

# CITY OF LANGFORD

## BYLAW NO. 2206

A Bylaw to Protect, Regulate, and Prohibit the Cutting Down, Removal, and Damaging of Trees in the City of Langford.

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**WHEREAS** Section 8(3)(c) of the *Community Charter* allows a local government to prohibit and/or regulate the cutting of trees;

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

**NOW THEREFORE** the Council of the City of Langford in open meeting assembled enacts as follows:

### 1. TITLE

This Bylaw may be cited for all purposes as “City of Langford Tree Protection Bylaw No. 2206”.

### 2. DEFINITIONS

In this Bylaw, unless the context otherwise requires:

**“Arborist Report”** means a report prepared by an Arborist, in accordance with the City’s Terms of Reference, and which clearly identifies the Arborist’s Name and Certification Number;

**“Arborist”** means a practitioner of arboriculture who is also Certified by and in good standing with the International Society of Arboriculture and holds a current Tree Risk Assessment Qualification (TRAQ) issued by the International Society of Arboriculture;

**“Best Arboricultural Practices”** means practices in accordance with the most current version of the American National Standards Institute (ANSI) Publication, “American National Standard for Tree Care Operations - Tree, Shrub, and Other Woody Plant Management - Standard Practices” and the companion “Best Management Practices” Series of the International Society of Arboriculture;

**“Building Envelope”** means that part of a lot on which the primary building may be sited under the setback regulations of the City’s Zoning Bylaw, or as varied through the issuance of a Development Variance Permit or Development Permit;

**“City”** means the City of Langford and includes, where the context requires, persons employed by or acting as agents of the City;

**“Cut or Cutting”** means cutting down, knocking down, dismantling, or piercing any or all parts of any Protected Tree including its roots, but does not include pruning of a Protected Tree in accordance with Best Arboricultural Practices.

**“Crown”** means the foliage bearing section of a Protected Tree formed by its branches but does not include the stem or trunk;

**“Damage”** means (a) poisoning, burning, or pruning in a manner not in accordance with arboricultural best practice, including removal of more than 25% of the Protected Tree’s total live foliage or bud bearing branches or limbs, (b) topping, unless the Protected Tree in question has been previously topped and regenerative growth has a high likelihood of failure due to weak branch attachment, excessive branch elongation and end weight, or the formation of extensive decay or cavities that

cannot be mitigated other than by re-topping the Protected Tree, (c) shearing, harming or undermining the roots of the Protected Tree, (d) denting, gouging, drilling, harming, or affixing anything to the branches or the trunk of a Protected Tree, (e) removing bark from a Protected Tree, or (f) doing anything that would cause the Protected Tree to die;

**“DBH”** means “Diameter at breast height” and is measured as is depicted in ‘Schedule A’ attached hereto;

**“Development Permit”** means the approval of an application for development permit issued by the City;

**“Director”** means the person holding the position of Director of Parks, Recreation and Facilities for the City, and any person appointed to act in the place, or under the direction of the Director;

**“Hazardous Tree”** means a Protected Tree that has, in the opinion of a TRAQ arborist:

- (a) a high or extreme TRAQ risk rating, or
- (b) an imminent likelihood of failure;

**“Lot”** means a parcel of land;

**“OCP”** means the City of Langford Official Community Plan Bylaw, as amended;

**“Owner”** has the same meaning as given to it in the *Community Charter*, S.B.C. 2003, c. 26;

**“Protected Tree”** means a self-supporting, perennial, woody plant that has a trunk or stem and a root system meeting any of the following criteria:

- (a) a DBH equal to or greater than 20 cm;
- (b) planted as a requirement of a Development Permit;
- (c) located on City-owned or occupied land;
- (d) protected by a restrictive covenant in favor of the City; or
- (e) contains evidence of nesting or use by raptors as defined in the *Wildlife Act*, R.S.B.C. 1996, c. 488, an osprey, or a heron colony;

**“Public Utility”** means a public utility as defined through the *Utilities Commission Act*, R.S.B.C. 1996, c. 473;

**“Qualified Environmental Professional”** means a person in good standing with a professional regulatory body set out through the *Professional Governance Act*, S.B.C. 2018, c.47, who is undertaking work in accordance with the bylaws of the professional regulatory body and practicing within their individual area of expertise;

**“Landscaping Requirements”** means the treatment of land, in respect of which a Development Permit is granted, prescribing such matters as the planting, siting, and composition of trees, hedges, shrubs or grass;

**“Remove, Removing, Removed, or Removal”** means to Cut a Protected Tree and to remove it from the Lot where it exists; and

**“Tree Permit”** means a permit issued by the Director under Section 6. of this Bylaw.

### 3. PROHIBITIONS AND APPLICATION

1. This Bylaw applies to Protected Trees on any property in the City of Langford.
2. No person shall Damage, Cut, or Remove a Protected Tree or cause, suffer or permit any such Protected Tree to be Damaged, Cut, or Removed, except where permitted by and in accordance with the terms of this Bylaw.

### 4. EXCEPTIONS

This Bylaw does not apply to:

1. Cutting or Removal of a Protected Tree pursuant to the *Railway Safety Act*, S.B.C. 2004, c. 8, the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 212, the *Oil and Gas Activities Act*, S.B.C. 2008 c. 36, the *Workers Compensation Act*, R.S.B.C. 2019, c. 1, or any regulation under these acts or under Section 50 of the *Community Charter*, S.B.C. 2003, c.26;
2. Cutting or Removal of a Protected Tree by City employees, or their agents, during the discharge of their duties;
3. Cutting or Removal of a Protected Tree by British Columbia land surveyors during the discharge of their duties;
4. Cutting or Removal of a Protected Tree that is undertaken by a Public Utility, on land owned or held by the Public Utility, and done for the purpose of safety, maintenance, or operations of the Public Utility's infrastructure;
5. Cutting or Removal of a Protected Tree in accordance with a Development Permit issued by the City; and
6. Cutting or Removal of a Protected Tree species that is a regulated invasive plant or an unregulated invasive plant of concern in British Columbia as declared by the Province or the Invasive Species Council of BC.

### 5. EMERGENCY TREE REMOVALS

1. Despite any other provisions in the Bylaw, a person may Cut or Remove a Protected Tree before applying for a Tree Permit if the Protected Tree is in imminent danger of falling and injuring persons or property such that there is no time to obtain a Tree Permit prior to the failure.
2. A person who has Cut or Removed a Protected Tree pursuant to Section 5.1. must:
  - (a) Apply for a Tree Permit on the next business day in accordance with the requirements of this Bylaw and provide the Director with a photograph or video depicting the state of the Protected Tree prior to the Cutting or Removal; and
  - (b) Not remove the portions of the trunk, limbs, roots, or other remains of the Protected Tree necessary to confirm there was imminent danger from the site prior to the Director having determined whether the emergency Cutting or Removal was justified.
3. If the City determines that the Protected Tree was not in imminent danger or was in imminent danger but due to reasons other than natural causes, the City may impose a penalty in accordance with Section 9. of this Bylaw.

## 6. TREE PERMITS

1. The Director, in their sole discretion, may issue a Tree Permit to Cut or Remove a Protected Tree if they are satisfied that at least one of the following applies:
  - (a) The Protected Tree is dead, or more than 50% of the Crown is dead;
  - (b) The Protected Tree is a Hazardous Tree, and the risk cannot be mitigated other than through Cutting or Removal;
  - (c) The Protected Tree is within lands regulated through the City's Interface Fire Hazard Areas Development Permit Area, as delineated through the OCP, and notwithstanding provisions which otherwise grant exception from the requirements of the Interface Fire Hazard Areas Development Permit Area Guidelines, Cutting or Removal would be consistent with the Landscaping Requirements prescribed through the Interface Fire Hazard Areas Development Permit Area Guidelines;
  - (d) The Protected Tree is causing significant damage to one of the following installations or constructions, and it is not possible to modify or relocate the installation or construction on the Lot in order to avoid Cutting or Removing the Protected Tree:
    - (i) an existing principal use building,
    - (ii) an existing accessory building, or
    - (iii) an existing utility service;
  - (e) The Protected Tree is located within the Building Envelope of the Lot and Cutting or Removal is necessary for the purpose of constructing a principal use building, an addition to a principal use building, or an accessory building;
  - (f) The Protected Tree is located outside of a Building Envelope of the Lot, but will be critically impacted by the footprint of the construction of a principal use building or addition to a principal use building within the Building Envelope, and it is not possible to modify or relocate the construction on the Lot in order to avoid Cutting or Removing the Protected Tree;
  - (g) The Protected Tree will be critically impacted by the footprint of one of the following installations or constructions, and it is not possible to modify or relocate the installation or construction on the Lot in order to avoid Cutting or Removing the Protected Tree:
    - (i) A utility service,
    - (ii) A driveway, or
    - (iii) An off-street parking area that is required under the City's Zoning Bylaw;
  - (h) The Protected Tree is located within a required construction access, and the construction access cannot be modified in order to avoid Cutting or Removing the Protected Tree; or
  - (i) The Protected Tree is causing or, in the sole discretion of the Director, can be expected to cause, undue hardship.
2. An application for a Tree Permit must be made in the form prescribed for that purpose by the Director;

3. In addition to the requirements listed in Section 6.2., the Director may require the person to provide any of the following documents:
  - (a) An Arborist Report from an Arborist confirming that a Protected Tree is a Hazardous Tree if, in the opinion of the Director, it is necessary to confirm whether the Protected Tree is a Hazardous Tree;
  - (b) An Arborist Report if, in the opinion of the Director, it is necessary based on the nature, extent, siting, or impact of any Cutting or Removal;
  - (c) A report prepared by Qualified Environmental Professional if, in the opinion of the Director, it is necessary to confirm the Protected Tree poses a fire risk and that fire risk cannot be reduced or eliminated other than through the Cutting or Removal of the Protected Tree;
  - (d) If the Director considers that the Cutting or Removal could result in:
    - (i) slope destabilization or landslip, flooding or erosion;
    - (ii) adverse impacts on adjacent properties;
    - (iii) detrimental effects on watercourses, fish or wildlife habitat, or other important environmental features or functions; or
    - (iv) risk of personal injury, or damage to property,A report by a Qualified Environmental Professional addressing those risks and certifying that, if carried out in accordance with recommendations in the report, the risks may be minimized, and how they can be minimized;
  - (e) Other information that the Director determines necessary to adequately describe the nature and extent of the proposed Cutting or Removal.
4. Pursuant to Subsection 16(6)(d) of the *Community Charter* the City has the authority to enter onto property for the purpose of inspecting and assessing Protected Trees.
5. The Tree Permit is valid is for one year from the date of issuance.

## **7. PERMIT AUTHORITY**

1. On receiving a complete application, signed by the Owner, and on being satisfied that the application meets the requirements of this Bylaw, the Director may issue a Tree Permit, and may attach any terms, conditions, restrictions and requirements to the Tree Permit as they consider necessary or advisable. The Tree Permit holder and the Owner must comply with those conditions.
2. The Director may, where they deem necessary, retain the services of an Arborist or Qualified Environmental Professional to independently review materials submitted in accordance with the provisions of Section 6.3 of this Bylaw, in support of an application for a Tree Permit.
3. Where an independent review initiated under Section 7.2. results in findings that do not support the issuance of a Tree Permit, the costs of the independent review shall be paid by the Owner to the City.
4. The Director may suspend, revoke, or cancel a Tree Permit if they consider that work or activity being carried out is in violation of any of the terms, restrictions, requirements, or conditions of the Tree Permit or any provision of this Bylaw, or that Damage, whether or not intentional, has

occurred or is likely to occur to any Protected Trees not subject to the Tree Permit or to adjacent properties.

## **8. INSPECTION AND AUTHORITY**

1. The Director or a City employee authorized by the Director may enter on any property at all reasonable times for the purpose of inspecting and assessing Protected Trees.
2. Where the Director considers that a contravention of this Bylaw has occurred, the Director may notify the Owner in writing of the contravention and require that measures be taken to remedy the contravention within a specified period, or where no period is specified, within thirty (30) days.
3. A person to whom a notice is delivered under Section 8.2. must fully comply with any requirements stated in the notice, within the period stated therein, or if not stated, within 30 days of the date of the notice.
4. The Director may issue a stop work order (the "Order") if any Protected Tree is being Cut without a Tree Permit or contrary to a permit or this Bylaw, or if any Protected Tree is being Damaged in contravention of this Bylaw. Upon receipt of an Order, the Owner and all persons having notice of the Order must immediately cease the Cutting or activity causing Damage and must not resume unless authorized by the Director.
5. No person shall disobey an Order issued under Section 8.4. of this Bylaw.

## **9. CONTRAVENTION AND PENALTIES**

1. Every person who violates 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 or refrains from doing anything required to be done by any of the provisions of this bylaw shall be deemed to be guilty of an infraction hereof and shall be subject to fines as prescribed under the *Offence Act R.S.B.C., 1996 c. 338* or as set out in the *Municipal Ticket Information Bylaw No. 34, 1993*, as amended from time to time if that person:
  - (a) Cuts, Removes or Damages a Protected Tree contrary to this Bylaw or contrary to the terms and conditions of a Tree Permit;
  - (b) Violates any of the provisions of this Bylaw or a Tree Permit;
  - (c) Submits misleading, inaccurate, incomplete or erroneous information to the City in order to qualify for an exception or obtain a Tree Permit;
  - (d) Suffers or permits any act or thing to be done in contravention or violation of any provision of this Bylaw or a Tree Permit; or
  - (e) Omits to do or refrains from doing anything required to be done by any of the provisions of this Bylaw or a Tree Permit.
2. Where more than one (1) Protected Tree is Cut, Removed, suffered or Damaged in violation of this Bylaw, a separate offence is committed in respect of each such Protected Tree.
3. Each day that a violation exists, or continues, shall constitute a separate offence.

4. Upon being convicted of an offence under this bylaw, a person shall be liable to pay a fine of not less than \$5,000.
5. In the event that the Owner fails to pay costs imposed under Section 9.4. of the Bylaw before the 31<sup>st</sup> day of December in the year following the year that the compliance was effected by the City, the costs shall be added to and form part of the taxes payable on the lot as taxes in arrears.
6. Prosecution of a person pursuant to Section 9.1. of this Bylaw does not exempt the person from the provisions of the remainder of Section 9. of this Bylaw.

**10. SEVERABILITY**

1. If any provision of this Bylaw is found to be invalid or unenforceable, such provision, or any part thereof, will be severed from this Bylaw and the resultant remainder of this Bylaw will remain in full force and effect.

**11. REPEAL**

1. Bylaw No. 2179, Bylaw to Prohibit the Cutting of Trees is hereby repealed.

READ A FIRST TIME this 18<sup>th</sup> day of November, 2024.

READ A SECOND TIME this 18<sup>th</sup> day of November, 2024.

READ A THIRD TIME this 18<sup>th</sup> day of November, 2024.

ADOPTED this day of, 2024.

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PRESIDING COUNCIL MEMBER

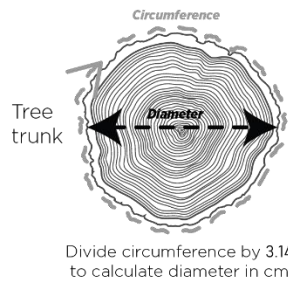
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CORPORATE OFFICER

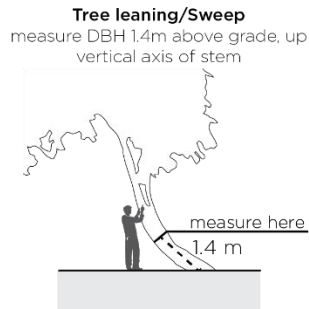
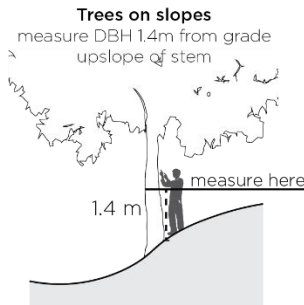
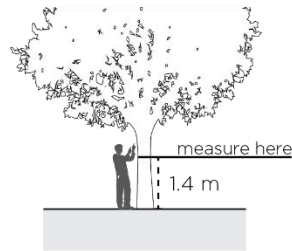
# CITY OF LANGFORD

## BYLAW NO. 2206

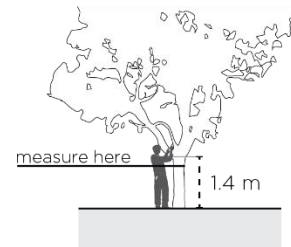
### 'Schedule A'



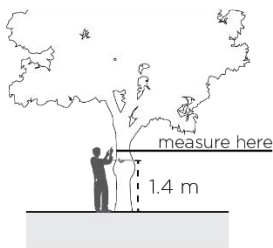
**Flat grade, straight stem**  
measure DBH 1.4m above grade



**Branch/Fork at 1.4m - 1.6m above grade**  
measure DBH 30cm below the union



**Swelling/Crack/Irregularity at 1.4m above grade**  
measure DBH 30cm above irregularity



**Multi-stemmed tree**  
measure DBH as the sum of the diameters of the three largest stems

