

**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;

AND WHEREAS the **Council** considers it in the public interest, to provide in certain areas for the protection and retention of **trees** to provide for erosion control and to assist the city in achieving its carbon reduction program;

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, 2008”.

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 qualified professional having sufficient credentials and experience in the cultivation of trees and shrubs as may be approved by the **Manager of Planning and Development Services** to perform the requirements of this Bylaw.

“**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.

“**Dangerous Tree**” means a tree that could cause property damage or be a danger to the public.

“**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.

“**Highway**” means a public street, road, walkway, bridge, lane thoroughfare and any other public way, but does not include a private right-of-way on private property.

“**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.

“**Parcel**” means a lot, block or area in which land is held or into which land is subdivided.

“**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 5.

“**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 5 of this Bylaw.

“**Tree**” means any living, erect, woody plant with a **diameter** greater than 20 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 such other alternate type of fence as may be 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 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 lands within the City except and specifically excluded in Part 3(B), including but not limited to Trees:
 - (a) on public lands owned and controlled by the City’
 - (b) on slopes having a grade greater than three (3) horizontal to one (1) vertical (3H:IV);
 - (c) designated as Wildlife Trees;

- (d) within any Ravine Setbacks;
- (e) on any Parcel of private land which requires Development Approval except as excluded in Section 3(B) and until the end of the Development Period for that Parcel; and following the Development Period, to those Trees identified to be preserved or retained as part of the Tree Retention Plan.
- (f) on private lands which will be dedicated to tree retention through covenants, rights of public access or other means;
- (g) designated as Significant Trees;

B. This Bylaw does not apply to:

1. a single family residential lot of less than 600 m² except in the case of a Significant Tree(s) or a Tree(s) identified in a Tree Retention Plan approved by the City.
2. 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, farmland if in conjunction with the farming operation.
3. diseased trees as determined by an arborist.
4. privately managed forest land under the *Private Managed Forest Land Act* if this Bylaw would have the effect of restricting, directly or indirectly, a forest management activity.
5. land and the trees on it, if forestry practices are governed by a tree farm license, permit or other authority or tenure under the *Forest Act*.
6. privately owned forest lands, which do not fall within the scope of paragraph 3. B (4) or (5) above, provided a forest management plan prepared by a professional forester is in place. The City will require written confirmation from the land owner prior to the initiation of any logging that the logging project will be undertaken using best practices and confirmation that the parcel will be replanted within four years. The City will also require authorization from the land owner to place covenant on the land requiring a replanting program.
7. golf courses and ski terrain provided that an assessment impact study is carried out by a landscape architect specializing in golf course and ski hill development and is approved by the City.
8. any area subject to the requirements of the Community Wildfire Protection Plan as adopted by City Council.

9. cutting within a calendar year of :
- i) less than 5% of the Trees on a parcel, provided that the following conditions are met:
 - a) no Trees shall be removed within five (5) metres from the perimeter of a parcel; and
 - b) no Trees shall be removed within 10 metres from a Highway; or
 - ii) one Tree per parcel
 - iii) Trees on a parcel that are required to be removed as directed by an insurance company in order to comply with conditions within the policy. Notification by way of letter and a copy of the conditions must be provided to the Manager of Planning and Development prior to the removal of the Trees. Trees removed contrary to the insurance conditions will constitute a breach of this bylaw.
 - iv) Trees identified as Dangerous Tree(s) by the City's Manger of Operations, WorksafeBC, or an Arborist as posing a risk to property or the public.

4. CUTTING AND REMOVAL OF TREES

A. No person shall cut down or remove a Tree unless a valid and subsisting permit to do so has been issued under this Bylaw with the exception of those exceptions in Section 3(b); and

B. Upon:

1. submission of a completed permit application in the form attached as Schedule "B" to this Bylaw;
2. submission of a Site Assessment meeting the requirement of this Bylaw and a Tree Retention Plan prepared in accordance with Section 5 of this Bylaw; and
3. payment of a non-refundable permit fee in accordance with the City of Rosland 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.

5. SITE ASSESSMENT AND TREE RETENTION

- A. Prior to any Development Approval for any Parcel, the Applicant shall submit a Site Assessment and a Tree Retention Plan prepared by an Arborist to the City for review at the Applicant's expense.
- B. The Site Assessment shall include:
 - 1. 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;
 - 2. the boundaries of all highways, rights-of-way, private roads and cleared areas proposed to be created on or after development;
- C. The Tree Retention Plan shall be prepared in accordance with the requirements of Schedule A and include the following:
 - 1. a plan drawn to scale, showing all existing Tree Retention Areas within or adjacent to the Parcel and all new areas where Trees are to be removed, and all Tree Retention Areas;
 - 2. a determination whether any Trees within a Tree Retention Area on the Parcel are diseased or potentially hazardous or dangerous and 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;
 - 3. a determination and location of any Raptor Nests, Significant Trees or Wildlife Trees;
 - 4. identification of the fencing boundary proposed to enclose the Tree Retention Area; and
 - 5. the boundaries of all highways, rights-of-way, private roads and cleared areas proposed to be created upon or before subdivision or development.

6. REMOVAL AND REPLACEMENT OF HAZARDOUS AND DISEASED TREES

- A. Prior to construction of a 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 in accordance with the requirements of Schedule A.
- B. During the Development Period the Tree Retention Area may be periodically inspected by the City 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 in accordance with the requirements of Schedule A.

- C. Following the completion of the development and final landscaping the City shall 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 assessment shall be submitted to the Applicant. Any hazardous Trees or diseased Trees shall be replaced by and at the expense of the Applicant in accordance with the requirements of Schedule A.

7. 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 requirements 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:
 - 1. clearing, grading, filling, or excavation within the Drip Line of any Retained Tree except as permitted in section 7(f);
 - 2. passage of vehicular traffic including trucks, excavators, backhoes, forklifts and similar vehicles including the use of grubbing buckets or blades to remove vegetation;
 - 3. storage or piling of construction materials such as sand, aggregates, lumber, formwork, pipes, or similar items;
 - 4. 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;
 - 5. the location of portable toilets, generators, ancillary service machines, portable sheds and other storage units; or
 - 6. 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 (7) days of the end of the Development Period or a longer period as approved by the Manager of Planning and Development Services.

8. REPLACEMENT TREES

- A. In addition to any other 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 Regulations, set out in Section 3 of Schedule A.

9. SECURITY FOR REPLACEMENT TREES

- A. 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 below to secure the maintenance and survival of the Replacement Tree, except that, security for a Replacement Tree which is part of a Development Approval may be included in the general security requirements of the Development Approval.
1. 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 for in a Development Approval.
 2. The amount of such security deposit shall be held by the City for a period of two growing seasons and shall not be released until the Manager of Planning and Development Services is 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 Regulations set out in Section 3 of Schedule A.
 3. Any letter of credit required to be provided under this Bylaw shall be provided to the City in a format acceptable to the City. The City will provide sample of an acceptable letter of credit to the Applicant.

10. MAINTENANCE OF REPLACEMENT TREES

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

11. 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.

12. 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.

13. 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.

14. 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.

15. MISCELLANEOUS

- A. "City of Rossland Tree Cutting Bylaw No. 1663, 1988 ", and amendments thereto and any other preceding tree retention or cutting bylaws are hereby repealed.

READ A FIRST TIME THIS 18th DAY OF August, 2008

READ A SECOND TIME THIS 18th DAY OF August, 2008.

READ A THIRD TIME THIS 14th DAY OF October, 2008

ADOPTED THIS 27th DAY OF October, 2008

SCHEDULE "A"

Attached to and forming part of Bylaw No. 2389

REGULATIONS AND 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 REGULATIONS

- 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 REGULATIONS

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 **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**.

SCHEDULE "B"
Attached to and forming part of Bylaw No. 2389

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. 2389 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. 2389.

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. 2389

CITY OF ROSSLAND
TREE REMOVAL PERMIT

1. This Permit is issued pursuant to Rossland Tree Retention Bylaw No. 2389.
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. 2389.
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)