

**THE CORPORATION OF THE TOWNSHIP OF LANGLEY**

**BROOKSWOOD-FERNRIDGE TREE PROTECTION BYLAW 2017 NO. 5301**

**EXPLANATORY NOTE**

Bylaw 2017 No. 5301 is to regulate, prohibit and impose requirements in relation to tree clear-cutting prior to development in undeveloped areas of Brookswood-Fernridge.

## THE CORPORATION OF THE TOWNSHIP OF LANGLEY

### BROOKSWOOD-FERNRIDGE TREE PROTECTION BYLAW 2017 NO. 5301

WHEREAS the *Community Charter*, S.B.C. 2003 c. 26 authorizes Council to regulate, prohibit or impose requirements in relation to Trees;

AND WHEREAS Council deems it desirable to regulate, prohibit, and impose requirements in relation to Tree clear-cutting in undeveloped areas of Brookswood-Fernridge;

NOW THEREFORE, the Council of the Corporation of the Township of Langley in open meeting, ENACTS AS FOLLOWS:

#### 1. Title

This Bylaw may be cited for all purposes as “Brookswood-Fernridge Tree Protection Bylaw 2017 No. 5301.”

#### 2. Definitions

For the purpose of this Bylaw the following words have the following meanings:

“**Arborist**” means an Arborist certified by the International Society of Arboriculture.

“**Building Envelope**” means the area of a Parcel occupied or to be occupied by a building or structure that is permitted under a Building Permit.

“**Building Permit**” means a Building Permit issued under the Langley Building Bylaw 2008 No. 4642 as amended or replaced from time to time.

“**Bylaw Enforcement Officer**” means any person designated as a bylaw enforcement officer under the Bylaw Notice Enforcement Bylaw 2008 No. 4703 as amended or replaced from time to time.

“**Chief Building Official**” means the individual appointed by Council to be the Township building inspector or a person duly authorized to carry out the powers and duties of the Township building inspector.

“**Development**” means a change in the use of any land or building, or the carrying out of any excavation, demolition, construction, engineering, or other operations in, on, over, or under land or land covered by water, or an existing building or group of buildings.

“**Development Permit**” means a Development Permit issued in connection with a Development.

“**Director of Development Services**” means the individual appointed to be the Director of Development Services or a person duly authorized to carry out the powers and duties of the Director of Development Services.

“**Farm Operation**” means any of the following activities involved in carrying on a farm business:

- a) growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals;
- b) clearing, draining, irrigating or cultivating land;
- c) using farm machinery, equipment, devices, materials and structures;
- d) applying fertilizers, manure, pesticides and biological control agents, including by ground and aerial spraying;
- e) conducting any other agricultural activity on, in or over agricultural land;

and includes

- a) intensively cultivating in plantations, any
  - (i) specialty wood crops, or
  - (ii) specialty fibre crops prescribed by the minister;
- b) conducting turf production
  - (i) outside of an agricultural land reserve, or
  - (ii) in an agricultural land reserve with the approval under the Agricultural Land Commission Act of the Provincial Agricultural Land Commission;
- c) aquaculture as defined in the Fisheries Act if carried on by a person licensed, under Part 3 of that Act, to carry on the business of aquaculture;
- d) raising or keeping game, within the meaning of the Game Farm Act, by a person licensed to do so under that Act;
- e) raising or keeping fur bearing animals, within the meaning of the Fur Farm Act, by a person licensed to do so under that Act;
- f) processing or direct marketing by a farmer of one or both of
  - (i) the products of a farm owned or operated by the farmer, and
  - (ii) within limits prescribed by the minister, products not of that farm,

to the extent that the processing or marketing of those products is conducted on the farmer's farm;

but does not include:

- a) an activity, other than grazing or hay cutting, if the activity constitutes a forest practice as defined in the *Forest and Range Practices Act*;
- b) breeding pets or operating a kennel;
- c) growing, producing, raising or keeping exotic animals, except types of exotic animals prescribed by the Minister of Agriculture,

or as this term is otherwise defined in the *Farm Practices Protection (Right to Farm Act)*, from time to time.

**“GM Engineering and Community Development”** means the individual appointed to carry out administration of planning, Development and emergency matters or a person duly authorized to carry out the powers and duties of the GM Engineering and Community Development.

**“Hazardous Tree”** means any Tree, which due to its location, condition, health or any other circumstances as determined by an Arborist, presents a hazard to the safety of persons, the public, private property or other Trees.

**“Manager of Bylaws”** means the individual appointed to inspect under and enforce bylaws of the Township, and in this Bylaw a reference to the Chief Building Official, Director of Development Services, Township Engineer or GM Engineering and Community Development includes without limitation a reference to the Manager of Bylaws.

**“Owner”** means one or more of the following in respect of a Parcel:

- a) a registered owner;
- b) an owner under an agreement;
- c) a tenant or an occupier of the land;
- d) an occupier of Crown lands;
- e) an owner of a strata lot if the subject Tree is within the boundaries of the strata lot;
- f) a strata corporation if the subject Tree is within the boundaries of the common property; and
- g) a cooperative association which owns or occupies the Parcel.

**“Parcel”** means any lot, block or other area in which land is held or into which it is subdivided, and includes a strata lot, the common property of a strata corporation, and a leasehold parcel, but does not include a highway.

**“Protection Barrier”** means a barrier erected to protect a Tree and its roots that:

- a) is at least 1.2 metres high measured from the ground
- b) meets the distance requirements set out in Schedule B, measured 1.4 metres above the existing grade of the ground adjoining the base of the Tree; and
- c) is constructed in accordance with Schedule B.

**“Replacement Tree”** means 2.5 metres in height coniferous trees and 6 cm caliper deciduous trees in equal proportions.

**“Township Engineer”** means the individual appointed to be the General Manager of Engineering or a person duly authorized to carry out the powers and duties of the General Manager of Engineering.

**“Tree”** means a self-supporting, perennial, woody plant that has a trunk or stem and a root system.

**“Tree Protection Area”** means the land between a Tree and a Protection Barrier.

### 3. Schedule and Severability

3.1 Schedules A and B are attached to and form part of this Bylaw.

- 3.2 A decision by a court that any part of this Bylaw is illegal, void, or unenforceable severs that part from this Bylaw, and is not to affect the balance of this Bylaw.

#### **4. Application of Bylaw**

- 4.1 This Bylaw applies only to the geographic area described as "Subject Area" on the plan attached as Schedule A.

#### **5. General**

- 5.1 A person must not remove or relocate a Tree from or on any Parcel except as expressly permitted by this Bylaw.
- 5.2 The Owner of a Parcel must care for each Tree on the Parcel in accordance with the requirements of this Bylaw.
- 5.3 A person must not commence or carry on any excavation, demolition or construction on a Parcel, except in accordance with the requirements of this Bylaw.

#### **6. Tree Removal Permitted**

Without limitation, every person, including the Owner, is prohibited from removing:

- a) more than two Trees in a calendar year from a Parcel less than 0.8 ha in area; or
- b) more than four Trees in a calendar year from a Parcel equal to or greater than 0.8 ha in area.

#### **7. Exemptions**

This Bylaw does not apply to:

- a) a Parcel or an area of a Parcel on which a Farm Operation is carried out on a continuous basis;
- b) a sight triangle as defined in the Township of Langley Highway and Traffic Bylaw 2010 No. 4758 as amended or replaced from time to time;
- c) an area approved under a provincial regulation for a septic field or water well;
- d) the removal of a Tree if it is located within the Building Envelope of a Parcel where the removal of the Tree is necessary for the purpose of constructing a building, an addition to a building or construction of an accessory building under an approved Building Permit;
- e) the removal of a Tree in the event of an emergency, if within 30 days after the cutting a professional engineer certifies in writing to the Township's Engineer that in their professional opinion the removal was necessary to address the emergency in relation to flooding, slope stability, human safety or protection of an improvement on a Parcel;
- f) the removal of a Tree that has a trunk or stem the diameter of which, or two or more trunks or stems the combined diameter of the two or three largest trunks or stems of which, measured 1.4 m above the existing grade of the ground adjoining its base, is less than 20 cm;

- g) the removal of a Tree that is or will imminently become a Hazardous Tree, as certified in writing by an Arborist; and
- h) the removal of a Tree permitted by and in accordance with the terms of Subdivision and Development Servicing Bylaw 2011 No. 4861 as amended or replaced from time to time.

## 8. Exemption for Public Utility and Park

This Bylaw does not apply to:

- a) the removal or relocation of a Tree in connection with the construction or maintenance of a public utility in a public utility easement or statutory right of way;
- b) the removal or relocation of a Tree in a Township park or other Parcel owned or held by the Township; and
- c) the removal or relocation of a Tree on a Langley School District school property.

## 9. Protection Barrier

Before a person commences demolition, excavation, or construction on a Parcel, except for an interior renovation, the Owner of the Parcel must install a Protection Barrier for each Tree located on the Parcel, on adjacent property within two metres of any boundary of the Parcel, and on any highway adjacent to the Parcel.

## 10. Location of Protection Barrier

If the Tree is on an adjacent property within two metres of any boundary of the Parcel, each Protection Barrier referred to in section 9 must extend into the Parcel from the nearest boundary of the adjacent Parcel by the greater of two metres or such other distance determined by an Arborist to be necessary to protect the Tree and the adjacent property.

## 11. Requirements for Trees on boulevards

In addition to the requirements of section 9, before and during demolition, excavation, or construction on a Parcel, the Owner of the Parcel must:

- a) comply with the requirements of the Township Engineer with respect to any Tree on a boulevard adjacent to the Parcel;
- b) not prune, move, or otherwise disturb such Tree unless the Township has given its prior written permission;
- c) ensure that each Protection Barrier:
  - (i) allows for free and clear passage of pedestrians on the surrounding portion of the boulevard and on the sidewalk adjacent to the boulevard,
  - (ii) allows for clear visibility of fire hydrants, driveway accesses, and crosswalks,
  - (iii) is 0.6 m or more from the curb to allow for the opening of car doors, and
  - (iv) is 0.3 m or more from the edge of any sidewalk located within a grass boulevard.

## 12. Issuance of Building Permit

Despite Township of Langley Zoning Bylaw 1987 No. 2500 as amended or replaced from time to time, and Langley Building Bylaw 2008 No. 4642 as amended or replaced from time to time, a person is not entitled to a permit for demolition, excavation, or construction on a Parcel, except for an interior renovation, unless an Arborist has inspected and approved each required Protection Barrier on the Parcel or boulevard and certified the approval to the GM of Engineering and Community Development in writing.

## 13. Condition of Protection Barriers and Trees

A person who installs a Protection Barrier on the Parcel must:

- a) care for the Tree within the Tree Protection Area, during the construction process, including sufficient watering, particularly if excavation has disturbed the Tree root system;
- b) attend to proper root pruning and care for the remaining root system;
- c) to minimize root damage, soil erosion and Tree disturbance, wrap a temporary root curtain around the root zone to retain and protect the exposed area, which root curtain is to consist of heavy wire mesh or similar material lined with burlap and supported by posts;
- d) use backfill to ensure that none of the roots remain exposed;
- e) if required by the Township Engineer for offsite and the Chief Building Official for onsite, tunnel rather than trench when installing underground utilities and drainage lines, which technique includes boring a hole under or through the root system with minimum disturbance, and carry out any excavation within the Tree Protection Area to accommodate underground installations, including services and footings, by hand; and
- f) maintain such Protection Barrier, repair any damage to it, and not alter or remove it until construction is complete.

## 14. Streamside Protection

This Bylaw is without prejudice to Schedule 3 Development Permit Areas: Streamside Protection and Enhancement under Langley Official Community Plan 1979 Bylaw No. 1842, as amended or replaced from time to time.

## 15. No encroachment

A person must not encroach into a Tree Protection Area with or without vehicles, structures or equipment, and must not store anything in such area until construction is complete.

## 16. Treatment of a Tree

A person must not:

- a) remove bark from, or cause any damage to, a Tree;
- b) alter the existing grade around a Tree, except to raise the grade by no more than:

- (i) five centimetres within a one metre circumference around the trunk, and
- (ii) a further five centimetres between the one metre circumference and the circumference of the drip line of the Tree;
- c) do anything that would cause a Tree to become a Hazardous Tree;
- d) do anything that would cause a Tree to die;
- e) top or prune a Tree to the extent that it is unlikely ever to regain its health or characteristic appearance; or
- f) climb a Tree using climbing gaffs, spurs, or spikes.

### **17. Root pruning**

A person must not prune the roots of a Tree unless that person is an Arborist, or is supervised by an Arborist.

### **18. Entry on property**

A Bylaw Enforcement Officer, the Director of Development Services or the GM Engineering and Community Development may enter a Parcel to assess or inspect the Parcel, and Trees or stumps on the Parcel, to determine:

- a) compliance with the requirements of this Bylaw; and
- b) the state and condition of any Tree on the Parcel.

### **19. Unlawful damage to or removal of a Tree**

In addition to a fine under this Bylaw, a person who, in contravention of this Bylaw:

- a) cuts or damages a Tree on a Parcel to the extent that, in the opinion, of the Director of Development Services, it is or will become a Hazardous Tree, it has lost its characteristic appearance, it is or will become diseased, or it is dead or will die prematurely; or
- b) removes a Tree from a Parcel,

promptly upon receipt of an order from the Director of Development Services, GM Engineering and Community Development or Chief Building Official, must comply with section 20.

### **20. Replacement of unlawfully damaged or removed Tree**

A person referred to in section 19 must within 14 days after receipt of an order from the Director of Development Services, GM Engineering and Community Development or Chief Building Official under section 19, replace any Tree referred to in such order with three Replacement Trees of the same species.



### **21. Requirement to discontinue or carry out work**

Council hereby delegates to a Bylaw Enforcement Officer, the Director of Development Services and the GM Engineering and Community Development the authority to order or direct any person to:

- a) discontinue or refrain from proceeding with any work or doing anything that is in contravention of this Bylaw; and
- b) carry out any work or do anything required by this Bylaw;

and failure on the part of such person to comply with such order or direction within the time specified in such order or direction is a violation of this Bylaw.

### **22. Service of notice**

Council empowers a Bylaw Enforcement Officer, the Director of Development Services and the GM Engineering and Community Development the authority to serve an order, direction, or notice under this Bylaw:

- a) by mailing it by registered post to the Owner of the applicable Parcel at the address shown on the real property tax assessment roll;
- b) by mailing it by registered post to the person who is the addressee of the notice;
- c) by handing it to the person who is the addressee of the notice; or
- d) if the notice refers to real property, by posting it on the real property.

### **23. Offence under Bylaw**

It is an offence against this Bylaw, with liability for the penalties imposed under this Bylaw, for any person to:

- a) contravene any provision of this Bylaw, or do any act or thing which contravenes any provision of this Bylaw, or cause or permit any other person to do any act or thing which contravenes any provision of this Bylaw;
- b) neglect to do or refrain from doing anything required to be done by any provision of this Bylaw; or
- c) fail to comply with an order, direction, or notice given under any provision of this Bylaw, or cause or permit any other person to fail to comply with an order, direction, or notice given under any provision of this Bylaw.

### **24. Separate offence**

If a person breaches this Bylaw in a manner or to an extent that affects more than one Tree, Council deems that person guilty of an offence against this Bylaw in respect of each Tree.

### **25. Fine for offence**

Every person who commits an offence against this Bylaw is punishable on conviction by a fine of not less than \$500.00 and not more than \$10,000.00 for each offence.

**26. Fine for continuing offence**

Every person who commits an offence of a continuing nature against this Bylaw is punishable on conviction by a fine of not less than \$500.00 and not more than \$10,000.00 for each day, per Tree or per offence as such offence continues.

**27. Repeal**

Interim Tree Clear-Cutting Bylaw 2014 No. 5080 is hereby repealed.

**28. Amendment**

Bylaw Notice Enforcement Bylaw 2008 No. 4703 as amended is further amended by deleting the current Designated Bylaw Contraventions and Penalties under Schedule A with reference to Township of Langley Interim Tree Clear-Cutting Bylaw 2014 No. 5080 and replacing it with the following Designated Bylaw Contraventions and Penalties for Tree Clear-Cutting Bylaw 2017 No. 5301:

**Brookwood-Fernridge Tree Protection Bylaw 2017 No. 5301**

<b>Column 1 Offence</b>	<b>Column 2 Bylaw Section</b>	<b>Column 3 Fine</b>
• Removal or relocation of a tree contrary to the bylaw	5.1	\$500 per tree
• Commencing or carrying on demolition, excavation, or construction on a parcel contrary to the bylaw	5.3	\$500
• Removal of more than two trees in a calendar year from a parcel less than 0.8 ha in area	6(a)	\$500 per excess tree
• Removal of more than four trees in a calendar year from a parcel equal to or greater than 0.8 ha in area	6(b)	\$500 per excess tree
• Failure to install a Protection Barrier prior to commencing demolition, excavation or construction on a Parcel	9	\$500
• Encroach into a Tree Protection Area	15	\$500
• Treating a Tree in a manner contrary to the bylaw	16	\$500
• Pruning the roots of a Tree contrary to the bylaw	17	\$500

- Failure to replace an unlawfully damaged or removed tree in accordance with an order 20 \$500

READ A FIRST TIME the \_\_\_\_\_ day of \_\_\_\_\_, 2017

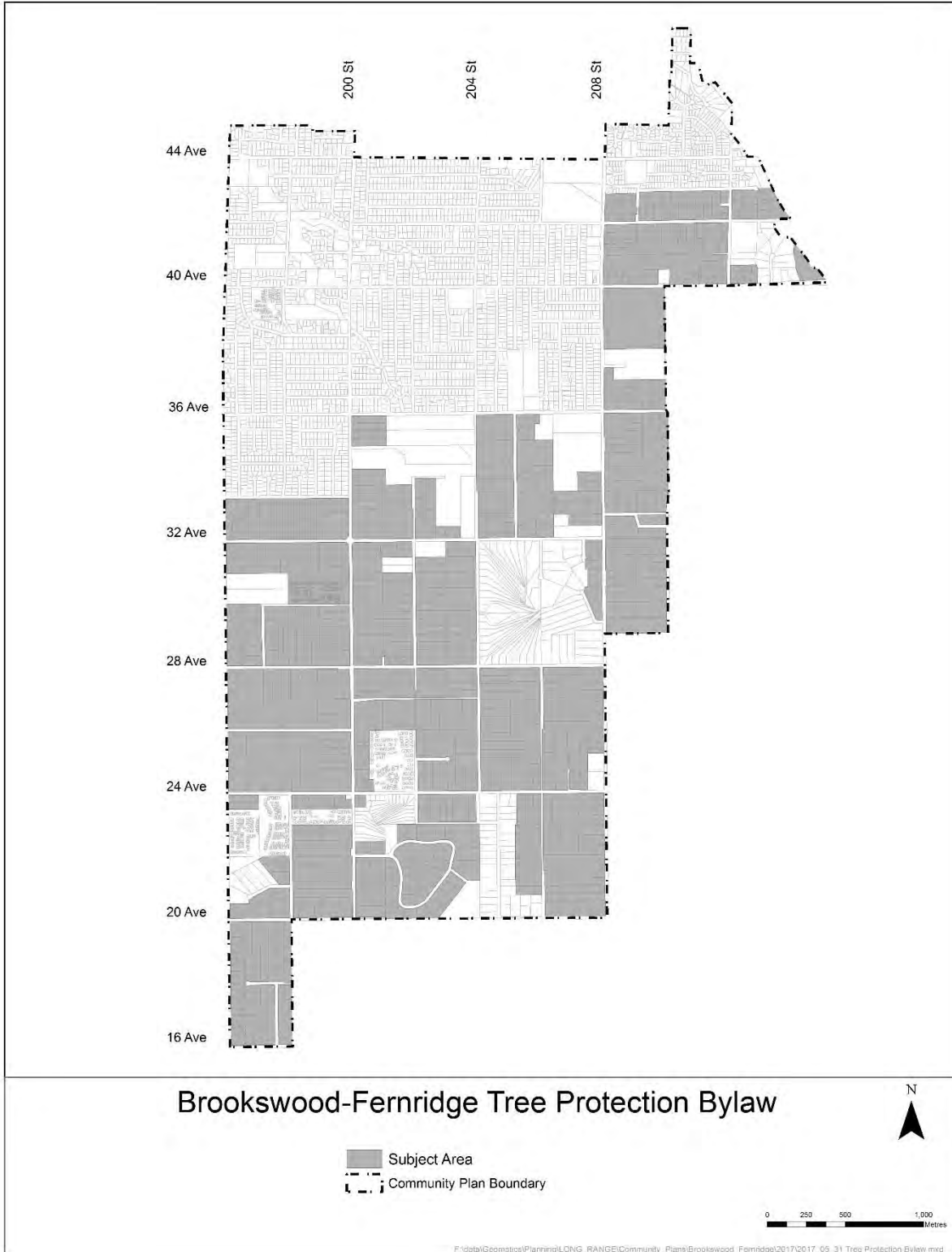
READ A SECOND TIME the \_\_\_\_\_ day of \_\_\_\_\_, 2017

READ A THIRD TIME the \_\_\_\_\_ day of \_\_\_\_\_, 2017

RECONSIDERED AND ADOPTED the \_\_\_\_\_ day of \_\_\_\_\_, 2017

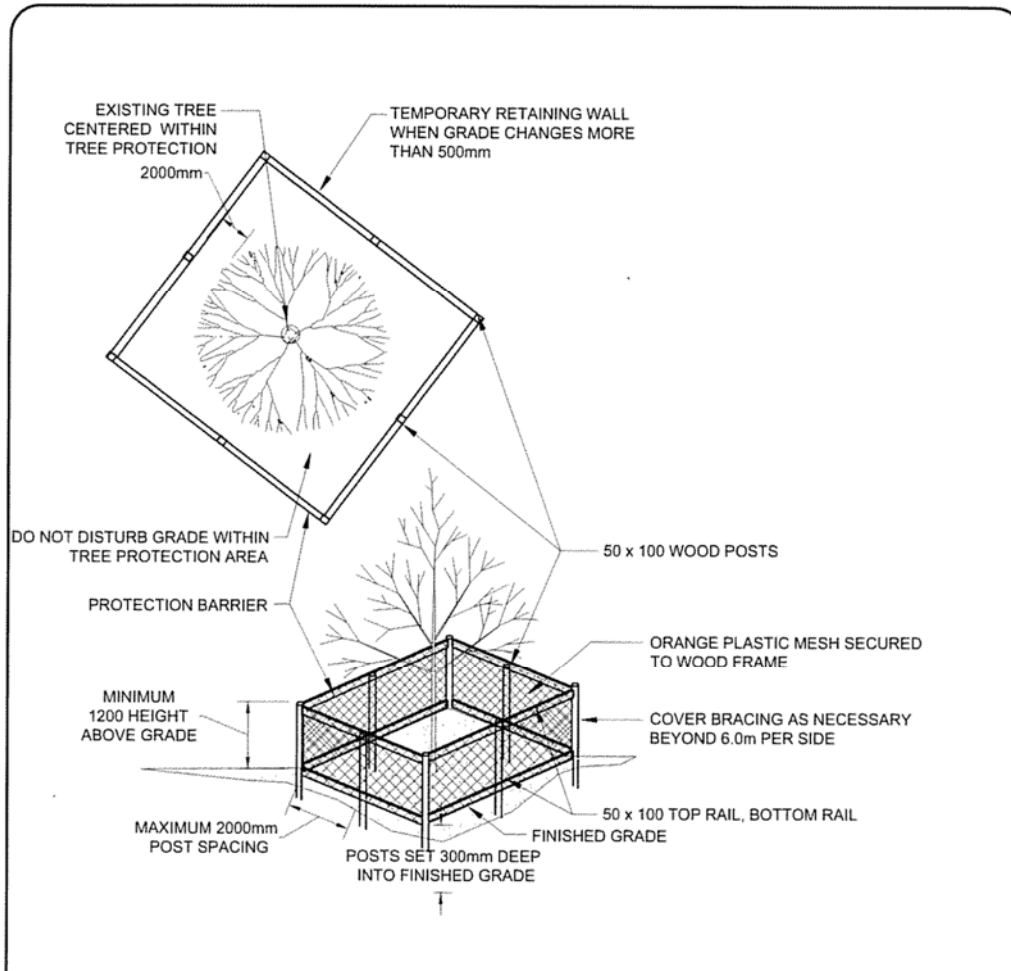
\_\_\_\_\_ Mayor \_\_\_\_\_ Township Clerk

### SCHEDULE A




**SCHEDULE B**

**TLP 29 – TREE PROTECTION DETAIL**



**NOTES:**

- 1) INSTALL TREE PROTECTION BARRIER *BEFORE* SITE CLEARING AND INITIATION OF CONSTRUCTION.
- 2) *MAINTAIN* TREE PROTECTION BARRIER DURING CLEARING AND SITE CONSTRUCTION.
- 3) KEEP AREA WITHIN OR AGAINST PROTECTION BARRIER CLEAR OF BUILDING MATERIALS, LITTER AND STANDING WATER.
- 4) DO NOT DISTURB EXISTING GRADES WITHIN TREE PROTECTION AREA FOR PROTECTED RETAINED TREES.
- 5) THE DEVELOPER IS RESPONSIBLE FOR MAINTENANCE WITHIN TREE PROTECTION BARRIER. DAMAGED TREES WILL BE REPLACED AT DEVELOPER'S COST.
- 6) SCHEDULE 1 IN SUBDIVISION & DEVELOPMENT SERVICING BYLAW PRESCRIBES PENALTIES FOR NON-COMPLIANCE WITH BYLAW.
- 7) ANY DISRUPTION OR PLANTING WITHIN THE TREE PROTECTION AREA IS TO BE SUPERVISED BY THE PROJECT ARBOURIST OR LANDSCAPE ARCHITECT.
- 8) RETAINED TREES TO BE WATERED AT THE DIRECTION OF THE CONSULTING ARBOURIST / LANDSCAPE ARCHITECT.

TITLE		
<p><b>TREE PROTECTION DETAIL</b></p>		
<p>THE CORPORATION OF THE TOWNSHIP OF LANGLEY</p>		<p>DATE REV. DEC./10</p> <p>APPROVED _____</p> <p>S.D.S.B. No. _____</p>
		<p><b>TLP 29</b></p>