



City of Richmond

Report to Committee

To: General Purposes Committee

Date: August 21, 2007

From: John Irving, P. Eng.
Director, Building Approvals

File:

Re: Permanent Tree Protection Bylaw – One-year Status Report

Staff Recommendation

1. That the Richmond Tree Protection Bylaw 8057, Amendment Bylaw 8263 be introduced and given first, second and third readings.
2. That the Richmond Municipal Ticketing Information Authorization Bylaw 7321, Amendment Bylaw 8288 be introduced and given first, second and third readings.

John Irving, P. Eng.
Director, Building Approvals
(4140)

FOR ORIGINATING DIVISION USE ONLY			
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER	
Law.....	<i>MCB</i> Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
Parks.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
Development Applications.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
Bylaws.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
REVIEWED BY TAG	YES <input checked="" type="checkbox"/> <i>GJ</i>	NO <input type="checkbox"/>	REVIEWED BY CAO
			YES <input checked="" type="checkbox"/> <i>GD</i>
			NO <input type="checkbox"/>

Staff Report

Origin

At the November 14, 2006 Council Meeting, it was requested that staff provide a general review (of the Tree Protection Bylaw administration) to Council in six month's time, and provide information on the status and results of court cases with respect to those individuals who were in direct violation of the Tree Protection Bylaw.

This report is provided in response to these referrals.

Findings Of Fact

Current Activity Update

The current Tree Protection Bylaw 8057 has been in effect since May 9, 2006. The following highlights key permit numbers from the interim bylaw adoption on December 19, 2005 through to June 30, 2007:

	# of Tree Permit Applications	# of Trees Applied for Removal	# of Trees Approved for Removal	# of Replacement Trees
Single-tree Permits (no replanting required)	586	586	529	451*
Multi-tree Permits	429	2637	2483	2504
Total	1015	3223	3012	2955

*voluntary replanting indicated by applicant

The majority of permit applications have been for a single tree, for which no replanting is required, however these applications represent only 16% of the total number of trees included in all applications. There have been over **211 trees saved** through the whole or partial rejection of permits. Further detail is provided in **Attachment 1**.

Customer Service Evaluations

Customer service and the timely response to requests for information, scheduling of visits, contacts for permit pickup etc. are a priority. A new customer service evaluation form on tree bylaw processes was attached to every permit from February to June 2007. Two positive evaluations have been returned, yielding a response rate of <1%, however, the low response rate also indicates that no one felt strongly enough to return a negative response. Customer Service evaluations will be on-going.

Enforcement

Tree bylaw staff respond to complaints of non-permitted tree removal. The out-of-hours call out process has been used on three occasions to address weekend and evening tree cutting complaints from July 2006 to June 2007. The majority of complaints are related to a permitted removal or other permitted development related activity.

To-date, Staff have identified approximately 16 significant bylaw infraction cases. Seven of these cases have been resolved cooperatively, four have been resolved through the courts, two have a trial pending, and three have been referred to legal counsel for prosecution. To date, cooperative remedies and court ordered fines total \$89,000 with 40 trees ordered for replanting.

Further detail is provided in **Attachment 1**.

Program Development

Alongside bylaw enforcement, public education is a key pillar in maintaining the urban forest and will help prevent un-necessary removals. Communication and information efforts to-date have been highly effective and the majority of homeowners, contractors, and developers encountered by staff are aware of the tree bylaw requirements. An increase in the number of phone calls requesting information from individual homeowners and from developers indicates that awareness of the Bylaw is increasing. Four information Bulletins have been developed and additional materials are under development which clarify and emphasize tree protection issues.

The Tree bylaw staff have become more integrated with the Planning and Community Bylaws divisions. Tree bylaw staff routinely review arborist reports for rezoning and development applications and carry out site visits to confirm information; visit or re-visit sites which have demolition permits; visit or re-visit sites which require tree protection zones (TPZ) to inspect and approve fencing installation or to confirm tree planting. The overall workload generated by the bylaw continues to consume the full capacity of the three tree bylaw positions.

Analysis

Experience to-date has allowed staff to identify three areas for proposed improvement of the Tree Protection Bylaw, related to replacement trees, offences and penalties, and Municipal Ticketing. In addition it is proposed to update the "Manager" definition in the bylaw to "Director" to reflect the re-titling of the Director, Building Approvals position. Reflecting the following proposed changes, Amendment Bylaws 8263 and 8288 are presented in **Attachments 2 and 3**.

Schedule A – Replacement trees

In the Tree Protection Bylaw 8057, Schedule A states the required size for replacement trees. Of all the bylaw impacts on single family homeowners, replanting cost and effort is the most significant. The replanting size requirements are the same for developers and builders who have

access to wholesale nurseries and buy in large quantities. Individual homeowners generally do not have this access and are hard-pressed to find a retail nursery which sells these large-sized trees. The comparative retail cost for a Schedule A tree would be two to three times the cost at a wholesale nursery.

The proposed Amendment Bylaw 8263 includes changes to Schedule A that will allow single-family home owners to meet their replanting obligations with more readily available nursery trees that are 6cm in diameter or 2m in height.

In addition, staff have determined that the use of DBH (diameter at breast height) in Schedule A has led to some misunderstanding as “Caliper” is more commonly used in the nursery industry. Caliper is the diameter of a tree at 15cm above the ground. The proposed Amendment Bylaw 8263 replaces the “DBH” reference for replacement trees to “Caliper”.

Section 7: Offences and Penalties

The City has completed several successful prosecutions, placing it at the forefront for effective prosecution of tree-related Bylaw violations in the Lower Mainland. This success has also highlighted areas where the penalty section of the bylaw could be refined to better inform the courts of a wider range of penalties. The proposed changes would:

- allow the City to seek a fine and replanting for a given defendant without risking double jeopardy.
- set the minimum fine at \$1,000.
- in addition to fines, allow for compensation payment to the City for damages (e.g. to a City tree) up to \$25,000.

The expanded penalties reflect the authorizing provisions of the *Community Charter*, sections 263 and 263.1, and for standards in section 15 (2).

Municipal Ticketing

The addition of Tree Bylaw infractions to the Municipal Ticketing Information Authorization Bylaw No. 7321 will allow a more immediate response to bylaw violations and address lesser violations without needing to pursue every infraction through the courts. This can provide additional incentive to refrain from minor infractions such as failure to install or maintain tree protection fencing. After completing demolition some developers expect to be inactive for some time, and a stop work order for a tree fencing infraction has little impact, whereas a daily ticket could add additional pressure to comply. MTI also allows designated Tree Bylaw staff to immediately respond to minor violations. In addition, MTI does not preclude further legal action should the ticketed person not pay the ticket and would also create the first fine level for possible repeat offenders, which would be useful when requesting increasing fine amounts in court.

The proposed Amendment Bylaw 8288 (see **Attachment 3**) presents the specific infractions and corresponding fine amounts which range from \$75 to \$1,000 per offence.

Financial Impact

The adoption of the proposed MTI Amendment Bylaw 8288 would create additional revenue in the tree bylaw section. Based on current infraction rates it is estimated the additional revenue would be \$20,000 annually.

Conclusion

The first 12 months of implementing and administering the permanent Tree Protection Bylaw 8057 have been successful and the bylaw has had a positive impact on tree retention and replanting. The adoption of the recommended bylaw amendments will allow staff to more effectively administer the Tree Protection Bylaw and provide a greater variety of enforcement options.



Nancy Stairs
Tree Preservation Coordinator
(4910)

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attachs.(3)

Table 1. Tree Permitting Statistics to 30 June 2007

Property Type (existing use)	Number of Tree Permit Applications	Number of Trees Applied for Removal	Number of Trees Approved for Removal	Number of Replacement Trees
Single-Family Dwelling	893	2647	2458	2346
Multi-Family Dwellings	87	305	274	220
Industrial/Commercial	45	349	331	338
Vacant	1	3	2	0
Institutional	4	35	50	39
Agricultural/Farming	22	147	160	143
Total	1052	3486	3275	3086
Less permits controlled by Development Apps	-37	-263	-263	-131*
Sub-Total	1015	3223	3012	2955
Less Single-tree permits (no replanting required)	-586	-586	-529	-451
Sub-Total Multi-tree permits	429	2637	2483	2504

* This number does not represent the actual tree replacement requirement numbers for tree removals related to development (RZs and DPs) due to: removal and replacement numbers have not been tracked from the initiation of the Bylaw but has developed as the City departments have worked together and identified how best to track and report tree planting in the City. Recommended changes to the Bylaw in Section 3.2 is part of this initiative to improve reporting and tracking.

Table 2. Single-Tree Permit Statistics

Property Type (existing use)	Number of Single-Tree Applications	Voluntary Replanting indicated Applications
Single-Family Dwelling	471	69
Multi-Family Dwellings	34	3
Industrial/Commercial	14	0
Vacant	0	0
Institutional	0	0
Agricultural/Farming	10	0
Total	529	72

Table 3. Construction Related Statistics

Permit Type	Number of Applications	Number of Trees
Rezoning	31	213
Development	6	50
Building	235	1055
Total	272	1318

Table 4. Significant Infractions

Date of Offence	Description	Cooperative Remedies provided by Owner		Court Ordered Fines		Case File Status
		On-Site Replanting	Replanting Payment	Owner Fine	Contractor Fine	
Feb-06	15 trees removed during demolition	4	\$13,000			Closed
Mar-06	12 trees removed		\$10,000			Closed
Aug-06	4 trees removed			\$5,000		Closed
Aug-06	2 topped/9 removed	18			\$5,000	Closed
Aug-06	3 trees removed	6				Closed
Sep-06	2 trees topped			\$2,000		Closed
Oct-06	1 City tree topped		\$1,000		TBA	trial pending
Jan-07	1 tree removed	6				Closed
Jan-07	9 trees topped	6			TBA	trial pending
Jan-07	13 trees removed/ 5 damaged during demolition		\$18,000			Closed
Feb-07	25 trees removed/ 2 damaged during demolition		\$27,000			Closed
Mar-07	2 trees removed		\$5,000			Closed
Apr-07	1 tree girdled/ 2 trees partially girdled				\$3,000	Closed
Apr-07	8 trees removed	TBA	TBA	TBA	TBA	forwarded to legal council
May-07	1 tree topped					
May-07	9 trees damaged					
TOTALS		40	\$74,000	\$7,000	\$8,000	

August 21, 2007

- 4 -

Attachment 2

Proposed Amendment Bylaw 8263 to the Richmond Tree Protection Bylaw 8057 – next page



**Richmond Tree Protection Bylaw 8057
Amendment Bylaw 8263**

The Council of the City of Richmond, in open meeting assembled, enacts as follows:

1. Part Seven of *Tree Protection Bylaw No. 8057* of the City of Richmond is amended by deleting sections 7.1 through 7.3 and substituting the following:
 - “7.1 Any person who contravenes or violates any provision of this bylaw or of any permit issued under this bylaw, or who suffers or allows any act or thing to be done in contravention or violation of this bylaw or any permit issued under this bylaw, or who fails or neglects to do anything required to be done under this bylaw or any permit issued under this bylaw, commits an offence; and where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence.
 - 7.2 Where one or more **tree** is cut or removed or damaged, other than as authorized by this bylaw, or more than one **tree** is not replaced or maintained in accordance with a **permit** issued under this bylaw, a separate offence is committed in respect of each such **tree**.
 - 7.3 Upon being convicted of an offence under this bylaw, a person shall be liable to pay a fine of not less than \$1,000 and not more than \$10,000;
 - 7.4 In addition to the penalties imposed under section 7.3, by order of the court, a person convicted of an offence under this bylaw may be directed to:
 - a) not do any act or engage in any activity that may result in the continuation or repetition of the offence;
 - b) pay the costs incurred by the **City** in investigating and prosecuting the offence;
 - c) pay compensation to the **City** for any damage or loss sustained by the **City** because of the commission of the offence to a maximum of \$25,000 or higher monetary limit as may be specified under the *Small Claims Act* in force at the time of the offence;
 - d) take any action the court considers appropriate to remedy any harm that resulted from the commission of the offence.

7.5 Pursuant to section 7.4 (d) the City may seek an order directing a person convicted of an offence under this bylaw to complete an education or training program for instruction in appropriate care and management of trees to a standard established by a provincial, national or international body for professional arboriculture, landscaping, or nursery practice.

7.6 In addition to any other penalty which may be imposed under this bylaw, where a person **cuts, removes** or damages, or causes, suffers or permits any **tree** to be **cut, removed**, or damaged in contravention of this bylaw or in violation of any term or condition of a **permit** issued under this bylaw, that person, within 30 days of receiving notice of such requirement from the **Director**, shall:

- a) submit for the **Director**'s approval a **tree** cutting and replacement plan in accordance with the requirements of Schedule "A", specifying the location and species of all **replacement trees**; and
- b) plant and maintain on the same parcel in accordance with the approved **tree** cutting and replacement plan a minimum of two (2) **replacement trees** for each **tree** unlawfully **cut**, removed or damaged and in the event the **Director** determines it is not feasible or practical to replace the **trees** on the same parcel, the **replacement trees** shall be planted on **City** land in a location designated by the **Director**."

2. Schedule A of *Tree Protection Bylaw No. 8057* is amended by deleting items (a) to (d) and Table 1 and substituting the following:

"1) For tree removals not related to demolition or construction on parcels containing a one-family dwelling:

- a) deciduous replacement trees are to be a minimum of 2m in height or of a minimum 6cm caliper*,
- b) coniferous replacement trees are to be a minimum of 2m in height.

2) For tree removals for all other properties and permits related to construction, demolition, rezoning, development permits, subdivisions or building permits:

- (a) every deciduous replacement tree shall be of the minimum caliper* specified for replacement trees in Column 3 of Table 1 of this Schedule,
- (b) every coniferous replacement tree shall be a tree of the minimum height specified for replacement trees in Column 2 of Table 1 of this Schedule.

3) Every replacement tree shall be spaced from existing trees and other replacement trees in accordance with an approved forest management plan or landscape plan and in all cases shall be planted in accordance with the current BCSLA (British Columbia Society of landscape architects) or BCLNA (British Columbia Landscape & Nursery Association) Landscape Standards, and all replacement trees shall meet current BCSLA or BCLNA standards.

Table 1

D.B.H. of Tree Cut or Removed COLUMN 1	Minimum Height of Coniferous Replacement Tree COLUMN 2	Minimum Caliper* of Deciduous Replacement Tree COLUMN 3
8" – 12" (20-30cm)	11.5 ft (3.5 m)	2.5" (6cm)
12" – 16" (30-40cm)	14 ft (4 m)	3" (8cm)
16" – 20" (40-50cm)	16 ft (5 m)	3.5" (9cm)
20" – 24" (50-60 cm)	18 ft (5.5 m)	4" 10cm)
24"+ (60cm+)	20 ft (6 m)	4.5" (11cm)

*Caliper is the diameter of the trunk measured at 15cm above the ground."

3. *Tree Protection Bylaw No. 8057* is amended by replacing the word "Manager" wherever it occurs with "Director".
4. This bylaw is cited as "**Richmond Tree Protection Bylaw 8057, Amendment Bylaw No. 8263**".

FIRST READING

SECOND READING

THIRD READING

ADOPTED



MAYOR

CORPORATE OFFICER

August 21, 2007

- 5 -

Attachment 3

Proposed Amendment Bylaw 8288 to the Municipal Ticket Authorization Bylaw 7321 – next page



**Municipal Ticket Information Authorization Bylaw No. 7321
Amendment Bylaw No. 8288**

The Council of the City of Richmond enacts as follows:

1. Municipal Ticket Information Authorization Bylaw No. 7321 is amended by deleting Schedule A and substituting the following:

SCHEDULE A

Column 1

Column 2

Designated Bylaws

Designated Bylaw Enforcement Officers

- | | |
|--|--|
| 1. Animal Control Bylaw No. 7932 | - Bylaw Enforcement Officer
- Animal Control Officer
- Police Officer |
| 2. Business Licence Bylaw No. 7360 | - Bylaw Enforcement Officer
- Licence Inspector
- Police Officer |
| 3. Business Regulation Bylaw No. 7538 | - Bylaw Enforcement Officer
- Licence Inspector
- Police Officer |
| 4. Commercial Vehicle Licencing Bylaw No. 4716 | - Bylaw Enforcement Officer
- Licence Inspector
- Police Officer |
| 5. Dog Licencing Bylaw No. 7138 | - Bylaw Enforcement Officer
- Licence Inspector
- Animal Control Officer |
| 6. Fire Prevention Bylaw No. 4564 | - Bylaw Enforcement Officer
- Fire Inspector |
| 7. Fireworks Regulation Bylaw No. 7917 | - Bylaw Enforcement Officer
- Police Officer
- Licence Inspector
- Fire Inspector |

- 8. Public Health Protection Bylaw 6989
 - Bylaw Enforcement Officer
 - Medical Health Officer
 - Animal Control Officer
 - Police Officer
- 9. Public Parks and School Grounds Regulation Bylaw No. 7310
 - Bylaw Enforcement Officer
 - Police Officer
- 10. Sign Bylaw No. 5560
 - Bylaw Enforcement Officer
- 11. Solid Waste & Recycling Regulation Bylaw No. 6803
 - Bylaw Enforcement Officer
 - Police Officer
- 12. Tree Protection Bylaw No. 8057
 - Bylaw Enforcement Officer
 - Licence Inspector
- 13. Unsightly Premises Regulation Bylaw No. 7162
 - Bylaw Enforcement Officer
 - Police Officer
- 14. Vehicle for Hire Regulation Bylaw No. 6900
 - Bylaw Enforcement Officer
 - Licence Inspector
 - Police Officer
- 15. Water Restriction Bylaw No. 6085
 - Bylaw Enforcement Officer
- 16. Zoning and Development Bylaw No. 5300
 - Bylaw Enforcement Officer

2. Municipal Ticket Information Authorization Bylaw No. 7321 is amended by deleting Schedules B12, B13, B14 and B15 and substituting the following:

SCHEDULE B 12

TREE PROTECTION BYLAW NO. 8057

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine
Cutting or removing any tree or replacement tree without a valid permit	3.1.1	\$1,000
Failure to comply with terms and conditions of a valid permit	3.1.2	\$750
Causing physical damage to any tree within the dripline including canopy, roots and trunk	3.1.3	\$750

Failure to post a valid permit in a prescribed location for 72 hours prior to tree cutting or removal	4.1.3	\$75
Failure to plant and maintain trees in accordance with sound horticultural and arboricultural practices	4.3.2	\$500
Failure to dispose of tree parts and woodwaste in the prescribed manner	5.1.1(a)	\$750
Failure to clearly identify in the prescribed manner a tree to be cut or removed	5.1.1(b)	\$75
Failure to place or maintain a prescribed protection barrier around trees to be cut or removed for the duration of all construction or demolition	5.1.1(c)	\$1,000
Cutting or removing any tree or replacement tree between 6:00 pm and 8:00 am on the following day	5.1.1(e)	\$250
Failure to keep watercourses including ditches, drains and sewers clear of tree parts and woodwaste	5.1.1(g)	\$500
Failure to fence all hazards or potential hazards arising from tree cutting or removal	5.1.1(h)	\$250
Cutting or removing any tree or replacement tree beyond the prescribed area set out in a valid permit	5.1.1(j)	\$500
Failure to clearly mark or maintain the prescribed area for tree cutting or removal for the duration of a valid permit	5.1.1(j)	\$250

SCHEDULE B 13

UNSIGHTLY PREMISES REGULATION BYLAW NO. 7162

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine
Placing graffiti on walls, fences or elsewhere on or adjacent to a public place	1.3.1	\$100

SCHEDULE B 14**VEHICLE FOR HIRE BYLAW NO. 6900**

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine
Failure to submit a vehicle for inspection, upon receiving notification	3.1.1	\$100
Failure to display a Chauffeur's Permit	3.3.1(e)	\$ 50
Operating with unsealed taximeter	3.6.3	\$100
Failure to display a tariff card	3.7.1(a)	\$100
Obstructing or attaching a vehicle which is occupied	6.2.2(c) 6.3.8(d)	\$500
Towing a vehicle which is occupied	6.2.2(c) 6.3.8(d)	\$500
Towing a vehicle without a completed Tow-away Notice	6.3.1(b)	\$100
Overcharging for vehicle release from private parking lots	6.3.6(b)	\$100
Failure to produce a Tow-away Notice	6.3.10(a)(ii) 6.5.1(e)	\$100
Failure to retain or make daily records available for inspection	6.5.2	\$100
Overcharging for towing from private parking lots	6.6.1	\$100
Overcharging for storage during impoundment	6.6.1	\$100
Overcharging for towing from a scene of accident	6.6.2	\$100

SCHEDULE B 15**WATER USE RESTRICTION BYLAW NO. 7784**

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine
Watering contrary to Stage 1 Restrictions	2.1.1	\$100
Watering contrary to Stage 2 Restrictions	2.2.1	\$200
Watering contrary to Stage 3 Restrictions	2.3.1	\$500

Watering contrary to Stage 4 Restrictions	2.4.1	\$1,000
Watering contrary to the terms of a permit	3.1.4	\$100
Failure to display permit	3.1.6	\$100

SCHEDULE B 16

ZONING AND DEVELOPMENT BYLAW NO. 5300

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine
Parking or storing large commercial vehicle	202.1	\$100
Parking or storing large commercial vehicle	203.1	\$100
Parking or storing large commercial vehicle	204.1	\$100
Parking or storing large commercial vehicle	205.1	\$100
Parking or storing large commercial vehicle	206.1	\$100
Parking or storing large commercial vehicle	221.1	\$100
Parking or storing large commercial vehicle	222.1	\$100
Parking or storing large commercial vehicle	231.1	\$100

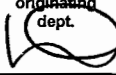

3. This Bylaw is cited as “**Municipal Ticket Information Authorization Bylaw No. 7321, Amendment Bylaw No. 8288**”.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept.

APPROVED for legality by Solicitor


MAYOR

CORPORATE OFFICER