

VILLAGE OF ANMORE

BYLAW NO. 587-2018

A bylaw to manage the cutting and retention of trees on private property

WHEREAS the *Community Charter* authorizes a local government to regulate the cutting and removal of trees in a Municipality;

AND WHEREAS the vision of the Village of Anmore as articulated in the Official Community Plan is to retain the semi-rural character of the area;

AND WHEREAS the Village of Anmore considers it in the public interest to avoid clear cutting of land and to provide for the preservation and protection of trees, and the regulation of their cutting and removal;

AND WHEREAS the Village of Anmore is desirous of instituting a permit system as a means of regulating the cutting and removal of trees;

NOW THEREFORE the Municipal Council of the Village of Anmore in open meeting assembled enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “Anmore Tree Management Bylaw No. 587, 2018”.

2. Interpretation

(1) In this Bylaw:

“Administrator” means the Chief Administrative Officer of the Village of Anmore or a person designated to act in his or her place.

“Certified Arborist” means a person holding a current certification of “certified arborist” issued by the International Society of Arboriculture.

“Certified Tree Risk Assessor” means a Certified Arborist who has also completed the Tree Risk Assessment Course and passed the Tree Risk

Assessment Exam under the authority of the International Society of Arboriculture (ISA).

“Council” means the Council of the Municipality.

“Cut Down” means to kill, damage or remove a tree by any means and includes the topping of a tree, disruption or damage to the tree root system within the dripline of the a tree, poisoning a tree and the removal of any branch or trunk of a tree having a diameter of more than 10 cm (3.9”) but does not include the normal pruning of a tree.

“Dangerous Tree” means a tree, identified in writing by a Certified Tree Risk Assessor, in such condition that there is a substantial likelihood that all or part of the tree will fail, resulting in the risk of personal injury or property damage.

“Diameter” means the diameter of the tree measured 1.4 m (4.5’) above the ground, and in the case of a tree having multiple trunks, means the diameter described in section 4 (1).

Fees and Charges Bylaw means the *Village of Anmore Fees and Charges Bylaw No. 557- 2016*.

“Hedge” means a row of trees or shrubs that have been specifically planted closely together so that they form a line that serves as a solid barrier separating one space from another.

“Lot” means the smallest unit as shown on the records of the Land Title Office in which land is held and includes a strata lot created pursuant to the *Strata Title Act*

“Municipality” means the Village of Anmore

“Native Vegetation” means a combination of native to the Pacific Northwest trees, groundcover, shrubs and herbaceous plants

“Owner” means the registered owner of a lot as filed in the Land Title Office

“Permit” means a permit issued pursuant to this Bylaw allowing the permit holder to cut down one or more trees;

“Qualified Environmental Professional” means an applied scientist or technologist registered and in good standing with an appropriate professional organization constituted under a statute of the Province of British Columbia, providing services under that organization’s code of ethics, and acting within the individual’s area of expertise, and may include a *certified arborist, professional forester, or a registered professional biologist*

“Professional Forester” means a registered member or holder of a special permit granted under Section 14(1) of the *Foresters Act*.

“Real Property” means land, with or without improvements.

“Riparian Area” means an area adjacent to a stream that links aquatic to terrestrial ecosystems, the size of which is determined on the basis of an assessment report provided by a *qualified environmental professional*.

“Security” means a deposit of 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.

"Stream" means any of the following that provides fish habitat:

- (a) a watercourse, whether it usually contains water or not;
- (b) a pond, lake, river, creek or brook;
- (c) a ditch, spring or wetland that is connected by surface flow to something referred to in paragraph (a) or (b).

“Tree” means any living, erect, woody plant which is 20 cm (7.8”) or more in diameter measured 1.4 m (4.5’) above the ground, and for the purpose of this Bylaw does not include a hedge.

“Tree and Natural Vegetation Management Plan” means a written plan prepared by a Qualified Environmental Professional identifying tree retention and replanting areas within a lot or parcel of land, and including recommendations for implementation, tree protection and maintenance.

“Wetland” means land that is inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and that

under normal conditions does support, vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, estuaries, and similar areas that are not part of the active floodplain of a stream.

- (2) Except as otherwise defined herein, words and phrases in this Bylaw are to be construed in accordance with their meanings under the *Community Charter*, the *Local Government Act* and the *Riparian Areas Regulation*, BC Reg. 376/2004, as the context and circumstances may require. A reference to an Act, regulation or bylaw refers to the enactment as it may be amended or replaced from time to time. Headings in this Bylaw are for convenience only and do not define or limit the scope or intent of this Bylaw. If any portion of this Bylaw is held to be invalid by a court of competent jurisdiction, that portion is severed and the remaining portions of this Bylaw continue to be valid and enforceable.

3. Prohibition

- (1) A person must not cut down, or cause, suffer or allow any tree to be cut down, except in accordance with this Bylaw and a valid permit issued under this Bylaw, or as directed by Council.

4. Measurement

- (1) The diameter of a tree having multiple trunks at 1.4 m (4.5') above the ground shall be the sum of:
- (a) 100% of the diameter of the largest trunk; and
 - (b) 60% of the diameter of each additional trunk.
- (2) The location of a tree shall be measured at the point at which the trunk of the tree meets the ground.
- (3) The percent area of a lot covered by trees will be determined by taking the amount of area within the drip line of all trees, dividing that area by the total lot area, and multiplying that number by 100.

5. Tree Cutting on Lot Sizes of 0.2 Ha (1/2 Acre) or Less

- (1) For a permit to cut down trees on a lot that is 0.2 hectares (1/2 acre) or less in size, the owner must demonstrate to the satisfaction of the Administrator that not less than 10% of the lot will be covered with existing or replanted trees following the proposed tree cutting.
- (2) Subject to subsection (3), where the replanting of trees is necessary to meet the minimum coverage requirements of subsection (1), an owner must, as a condition of a permit, replant three (3) trees, in accordance with the requirements of Section 13, for every tree that is cut down, until the minimum coverage requirement is met.
- (3) Where less than 10% of the lot is covered with existing trees prior to removal, for every tree that is cut down or removed, three (3) trees in combination with native vegetation shall be replanted subject to the requirements of Section 13.

6. Tree Cutting on Lot Sizes Greater than 0.2 Ha (1/2 acre) and less than or equal to 0.4 Ha (1 Acre)

- (1) For a permit to cut down trees on a lot with a lot size greater than 0.2 hectare Ha (1/2 acre) and less than or equal to 0.4 hectare Ha (1 Acre), the owner must demonstrate to the satisfaction of the Administrator that not less than 20% of the lot will be covered with existing or replanted trees following the proposed tree cutting.
- (2) Subject to subsection (3), where the replanting of trees is necessary to meet the minimum coverage requirements of subsection (1), an owner must, as a condition of a permit, replant three (3) trees, in accordance with the requirements of Section 13 for every tree that is cut down, until the minimum coverage requirement is met.
- (3) Where less than 20% of the lot is covered with existing trees prior to removal, for every tree that is cut down or removed, three (3) trees shall be replanted subject to the requirements of Section 13.

7. Tree Cutting on Lots Size of More than 0.4 Ha (1 Acre)

- (1) For a permit to cut down trees on a lot with a lot size greater than 0.4 ha. (1 acre), the owner must demonstrate to the satisfaction of the Administrator that not less than 20% of the lot will be covered with existing or replanted trees.
- (2) The 20% minimum coverage requirement established in subsection (1) shall increase by 5% for every 0.4 hectare (1 acre) that a lot exceeds 0.4 hectare (1 acre), to a maximum coverage requirement of 75% of the lot.
- (3) Where the replanting of trees is necessary to meet the minimum coverage requirements of this Section 7, an owner must, as a condition of permit, replant three (3) trees, in accordance with the requirements of Section 13 in combination with native vegetation, for every tree that is cut down, until the minimum coverage requirement is met.

8. Tree Cutting on Land to be Subdivided

- (1) Every applicant for approval of a subdivision, after the Municipality's Approving Officer has issued a Preliminary Layout Review (PLR) letter and prior to final approval of the proposed subdivision, submit to the Village for approval a *Tree and Natural Vegetation Management Plan* relating to the proposed subdivision, prepared by a Qualified Environmental Professional in accordance with subsection (2) at the owner's cost.
- (2) The *Tree and Natural Vegetation Management Plan* referred to in subsection (1) must identify:
 - (a) tree retention and *replanting* areas such that each lot created by the subdivision shall have not less than 20% or 10% if the lots are less than 0.2 hectare (1/2 acre) of its area covered by trees; and
 - (b) the methods in which the *Tree and Natural Vegetation Management Plan* will be implemented including tree

protection during the construction stage and tree management post construction.

9. Trees within Riparian Areas or a Wetland

- (1) In this section, a “tree” means any living, erect, woody plant.
- (2) The *Administrator* may only issue a permit to cut down a tree within a *riparian area* or a *wetland*:
 - (a) where the tree removal has been approved pursuant to any relevant federal and provincial regulations and if:
 - (b) the tree is a *dangerous tree*; or
 - (c) it is necessary to cut down the tree to carry out works in or about a *stream* or a *wetland*, where the proposed works have been authorized by a federal or provincial permit.

10. Removal of Dangerous Trees

- (1) For certainty, a permit is required to cut down a *dangerous tree* but the permit fee is waived.
- (2) Subject to subsection (3), every person who intends to cut down a *dangerous tree* must submit, along with an application for a permit, a report from a *Certified Tree Risk Assessor*, confirming that each tree to be cut down is a *dangerous tree* and outlining the reasons for its removal.
- (3) In circumstances where a tree must be cut down to avert a significant and imminent threat to the safety of persons or property before a report from a *Certified Tree Risk Assessor* can be obtained, the owner or an authorized representative must notify the *Administrator* as soon as possible, and at the request of the *Administrator*, must promptly provide, in writing, accurate information about the circumstances and reasons for cutting the tree down. If the *Administrator* is not satisfied that the action taken was

warranted in the circumstances, the *Administrator* may require the owner to replace the trees and in that case, section 13 (1) applies.

- (4) A person who cuts down a dangerous tree must not remove the stumps or roots of the tree without the specific written permission of the *Administrator*.
- (5) Council may, by resolution, require that an owner cause a dangerous tree to be trimmed or removed, or any tree, hedge, bush or shrub on the owner's lot to be trimmed, removed or otherwise dealt with if Council considers that it is
 - (a) a hazard to the safety of persons;
 - (b) likely to cause or result in damage to municipal property; or
 - (c) otherwise is in or creates an unsafe condition.
- (6) Division 12 of Part 3 of the *Community Charter* [remedial action requirements] applies to notice of a resolution under subsection (5) and related procedures.
- (7) An owner who is subject to a resolution under subsection (5) may request reconsideration by Council by providing written notice of the request to the corporate officer for the Village within 14 days of the date on which the notice was sent or such longer period permitted by Council. On receiving the request the corporate officer will arrange for an opportunity for the owner or a representative appointed by the owner to make representations to the Council. If a requirement of Council under this Section is not completed by the date specified for compliance, the Municipality may fulfill the requirement at the expense of the owner and recover the costs incurred from that person as a debt.

11. Tree Removal on Steep Land

- (1) In cases where trees are proposed to be removed on land with a slope greater than 20%, irrespective of lot area, the *Administrator* may require, as a condition of a permit, 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. If the report includes conditions or recommendations for preventing erosion, flooding or landslip:

- (a) those conditions or recommendations, as applicable, must be observed as a condition of a permit that is issued, and the owner must provide to the Municipality security in the amount of 150% of the cost of the works as estimated by the engineer responsible for the report.
- (2) The owner of land subject to a permit under this Section shall be responsible for and must, at their own expense, ensure the execution of all work required by the qualified professional engineer in his or her report in order to prevent erosion, flooding, or landslip and to ensure the stability of the slope.
- (3) Upon completion of the required works and certification by the qualified professional engineer that the works satisfy their requirements to prevent erosion, flooding, or landslip, or to maintain the stability of the slope, the security will be released.
- (4) The owner must ensure that works are completed within the period specified on the permit. Should the works not be completed within the stated period or not be completed according to the qualified professional engineer's recommendations, the Administrator may draw upon the security to complete the works, and any related costs or expenses incurred by the Municipality that are not covered by the security must be paid upon receipt of an invoice by the Municipality, and become a debt owing to the Municipality by the owner.

12. Annual Tree Cutting Allowance Permit

An owner may apply for an Annual Tree Cutting Permit, to allow the owner to cut down a maximum of two (2) trees per lot per calendar year. A permit issued for this annual allowance does not carry the requirement to replace trees cut down. The owner must pay the fee for a permit prescribed in the *Fees and Charges Bylaw*.

13. Replacement Trees

- (1) Where tree replacement is either proposed by an owner or required by this Bylaw or by the *Administrator* as a condition of issuance of a permit, the owner shall within a time period prescribed by the *Administrator*, plant two (2) replacement trees for every tree removed in accordance with the following conditions:
 - (a) Each replacement tree must be planted within one month of the cutting down or removal of the original tree, except as otherwise authorized by the *Administrator*;
 - (b) Notwithstanding the definition of tree, each replacement tree must be a minimum height of 3 metres if coniferous or a minimum of 7 centimetres in diameter if deciduous, unless otherwise authorized by the *Administrator*;
 - (c) plant the tree at the spacing prescribed by the arborist, water, fertilize and maintain the replacement tree in accordance with sound horticultural practice; and
 - (d) provide the Municipality with a security of \$500 per replacement tree to a maximum amount of \$10,000 per parcel in order to ensure the replacement trees are maintained in good health and to replace any replacement trees should any not survive during the initial three (3) year period. The security will be returned to the owner of the property after 3 years and confirmation by the *Administrator* that all of the replacement trees have survived. If the replacement trees are not in good health or have not survived, the *Administrator* may draw upon the security to consult with a certified arborist, and bring the trees into a healthy state or remove and replace the trees, as the *Administrator* considers practical and appropriate in the circumstances.
- (2) Where any person cuts down a tree in contravention of this Bylaw or a permit issued pursuant to this Bylaw, that person must replant five (5) trees for every tree unlawfully removed in accordance with recommendations contained in the report of a *Qualified*

Environmental Professional, prepared for the Municipality at the expense of the owner, and shall:

- (a) replant the trees within a time period prescribed by the *Administrator*;
- (b) water, fertilize and maintain the replacement trees in accordance with sound horticultural practice; and
- (c) provide the Municipality with a security of \$500 per replacement to ensure the replacement trees are maintained in good health and to replace any replacement trees should any not survive during the initial three (3) year period. The security will be returned to the owner of the property after 3 years and confirmation by the *Administrator* that all of the replacement trees have survived. If the replacement trees are not in good health or have not survived, the *Administrator* may draw upon the security to consult with a certified arborist, and bring the trees into a healthy state or remove and replace the trees, as the *Administrator* considers practical and appropriate in the circumstances..

14. Application for Tree Cutting Permits

- (1) Every application for a permit shall be made in writing to the *Administrator* in a form approved by the *Administrator*.
- (2) The following information must accompany every permit application, other than for an Annual Tree Cutting Allowance Permit:
 - (a) A site plan showing the location, species, and diameter of all the trees on the lot and identify those proposed for removal;
 - (b) the location of any watercourses, wetlands, or steep slopes; and
 - (c) a report from a Certified Arborist, Professional Forester, or Registered Professional Biologist that confirms that not less than 20% of the lot or 10% for lots less than 0.2 Ha will be covered with existing or replanted trees

- (3) Upon receiving an application for a *permit*, the *Administrator* will consider and assess the following factors relating to the proposed application:
 - (a) compliance with the requirements of this Bylaw,
 - (b) the need for replacement trees,
 - (c) the need for drainage, noise or dust control measures,
 - (d) significant topographic and hydrographic features and other site information;
 - (e) compliance with Provincial bird nesting regulations;
 - (f) risk of contamination of watercourses;
 - (g) risk of flooding, erosion and landslip; and
 - (h) other factors that the *Administrator* believes to be relevant to the proposed action,
- (4) No application for a *permit* is complete unless the application contains all required information in accurate and complete form, and the prescribed fee established in the *Fees and Charges Bylaw* has been paid.
- (5) A *permit* is valid for the period specified on the *permit* up to a maximum of 90 days.

15. Permit Conditions

- (1) The *Administrator* may, as a condition of issuance of a *permit*, require, among other things, that:
 - (a) replacement trees be planted as specified in Section 13;

- (b) stumps remain in place in order to assist in the prevention of erosion in areas where trees were cut that are over 20% slope;
 - (c) that the owner notify the Village when the work is complete so that a final inspection can be made to ensure that the work was completed in compliance with the permit; and/or
 - (d) that in circumstances where fifteen (15) or more trees are cut down that the certified arborist overseeing the project provide a letter of assurance that all works were undertaken as recommended or directed.
- (2) Where the Administrator considers that cutting down trees creates a risk of flooding, erosion, landslip, or contamination of a stream, the Administrator may require an applicant for a permit to submit, at the owner's expense, a report prepared by a Qualified Environmental Professional or a qualified professional geotechnical or hydrological engineer.
- (3) The Administrator may, by written notice, refuse, suspend or cancel a permit if he or she considers that work or activity being carried out is or will be in violation of any of the terms, restrictions, requirements, or conditions of the permit or any provision of this Bylaw, or that injury to persons or damage, whether or not intentional, has occurred or is likely to occur to the remaining trees, vegetation or to adjacent properties.
- (4) A person who has been refused a permit, or whose permit has been suspended or cancelled, or to another decision of the Administrator under this Bylaw, may request that Council reconsider the decision by providing written notice of the request to the corporate officer for the Village within 14 days of the date of notice the decision was . On receiving the request the corporate officer will arrange for an opportunity for the owner or a representative appointed by the owner to make representations to the Council.

16. Municipal Works

Nothing contained in this Bylaw shall apply to a tree growing on a highway, park, right of way or easement belonging to the Municipality nor to any public utility works where the works are carried out by or under the authority of the Municipality.

17. Inspection and Authority to Enter Upon a Property

- (1) Every officer and employee of the Village is authorized to enter onto any property at all reasonable times and upon reasonable notice in order to ascertain whether the requirements of this bylaw are being met and regulations observed.
- (2) A person must not obstruct or attempt to obstruct any person from enforcing this bylaw, including any person enforcing this bylaw by inspected a property pursuant to section (1) of this bylaw.
- (3) Where the *Administrator* considers that a contravention to this Bylaw, or any permit, the *Administrator* may notify the owner in writing of the contravention and require that measures be taken to remedy the contravention within a certain time period.
- (4) A person to whom a notice is delivered under subsection 16(3) must fully comply with any requirements stated in the notice, within the time period stated therein, or if not stated, within 30 days of the date of the notice.

18. Cost Recovery

- (1) In addition to any fees, requirements or penalties imposed for non-compliance with this Bylaw, If a requirement under this Bylaw, or a permit issued under this Bylaw, is not met within the established time period, the *Administrator* may cause the required work to be carried out by the Municipality or a contractor to fulfill the requirement at the expense of the person subject to the requirement, and may recover the costs incurred by the Municipality from that person as a debt.

- (2) If a debt owing to the Municipality is due and payable by December 31st and remains unpaid on that date, the amount may be collected in the same manner as for property taxes in arrears.

19. Offence and Penalty

- (1) Any person who contravenes any provision of this Bylaw by doing, causing, suffering or permitting any act which it forbids or by failing to carry out any action which is required to be done, is guilty of an offence and is liable on summary conviction to a fine of not less than \$1,000 and not more than \$10,000, and where the offence is a continuing one, each day that the offence is continued, shall constitute a separate offence.
- (2) Without limiting the generality of Section 17 (1), any person who cuts down a tree in violation of this Bylaw is guilty of an offence and, in addition to any other penalty imposed under this Bylaw, is liable on summary conviction to a fine of \$2000 for each tree unlawfully cut down, for a first offence, and for each subsequent offence, to a fine of not less than \$5000.00 for each tree unlawfully cut down.
- (3) Any person who contravenes a condition of a permit issued under this Bylaw by doing, causing, suffering or permitting any act which it forbids or by failing to carry out an action which is required to be done, commits an offence and is liable on summary conviction to a fine of not less than \$2000.00 for each contravention, for a first offence, and for each subsequent offence, to a fine of not less than \$5000.00 for each contravention.

READ A FIRST TIME this 20th day of November, 2018.

READ A SECOND TIME this 20th day of November, 2018.

READ A THIRD TIME this 20th day of November, 2018.

RECONSIDERED AND FINALLY ADOPTED this 4th day of December, 2018.

J. McEWEN

Mayor

J. HALLIWELL

Chief Administrative Officer

Certified as a true and correct copy of "Anmore Tree Management Bylaw No. 587-2018".

DECEMBER 5, 2018

DATE

J. HALLIWELL

CHIEF ADMINISTRATIVE OFFICER