

**A BYLAW TO PROVIDE FOR THE MANAGEMENT AND PRESERVATION OF
TREES GROWING ON PUBLIC PROPERTY IN THE TOWN OF ROSTHERN.**

WHEREAS, pursuant to Section 8 of *The Municipalities Act*, Council may pass bylaws for municipal purposes respecting:

- (a) The safety, health, and welfare of people and the protection of people and property;
- (b) of regulating persons, activities, and things in, on, or near public place or a place that is open to the public.

NOW THEREFORE the Council of the Town of Rosthern, in the Province of Saskatchewan, enacts as follows:

Short Title

1. This bylaw may be cited as the "Tree Bylaw".

Definitions

2. (1) In this bylaw,

- (a) "**Boulevard**" means the portion of land lying between the curb and gutter of a street and the adjacent property line, excepting the portion occupied by sidewalk. Where no curb and gutter exist, it is the portion of the land lying between the designated roadway and the adjacent property line;
- (b) "**CAO**" means the Chief Administrative Officer of the Town of Rosthern;
- (c) "**Dangerous Tree**" means any tree that:
 - i. in the opinion of the Manager, in danger of falling, breaking, uprooting, or collapsing; and
 - ii. the Manger determines that injury to persons or damage to property may occur as a result;
- (d) "**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;
- (e) "**Hazard Tree**" means any Elm tree that:
 - i. in the opinion of an Officer, has deteriorated to the point that it is capable of supporting Elm Bark Beetle habitation and breeding making that Elm tree a hazard that may promote the spread of Dutch Elm disease; and
 - ii. has been identified to the Owner as a Hazard Tree by:

(A) written notice delivered to the Owner or posted on the Owner's property; and

(B) a clear marking placed on the Elm tree by an Officer that distinguishes the Elm tree from other Elm trees that are not Hazard Trees or Infected Trees;

(f) **“Infected Tree”** means any Elm tree that:

- i. has been determined by an Officer to be infected with Dutch Elm disease; and
- ii. has been identified to the Owner as an Infected Tree by:

(A) written notice delivered to the Owner or posted on the Owner’s property; and

(B) a clear marking placed on the Elm tree by an Officer that distinguishes the Elm tree from other Elm trees that are not Infected Trees or Hazard Trees;

(g) **“Interfering Tree”** means any tree growing in a location which:

- i. impedes access or interferes with public maintenance work; or
- ii. is causing, or has the potential to cause, damage to public property;

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

(h) **“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 Manager determines that the insect, pest, or disease cannot be controlled by pruning;

(i) **“Obstructing Tree”** means any tree that obstructs a sightline for motorists or pedestrians approaching a street intersection or exiting curb crossing, walkway, or alley, if the Manager determines that such obstruction cannot be corrected by pruning such tree;

(j) **“Officer”** means a person appointed to enforce either *The Pest Control Act* or *The Forest Resources Management Act* and acting under their authority pursuant to the applicable Act, as the case may be;

(k) **“Owner”** means any person who owns, occupies, or controls land within the Town of Rosthern;

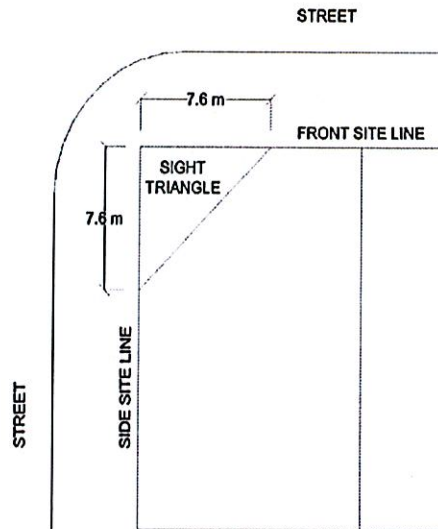
(l) **“Manager”** means the Manager of Municipal Operations for the Town of Rosthern or anyone acting or authorized on his or her behalf;

(m) **“Pest”** includes insect pests, and any other tree-related pest so declared under *The Pest Control Act*;

(n) **“Sight Triangle”** means the triangular area formed within a site by the intersecting front and side site lines at a street intersection, an intersection of a street and a flanking lane, or an intersection of a street and a driveway, and the straight line joining said site lines at points

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which are a measured distance along both site lines. In the case of a street intersection, at a corner site, the measured distance shall be 7.6 m.;



- (o) **“Straddling Tree”** means a tree that is partly on Town Property but whose main stem is more than 50% on private property, as determined by the Manager in their sole discretion, with the measurement of the main stem to be taken at ground level just above the trunk flare from the midpoint of the tree and perpendicular to the curb. For multi-stem trees, ownership is determined by where the majority of the stems lie, using the same technique. Burls or other growth and/or anomalies are not included in the measurement.
- (p) **“Structurally Damaged Tree”** means any tree where the structure of which has become damaged to the extent that it may become a Dangerous Tree if the Manager determines that repair of such tree is impossible or impractical;
- (q) **“Town Property”** means all the land legally owned or controlled by the Town including boulevards, buffer strips, parks, cemeteries, municipal reserve, streets, rights-of-way, and natural stands;
- (r) **“Tree”** means a living woody plant with one or more stem(s), a minimum caliper width of 2.5 centimetres, and a minimum height of 1.5 metres.

Removal of Trees on Town Property

- 3. (1) No person shall remove, cause to be removed, attempt to remove, or assist in the removal of any tree on Town Property, except as may be specifically permitted or provided for in this section.
- (2) The Manager may authorize the removal of any Dangerous Tree, Nuisance Tree, or Structurally Damaged Tree on Town Property.
- (3) The Manager may authorize the removal of any Interfering Tree or Obstructing Tree on Town Property.
- (4) Trees shall not be removed for cosmetic or aesthetic purposes.

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- (5) Subject to the fees set out in Section 5(6), the Manager may authorize the removal of an Established Tree on Town Property upon receiving a completed Form "A" from an interested person and upon giving due consideration to:
- (a) the reason for the request and the need for removal of the tree, including constructing of driveways;
 - (b) any reasonable options that would not require removal of the tree;
 - (c) the possibility of relocating the tree;
 - (d) the historic, environmental, or other intrinsic value of the tree in its current location.
- (6) The person applying for a tree removal as per section 5(5) shall be charged the following fees:
- (a) If the tree can be relocated, \$500.00 to cover the cost of relocation and future maintenance of the tree in its new location.
 - (b) If the tree cannot be relocated, the actual cost of the removal of the tree plus \$200.00 towards the inherent cost of the tree which will be placed in a fund to be utilized for the purpose of planting trees.
 - (c) 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.

Removal of Straddling/Touching Trees

4. (1) Upon receipt of a request from an Owner for maintenance or removal of a tree where it is questionable where the tree lies, the Town will determine ownership of the tree by engaging a land surveyor to locate the property line.
- (a) The Owner shall be responsible for the tree if a property survey finds the tree to be a Straddling Tree in accordance with this bylaw.
 - (b) Section 3 of this bylaw shall apply if it is determined that the tree is on Town Property.

Planting Trees on Town Property

5. (1) The Manager may authorize an Owner to plant a tree on Town Property upon receiving Form "B" and giving consideration to the following:
- (a) The type of tree must be an approved species of tree as per Schedule "A" of this bylaw;
 - (b) The Owner must sign a release acknowledging the following:
 - (i) the Owner's commitment to purchase the tree and to pay for the cost of maintaining the tree;
 - (ii) the Owner's commitment to maintaining the tree until established;
 - (iii) that the Town will retain ownership of the tree.
 - (c) That setbacks of tree planting as per Schedule "B" of this Bylaw be followed.

Protection of Town Trees

6. (1) No person other than the Manager shall:

- (a) damage, disturb, prune, or remove any Town Tree;
 - (b) attach any notice, bill, poster, sign, wire, rope, cord, nail, or other object to or around any Town Tree;
 - (c) alter the grade level or drainage pattern in any manner so as to interfere with the access of water, air, or nutrients to any Town Tree.
 - (d) remove or interfere with any protective barrier, structure, or device on or around any Town Tree;
 - (e) commence or continue any work or activity which damages or interferes with the root system or upper structure of any Town Tree;
- (2) The Public Works Manager may authorize the activities in Section 5(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

7. No person shall apply or administer any pesticide to a Town Tree unless the pesticide has been expressly approved in writing by the Manager.

Trees on Privately Owned Property

8. (1) Residents are encouraged to plant trees on private property in residential areas.
- (2) Trees planted on private property shall adhere to the setbacks provided in Schedule "B" of this bylaw.
 - (3) An Officer may order the removal of any Hazard Tree or Infected Tree upon private property.
 - (4) An Officer may enter upon any land and into any premises other than a dwelling-house, for the purpose of exercising the powers conferred on an Officer pursuant to *The Pest Control Act* or *The Forest Resources Management Act*, as amended.
 - (5) The Manager may order a Property Owner to remove any tree planted within a Sight Triangle of a street, or may order the property owner to reduce the height or width of the tree so as not to impede the Sight Triangle.
 - (6) Every Owner shall ensure that every tree on their property that overhangs a street, including a back alley, shall be pruned so that the branches are at least six meters from the ground.
 - (a) The Manager 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 (6) within a period of 20 days from the date of the delivery or posting of the notice.
 - (b) If an Owner fails to comply with an Order sent pursuant to subsection (6), the Manager may do, or cause to be done, any acts necessary to ensure compliance with subsection (6), 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.
 - (7) If a privately owned tree is broken or uprooted and the tree or portion thereof falls on a Town Property, the owner of the tree shall be responsible for the removal thereof from the said Town Property within five days.

- (a) If the Owner fails to remove the tree within five days, the Town may remove the tree or portions thereof from the Town Property and charge the cost to the Owner.
- (b) In the case where the removal must be undertaken at once for safety reasons, the Parks Manager will advise the Owner of the tree's immediate removal, failing which the Parks Manager will have the tree removed and charge the cost to the owner.

Severability

9. 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.

Penalty Provision

10. Any person who contravenes any provision of the bylaw is guilty of an offence punishable on summary conviction by a fine in accordance with the General Penalty Bylaw.

Repeal and Coming into Force

11. This bylaw comes into force and takes effect on the final passing thereof.

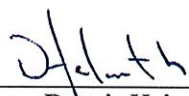
Read a FIRST time this 17th day of May, 2021

Read a SECOND time this 17th day of May, 2021

Read a THIRD time and adopted this 17th day of May, 2021

[SEAL]




Dennis Helmuth, Mayor


Nicole Lerat, CAO



SCHEDULE "A"
APPROVED TREE SPECIES FOR BOULEVARD PLANTING

TREE SPECIES	FEATURES	SIZE (Height, Spread)
Birch, Asian White	Narrow tree suitable for smaller yards; hardier than paper birch; drought tolerant and insect resistant	H: 32 ft S: 10 ft
Elm, American	Large shade tree. Fast growing, upright, vase-shaped tree.	H: 50 feet S: 40 feet
Linden, American Basswood	Attractive, large shade tree with fragrant flowers in late June	H: 50 ft S: 26 ft
Linden, Dropmore	A cross between Little Leaf and American Linden. Good shade tree with wide pyramidal form.	H: 50 ft S: 30 ft
Linden - Greenspire	A neat, compact Linden, widely used for boulevard planting.	H: 40 ft S: 23 ft
Maple, Amur	Small, low-headed ornamental tree with dark green three-lobed leaves.	H: 10-16 ft S: 10-16 ft
Maple, Silver	Attractive, oval-shaped tree with many ornamental attributes. Fast growing and prefers a moist site.	H: 52-65 ft S: 23-35 ft



SCHEDULE "B"
SETBACKS FOR TREE PLANTING

LOCATION	SETBACK
From the Curb (where there is no sidewalk)	3 meters (10 feet)
From the Sidewalk	1.75 meters (6 feet)
From a Utility Includes: Fire Hydrant, Light Standard, Utility Pedestal, Transformer, Water Valve	2 meters (6.5 feet)
From a Light Standard and/or Power Line	4 meters (13 feet)
From a Driveway Edge	1.5 meters (5 feet)
Intersection Street Sight Triangle (See Diagram 1)	7.6 meters (25 feet)
Back Yard Property Line	1.5 meters (5 feet)



Tree Removal Request

Form "A" Bylaw 2021-06

Applicant Information

Name: _____ Date: _____

Address: _____
Street Address

Home Phone: _____ Cell Phone: _____

Tree Information

Tree Location: _____

Species: _____ Height: _____

Reason for Removal Request: _____

Disclaimer and Applicant Signature

I certify that my answers are true and complete to the best of my knowledge. I understand that this application does not guarantee tree removal and assessment and removal of said trees is at the sole discretion of the Town.

Signature: _____ Date: _____

For Office Use Only

Tree Location: _____ Species: _____

Diameter: _____ Height: _____ Condition _____

Removal Cost: _____ Relocation Cost: _____ Replacement Cost: _____

Approved: YES NO Parks Manager
Circle) Comments/Recommendations: _____

Parks Manager's Signature: _____ Date: _____



Tree Planting Request

Form "B" Bylaw 2021-06

Applicant Information

Name: _____ Date: _____

Address: _____
Street Address

Home Phone: _____ Cell Phone: _____

Proposed Location & Tree Information

1. Proposed Tree Species:
 (check one)

- Birch, Asian White
- Elm, American
- Linden, American Basswood
- Linden, Dropmore
- Linden, Greenspire
- Maple, Amur
- Maple, Silver

2. Tree Height: _____
 (Must be a minimum height of 1.5 meters or 5 feet)

3. Proposed Location:
 (Civic Address adjacent to Boulevard): _____

4. Is this location a corner lot? _____
Yes or No

5. Will the proposed tree location conform with the following are the planting setbacks?
 (Mark distance or n/a for not applicable)

	From the Curb (where there is no sidewalk)	3 meters (10 feet)
	From the Sidewalk	1.75 meters (6 feet)
	From a Utility Includes: Fire Hydrant, Light Standard, Utility Pedestal, Transformer, Water Valve	2 meters (6.5 feet)
	From a Light Standard and/or Power Line	4 meters (13 feet)
	From a Driveway Edge	1.5 meters (5 feet)
	Intersection Street Sight Triangle (See Diagram 1)	7.6 meters (25 feet)
	Back Yard Property Line	1.5 meters (5 feet)

Disclaimer and Applicant Signature

I certify that my answers are true and complete to the best of my knowledge. I understand that this application does not guarantee tree planting and assessment and removal of said trees is at the sole discretion of the Town.

I acknowledge that I have read and understood Section 5. (1) (b) of the Tree Bylaw and will comply with the Owner's commitment stated therein.

Signature: _____ Date: _____

For Office Use Only

Tree Location: _____ Species: _____

Date Planted _____

Approved: YES NO Manager
(Circle) Comments/Recommendations: _____

