



BYLAW

Bylaw Number: 1273/16

TREE PROTECTION BYLAW

1. PURPOSE:

- 1.1. WHEREAS, Section 7 of the Municipal Government Act of the Province of Alberta provides that a Council may pass bylaws for the protection of people and property and with respect to people, activities, and things in, on or near a public place or a place that is open to the public;
- 1.2. AND WHEREAS, Council has determined that activities in, on or near a public place can result in damage to trees located in public places;
- 1.3. AND WHEREAS, Council deems it proper and expedient to enact a bylaw for the protection of trees in public spaces;
- 1.4. NOW THEREFORE, the Council of the Municipality of the Town of Nanton in the Province of Alberta duly assembled enacts as follows:

2. INTERPRETATION:

2.1 This Bylaw will be cited as the "Tree Protection Bylaw".

2.2 Definitions

- 2.2.1 "Arborist" means a person with a diploma or degree involving arboriculture from an accredited college or university, a Registered Professional Forester, or an accredited Certified Arborist under the International Society of Arboriculture;
- 2.1.2 "Application" means the form provided by the CAO in accordance with this bylaw;
- 2.1.3 "Boulevard" means:
 - a. The strip of land between the curb and 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;
- 2.1.4 "CAO" means the person appointed by Council as Chief Administrative Officer pursuant to the Municipal Government Act, R.S.A. 200, Chapter M-26;

- 2.1.5 “Council” means the Council of the Town of Nanton, duly assembled;
- 2.1.6 “Development” shall have the same meaning as in the Town of Nanton Land Use Bylaw #1246/13, as may be amended, repealed and replaced from time to time;
- 2.1.7 “Officer” means the Chief Administrative Officer (CAO) or his/her designate;
- 2.1.8 “Emergency” means a situation in which there is imminent danger to public safety or property;
- 2.1.9 “Emergency Personnel” means fire rescue personnel, emergency medical providers, law enforcement personnel, local, provincial, and federal authorities and workers engaged in emergency repair to a Public Utility;
- 2.1.10 “Enforcement Officer” means a Bylaw Enforcement Officer, Community Peace Officer, Police Officer, or another individual appointed by the CAO to enforce the terms of this Bylaw;
- 2.1.11 “Incident Commander” means the Emergency Personnel responding to an Emergency who is in charge of the incident response;
- 2.1.12 “Permit” means a permit issued pursuant to this Bylaw;
- 2.1.13 “Person” means any individual, corporation, or society;
- 2.1.14 “Public Place” means any property which is owned, occupied, controlled, or maintained by the Town of Nanton and includes, but is not limited to, parks, green spaces, walkways, medians, boulevards, and road right-of-ways;
- 2.1.15 “Public Tree” means any tree which has any part of its trunk located in a Public Place, as determined by the Officer in his or her sole discretion;
- 2.1.16 “Public Tree Disclosure Statement” means the portion of the Application form, as per Section 2.12, filled out by the applicant of a Development or his/her agent which discloses if there are any Public Trees located within six (6) meters of a proposed Development;
- 2.1.17 “Tree” means any perennial plant, including large shrubs, having permanently woody main stems or trunks and includes any plant designated a tree by the Officer in his or her sole discretion;
- 2.1.18 “Tree Protection Barrier” means a fence or other protective cordon surrounding a Public Tree to restrict access;
- 2.1.19 “Tree Protection Plan” means a plan included within an application, as required as per the provisions of this Bylaw;
- 2.1.20 “Tree Protection Policy” means a Town of Nanton policy enacted to maintain and manage trees within the Town of Nanton;
- 2.1.21 “Tree Protection Zone” means the area between the Tree Protection Barrier and the Public Tree wherein Development activities are restricted;
- 2.1.22 “Violation Tag” means a Town of Nanton issued notice that alleges an offense and provides a Person with the opportunity to pay an amount to the Town in lieu of prosecution for the offense;

2.1.23 "Violation Ticket" means a summons violation ticket issued pursuant to the Provincial Offenses Procedures Act, R.S.A. 2000, Chapter P-34 as may be amended, repealed and replaced from time to time.

3. ENACTMENT:

3.1 Permits

3.1.1 No Person shall:

- a. Plant or cause to be planted any Tree, shrubbery, or other plant material on or within any Public Space;
- b. Remove, move, cut, prune, or cause the same to any Public Tree;
- c. Remove or cause to be removed the bark of any Public Tree;
- d. Penetrate or cause to be penetrated the bark, trunk, or any branch of any Public Tree;
- e. Damage, disturb, kill or cause the same any part of a Public Tree including its branches, trunk, bark and root system; or
- f. Commence a development within six (6) meters of a Public Tree or commence a development which may otherwise impact a Public Tree;

without having first obtained a Permit.

3.1.2 Notwithstanding Section 3.1.1, where the Town deems it necessary to prune, remove or otherwise conduct work on a Public Tree, the Town or its contractors may perform such work as deemed necessary to comply without obtaining a Permit.

3.1.3 Notwithstanding any other provision of this Bylaw, in the course of responding to an Emergency, Emergency Personnel may remove or prune a Public Tree without a Permit, where it is determined to be necessary by the Incident Commander, provided that all reasonable measures be taken to preserve the Public Tree. The Incident Commander shall inform the CAO as soon as reasonably possible following the Emergency of the work done to the Public Tree.

3.1.4 Applications for a Permit shall be submitted in writing to the Officer or his/her designate.

3.1.5 All Applications shall include the information required for the Public Tree Disclosure Statement and, where Development or construction will occur within six (6) meters of a Public Tree, or where Development or construction may impact a Public Tree, a Tree Protection Plan must also be included in the submission.

3.1.6 A Tree Protection Plan must:

- a. Be completed in its entirety;
- b. Signed by an Arborist when required by the Officer;
- c. Adhere to the Urban Forest Management Plan Standard Operating Procedures of the Town of Nanton;

- d. Include photographs of the Development site, including all Public Trees that are located within six (6) meters of the property line where the proposed Development will take place;
 - e. Include the location of all Public Trees inside the Development area, and within six (6) meters surrounding the property where the proposed Development will take place;
 - f. Include a full description of all Public Trees, including but not limited to the species, diameter at one and four tenths meters (1.4m) from the ground, height, condition, and any existing flaws, damage, pests and disease;
 - g. Identify the work to the Public Tree being proposed;
 - h. Identify a Tree Protection Zone;
 - i. Identify staging, hoarding, and storage areas for the Development;
 - j. Identify the boundaries of any land disturbance, excavation, trenching, grade changes, routing of utilities, irrigation systems, sidewalks, driveways, access roads, street lighting, fire hydrants and utility boxes;
 - k. Identify construction methods and equipment to be utilized on the Public Place;
 - l. Identify measures to ensure the protection of branches, trunks and roots of the Public Trees during Development;
 - m. Provide contact information for a designated individual responsible for ensuring that Development adheres to the approved Tree Protection Plan and the provisions of this bylaw; and
 - n. Identify an Arborist who shall directly supervise any works directly upon any Public Tree.
- 3.1.7 Upon receipt of the Application and any Tree Protection Plan, the Officer or his/her designate shall review the Application and the Tree Protection Plan and determine whether or not the permit shall be issued, as well as any condition(s) which may be applied to the Permit, including any compensation payable, in the sole discretion of the Officer or his/her designate.
- 3.1.8 The Officer or his/her designate shall consider the Urban Forest Management Policy Standard Operating Procedures in all decisions on Permit Applications.

3.2 **Compensation**

- 3.2.1 Where any Person damages, kills, or removes a Public Tree, with or without a Permit, the Town may, at its sole discretion, require compensation for the appraised value of the Public Tree.
- a. The Town shall use the most current edition of the "Guide for Plant Appraisal" from the Council of Tree and Landscape Appraisers published by the International Society of Arboriculture to determine the appraised value of the Public Tree.
 - b. An amount owing to the Town under this Part is a debt owing to the Town and recoverable by the Town through any lawful means.

- c. Any amount owing under this Part is in addition to any penalty or fine imposed under Section 3.4.

3.2.2 All compensation received under this Section shall be used by the Town for the planting of new Public Trees within the Town of Nanton.

3.3 **Offences**

3.3.1 No Person shall:

- a. Contravene any provision of this Bylaw;
- b. Remove or cause to be removed any part of a Tree Protection Barrier;
- c. Enter into or cause another Person to enter into the area enclosed by a Tree Protection Barrier, except as necessary to carry out an activity approved in a Tree Protection Plan, or to satisfy a condition of a Permit;
- d. Commence any Development or work within a Tree Protection Zone;
- e. Attach, or secure or place by any means, anything in the branches or on the trunk of a Public Tree;
- f. Spray or apply by any means any substance other than water on or near any Public Tree without a Permit;
- g. Cause damage, harm or loss to a Public Tree by any means; or
- h. Fail to adhere to any Permit conditions.

3.4 **Penalties**

3.4.1 Any person who contravenes any provision of this Bylaw is guilty of an offense and is liable to a penalty of \$750.00

3.4.2 Any person who commits a second or subsequent offense under this Bylaw within one (1) year of committing the first offense shall be liable to double the penalty outlined in Section 2.4.1.

3.4.3 Nothing in this Bylaw will be construed as limiting the Town to obtain compensation in addition to any penalty contained herein as outlined in Section 3.2 and maintain an action for loss of or damage to property from or against the Person responsible for causing any damage, harm or loss to a Public Tree.

3.5 **Enforcement**

3.5.1 Where an Enforcement Officer believes on reasonable grounds a Person has contravened any provision of this Bylaw, he or she may:

- a. Issue a Violation Tag;
- b. Issue an order pursuant to Section 545 of the Municipal Government Act; and/or
- c. Issue a Violation Ticket.

- 3.5.2 Where an Enforcement Officer elects to issue a Violation Tag, the Violation Tag shall be in a form approved by the CAO and may be delivered to the Person reasonably believed to have contravened this Bylaw by means of actual service upon the Person or by mailing a copy to the Person at his or her address as it appears on the Town's tax roll or as may otherwise be determined.
- 3.5.3 Where a Violation Tag is issued pursuant to this Bylaw, the Person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offense, pay to the Town the penalty specified on the Violation Tag within seven (7) business days if the Violation Tag is delivered by actual service to the person, or within fourteen (14) business days if served by mail.
- 3.5.4 Where a Violation Tag has been issued and the specified penalty is not paid within the prescribed time, the right of the Person named on the Violation Tag to pay the penalty in lieu of prosecution shall expire and the Enforcement Officer is authorized to issue a Violation Ticket to any Person the Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- 3.5.5 Notwithstanding any provision of this Bylaw, an Enforcement Officer is authorized and empowered to immediately issue a Violation Ticket to any Person whom the Enforcement Officer has reasonable grounds to believe has contravened a provision of this Bylaw regardless of whether a Violation Tag as first been issued.

4. GENERAL PROVISIONS

- 4.1 Nothing contained within this Bylaw relieves a Person from complying with any other applicable municipal, provincial or federal legislation, regulation or bylaw or any requirements of any applicable permit, order, consent, agreement, or other direction.
- 4.2 In the event that any provision of this Bylaw is to any extent invalid or incapable of being enforced, such provision shall be excluded to the extent of such invalidity or unenforceability; all other terms and provisions shall remain in full force and effect.

5. EFFECTIVE DATE AND READINGS

- 5.1 This bylaw comes into effect upon the date of final reading and signing thereof.
- 5.2 Read a **first** time this 18th day of July, 2016.

TOWN OF NANTON

CHIEF ELECTED OFFICIAL

CHIEF ADMINISTRATIVE OFFICER



5.3 Read a **second** time this ____ day of _____, 2016.

TOWN OF NANTON

CHIEF ELECTED OFFICIAL

CHIEF ADMINISTRATIVE OFFICER

5.4 Read a **third** time this ____ day of _____, 2016.

TOWN OF NANTON

CHIEF ELECTED OFFICIAL

CHIEF ADMINISTRATIVE OFFICER

