

BYLAW 2647/G/21

BEING A BYLAW OF THE TOWN OF STONY PLAIN IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF PROTECTING AND MAINTAINING PUBLIC TREES BY ESTABLISHING REGULATIONS FOR THE PLANTING, PRESERVATION AND REMOVAL OF PUBLIC TREES WITHIN THE TOWN OF STONY PLAIN.

WHEREAS, the *Municipal Government Act*, RSA c. M-26, and amendments thereto, authorizes Council to pass bylaws respecting the safety, health and welfare of people and the protection of people and property; and respecting people, activities and things in, on or near a public place or place that is open to the public;

AND WHEREAS, it is desirable to protect, preserve and retain Trees in public spaces owned or controlled by the Town of Stony Plain;

AND WHEREAS, the Town of Stony Plains urban forest provides many environmental, health, and economic benefits to the community including:

- Improvement of air quality by removal of gaseous pollutants and dust particulates;
- Absorption of carbon dioxide;
- Climate moderation and energy conservation;
- Storm water retention;
- Wildlife habitat;
- Aesthetics; and
- General improvement of quality of life;

AND WHEREAS, Public Trees share limited space with services such as utilities and transportation infrastructure, the repair and replacement of which causes loss of valuable Trees;

NOW THEREFORE, the Council of the Town of Stony Plain in the province of Alberta, duly assembled, hereby enacts the following:

1.0.0 Title

1.1.0 This bylaw may be cited as the “Public Tree Bylaw”.

2.0.0 Definitions

2.1.0 “Act” means the *Municipal Government Act*, RSA c. M-26, and amendments thereto.

2.2.0 “Boulevard” means:

- a) The strip of land between the curb and the sidewalk and between the sidewalk and the property line; or
- b) Where there is no sidewalk, the strip of land between the curb and the property line, or
- c) Where there is no curb, the strip of land between the near edge of the road and the property line.

2.3.0 “Town” means the Town of Stony Plain.

2.4.0 “Town Lands” means property owned, controlled or maintained by the Town including parks, Open Space Areas, cemeteries, walkways, medians, Boulevards and road right-of-ways.

2.5.0 “Council” means the Mayor and Councillor duly elected pursuant to the provisions of the *Local Authorities Election Act*, R.S.A., 2000, c.L-21.

2.6.0 “Dutch Elm Disease” means the disease caused by the fungus *Ophiostoma ulmi* (Buis.) Nannf, (Syn. *Ceratocystis ulmi* (Buis.) or *Ophiostoma novo-ulmi* (Brasier).

2.7.0 “Elm Tree” means any Tree or part of a Tree whether dead or alive of the *Ulmus* genus.

2.8.0 “Emergency Personnel” includes fire rescue personnel, emergency medical providers, law enforcement officers, local, provincial and federal authorities and workers engaged in emergency repair to a Public Utility.

2.9.0 “Equitable Compensation” means:

- a) For Public Trees and Shrubbery, the compensation for the loss of the asset value or compensation for the diminishment of the asset value.
 - b) For natural Treed areas, the compensation for the loss of the asset value for such Tree areas.
- 2.10.0 "Hazard Tree" means:
- a) Any Tree that may fail due to mortality or a structural defect or changed stand conditions and, as a result, may cause property damage or personal injury, or
 - b) Any Tree that, in the opinion of the Manager has deteriorated to the point that it is capable of supporting elm bark beetle habitation and breeding, or any other insect or virus, making that Tree a hazard that may promote the spread of disease.
- 2.11.0 "Highway" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway, or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or allowed to use for the passage or parking of vehicles, that is owned, or managed by the Town through agreement.
- 2.12.0 "Infected Tree" means any Tree that, in the opinion of the Manager is infected by a disease or insect including, without limitation, Dutch Elm Disease or Emerald Ash Borer.
- 2.13.0 "Manager" means the Manager of Operations or their duly appointed designate(s).
- 2.14.0 "Move" means uprooting and transferring a Tree from one location to another.
- 2.15.0 "Natural Treed Area" means those Trees occurring as a result of natural succession or those Trees planted as part of naturalization efforts, growing within the Town.
- 2.16.0 "Open Space Area" means any of the following:
- a) Any land in the Town which is developed, used, leased, controlled or managed by the Town as a public park, sport field, playground, recreational area, off-leash dog park, storm water management facility, cemetery or natural area, including, without restricting the generality of the foregoing, all lands in the Town which are jointly controlled or managed by the Town and an Educational Authority for any of the purposes previously described;
 - b) Any land acquired through the subdivision process as reserve;
 - c) Any land used as a Highway buffer strip, whether on a permanent or temporary basis;
 - d) Any land designated by resolution of Council as an Open Space Area for the purpose of this bylaw; and
 - e) Any land developed and operated by the Town as a pathway or trail.
- 2.17.0 "Peace Officer" means a member of the Royal Canadian Mounted Police or a Community Peace Officer appointed pursuant to the provisions of the Police Act of Alberta R.S.A.2000, Chapter P-17, as amended or repealed and replaced from time to time.
- 2.18.0 "Person" means any corporation, firm, partnership, association, or registered company, as well as a natural person.
- 2.19.0 "Prune" means the cutting of Tree branches, twigs or roots.
- 2.20.0 "Public Tree" includes any Tree, which has any part of its trunk located on Town Lands and was part of a Town development.
- 2.21.0 "Public Utility" means a system of works used to provide one or more of the following for public consumption, benefit, convenience or use:
- a) Water or steam;
 - b) Sewage disposal;
 - c) Public transportation operated by or on behalf of the Town;
 - d) Irrigation;
 - e) Drainage;
 - f) Electric power;
 - g) Roads, sidewalks, or pathways;
 - h) Waste management; and
 - i) Telecommunications and cable television;

And includes the thing that is provided for public consumption, benefit, convenience or use.

2.22.0 “Shrubbery” means shrubs collectively, a woody plant smaller than a Tree, usually having multiple permanent stems branching from or near the ground, and can include the undergrowth of other plants, especially under Trees in woodland.

2.23.0 “Tree” means any perennial woody plant that normally has one or more upright stems and is maintained as a Tree and includes plants designated as Trees by the manager.

2.24.0 “Tree Protection Barrier” means a fence or other protective equipment surrounding a Tree to restrict access.

3.0.0 Applications and Exemptions:

3.1.0 This bylaw does not apply to Trees on Town owned property or Highways, that are cut or removed by the Town or its authorized agents in accordance with approved Town operations.

3.2.0 In accordance with Regulations governing Public Utilities, a Public Utility may perform such Pruning as necessary to comply with safety regulations and to maintain safe operation of their facilities provided that:

- a) At least three (3) business days prior to commencing any Pruning, the Public Utility provides the Manager written notice of its intention to Prune;
- b) The Pruning is carried out in accordance with accepted arboricultural standards and practices; and
- c) The Public Utility follows any specific directions of the Manager as to how the work shall be carried out.

3.3.0 The Manager may order the Public Utility to stop any Pruning if appropriate arboricultural practices are not being followed.

3.4.0 Where removal or Pruning of a Public Tree is determined to be necessary by Emergency Personnel responding to an emergency, such Tree or part of it may be cut or removed without first obtaining written authorization to do so.

3.5.0 Emergency Personnel shall notify the Manager of the emergency, and work done on the Public Tree as soon as possible.

3.6.0 Peace Officers shall notify the Manager of damaged or destroyed Public Trees resulting from any incidents or willful damage without delay so affected Trees may be repaired or removed as required.

4.0.0 Planting

4.1.0 No person shall plant Trees or Shrubbery on Town Lands or cause Trees or Shrubbery to be planted on Town Lands without prior written authorization from the Manager.

4.2.0 Written authorization to plant Trees or Shrubbery on Town Lands does not relieve a Person from obtaining any other approvals which may be required under any other Regulation.

5.0.0 Damage to Trees

5.1.0 No Person shall damage, disturb, remove, Move, or Prune a Public Tree or Shrubbery or cause a Public Tree or Shrubbery to be damaged, disturbed, removed, Moved, or Pruned without prior written authorization from the Manager.

5.2.0 No Person shall remove the bark of any Public Tree or cause the bark of a Public Tree to be removed without the prior written authorization from the Manager.

5.3.0 No Person shall use or cause to be used an object of any kind to penetrate the bark of a Public Tree without prior written authorization from the Manager.

6.0.0 Tree Protection

6.1.0 No Person shall remove or cause to be removed any part of a Tree Protection Barrier, structure or device on or around any Public Tree, enter into or cause another Person to enter into the area enclosed by any Tree protection system.

- 6.2.0 No Person shall, by any means, attach any notice, bill, sign, or poster to any Public Tree.
- 6.3.0 Notwithstanding section 6.2.0, a Person may attach a notice to a Public Tree where required or allowed to do so by written direction of the Manager.
- 6.4.0 On a prosecution or other proceeding, any Person who may benefit from a sign or poster attached to a Public Tree will be deemed to have attached the sign or poster to the Public Tree unless that Person brings forward evidence to the contrary.
- 6.5.0 No Person shall secure any object to a Public Tree, put anything in the branches of a Public Tree or cause anything to be put in the branches of a Public Tree without Manager approval except for Christmas lights or an extension cord.
- 6.6.0 Without restricting the generality of section 6.5.0, no Person shall secure newspaper vending boxes, bicycle racks, dog chains, clotheslines, guy wires, swings, or treehouse to a Public Tree.
- 6.7.0 No Person shall place, apply or spray or cause to be placed, applied or sprayed any substance other than water on or near any Public Tree without the prior written authorization of the Manager.
- 6.8.0 No Person shall alter the grade level or drainage pattern in any manner so as to interfere with the access of water, air or nutrients to any Public Tree.
- 6.9.0 No Person shall commence or continue any work or activity which damages or interferes with the root system or upper structure of any Public Tree.
- 6.10.0 No Person shall rest building materials or equipment on a Public Tree.

7.0.0 Disease Control

- 7.1.0 A Person who removes an Elm Tree from within the Town shall ensure the following occurs:
 - a) the stump is removed to a minimum depth of 15 centimeters below the soil line; or
 - b) the stump is treated in a manner acceptable to the Manager; and
 - c) the Elm Tree be disposed of in a manner authorized by the Manager.
- 7.2.0 Subject to section 7.3.0, an owner of an Elm Tree shall keep the Elm Tree Pruned:
 - a) so that the Elm Tree is free of wood that is dead or dying; or
 - b) within a reasonable time after damage to the Elm Tree occurs so that the Elm Tree is free of wood that is dead or dying.
- 7.3.0 No Person shall Prune an Elm Tree between April 1 and September 30 in any year unless Pruning is explicitly authorized in writing by the Manager pursuant to section 7.4.0.
- 7.4.0 Where the Manager is satisfied that it is safe, having regard to the control of Dutch Elm Disease, to Prune an Elm Tree,
 - a) which is an Infected Tree or a Hazard Tree, or
 - b) between April 1 and September 30 in any year,

The Manager may give written authorization to a Person to Prune the Elm Tree and may grant such authorization subject to such terms and conditions as the Manager deems appropriate.

- 7.5.0 A Person receiving an authorization by the Manager to Prune an Elm Tree shall comply with all terms and conditions imposed thereon.
- 7.6.0 No Person shall transport Elm Tree pieces into the Town unless disposing of these pieces at the Parkland Transfer Station.

8.0.0 Maintenance of Public Trees

- 8.1.0 The operations department is responsible for all Public Tree maintenance with the exception of 8.2.0.

- 8.2.0 The closest property owner shall maintain all Trees or Shrubbery within the area between the property line and the nearest concrete structure within the road right-of-way being a trail, sidewalk, curb or street.
- 8.3.0 Where a Tree has branches or foliage, which protrude over a street, sidewalk or trail, the following clearances must be maintained:
- a) a minimum of 12 ft vertical clearance over a street;
 - b) a minimum of 7ft vertical clearance over a trail.

9.0.0 Equitable Compensation

- 9.1.0 Persons who contravene this bylaw will be liable for costs incurred by the Town. These costs shall include labour, material, equipment charges and applicable overheads.
- 9.2.0 If the asset value of the Public Tree has decreased, or if there is diminishment of the Public Tree's value, persons will be liable for costs including labour, material, equipment charges, replacement charges and applicable overheads.
- 9.3.0 Persons who contravene this bylaw will be liable for any additional costs arising from unplanned maintenance and costs associated with out of season Tree relocation, replacement, repair or custom work above normal standards or outside of regular schedules.

10.0.0 Enforcement of Bylaw

- 10.1.0 Where a Peace Officer believes a Person has contravened any provision of this bylaw, they may:
- a) issue to the person, a violation ticket in accordance with the *Provincial Offences Procedures Act*, R.S.A. 2000, c. P-24; or
 - b) in accordance with the *Municipal Government Act*, R.S.A. 2000, c. M-26 issue to the person an order to remedy the infraction; or
 - c) do both a) and b).
- 10.2.0 The fines for an offence against this bylaw shall be subject to the minimum penalty amount, as specified in Schedule "A" – Minimum and Maximum Penalties.
- 10.3.0 If the person to whom an order has been issued pursuant to Section 10.1.0 fails to comply with the order within the time specified in the order:
- a) that person commits an offence under this section and a Bylaw Enforcement Officer may issue a violation ticket pursuant to the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P- 24 and;
 - b) the Town may take whatever steps are necessary to remedy the breach of the bylaw and the cost of doing so becomes a debt owing to the Town by the person to whom the order was issued in accordance with the *Municipal Government Act*, R.S.A. 2000, c. M-26.

11.0.0 Severability

- 11.1.0 If any portion of this bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

12.0.0 Review

- 12.1.0 This bylaw shall be reviewed within its fourth year, being 2025, or as deemed necessary.

13.0.0 Repeal

- 13.1.0 Bylaw 2380/G/09, and amendments are hereby repealed.

14.0.0 Effective Date


- 14.1.0 This bylaw shall take force and effect upon third reading and when it has been duly signed.

Read a first time this 26th day of April, AD 2021.

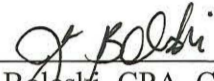
Read a second time this 26th day of April, AD 2021.

Given unanimous consent this 26th day of April, AD 2021.

Read a third time this 26th day of April, AD 2021.



Mayor William Choy



Jen Boleski, CPA, CA
General Manager, Corporate Services

Schedule A – Minimum and Maximum Penalties

| Applicable Section(s) | Offence | Minimum Penalty Per Tree | Maximum Penalty per Tree |
|-----------------------|---|--------------------------|--------------------------|
| 4.1.0 | Planting a tree without authorization | \$150 | \$300 |
| 5.1.0 | Remove, prune, destroy, or excavate a Public Tree without a permit | \$500 | \$1,000 |
| 5.1.0 | Damage, injure, impair or interfere with normal growth of a Public Tree | \$300 | \$600 |
| 5.3.0 | Deface, remove, penetrate, prune, or cut the bark of a Public Tree | \$100 | \$300 |
| 6.0.0 | Failure to protect public trees on a construction site, where the tree is damaged, injured or removed | \$300 | \$1,000 |
| 6.8.0 | Apply chemicals, fertilizer or other toxic substances to a Public Tree | \$100 | \$300 |
| 6.11.0 | Resting building materials or equipment on a Public Tree | \$100 | \$200 |
| 8.3.0 | Failure to maintain street, sidewalk and trail clearances | \$100 | \$200 |
| 10.3.0 | Failure to comply with a ticket or order from a Peace Officer. | \$1,000 | \$2,000 |