

THE CITY OF SPRUCE GROVE

BYLAW C-896-14

TREE PROTECTION BYLAW

WHEREAS, pursuant to the *Agricultural Pests Act*, R.S.A. 2000, c. A-8 and *Pest and Nuisance Control Regulation*, Alta Reg 184/2001, Council may pass bylaws for the prevention and control of Dutch Elm Disease and Dutch Elm Disease vectors, the native elm bark beetle and the European elm bark beetle and for implementation of regulating people, activities and things in public places or places that are open to the public;

AND WHEREAS, it is desirable to protect, preserve and retain trees in public spaces owned or controlled by the City of Spruce Grove;

AND WHEREAS, the City of Spruce Grove's 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 for the City of Spruce Grove, duly assembled hereby enacts as follows:

1. DEFINITIONS

1.1. "Act" means the *Municipal Government Act*, R.S.A., 2000, c. M-26 and amendments thereto.

1.2. "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.
- 1.3. “City” means the City of Spruce Grove or, where the context requires, the area comprised within the boundaries of the City as it may exist from time to time while this Bylaw is in force.
- 1.4. “City Lands” means property owned, controlled or maintained by the City including parks, Open Space Areas, cemeteries, walkways, medians, Boulevards and road rights-of-ways.
- 1.5. “Council” means the Mayor and Aldermen duly elected pursuant to the provisions of the *Local Authorities Election Act*, R.S.A., 2000, c.L-21.
- 1.6. “Dutch Elm Disease” means the disease caused by the fungus *Ophiostoma ulmi* (Buis.) Nannf, (Syn. *Ceratocystis ulmi* (Buis.) or *Ophiostoma novo-ulmi* (Brasier).
- 1.7. “Elm Tree” means any tree or part of a tree whether dead or alive of the *Ulmus* genus.
- 1.8. “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.
- 1.9. “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, as determined by the document titled *Guidelines for Evaluation of Trees*, a documented methodology that is set forth in the current edition of the Guide for Plant Appraisal authored by the Council of Tree and Landscape Appraisers and published by the International Society of Arboriculture, or
 - b. for natural treed areas, the compensation value for such tree areas as determined by the document titled *The Tree Evaluation Method for Natural Stands in Our Urban Environment (Tree Canopy Replacement Method)*, a methodology document that was adapted with reference to the Alberta Agriculture publication, A Guide to Determining Replacement Values of Trees and Shrubs in Alberta, Section 3 (AGDEX 275/33-3).
- 1.10. “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.
- 1.11. “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.
- 1.12. “Manager” means the General Manager of Planning and Infrastructure or their duly appointed designate(s).
- 1.13. “Move” means uprooting and transferring a tree from one location to another.
- 1.14. “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 City.
- 1.15. “Open Space Area” means any of the following:
- a. any land in the City which is developed, used, leased, controlled or managed by the City as a public park, sport field, playground, recreational area, dog off-leash park, storm water management facility, cemetery or natural area, including, without restricting the generality of the foregoing, all lands in the City which are jointly controlled or managed by the City 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 City as a pathway.
- 1.16. “Peace Officer” means a member of the R.C.M.P., a member of the Municipal Police Service, a Special Constable or a Bylaw Enforcement Officer.
- 1.17. “Person” means any corporation, firm, partnership, association, or registered company, as well as a natural person.
- 1.18. “Prune” means the cutting of tree branches, twigs or roots.

- 1.19. "Public Tree" includes any tree, which has any part of its trunk located on City Lands and was part of a City development.
- 1.20. "Public Utility" means a system or 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 City;
 - 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.
- 1.21. "Regulation" includes City Bylaws.
- 1.22. "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.
- 1.23. "Tree" means any perennial woody plant that normally has one or few upright stems and is maintained as a tree and includes plants designated as trees by the Manager.
- 1.24. "Tree Protection Barrier" means a fence or other protective cordon surrounding a tree to restrict access.

2. APPLICATIONS AND EXEMPTIONS

- 2.1. This Bylaw does not apply to City staff or its authorized agents when completing work in accordance with approved City Operations.

- 2.2. 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 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.
- 2.3. The Manager may order the Public Utility to stop any Pruning performed by a Public Utility if appropriate arboricultural practices are not being followed.
- 2.4. 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.
- 2.5. Emergency Personnel shall notify the Manager of the emergency and work done on the Public Tree as soon as possible.
- 2.6. 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.

3. PLANTING

- 3.1. No Person shall plant Trees or Shrubbery on City Lands or cause Trees or Shrubbery to be planted on City Lands without prior written authorization from the Manager, and in the case of walkways, medians, Boulevards, and road rights of way, without additional prior written authorization from the Director of Engineering.
- 3.2. Written authorization to plant Trees or Shrubbery on City Lands does not relieve a Person from obtaining any other approvals which may be required under any other Regulation.

4. DAMAGE TO TREES

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

- 4.2. 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.
- 4.3. No Person shall use or caused to be used an object of any kind to penetrate the bark of a Public Tree without prior written authorization from the Manager.

5. TREE PROTECTION

- 5.1. No Person shall remove or caused 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.
- 5.2. No Person shall, by any means, attach any notice, bill, sign, or poster to any Public Tree unless required or allowed to do so by written direction of the Manager.
- 5.3. On a prosecution or other proceeding pursuant to section 8, 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.
- 5.4. No Person shall use a Public Tree to secure any object.
- 5.5. No Person shall attach an electrical cord to a Public Tree or put anything in the branches of a Public Tree or cause anything to be put in the branches of a Public Tree.
- 5.6. 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.
- 5.7. 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.
- 5.8. 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.
- 5.9. No Person shall remove Trees from any area identified in the *Municipal Development Plan* as an Environmental Significant Area, or in the *Parks and Open Space Master Plan* as a park or node, without approval from the Manager.

6. DISEASE CONTROL

- 6.1. A Person who removes an Elm Tree from within the City 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 Manger; and
 - c. the Elm Tree be disposed of in a manner authorized by the Manager.
- 6.2. Subject to section 6.3, 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.
- 6.3. 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 6.4.
- 6.4. 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.
- 6.5. A Person receiving an authorization by the Manager to Prune an Elm Tree shall comply with all terms and conditions imposed thereon.
- 6.6. No Person shall transport Elm Tree pieces into the City.

7. **EQUITABLE COMPENSATION**

- 7.1. Persons who contravene this bylaw will be liable for costs incurred by the City. These costs shall include labour, material, equipment charges and applicable overheads.
- 7.2. The asset value of the Public Tree or the diminishment of the Public Tree's asset value will be determined by:
- a. the document titled *Guidelines for Evaluation of Trees*, a documented methodology that is set forth in the current edition of the Guide for Plant Appraisal authored by the Council of Tree and Landscape Appraisers and published by the International Society of Arboriculture, new versions thereto;
 - b. for Public Trees in Natural Treed Areas or Public Trees that serve as a windbreak and shelterbelt the compensation value for such treed areas

as determined by the document titled *The Tree Evaluation Method for Natural Stands in Our Urban Environment (Tree Canopy Replacement Method)*, a methodology document that was adapted with reference to the Alberta Agriculture publication, A Guide to Determining Replacement Value of Trees and Shrubs in Alberta, Section 2 and Section 3 (AGDEX 275/33-3).

- 7.3. 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 or repair or custom work above normal standards or outside of regular schedules.

8. ENFORCEMENT OF BYLAW

- 8.1. Where a Peace Officer believes a Person has contravened any provision of this Bylaw, he may:

- a. in accordance with the Act issue to the Person an order to remedy the infraction;
- b. issue to the Person, a violation ticket in accordance with the *Provincial Offences Procedures Act*, R.S.A. 2000, c. P-24; or
- c. do both a. and b.

- 8.2. Where a Peace Officer has reasonable and probable grounds to believe there has been a contravention of this bylaw with respect to a Public Tree, he may in accordance with the Act, issue to the owner of the property adjacent to the Public Tree an order to remedy the contravention.

- a. If the Person to whom an order has been issued pursuant to section 8.1 or 8.2 fails to comply with the order within the time specified in the order:
 - i. That Person commits an offence under this section and a Bylaw Enforcement Officer may issue a violation ticket pursuant to the *Provincial Offences Procedures Act*, R.S.A. 2000, c. P-24; and
 - ii. The City 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 City by the Person to whom the order was issued in accordance with the Act.

- b. Any items removed pursuant to this section, if deemed of value, will be removed to a place of safe keeping and will:
 - i. be assessed a daily fee for storage costs and as may be determined from time to time by the Manager, and

- ii. if unclaimed within 90 days, be sold at public auction.
- 8.3. Any Person who contravenes a provision of this bylaw is guilty of an offence and is liable:
- a. for a first offence to a fine of not less than \$100.00; and
 - b. for a second offence of the same provision within a twenty-four month period to a fine of not less than double the first offence.
- 8.4. The specified penalty for a first offence is the amount shown in Schedule "A" in respect of that offence.
- 8.5. All violations of this bylaw which are of a continuing nature shall constitute a separate offence for each day the offence continues.
- 8.6. Nothing in this bylaw relieves a Person from complying with any federal or provincial law or Regulation, other bylaw or any requirements of any lawful permit, order, consent or other direction.
- 8.7. Every provision of this bylaw is independent of all other provisions, if any provision of this bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this bylaw shall remain valid and enforceable.

9. EFFECTIVE DATE

- 9.1. This bylaw shall come into force and effect when it receives third reading and is duly signed.

First Reading Carried 14 December 2015

Second Reading Carried 11 January 2016

Third Reading Carried 25 January 2016

Date Signed 29 January 2016

Mayor

City Clerk

**SCHEDULE "A"
SPECIFIED PENALTIES**

SECTION		SPECIFIED PENALTY
3	Planting tree without authorization	\$300.00
4	Removing, Pruning or trimming a Public Tree without a permit	\$500.00
4	Removing bark from Public Tree	\$300.00
4	Penetrate bark of Public Tree	\$300.00
5	Remove or enter Tree Protection Barrier	\$300.00
5	Attach sign to a Public Tree	\$100.00
5	Attach electrical cord to a Public Tree	\$100.00
5	Securing objects to a Public Tree	\$100.00
5	Put things in or on Public Tree	\$100.00
5	Apply or spray harmful substance on a Public Tree	\$300.00
5	Altering the grade level or drainage pattern that effects a Public Tree	\$300.00
5	Damages or interferes with the root system or upper structure of a Public Tree	\$300.00
6	Fail to care for live, dead or dying Elm Trees	\$500.00
6	Transport of elm pieces into City	\$500.00
8	Fail to comply with enforcement order	\$1000.00