

BYLAW NO. 897

THE FORESTRY BYLAW,

THE COUNCIL OF THE TOWN OF BEAVERLODGE ENACTS AS FOLLOWS:

Definitions

1. In this Bylaw:

“**Town**” means the Town of Beaverlodge;

“**Committee**” means the Communities in Bloom Committee;

“**Council**” means the Council of the Town of Beaverlodge;

“**Dangerous Tree**” means any Tree that:

- (a) is, in the opinion of the Director of Public Works, in danger of falling, breaking, uprooting or collapsing; and
- (b) the Director of Public Works determines that injury to persons or damage to property may occur as a result;

“**Director**” means the Director of Public Works of the Town and anyone acting or authorized by the Director in his or her behalf;

“**Established Tree**” means any Tree that is not a Hazard Tree, Infected Tree, Nuisance Tree, Dangerous Tree, Interfering Tree, Obstructing Tree, or Structurally Damaged Tree;

“**Hazard Tree**” means any Tree that:

- (a) in the opinion of an Officer, has deteriorated to the point that it is capable of supporting beetle habitation and breeding making that Tree a hazard that may promote the spread of disease; and
- (b) has been identified to the Owner as a Hazard Tree by:
 - (i) written notice delivered to the Owner or posted on the Owner’s property; and
 - (ii) a clear marking placed on the Tree by an Officer that distinguishes the Tree from other Trees that are not Hazard Trees or Infected Trees;

“Infected Tree” means any Tree that:

- (a) has been determined by an Officer to be infected with disease; and
- (b) has been identified to the Owner as an Infected Tree by:
 - (i) written notice delivered to the Owner or posted on the Owner’s property; and
 - (ii) a clear marking placed on the Tree by an Officer that distinguishes the Tree from other Trees that are not Infected Trees or Hazard Trees;

“Interfering Tree” means any Tree growing in a location which:

- (a) impedes access or interferes with public maintenance work; or
- (b) is causing or has the potential to cause damage to public property;

if the Director determines that such interference cannot be controlled by cost effective means other than removal of such Tree;

“Nuisance Tree” means any Tree that:

- (a) is infected with an insect pest or Tree disease which may potentially spread and infect other Trees; and
- (b) the Superintendent of Urban Forestry determines that the insect, pest or the disease cannot be controlled by pruning;

“Obstructing Tree” means any Tree that obstructs a sightline for motorists or pedestrians approaching a road intersection or exiting curb crossing, walkway, or alley, if the Director determines that such obstruction cannot be corrected by pruning such Tree;

“Officer” means a person appointed by Town Council for the purpose of enforcing that Town Bylaws;

“Owner” means any person who owns, occupies or controls land within the Town of Beaverlodge;

“**Pest**” includes insect pests, and any other Tree related pest so declared under *The Pest Control Act*;

“**Public Land**” means any real property owned, maintained or controlled by the Town including, but without limiting the generality of the foregoing:

- (a) any real property the Town is granted access to under a Tree planting easement; and
- (b) road as defined in *The Municipal Government Act, 2000*;

“**Public Tree**” means a Tree on Public Land;

“**Sightline**” has the same meaning as in The Beaverlodge Zoning Bylaw;

“**Road**” has the same meaning as in *The Municipal Government Act, 2000*;

“**Structurally Damaged Tree**” means any Tree the structure of which has become damaged to the extent that it may become a Dangerous Tree if the Director determines that repair of such Tree is impossible or impractical;

“**Tree**” means a living woody plant with one or more stems and a minimum caliper width of 2.5 centimetres and a minimum height of 1.5 metres.

Removal of Trees on Public Land

- 2. An Officer may order the removal of any Hazard Tree, Infected Tree or Nuisance Tree on Public Land.
- 3.
 - (1) No person shall remove, cause to be removed, attempt to remove or assist in the removal of any Established Tree on Public Land, except as may be specifically permitted or provided for in this section.
 - (2) The Director may authorize the removal of any Dangerous Tree, Nuisance Tree or Structurally Damaged Tree on Public Land.
 - (3) The Director may authorize the removal of any Interfering Tree or Obstructing Tree on Public Land that is not a Road.

- (4) The Director may authorize the removal of an Established Tree on Public Land upon receiving a written request from an interested person and upon giving due consideration to:
 - (a) the reason for the request and the need for removal of the Tree;
 - (b) any reasonable options that would not require removal of the Tree;
 - (c) the possibility of relocating the Tree; and
 - (d) the historic, environmental or other intrinsic value of the Tree in its current location.
- (5) An interested party who is dissatisfied with a decision of the Director made pursuant to subsection 3(4) may appeal the decision to the Committee.
- (6) All appeals pursuant to subsection 3(5) must be made in writing and be submitted to the Town Clerk's Office within 14 days of receiving notice of the Director's decision.
- (7) If the Director or the Committee orders the removal of an Established Tree pursuant to this section, the party requesting the removal shall pay:
 - (a) the costs of removal and relocation of the Tree; and
 - (b) the greater of \$300 or 20% of the inventory cost of the Tree being removed, as determined by the Director in accordance with the most recent standards established by the International Society of Arboriculture.
- (9) For the purposes of this section, "removal" includes stump removal, clean-up and site restoration and "relocation" includes all necessary measures required to remove, transport and re-plant the Tree at another location."

Protection of Public Trees

4. (1) No person other than the Director shall:
 - (a) plant a Public Tree.
 - (b) damage, disturb, prune or remove any Public Tree.
 - (c) attach any notice, bill, poster, sign, wire, rope, cord, nail or other object to or around any Public Tree.

- (d) 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.
 - (e) remove or interfere with any protective barrier, structure or device on or around any Public Tree.
 - (f) commence or continue any work or activity which damages or interferes with the root system or upper structure of any Public Tree.
 - (g) construct any walkway, driveway or paving within a distance of 0.5 metres from the base of any Public Tree for every 10 centimetres of diameter of the trunk at a point 100 centimetres off the ground.
 - (h) construct, alter, demolish or otherwise carry out any work at or around any Public Tree without first having constructed a substantial protective barrier around such Tree in accordance with the provisions of the Urban Forestry Management Strategy Tree Protection Section.
- (2) The Director, or anyone acting or authorized by the Director on his or her behalf, may authorize the activities in subsection 4(1) with regard to a Tree that impedes access or interferes with maintenance of public works that is carried out by the Town or its agents on an emergent basis.

Pesticides

- 5. No person shall apply or administer any pesticide to a Public Tree unless the pesticide has been expressly approved in writing by the Director.
- 6. No person shall apply or cause to be applied any pesticide to a Public Tree, in the course of their employment or for monetary gain, without first attending an orientation seminar prescribed by the Director.

Trees on Privately Owned Property

- 7. An Officer may order the removal of any Hazard Tree or Infected Tree upon private property.
- 8. An Officer may enter upon any land and into any premises other than a dwelling-house, for the purpose of exercising the powers conferred by this bylaw.
- 9. No person shall plant any Tree on privately owned property within five metres of any intersection of Roads, or within three metres of a property line that is adjacent to a Road.

10. The Director may order a property owner to remove any Tree planted within five metres of an intersection of Roads, or within three metres of a property line that is adjacent to a Road, or may order the property owner to reduce the height or width of the Tree so as not to impede the sight lines of persons using the adjacent Roads.
11.
 - (1) Every Owner shall ensure that every Tree on his or her property that overhangs a Road shall be pruned so that the branches are at least six metres from the ground.
 - (2) The Director may, by written notice delivered to an Owner or posted on the Owner's property, require the Owner to carry out such work as may be necessary to ensure compliance with subsection (1) within a period of 20 days from the date of the delivery or posting of the notice.
 - (3) If an Owner fails to comply with an Order sent pursuant to subsection (1), the Director may do, or cause to be done, any acts necessary to ensure compliance with subsection (1), and the cost of doing such work is a debt due and owing to the Town by the Owner and may be added to the taxes of the property.

Severability

12. If a Court of competent jurisdiction should declare any section of this bylaw to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the bylaw and it is hereby declared that the remainder of the bylaw shall be valid and shall remain in force and effect.


Penalty Provision

13. Any person who contravenes any provision of the Bylaw is guilty of an offence punishable on summary conviction by a fine in an amount not exceeding:
 - (a) Two thousand (\$2,000.00) Dollars in the case of an individual;
 - (b) Five thousand (\$5,000.00) Dollars in the case of a corporation;or, in default of payment by an individual, by imprisonment for a term of not more than ninety (90) days.

Repeal and Coming into Force

14. This Bylaw comes into force on the day of passage.

READ A FIRST TIME THIS 23 DAY OF FEBRUARY 2009.




Mayor Leona Hanson



Christopher King, Town Manager

READ A SECOND TIME THIS 16 DAY OF MARCH 2009.




Mayor Leona Hanson



Christopher King, Town Manager

READ A THIRD TIME AND PASSED THIS 16 DAY OF MARCH 2009.



Mayor Leona Hanson



Christopher King, Town Manager

ABSTRACT

BYLAW NO. 897

THE FORESTRY BYLAW, 2009

PURPOSE: To regulate Trees in the Town of Beaverlodge.

ABSTRACT: The Bylaw regulates protection, planting and maintenance of Trees in the Town of Beaverlodge and allows the Director of Community Services to order pruning or removal of Trees under certain conditions.

STATUTORY AUTHORITY: Part 1 of Municipal Government Act, 2000.

PUBLIC HEARING: None