied that the **Applicant** has complied with the tree replacement and maintenance requirements of this Bylaw including the replacement of any **Replacement Tree** as required by the Tree Replacement Guidelines, Section 3 of Schedule A.
- c) Subject to Section (b) such a deposit shall be reduced as follows:
- i) by 25% of the original amount after the planting of all **Replacement Trees** required to be provided;
 - ii) by 25% of the original amount after one year from the date of the first reduction in 10(c) (i);
 - iii) by the balance of the deposit after one year from the date of the second reduction provided for in 10 (c) (ii).
- d) Any letter of credit required to be provided under this Bylaw shall be drawn in favour of the **City** and shall be an unconditional and irrevocable letter of credit made by a Canadian Chartered Bank, capable of presentation at a branch of the bank situate within the West Kootenay area. Such letter of credit shall be maintained as good and valid security by the **Applicant** until expiry of the **Development Period**, and in the event that the **Applicant** fails or omits to renew or replace any letter of credit and deliver such renewal or replacement to the **City** within 21 days prior to the expiry of any letter of credit then held by the **City**, the **City** may draw on the then current letter of credit without notice or restriction and hold the monies in lieu thereof.

11. MAINTENANCE OF REPLACEMENT TREES

An **Applicant** or **Owner** of a **Replacement Tree** shall plant and maintain it in accordance with sound arboricultural practice.

12. INSPECTION AND ASSESSMENT

- a) When an application for a permit is made under this Bylaw, the **Manager of Planning and Development Services** may inspect or cause an inspection to be made of any **Trees** and the site on which they grow and may assess the location, size, condition and species of the **Trees**.
- b) The **Manager of Planning and Development Services** and the Bylaw Enforcement Officer may enter at all reasonable times on any property that is subject to this Bylaw to ascertain whether the provisions of this Bylaw are being observed.

13. GENERAL PROVISIONS

- a) Schedules “A” through “C” form part of this Bylaw.
- b) The provisions of this Bylaw are severable and the invalidity of any part of this Bylaw shall not affect the validity of the remainder of this Bylaw.

14. OFFENSE

- a) Every person who violates or permits or allows the violation of any provision of this Bylaw commits an offense punishable on summary conviction.
- b) Where more than one **Tree** is cut down, removed or damaged in violation of this Bylaw a separate offense is committed in respect of each **Tree**.

15. PENALTY

- a) Every person who commits an offense against this Bylaw is liable to a fine of not more than \$10,000.00 for each offense.

16. MISCELLANEOUS

- a) “City of Rossland Tree Cutting Bylaw No. 1663, 1988 “, and amendments thereto and any other superseding tree retention or cutting bylaws are hereby repealed.

READ A FIRST TIME THIS 23rd. DAY OF July, 2007

READ A SECOND TIME THIS 23rd. DAY OF July, 2007.

READ A THIRD TIME THIS DAY OF

ADOPTED THIS DAY OF

SCHEDULE "A"

Attached to and forming part of Bylaw No. _____

GUIDELINES FOR THE DESIGN OF "TREE RETENTION AREAS"

SECTION 1 - DESIGN GUIDELINES

- a) In order to ensure the successful long-term retention of **Trees**, it is essential to design **Tree Retention Areas** throughout the **City** using land base as the primary criteria and for designation. In cases where the land area to be protected is large enough to maintain the ecological viability, many of the existing **Trees** can be retained. In smaller areas protecting the land base from encroachment so that it is available to grow **Trees** and replanting those areas should be the first consideration.
- b) To determine the viability of areas to be retained, each area needs to be assessed by an **Arborist**.
- c) **Tree Retention Areas** that have the capability of retaining their existing environment should be designed at a minimum width of two **Tree** heights, based on a typical average height of the predominant species within the area at the time of the development.
- d) For areas smaller than 2 **Tree** heights in width, an **Arborist** should assess the site to determine which **Trees** are required for removal and to prepare a replanting scheme for that area.
- e) In areas where large stands or clusters of **Trees** are desired for retention, the area should be roughly circular in shape to minimize the amount of forest edge. Long narrow strips of retained **Trees** will not work as well as circular clumps.
- f) For all retained areas an Edge Management Program will be required which will result in the removal of hazardous or unsuitable **Trees**. These **Trees** shall then be replaced as per the **Tree Replacement** Section of this Bylaw.
- g) The replanting of **Tree Retention Areas**, including the replacement of **Trees** removed along edges of **Tree Retention Areas**, will be done with similar species of stock with the exception of cottonwood and poplars which will be replaced with a different variety and planted at an appropriate time of the year to ensure survivability of the replacement material. Special care shall be taken to make sure replacement stock will survive in the newly created environment taking into consideration adjacent development.

SECTION 2 - TREE PROTECTION GUIDELINES

- a) After submission of a **Site Assessment** as outlined in Section 5 of this Bylaw, the **Applicant** shall have the **Tree Retention Area** and **Buffer Area** surveyed and the boundaries marked in the field.
- b) After the assessment of the **Trees** to be removed is conducted, the outer edge of the **Tree Retention Area** and **Buffer Areas** shall be marked with a temporary continuous barrier tape or rope clearly delineating the area.
- c) The **Trees** marked for removal are to be hand fallen away from and out of the **Tree Retention Area** to minimize the disturbance to other existing vegetation.
- d) The fallen **Trees** are to be removed from the **Tree Retention Area** by careful use of machinery sitting outside the **Tree Retention Area** and **Buffer Area** and able to reach in and either lift up the entire **Tree** and extract it, or by reaching in and attaching a cable or chain to the log or **Tree** and then extracting it with one end lifted clear of the ground. Under no circumstances are motorized vehicles to enter the **Tree Retention Area** or **Buffer Area**.
- e) Immediately after removal of fallen **Trees** and prior to any other works taking place on the site, other than work required to access to complete these works, the **Tree Protection Fence** is to be erected and then **Replacement Trees** shall be planted for each fallen **Tree** in accordance with the Tree Replacement Guidelines. The **Tree Protection Fence** is to remain in place until all development on the site is complete. Following erection and approval of the **Tree Protection Fence** the **Buffer Area** may be cleared.
- f) After any clearing, stripping and grading of adjacent lands has taken place, the **Arborist** shall assess the **Tree Retention Area** and mark for removal any additional **Trees** that are considered necessary for removal. The **Applicant** will remove these **Trees** following the guidelines in Sections 2 (d) and (e) above. Immediately following the removal of any **Trees** marked, the **Tree Protection Fence** shall be inspected and repaired as required.
- g) Each **Tree Protection Fence** shall be marked with a sign stating "Tree Retention Area - Keep Out" in letters not less than 10 centimetres high, at intervals of not less than 10 metres

SECTION 3 - TREE REPLACEMENT GUIDELINES

Where **Replacement Trees** are required to be provided pursuant to this Bylaw such **Replacement Trees** shall be provided and planted as follows:

- (a) for each **Tree** removal two (2) **Replacement Trees** shall be planted.
- (b) every **Replacement Tree** shall be of the same species as the **Tree** cut down or removed, with the exception of cottonwood and poplars which will be replaced with a different variety, unless otherwise authorized by the **Manager of Planning and Development Services**;
- (c) every **Replacement Tree** shall be planted within one month of the cutting down or removal of a **Retained Tree**, except as otherwise authorized by the **Manager of Planning and Development Services**; and
- (d) every **Replacement Tree** shall (notwithstanding the definition of **Tree**) be a minimum height of 1.5 metres if coniferous and a minimum **Diameter** of 7 centimetres, measured at the base of the **Tree** if deciduous, unless otherwise authorized by the **Manager of Planning and Development Services**.

Any **Replacement Tree** that dies or becomes diseased prior to the final repayment of any security deposit shall be replaced by the **Applicant** with another **Replacement Tree**.

DRAFT

SCHEDULE "B"
Attached to and forming part of Bylaw No. _____

APPLICATION FORM

CITY OF ROSSLAND

APPLICATION FOR TREE REMOVAL PERMIT

1. I, _____, of _____ in the

City of Rossland hereby make application to cut down and remove that **Tree** [those **Trees**] situate on property municipally described as:

[address]

in the City of Rossland and legally described as:

[legal description]

within the area outside the **Tree Retention Area** shown on the plan of the property attached to this application.

2. Attached and forming part of this Application is a **Site Assessment** as required by Section 5 of this Bylaw and an accurate sketch plan of the property drawn to a scale of _____ correctly showing:

- i) the proposed location of all new buildings, highways, rights of way, private roads and cleared areas; and
- ii) the location of all existing buildings, highways and rights of way.

Trees within the **Tree Retention Area** enclosed in red on the attached plan are not proposed to be cut down or removed.

3. I have read a copy of Rossland Tree Retention Bylaw No. _____ and am aware of the regulations therein including the requirement for **Replacement Trees**.

4. I understand that I will be required to provide a security deposit by way of cash or letter of credit as required by the Bylaw to guarantee the provision and maintenance of any **Replacement Trees** in accordance with the Bylaw.

Dated the _____ day of _____, 20____

Signature of Applicant

Where **Applicant** is not the registered **Owner** of the property, this Application will not be considered complete or processed until the registered **Owner** signs below.

I, _____, the registered **Owner** of the property described in this Application, consent to this Application being made and to the issuance of a permit to the Applicant. I certify that the information in this Application is correct and true and I acknowledge that I am the person responsible for compliance with all provisions of City of Rossland Bylaw No. _____

Dated the _____ day of _____, 20____

Signature of Owner

[Note: Please ensure the sketch plan accompanying this application is:

- (a) dimensioned;
- (b) drawn to scale and marked with the scale;
- (c) contains all the required information including:
 - (i) location of existing "Trees" and proposed "Tree Retention Area";
 - (ii) proposed and existing highways, rights of way and cleared areas; and
 - (iii) marked as to north.

[Note: Wherever the trunk or any part of the trunk and major root structure of any "Tree are situate on more than one parcel of land any application to cut down or remove such "Tree" must be signed and consented to by all registered "Owners" of all properties]

SCHEDULE "C"

Attached to and forming part of Bylaw No. _____

CITY OF ROSSLAND

TREE REMOVAL PERMIT

1. This Permit is issued pursuant to Rossland Tree Retention Bylaw No.
2. This Permit authorizes the Permittee to cut down and remove only the **Trees** outside the areas enclosed in red and described as **Tree Retention Area** on the plan attached to this Permit.
3. Any **Tree** authorized to be cut down or removed by this Permit shall only be cut down or removed in strict compliance with the provisions of the City of Rossland's Tree Retention Bylaw No. _____
4. The authorization herein to cut down or remove **Trees** expires and is of no further force or effect six months after the date of issuance of this Permit, provided that any obligation to plant and maintain **Replacement Trees** survives the expiry of the authorization herein.
5. The Permit is issued on the _____ day of _____, 20_____.

MANAGER OF PLANNING AND
DEVELOPMENT SERVICES
(OR DESIGNATE)