

## SUMMARY:

The City of Kelowna Nuisance Trees and Shrubs Bylaw sets out the regulations for nuisance trees, shrubs, hedges or bushes, to provide for their control, and to provide for the recovery of the cost of their control from the owner of the property from which such nuisance tree, shrub, hedge or bush is growing, where the owner does not comply with instructions to eliminate such nuisance.

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# CITY OF KELOWNA

## BYLAW NO. 6469-89 *REVISED: May 17<sup>th</sup>, 2004*

<p>CONSOLIDATED FOR CONVENIENCE TO INCLUDE: BYLAW NOS. 9117, 9237 and 9782</p>
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A bylaw pursuant to Section 935 of the Municipal Act to define nuisance trees, shrubs, hedges or bushes, to provide for their control, and to provide for the recovery of the cost of their control from the owner of the property from which such nuisance tree, shrub, hedge or bush is growing, where the owner does not comply with instructions to eliminate such nuisance.

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NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, hereby enacts as follows:

1. In this bylaw, unless the context otherwise requires:

BL9237 added the definition of "Certified Arborist":

"Certified Arborist" shall mean a person accredited as such by the International Society of Arboriculture or other recognized professional arborist association.

"City of Kelowna" shall mean the Municipal Council of the City of Kelowna, or the land within the boundaries of the City of Kelowna, wherever the context so requires.

BL9117 added the definition of "Hazard":

"Hazard" shall mean any standing dead tree that is closer than its height to a property line, or any tree that is closer than its height to a property line and has been assessed by a certified arborist to be a hazard. For certainty, any standing burned tree with no apparent live growth shall be considered a standing dead tree.

"Highways" shall have the meaning given to it under Section 2 of the Municipal Act.

BL9782 amended definition of "Inspector":

"Inspector" shall mean a Bylaw Enforcement Officer appointed by the City of Kelowna to enforce the provisions of the City of Kelowna bylaws.

BL9117 amended definition of "Nuisance":

"Nuisance" shall mean any part of a tree, shrub, hedge or bush that:

- (i) extends over a highway at a height lower than 5 metres;
- (ii) is a hazard;
- (iii) adversely affects the safety or convenience of the public; or
- (iv) is injurious to any highway road bed, sidewalk, utility or other public work.

"Occupier" shall have the meaning given to it by Section 1 of the Municipal Act.

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"Owner" shall have the meaning given to it by Section 1 of the Municipal Act.

2. All owners and occupiers of real property within the City of Kelowna shall prevent trees, shrubs, hedges or bushes growing thereon from becoming a nuisance as defined in Section 1 herein.
3. If the Inspector determines that any tree, shrub, hedge or bush has become a nuisance as defined herein, he shall forthwith notify the owner in writing of such condition, and require the owner to have the nuisance abated within 10 days from the date of mailing or delivering such notice.
4. Where the owner of any real property is not the occupier, any written notice to be given herein shall be given to the owner and the occupier of said property.
5. Any written notice to be given herein shall be deemed to be validly given if delivered personally or mailed to the owner and occupier, if any, of the real property in question, by prepaid registered mail and addressed to such owner, and occupier, in care of the ordinary postal address for such real property.

BL9782 amended Section 6:

6. If after the expiry of 10 days from the date of notice given pursuant to Section 3 herein, the nuisance has not been abated, it shall be lawful for the City of Kelowna by its inspectors, workmen, agents and others, to enter upon such real property and remove, cut down or trim any tree, shrub, hedge or bush in such manner as to eliminate it being a nuisance, at the expense of the person so defaulting; and the charge and costs incurred by the City of Kelowna for doing so, if unpaid on the 31<sup>st</sup> day of December in any year, shall be added to and form part of the taxes payable in respect of such real property as taxes in arrears.
7. Nuisance Trees and Shrubs Bylaw No. 4927-80 is hereby repealed.
8. This bylaw shall come into full force and effect and be binding on all persons as from the date of adoption.

BL9237 added a new section 9:

9. This bylaw shall not apply to conditions of private property which affect other private properties only.

Read a first time by the Municipal Council this 6th day of June, 1989.

Read a second time by the Municipal Council this 6th day of June, 1989.

Read a third time by the Municipal Council this 6th day of June, 1989.

Reconsidered, finally passed and adopted by the Municipal Council of the City of Kelowna this 20th day of June, 1989.

"James Stuart"

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Mayor

"R. A. Beauchamp"

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City Clerk