

CITY OF BURNABY

BYLAW NO. 10482

(Consolidated for convenience with Bylaw No. 10759, 10891, 10917, 10963, 10968, 11189, 11331, 11485, 11670, 11846, 12035, 12191, 12298, 12377, 12553, 12632, 12732, 12890, 13048, 13171, 13270, 13293, and 13405)

A BYLAW to regulate the removal and damaging of trees

The Council of the City of Burnaby ENACTS as follows:

1. This Bylaw may be cited as **BURNABY TREE BYLAW 1996**.
2. In this Bylaw, unless the context otherwise requires:
 - (a) "building permit" means a permit for the construction of a building or structure issued under the City's Building Bylaw;
 - (a2) 'broadleaf tree' means a tree other than a conifer tree;
 - (a3) 'Civic Tree Reserve Fund' means a fund maintained by the City for the purpose of planting and maintaining trees on City owned property;
 - (a4) 'conifer tree' means a tree of the family Coniferae, identified as normally being evergreen, having needle-like leaves and bearing cones; (Bylaw No. 13293)
 - (b) "certified arborist" means a person accredited as such by the International Society of Arboriculture;
 - (c) "covenanted tree" means a tree or plant that is required to be retained or required to be planted pursuant to a covenant granted to the City under section 219 of the *Land Title Act*; (Bylaw No. 13293)
 - (d) "Council" means the City Council of the City of Burnaby;
 - (e) "cut down" means to cut down, remove or kill a tree by any means;
 - (f) "damage" means to carry out any activity that may kill or injure a tree, and includes:
 - (i) the topping of or removal of branches from a tree other than in accordance with accepted arboricultural practice;

- (ii) the cutting or shattering of the roots of a tree within its dripline other than in accordance with accepted arboricultural practice;
- (iii) the scraping, gouging or denting of a tree's trunk, branches or roots within its dripline or the removal of bark from a tree;
- (iv) the compaction of the soil within a tree's dripline or within an area required to be enclosed by a protection fence pursuant to a tree cutting permit by the placement of soil, fill, heavy equipment, vehicles or building or other materials thereon or by the movement of vehicles or equipment thereover;
- (v) the depositing within a tree's dripline of any toxic or harmful substance;
- (vi) the placement of soil or other material within a tree's dripline or within an area required to be enclosed by a protection fence pursuant to a tree cutting permit to a depth of greater than 20 cm. (7.8 in.);
- (vii) the removal of soil within a tree's dripline;
- (g) "dangerous tree" means a protected tree that is or is likely to become in the immediate future a danger to people or property;
- (h) 'development application' means an application for rezoning, subdivision, preliminary plan approval under the Zoning Bylaw or a building permit or demolition permit; (Bylaw No. 13293)
- (i) "diameter" of a tree means the diameter of the tree's trunk or, in the case of a multi-stemmed tree, the sum of the diameters of the three largest trunks or stems, measured 1.3m (4.265 ft.) above the ground level at the base of the tree;
- (j) "Director Planning" means the City's Director Planning and Building;
- (k) "dripline" means a circle on the ground at the base of a tree which has as its centre the centre of the tree's trunk and as its radius the distance from the centre to the end of its outermost branch;
- (l) "landscape architect" means a member in good standing of the British Columbia Society of Landscape Architects;
- (m) "lot" means an area of land designated as a separate and distinct legal parcel on a subdivision plan approved and registered in the Land Title Office pursuant to the provisions of the Land Title Act; (Bylaw No. 13293)
- (n) "occupancy permit" means a permit or approval to occupy a building or structure issued or given under the City's Building Bylaw;
- (o) "protected tree" means:

- (i) in respect of a property for which a development application has been made any tree the diameter of which is 20.3 cm (8 in.) or greater;
- (ii) in respect of a property that is not the subject of a current development application
 - (A) any conifer tree the diameter of which is 30.5 cm (12 in.) or greater;
 - (B) any broad leaf tree the diameter of which is 45.7 cm (18 in.) or greater;
- (iii) a covenanted tree;
- (iv) a tree within a streamside protection and enhancement area as defined in section 6.23 of the Zoning Bylaw;
- (v) a tree on a lot designated as Cemetery District (P4) under the Zoning Bylaw;
- (vi) a tree planted pursuant to a landscaping plan forming a part of an approved development application under the Zoning Bylaw or as a condition of subdivision approval;
- (vii) a replacement tree;
- (viii) a retained tree; (Bylaw No. 13293)
- (p) "pruning" means the selective removal of branches from a tree in accordance with accepted arboricultural practice;
- (q) "replacement tree" means a tree that is planted pursuant to section 13; (Bylaw No. 13293)
- (r) "residential lot" means a lot designated for single or two family residential use under the City's Zoning Bylaw;
- (s) "retained tree" means a tree that is shown on a tree plan as a tree that will be retained;
- (t) REPEALED (BYLAW 10968)
- (u) "tree cutting permit" means a permit issued under section 6; (BYLAW 10968)
- (v) "tree plan" means one or more plans, including a survey plan prepared by a B.C. licensed surveyor showing the legal boundaries and dimensions of the site to which it relates and the location and diameter of each protected tree on the site or

within 2m (6.562 ft.) of the boundary of the site, and containing the following information:

- (i) the type (coniferous or deciduous) of each protected tree;
 - (ii) each protected tree proposed to be retained;
 - (iii) each protected tree proposed to be cut down;
 - (iv) the previous location and type of each protected tree that was cut down within the three (3) month period immediately preceding the date the tree plan is submitted;
 - (v) the location, species and size of all proposed replacement trees; and
 - (vi) the location and timing of any proposed demolition, excavation, construction or use of explosives on the site.
- (w) 'Zoning Bylaw' means Burnaby Zoning Bylaw 1965. (Bylaw No. 13293)
3. Except as permitted by this Bylaw, no person shall damage a protected tree and no person shall cut down a protected tree unless that person holds a valid tree cutting permit. (BYLAW 10968)
4. A tree cutting permit is not required:
- (a) for pruning of protected trees in accordance with accepted arboricultural practices; (Bylaw No. 13293)
 - (b) for the emergency removal of a protected tree that has been so severely damaged, or has been rendered so unstable by wind, snow or other severe weather conditions, that it is in imminent danger of falling and injuring persons or damaging property, and the person who cuts down the tree immediately advises the Director Planning of that action; (BYLAW 10968)
 - (c) REPEALED (BYLAW 10963)
 - (d) by the City to cut down a protected tree located in a City park or other public lands that are not the subject of a current development application in accordance with normal park maintenance procedures and the City's Tree Management Policy for Public Lands; (Bylaw No. 13293)
 - (e) to cut down or damage a protected tree where necessary for the construction, installation, maintenance, repair, replacement or removal of:
 - (i) public roads, lanes, paths, sidewalks and boulevards;
 - (ii) rail lines;

- (iii) the sewer, water and gas mains and ancillary works of the City, any other governmental authority or any public utility;
 - (iv) public drainage, dyking or flood control works;
 - (v) the electrical, telephone and telecommunication lines, cables, poles, supports, conduits and ancillary works of any public utility;
 - (f) REPEALED (Bylaw No. 13293)
 - (g) REPEALED (Bylaw No. 13293)
- 4A. REPEALED (BYLAW 10968)
5. (1) An application for a tree cutting permit shall be made to the Director Planning in the form prescribed by the Director Planning accompanied by:
- (a) payment of a non-refundable permit fee in the amount set forth in Schedule "A" of this Bylaw; (Bylaw No. 13293)
 - (b) where the applicant is not the owner of the land on which the protected tree or trees proposed to be cut down or damaged are located, the signed written consent of the owner authorizing the applicant to make the application on behalf of and as agent of the owner;
 - (c) a tree plan; and
 - (d) if required by the Director Planning, a report prepared by a certified arborist in regard to any protected tree or trees proposed to be cut down or damaged and providing an assessment of the tree or trees' health, hazard potential and the feasibility of the retention of the tree or trees in accordance with the standard procedures prescribed by the International Society of Arboriculture.
- (2) The applicant shall securely attach to each protected tree or cluster of protected trees required to be shown on the plan referred to in section 5 (1) (c) a clearly visible metal or durable plastic numbered identification tag. (Bylaw No. 13293)
- (3) Where application is made for a permit to construct non-market housing for families or persons of low income, persons suffering from a disability or with special needs or seniors, operated on a not-for-profit basis, the Director Planning may defer payment of the permit fees payable under this Bylaw until the earlier of:
- (a) the date which is 24 months after the date upon which the permit for the construction of the building is issued;
 - (b) the date upon which an occupancy certificate for the building is issued;

and on such terms and conditions as the Director Planning may require.
(BYLAW 12632)

6. (1) Upon receipt of an application that complies with section 5, the Director Planning may issue a tree cutting permit, with or without conditions as provided for in subsection (2), where: (BYLAW 10968)
 - (a) it is proven to the satisfaction of the Director Planning that
 - (i) the tree is a dangerous tree, and;
 - (ii) removal of the tree is reasonably necessary in accordance with accepted arboricultural practice and in accordance with the actual written recommendations of a certified arborist retained by the applicant;
 - (b) removal of the protected tree or trees is necessary to accommodate the construction or installation of a driveway, required off-street parking area or utilities or services; or
 - (c) retention of the protected tree or trees would have the effect of preventing all uses of the land permitted, or preventing the development of the land to the density permitted, under the Zoning Bylaw, unless Council, by resolution, has committed the City to pay compensation or provide alternate means for the land to be used or developed pursuant to section 50(3) of the *Community Charter*. (Bylaw No. 13293)
- (2) The Director Planning may attach conditions to a tree cutting permit, including any of the following:
 - (a) the replacement of any protected tree that is cut down or was previously cut down in contravention of this Bylaw; (Bylaw No. 13293)
 - (b) the erection of protection fences at such locations, and the maintenance of those protection fences for such periods of time, as the Director Planning may specify;
 - (c) the posting of security with the City in accordance with section 7 as security for the planting and maintenance of replacement trees;
 - (d) that the employees and authorized agents of the City be permitted to enter onto the site at any reasonable time to carry out assessments and inspections to determine whether the tree cutting permit is being complied with.
7. The security to be provided pursuant to section 6(2)(c): (BYLAW 10968)
 - (a) shall be the greater of

- (i) the amount specified in Schedule “A” to this Bylaw as the minimum security for tree replacement; (Bylaw No. 13293)
 - (ii) an amount equal to one hundred and twenty per cent of the cost of the replacement trees as reasonably estimated by a certified arborist or landscape architect retained by the applicant or, at the option of the applicant, by the Director Planning; (BYLAW 10759)
 - (b) shall be in the form of a non-interest bearing cash deposit or an irrevocable unconditional letter of credit issued by a chartered Canadian bank;
 - (c) shall be provided to the City before the tree cutting permit is issued;
 - (d) may be held by the City until the conditions in the tree cutting permit have been satisfied and a period of one year from the planting of all replacement trees has elapsed as confirmed by the City;
 - (e) shall, in the case of a letter of credit, be renewed as necessary so that it remains in effect throughout the period of time specified in subsection (d); (BYLAW 12298)
 - (f) may be used by the City to pay or offset any costs and expenses incurred by the City in taking any action under section 14 resulting from the non-compliance with the terms and conditions of the tree cutting permit or the requirements of this Bylaw; and;
 - (g) shall be forfeited to the City and deposited into the Civic Tree Reserve Fund if the replacement trees are not planted within one year (Bylaw No. 13293)
 - (i) from the date that an occupancy permit is issued for the building or buildings and improvements in respect of which the tree cutting permit was issued; or (BYLAW 12298)
 - (ii) from the date that the tree cutting permit is issued if subsection (i) does not apply. (BYLAW 12298)
8. Protection fences shall be:
- (a) not less than 1.2m (3.937 ft.) in height;
 - (b) made of plastic snow fencing securely mounted on wooden posts or wooden or chain link fencing mounted on wooden or metal posts;
 - (c) erected on or outside of the dripline of the protected tree or trees around which they are required to be erected or as otherwise directed or permitted by the Director Planning;
 - (d) erected prior to the commencement of any demolition, excavation, construction or

- use of explosives; and
- (e) securely mounted at all times during the period that they are required to be maintained pursuant to section 11 or a tree cutting permit.
9. A tree cutting permit shall, insofar as it permits the permit holder to cut down or damage a protected tree or trees, be valid only for a period of six months from the date of its issuance.
10. If the permit holder fails to comply with the terms and conditions contained in a tree cutting permit the Director Planning may revoke the permit.
11. (1) Every development application made to the City shall be accompanied by a tree plan. (Bylaw No. 13293)
- (2) The person making an application referred to in subsection (1) shall:
- (a) before the development application is granted, securely attach to each protected tree or cluster of protected trees on the lot a clearly visible metal or durable plastic numbered identification tag; (Bylaw No. 13293) and
- (b) erect and maintain in place around all protected trees on the lot, until all demolition or construction works authorized by the demolition permit or building permit have been completed, protection fences that comply with section 8.
12. The Director Planning may exempt a person from the requirements of
- (a) section 13 in the case of a residential lot that is not the subject of a current development application: (Bylaw No. 13293)
- (b) section 5(1)(c) or section 11(1) where the Director Planning is satisfied that such trees can be readily identified on the site from other information provided by the applicant.
13. (1) The owner of a property on which a protected tree is cut down shall plant one or more replacement trees on that property for each protected tree cut down as follows:

Diameter of protected tree cut down	Number of replacement trees required
up to and including 30.5 cm (12 in.)	1
over 30.5 cm (12 in.) up to and including 61 cm (24 in.)	2
over 61 cm (24 in.)	3

(2) A replacement tree planted pursuant to subsection (1) shall:

- (a) in the case of a conifer species, be not less than 2 m (6.562 ft.) in height;
- (b) in the case of a broadleaf species:
 - (i) be a single tree not less than 5 cm (2 in.) in diameter; or
 - (ii) for fruit trees only, be two trees not less than 2.5 cm (1 in.) in diameter.

(3) Every replacement tree required to be planted pursuant to this Bylaw shall be healthy and reasonably capable of surviving, and shall be planted in accordance with accepted arboricultural practice.

(4) Every replacement tree required to be planted pursuant to this Bylaw shall be properly and adequately maintained in accordance with accepted arboricultural practice.

(5) Where the Director Planning is satisfied that it is not feasible to plant all of the replacement trees required to be planted on the property under this section the Director Planning may accept in lieu thereof the payment per tree specified in Schedule "A" to this Bylaw.

(6) All payments made to the City under subsection (5) shall be deposited into the Civic Tree Reserve Fund. (Bylaw No. 13293)

14. If a person fails to plant or maintain any replacement tree as required by this Bylaw or otherwise fails to comply with the terms and conditions of the tree cutting permit the City by its employees or agents may enter upon the land in respect of which the replacement tree is required to be planted and maintained or the tree cutting permit was issued and take such action as it deems appropriate to remedy such failure. (Bylaw No. 13293)

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15. (1) A person who cuts down a protected tree in contravention of this Bylaw, or who damages a protected tree in contravention of this Bylaw which results in the protected tree being cut down shall, in addition to any other penalty that may be imposed under this Bylaw, upon receiving written notice from the Director Planning to do so, immediately plant one or more replacement trees in accordance with the requirements of section 13. (Bylaw No. 13293)
- (2) REPEALED (Bylaw No. 13293)
16. The employees or agents of the City may enter onto any land to carry out assessments or inspections of that land and the protected trees thereon:
- (a) at any time after a tree cutting permit has been applied for or issued in respect of that land and until all of the terms and conditions contained in that tree cutting permit have been satisfied;
- (b) for a period of one year from the planting of any replacement tree on that land;
- (b) at any time for the purpose of determining whether there has been a contravention of this Bylaw or to determine whether the requirements of this Bylaw are being complied with.
- 16A. The owner or occupier of any land shall permit any employee or agent of the City to enter onto that land for the purposes of section 16. (Bylaw No. 13293)
17. The Director Planning is hereby delegated the powers, duties and functions of Council in relation to Council's authority under section 8(3)(c) of the *Community Charter* with respect to the matters governed by this Bylaw, other than Council's authority under section 18. (Bylaw No. 13293)
18. (1) The owner or occupier of land that is subject to:
(BYLAW 10968)
- (a) a requirement imposed under section 5 (1)(c);
- (b) a condition imposed under section 6; or
- (c) a decision under sections 10 or 17;
- may apply to Council to have the matter reconsidered.
- (2) An application under subsection (1) shall:
- (a) be made in writing;
- (b) set out:

- (i) the applicant's name, address and telephone number;
 - (ii) the address of the site;
 - (iii) the requirement, condition or decision to be reconsidered;
 - (iv) the reasons why the applicant objects to the requirement, condition or decision;
- (c) state whether the applicant wishes to personally appear before Council when Council reconsiders the matter;
 - (d) be signed by the applicant; and
 - (e) be delivered to the City Clerk.
- (3) Council shall reconsider the matter at a regular Council meeting within a reasonable time after receiving an application for reconsideration.
 - (4) Written notice of the time and place of the Council meeting at which Council will reconsider the matter shall be forwarded by regular mail to the applicant at the applicant's address shown in the application for reconsideration and the applicant shall be entitled to attend such Council meeting and make submissions.
19. Any person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in violation of any of the provisions of this Bylaw is guilty of an offence punishable on summary conviction and is liable to a fine of not less than Two Thousand (\$2,000.00) Dollars and not more than Ten Thousand (\$10,000.00) Dollars for each violation. (Bylaw No. 13293)

Read a first time this 28th day of OCTOBER 1996

Read a second time this 28th day of OCTOBER 1996

Read a third time this 28th day of OCTOBER 1996

Reconsidered and adopted by an affirmative vote of at least two-thirds of all members of Council this 12th day of NOVEMBER 1996

LEE RANKIN
ACTING MAYOR

D. COMIS
CLERK

SCHEDULE “A” (Bylaw No. 13405) SCHEDULE OF TREE PERMIT FEES	Tree Cutting Fee (based on protected trees removed)	Maximum Fee
1. Tree Permit Fees		
A. No Development Application:		
(i) residential lot	\$72.00 per tree	\$513.00
(ii) site other than residential lot	\$72.00 per tree	\$513.00
B. Development Application Pending:		
(i) residential lot	\$154.00 per tree	\$1,025.00
(ii) site other than residential lot:		
(a) site area up to 1,000 m ² (10,764 sq.ft.)	\$615.00 base fee plus \$154.00 per tree	\$1,025.00
(b) site area greater than 1,000 m ² (10,764 sq.ft.) or equal to 5,000 m ² (53,820 sq.ft.)	\$1,230.00 base fee plus \$154.00 per tree	\$5,125.00
(c) site area greater than 5,000 m ² (53,820 sq.ft.) or equal to 10,000 m ² (107,640 sq.ft.)	\$1,845.00 base fee plus \$154.00 per tree	\$5,125.00
(d) site area greater than 10,000 m ² (107,640 sq.ft.) or equal to 20,000 m ² (215,280 sq.ft.)	\$2,460.00 base fee plus \$154.00 per tree	\$10,250.00
(e) site area greater than 20,000 m ² (215,280 sq.ft.)	\$3,075.00 base fee plus \$154.00 per tree	\$10,250.00
2. Payment to Civic Tree Reserve Fund (s. 13(5))		\$513.00 per tree
3. Minimum Security for Tree Replacement (s. 7(a)(i))		\$820.00
4. Copies of Departmental Records or Drawings:		\$15.00 file research fee
<i>Fees subject to all applicable taxes</i>		Electronic copies: \$2.00 per image
		Paper copies: \$3.25 per page for copies 8.5x11 inches
		\$7.80 per page for copies 11x17 inches or larger