



RESORT MUNICIPALITY OF WHISTLER

CONSOLIDATED “ENVIRONMENTAL PROTECTION BYLAW NO. 2000, 2012

THIS BYLAW IS CONSOLIDATED BY:

Bylaw No.	Bylaw Name	Date Adopted
2000	Environmental Protection Bylaw No. 2000, 2012	March 4, 2014
2052	Environmental Protection (Invasive Species and Development Permit Conditions) Amendment Bylaw No. 2052, 2014	June 17, 2014
2108	Environmental Protection Amendment Bylaw No. 2108, 2016	March 1, 2016

Individual copies of any of the above bylaws are available from the Resort Municipality of Whistler.

This copy of “Environmental Protection Bylaw No. 2000, 2012 ” has been consolidated and printed by the authority of the Municipal Clerk of the Resort Municipality of Whistler pursuant to Section 139 of the *Community Charter* and Bylaw Consolidation and Revision Bylaw No. 1957, 2010.

Dated this ___ day of _____, ____.

Signed copy on file

Laurie – Anne Schimek
Municipal Clerk

Notes:

RESORT MUNICIPALITY OF WHISTLER
CONSOLIDATED ENVIRONMENTAL PROTECTION
BYLAW NO. 2000, 2012

A BYLAW TO PROTECT STREAMS AND TREES WITHIN THE RESORT MUNICIPALITY OF WHISTLER

WHEREAS The Council of the Resort Municipality of Whistler has the authority pursuant to the *Community Charter* to enact bylaws that regulate, prohibit and impose requirements in relation to trees, and the protection of the natural environment, and in so doing to provide for a system of licences, permits or approvals;

AND WHEREAS Council desires to protect the environment;

NOW THEREFORE the Council of the Resort Municipality of Whistler, in open meeting assembled, ENACTS AS FOLLOWS

1. TITLE AND REPEAL

- 1.1 This bylaw may be cited for all purposes as “Environmental Protection Bylaw No. 2000, 2012”.
- 1.2 Resort Municipality of Whistler Rural Tree Protection Bylaw No. 1038, 1994 is repealed.

2. DEFINITIONS

- 2.1 In this bylaw:

alien invasive species means a plant species not indigenous to the area whose introduction or spread does or is likely to cause economic or environmental harm or harm to human health; (*added by Bylaw 2052*)

arborist means a person certified by the International Society of Arboriculture as an arborist or master arborist;

certified tree assessor means a person who has completed a course that is recognized by Worksafe BC in identifying dangerous or hazardous trees;

cut down or cutting includes the topping of a tree and the removal of any branch or trunk of a tree;

damage means to alter a tree or its immediate growing environment in a manner that in the opinion of an arborist is detrimental to its present or future health and development;

dangerous goods means any product, substance or organism included by its nature or by the regulations in any of the classes listed in the Schedule to the Transportation of Dangerous Goods Act (Canada);

deleterious substance means

- a) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water, or
- b) any water that contains a substance in such quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water;

drainage works means culverts, ditches, drains, rip rapped channels, and storm sewer systems, which discharge into, or collect, constrain or divert, a stream;

General Manager means the General Manager of the Resort Municipality of Whistler Resort Experience Department or designate;

hazardous means a tree identified by an arborist as being, or likely to become in the immediate future, a danger to people or property;

hazardous product means any product, material or substance specified in the regulations made pursuant to paragraph 15(1)(a) of the Hazardous Products Act (Canada);

high water mark means the visible high water mark of a stream where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the stream a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself;

leakage means the escape of a fluid or a substance from a container or from a confined area into the environment;

parcel means any lot, block or other area in which land is held or into which it is subdivided, but does not include a highway;

polluting substance means:

- a) pesticides, fertilizers, soaps, detergents, household or commercial grade cleaning compounds, paints, solvents, chemicals, or waste oil;
- b) any material or substance that is a hazardous product, toxic substance, deleterious substance, dangerous good or reportable substance
- c) any sediment, rock, gravel, sand, clay, silt, earth, construction or excavation wastes, cement, concrete, or exposed aggregate wash water; and
- d) water, liquids and substances having a temperature higher than 65 degrees Celsius;

riparian assessment area means: *(added by Bylaw 2108)*

- a) a 30 metre strip of land on both sides of a stream, measured from the high water mark; *(added by Bylaw 2108)*
- b) for a ravine less than 60 metres wide, a strip of land on both sides of the stream measured from the high water mark to a point that is 30 metres beyond the top of the ravine bank; and *(added by Bylaw 2108)*
- c) for a ravine 60 metres wide or greater, a strip of land on both sides of the stream measured from the high water mark to a point that is 10 metres beyond the top of the ravine bank; *(added by Bylaw 2108)*

Qualified Environmental Professional means an applied scientist or technologist, acting alone or together with another qualified environmental professional to prepare a report if:

- a) the individual is registered and in good standing in British Columbia with a recognized professional organization, acting under that association's code of ethics and subject to disciplinary action by that association;
- b) the individual's area of expertise is recognized as one that is acceptable for the purpose of providing all or part of a report in respect of the particular development proposal that is being assessed; and
- c) the individual is acting within that individual's area of expertise;

reportable substance means a substance, product, material or other thing listed in Column 1 of the Schedule to the Spill Reporting Regulation under the Environmental Management Act;

stem means the main ascending body of a plant, shrub or tree;

stream means any of the following:

- a) a watercourse, whether it usually contains water or not, including an ephemeral wetland;
- 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);

toxic substance means a substance causes the following if it enters or may enter the environment in a quantity or concentration or under conditions that

- (a) have or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- (b) constitute or may constitute a danger to the environment on which life depends; or

- (c) constitute or may constitute a danger in Canada to human life or health.

tree means any living, erect, woody plant that is fifteen (15) centimetres or more in diameter measured 1.4 metres from the base of the stem;

Tree Cutting Permit means a permit issued pursuant to this Bylaw;

wildfire urban interface means an area such that a wildfire directly influences with flames and firebrands the potential ignition of the structures within that area.

PART A: STREAMS AND DRAINAGE WORKS

3. APPLICABILITY

- 3.1 This Part applies to streams and drainage works.

4. PROHIBITION

- 4.1 No person shall:
 - a) Cause or permit the discharge or leakage of a polluting substance into a stream or drainage works;
or
 - b) Cause or permit obstruction or impediment to the flow of a stream or drainage works.

5. EXEMPTIONS

- 5.1 Notwithstanding section 4, it is permitted to conduct:
 - a) emergency works and services including emergency flood management during a state of emergency proclaimed by the Province, the Resort Municipality or the Squamish-Lillooet Regional District;
 - b) in-stream and other works authorized by permit under the Water Act.

PART B: TREES

6. APPLICABILITY

- 6.1 This Part applies to trees that are:
 - a) located within 20 metres of Highway 99 right of way;
 - b) identified as heritage trees in Schedule A; or
 - c) designated to be retained by a covenant granted to the Resort Municipality under the Land Title Act, if the covenant requires the owner of the land to obtain permission from the Resort Municipality to cut or damage the tree.

7. PROHIBITION

- 7.1 No person whether or not that person is the owner, occupier or authorized agent of land shall cause or permit a tree on that land to be cut down or damaged unless the work is authorized by a Tree Cutting Permit.

8. EXEMPTIONS

- 8.1 Notwithstanding section 7, it is permitted to cut down or damage trees without a Tree Cutting Permit, in the following circumstances:
 - a) cutting of a tree that is authorized by a development permit issued by the Resort Municipality that has not lapsed;
 - b) emergency removal of hazardous trees or limbs, provided that the person who removes the tree or limb reports the work to the General Manager within one business day of the work being performed, provides evidence satisfactory to the General Manager that the tree or limb was hazardous, and replaces any tree that has been removed in accordance with the General Manager's requirements;
 - c) cutting of trees ordered by the Resort Municipality;

- d) cutting of trees required by the Resort Municipality wildfire management program;
- e) fire-fighting activities by the Resort Municipality Fire Services or the Province of B.C.;
- f) trees on land on which forestry practices are governed by a tree farm licence, permit or other authority or tenure under the Forest Act, unless the land is subject to a covenant granted to the Resort Municipality under the Land Title Act that restricts or prohibits the cutting of the trees;
- g) trees on land to which section 21 of the Private Managed Forest Land Act applies, unless the land is subject to a covenant granted to the Resort Municipality under the Land Title Act that restricts or prohibits the cutting of the trees; or
- h) tree cutting or removal that is undertaken by a utility, on land owned or held by the utility, and done for the purpose of safety, maintenance or operation of the utility's infrastructure.

9. TREE CUTTING PERMITS

9.1 The General Manager may prescribe the form of the tree cutting permits and tree cutting permit applications.

9.2 Upon receipt of a complete application for a tree cutting permit, the General Manager or a designate may:

- a) refuse to issue the permit if it does not comply with the requirements of this Bylaw or with a covenant granted to the Resort Municipality under the Land Title Act; (*amended by Bylaw 2108*)
- b) issue a permit subject to conditions, including a condition that any tree that is cut down be replaced with a tree or trees of a size and species and at such locations as the General Manager or his designate may specify, and a condition that the site of the work be restored to a condition that is not subject to erosion and that is conducive to the regrowth of natural vegetation.

9.3 The General Manager shall issue a Tree Cutting Permit authorizing the cutting of a tree described in section 6.1 in the following circumstances:

- a) the tree is, or is likely to become in the immediate future, a danger to people or property, or to cause structural damage to property;
- b) the tree is dying or is diseased and beyond expectation of recovery;
- c) the tree interferes with the installation of services to land or improvements and there is no reasonable alternative location for the services;
- d) the cutting of the tree is required to construct a building at a location that is permitted by the Zoning and Parking Bylaw, a development variance permit or a board of variance order, or to provide a reasonable amount of horizontal or vertical clearance around such a building;
- e) the cutting of the tree is required to manage a wildfire hazard in the wildland urban interface; or
- f) the cutting of the tree is sought to improve a view or sunlight access and does not impair the character of a forest environment.

9.4 The General Manager shall not issue a Tree Cutting Permit authorizing the cutting of a tree described in section 6.1 for no other reason than that:

- a) the tree causes the accumulation of needles in building gutters;
- b) the tree causes or promotes the growth of moss on a roof;
- c) the tree or its roots interfere with the maintenance of a lawn;
- d) a neighbour has requested the removal of the tree; or
- e) the removal of the tree would improve reception of satellite television signals.

9.5 The General Manager shall issue a Tree Cutting Permit authorizing the removal of a tree described in section 6.1(c) if the cutting of the tree and the conditions in the permit are in accordance with the terms of the covenant, and if the terms of the covenant do not require the Resort Municipality to authorize the removal of the tree, then the General Manager's decision shall be governed by sections 9.3 and 9.4.

9.6 No person shall carry out any work authorized by a Tree Cutting Permit unless the valid permit is posted on the land in the vicinity of the work while the work is proceeding.

9.7 A Tree Cutting Permit expires one year after it is issued.

9.8 An applicant for a Tree Cutting Permit must pay an application fee of \$125.

9.9 If an application pertains to a tree any portion of whose stem is on a property boundary, the owners of both properties must sign the application.

9.10 If it is impractical to plant a replacement tree on a parcel in respect of which a Tree Cutting Permit is issued, the General Manager may require the Owner to pay to the Resort Municipality a cash amount in lieu of replacement of the tree, equal to the estimated cost of supply and installation of the tree by a landscape contractor operating in the Resort Municipality, and all such cash amounts shall be placed in a reserve fund and used by the Resort Municipality to plant trees in public areas.

10. SECURITY DEPOSIT

10.1 The RMOW may require a security deposit for all replacement trees and site restoration measures that may be required as terms and conditions in the permit.

10.2 The security shall be in the form of a cash deposit or irrevocable letter of credit drawn upon a chartered bank in a form acceptable to the Resort Municipality.

10.3 The amount of security shall be 135 percent of the value of all replacement trees and site restoration measures required by the Resort Municipality, as estimated by a landscape contractor operating in the Resort Municipality.

10.4 The Resort Municipality shall return 90 percent of the security to the applicant when work has been completed to the satisfaction of the Resort Municipality.

10.5 The Resort Municipality may retain up to 10 percent of the security deposit for a period of up to one year after the work has been completed to the satisfaction of the Resort Municipality.

10.6 If within one year after the work has been completed the Resort Municipality determines that the work has been satisfactorily completed, the balance of the security deposit shall be returned to the applicant, and for that purpose the Resort Municipality shall inspect the work within the one year period.

10.7 If the permit holder fails to comply with the terms and conditions of the permit, the Resort Municipality of Whistler may enter the property and perform such work as is necessary, and may retain all or a portion of the security to cover the cost of such work.

10.8 An applicant may, for the purposes of this Part, inform the Resort Municipality in writing of the name and address of a person to whom the Resort Municipality may return the security deposit if that person is a successor in title to the applicant or a landscaping contractor holding a Resort Municipality business licence, and such information shall be deemed to irrevocably authorize the Resort Municipality to return the security deposit to that person.

Bylaw
2052

PART C: ALIEN INVASIVE SPECIES *(added by Bylaw 2052)*

11. APPLICABILITY *(added by Bylaw 2052)*

11.1 This part applies to plant species listed in the BC Weed Control Act Schedule A and other alien invasive plant species identified as priorities in the Sea to Sky Corridor. *(added by Bylaw 2052)*

12. PROHIBITIONS *(added by Bylaw 2052)*

12.1 No person shall, having received written notice from the Resort Municipality to remove any specimen of an applicable plant from that person's land or from land occupied by that person, fail to comply with such notice within the time specified in the notice which shall be not less than 30 days. *(added by Bylaw 2052)*

12.2 No person shall plant any specimen of an applicable plant on any land owned or occupied by that person, or on any other land within the Resort Municipality. *(added by Bylaw 2052)*

Bylaw
2052
replaced
by 2108

PART D: MUNICIPAL PERMIT CONDITIONS *(amended by Bylaw 2108)*

13. RIPARIAN AREA ASSESSMENTS *(amended by Bylaw 2108)*

13.1 This part applies to applications for any of the following, to the extent that the permit would authorize the disturbance of soils or the removal, alteration, disruption or destruction of vegetation in a riparian assessment area: *(amended by Bylaw 2108)*

- a) a building, excavation or foundation permit issued under Building and Plumbing Regulation Bylaw No. 1617, 2002;
- b) a development permit issued in respect of a development permit area designated for the protection of the natural environment, its ecosystems and biological diversity;
- c) a permit issued under the Resort Municipality of Whistler Soil Removal and Deposit Bylaw No. 1332, 1998;
- d) a tree cutting permit issued under this bylaw; or
- e) any other permit issued by the Resort Municipality that authorizes the disturbance of soils or the removal, alteration, disruption or destruction of vegetation.

13.2 The Resort Municipality may require an applicant for a permit to engage a Qualified Environmental Professional to prepare a riparian area assessment in accordance with the assessment methods set out in the Schedule to the Riparian Area Regulations, to assist the Resort Municipality in determining what conditions or requirements to impose in the permit, and may impose such conditions and requirements as have been recommended including, without limitation, a condition that soils and vegetation not be disturbed in any area described in the permit and a condition that the activities authorized by the permit be monitored by the Qualified Environmental Professional or another qualified person. *(added by Bylaw 2108)*

13.3 Section 13.2 does not apply to an applicant for a development permit who has been required to engage a Qualified Environmental Professional to prepare a site investigation report or assessment report in accordance with Land Use Procedures and Fees Bylaw No. 2019, 2012. *(added by Bylaw 2108)*

14. PROHIBITION

14.1 No person shall fail to comply with all conditions specified in a permit described in Section 13.1. *(amended by Bylaw 2108)*

Bylaw
2152
amended
by 2108

PART E: ENFORCEMENT

15.1 Bylaw Officers are designated to enforce this bylaw pursuant to Section 264(1)(b) of the *Community Charter*.

15.2 Resort Municipality staff is authorized under the provisions of Section 16 of the *Community Charter* to enter at all reasonable times upon any property for the purpose of ascertaining whether the regulations of this bylaw are being observed.

15.3 If in the opinion of the General Manager immediate steps are required to prevent the discharge or leakage of a polluting substance in contravention of this bylaw or remove an obstruction or impediment to the flow of a stream or drainage works, the Resort Municipality may enter onto the land to take such steps as are necessary to remedy the bylaw contravention.

15.4 The General Manager may order any person from whose land a polluting substance is being discharged to a stream or drainage works to take such measures as the General Manager may specify to protect or restore the stream or drainage works, including without limitation installing and maintaining sediment ponds, stormwater retention ponds, and containment barriers.

15.5 If the General Manager is not satisfied that the owner or occupier has taken steps required by or under of any provision under this bylaw after having been given notice in writing to do so, the Resort Municipality may enter on the owner's or occupier's land to perform the work.

15.6 If the Resort Municipality takes action pursuant to Section 11.3 or 11.5, the owner and occupier of the land shall pay to the Resort Municipality within thirty days of demand, all costs and expenses incurred by or on behalf of the Resort Municipality in performing the work.

16. OFFENCE AND PENALTY

16.1 Any person who contravenes this bylaw is liable, upon conviction, to a fine not exceeding \$10,000.

16.2 Every person who:

- a) causes or permits the leakage or discharge of a polluting substance into a stream or drainage works;
- b) causes or permits the obstruction or impediment of the flow of a stream or drainage works; or
- c) causes or permits a tree to be cut down or damaged without a tree cutting permit or other required municipal permit, or in contravention of the conditions contained in any required municipal permit. *(added by Bylaw 2108)*
- d) plants or causes or permits to grow an alien invasive species or fails to remove an alien invasive species after having been ordered to do so; or *(added by Bylaw 2108)*
- e) fails to comply with conditions contained in any municipal permit described in s. 13.1. *(added by Bylaw 2108)*

Bylaw
2108

contrary to this bylaw, or fails to comply with an order of the General Manager made under this bylaw, commits an offence under this bylaw and each day on which such a contravention continues shall constitute a separate offence.

16.3 Offences for which tickets can be issued and fines imposed are prescribed in the Municipal Ticket Information bylaw.

17. SEVERANCE

17.1 If any section or other part of this bylaw is held invalid by a court, the invalid portion shall be severed.

READ A FIRST TIME this 18th day of February, 2014.

READ A SECOND TIME this 18th day of February, 2014.

READ A THIRD TIME this 18th day of February, 2014.

ADOPTED this 4th day of March, 2014.

Mayor
Nancy J. Wilhelm-Morden

Corporate Officer
Shannon Story

I HEREBY CERTIFY that this is a true copy of
“Environmental Protection Bylaw No. 2000, 2012”

Corporate Officer
Shannon Story

SCHEDULE A

RMOW HERITAGE TREE INVENTORY

NAME:	LOCATION
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