

TOWN OF COMOX

BYLAW NO. 1125

CONSOLIDATED TREE MANAGEMENT AND PROTECTION BYLAW

**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 TO REGULATE AND PROHIBIT THE CUTTING AND REMOVAL OF TREES WITHIN THE TOWN OF COMOX

WHEREAS The Town of Comox may, by bylaw, exercise certain powers within the Town, to regulate cutting and removal of trees and to require their replacement.

WHEREAS the Town considers it in the public interest to provide for the protection and preservation of trees, the regulation of their cutting and removal and their replacement.

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

1. TITLE

1.1 This bylaw may be cited for all purposes as the "Comox Tree Management and Protection Bylaw No. 1125, 1994."

2. DEFINITIONS:

2.1 In this bylaw:

"Arborist" means a person certified by the International Society of Arboriculture as an arborist or arboriculturist;

"Barrier" means a physical barrier including a fence, guard, frame or any other conspicuous marker which is placed on, around, or near a tree to indicate the tree trunk, roots or branches are not to be cut, removed or damaged;

"Breast Height" means a point on the trunk of a tree 1.5 metres above the base of the tree;

"D.B.H." means the diameter of the trunk of a tree measured at Breast Height;

"Diameter" means circumference divided by 3.14;

"Excess Trees" means those trees with a D.B.H. of more than 20 centimetres (8 inches) that exceed the Standard Cut Limit;

"Existing Trees" means those trees in existence on the date of the adoption of this bylaw;

"Parks Director" means a person appointed by Council as the Parks Director;

"Owner" means the registered owner or owners in fee simple of a parcel of land and the trees growing on it, or a person authorized by the owner or owners in writing;

"Permit" means a tree cutting or removal permit as annexed in Schedule "A", issued in accordance with this bylaw;

"Replacement Tree" means a tree planted on a parcel to replace trees cut, removed or damaged from the same parcel in accordance with Section 10 of the bylaw;

"Standard Cut Limit" means 75% of the Existing Trees with a D.B.H. of more than 20 centimetres (8 inches) on any given parcel of land;

"Town" means, as the context requires, the Town of Comox or the area within the boundaries of the Town of Comox;

"Tree Cutting and Replacement Plan" means a plan, drawn to approximate scale, in Schedule "B", and in accordance with Section 7.1(a) of this bylaw;

"Tree Protection Area" means the shaded areas shown in Schedule "E"; and Schedule "G";

the of "Watercourse" means a channel through which water flows at any time during year, and includes a brook, river, stream, creek, lake, pond and any other body water running through or situated partially or fully within the Town.

3. APPLICATION:

3.1 This bylaw shall apply only to the Tree Protection Area.

4. EXEMPTIONS

4.1 This bylaw does not apply to:

- (a) trees with a D.B.H. of less than 20 centimetres (8 inches);
- (b) the cutting and removal of trees on parcels shown on Schedule "E" with an area of less than 0.5 hectares;
- (c) any tree that is dead, diseased, damaged or otherwise constitutes a physical hazard to persons or property if the Owner provides the Parks Director with a certified statement from an Arborist that the tree is dead, diseased, damages or is a physical danger to person or property;
- (d) normal pruning of trees including pruning by Town staff or its contractors, in accordance with sound horticultural practice or required for the safe operation of overhead transmission lines;

- (e) the cutting and removal of trees by a qualified land surveyor pursuant to the Land Surveyors Act, R.S.B.C. c.217, 1979 and amendments thereto when cutting survey lines of a width of less than 2 metres;
- (f) the installation of roadway and other utility services required pursuant to the bylaws of the Town regulating subdivision or development servicing, in accordance with a subdivision or development plan that has been approved by the Town or the approving officer, or a servicing plan that has been approved by the Town prior to subdivision or building permit approval;
- (g) the installation physical utility services by a utility under the jurisdiction of the B.C. Utilities Commission or the Canadian Radio-Television and Telecommunications Commission, including B.C. Hydro Authority, B.C. Telephone Company and B.C. Gas;
- (h) the development by the Town, or its contractors, of parks, cemeteries, or works required to provide a public service or utility.

5. PROHIBITION

- 5.1 No person shall cut, remove or damage any tree or suffer or permit any such tree to be cut, removed or damaged except as permitted by and in accordance with the terms of this bylaw.
- 5.2 No person shall fail to comply with the terms and conditions of a Permit issued pursuant to this bylaw.

6. OFFENCE

- 6.1 Every person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done or omits to do anything required to be done in contravention or in violation of any of the provisions of this bylaw, is guilty of an offence against this bylaw and is liable to the penalties hereby imposed.
- 6.2 Each day that a violation is permitted to exist or continues shall constitutes a separate offence.
- 6.3 When more than one tree is cut, removed or damaged, or more than one tree is not replace or maintained in accordance with a permit issued pursuant to this bylaw, a separate offence is committed in respect of each such tree.

7. PENALTY

- 7.1 Every 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.
- 7.2 In addition to any penalty that may be imposed under this bylaw when an Owner cuts, removes or damages, or suffers or permits any tree to be cut, removed or damaged in contravention of this bylaw, or in excess of any permission, or in violation of any terms and conditions of a permit

issued under this bylaw, the Owner shall plant Replacement Trees in accordance with a replacement plan that the Owner shall prepare,

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pursuant to Section 8.1(a) of this bylaw, and submit to the Parks Director for approval. In such circumstances, Section 10 of this bylaw applies.

8. TREE CUTTING OR REMOVAL PERMIT APPLICATION AND FEES

8.1 An application for a permit to cut and remove a tree prohibited by this bylaw from being cut or removed shall be in the form annexed to this bylaw as Schedule "C" and shall be accompanied by:

- (a) Tree cutting and Replacement Plan in the form annexed to this bylaw as Schedule "B". The Tree Cutting and Replacement Plan shall identify:
 - (i) the boundaries of the subject parcel;
 - (ii) any abutting streets, lanes or public access right of ways;
 - (iii) the location of existing buildings on the subject parcel;
 - (iv) the location, species and D.B.H. (if greater than 20 centimetres (8 inches)) of those trees proposed to be cut or removed;
 - (v) the location, species and D.B.A.. (if greater than 20 centimeters (8 inches)) of those trees proposed to be retained; and
 - (vi) the location and species of the proposed Replacement Trees.
- (b) 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, unless the Town waives the requirement for such a report;
- (c) application fee as set out in Schedule "F";
- (d) security deposit as determined by this bylaw;
- (e) copy of State of Title Certificate, or other acceptable evidence of ownership of the parcel; and
- (f) written authorization from the Owner if the applicant is a person other than the Owner, permitting the applicant to act as the Owner's authorized agent.

8.2 At the time of application for the issuance of a Permit, the applicant shall pay to the Town the application fees as set out in Schedule "F".

9. TREE CUTTING PERMIT

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- 9.1 A tree prohibited from being cut or removed shall only be cut or removed where the Owner holds a valid and subsisting Permit to do so.
- 9.2 Where a Permit is required under this bylaw, no Excess Trees may be cut or removed unless the Parks Director so allows in accordance with Section 9.4 herein.
- 9.3 A Permit shall not be issued until the application has been reviewed by the Parks Director. Before approving the Permit the Parks Director shall ensure that all requirements of Section 8.1 have been met, that the Standard Cut Limit has not been exceeded, and that the Tree Cutting and Replacement Plan is not in conflict with any other bylaw, or with any licence or permit granted or issued by the Town, including any development permit, or with any covenant or other agreement entered into with the town.
- 9.4 Where, in his opinion, the Parks Director determines that in the circumstances it is inappropriate, impractical or infeasible to apply the Standard Cut Limit, he may allow Excess Trees to be cut or removed. The Parks Director shall, however, require the replacement of any Excess Trees and such requirement shall become a condition of the Permit and shall be included in the Tree Cutting and Replacement Plan. In such circumstances, Section 10 of this bylaw applies.
- 9.5 Every permit shall, without necessity of endorsement thereon, be subject to the following terms and conditions which shall form part of the permit and be incorporated therein:
- The holder of the Permit agrees to exercise safe tree cutting and removal techniques and agrees to indemnify, save harm less, to release and forever discharge the Town of Comox, its employees and agents, from and against all manner of action, causes of action, claims, suits, demands, costs and expenses whatsoever and howsoever arising by reason of the actions of the holder of the Permit authorized.
- 9.6 For the duration of the Permit, the Permit shall be displayed in an accessible, conspicuous location on the subject parcel.
- 9.7 A Permit shall not be issued for more than one year from the date of issuance. Any obligation to maintain Replacement Trees survives the expiry of the Permit.
- 9.8 A Permit shall be in the form annexed to this bylaw as Schedule "A".

10. REPLACEMENT TREES

- 10.1 Where compliance is required with this section, the Owner shall replace the trees to be cut or removed with a new tree planted on the same parcel in accordance with the criteria as set out in Schedule "D".
- 10.2 Where a person is required by this bylaw to plant a Replacement Tree on a parcel and the parcel has been subdivided since the act giving rise to the requirement was committed, the Replacement Tree shall be

planted on a parcel that has been created by subdivision of the original parcel.

- 10.3 An Owner shall plant and maintain every Replacement Tree in accordance with sound horticultural practice.

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- 10.4 Where the planting and maintenance of a Replacement Tree is required pursuant to this bylaw, the Owner shall provide to the Town security in the form of cash or a letter of credit in the amount of \$250.00 in respect of each tree to be planted and maintained.

- 10.5 Any letter of credit provided to the Town under this bylaw shall be drawn in favour of the Town, shall be a clear, unconditional and irrevocable standby letter of credit made by a Canadian chartered bank and capable of presentation at a branch of the bank located in the Town, and shall be maintained as good and valid security by the Owner at all times as required by this bylaw.

- 10.6 In the event that the Owner fails to renew or replace any letter of credit and deliver such renewal or replacement to the Town at least 21 days prior to the expiry of any letter of credit then held by the Town, the Town may draw on the current letter of credit without notice or restriction and hold the monies in lieu of it.

- 10.7. In the event that the Owner fails to replace or maintain the trees in respect of which security has been provided to the Town, the Town may, without notice to the Owner, plant or maintain the trees and apply the security to the cost of doing so.

- 10.8 Security held by the Town shall, upon application by the Owner, be returned to the Owner as follows:

- (a) by 25% of the original amount after the planting of all Replacement Trees to the satisfaction of the Parks Director;
- (b) the balance of the security after one year from the date of the completion of the planting of all the Replacement Trees, upon the Parks Director being satisfied that each Replacement Tree remains in a healthy condition.

11. TREE REMOVAL

- 11.1 Where the cutting or removal of trees has been authorized by the Town, and a valid and subsisting Permit exists, the person undertaking the cutting or removal shall:

- (a) identify with a flag, paint, survey tape or other adequate means each tree to be cut or removed;
- (b) place a Barrier around those trees which will not be cut or removed in a manner to ensure that the trunk, branches and root structure of the trees are not damaged by the cutting or removal of the trees;

- (c) dispose of the tree parts by chipping or burning in accordance with Provincial and Town regulations.

12. **INSPECTION AND ASSESSMENTS**

12.1 The Parks Director or person authorized by the Parks Director may assess, inspect or cause an inspection to be made of any tree in the Town, in the following circumstances:

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- (a) where land is subject to subdivision, approval of a servicing plan prior to subdivision, a development permit, a development variance permit, a temporary commercial or industrial permit, or a building permit;
- (b) when Replacement Trees have been planted as required by this bylaw;
- (c) when directed by resolution of the Council, and
- (d) to ascertain whether the provisions of this bylaw are being observed.

12.2 For the purposes of any inspection or assessment herein the Parks Director or person authorized by the Parks Director may enter onto any land at all reasonable times.

13. **GENERAL PROVISIONS**

13.1 All Schedules referred to herein form part of this bylaw.

of

13.2 The provisions of this bylaw are severable and the invalidity of any part this bylaw shall not affect the validity of the remainder of this bylaw.

14. **REPEALMENT**

14.1 This bylaw repeals and replaces the "Comox Tree Protection Bylaw No. 1067, 1992" and all amendments thereto.

15. **ADOPTION**

READ A FIRST AND SECOND TIME this 4th day of May, 1994

READ A THIRD TIME this 18th day of June, 1994

ADOPTED this 1st day of June, 1994.

MAYOR

As amended by Bylaws 1149, 1313, 1446, 1499, 1543, and 1606

MUNICIPAL CLERK

THE TOWN OF COMOX

BYLAW NO. 1125

SCHEDULE "A"

**Tree Cutting or Removal Permit
Within the Town of Comox**

TREE CUTTING PERMIT NO. _____

A1. This Tree Cutting Permit is issued by the Council for The Town of Comox to:

(name of owner - individual or company - the Permittee)

for tree cutting on

(legal description)

(civic address)

pursuant to the provisions of the Town of Comox Tree Management and Protection
Bylaw No. 1125

A2. This permit authorizes the Permittee to cut and remove only the trees listed and described in the Tree Cutting and Replacement Plan attached to this Permit, subject to the terms and conditions below.

A3. This Permit is issued subject to the following terms and conditions:

- (a) The holder of the Permit agrees to exercise safe tree cutting and removal techniques and agrees to indemnify, save harmless, to release and forever discharge the Town of Comox, its employees and agents, from and against all manner of action, causes of action, claims, suits, demands, costs and expenses whatsoever and howsoever arising by reason of the actions of the holder of the Permit authorized.

Schedule "A"

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- (b) any tree authorized to be cut or removed by this Permit shall only be cut or removed in strict compliance with the provisions of the Town of Comox Tree Management and Protection Bylaw No. 1125, 1994; and

- (c) all Replacement Trees shall be planted and maintained in accordance with the provisions of the Town of Comox Tree Management and Protection Bylaw No. 1125, 1994.

WARNING

THIS PERMIT EXPIRES ON _____

(date)

Date

Parks Director

THE TOWN OF COMOX

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SCHEDULE "B"

Tree Cutting and Replacement Plan

INSTRUCTIONS:

In the space provided below (or attached separately if more room is needed) please draw to approximate scale a plan which identifies:

- (i) the boundaries of the subject parcel;
- (ii) any abutting streets, lanes or public access rights of way;
- (iii) the location of existing buildings on the subject parcel;
- (iv) the location, species and D.B.H. (if greater than 20 centimetres (8 inches)) of those trees proposed to be cut or removed;
- (v) the location, species and D.B.H. (if greater than 20 centimetres (8 inches)) of those trees proposed to be retained; and
- (vi) the location and species of the proposed Replacement Trees.

Signature of Registered Owner

Signature of Authorized Agent (if necessary)

Date

Date

FOR OFFICE USE ONLY

Date Issued _____

Permit No. _____

THE TOWN OF COMOX

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SCHEDULE "C"

Application for Tree Cutting Permit
Within the Town of Comox

Registered Owner

or

Authorized Agent of Owner

Name _____

Name _____

Address _____

Address _____

Postal Code

Postal Code

Telephone No. _____

Telephone No. _____

I/We hereby make application as provided in Part 28 of the *Municipal Act* for a TREE CUTTING PERMIT to permit the proposed tree cutting as described below on the following parcel:

Legal Description of Parcel _____

Civic Address _____

Lot Size and Dimensions (metric) _____

Present Zoning _____

Existing Use _____

Number, size (appropriate height and diameter), and type of tree(s) to be cut _____

Method of access to the site during cutting _____

Schedule "C" (continued)

Barrier methods proposed to protect trees which will remain standing_____

I enclose with this application:

- Schedule "B", Tree Cutting and Replacement Plan;
- a report from a certified professional engineer where required;
- application fee in accordance with Schedule "F" of the Comox Tree Management and Protection Bylaw;
- security deposit as set out in the bylaw;
- copy of State of Title Certificate or other acceptable evidence of ownership; and
- letter of authorization from the Owner if applicant is authorized agent.

INDEMNITY

I/We will exercise safe tree cutting and removal techniques and hereby agree to indemnify, save harmless, to release and forever discharge the Town of Comox, its employees and agents, from and against all manner of action, causes of action, claims, suits, demands, costs and expenses whatsoever and howsoever arising by reason of the actions of the holder of the Permit authorized.

NOTICE

I/We will abide with the provisions of the "Comox Tree Management and Protection Bylaw No. 1125, 1994" regarding tree cutting permit applications and inspections.

Signature of Registered Owner

Signature of Authorized Agent (if necessary)

Date

Date

(Please note that, unless otherwise permitted by the Parks Director in accordance with Section 9.4 of the Comox Tree Management and Protection Bylaw, no Tree Cutting and Replacement Plans will be accepted which exceed the Standard Cut Limit, i.e. 75% of the original trees.)

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SCHEDULE "D"

Replacement Trees

Where Replacement Trees are required to be provided in accordance with this bylaw, such Replacement Trees shall be provided and planted as follows:

- (a) Replacement Trees need not be the same species as the tree cut or removed, but they must be of a species approved by the Parks Director;
- (b) every Replacement Tree in respect of a deciduous tree cut or removed shall be a deciduous tree of the minimum D.B.H. specified for Replacement Trees in column 4 of Table 1 of this schedule in respect of deciduous trees of the D.B.H. specified in column 2 cut or removed;
- (c) every Replacement Tree in respect of a coniferous tree cut or removed shall be a coniferous tree of the minimum height specified for Replacement Trees in column 3 of Table 1 of this schedule in respect of coniferous trees of the D.B.H. specified in column 2 cut or removed;
- (d) every Replacement Tree shall be spaced from existing trees and other Replacement Trees in accordance with sound horticultural practices so as to best ensure the survival of the Replacement Tree and the existing trees; and
- (e) the ratio for replacement shall be a minimum of two Replacement Trees for every tree cut or removed. This minimum ratio may be waived by the Parks Director, where in his opinion it would be inappropriate, impractical or infeasible to do otherwise.

Table 1

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<u>Class of Tree Cut or Removed</u>	<u>D.B.H. of Tree Cut or Removed</u>	<u>Minimum Height of Replacement Tree</u>	<u>Minimum Caliper of Replacement Tree</u>
Deciduous	8" - 12" (20-30 cm)		2.5" (6 cm)
	12" - 16" (30-40 cm)		3" (8 cm)
	16" - 20" (40-50 cm)		3.5" (9 cm)
	20" - 24" (50-60 cm)		4" (10 cm)
	24"+ (60 cm or greater)		4.5" (11 cm)
Coniferous	8" - 12" (20 - 30 cm)	6 ft (180 cm)	
	12" - 16" (30 - 40 cm)	7 ft (210 cm)	
	16" - 20" (40 - 50 cm)	8 ft (240 cm)	

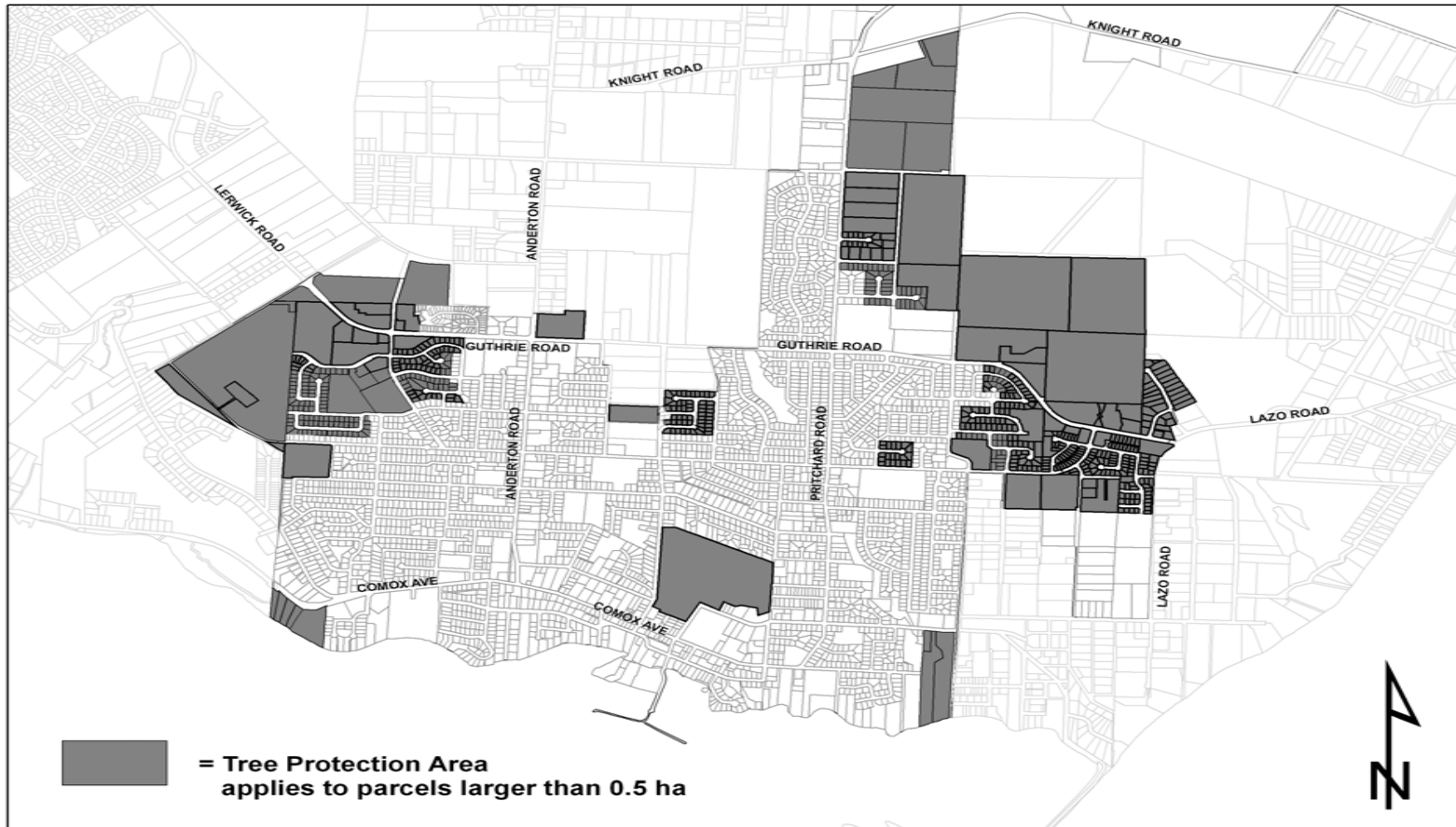
As amended by Bylaws 1149, 1313, 1446, 1499, 1543, and 1606

20" - 24" (50 - 60 cm)	9 ft	(270 cm)
24"+ (60 cm or greater)	10 ft	(300 cm)

THE TOWN OF COMOX

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SCHEDULE "E"



THE TOWN OF COMOX

BYLAW NO. 1125

SCHEDULE "F"

PERMIT APPLICATION FEE

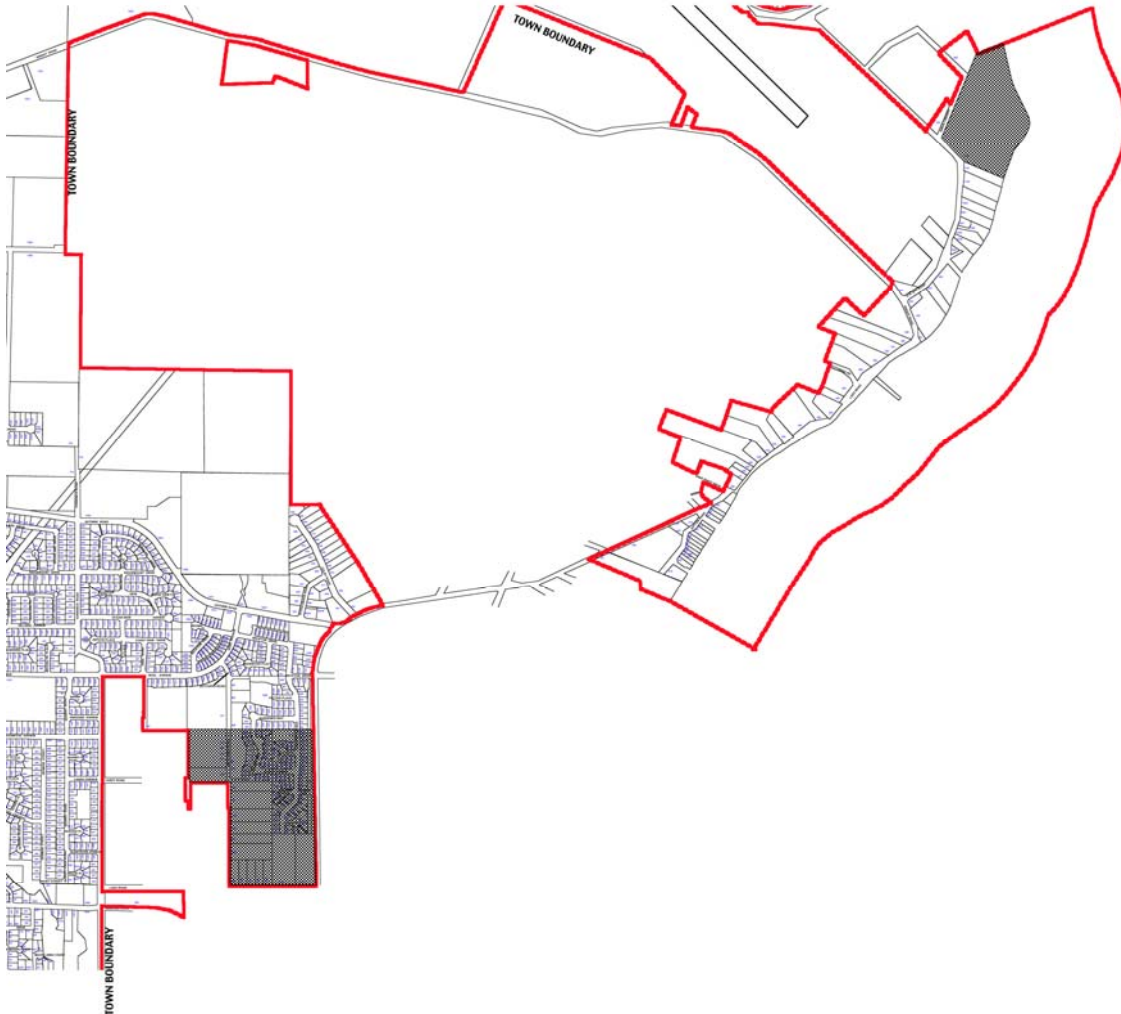
Tree cutting or removal permit

\$100.00

THE TOWN OF COMOX

BYLAW NO. 1125

SCHEDULE "G"



SCHEDULE G



- TREE PROTECTION AREA (#1606 Jan 20/10)