

# **Town of Rocky Mountain House**

## **Bylaw No. 12/04V**

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**Being a by-law of the Town of Rocky Mountain House, in the Province of Alberta, to protect, preserve and retain trees in public spaces owned or controlled by the Town of Rocky Mountain House.**

WHEREAS Part 2, Division 1, Section 7 of the Municipal Government Act, R.S.A. 2000, c. M-26, authorizes Council to pass bylaws respecting the safety, health and welfare of people and the protection of people and property and respecting people, activities and things in on or near public places and to enforce bylaws; and

NOW, THEREFORE, the council of the Town of Rocky Mountain House hereby enacts as follows:

This Bylaw may be cited as the “Town of Rocky Mountain House Tree Bylaw”

### **DEFINITIONS**

1. In this Bylaw:
  - a. “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;
  - b. “Boulevard Tree” includes trees and shrubs planted on boulevards, lanes, sidewalks, roads, utility right-of ways, Municipal Reserve (MR), Public Open Space (PO), Environmental Open Space (EO), or on any public place;
  - c. “Designated Officer” shall mean a Bylaw Enforcement Officer, Peace Officer or a member of the Royal Canadian Mounted Police or any other person so authorized to act on behalf of the Council of the Town of Rocky Mountain House;
  - d. “Municipal Ticket” means a municipal ticket issued on behalf of the Town for a violation under this Bylaw
  - e. “Private Tree” includes any trees or shrubs planted on private property and are referred to in this by-law in the instance of encroachment on to boulevards, lanes, sidewalks, road or utility right-of ways, Municipal Reserve (MR), Public Open Space (PO), Environmental Open Space (EO), or any other public space;
  - f. “Town” means the Town of Rocky Mountain House;
  - g. “Owner” means the assessed owner of the land directly abutting on the Town boulevard;

- h. “Director” means the Director of Recreation, Parks & Community Services and/or the Director of Engineering and Operations for the Town of Rocky Mountain House or his designate;
- i. “Recreation Operations Supervisor” means Recreation Supervisor or his/her designate;
- j. “Move” means uprooting and transferring a tree from one location to another;
- k. “Pruning” includes the cutting of tree branched, twigs or roots;
- l. “Tree” means any perennial woody plant that normally has one or few upright stems and is maintained as a tree.
- m. Violation Ticket” shall mean a ticket issued pursuant to Part 2 of the Provincial Offences Procedure Act and any regulations there under.

## **GENERAL CONDITIONS / PROHIBITIONS**

### **1. No person shall:**

- (a) remove, move, cut, or prune a public tree or cause a boulevard tree to be removed without the prior written authorization from the Recreation Operations Supervisor; or
- (b) damage or destroy a tree growing on public property; or
- (c) plant trees or shrubbery on town property, without having written authorization from the Recreation Operations Supervisor; or
- (d) tie, wire, rope, mark, or remove the bark of a boulevard tree without written authorization from the Recreation Operations Supervisor; or
- (e) use or caused to be used an object of any kind to penetrate or remove the bark of a boulevard tree without written authorization from the Recreation Operations Supervisor; or
- (f) attach a electrical cord to a public tree; or
- (g) secure bicycle racks, dog chains, clothes lines, guy wires, swings, or tree houses to a public tree; or
- (h) deposit , place, store, or maintain any stone, brick, sand, soil, concrete, vehicle, equipment or other matter or material that may impede the free passage of water, air or nutrients to the roots, of a tree growing on public property; or
- (i) place, apply or spray any substance other than water on or near any public tree without prior written authorization from the Recreation Operations Supervisor

2. Where removal or Pruning of a Public Tree is determined to be necessary by Emergency Personnel responding to an emergency, such tree or part of it may be cut or removed without first obtaining written authorization to do so.
3. The Recreation, Parks and Community Services Director shall be notified within 5 days after the incident by the emergency personnel about the removal or pruning of the tree(s).
4. In the case of permanent damage to a boulevard tree, the person responsible for the damage may be assessed the value of the tree as appraised on the Recreation, Parks & Community Services Standard Tree Evaluation Form, (attached as Appendix A).
5. Recreation, Parks & Community Services shall have the sole right to remove or cause to be removed any boulevard tree which in the opinion of the Recreation, Parks and Community Services Director or authorized designate warrant such removal after (5) days notice by registered mail to the abutting property owners.
6. When a private or public property is at the intersection of two streets or two lanes, the setback of **457cm(15 feet)** needs to be applied to define the site triangle area. Hedges must not exceed **91cm (3 feet)** measured from grade on site triangle. (Attached as Appendix B)
7. (a) Recreation, Parks & Community Services shall have the sole right to remove or cause to be removed, trim and/or prune or cause to be trimmed and /or pruned any boulevard tree or private tree which in the opinion of the Director or authorized designate warrant such work without notifications where the boulevard tree in any way interferes or endangers the lines, poles, conduits, pipes, sewers, traffic control devices, vehicle and pedestrian traffic, or other works of a municipal or other public utility. When the boulevard tree or private tree is adjacent or on private property the Parks, Recreation and Community Services Department will verbally notify the property owner, lessee, occupier or agent of owner when the property, lessee, occupier or agent of owner is onsite.  
  
(b) Where private trees interfere with the lines, poles, conducts, pipes, sewers, traffic control devices, vehicular and pedestrian traffic, or other works of a municipal or other public utility, the Director may send a letter requesting the Owner to take the necessary action to remove, or cause to be removed, trim and/or prune or cause to be trimmed and/or pruned, any private tree within (14) days, by registered mail. Failure to do so may result in the Town or designate of Town carrying out the work and charging back to the Owner.  
  
(c) An Owner of private property shall ensure that the trees or shrubs growing on his property shall be properly trimmed and shall not have any branches projecting over a sidewalk area an elevation of less than **250cm (8 feet)** or over roadways or alleys at an elevation of less than **420cm (14 feet)**

- (d) As set forth by the Recreation, Parks & Community Services, any Town services required as per Section 7 (b), the following fees will be utilized. Each individual staff member will be charged out at \$75.00 per hour and a bucket truck at \$150.00 per hour.

## **SIGNS**

- 8. Any signs installed shall follow the rules of the Land Use Bylaw on private property and over public sidewalks or highways shall be located so that they will in no way interfere with an existing boulevard tree and will not necessitate pruning or thinning in addition to normal practices. Before planting of a boulevard tree the Town will contact the owners of the effected properties for input as to possible conflicts.

## **STORMS**

- 9. (a) Any trees, whether public or privately owned, which must be removed for safety reasons will require removal. Any Owner of privately owned trees encroaching on public property that fail to correct a hazardous situation will be responsible for the costs incurred by Recreation, Parks and Community Services to correct the situation.
  - (b) If a privately owned tree is broken or uprooted and the tree or portions of the tree fall on Town property the Owner of the tree shall be responsible for the removal or cost of the removal within five (5) days. Failing to complete the work would result in the Recreation, Parks and Community Services department completing the work and a charge to the Owner.
  - (c) As set forth by the Recreation, Parks & Community Services, any Town services required as per Section 9 (b), the following fee will be utilized. Each individual staff member will be charged out at \$75.00 per hour and a bucket truck at \$150.00 per hour.

## **CONSTRUCTION & DEVELOPMENT**

- 10. (a) All construction within 4 meters of a Town owned tree requires an enclosed Tree Protection Barrier. The company performing the work would be responsible for the up keep and cost of the Tree Protection Barrier. (Attached as Appendix C).
  - (b) All soil, equipment, and other debris shall be kept outside of the Tree Protection Barrier.

- (c) No person shall remove or cause to be removed any part of a Tree Protection Barrier.

## **PUBLIC UTILITY**

- 11.** In accordance with regulations governing public utilities, a public utility may perform such pruning as necessary to comply with safety regulations and to maintain the operation of their facility provided that:
  - (a) Any pruning to be done by a public utility is the responsibility of the public utility to give the Recreation Operations Supervisor written notice within three days of its intention to prune.
  - (b) The pruning is carried out in accordance with accepted arboricultural standards and practices; and
  - (c) The public utility follows any specific directions of the Recreation Operations Supervisor as to how the work shall be carried out.

## **ENFORCEMENT**

- 12.** Where a Designated Officer has reasonable grounds to believe that a person has contravened any provision of this Bylaw:
  - (a) he or she may serve upon the person a municipal ticket allowing payment of the specified fine as set out in Appendix “D” of this Bylaw, which payment will be accepted by the Town in lieu of prosecution for the offence if paid within 21 days of the date of service; or
  - (b) he or she may issue and serve a violation ticket in accordance with the Provincial Offences Procedure Act, R.S.A. 2000, c. P-34 and amendments thereto, allowing a voluntary payment or requiring a person to appear in court, without the alternative of making a voluntary payment.
  
- 13.** A municipal ticket shall be deemed to be sufficiently served if:
  - (a) served personally on the owner of the property, or left at the owner’s residence; or
  - (b) mailed to the address of the owner of the property.
  
- 14.** 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 the offence continues and any person guilty of such an offence is liable to a fine in the amount not less than that established by this Bylaw for each such day.

**PENALTIES**

**15.** Any person who contravenes any section of this Bylaw is guilty of an offence and is liable to:

- (a) a penalty in the amount specified in Appendix D hereto, or
- (b) a \$100 fine for any offence for which there is no penalty specified.

**16.** The specified penalty for a first offence and any continuation of the offence is the amount shown in Appendix D in respect of this bylaw.

Bylaw 02/02V is hereby rescinded.

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

READ A FIRST TIME IN COUNCIL this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2012.

READ A SECOND TIME IN COUNCIL this \_\_\_\_<sup>h</sup> day of \_\_\_\_\_, 2012.

READ A THIRD TIME IN COUNCIL this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2012.

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Mayor

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Town Manager

## Appendix A-Tree Evaluation Equation

**Pi r<sup>2</sup> x \$20. per inch x species class x condition of tree = tree evaluation**

**Example:**

**Pi x radius 2 38" x \$20 x40% x 40% Tree**

**3.1x 12.25=sq. inches x per inch x (Poplar) x Condition of tree=Value**

**7" Tree divided by 2 = 3.5**

**3.5 x 3.5 = 12.25**

**3.14 x 12.25 = 38 square inches**

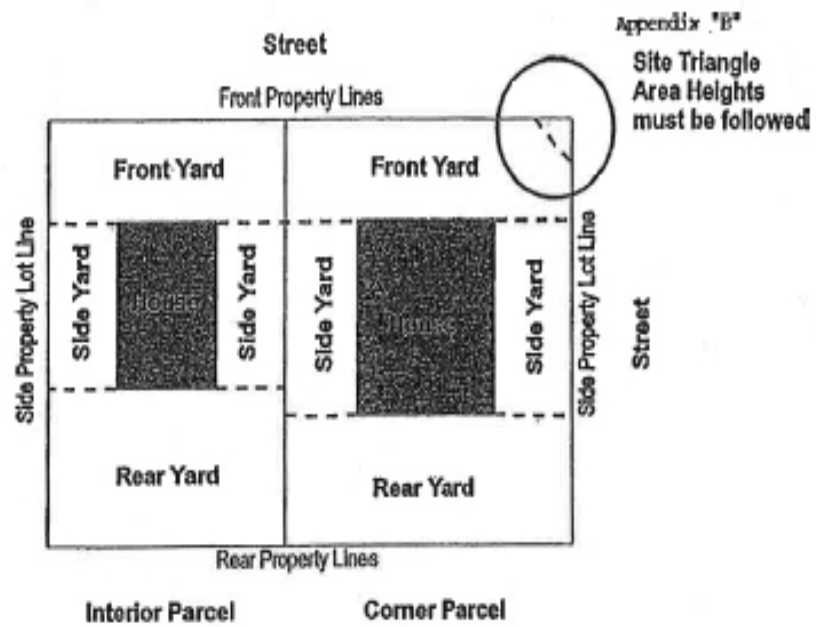
**Note: \$20.00 per square inch is derived from the International Society of Arboriculture**

**Condition of Tree:**

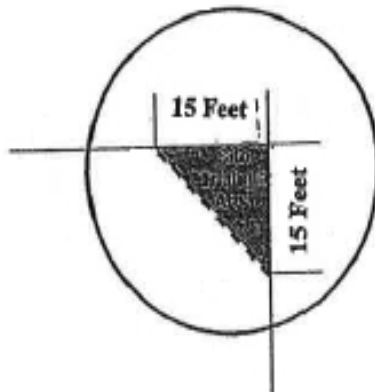
- i. Perfect Specimen**
- ii. Nearly Perfect Specimen**
- iii. Good Specimen**
- iv. Fair Specimen**
- v. Very Poor Specimen**

**Refer to Tree Species Rating Table**

## Appendix B-Setback Measurements

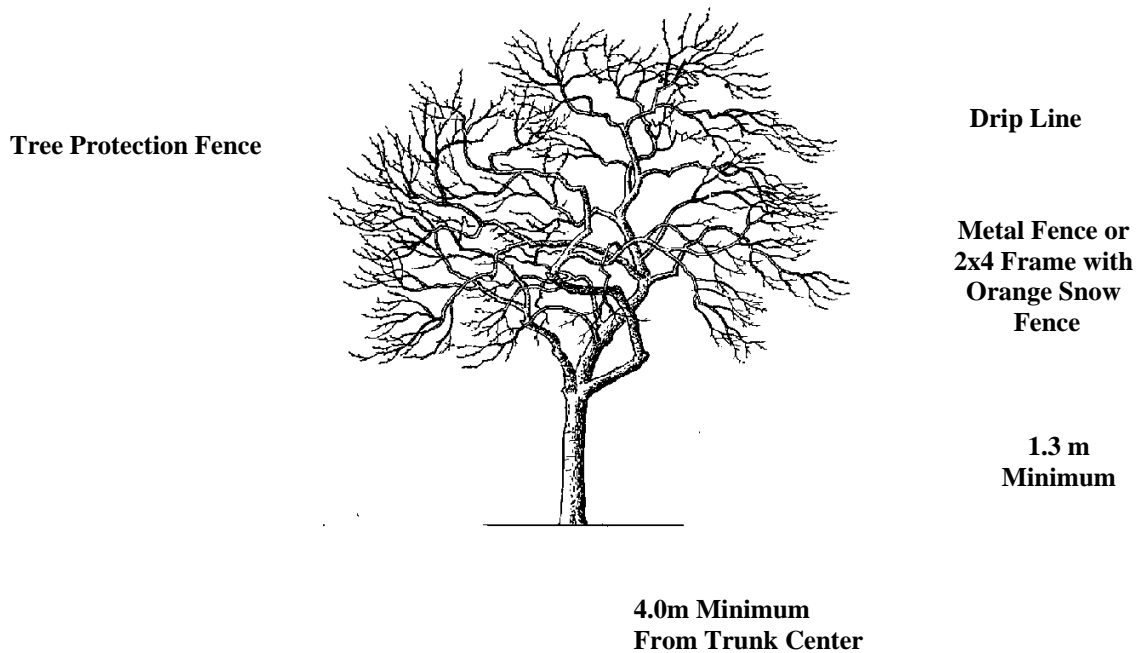


Height - 3' measured from grade on site triangle.





## Appendix C-Tree Protection Diagram



### Notes:

1. The warning sign, a Town of Rocky Mountain House Tree Protection Zone sign will be provided by the Town of Rocky Mountain House.
2. Construction materials, equipment and other debris shall not be stored in the tree protection zone.
3. The fence must be a minimum of 1.3m high.
4. The fence must be a minimum of 4m from the center of the tree trunk.

## Appendix D-Penalties Chart

<b>Section</b>	<b>Charge</b>	<b>Fine amount</b>
1(a)	Remove, move, cut or prune a public tree without authorization	\$300.00
1(b)	Damaged/destroyed tree on public property	\$300.00
1(c)	Plant tree/shrubbery on Town property without authorization	\$300.00
1(d)	Tie, wire, rope, mark or debark of a Boulevard Tree	\$300.00
1(e)	Removing/penetrate bark without authorization	\$300.00
1(f)	Attach electrical cord to a public tree	\$300.00
1(g)	Secure any object to a public tree	\$300.00
1(h)	Deposit any matter/material that impedes flow of water/air/nutrients to the roots of public trees	\$300.00
1(i)	Apply or spray harmful substance to a Boulevard Tree	\$300.00
10(c)	No person shall remove or cause to remove any part of a tree protection barrier	\$300.00

