

Bylaw 1603-2018

Town of Innisfail

Being a bylaw of the Town of Innisfail, in the Province of Alberta, to protect, preserve and retain trees in public spaces owned or controlled by the Town of Innisfail; and to regulate the maintenance of private trees abutting public lands.

WHEREAS Part 2, Division 1, Section 7 of the Municipal Government Act, R.S.A. 2000, c. M-26, 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 public places and to enforce bylaws;

WHEREAS, trees on both private and public lands are an important component of the urban forest and ecology of the Town of Innisfail;

NOW, THEREFORE, the council of the Town of Innisfail hereby enacts as follows:

1. This Bylaw may be cited as the "Tree Bylaw"

DEFINITIONS:

2. In this Bylaw:

(a) "Boulevard" means:

- i. The strip of land between the curb and the sidewalk and between the sidewalk and the property line, or
- ii. Where there is no sidewalk, the strip of land between the curb and the property line, or
- iii. Where there is no curb, the strip of land between the near edge of the road and the property line;

(b) "Public Tree" includes Town owned trees and shrubs planted on boulevards, lanes, sidewalks, roads, utility right-of ways, Municipal Reserve (MR), Public Open Space (PO), Environmental Open Space (EO), or on any public place;

(c) "Designated Officer" shall mean a Bylaw Enforcement Officer, Peace Officer or a member of the Royal Canadian Mounted Police or any other person so authorized to act on behalf of the Council of the Town of Innisfail;

(d) "Director" means Director of Operational Services for the Town of Innisfail or his/her designate;

(e) "Manager of Operations" means the Manager of Operations for the Town of Innisfail or his/her designate;

(f) "Municipal Ticket" means a municipal ticket issued on behalf of the Town for a violation under this Bylaw

(g) "Move" means uprooting and transferring a tree from one location to another;

(h) "Private Tree" includes any trees or shrubs planted on private property and are referred to in this bylaw in the instance of encroachment on to boulevards, lanes, sidewalks, road or utility right-of ways, Municipal Reserve (MR), Public Open Space (PO), Environmental Open Space (EO), or any other public space;

(i) "Owner" means the assessed owner of the land directly abutting on the Town boulevard;

- (j) "Pruning" includes the cutting of tree branched, twigs or roots;
- (k) "Town" means the corporation that is the Town of Innisfail;
- (l) "Tree" means any perennial woody plant that normally has one or few upright stems and is maintained as a tree;
- (m) "Violation Ticket" shall mean a ticket issued pursuant to Part 2 of the Provincial Offences Procedure Act and any regulations there under.

GENERAL CONDITIONS / PROHIBITIONS:

3. No person shall:

- (a) remove, move, cut, or prune a public tree or cause a boulevard tree to be removed without the prior written authorization from the Manager of Operations
- (b) damage or destroy a tree growing on public property; or
- (c) plant trees or shrubbery on town property, without having written authorization from the Manager of Operations; or
- (d) tie, wire, rope, mark, or remove the bark of a public tree without written authorization from the Manager of Operations; or
- (e) use or caused to be used an object of any kind to penetrate or remove the bark of a boulevard tree without written authorization from the Manager of Operations; or
- (f) attach an electrical cord to a public tree, without written authorization from the Manager of Operations; or
- (g) secure bicycle racks, dog chains, clothes lines, guy wires, swings, or tree houses to a public tree; or
- (h) deposit, place, store, or maintain any stone, brick, sand, soil, concrete, vehicle, equipment or other matter or material that may impede the free passage of water, air or nutrients to the roots, of a tree growing on public property;
- (i) place, apply or spray any substance other than water on or near any public tree without prior written authorization from the Manager of Operations.

- 4. 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.
- 5. The Director of Operational Services shall be notified within 5 days after the incident by the emergency personnel about the removal or pruning of the tree(s).
- 6. In the case of permanent damage to a Public Tree, the person responsible for the damage may be assessed the value of the tree as appraised on the Standard Tree Evaluation Form, (attached as Schedule A).
- 7. The Town shall have the sole right to remove or cause to be removed any public tree which in the opinion of the Director of Operational Services warrant such removal after (5) days' notice by registered mail to the abutting property owners.
- 8. No owner or occupant of a parcel of land in the Town of Innisfail shall allow hedges, shrubs, vegetation, other structures planted or erected before or after the passing of this Bylaw to grow at a greater height of 1.0 meter above the established elevation of the center point of an intersection of the highway at a place on such parcel of land at or adjacent to and within a distance of six (6.0) meters measured on the corner of the

intersection of the highway nearest to the parcel of land concerned as measured along the curb line or edge of road.

9. In the case of trees growing on any parcel of land within the Town planted after the date of this Bylaw, the owner or occupant shall trim the said trees in such a way that no branches or foliage of said trees shall be at a lesser height than 225 cm (7.5 ft) meters above the established elevation of center point of an intersection of the highway at any place on such parcel of land at or adjacent to and within a distance of six (6) meters measured from the corner of an intersection of the highway nearest the tree as measured along the curb line or edge of road..
10. Except for trimming as required under Section 9, trees growing on any parcel of land that were planted prior to the date of this bylaw and fall within a distance of six (6) meters measured from the corner of an intersection, as measured along the curb line or edge of road, will not be subject to Section 8 of this bylaw.
11. If a person is directed by a Peace Officer to reduce any hedge, tree or shrub located in a corner visibility triangle to a height not in excess of 1.0 meter, and fails to carry out such direction within seven days of receipt of such direction, the Town may remove any such hedge, tree or shrub or reduce it to the required height, and if the cost of such work is not paid on demand by the owner or occupant of the property in question, the Town may recover the expense of such work, with costs, by action in any Court of competent jurisdiction, or may charge the expense of the work as taxes against such property.
12. An owner of private property shall ensure that trees or shrubs growing on his property, and on adjacent boulevards between his property line and the curb, shall be trimmed so that no branches project over a sidewalk at an elevation of less than 225 cm (7.5 ft.) or over a roadway or alley at an elevation of less than 412 cm (13.5 ft.).
13. Except for trimming required under Section 12, no person shall remove, pollard, destroy, or injure any tree that is planted or growing on a boulevard planting strip or on any Town lands adjacent to any street without prior written permission from the Manager of Operations. Where such permission is granted, the person requesting such permission shall be responsible for all costs associated with the removal, as well as for the value of the tree as determined by the Town.
14. The Manager of Operations shall not grant a request for the removal of such a tree unless, in the opinion of the Town, there are exceptional circumstances which warrant such removal. If a request for removal for a tree is granted, the owner shall be responsible for the cost of such removal plus the value of the tree as approved by the Town.
15. The Town shall have the sole right to remove or cause to be removed, trim and/or prune or cause to be trimmed and /or pruned any public tree or private tree which in the opinion of the Director warrant such work without notifications where the public tree in anyway interferes or endangers the lines, poles, conduits, pipes, sewers, traffic control devices, vehicle and pedestrian traffic, or other works of a municipal or other public utility. When the public tree or private tree is adjacent or on private property the Town will verbally notify the Property owner, lessee, occupier or agent of owner when the property, lessee, occupier or agent of owner is onsite.

SIGNS:

16. Any signs installed shall follow the rules of the Land Use Bylaw and associated policies on private property and over public sidewalks or highways shall be located so that they will in no way interfere with an existing boulevard tree and will not necessitate pruning or thinning in addition to normal practices. Before planting of a boulevard tree the Town will contact the owners of the effected properties for input as to possible conflicts.

STORMS:

17. Any trees, whether public or privately owned, which must be removed for safety reasons will require removal.
 - (a) Any Owner of privately owned trees encroaching on public property that fail to correct a hazardous situation will be responsible for the costs incurred by the Town to correct the situation.
 - (a) If a privately owned tree is broken or uprooted and the tree or portions of the tree fall on Town property the Owner of the tree shall be responsible for the removal or cost of the removal within five (5) days. Failing to complete the work would result in a charge to the Owner for the costs incurred by the Town to correct the situation.

CONSTRUCTION & DEVELOPMENT:

18. Any Public Tree to be removed in accordance with an approved Development Permit shall be replaced as authorized by the Manager of Operations;
 - (a) the value of tree shall be paid to the Town in accordance with the Tree Evaluation Equation. (Attached as Schedule A).
19. All construction within 4 meters of a Town owned tree requires an enclosed Tree Protection Barrier. The company performing the work would be responsible for the up keep and cost of the Tree Protection Barrier. (Attached as Schedule B).
 - (a) All soil, equipment, and other debris shall be kept outside of the Tree Protection Barrier.
 - (b) No person shall remove or cause to be removed any part of a Tree Protection Barrier.

PUBLIC UTILITY:

20. In accordance with regulations governing public utilities, a public utility may perform such pruning as necessary to comply with safety regulations and to maintain the operation of their facility provided that:
 - (a) Any pruning to be done by a public utility is the responsibility of the public utility to give the Manager of Operations written notice within three days 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 of Operations as to how the work shall be carried out.

ENFORCEMENT:

21. Where a Designated Officer has reasonable grounds to believe that a person has contravened any provision of this Bylaw:
 - (a) he or she may serve upon the person a municipal ticket allowing payment of the specified fine as set out in Schedule "C" of this Bylaw, which payment will be accepted by the Town in lieu of prosecution for the offence if paid within 21 days of the date of service; or

- (b) he or she may issue and serve a violation ticket in accordance with the Provincial Offences Procedure Act, R.S.A. 2000, c. P-34 and amendments thereto, allowing a voluntary payment or requiring a person to appear in court, without the alternative of making a voluntary payment.

22. A municipal ticket shall be deemed to be sufficiently served if:

- (a) served personally on the owner of the property, or left at the owner's residence; or
- (b) Mailed to the address of the owner of the property.

23. In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which the offence continues and any person guilty of such an offence is liable to a fine in the amount not less than that established by this Bylaw for each such day.

PENALTIES:

24. Any person who contravenes any section of this Bylaw is guilty of an offence and is liable to:

- (c) a penalty in the amount specified in Schedule C hereto, or
- (d) A \$230.00 fine for any offence for which there is no penalty specified.

25. The specified penalty for a first offence and any continuation of the offence is the amount shown in Schedule C in respect of this bylaw.

26. This Bylaw shall come into effect upon third and final reading thereof.

Read a first time in Open Council this 25 day of June, 2018.

Read a second time in Open Council this 9 day of October, 2018.

Read a third time in Open Council this 9 day of October, 2018.



Mayor



Chief Administrative Officer

Schedule A

TREE EVALUATION EQUATION

1. Basic Value Data

- (a) The basic unit value of all shade and other ornamental trees is \$71.94 per square inch unit of trunk cross sections at 4 feet above the ground diameter at breast height or \$11.15 per square centimetre at 1.2 m.
- (b) Different species of trees have different values. They are expressed as a percentage of the basic unit value. This expressed percentage is called Class %.
- (c) The different class percentages are listed in the Tree Species Rating Table.

2. Method of Determining Value

- (a) Determine Class % to which species belongs, e.g. Spruce - Class 2 - 100% and has a diameter of 4 inches (this gives the spruce a basic value of \$71.94 per square inch).
- (b) Determine area of cross section at 4.0 feet (1.2 m) above ground in square inches. For example the dbh (diameter at breast height) is 4.0 inches equals 12.57 sq. inches of area.

3. Tree Species Rating Table

BOTANICAL NAME	COMMON NAME
Class 1 – 110% (Special Class)	
<i>Picea pungens</i> 'Koster'	Kosters Blue Spruce
<i>Picea</i> spp. (Specialties)	All grafted types of Spruce
<i>Pinus</i> spp. (Specialties)	All grafted types of Pines
<i>Quercus</i> spp.	Oak species
Class 2 – 100%	
<i>Abies</i> spp.	All Firs
<i>Aesculus glabra</i>	Ohio buckeye
<i>Aesculus hippocastanum</i>	Chestnut/Horse Chestnut
<i>Elaeagnus angustifolia</i>	Russian olive
<i>Betula pendula gracilis</i>	Weeping birch
<i>Fraxinus selections</i>	Patmore/Summit/Fallgold/Manchurian
<i>Larix sibirica</i>	Siberian Larch
<i>Larix</i> spp.	Larch Species
<i>Picea</i> spp.	All types of Spruce
<i>Pinus</i> spp.	All types of Pines
<i>Populus tremula</i> 'Erecta'	Swedish Columnar Aspen
<i>Pseudotsuga menziesii</i>	Douglas fir
<i>Syringa reticulata</i>	Japanese lilac tree
<i>Tilia americana</i>	American basswood
<i>Tilia cordata</i>	Little Linden Leaf, Lime (Hybrids)
<i>Ulmus americana</i> 'Brandon'	American elm "Brandon"
<i>Ulmus americana</i>	American elm
Class 3 – 80%	
<i>Acer ginnala</i>	Amur maple
<i>Acer saccharinum</i>	Silver maple
<i>Betula</i> spp.	All other types of Birch
<i>Crataegus</i> spp.	Hawthorns
<i>Fraxinus</i> spp.	Common Green Ash & Black Ash
<i>Juniperus scopulorum</i>	Rocky Mountain Juniper & Cultivars
<i>Malus baccata</i>	Siberian flowering crab
<i>Malus</i> "Rosybloom Hybrids"	Rosybloom Crabs

Schedule A

<i>Malus</i> spp. Hybrids	Hybrid Apple/Crab
<i>Populus x canescens</i> ‘Tower’	Tower Poplar
<i>Populus x jackii</i> ‘Northwest’	Northwest poplar - cultivar
<i>Prunus padus commutata</i>	Mayday tree
<i>Prunus</i> spp.	Plums and Cherries
<i>Prunus</i> spp. Hybrids	Hybrid Cherries & plums
<i>Pyrus ussuriensis</i>	Ussurian Pear
<i>Sorbus</i> spp.	Mountain Ash Species
Class 4 – 60%	
<i>Acer negundo</i> (upright var. or form)	Manitoba maple (specialty upright forms)
<i>Alnus</i> spp.	Alder
<i>Caragana arborescens</i>	Standard Pea tree
<i>Caragana arborescens</i> vars.	Standard Pea tree – forms
<i>Populus</i> Hybrids	Hybrid Poplars
<i>Salix acutifolia</i>	Sharp leaf willow
<i>Salix pentandra</i>	Laurel leaved willow
<i>Ulmus pumila</i>	Siberian/Manchurian elm
Class 5 – 40%	
<i>Acer negundo</i>	Manitoba maple
<i>Populus</i> X ‘Brooks #6’	Brooks #6 Poplar
<i>Populus</i> X ‘Griffin’	Griffin Poplar (Non-fluff)
<i>Populus</i> spp.	Native poplars
<i>Salix</i> spp.	Native Willows

4. Determine condition of tree. An Arbourist will appraise the condition on the following scale carries out this evaluation.

Tree’s Condition:	Percent:
1. Perfect tree or specimen quality	100%
2. Excellent tree	90%
3. Very Good tree	80%
4. Above Average tree	70%
5. Good or Average tree	60%
6. Below Average tree	50%
7. Fair tree	40%
8. Poor tree	30%
9. Very poor tree	20%

5. The Location of a tree is considered during the tree’s Condition calculation. Location can influence the Condition calculation as a 10% premium or a 10% penalty.

Using the above data the value of trees may be calculated as:

- In this example, a 4” diameter the area of cross section is 12.57 in²
- The basic unit value or \$71.94 per inch². The Class % is Class 2 or 100%
- 12.57 inch² x \$71.94 x 100% = \$904.02. Therefore, the Basic Value of Tree = \$ 904
- This figure is then multiplied by the Condition % (Say 80%) \$ 904.02 x 80% condition is \$ 723.22
- Therefore, the value of this example Spruce with diameter at breast height of 4” in is \$ 723.00 (rounded to nearest dollar)

Schedule A

OR

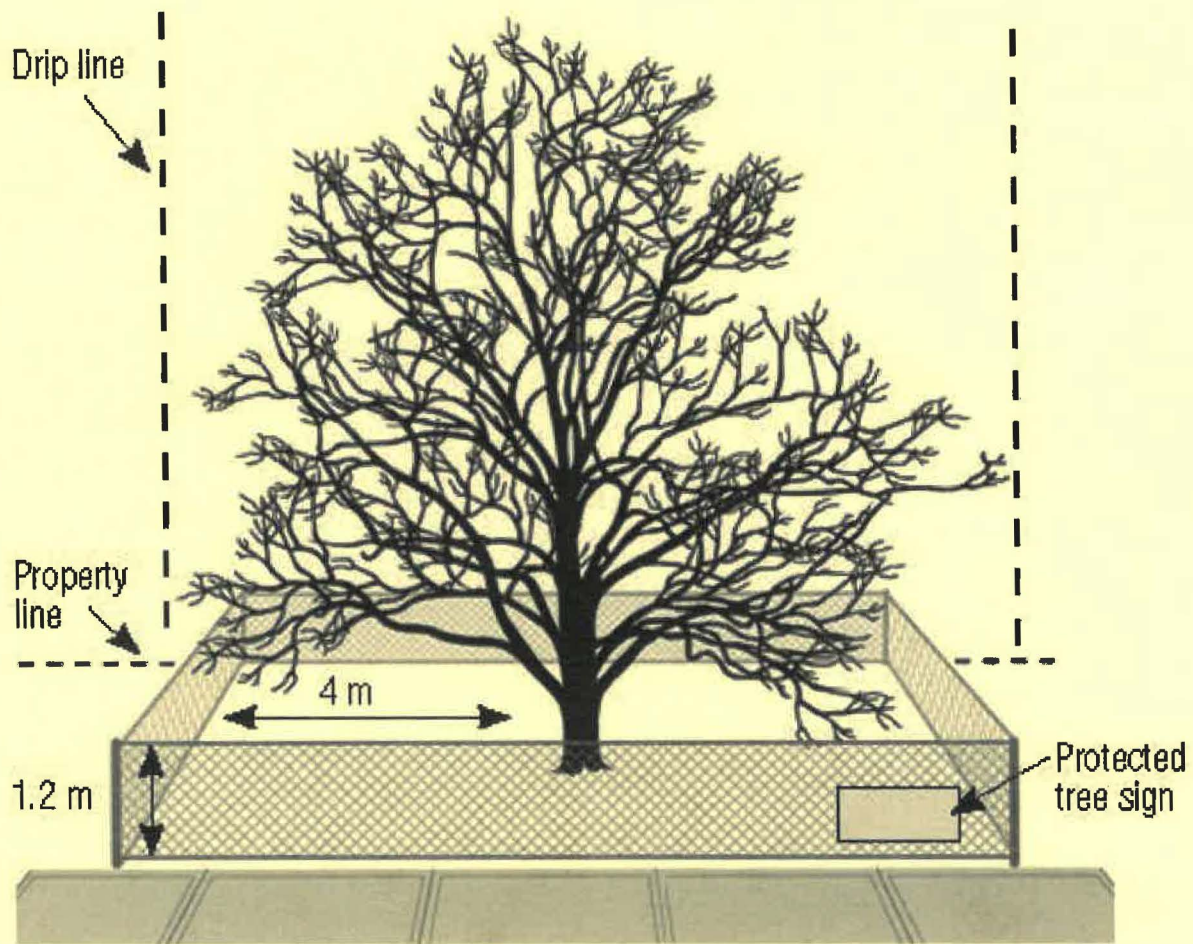
- In this example, 10.16 cm diameter, the area of cross section is 81.07 cm²
- 81.07 cm² x \$11.15 x 100% = \$ 903.96. Therefore, the Basic Value of a Tree = \$904.00
- This figure is then multiplied by the Condition % (Say 80%) \$903.96 x 80% condition is \$723.17.
- Therefore, the value of this example Spruce with diameter at breast height of 10 cm is \$723.00 (rounded to nearest dollar).

6. Examples of determining tree value are outlined in the table below

*Species % Varieties	Diameter of trunk	Value (per unit)	Cross Section	Class and %	Basic Value in \$'s (approx.)	Condition %	Rounded Value (\$'s)
OAK	4"	\$71.94	12.57 in ²	1-110%	\$ 994	80%	\$ 796
SPRUCE	8"	\$71.94	50.27 in ²	2-100%	\$ 3,616	70%	\$ 2,531
ELM	10 cm	\$11.15	78.54 cm ²	2-100%	\$ 876	80%	\$ 701
Green ASH	20 cm	\$11.15	314.16 cm ²	3-80%	\$ 2,802	50%	\$ 1,401

SCHEDULE B

TREE PROTECTION DIAGRAM



Guidelines:

1. The Protected Tree sign will be provided by the Town of Innisfail.
2. Construction materials, equipment and other debris shall not be stored in the tree protection zone.
3. The fence must be a minimum of 1.2m high.
4. The fence must be a minimum of 4m from the center of the tree trunk.

Schedule C

PENALTIES CHART

Section	Charge	Fine Amount
3(a)	Remove, move, cut or prune a public tree without authorization	\$500.00
3(b)	Damaged/destroyed tree on public property	\$500.00
3(c)	Plant tree/shrubbery on Town property without authorization	\$115.00
3(d)	Tie, wire, rope, mark or debark of a Public Tree	\$230.00
3(e)	Removing/penetrate bark without authorization	\$230.00
3(f)	Attach electrical cord to a public tree	\$78.00
3(g)	Secure any object to a public tree	\$115.00
3(h)	Deposit any matter/material that impedes flow of water/air/nutrients to the roots of public trees	\$230.00
3(i)	Apply or spray harmful substance to a Public Tree	\$500.00
14(b)	No person shall remove or cause to remove any part of a tree protection barrier	\$230.00