

**TOWN OF HIGH RIVER
IN THE PROVINCE OF ALBERTA
BYLAW # 4477/2016**

Being a Bylaw of the Town of High River, in the Province of Alberta, to protect, preserve and retain trees in public spaces.

WHEREAS

Section 7 of the *Municipal Government Act*, R.S.A 2000, Chapter M-26, as amended, 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;

AND WHEREAS

Town Council has determined that activities in, on or near a public place can result in damage to trees located in public places.

AND WHEREAS

Town Council has deemed it appropriate to pass a Bylaw dealing with the protection of trees located in public places;

NOW THEREFORE

The Council of the Town of High River, duly assembled, rescinds Bylaw 4223/2009 Tree Protection Bylaw and enacts as follows:

1. TITLE

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

2. DEFINITIONS

In this Bylaw:

- a) "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;
- b) "Application" means the form attached to this Bylaw as Schedule "A";
- c) "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;
- d) "CAO" means the person appointed by Council as Chief Administrative Officer pursuant to the *Municipal Government Act*, R.S.A. 2000, Chapter M-26;
- e) "Council" means the duly elected officials formed to govern the municipal corporation of the Town of High River;
- f) "Development" shall have the same meaning as in the Town's Land Use Bylaw; as such Land Use Bylaw may be amended or replaced by Council from time to time.
- g) "Director" means the "Director of Development Services" who is the individual appointed by the CAO to oversee the Planning and Development department or his/her designate;
- h) "Emergency" means a situation in which there is imminent danger to public safety or property;
- i) "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;

- j) "Enforcement Officer" includes a Bylaw Enforcement Officer or Community Peace Officer appointed by the Town to enforce the terms of this Bylaw;
- k) "Incident Commander" means the member of the Emergency Personnel responding to an Emergency who is in charge of the incident response;
- l) "Permit" means a permit issued pursuant to this Bylaw;
- m) "Person" means any individual, corporation, or society;
- n) "Public Place" means any property which is owned, occupied, controlled or maintained by the Town and includes but is not limited to: parks, green spaces, walkways, medians, boulevards and road rights-of-way;
- o) "Public Tree" means any tree which has any part of its trunk located in a Public Place, as determined by the Director in his/her sole discretion;
- p) "Public Tree Disclosure Statement" means a form filled out by a Development applicant or his/her agent which discloses if there are any Public Trees located within 6 meters of a proposed Development and is attached to this Bylaw as Schedule "B";
- q) "Town" means the Town of High River and its jurisdictional boundaries;
- r) "Tree" means any perennial plant, including large shrubs, having permanently woody main stems or trunks, often growing to a considerable height and includes any plant designated as a tree by the Director, in his/her sole discretion;
- s) "Tree Protection Barrier" means a fence or other protective cordon surrounding a Public Tree to restrict access;
- t) "Tree Protection Plan" means a plan drawing and report as described in Paragraph 13 of this Bylaw;
- u) "Tree Protection Policy" means that Town of High River Policy which is designed to maintain and manage trees within the Town of High River;
- v) "Tree Protection Zone" means the area between the Tree Protection Barrier and the Public Tree wherein Development activities are restricted;
- w) "Violation Tag" means a Town issued notice that alleges an offence and provides a person with the opportunity to pay an amount to the Town in lieu of prosecution for the offence;
- x) "Violation Ticket" means a summons violation ticket issued pursuant to the Provincial Offences Procedure Act, as amended from time to time.

3. GENERAL

- a) 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 or other direction.
- b) 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
- c) Any work which is carried out with respect to a Public Tree must be carried out under the direct supervision of an Arborist.
- d) The Director and the Enforcement Officer are designated officers for the purposes of enforcing this Bylaw.

4. PERMITS

Permit Required

- a) No Person shall:
- i. plant or cause to be planted Trees, shrubbery or other plant material on or within any Public Place excepting the following;
 1. adjacent landowners shall be allowed to plant shallow rooted plants on that strip of land between the sidewalk and the property line, or where there is no sidewalk, the strip of land between the curb and the property line.
 - ii. remove, move, cut or prune or cause to be removed, moved, cut or pruned a Public Tree, shrubbery or other plant material located within any Public Place;
 1. except for grass which is to be maintained by property owners adjacent to the Public Place
 - iii. remove or cause to be removed the bark of any Public Tree;
 - iv. penetrate or cause to be penetrated the bark of any Public Tree;
 - v. damage, disturb, kill or cause to be damaged, disturbed or killed any part of a Public Tree including its branches, trunk, bark and root system; or
 - vi. commence a Development within 6 meters of a Public Tree or commence a Development which may otherwise impact a Public Tree;
- without first having obtained a Permit.

No Permit Required

- a) Notwithstanding Section 7, where the Town deems it necessary to prune, remove or otherwise conduct work on a Public Tree, the Town or company contracted by the Town, may perform such work as deemed necessary to comply without obtaining a Permit.

Emergency Response

- a) Notwithstanding any other provision in 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.
- b) In a situation under Paragraph 9:
- i. every reasonable effort should be taken to save the Public Tree; and
 - ii. the Incident Commander or his/her designate shall notify the Director of the emergency and any work done to the Public Tree as soon as possible.

Permit Applications

- a) Applications for a Permit are to be submitted in writing to the Director or his/her designate.
- b) All Applications must include a Public Tree Disclosure Statement and where Development or construction will occur within 6 meters of a Public Tree or where Development or construction may impact a Public Tree, a Tree Protection Plan must be submitted (see Schedule "C").

Tree Protection Plan

Tree Protection Plan must:

- a) Be completed;
- b) Signed by an Arborist when required by the Director
- c) Adhere to the Tree Protection Policy;
- d) Include photographs of the site including all Public Trees that are located within 6 meters of the property line where the proposed Development will take place;
- e) Indicate the location of all Public Trees located within 6 meters of the property line where the proposed Development will take place;
- f) Include a full description of the Public Trees including but not limited to the species, diameter at 1.4 meters from the ground,

- height, condition and existing flaws, damage, pests and diseases;
- g) Identify what work to the Public Tree is being proposed;
 - h) Identify a Tree Protection Zone;
 - i) Identify staging, hoarding, and storage areas for construction;
 - j) Identify limits of land disturbance, excavation, trenching and grade changes, routing of utilities, irrigation systems, sidewalks, driveways, and construction access roads, changes to 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 that the branches, trunk and roots of the Public Trees are protected during construction; and
 - m) Provide contact information for a designated individual who will be responsible for ensuring that all construction and other work adhere to the approved Tree Protection Plan (see Schedule "C").

Upon receipt of the Application and the Tree Protection Plan, the Director or his/her designate shall review the Application and the Tree Protection Plan and determine whether or not the Permit shall be issued and shall determine what conditions shall be applied to the Permit, including any compensation payable in accordance with Part V, all within the sole discretion of the Director or his/her designate.

The Director or his/her designate shall take the Tree Protection Policy into consideration in all decisions on Permit Applications.

5. COMPENSATION

- a) Where any Person damages, kills, or removes a Public Tree, with or without a Permit, the Town may require compensation for the Public Tree from that Person. For such compensation the Town of High River will use methodology from the Council of Tree & Landscape Appraisers "Guide for Plant Appraisal", most current Edition published by the International Society of Arboriculture.
- b) The Director in his/her sole discretion, shall determine the compensation payable for any Public Tree damaged, killed or removed by any Person who has taken such action either with or without a Permit, in accordance with the "Guide for Plant Appraisal".
- c) 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.
- d) An amount owing to the Town under this Part is in addition to any penalty or fine imposed under Part VII.

6. OFFENCES

- a) No Person shall:
 - i. contravene any provision of this Bylaw;
 - ii. remove or cause to be removed any part of a Tree Protection Barrier;
 - iii. enter into or cause another person to enter into the area enclosed by a Tree Protection Barrier;
 - iv. commence any Development or work within a Tree Protection Zone;
 - v. attach, secure or place by any means, anything in the branches or on the trunk of a Public Tree;
 - vi. spray or apply by any other means any substance other than water on or near any Public Tree without a Permit;
 - vii. damage, cause damage to or destroy a Public Tree through any means including motor vehicle; or
 - viii. fail to adhere to any Permit conditions.

7. PENALTIES

- a) Any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable to a penalty not less than the specified penalty set out in current rate-bylaw.
- b) Notwithstanding Section 21 of this Bylaw, any Person who commits a second or subsequent offence under this Bylaw within one (1) year of committing a first offence under this Bylaw will be liable to not less than double the penalty as set out in Schedule "D" of this Bylaw.
- c) Under no circumstances will any Person contravening any provision of this Bylaw be subject to the penalty of imprisonment.
- d) Nothing in this Bylaw will be construed as limiting the right of the Town to obtain compensation or to commence and maintain an action for loss of or damage to property from or against the Person or Persons responsible for causing any damage, harm or loss to a Public Tree.

8. ENFORCEMENT

Violation Tag

- a) Where a Enforcement Officer believes a Person has contravened any provision of this Bylaw, he or she may:
 - b) a) Issue a Violation Tag;
 - c) b) Issue a order pursuant to Section 545 of the Municipal Government Act, R.S.A. 2000, Chapter M-26; and/or
 - d) Issue a Violation Ticket.
- e) 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.
- f) 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 offence, pay to the Town, the penalty specified on the Violation Tag within seven (7) business days if delivered by actual service to the person and within fourteen (14) business days if served by mail.

Violation Ticket

- a) Where a Violation Tag has been issued and the specified penalty 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 pursuant to Part 2 of the *Provincial Offences Procedure Act*, R.S.A. 2000, Chapter P-34, as amended, or repealed and replaced from time to time, to any Person the Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- b) Notwithstanding Paragraph 28, an Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket to any Person whom the Enforcement Officer has reasonable grounds to believe has contravened or is responsible for a contravention of any provision of this Bylaw regardless of whether a Violation Tag has first been issued. Nothing in the Bylaw shall prevent an Enforcement Officer from immediately issuing a Violation Ticket.

9. ENACTMENT

This Bylaw will take force and effect upon Third and Final Reading..

READ A FIRST TIME THIS DAY 25th OF April, 2016.


MAYOR/DEPUTY MAYOR


CHIEF ADMINISTRATIVE OFFICER

READ A SECOND TIME THIS DAY 25th OF April, 2016.


MAYOR/DEPUTY MAYOR


CHIEF ADMINISTRATIVE OFFICER

READ A THIRD TIME AND FINAL TIME THIS DAY 25th OF April, 2016.


MAYOR/DEPUTY MAYOR


CHIEF ADMINISTRATIVE OFFICER

Schedule "A"
Application Form

Public Tree Work Application for Development Sites
Please complete the form below and submit to Town of High River
309 B Macleod Trail S.W.
High River, Alberta
T1V 1Z5

Authorization for any work done on a Public Tree will not be provided until the Development Permit or Building Permit (Residential House Move or Demolition) has been approved by the Town of High River.

Building Permit Application Number		Development Permit Application Number	
Residential House Move			
Demolition			
Jobsite Address			
Tree Work requested:	Pruning ___ Removal ___ Transplanting ___		
Quantity and species of each Public Tree requested for tree work.			
Reason for tree work			
Alternatives or modifications considered prior to applying			
For removals: Total Dollar value of Public Tree(s) being removed. Appraised values based on the Council of Tree & Landscape Appraisers Guide for Plant Appraisal—Most Current Edition			
<p>A copy of the site plan drawings indicating which tree(s) require work is to be attached to the application.</p> <p>Any tree work that is authorized must be performed under direct supervision of a Certified Arborist</p> <p>*A Tree Protection Plan must be submitted and approved prior to authorization of any tree work.</p>			
Office Use Only			
Approved by		Date:	

Schedule "B"
Public Tree Disclosure Statement

PUBLIC TREE DISCLOSURE STATEMENT Application # _____

OFFICE USE ONLY

Site Address: _____

Legal Description: _____

The Town relies on the information provided in this statement to determine the potential for damage to public trees, which could occur during development and construction activities. A "Public Tree" means any tree which has any part of its trunk located in a Public Place, as determined by the Director in his/her sole discretion.

You are responsible for the accuracy of the information provided in this statement. The questions must be answered to the best of your knowledge based upon diligent inquiries and thorough inspection and review.

When construction or construction related activities occur within six (6) metres of a public tree, applicants shall be required to submit a tree protection plan for approval. The plan must be submitted before any permits will be issued.

- 1. Are there public trees within six metres of the property line? YES NO
- 2. Are you crossing Town owned lands to access the site? YES NO
- 3. Are there public trees within six metres of this access? YES NO
- 4. Are you intending to store material or equipment on Town lands? YES NO
- 5. How do you intend to install underground utilities? YES NO
 - Open cut YES NO
 - Horizontal Boring YES NO
 - Hydro Vac YES NO
 - Other (describe) YES NO

USE BACK OF SHEET IF REQUIRED

THIS FORM IS TO BE SIGNED BY THE TITLED OWNER (S) OF THE PROPERTY OR THEIR AUTHORIZED AGENTS.

I, the owner, authorized agent, state that, to the best of my knowledge, the information provided in this statement is accurate, complete and is based on diligent inquiry and thorough inspection and review of all documentation and other relative information reasonably available and pertaining to the subject property.

DATE

APPLICANT PRINT NAME & SIGNATURE

COMPANY NAME (PLEASE PRINT)

Schedule "C"
Tree Protection Plan

Tree Protection Plan

Overview

Town trees represent a significant investment and are highly valued by residents. The new Tree Protection Bylaw will help preserve and protect trees on Town land.

Town trees have come under increased stress in recent years due to redevelopment and construction activities. These trees are suffering damage as a result and these neighbourhoods are in danger of losing the mature trees that attract people to these areas.

As part of the New Tree Protection Bylaw, a Tree Protection Plan will be required when a development occurs within six (6) meters of a Town owned or controlled tree. The intent of this Tree Protection Plan is to eliminate or reduce damage to Town trees. To verify tree ownership contact the Town of High River Parks Department at 403-652-4042 or fax at 403-601-8699.

Permit application forms will indicate when a Tree Protection Plan is required. On receiving the plan, the Town will review and advise the applicant of any omissions in their plan. The application will not be approved until all of the required information is provided. The Tree Protection Plan will be rejected if information is:

- missing;
- incorrect; or
- the plan does not adequately address the protection of the trees.

It will be the responsibility of the applicant to supply the required information and submit a revised Tree Protection Plan. Once an approved Tree Protection Plan is completed, the Town will issue an approval letter for the Tree Protection Plan.

Tree Protection Plan Requirements

1. Map Requirements

The plan must be submitted with the following map information included, created as per the Alberta Land Surveyors Association of Alberta:

- Minimum scale of 1:100
- Trunk center point for each Public tree
- Outline of the driplines (outer reach of branches) for each tree
- Existing and known proposed utilities
- Retaining walls and grade changes, barriers, both temporary and permanent
- Surface and subsurface drainage
- Tree Protection zones
- Access points for construction traffic that crosses Town lands

2. Tree Inventory

The Tree Protection Plan must include the following information for each Public tree:

- Species identification
- Trunk diameter measured at 1.4 meters above ground(caliper)
- Tree height (to nearest meter)
- A minimum of two (2) photographs of each tree, taken from two different aspects.
- Tree shall be identified as protected, removed, or transplanted

3. Tree Protection

The Tree Protection Plan must show how the Public tree will be protected during construction. The tree's roots, trunk, crown and tree protection zone must be adequately protected for the Town to approve the plan. The plan must include:

- Location of barriers or fences erected to prevent access to the tree protection zone.
- That fencing or barrier material shall be a bright, contrasting color and be durable. Fence posts shall be comparable to metal T-posts or heavier. Fence will be maintained in an upright position throughout the duration of the project.
- A warning sign will be displayed on each fence or barrier. The sign shall be a minimum of 30.5 cm x 40.5 cm and clearly state, "Warning- Tree Protection Zone" and indicate a contact phone number.
- Provide information on how contractors will inform and educate workers in regards to Tree Protection
- Under certain circumstances extra tree protection will be required, for example:
 - Tree canopy is in jeopardy of being damaged;
 - Extreme soil compaction adjacent to tree protection zone;
 - Grade changes adjacent to tree protection zone.
 - Extra protection may include the following:
 - A tree watering schedule when development is to last more than two weeks or more
 - Mulch- untreated wood chips shall be spread to a 5cm (2 inch) depth, at least 5cm (2 inch) from the trunk of the tree; out to the edge of the Tree Protection Zone.

4. Tree Transplant Requirements

Where it is not practical to retain trees, transplanting should be considered as an alternative. The trees that are to be transplanted have to be identified in the Tree Protection Plan.

To qualify for transplanting the following conditions must be met:

- The Public tree must be 10 cm (4 inches) or less measured at 1.4 meters above the ground
- Have a root ball size of 25 cm to 3.8 cm of trunk caliper (10 inches to 1.5 inches of trunk caliper), evenly established on all sides from the centerline of the trunk
- Trees are to be in good health

Applicant will be responsible for the cost of hiring a Town approved contractor for the transplant process.

Trees are to be planted according to L.A.N.T.A. specifications.

5. Damage to Trees

The permit holder shall notify the Town of High River within two working days of any suspected damage to trees resulting from their development disturbance.

6. Tree Removal Requirements

The removal of a Public Tree may only be undertaken with the written permission of the Town of High River, Parks Department. Trees to be removed must be identified in the Tree Protection Plan and reasons for the removal must be stated. A brief analysis of the feasibility of alternatives to tree removal must be included. The applicant will be responsible to compensate the Town for Public trees removed.

Some alternatives that applicants should consider before the removal of a Town tree are:

- Modifying building design
- Modifying sidewalk or driveway design
- Limiting size of excavation
- Alternative shoring
- Alternative excavation techniques
- Trenchless technologies
- Alternative site access

Tree Removal Process

The applicant will be responsible for the cost of hiring a Certified Arborist for the removal process.

7. Compensation

- Damage occurring to the landscape or trees on public lands resulting from construction will require rehabilitation/restoration at the cost of the applicant
 - Trees removed or damaged, as a result of work, shall be compensated as per methodology from the Council of Tree and Landscape Appraisers(published by International Society of Arboriculture)
 - In addition a replacement tree shall be planted at the removal site or at a location determined by the Town of High River Parks Department at a cost to the applicant
 - The applicant can hire a Town approved contractor for the purchasing and planting of the replacement tree at the cost of the applicant; or
 - The applicant can have the Town of High River Parks Department plant a replacement tree at the cost of the applicant.
 - In either case, species of replacement tree and location will be determined by Town of High River Parks Department
- Replacement tree will be planted within next growing season

Glossary of Terms

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. **Protective tree fencing-** means a temporary enclosure erected around a tree to be protected at the boundary of the *tree protection zone*. The fence serves three primary functions: 1) to keep the foliage crown, branch structure and trunk clear from direct contact and damage by equipment, materials or disturbances; 2) to preserve roots and soil in an intact and non-compacted state; and 3) to identify the tree protection zone in which no soil disturbance is permitted and activities are restricted.
3. **Soil Compaction-** means the compression of soil particles that may result from the movement of heavy machinery and trucks, storage of construction materials, structures, paving, etc. within the *tree protection zone*.
4. **Tree Protection Zone-** means the area between the Tree Protection Barrier and the Public Tree wherein Development activities are restricted.
5. **Mulch-** non-living organic and inorganic materials customarily used in landscape design to retard erosion, retain moisture, maintain even soil temperature, control weeds, and enrich the soil.
6. **Public lands-** means any property which is owned, occupied, controlled or maintained by the Town and includes but is not limited to: parks, green spaces, walkways, medians, boulevards and road rights-of-way.
7. **Public tree-** means any tree which has any part of its trunk located in a Public Place, as determined by the Director in his/her sole discretion.
8. **Town-** means the Town of High River and its jurisdictional boundaries.
9. **Removal-** total tree removal such as cutting to the ground or taking action foreseeably leading to permanent damage or death of the tree.
10. **L.A.N.T.A.-** means the Landscape Alberta Nursery Trades Association.