

**CITY OF WEYBURN**

**BYLAW NO. 2018-3373**

**A BYLAW TO REPEAL BYLAW 88-1709 & PRESERVATION OF CITY TREES POLICY  
RESPECTING THE URBAN FORESTRY PROGRAM  
(Consolidated to include 2020-3414)**

The Council of the City of Weyburn, in the Province of Saskatchewan, enacts as follows:

1. This bylaw shall be known as the “Urban Forestry Bylaw”.

2. In this Bylaw:

- (1) “Back Alley” means a narrow passageway between or behind buildings;
- (2) “Barrier” means any fence, frame, guard, or other device place around or near a tree for the purpose of protecting it from injury or harm;
- (3) “Boulevard” means the vegetation strip between a sidewalk and a curb;
- (4) “Building Permit” means an authorization issued by the Planning and Development Department for construction of a new or existing building;
- (5) “Bylaw Enforcement Officer” means an employee designated by the City to enforce the terms of the Urban Forestry Bylaw;
- (6) “Certified Contractor” means an individual who has obtained a certificate of competency in the arboriculture field;
- (7) “City” means the City of Weyburn;
- (8) “Corner Lot” means a property which borders a road or highway on two perpendicular sides;
- (9) “Council” means the City of Weyburn Council which governs the city;
- (10) “Developer” means any individual or company which buys land for the purposes of the construction of real estate and all associated roads, sidewalks, greenspaces, landscaping, and utilities;
- (11) “Development Agreement” means an agreement for the construction of real estate made between the City and a developer;
- (12) “Director” means the Director of Leisure Services and anyone acting or authorized by the Director to act on his or her behalf;
- (13) “Easement” means the land between a property line and a road or sidewalk, which has been retained by the City mainly for the purpose of containing utilities;
- (14) “Hazard” means a dead, dying, or unstable tree as risk of falling, breaking, or uprooting;
- (15) “Hedge” means a boundary formed by closely grown shrubs;
- (16) “Highway” means a main, public road maintained by the Provincial Government;

- (17) “Master Tree Plan” means the Urban Forestry Master Tree Plan specifying the species of trees to be planted on each of the boulevards, easements, and other public land in the City and their location, and spacing, including a current tree inventory, and development plan;
- (18) “New tree or hedge” means any tree or hedge planted after the implementation of this bylaw;
- (19) “Occupant” means a person residing at an owned or rented property;
- (20) “Park” means all public parks, playgrounds, and sports fields;
- (21) “Parks Department” means the division acting within the Leisure Services Department as designated to have primary jurisdiction over the City urban forest, parks and green spaces;
- (22) “Person” means an individual, firm, partnership, association, corporation, company, contractor, commission, public utility or organization of any kind, or their agents or employees;
- (23) “Pest or Disease” means any insect or disease which is detrimental to the health of a plant;
- (24) “Planning and Development Department” means the department as designated to have primary jurisdiction over the City construction and development authorizations;
- (25) “Provincial Legislation” means laws made by the Government of Saskatchewan;
- (26) “Private Property” means any land other than public or City-owned property;
- (27) “Private Tree” means a tree on private property;
- (28) “Property Line” means the outer edge of a private property;
- (29) “Property Owner” means the assessed owner, as shown on the current assessment roll of the City;
- (30) “Pruning” means cutting away dead, damaged, or overgrown branches or stems;
- (31) “Public Property” means all other grounds owned by the City including but not limited to boulevards, easements, parks, and Tatagwa Parkway;
- (32) “Public Tree” means a tree on public property;
- (33) “Road” means any part of a road allowance, street, bridge, or way intended for or used by the general public for the passage of vehicles or pedestrians, excluding highways;
- (34) “Shrub” means a woody plant, generally smaller than a tree, typically with multiple stems branching from or near the ground;
- (35) “Sidewalk” means a paved path for pedestrians at the side of a road;

- (36) “Parks Manager” means the Manager employed by the City of Weyburn Leisure Services Department responsible for parks operations and maintenance or his or her designate;
- (37) “Tatagwa Parkway” means an urban conservation park located in the City;
- (38) “Treat or Disinfect” means to apply a substance that is registered as a plant disease or pest control product;
- (39) “Tree” means a woody perennial plant, usually having one dominant trunk and a mature height greater than 5 meters;
- (40) “Tree Removal” means the removal of both the above, and below ground portions of a tree including landscape repair;
- (41) “Tree Valuation” means the standardized industry-endorsed procedure for calculating monetary value of trees based on the following four factors; species, size, condition and location;
- (42) “Utility” means the facilities for energy, communications and transportation, the provision of those facilities, and the persons responsible for their provision and maintenance, whether the facilities are publicly or privately owned;
- (43) “Urban Forest” means naturally occurring and planted trees and associated plants in urban areas;
- (44) “Urban Forestry Program” means a program designed to manage trees in an urban setting;
- (45) “Work” means the installation and maintenance of utilities, the paving or repairing of roads, sidewalks or boulevards, the construction, demolition, replacement of any structure, excavation, landscaping activities, snow removal and grounds maintenance.

### **3. Authority**

#### **Administrative Authority**

- (1) The Parks Manager will execute the authority over the Urban Forest and the administration of the Urban Forestry Program.
- (2) Every order under the Urban Forestry Bylaw shall:
  - (a) be delivered to the property owner or mailed to the property owner’s address;
  - (b) be in writing and specify the reason, corrective action to be taken, and time period to correct the conditions;
  - (c) specify that if the order is not corrected in the manner or time period as specified, corrective action shall be taken by the City at the property owner’s expense; and
  - (d) notify the property owner of their right to appeal the order and the manner in which to appeal.
- (3) The Government of Saskatchewan may elect to designate the City to enforce applicable provincial legislation, including but not limited to *The Dutch Elm Disease Regulations, 2005*.

## **Appeal Authority**

- (4) If a property owner chooses to appeal an order or appeal the denial of a tree planting or tree removal request:
  - (a) within ten days of the order, the property owner may appeal the order in writing to the Parks Manager;
  - (b) if the response is unsatisfactory to the applicant, an appeal may be made to the Director; and
  - (c) any subsequent appeals may be made in writing to Council.

## **Enforcement**

- (5) The Parks Manager may refer any non-compliance orders to the Bylaw Enforcement Officer.
- (6) The Bylaw Enforcement Officer shall enforce the requirements of the City as related to the Urban Forestry Bylaw.

## **4. Trees on Private Property**

### **Planting**

- (1) The owner of a private property shall not:
  - (a) plant a new tree closer than 1 meter from the back of the sidewalk; and
  - (b) plant a new hedge closer than 1 meter from the back of the sidewalk.

### **Pruning**

- (2) The owner of a private shrub or hedge shall:
  - (a) keep the shrub or hedge trimmed 30 centimeters from the back of the sidewalk;
- (3) The owner of a private tree shall:
  - (a) prune the branches so that there is a clearance of not less than 4.25 meters above the surface of any road or highway;
  - (b) prune the branches so that there is a clearance of not less than 2.5 meters above the surface of any sidewalk; and
  - (c) prune the branches so that there is a clearance of not less than 4.25 meters above the surface of any back alley.
- (4) A property owner shall confirm a tree is a private tree and not a public tree prior to commencing any work including pruning or removal of a tree. If a property owner is uncertain, the Parks Department shall be consulted to confirm if the tree is private or public.
- (5) The owner of a corner lot shall:
  - (a) keep the area within the 8.5 meters by 8.5 meters intersection of two roads clear of trees, as indicated in Figure 1; and
  - (b) keep the area within the 8.5 meters by 15 meters intersection of a road and a highway clear of trees, as indicated in Figure 2.
- (6) The owner of a private shrub or hedge on a corner lot shall:
  - (b) keep the shrub or hedge trimmed 30 centimeters from the back of the sidewalk;

- (c) keep the shrub or hedge trimmed to a height not exceeding 1 meter when planted within the area of the 8.5 meters by 8.5 meters intersection of two roads as indicated in Figure 1; and
- (d) keep the shrub or hedge trimmed to a height not exceeding 1 meter when planted within the area of the 8.5 meters by 15 meters intersection of a road and a highway as indicated in Figure 2.

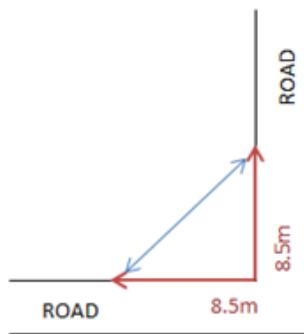


Figure 1



Figure 2

### **Pests, Disease, and Hazards**

- (7) A private tree, shrub, or hedge that is infected with a pest or disease which may affect the health of other plants, or creates a hazard to safety and public property, as declared by the Parks Manager may order the property owner to:
  - (a) treat or disinfect the tree, shrub, or hedge;
  - (b) repair, prune, or remove the tree, shrub, or hedge; or
  - (c) eliminate the condition in another manner as deemed appropriate by the Parks Manager.

## **5. Trees on Public Property**

### **Pruning**

- (1) Pruning of public trees:
  - (a) shall only be performed by the City Parks Department as per the urban forest pruning program on a 5 year rotation, or as needed; and
  - (b) may be performed without prior notice to a property owner or occupant of property in the vicinity.

### **Planting**

- (2) Planting of trees on public property shall only be performed by the Parks Department.
- (3) Planting requests on easements shall:
  - a) be made by property owners to the Parks Department;
  - b) be offered a tree species depend on the location, in accordance with the Master Tree Plan; and
  - c) be accepted or refused at the discretion of the Parks Manager.

### **Pests, Disease, and Hazards**

- (4) Where any public tree has endangered or may endanger any person or property, or due to damage or disease, the Parks Department shall:
  - (a) repair, prune, or remove the tree;
  - (b) treat or disinfect the tree; and
  - (c) make all reasonable efforts to preserve and protect the tree.

## Removal

- (5) When a public tree is removed, the City shall make reasonable efforts to:
  - (a) replace the tree with a similar tree in the same location;
  - (b) plant a more suitable tree in the same location, on adjoining land, or in a different suitable location; and
  - (c) provide 7 days' notice to the property owner of land adjacent to the easement containing the public tree, excluding public tree removals required as per Section 9.
- (6) Requests for removal of public trees located on the easement adjacent to private property or in a new development shall:
  - (a) be made by the property owner or developer;
  - (b) be delivered in writing to the Parks Manager; and
  - (c) specify the location of the public tree, the reason for requesting the removal, and all other details deemed relevant to the request.
- (7) The Parks Manager upon receiving a public tree removal request shall perform a tree valuation using a standardized industry-endorsed procedure for calculating monetary value.
- (8) Upon receiving the written request and completing the tree valuation, the Parks Manager shall:
  - (a) approve the removal at no cost to the property owner or developer;
  - (b) approve the removal with the property owner or developer incurring the cost of the removal only;
  - (c) approve the removal with the property owner or developer incurring the cost of the removal and the value of the tree; or
  - (d) deny the request for removal.
- (9) If a property owner or developer is unsatisfied with the response to a request for removal of a public tree, an appeal may be made as per Section 3(4).
- (10) All payments received for a tree removal from a property owner or developer shall be used to purchase and plant another public tree in a suitable location.

## Replacement

- (11) A request to replace a public tree shall:
  - (a) be made to the Parks Manager; and
  - (b) accepting or denying approval to replace a public tree shall be at the discretion of the Parks Manager.
- (12) Acceptable reasons for replacing a public tree may include:
  - (a) if a public tree has been excessively damaged;
  - (b) if a tree has died due to pests or disease;
  - (c) if a tree has died due to age or deterioration of health; and
  - (d) other reasons deemed acceptable by the Parks Manager.
- (13) Reasons for denying approval for replacing a public tree may include:
  - (a) the site is determined by the Parks Department to be an unsuitable planting site;
  - (b) the Parks Department has planted a replacement public tree on the same site three times and the tree has not survived; and

(c) other reasons as deemed appropriate by the Parks Manager.

- (14) If the property owner is unsatisfied with a decision made regarding tree planting or replacement, he or she may apply in writing as per Section 3(4).

### **Tatagwa Parkway**

- (15) Tatagwa Parkway shall be considered public property, and all trees or shrubs located in Tatagwa Parkway shall maintain the same protection as trees and shrubs on boulevards, easements, parks, and other public properties.

## **6. Prohibited Activities**

- (1) No person shall:
- (a) plant a tree on public property without written permission from the Parks Manager;
  - (b) cut, prune, alter the appearance, or remove any public tree;
  - (c) apply or administer a chemical in any form that would cause harm or death of any public tree;
  - (d) deposit any materials or equipment which may impede the free passage of water, air, or nutrients to the roots of any public tree;
  - (e) alter the grade level or alter the drainage pattern in a manner which may interfere with access of water, air or nutrients to any public tree;
  - (f) fasten any object to or directly around a public tree;
  - (g) remove or damage any marker, barrier, water bag, or other device which has been installed by the Parks Department to aid or protect a public tree; and
  - (h) commence or continue any work or activity which damages or interferes with a public tree included the root system.

## **7. Construction and New Development**

- (1) Any person responsible for work near a public tree shall:
- (a) protect the tree before the work begins with a barrier sufficient to ensure the tree is protected from physical damage;
  - (b) maintain the barrier in good condition so that it can perform its function;
  - (c) segments of the barrier shall be attached to each other and not to the tree;
  - (d) keep all building materials, soil, and other debris outside the barrier; and
  - (e) restore the affected area surrounding the public tree to a condition satisfactory to the Parks Manager.
- (2) Prior to proposed construction:
- (a) the Planning and Development Department, in consultation with the Parks Department, shall determine the impact of the proposed construction on public trees prior to issuing permits, approvals, or other required paperwork;
  - (b) the developer shall be informed, as early in this process as practicable, that all tree removal requests shall be considered only after all other alternatives to removal have been pursued, including revision of plans and blueprints; and
  - (c) if an acceptable alternative cannot be arrived at, the developer shall provide a written request as per Section 5(6).

- (3) Every person who intends to move any building or other large structure using a road or highway shall:
  - (a) obtain a moving permit from the Planning and Development Department which shall contain a clause in reference to the protection of trees;
  - (b) provide a signed copy of the moving permit to the Parks Manager at least one day prior to moving a building or other large structure; and
  - (c) be responsible for any costs incurred due to damage of any public tree including repair, removal, or replacement.
- (4) Upon completion of construction in a new development, including final grade of the top soil, the Parks Department shall:
  - (a) offer to supply and plant trees on the boulevards and City easements;
  - (b) choose a species of tree in accordance with the Master Tree Plan; and
  - (c) offer a property owner the option to decline having a public tree planted on the easement adjacent to their property.
- (5) The Parks Manager may:
  - (a) inspect any construction, demolition, excavation, or grading site where there is any term or condition in a development agreement or building permit relating to a public tree; and
  - (b) report any violations of the agreement to the Planning and Development Department.

## **8. Utilities**

- (1) When utility work is performed:
  - (a) all below-ground utilities shall be installed by tunneling at a depth and in a manner which will prevent or minimize injury to public trees;
  - (b) pruning of public trees shall be limited to the actual necessities of the service of the Utility;
  - (c) pruning of public trees shall be performed by an individual who has successfully completed a utility tree pruning course in accordance with industry standards;
  - (d) certification or other documents verifying the completion of training must be made available upon request from the Parks Manager, and shall be accepted or rejected at the discretion of the Parks Manager;
  - (e) the Utility shall provide reasonable notice, dependent upon the scope of work, prior to commencement; and
  - (f) the Parks Manager shall be notified for general supervision or technical assistance if required.

## **9. Exemptions**

- (1) This bylaw shall not apply to any emergent work required to be carried out immediately in order to prevent imminent danger to life, health, or property due to natural events including lightning, wind, hail, and snow, or unforeseen circumstances including automobile accidents, or to permit repairs to building structures or drains.

## **10. Violation and Penalty**

- (1) Any person who contravenes any provision of the Bylaw is guilty of an offence punishable on summary conviction by a fine in an amount not exceeding:
  - (a) Two thousand (\$2,000.00) dollars in the case of an individual; or
  - (b) Five thousand (\$5,000.00) dollars in the case of a corporation.

**11.Coming Into Force**

This Bylaw shall come into force and take effect upon third reading of the bylaw.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

READ a first time this 12<sup>th</sup> day of March, A.D., 2018.

READ a second time this 12<sup>th</sup> day of March, A.D., 2018.

READ a third time this 12<sup>th</sup> day of March, A.D., 2018, and passed.