

## DISTRICT OF SEHELDT

### Bylaw No. 484, 2009

A bylaw to manage cutting and removal of trees in the District of Sechelt

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**WHEREAS** Council may by bylaw regulate the cutting and removal of trees and require their replacement;

**AND WHEREAS** the District of Sechelt considers it in the public interest to protect the natural environment and to provide for the preservation of trees;

**NOW THEREFORE** the Council of the District of Sechelt in open meeting assembled enacts as follows:

#### **TITLE**

1. This bylaw may be cited for all purposes as "District of Sechelt Environmental Management and Protection Bylaw No. 484, 2009".

#### **DEFINITIONS**

2. In this bylaw:

**Arborist** – means a person certified as an arborist by the International Society of Consulting Arborists and registered as a Consulting Arborist.

**ALR** – means those lands included within the Agricultural Land Reserve established under the *Agricultural Land Reserve Act*.

**Barrier** - means a physical barrier including a fence, guard, frame or other conspicuous obstacle that is placed on, around or near a tree to indicate the tree trunk, roots or branches that are not to be cut, removed or damaged.

**Building Envelope** – means an area of the parcel on which a building permit authorizes the construction of a building or a sewage disposal field.

**Cut, Cuts or Cutting** – means, in relation to a tree, to cut down, fell, kill, damage, remove or alter all or part of a Protected Tree.

**Damage** – means, in relation to a tree, to alter a tree or its growing environment in a manner detrimental to the present and future health and development of the tree.

**DBH (diameter at breast height)** – means the diameter of the trunk of a tree measured at 1.4 metres above the existing grade of the ground at the base of the tree.

**Dead Tree** – means a tree that is declared dead by a certified Arborist or by the Parks Foreman.

**Development or Develop** – means any activity related to development on a parcel, including excavation, construction, clearing or excavation works of any kind except where specifically exempted in this bylaw.

**Diameter** – see DBH

**Director of Planning** – means a person appointed by Council as the Director of Planning and includes any person under his or her authority.

**District** - means the District of Sechelt.

**Drip Line** – means a vertical line extending down from the outermost branches of a tree to the ground.

**Hazardous tree** – is a tree or tree part which is considered, by a certified Arborist, to be in imminent danger of falling or which is interfering with the normal functioning of utility lines, municipal infrastructure, a septic system or building foundation as to be a danger.

**Hedge** - means a row of trees or shrubs that have been specifically planted closely together so that they form an unbroken line that serves as a solid barrier separating one space from another;

**Municipality** – means the District of Sechelt.

**Nesting Tree** – means a tree with one or more active or inactive nests of birds designated as protected, threatened or endangered under the *Wildlife Act*.

**Owner** - -means the registered owner or owners in fee simple of a parcel of land and the trees growing on it, or his or her authorized representative.

**Parcel** – means any lot, block or other area in which land is held or into which it is subdivided, including a bare land strata lot under the *Strata Title Act* or a highway.

**Permit** – means a tree cutting or removal permit issued under this bylaw in the form prescribed in *Schedule B*.

**Protected Tree** – includes:

- (a) Any tree with a DBH of 60 cm or more;
- (b) Trees designated “to be retained” on a plan attached to a development permit, development variance permit, building permit or subdivision plan approved by the District of Sechelt;

- (c) Any nesting tree;
- (d) Any tree protected by a restrictive covenant pursuant to Section 219 of the *Land Title Act* RSBC 1979 c219;

**Protected Root Zone** – means the area of land surrounding a tree that has been designated for protection in a Tree Protection Plan.

**Prune or Pruning** – means, in relation to a Protected Tree, the removal of any limbs, stems, roots or trunks that are greater than less than 10 centimetres in diameter for the purpose of promoting its health or growth.

**Replacement Tree** – means a tree required to be planted in accordance with Section 13 of this bylaw to replace trees cut, removed or damaged on the same parcel.

**Registered Professional** – means a person who is certified as a professional arboricultural consultant or is a landscape architect registered with the British Columbia Society of Landscape Architects.

**Security** – means either cash or an irrevocable letter of credit, in a form acceptable to the Municipality, which is provided to the Municipality to guarantee performance of requirements of this Bylaw.

**Streamside Protection Area** – means the buffer area adjacent to a stream or watercourse to be retained in a natural state, including any trees or vegetation within the buffer area.

**Tree** – means a perennial plant with a woody self-supporting main trunk when mature and usually unbranched for some distance above the ground.

**Tree Cutting and Replacement Plan** – means a plan drawn to scale in accordance with Section 13 of this bylaw.

**Top or Topping** – means to remove or cut back the top portion of a tree's leader stem or large branches so as to remove the normal canopy.

**Tree Protection Plan** – means a plan that identifies the trees to be retained, removed or replaced, and the measures that will be taken to protect the trees to be retained or replaced. The plan must be prepared by a certified arborist or registered professional and is required as part of a Development Permit, Development Variance Permit, Building Permit or application for rezoning or subdivision.

**Watercourse** – means any natural depression with well defined banks and a bed .6m or more below the surrounding land serving to give a current of water at least six months of the year.

**Zoning Bylaw** – means the District of Sechelt Zoning Bylaw 25.

### **APPLICATION**

3. This bylaw shall apply to property within the District of Sechelt as follows:
  - (a) All properties that are 1.0 hectares (2.47 acres) in size or greater;
  - (b) All trees within 30 metres of the natural boundary of Chapman Creek or Gray Creek or within 15 metres of the natural boundary of any other watercourse or the natural boundary of the ocean;
  - (c) All slopes that are 30% or greater;

### **PROHIBITIONS ON CUTTING OR REMOVAL OF TREES**

4. No person shall:
  - (a) Cut, top, remove or damage any Protected Tree, or allow any Protected Tree to be cut down, removed or damaged;
  - (b) Cut down a tree on slopes greater than 30%;
  - (c) Carry out excavation or construction works, operate trucks, backhoes, excavators or other heavy equipment within 5 metres of the Drip Line or Protected Root Zone of any Protected Tree unless authorized by the District.
  - (d) Cut or damage the roots of a tree growing inside the Drip Line or place fill, building materials, asphalt, or a building or structure on the Protected Root Zone or inside the Drip Line;
  - (e) Dent, gouge, damage or affix anything to the branches or trunk of the tree;
  - (f) Remove or place soil within the Protected Root Zone or Drip Line;
  - (g) Blast within the Protected Root Zone or Drip Line

except in accordance with the terms of a permit issued under this bylaw.

### **EXEMPTIONS**

5. This bylaw does not apply to:
  - (a) A single family residential parcel existing at the time of adoption of this bylaw with an area of less than 1.0 ha (2.47 acres);
  - (b) Land within the ALR;
  - (c) Land that is classified as managed forest (by BC Assessment Authority), including Tree Farm Licence and Private Managed Forest under *Community Charter* Section 50;
  - (d) Any tree that is dead, diseased, damaged or otherwise constitutes a physical hazard to persons or property if the Owner provides the Parks Foreman with a certified statement from an Arborist that the tree is dead.
  - (e) Tree removal or pruning required for the installation, repair or maintenance of any public works or services carried out by or under the authority of the District on a highway, park, right-of-way or easement held by the District, including hydro, gas and electric utilities;
  - (f) The installation of roads and other utility services required pursuant to District bylaws for subdivision or development servicing, in accordance with a subdivision,

building permit or development plan that has been approved by the District or the approving officer.

### **MEASUREMENTS**

6. In this bylaw:
  - (a) The diameter of a tree shall be determined by dividing the measurement of the circumference of the trunk at DBH by 3.142.
  - (b) The diameter of a tree having multiple trunks at DBH shall be determined by the sum of 100% of the largest stem and 25% of the diameter of each additional trunk.
  - (c) Where the trunk of a tree is growing on a building envelope line or other setback line prescribed in this bylaw, the tree shall be deemed to be located within the building envelope.

### **PRUNING OF TREES**

7. No person shall top or prune a Protected Tree or remove any branch, limb or part of a tree which is greater than 10 centimetres in diameter at the point it meets another branch, the leader stem or trunk of a tree, unless authorized by a tree cutting permit issued by the District and the activity is carried out in strict accordance with the conditions of the permit.
8. The District may issue a tree cutting permit for pruning subject to:
  - (a) Any conditions that are considered by the District to be necessary to maintain and protect the health and safety of the tree, including that the pruning be carried out by or under the supervision of a certified arborist.
  - (b) Where the proposed pruning may endanger the health or life of the tree, the Director may refuse to issue the permit or require the owner to provide report from a certified arborist that confirms the proposed pruning will benefit the tree or mitigate a tree hazard.
  - (c) There shall be no application fee under this section.

### **EMERGENCY REMOVAL OF TREES**

9. Notwithstanding any other provision in this Bylaw
  - (a) An owner may cut down a Protected Tree or limb of a Protected Tree that has been severely damaged by natural causes and constitutes an imminent danger or hazard to persons or property.
  - (b) Where the emergency modification or removal of a damaged Protected Tree, pursuant to section 8(a) has occurred, the Parks Foreman must be notified by the owner no more than 72 hours after the removal and the Director of Planning may require such trees to be replaced in accordance with Section 13.

### **DEVELOPMENT APPLICATIONS**

10. Where land is proposed for development through a subdivision, rezoning, development permit or development variance permit application, Owners are required to submit a Tree Protection Plan in accordance with this bylaw, and receive a permit for any removal, cutting or pruning of trees in accordance with this bylaw, including replacement of trees as specified in Section 13.
11. The District, at its discretion, may require the registration of a covenant pursuant to Section 219 of the *Land Title Act* to ensure retention of trees or treed areas.

### **MARKING AND REMOVAL OF TREES**

12. Where the cutting or removal of trees has been authorized by issuance of a permit, the owner shall:
  - (a) Attach numbered tags to each Protected Tree that correspond to the plans submitted;
  - (b) Identify with a flag, paint, survey tape or other means each tree to be cut and removed;
  - (c) Place a barrier around those trees which will not be cut or removed in a manner to ensure the trunk, branches and root structure of the trees are not damaged by the cutting or removal of the trees;
  - (d) Mark the Drip Line on the ground with stakes or flagging;
  - (e) Dispose of tree parts by chipping or other means in accordance with Provincial and District regulations.

### **TREE REMOVAL ON STEEP SLOPES**

13. In cases where trees are proposed to be removed on slopes greater than 30%, irrespective of lot area, the Director of Planning may require the preparation of a report from a qualified professional geotechnical or hydrological engineer certifying that the proposed tree removal will not create a danger from erosion, flooding or landslip. Should the report from the qualified professional engineer recommend the construction of works necessary to prevent erosion, flooding or landslip, no permit shall be issued unless the applicant provides to the Municipality security in the amount of 150% of the cost of the works as estimated by the engineer.

### **REPLACEMENT TREES**

14. When a Replacement Tree is required by permit:
  - (a) The owner shall replace the Protected Trees cut and removed with the same number of trees planted on the same parcel in accordance with an approved permit;
  - (b) Minimum size or height of Replacement Trees shall be a minimum caliper of 11cm (4.5”) for any deciduous Replacement Tree and a minimum 2.7m height (10 feet) for any coniferous Replacement Tree;
  - (c) An owner shall plant and maintain every Replacement Tree in accordance with sound horticultural practice;

- (d) An owner may be exempted from a requirement under this section to plant Replacement Trees to the extent only that an arborist certifies in writing to the Director of Planning that such planting cannot be carried out in such a way that survival of any Replacement Tree and any existing tree in the vicinity is probable and pays the District \$750 for each tree not planted to be used at the discretion of the District for planting of a tree on public land;
- (e) Replacement Trees need not be the same species as the tree cut or removed but they must be a native species approved by the District;
- (f) The owner shall provide to the District security in the amount of \$200.00 for each tree to be planted and maintained;
- (g) In the event that the owner fails to replace or maintain the trees for which security has been provided, the District may, without notice to the owner, plant or maintain the trees and apply the security to the cost of doing so;
- (h) Security held by the District may, upon application by the owner, be returned to the owner as follows:
  - i. Sixty (60%) of the security is released after planting of all Replacement Trees to the satisfaction of the District;
  - ii. The balance of the security is held by the District for three years, dated from the planting of Replacement Trees, and is eligible for release upon approval by the Director of Planning that each Replacement Tree remains in a healthy condition.
- (i) In addition to any other penalty, any person who cuts down or damages a Protected Tree in contravention of this Bylaw, or a condition of a permit issued under this Bylaw, shall:
  - i. Plant two specimen trees of the same species or approved alternative species;
  - ii. Support, water, fertilize and maintain the Replacement Tree strictly in accordance with standards prescribed by the District, and sound arboriculture practice;
  - iii. Provide security to the District for 125% of the total cost of replacing and maintaining the Replacement Tree(s) as determined by the District, for a period of three years in the form of cash or letter of credit to guarantee performance of the requirements of this section.
  - iv. Where an Arborist certifies in writing that such planting cannot be carried out in such a way that survival of any Replacement Tree or any existing tree in the vicinity is probable, a payment of \$1,500 for each unplanted tree under subsection (a) is required for each tree removed or damaged without a permit.
- (j) All trees planted as Replacement Trees are Protected Trees subject to the conditions of this bylaw.

### **TREE CUTTING PERMIT APPLICATION AND FEES**

15. Persons wishing to cut, remove or prune a Protected Tree shall apply to the Director of Planning on the tree cutting permit application form as outlined in Schedule A of this bylaw, and

- (a) Pay the permit application fee of \$50.00 per tree for the first three (3) trees and \$10.00 for each additional tree.
  - (b) The application for a tree cutting permit shall be accompanied by:
    - (1) A written description of the purpose and rationale for cutting down of the trees, with detailed reasons in support of the application;
    - (2) A plan based on a legal survey plan, identifying:
      - i. the boundaries of the subject parcel and any abutting streets, lanes, rights of way or public land;
      - ii. the location, species and DBH of the tree or trees proposed to be retained;
      - iii. the location, species and DBH of any Protected Trees proposed to be cut down or pruned;
      - iv. the location, species and diameter of all trees within 20 metres of the trees in (i);
      - v. the location and species of the proposed Replacement Trees;
      - vi. the location of any proposed construction activities, excavation activities, soil removal or storage, or blasting activities in relation to the tree(s).
    - (3) In addition to the above, the Director of Planning may require a written report:
      - i. From a certified arborist providing assessment of the issues related to trees on the subject property, certifying that the trees proposed to be cut or pruned meet one or more of the conditions set out in this bylaw;
      - ii. From a certified arborist or registered professional that specifies any conditions under which the proposed tree cutting may take place, considering and recommending the appropriate extent, timing and phasing of tree cutting to address public health and safety issues, minimize impacts on adjacent properties, protection of retained trees, or protection of other environmental features or functions;
      - iii. A report prepared by a certified professional engineer with experience in, as the circumstances require, geotechnical engineering, hydrology or tree management, demonstrating that the proposed cutting or removal will not create an adverse impact including flooding, erosion, land slip or contamination of Watercourses.
16. Each permit shall be issued upon the condition that the permit shall expire and the rights of the owner under the permit shall terminate if the work authorized by the permit has not been undertaken within one year of the date of issuance of the permit.

### **OFFENCES AND PENALTIES**

17. Every person who contravenes any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention of this bylaw or who neglects to do



or refrain from anything required to be done by any of the provisions of this bylaw, commits an offence.

18. Every person who commits an offence against this bylaw is liable to a fine and penalty of not less than \$10,000 for each offence and:
- (a) A separate offence is committed for each tree unlawfully cut down, damaged or pruned without a permit.
  - (b) Any person who commits an offence against this bylaw shall be liable on summary conviction to a fine of not more than \$2,000.00 per tree.
  - (c) Any person who damages a Protected Tree is subject to a fine of \$250.00 per offence through issuance of an MTI ticket.
  - (d) Each day that a violation is permitted to exist or continues shall constitute a separate offence.

### **ADMINISTRATION AND ENFORCEMENT**

19. Subject to the requirements of the *Community Charter*, every municipal employee has the right to enter at all reasonable times on any property to make an assessment or inspection for the purpose of this bylaw.

### **SEVERABILITY**

20. 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 the bylaw.

READ A FIRST time this                      30<sup>th</sup>    day of October, 2009

READ A SECOND time this                    30<sup>th</sup>    day of October, 2009

READ A THIRD time this                    30<sup>th</sup>    day of October, 2009

ADOPTED THIS                                    4<sup>th</sup>    day of November, 2009

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Mayor

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Corporate Officer

I hereby certify this to be a true and accurate copy of "District of Sechelt Environmental Management and Protection Bylaw No. 484, 2009".

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Corporate Officer

**Schedule A  
Tree Cutting Permit Application**

**DISTRICT OF SEHELDT**  
 P.O. Box 129, 2<sup>nd</sup> Floor, 5797 Cowrie Street, Sechelt, BC V0N 3A0  
 Tel: 604-885-1986 – Fax: 604-885-7591

<b>Property Information</b>	
Civic Address:	Legal Description
Lot size and dimensions (metric):	Zoning:
Is the property within a Development Permit Area?	
Current and proposed use of property:	
<b>Tree Cutting or Removal Information</b>	
Summary - Number, type and size (approximate height and diameter) of trees to be cut:	
Reason for cutting or removal of trees:	
<b>Attachments: I attach with this application</b>	
<input type="checkbox"/> Tree cutting and replacement plan (see details below)  <input type="checkbox"/> Application fee in accordance with Bylaw No. 484.  <input type="checkbox"/> Security deposit as set out in Bylaw No. 484.	<input type="checkbox"/> Required reports from qualified professionals listed in Bylaw No. 484.  <input type="checkbox"/> Title search dated no more than 30 days prior to the application date.
<b>Tree Cutting and Replacement Plan</b> – Must include the following information on a plan drawn to scale:	
<input checked="" type="checkbox"/> All property lines and adjacent streets. <input checked="" type="checkbox"/> Location of existing buildings, utilities (water, sewer, hydro, gas lines) on the subject parcel, and location of any watercourses, streams, ocean shoreline or steep slopes (over 30%). <input checked="" type="checkbox"/> Proposed development/subdivision plan <input checked="" type="checkbox"/> Inventory of all existing trees, identifying location, species and DBH of trees proposed to be cut or removed and trees proposed to be protected and retained <input checked="" type="checkbox"/> Location, species and size of proposed replacement trees. <input checked="" type="checkbox"/> Detailed methods for protection of remaining trees, including the protected root zone	
<b>Signatures</b>	
Applicants Signature  _____  Dated	Registered Owner's Signature  _____  Dated

Where the applicant is NOT THE REGISTERD OWNER, the application must be signed by the REGISTERED OWNER(s).

**SCHEDULE B**

**DISTRICT OF SEHEL T TREE CUTTING OR REMOVAL PERMIT**

1. **Tree Permit No.** \_\_\_\_\_ is issued subject to the District of Sechelt Environmental Management and Protection Bylaw No. 484, 2009, and applies to the following land:

Civic Address: \_\_\_\_\_

Legal Description: \_\_\_\_\_

2. This permit authorizes the cutting and removal of only the trees identified in Attachment 1 of this permit, and subject to the following conditions, including replacement trees as required:

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

3. Any tree authorized to be cut or removed by the permit shall only be cut or removed in strict compliance with the provisions of District of Sechelt Bylaw No. 484, 2009.

**Date:** \_\_\_\_\_

**Approved By :** \_\_\_\_\_ **(Director of Planning)**