

**TOWN OF COMOX
CONSOLIDATED COMOX TREE CUTTING IN
HAZARDOUS AREAS BYLAW, 1992
(BYLAW No. 1066 as amended by Bylaws 1452 and 1617)**

**THIS IS A CONSOLIDATED BYLAW PREPARED FOR CONVENIENCE ONLY. IT
SHOULD NOT BE USED FOR LEGAL OR INTERPRETIVE PURPOSES. FOR A
CERTIFIED COPY PLEASE CONTACT THE TOWN OF COMOX**

A BYLAW OF THE TOWN OF COMOX TO REGULATE TREE CUTTING

WHEREAS the Council considers those areas of land in the Town of Comox described herein to be subject to flooding, erosion or landslip;

AND WHEREAS Council may by Bylaw designate areas of land that it considers may be subject to flooding, erosion, land slip or avalanche as Tree Cutting Permit Areas;

NOW THEREFORE the Council of the Town of Comox, in open meeting assembled, enacts as follows:

1. TITLE

This Bylaw may be cited as "Comox Tree Cutting in Hazardous Areas Bylaw, 1992".

2. DEFINITIONS

"Cut Down" means to cut down or remove a tree by any means and include the topping of a tree and the removal of any branch or trunk of a tree having a diameter of more than 10 cm (4 inches);

"Tree" means any living, erect, woody plant which normally grows to a height greater than ten feet, notwithstanding its existing size;

3. TREE CUTTING PERMIT AREAS

The areas of land considered by Municipal Council to be subject to flooding, erosion or land slip and shown as Tree Cutting Permit Areas on Schedule "A" are designated as Tree Cutting Permit Areas.

4. PROHIBITIONS AND EXEMPTIONS

4.1 No person shall

- (a) cut down any tree in any Tree Cutting Permit Area, or
- (b) as an owner or occupier of land, suffer or permit the cutting down of any tree in any Tree Cutting Permit Area on that land without having secured a Tree Cutting Permit from the Town of Comox and complied fully with the provisions of this Bylaw and the said Permit, except as provided in section 4.2;

- 4.2 A Tree Cutting Permit is not required where in the judgment of the property owner or the Park's Director the tree constitutes an immediate danger or hazard to persons or property in which case it shall be removed forthwith. Further, no permit is required for removing dead branches from a tree.

5. PERMITS

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- 5.1 Every applicant for a Tree Cutting Permit shall submit to the Town of Comox an application in writing on the form annexed hereto as Schedule "B".
- 5.2 Tree Cutting Permits shall be in the form annexed hereto as Schedule "C".
- 5.3 Prior to application and Municipal field inspection, the Owner/Applicant shall adequately flag or mark with paint each tree to be removed.
- 5.4 The Town of Comox may, when slope stability is in question, require an applicant for a permit to provide, at the applicant's expense, a report certified by a qualified Geotechnical Engineer that the proposed tree removal will not create a danger from flooding, erosion or landslip.
- 5.5 The Town of Comox may issue a permit for Tree Cutting upon resolution of Council.
- 5.6 The Owner/Applicant shall be responsible for and at his own expense execute all work required by the Geotechnical Engineer in his report in order to ensure the stability of the slope
- 5.7 The Owner/Applicant must provide bonding at 120% of the estimated works specified by the Geotechnical Engineer.
- 5.8 The works shall be completed within the period specified on the permit or the Municipality may have the works completed at the Owner's/Applicant's expense using the surety bond.
- 5.9 Every Permit shall, without the necessity of endorsement thereon, be subject to the following terms and conditions which shall form part of the permit and be incorporated therein:
- (a) The holder of a Permit covenant and agrees to indemnify, save harmless, to release and forever discharge the Town from and against all manner of action, causes of action, claims, suits, demands, costs and expense whatsoever and howsoever arising by reason of the license granted by the Permit and the exercise of all privileges granted therein including without limitation any claim for loss or injury to persons or property caused or due in whole or in part by negligence on the part of the Permit holder, his servants, employees, agents, contractors or invitees or arising from nuisance committed or caused by the same;
- (b) A Tree Cutting Permit may be revoked by Council where the holder of the Permit acts in contravention of this Bylaw or the conditions contained in the Permit.

6. OFFENCE AND PENALTY

Every person who commits an offence against this bylaw shall be liable on summary conviction to a fine and penalty of not more than \$2,000.00.

7. SEVERABILITY

If any provisions of this Bylaw or the application thereof to any person or circumstance is held invalid, the remainder of this Bylaw and the applicability of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

8. ADOPTION

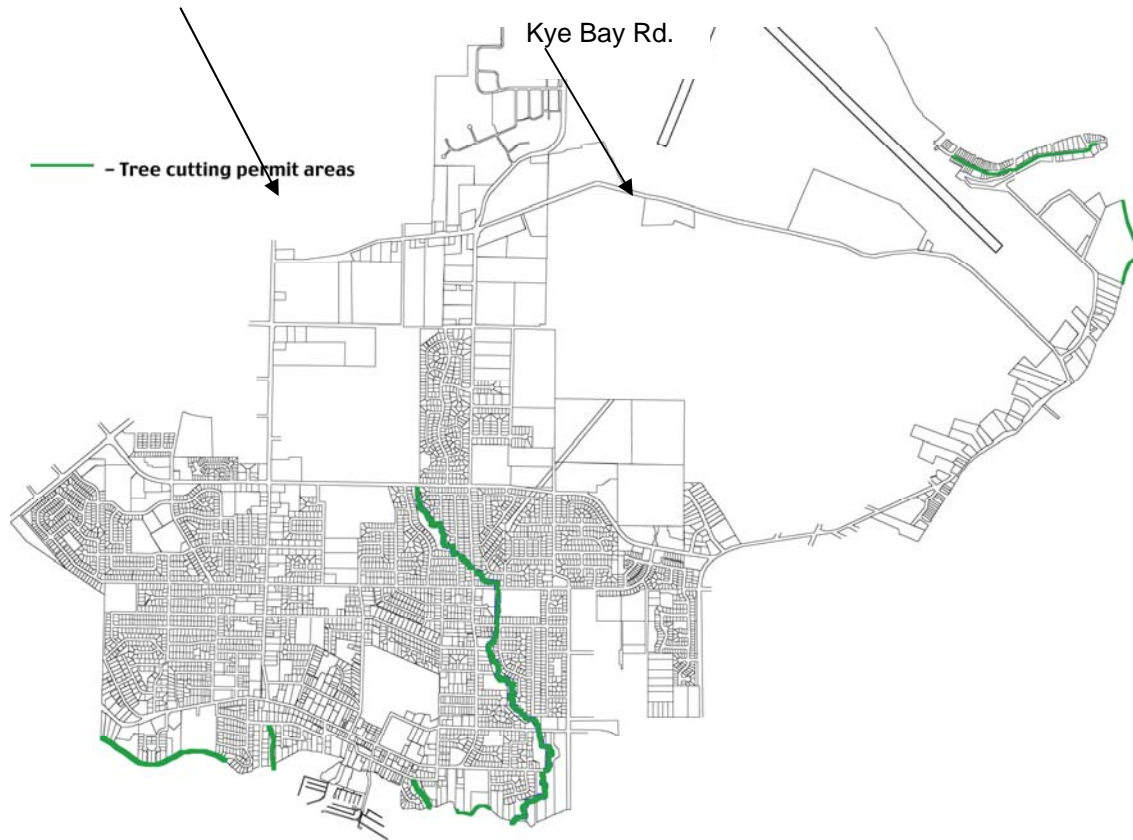
READ A FIRST AND SECOND time this	7th	day of	October, 1992
READ A THIRD time this	18th	day of	November, 1992
RECONSIDERED AND ADOPTED this	2nd	day of	December, 1992

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SCHEDULE "A"

Tree Cutting Permit Area

Note that the permit area's location is only schematically identified. In all cases, the boundary of the permit area is from the bottom of the bank to 60 feet past the top of the bank.



SCHEDULE "B"
APPLICATION FOR TREE CUTTING PERMIT

NO. _____

I/We _____
(Permittees)

of _____
(Address)

being the registered owner(s) of:

Lot _____

Block _____

District Lot _____

Plan _____
(the "Land")

hereby make application under Section 978 of the Municipal Act and the "Town of Comox Tree Cutting Permit to cut and remove the following tree(s) on the Land in the location (s) shown on the attached sketch plan for the following reasons:

If required by Council, I am prepared to provide a report certified by a qualified person, agreed upon by myself and the Municipal Engineer that the proposed cutting of the tree(s) will not create a danger from flooding or erosion.

I further agree, if required by Council, to enter into and register a Restrictive Covenant and Indemnity under Section 215 of the Land Title Act to indemnify, save harmless, to release and forever discharge the Town from and against all manner of action, causes of action, claims, suits, demands, costs and expense whatsoever and howsoever arising by reason of the license granted by the Permit and the exercise of all privileges granted therein including without limitation any claim for loss or injury to persons or property caused or due in whole or in part by negligence on the part of the Permit holder, his servants, employees, agents, contractors or invitees or arising from nuisance committed or caused by the same.

I hereby declare that all the above statements and information contained in the material submitted in support of this application are to the best of my belief true and correct in all respects.

Date of Application

Signature of Owner

Address: _____

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BELOW THIS LINE FOR OFFICE USE ONLY

Building Permit Required: _____ (Yes/No)

Building Permit Applied For: _____ (Yes/No)

Designation Under Bylaw No. _____ (Flooding) _____ (Erosion) _____

(Land Slip) _____ (Avalanche) _____

Expert Report Required: _____ (Yes/No)

Prohibited Area: _____ (Yes/No)

Regulated Area: _____ (Yes/No)

Applicable Regulations Section: _____

Bylaw No. _____

Security Required: _____ (Yes/No)

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SCHEDULE "C"

TO: _____
PERMITTEE (Name of owner of the land)

(Address)

1. This Tree Cutting Permit is issued subject to compliance with Bylaw No. 1066 of the Town of Comox.
2. This Permit applies to and only to those lands within the Town of Comox described below:
Lot: _____
Block: _____
District Lot: _____
Plan: _____
(referred to as the "Land")
3. This Permit authorizes the Permittee to cut and remove the tree(s) in the locations shown on the plan attached to this Permit as Schedule "A" subject to the conditions agreed to in Schedule 4 of this Permit.
4. The Permittee, as a condition of the issuance of this Permit, agrees to:
 - (a) enter into and file in the Victoria Land Title Office a Restrictive Covenant and Indemnity under Section 215 of the Land Title Act in the form attached to this Permit as Schedule "B"; and
 - (b) adhere to the following conditions with respect to the cutting and removal of tree(s) permitted hereby, to prevent unsafe conditions from resulting:
 - (i) _____
 - (ii) _____
 - (iii) _____
5. This Permit is issued on the condition that the Permittee has provided to the Town of Comox security in the form of an irrevocable Letter of Credit or cash in the amount of \$ _____ to correct any unsafe condition which may result from a contravention of any condition contained in this Permit. If a Letter of Credit is provided, it shall be for the period of _____.
6. Should the Permittee fail to satisfy the conditions referred to in Sections 4 and 5 of this Permit, the Town of Comox may carry out any construction required to correct the unsafe condition(s), at the cost of the Permittee, and may apply the security in payment of the cost of the work, with any excess to be returned to the Permittee.
7. Any interest earned on the security provided above shall accrue to the Permittee and be paid to him immediately on return of the security, or in the event of default become part of the amount of the security forfeited.
8. Should there be no default as herein provided, or where a Permit lapses, the Town of Comox shall return any security provided to the Permittee together with any interest earned thereon.
9. If the Permittee does not complete the cutting permitted by this Permit within one year of the date of this Permit, this Permit shall lapse.
10. The Land shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached hereto shall form a part hereof.

NOTE: THIS PERMIT IS NOT A BUILDING PERMIT

Authorizing Resolution Passed by the Town of Comox the _____ day of _____, 19 _____.

Issued this _____ day of _____, 19 _____.

Parks Director

Owner/Permittee

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