

BYLAW 13-23

A BYLAW OF THE TOWN OF OKOTOKS IN THE PROVINCE OF ALBERTA TO REGULATE THE PROTECTION, PLANTING, MAINTENANCE, AND REMOVAL OF PUBLIC TREES

WHEREAS pursuant to the provisions of the *Municipal Government Act (MGA)*, Revised Statutes of Alberta 2000, Chapter M-26 and amendments thereto, Council may pass a bylaw for regulating people, activities, and things in public places or places that are open to the public; and

WHEREAS the Town of Okotoks' 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 public utilities and transportation infrastructure, the repair and replacement of which may impact trees; and

WHEREAS Council deems it desirable to protect, preserve, and retain trees in public spaces owned or controlled by the Town of Okotoks.

NOW THEREFORE the Council of the Town of Okotoks enacts as follows:

1. SHORT TITLE

1.1 This Bylaw may be known as the "Tree Protection Bylaw".

2. DEFINITIONS

In this Bylaw, unless the context otherwise requires:

2.1 **arborist** means:

- a) a Certified Arborist accredited by the International Society of Arboriculture; or
- b) a person with a diploma or degree involving arboriculture from an accredited college or university and currently practicing arboriculture.

2.2 **boundary tree** means any tree whose trunk, at ground level, grows on a common property line with Town land.

- 2.3 **Chief Administrative Officer (CAO)** means the person appointed to the position of chief administrative officer for the Town of Okotoks within the meaning of the *MGA*.
- 2.4 **Council** means the Mayor and Councillors of the Town of Okotoks duly elected pursuant to the provisions of the *Local Authorities Election Act*, as amended, or any legislation in replacement or substitution thereof.
- 2.5 **emergency personnel** means:
- a) fire rescue providers;
 - b) emergency medical providers;
 - c) Peace Officers;
 - d) local, provincial, and federal authorities; or
 - e) public utility workers engaged in emergency repairs.
- 2.6 **hazardous tree** means any tree that has been assessed by an arborist to be an “extreme risk” or “high risk” according to current edition of ISA Tree Risk Assessment guidelines and in danger of:
- a) falling;
 - b) breaking;
 - c) uprooting;
 - d) collapsing;
 - e) damaging property; or
 - f) injuring a person or persons.
- 2.7 **highway** means any thoroughfare, street, road, trail, pathway, 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 permitted to use for the passage or parking of vehicles and includes:
- a) a sidewalk, including a boulevard adjacent to the sidewalk;
 - b) a ditch which lies adjacent to and parallel with the roadway; and
 - c) a highway right of way that is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be;
- but does not include a place declared by regulation not to be a highway.
- 2.8 **infected tree** means a tree having a condition that shows signs a pest is present that threatens the health of the urban forest.
- 2.9 **interfering tree** means any tree in any location that:
- a) impedes access or interferes with maintenance work; or

b) causes or has the potential to cause damage to infrastructure.

2.10 **invasive tree** means any tree that has been determined to be an invasive species as identified by the *Alberta Weed Control Act*, *Weed Control Regulation*, or the Town of Okotoks General Design and Construction Specifications limited species list and any amendments thereto.

2.11 **ISA** means the International Society of Arboriculture.

2.12 **obstructing tree** means any tree that:

- a) obstructs regulatory signs;
- b) is located within corner visibility setbacks as defined and identified in the Okotoks Land Use Bylaw; and
- c) obstructs a clear line of sight for motorists or pedestrians using the highway.

2.13 **owner** means:

- a) a person who is registered under the *Land Titles Act* as the owner of a parcel of land;
- b) a person who is recorded as the owner of a property on the tax assessment roll of the Town;
- c) a person who has purchased or otherwise acquired a parcel of land, whether they have purchased or otherwise acquired the land directly from the owner or from another purchaser, and has not yet become the registered owner thereof;
- d) a person holding themselves as the person having the powers and authority of ownership of a property or premises or who for the time being exercises the powers and authority of ownership; or
- e) a person controlling a property or premises under construction.

2.14 **parcel** means the aggregate of one or more areas of land described in a certificate of title and includes all buildings and other improvements thereon.

2.15 **Peace Officer** means:

- a) a member of the Royal Canadian Mounted Police;
- b) a Community Peace Officer as appointed by the Solicitor General of Alberta; or
- c) a Bylaw Enforcement Officer as appointed by the Town to enforce bylaws of the Town.

2.16 **person** means any individual, or any business entity, including but not limited to:

- a) a firm;

- b) a partnership;
- c) an association;
- d) a corporation;
- e) a society; or
- f) a legal entity.

2.17 **pest** means a pest as defined in the *Agricultural Pests Act* and *Agricultural Pests Regulations* amendments thereto or as outlined in the Town of Okotoks Urban Forest Management Plan and Integrated Pest Management Plan.

2.18 **prune or pruning** means the cutting of tree branches, twigs, or roots.

2.19 **public tree** means any tree whose trunk, at ground level, is entirely located on Town land.

2.20 **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 Town;
- d) irrigation;
- e) drainage;
- f) fuel;
- g) electric power;
- h) heating and cooling;
- i) roads, sidewalks, or pathways;
- j) waste management; or
- k) telecommunications and cable television; and

includes the product or service that is provided for public consumption, benefit, convenience, or use.

2.21 **relocate** means to uproot and transfer a tree from one location to another.

2.22 **remove or removal** means the cutting down and disposal of a tree.

2.23 **Town** means the Corporation of the Town of Okotoks in the Province of Alberta, and where the context so requires, means the area of land within the corporate boundaries thereof.

2.24 **Town land** means any land owned or controlled by the Town.

2.25 **tree** means any perennial woody plant that normally has one or more upright stems and is maintained as a tree or any other woody plant as designated by the CAO.

- 2.26 **tree protection barrier** means a fence or other protective barrier surrounding a tree to restrict access.
- 2.27 **tree protection plan** means a plan drawing and report providing information as per the Town's General Design and Construction Specifications, current edition.
- 2.28 **tree protection zone** means the minimum required setback distance to protect a tree during any activity in the construction process that may injure or destroy a tree, and is based on ISA best management practices for managing trees during construction.
- 2.29 **tree appraisal** means an estimate of the value of a tree according to the current edition of the ISA Council of Tree and Landscaping Appraisers Guide for Plant Appraisal.
- 2.30 **violation tag** means a notice or tag in the form as approved by the CAO, issued by the Town, allowing a voluntary payment option of a fine established under this Bylaw.
- 2.31 **violation ticket** means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedures Act*, Revised Statutes of Alberta 2000, Chapter P-34 and any amendments or regulations thereto.

3. PLANTING, MAINTENANCE, AND REMOVAL OF PUBLIC TREES

- 3.1 The CAO has the authority to:
- a) care for and maintain public trees;
 - b) plant public trees;
 - c) remove public trees with compensation as per section 8 of this Bylaw;
 - d) stop any work causing injury or destruction to any public tree that is taking place with or without permission;
 - e) identify invasive trees;
 - f) implement any necessary treatments for public trees;
 - g) prune, relocate, or if the problem cannot be corrected by pruning or relocating, remove any public or boundary tree which is:
 - i. a hazardous tree;
 - ii. an infected tree;
 - iii. an interfering tree;
 - iv. an invasive tree; or
 - v. an obstructing tree.

4. HAZARDOUS TREES

- 4.1 The CAO has the authority to:

- a) upon receiving a complaint or concern enter a parcel of land adjacent to Town land to inspect or conduct tests on a tree to determine if imminent danger to the public exists;
- b) prune any tree located on any parcel of land adjacent to Town land where branches from the tree are extended over or onto Town land and are creating a hazardous or unsafe condition; and
- c) remove immediately and without notice to the owner, any hazardous tree located on any parcel of land if, in the opinion of the CAO, the hazardous tree poses an immediate danger to the health or safety of the public.

5. BOUNDARY TREES

- 5.1 No person shall remove, prune, or damage a boundary tree unless the CAO gives prior approval.

6. PROHIBITIONS

- 6.1 Without authorization from the CAO, no person shall:

- a) plant or cause to be planted any tree on Town land;
- b) commence construction activity in a tree protection zone without submitting an approved tree protection plan and ensuring tree protection measures are in place;
- c) undertake or cause to be undertaken any stockpiling or encroachment in a tree protection zone;
- d) remove or cause to be removed any part of a tree protection barrier;
- e) enter into or cause to be entered into any area enclosed by a tree protection barrier;
- f) prune, relocate or remove, or cause to be pruned, relocated or removed, any public tree;
- g) remove or damage or cause to be removed or damaged the bark of any public tree;
- h) use or cause to be used an object of any kind that penetrates the bark of any public tree;
- i) place, apply, or spray or cause to be placed, applied, or sprayed, any substance other than water on or near a public tree;
- j) put or cause to be put, anything in the branches of a public tree;
- k) attach any sign or poster by any means to a public tree;
- l) pursuant to clause 6.1 k), 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 evidence to the contrary is produced;
- m) as part of a new development, development permit, building permit or any other Town permit process fail to disclose public trees in an area of development or construction;
- n) secure any object to a public tree including but not limited to:

- i. an electrical cord;
- ii. newspaper vending boxes;
- iii. bicycle racks;
- iv. dog chains;
- v. clothes lines;
- vi. guy wires;
- vii. outdoor lighting;
- viii. bird feeders or houses;
- ix. swings; or
- x. tree houses.

- 6.2 Notwithstanding clause 6.1n), a slackline may, as identified and in accordance with the Town of Okotoks Slacklining Guidelines, be attached to a public tree.
- 6.3 Written authorization from the CAO to plant trees on Town land does not relieve a person from obtaining utility locations or any other approvals which may be required under any other bylaw, policy, enactment, provincial regulation, or utility regulator.

7. EXCEPTIONS

- 7.1 Where pruning or removal of a public tree is determined to be necessary by emergency personnel responding to an emergency, the pruning or removal may be done without prior written authorization; however, the CAO shall be notified of the emergency event and the pruning or removal done to the public tree as soon as possible but no later than three (3) days after the pruning or removal occurred.
- 7.2 Notwithstanding clause 7.1, a public utility worker may perform pruning as is necessary to comply with safety regulations and to maintain safe operation of public utility facilities provided that:
- a) notice of the intention to prune is provided to the CAO at least three (3) business days prior to commencing any pruning;
 - b) any required park access permits are obtained;
 - c) the pruning is carried out in accordance with accepted arboricultural standards and practices; and
 - d) the public utility worker follows any specific directions given by the CAO as to how the work shall be carried out and stops pruning if the CAO determines proper arboricultural practices are not being followed and orders pruning to stop.
- 7.3 These provisions do not apply to:
- a) work carried out by the Town, or

- b) work carried out by a contractor on the instructions of the CAO providing it is work of an emergent nature or circumstance.

8. TREE PROTECTION PLANS

- 8.1 Tree protection plans must be submitted to the CAO for inspection and approval. Where a landscape plan is required, the tree protection plan shall be prepared by a landscape architect or arborist, or as approved by the Town.
- 8.2 Where a landscape plan is not required and a public tree is within six (6) metres of construction activities or access route, a tree protection plan may be required and must be approved by the CAO three (3) business days prior to construction.

9. TREE COMPENSATION

- 9.1 Where any person damages, kills, or removes a public tree, with or without a permit, and unless a replacement plan has been negotiated and authorized and agreed upon with the CAO, the CAO may require compensation (either financial or through a negotiated compensation planting plan). If a replacement planting plan cannot be negotiated, then financial compensation as determined by the tree appraisal will be provided. Where any person damages, kills, or removes a boundary tree, with or without a permit, the CAO may require proportionate compensation for the boundary tree from that person.

10. INTERFERENCE WITH TOWN FORCES

- 10.1 No person shall hinder, interrupt, or cause to be hindered any employee of the Town or its contractors, servants, and agents or workers, in the exercise of the powers or duties as authorized or required in this Bylaw.

11. PENALTIES AND ENFORCEMENT

- 11.1 Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of not more than Ten Thousand (\$10,000.00) Dollars, imprisonment for a term not exceeding one (1) year, or both.
- 11.2 Where there is a specified penalty listed for an offence in Schedule A to this Bylaw, that amount is the minimum specified penalty for the offence.
- 11.3 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 it continues.

- 11.4 The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a person from the necessity of paying any fees, charges, or costs from which that person is liable under the provisions of this Bylaw or any other bylaw.
- 11.5 Any Peace Officer who has reasonable and probable grounds to believe that any person has contravened any provision of this Bylaw may issue and serve:
- a) a violation tag allowing a payment of the specified penalty to the Town; or
 - b) a violation ticket allowing payment according to the provisions of the *Provincial Offences Procedure Act*, Revised Statutes of Alberta 2000, Chapter P-34 and amendments thereto.
- 11.6 Service of a violation tag will be sufficient if it is:
- a) personally served; or
 - b) served by regular mail to the person's last known mailing address.
- 11.7 If a violation ticket is issued in respect to an offence, the violation ticket may:
- a) specify the fine amount established by this Bylaw for the offence; or
 - b) require a person to appear in Court without the alternative of making a voluntary payment.
- 11.8 A person who commits an offence may:
- a) if a violation ticket is issued in respect of the offence; and
 - b) if the violation ticket specified the fine amount established by this Bylaw for the offence;

make a voluntary payment equal to the specified fine by delivering the violation ticket and the specified fine to the Provincial Courthouse specified on the violation ticket.

12. SEVERABILITY

- 12.1 It is the intention of Council that each separate provision of this Bylaw shall be deemed independent of all other provisions herein and it is the further intention of Council that if any provision of this Bylaw is declared invalid, all other provisions hereof shall remain valid and enforceable.

13. GENERAL

- 13.1 Any person who contravenes any provision of this Bylaw by:

- a) doing any act or thing which the person is prohibited from doing; or
- b) failing to do any act or thing the person is required to do;

is guilty of an offence and any offence created pursuant to this Bylaw is a strict liability offence for the purposes of prosecution under this Bylaw.

13.2 Nothing in this Bylaw relieves a person from complying with any provision of any federal or provincial law or regulation, other bylaws, or any requirement of any lawful permit, order, or license.

13.3 Words in the singular include the plural and words in the plural include the singular.

13.4 No provision of this Bylaw or any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent, or preclude the Town from pursuing any other remedy in relation to a premise as provided by the *MGA* or any other law of the Province of Alberta or amendments thereto.

This Bylaw shall come into full force and effect upon third and final reading.

READ A FIRST TIME this 13th day of February 2023.

READ A SECOND TIME this 27th day of March 2023.

READ A THIRD TIME AND PASSED this 27th day of March 2023.

Original Signed

Mayor

Original Signed

Chief Administrative Officer

SCHEDULE A

SECTION	OFFENCE	PENALTY First Offence	PENALTY Second or Subsequent Offences
6.1 a)	plant tree on Town Land without permission	\$500.00	\$1,000.00
6.1 b)	failure to submit tree protection plan or failure to install tree protection in accordance with an accepted tree protection plan	\$500.00	\$1,000.00
6.1 c)	unauthorized activity in tree protection zone	\$500.00	\$1,000.00
6.1 d)	remove tree protection barrier	\$500.00	\$1,000.00
6.1 e)	enter area enclosed by tree protection barrier	\$500.00	\$1,000.00
6.1 f)	prune, relocate, or remove public tree	\$500.00	\$1,000.00
6.1 g)	remove or damage bark on public tree	\$500.00	\$1,000.00
6.1 h)	use of object that penetrates bark on public tree	\$500.00	\$1,000.00
6.1 i)	substance other than water on public tree	\$500.00	\$1,000.00
6.1 j)	place anything in branches of public tree	\$500.00	\$1,000.00
6.1 k)	attach sign or poster to public tree	\$500.00	\$1,000.00
6.1 m)	failure to disclose public trees in area of development or construction	\$500.00	\$1,000.00
6.1 n)	secure any object to public tree	\$500.00	\$1,000.00