

## **BYLAW 10-08**

### **TOWN OF BLACK DIAMOND**

#### **A BYLAW IN THE TOWN OF BLACK DIAMOND, IN THE PROVINCE OF ALBERTA TO PROVIDE FOR STREET TREE MAINTENANCE WITHIN THE TOWN OF BLACK DIAMOND.**

**WHEREAS** the Municipal Government Act, R.S.A. 2000, Chapter M-26, authorizes the Town to pass bylaws respecting the safety, health and welfare of people, and the protection of people and property

**AND WHEREAS** the Council of the Town of Black Diamond wishes to regulate the maintenance of trees and woody vegetation overhanging or abutting streets, sidewalks and pathways

**NOW THEREFORE**, the Council of the Town of Black Diamond in the Province of Alberta, duly assembled enacts the following:

#### **1. DEFINITIONS:**

*Clearance standards* shall mean the defined distance that tree owners are to keep clear of vegetation over and beside sidewalks, pathways and streets or alleyways

*Highway, road or street*

shall mean land that is authorized by a highway authority to be used or surveyed for use as a public highway, road, street or alleyway and includes a bridge forming part of a public highway, road or street and any structure incidental to the public highway, road, street or alleyway.

*Privately owned trees* shall mean trees that are on property that is not owned or leased by the Town of Black Diamond

*Property line* as located on a real property report for the property in question

*Sidewalk* shall mean any sidewalk or pathway that is developed for the purpose of permitting pedestrians to gain access to a residential area; a commercial/business area; or a parkland area that is owned by the Town of Black Diamond

*Street Tree* shall mean any tree or other woody vegetation which overhangs or encroaches upon a highway, road or street.

*Tree* shall mean any type of tree or other woody vegetation

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*Trees partially on public property*

shall mean a tree where a portion of the trunk is located on the property line

*Town*

shall mean the corporation of the Town of Black Diamond, or the area contained within the boundaries thereof, as the context requires

*Woody vegetation*

shall mean any shrub, bush or other vegetation of a wood nature

## **2. RESPONSIBILITIES**

- (a) The Town of Black Diamond will maintain trees on Town-owned lands and portions of trees that are partially on town-owned and portions of trees that are partially on town-owned lands and partially on private property, which extend over streets, sidewalks and pathways within the municipality.
- (b) The Town of Black Diamond will cover all costs associated with trees on public property and partial costs on trees which border public and private property.
- (c) Trees on town-owned lands are the sole responsibility of the Town of Black Diamond. Any attempt to modify or remove such trees could result in punitive action by the Town being initiated.
- (d) Trees on private property are the responsibility of the property owner.
- (e) Privately owned trees which overhang public land are the sole responsibility of the property owner to maintain.

## **3. PROCEDURE**

- (a) When branches from trees are overhanging streets and/or sidewalks (town-owned land), the Town, at its own expense, may prune or remove the trees for the following issues, or if the tree is partially on municipally owned land and partially on private property, the town will pay partial expenses for the correction of the following issues:
  - i) interference with distribution of light from street lamps; or
  - ii) interference with the safe view of a traffic control device that cannot reasonably be placed otherwise or elsewhere; or
  - iii) trees which are dead or partially dead; or
  - iv) trees which are leaning over the street such as to provide less than 4.27 meters (14 feet) vertical clearance as measured at the curb line; or

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- v) trees which are growing over a sidewalk such as to provide less than 2.44 meters (8 feet) vertical clearance; or
- vi) trees which are growing over a sidewalk or curb such as to provide less than 30.5 centimeters (1 foot) horizontal clearance from the edge of a sidewalk or curb; or
- vii) trees which have been vandalized; or
- viii) trees which have lost their structural stability and are deemed a hazard.

(b) Trees being designated as a hazard are to be assessed by, and confirmed to be a hazard by, an ISA Certified Arborist.

(c) For any tree care, the Town of Black Diamond recommends following good arboricultural practices, or the use of a certified arborist. The Town of Black Diamond uses the guidelines as set out in The Town of Black Diamond Tree Maintenance Guide" as set out in Schedule C of this bylaw.

(d) Removal of any tree on publicly owned land will be at the sole discretion of the Parks & Recreation Manager.

#### **4. NOTICE TO PRUNE TREES/VEGETATION**

(a) When a problem is identified with any tree overhanging the sidewalk or street, as outlined in section 3(a) of this bylaw, a Notice to Prune Trees/Vegetation, as per Schedule A of this bylaw, will then be issued to the registered property owner.

(b) The Initial Notice to Prune Trees/Vegetation shall contain:

- i) The address and/or legal description of the property where remedial action is deemed to be required by the Parks & Recreation Manager;
- ii) The condition or conditions that are not in compliance with this Bylaw;
- iii) The remedial action that is required to bring the property into compliance;
- iv) The date that the Initial Notice was mailed to the registered property owner;
- v) The deadline for completion of the remedial action required, which shall be 21 days from the date that the Initial Notice is mailed to the registered property owner.
- vi) An Appeal Notice, as set out in Schedule B of this bylaw.

(c) A Final Notice to Prune Trees/Vegetation shall be issued to the registered property owner not less than 21 days after the Initial Notice was issued, if no appeal has been launched in accordance with Schedule B of this bylaw, and the required remedial action has not been completed, and shall contain:

- i) The address and/or legal description of the property where remedial action is deemed to be required by the Parks & Recreation Manager;
- ii) The condition or conditions that are not in compliance with this Bylaw;

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- iii) The remedial action that is required to bring the property into compliance;
- iv) The date that the Initial Notice was mailed to the registered property owner;
- v) The date that the Final Notice was mailed to the registered property owner;
- vi) The deadline for completion of the remedial action required, which shall be 7 days from the date that the Final Notice is sent to the registered property owner.

(d) In accordance with Section 545 of the Municipal Government Act, if the Final Notice to Prune Trees/Vegetation is not complied with in the time allotted to the property owner, the Town of Black Diamond will perform the necessary work, or hire an appropriate contractor to perform the necessary work. All expenses and costs incurred in the completion of the work will be an amount owing to the Town, and will be placed on the tax roll of the property.

#### **5. ENFORCEMENT**

The Town is not required to enforce this bylaw. In deciding whether to enforce this Bylaw, the Town may take into account any practical concerns, including available municipal budget and personnel resources.

#### **6. SEVERABILITY**

Each provision of this Bylaw is independent of all other provisions. If any provision is declared invalid for any reason by the Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

**THIS BYLAW** comes into effect on the date of its **THIRD** and **FINAL READING**.

**READ A FIRST TIME THIS** 19<sup>th</sup> **day of** May, A.D., 2010.

*Original Signed*  
MAYOR

*Original Signed*  
TOWN MANAGER

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**TOWN OF BLACK DIAMOND**

**READ A SECOND AND THIRD TIME THIS 16th day of June, A.D., 2010.**

*Original Signed*  
MAYOR

*Original Signed*  
TOWN MANAGER

**BYLAW 10-08  
TOWN OF BLACK DIAMOND  
SCHEDULE “A”**



**NOTICE TO PRUNE TREES/VEGETATION**

**To:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

As a result of the inspection of the property described as:

**Civic / Street Address:** \_\_\_\_\_

**Lot(s)** \_\_\_\_\_ **Block** \_\_\_\_\_ **Plan** \_\_\_\_\_ **Roll #** \_\_\_\_\_

on \_\_\_\_\_ (inspection date) there are trees/vegetation which interfere with lawful pedestrian or vehicular traffic, or endanger pedestrian/vehicular traffic from branches overhanging municipal property due to the tree or vegetation being dead, terminally diseased or in a hazardous condition/location.

**You are therefore ordered to:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This action is to be completed by \_\_\_\_\_ (*21 days from date of Initial Notice*) If this notice is not complied with, action will be taken pursuant to Section 545 of the Municipal Government Act.

**INITIAL NOTICE**

**Issued by:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

**Signature** \_\_\_\_\_

**FINAL NOTICE**

**Issued by:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

**Signature** \_\_\_\_\_

**File Number:** \_\_\_\_\_

**IMPORTANT: SEE REVERSE**

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**TOWN OF BLACK DIAMOND**  
**SCHEDULE “A”**

**PROCEDURE FOR REQUESTING A REVIEW OF THE ORDER**

Pursuant to section 547(1) of the Act a person who receives a written order under section 545 may **by written notice** request a review of the order, as per the Appeal form attached as Schedule “B” of this bylaw.

Pursuant to section 547(1)(a) of the Act a written request for a review must be filed **within 14 days** after the date that the order is received.

Requests for review must be received by:

Council  
Town of Black Diamond  
Box 10, 301 Centre Avenue W.  
Black Diamond, AB T0L 0H0

**BYLAW 10-08  
TOWN OF BLACK DIAMOND  
SCHEDULE “B”**

**APPEAL NOTICE**

(If you want to appeal, you must serve this Appeal Notice by mailing or delivering it to the Council at the Town Office within 14 days after the Notice or Order was mailed)

**DATE:** \_\_\_\_\_

**TO:** The Council of the Town of Black Diamond  
301 Centre Ave. W.  
PO Box 10  
Black Diamond, AB  
T0L 0H0

I am appealing the Direction or Order dated \_\_\_\_\_  
about \_\_\_\_\_ (*property address*).

Reasons for the appeal are:

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(Use a separate sheet if necessary)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Phone Numbers:  
Home: \_\_\_\_\_

\_\_\_\_\_  
Work: \_\_\_\_\_

**NOTE:** ONLY appeals filed WITHIN THE 14 DAY PERIOD will be heard by Town Council. You will be notified by mail of the date of the hearing.

## **TOWN OF BLACK DIAMOND**

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### **Tree Maintenance Guide**

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Town of Black Diamond  
Parks & Recreation Department  
Box 10 Black Diamond  
Phone (403) 933-5272 • Fax (403) 933-5865  
“Serving our Community”

# Introduction

## T R E E S

- ❑ Preserve and protect aesthetics
- ❑ Prevent erosion of topsoil
- ❑ Decrease air born pollutants
- ❑ Moderate climate
- ❑ Community identity
- ❑ Increase property values
- ❑ Provides natural habitat
- ❑ Buffers noise and unsightly obstructions
- ❑ Provide shade and privacy

Proper maintenance is essential in developing a tree with a strong structure and desirable form.

The Town of Black Diamond recognizes the substantial economic, environmental and aesthetic importance of its tree inventory. It also recognizes that the maintenance of trees is necessary to optimize the amount of tree cover on public lands. Trees help to preserve and protect aesthetic and scenic beauty while preventing erosion of topsoil and protecting against flood hazards and the risk of stream bank erosion. Through physiological processes, trees counteract the pollutants in the air; protect against high winds, and maintain the climatic balance. Their shape and size provide shade as well as privacy. In addition, trees provide habitat to a variety of wildlife species, and protect valuable historical and community assets. Studies have shown that trees increase commercial and residential property values.

Proper pruning techniques and removal procedures will contribute to the overall aesthetic appearance and health of urban trees. The following guidelines are intended to assist residents and the municipality in achieving standard pruning and removal practices for the Town of Black Diamond. The standards and guidelines follow closely, those of the International Society of Arboriculture and those of the National Arborist Association.

## Pruning Young Trees

Trees that receive the appropriate pruning measures while they are young will require little corrective pruning when they mature.

## Cutting Guidelines

Where and how you make the cut is critical to a tree's response in growth and wound closure. Pruning should be applied with good judgement in order to maintain, as much as possible, the natural form of the tree. Pruning cuts should be made just outside the branch collar. Each cut should be made carefully, at the correct location, leaving a smooth surface with no jagged edges or torn bark (Figures 1.1). Hand pruning shears, lopping shears or pruning saws are acceptable tools for pruning. **Topping is not considered an acceptable pruning technique.**

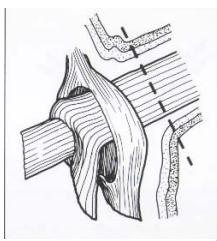


Figure: 1.1

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TOWN OF BLACK DIAMOND  
SCHEDULE "C"

### Cutting technique

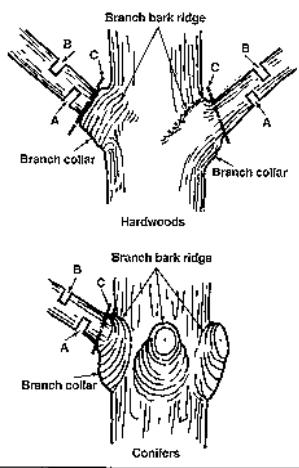


Figure: 1.2

Wound dressing is not recommended.

### Rules of Thumb

Avoid removing the tip of the dominant leader on young trees. Secondary branches that outgrow the leader should be removed.

If two branches develop from apical buds at the tip of the same stem, they will form **co-dominant** branches (Figure 1.3). It is usually best if one is removed when the tree is young.

If there is **included bark** (Figure 1.4) within crotches or co-dominant limbs, the branch attachment may be weakened and such branches are preferably removed.

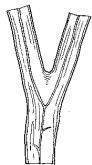


Figure: 1.3



Figure: 1.4



Figure: 1.5

On large-growing trees (except whorl-branching conifers) branches that are more than 1/3 the diameter of the trunk should be well-spaced along the trunk (at least 18 inches apart). Avoid allowing two scaffold branches to arise one above the other on the same side of the tree (Figure 1.5). Maintain one third the foliage on branches arising in the lower 2/3 of the tree. For individual limbs, leave lower and inside branches along the limb so that the limb can develop taper and that stress can be evenly distributed.

## Clearance Standards

The height of the lowest scaffold limb must follow standards for Street Trees as designated by the Town of Black Diamond. Select main branches to give radial distribution.

- The lowest branch extending over public sidewalks must be no less than 2.44 meters (8 feet) in vertical alignment and no less 30.5 centimeters (1 foot) horizontal alignment beyond the outside edges of the sidewalk.

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- The lowest branch reaching over a roadway or alley must have no less than 4.27 meters (14 feet) in vertical clearance as measured at the curb line.
- Trees along public trail systems and walkways must have no less than 2.44 meters (8 feet) vertical clearance and no less than 30.5 centimeters (1 foot) horizontal clearance beyond each edge of the trail or path.

Methods of Pruning

- ≡ Crown cleaning
- ≡ Crown thinning
- ≡ Crown raising
- ≡ Crown reduction
- ≡ Side pruning
- ≡ Drop Crotch pruning

## Pruning Mature Trees

Pruning should be done with an understanding of how the tree responds to each cut. Improper pruning can cause damage that will last for the life of the tree.

### Cutting Guidelines

For mature trees, the most common reasons for pruning of Town trees include removal of dead, weak, or diseased branches, removal of crowded or rubbing limbs, and the elimination of hazards. Avoid heavy thinning of mature trees, where appropriate. The various pruning methods used by Arborist's include thinning (Crown thinning), dead wooding (Crown cleaning), shaping (Crown cleaning, Crown reduction), and elevating (Crown raising). Crown Raising is the most common type of clearance pruning. These are the techniques recommended on all trees. **Topping is not considered an acceptable pruning technique.** Spikes are not to be used to climb trees.

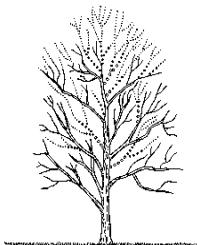


Figure: 2.1

#### Crown Cleaning

The removal of dead, dying, diseased, crowded, weakly attached and low-vigor branches from the crown of a tree (Figure: 2.1).

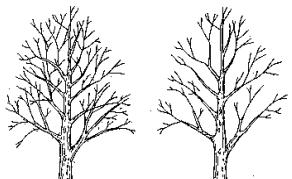


Figure: 2.2

#### Crown Thinning

The selective removal of branches to increase light penetration, and air movement through the crown. Thinning opens the foliage of a tree, reduces weight on heavy limbs, and helps retain the tree's natural shape (Figure: 2.2).

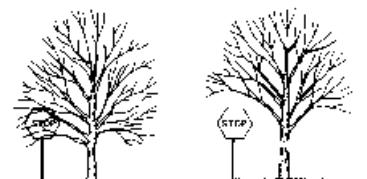


Figure: 2.3

#### Crown Raising

Removal of the lower branches from a tree (Figure: 2.3) in order to provide clearance for buildings, vehicles, signage and pedestrians.

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**ANSI A300 STANDARDS**

- ◆ Proper cuts will be made
- ◆ Spikes will not be used to climb
- ◆ No more than 1/4 (25%) of the live foliage of the canopy or individual limbs will be removed in any one season
- ◆ At least 1/3 the foliage will remain evenly distributed in the lower 2/3 of the canopy, after pruning is complete

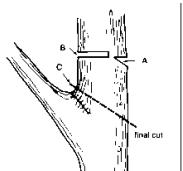


Figure: 2.6

**Crown Reduction**

Reduces the size of a tree. This is usually best accomplished by pruning back the leaders and branch terminals to lateral branches that are large enough to assume the terminal roles (at least 1/3 the diameter of the cut stem)

**Rules of thumb**

Size, species, age, and pruning objectives should be taken into account when determining the amount of live tissue that should be removed. For mature trees, no more than one quarter of a tree's leaf bearing crown should be removed.

Avoid pruning during periods of active transmission of some tree diseases or insects.

Elm trees have a pruning ban while tree is actively growing, dormant (winter) pruning only. When controlling diseases on Genus Prunus trees e.g. chokecherry or Mayday watch for Fire Blight or Black Knot, prune when the tree is dormant, clean all pruning tools in a bleach solution immediately after pruning (1 part bleach to 9 parts water) & dispose of wood immediately (burn or buried) to prevent further spread of the fungus.

**Cutting technique**

Large or heavy limbs should be removed using three cuts. The first cut undercuts the limb one or two feet out from the parent branch or trunk. A properly made undercut will eliminate the chance of the branch peeling or tearing bark as it is removed. The second cut is the top cut which is usually made slightly further out from the limb than the undercut. The third cut is to remove the stub. Refer to Figure: 2.6. Wound dressing is not recommended.

**When not to prune**

If your tree has power lines running near or thru it contact Fortis to have the tree trimmed. More than 25% of electrical interruptions are created by trees.

**Why Hire an Arborist?**

An Arborist is a trained specialist who is equipped to provide proper care for your tree, from identifying health problems, repairing damage from wind or recommending types of trees & proper planting locations. Pruning and removal of trees can be dangerous and should only be done by someone who is trained & has the proper equipment. If a ladder or chainsaw is needed to reach or perform your pruning cuts, it is best to hire an arborist, as the majority of accidents occur when working with chainsaws or on ladders with untrained people.

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Which Arborist to hire?

When hiring an Arborist – check their qualifications, are they certified, ask for proof of insurance, do they have any references, and it is recommended to get more than one estimate. Be wary of people going door to door – most reputable companies are usually too busy to solicit work this way. Good arborists will perform only acceptable practices, they will usually have you sign a contract, read it – make sure the job is complete. E.g. Does it include cleanup, when will it be started and completed, if additional work is required what will be the cost per hour.

## Removal of Trees

The successful removal of a tree is a delicate and dangerous task requiring highly skilled professionals.

### Procedure for Removal

The removal of municipally owned trees is at the sole discretion of the Parks & Recreation Manager but will be considered if: The tree is dead or dying; if it represents a hazard to life or property; if it is causing an obstruction that is impossible to correct through pruning; if it is crowding and causing harm to other trees; and/or if it is to be replaced by a more suitable specimen. Occasionally, in certain instances, live trees may be removed when they interfere with, buildings, driveways, utility wires or in an area where new construction may require it. Trees that are located on private property are at the discretion of the homeowner – however, if the tree is growing into power lines, contact Fortis for removal or pruning.

#### Technique

For a standard removal, stumps should be cut as flush as possible to the ground line.

All brush and wood waste should be chipped and/or disposed of.

Removal of large trees on personal property – due to the inherent danger of the tree falling, using a Certified Arborist is strongly recommended.

# Summary

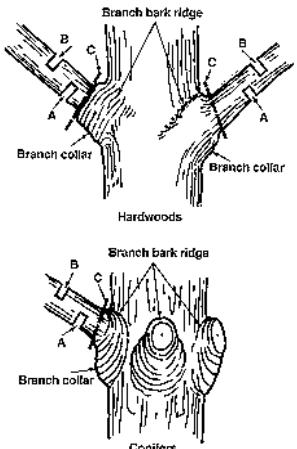
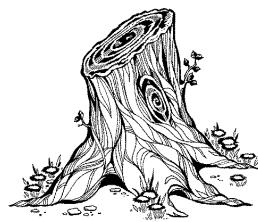


Figure: 4.1



## Pruning

- ◆ Use three cuts to remove large or heavy limbs (Figure 4.1). The first cut undercuts the limb 1-2' out from the parent branch or trunk. The second cut is the top cut, slightly further out from the limb than the undercut. The third cut removes the stub
- ◆ Do not “Top” the tree
- ◆ Pruning cuts should be made just outside the branch collar. One third of the foliage should remain evenly distributed in the lower 2/3 of the canopy after pruning.
- ◆ When working near highways, streets or roads, all Traffic Safety Regulations must be adhered to. Please call the appropriate authority to determine if any permits or road closures will be required, or if any special procedures must be followed.

## Clearance Standards

- ◆ The lowest branch extending over public sidewalks must be no less than 2.44 meters (8 feet) in vertical alignment and 30.5 cm horizontal clearance beyond the edge of the sidewalk (12 inches)
- ◆ The lowest branch reaching over a street or alley must have no less than 4.27 meters (14 feet) in vertical clearance as measured at the curb line.
- ◆ Trails and walkways must have approximately 2.44 meters vertical clearance and 30.5 cm horizontal clearance beyond each edge of the trail or path.

## Removals

- ◆ Stumps should be cut as flush to the ground as possible.
- ◆ All wood waste and brush must be chipped and/or disposed of.

When working near roadways, proper signage and traffic regulators must be in place