

SUMMER VILLAGE OF BIRCHCLIFF  
BYLAW NO. 175-14  
TREE BYLAW

A BYLAW OF THE SUMMER VILLAGE OF BIRCHCLIFF  
IN THE PROVINCE OF ALBERTA  
FOR THE PRESERVATION OF TREES ON PRIVATE LAND

WHEREAS Section 7 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended, provides that a Council may pass a bylaw for the safety, health and welfare of people and the protection of people and property;

AND WHEREAS Section 8 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended, provides that a Council may pass a bylaw to prohibit any development, activity, industry, business or thing, until a license, permit or approval has been granted;

AND WHEREAS Summer Village of Birchcliff Council has determined that the substantial pruning or removal of trees on privately owned land should be regulated for the safety, health and welfare of people and the protection of people and property;

AND WHEREAS Summer Village of Birchcliff Council has deemed it appropriate to pass a bylaw dealing with the preservation of trees on privately owned land;

AND WHEREAS population growth in watershed, trees and shrubs are critical to filtering nutrients from ground water prior to release into lake;

NOW THEREFORE, the Council of the Summer Village of Birchcliff, duly assembled, enacts as follows:

**1. Title**

- a) This bylaw may be cited as the "Private Tree Preservation 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) "**CAO**" means the person appointed by **Council** as Chief Administrative Officer pursuant to the **Municipal Government Act**;
- d) "**Council**" means the Council of the Summer Village of Birchcliff;
- e) "**dead, decaying or pose a safety hazard**" means **trees** that have one or more of the following characteristics:
  - i. Dry and lifeless wood that breaks easily;
  - ii. Deep splits through the bark;
  - iii. Lack of leaves on the braches during summer months;
  - iv. Weak branch unions resulting in branches that are not securely attached to the main stem or trunk of a **tree**;
  - v. Signs of rot or decay such as fungi, or soft or crumbly wood; or
  - vi. Uneven growth patterns indicated by lopsided or leans in the main stem or trunk of a **tree**;

- f) “**emergency**” means a situation where there is imminent danger to public safety or property;
- g) “**Enforcement Officer**” means a Bylaw Enforcement Officer or Community Peace Officer appointed by the **Summer Village** to enforce the terms of this bylaw;
- h) “**Municipal Government Act**” means the *Municipal Government Act*, R.S.A. 2000, c. M-26;
- i) “**permit**” means a permit issued pursuant to this bylaw;
- j) “**person**” means any individual, corporation or society;
- k) “**Provincial Offences Procedure Act**” means the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34;
- l) “**remove**” or “**removal**” means to kill, destroy, or remove a **tree** by any means, including, but not limited to, **tree topping**, knocking down or cutting into a **tree**;
- m) “**spiral pruning**” means the thinning of a tree canopy by the selective removal of entire tree limbs or branches;
- n) “**substantially prune**” or “**substantial pruning**” means **tree topping** or pruning more than one-third of the total branches of a tree in one season;
- o) “**Summer Village**” means the Summer Village of Birchcliff;
- p) “**tree**” means any perennial plant, including large shrubs, having woody main stems or trunks, often growing to a considerable height and includes any plant designated as a **tree** by the **CAO or Development Officer**, in his sole discretion;
- q) “**tree topping**” means the pruning of the limbs or branches of a **tree’s** crown to such a degree that the normal canopy and structure of the **tree** are impacted;
- r) “**violation tag**” means a tag or similar document issued by the **Summer Village** pursuant to the **Municipal Government Act** for the purpose of notifying a **person** that an offence has been committed and for which a prosecution may follow; and
- s) “**violation ticket**” means a summons issued pursuant to Part II of the **Provincial Offences Procedure Act**.

### 3. General

- a) This bylaw applies to **trees** on land owned by a **person** other than the **Summer Village**.
- b) The **CAO or Development Officer** and an **Enforcement Officer** are designated officers for the purposes of enforcing this bylaw.
- c) A person is responsible for maintaining and preserving **trees** in the **Summer Village** in accordance with the requirements of this bylaw and any **permit**.
- d) **Spiral pruning** is the preferred method of pruning **trees** to enhance the views of Sylvan Lake.

### 4. Permit Required

- a) No **person** shall **substantially prune** or **remove** a **tree** without a valid **permit** from the Summer Village.

- b) The issuance of a **permit** shall be at the discretion of the **CAO or Development Officer**.
- c) The **CAO or Development Officer** may impose terms and conditions on such **permits**.
- d) The **CAO or Development Officer** or an **Enforcement Officer** may inspect all work performed on **trees** under the terms of this bylaw.

#### 5. Permit Application

- a) Every application for a **permit** shall be submitted to the **CAO or Development Officer** and shall include:
  - i. An **application** detailing the location, number, size and species of **trees** affected by the proposed work;
  - ii. A plan showing the existing **trees** and identifying the **trees** to be **substantially pruned** or **removed**;
  - iii. A statement describing why the **trees** require **substantial pruning** or **removal**;
  - iv. A statement by an **arborist** recommending measures to be taken to ensure the health and protection of the **trees** adjacent to those to be **substantially pruned** or **removed**; and
- b) Any other information that the **CAO or Development Officer** may request in order to determine the implications of the proposed **substantial pruning** or **removal** of **trees** on the water quality of Sylvan Lake, the environment, aesthetics of the lakeshore or any other relevant consideration.
- c) The **Summer Village** is authorized to charge a fee for the processing of an application for a **permit** in accordance with the Fees Bylaw.

#### 6. No Permit Required

- a) Despite Section 4(a) of this bylaw, no **permit** is required for the **removal** or **substantial pruning** of a **tree**, where:
  - i. There is an **emergency**, to the extent necessary to eliminate an immediate danger;
  - ii. The **tree** is **dead, decaying, or poses a safety hazard**;
  - iii. A development permit has been approved, which development permit authorizes the **removal** of **trees**, to the extent approved by the development permit;
  - iv. The work is authorized pursuant to the *Public Works Act*, R.S.A. 2000, c. P-46; or
- b) Despite Section 6(a), a **person** shall advise the **Summer Village** in writing as soon as possible of any **trees removed** or **substantially pruned** without a **permit**.

#### 7. Orders

- a) The **CAO or Development Officer** or designate may issue a written direction requiring a **person** to **remove** or **substantially prune** a **tree** that is **dead, decaying, or poses a safety hazard**.
- b) Where the **CAO or Development Officer** or an **Enforcement Officer** finds that a person is contravening this bylaw, he may issue a written order pursuant to Section 545 of the **Municipal Government Act**.

## 8. Offences

- a) It is an offence to contravene any:
  - i. Provision of this bylaw; or
  - ii. Term or condition of a **permit**.

## 9. Enforcement

- a) Any **person** who contravenes any provision of this bylaw or any term or condition of the **permit** is guilty of an offence and is liable, upon summary conviction, to a penalty as set out in the Fees Bylaw.
- b) The registered owner of any property shall be responsible for all activities on that property and for ensuring that the property is not used in contravention of this bylaw.
- c) An **Enforcement Officer** is hereby authorized and empowered to issue a **violation tag** to any Person whom the **Enforcement Officer** has reasonable grounds to believe has contravened any provision of this bylaw.
- d) A **violation tag** shall be served:
  - i. Upon the **person** personally, or by leaving it with a **person** on the premises who has the appearance of being at least eighteen (18) years of age; or
  - ii. In the case of a corporation or partnership, by serving the **violation tag** personally upon the Manager, Corporate Secretary or other Officer, or a **person** apparently in charge of a branch office; or
  - iii. By mailing a copy to the **person** by registered mail to the address shown on the **Summer Village's** assessment roll.
- e) A **violation tag** shall be in a form approved by the **CAO or Development Officer**, and shall state:
  - i. The name of the **person** to whom the **violation tag** is issued;
  - ii. A description of where the offence has been committed;
  - iii. A description of the offence and the applicable bylaw section;
  - iv. The appropriate penalty for the offence as specified in the Fees Bylaw;
  - v. That the penalty must be paid within fourteen (14) days of the issuance of the **violation tag** in order to avoid prosecution; and
  - vi. Any other information as may be required by the **CAO or Development Officer**.
- f) Where a **violation tag** has been issued, the **person** to whom the **violation tag** has been issued may, in lieu of being prosecuted for the offence, pay to the **Summer Village** the penalty specified on the **violation tag**.
- g) In the event that a **violation tag** has been issued and the penalty specified on the **violation tag** has not been paid within the prescribed time, an **Enforcement Officer** is hereby authorized and empowered to issue a **violation ticket** pursuant to Part II of the **Provincial Offences Procedure Act** to the **person** to whom the **violation tag** was issued.

- h) Notwithstanding the ability of an **Enforcement Officer** to issue a **violation tag**, 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 any provision of this bylaw.
- i) A **violation ticket** issued with respect to a violation of this bylaw may be served upon the **person** responsible for the contravention in accordance with the **Provincial Offences Procedure Act**.
- j) The **person** to whom the **violation ticket** has been issued may plead guilty by making a voluntary payment in respect of the summons by delivering to the Provincial Court, on or before the initial appearance date, the **violation ticket** together with an amount equal to the specified penalty for the offence as provided by this bylaw.
- k) Where a Clerk of the Court records in the court records the receipt of a voluntary payment pursuant to this bylaw and the **Provincial Offences Procedure Act**, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and imposition of a fine in the amount of the specified penalty.

**10. Severability**

- a) All provisions in this bylaw are independent of all other provisions. If any provision in this bylaw are declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this bylaw shall remain valid and enforceable.

**11. Enactment**

- a) This bylaw shall come into force and take effect on the date of final passing.

READ A FIRST TIME this 10<sup>th</sup> day of September, 2014.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Administrative Officer

READ A SECOND TIME this 20<sup>th</sup> day of November, 2014.

READ A THIRD AND FINAL TIME this 20<sup>th</sup> day of November, 2014.

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Mayor

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Chief Administrative Officer

Schedule "A"  
Application Form

Private Tree Work Application

Please complete the form below and submit it to the Summer Villages of Sylvan Lake  
Administration Office located at:

Bay 8, 14 Thevenaz Industrial Trail  
Sylvan Lake AB T4S 2J5

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Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone (home): \_\_\_\_\_ Phone (work): \_\_\_\_\_

Registered landowner (if different from applicant):  
\_\_\_\_\_

Registered landowners mailing address (if different from applicant):  
\_\_\_\_\_  
\_\_\_\_\_

Legal land description: Lot \_\_\_\_ Block \_\_\_\_ Plan \_\_\_\_\_

Tree work requested (please check all that apply):

Substantially prune \_\_\_\_\_

Remove \_\_\_\_\_

Quantity and species of each tree requested for tree work:

Alternative modifications to the trees considered prior to proposed tree work:

For removals, please provide a total dollar value of the tree(s) proposed to be removed  
based on the Council of Tree & Landscape Appraisers Guide for Plant Appraisal, most  
current edition:  
  
\_\_\_\_\_

The following information is required to be submitted with this completed Private Tree Work Application:

- A plan showing the existing tree(s) and identifying the tree(s) to be substantially pruned or removed;
- A statement as to why the trees are proposed to be substantially pruned or removed; and
- A statement by an arborist or another qualified professional recommending measures to be taken to ensure the integrity of the trees adjacent to those proposed to be substantially pruned or removed are not compromised.

Please note that the Chief Administrative Officer may require, at his/her sole discretion, a statement from an arborist or another qualified professional that assesses the implications of the proposed substantially pruning or removal of tree will have on Sylvan Lake water quality, habitat, and aesthetics.

*Please note that the information is collected under the authority of the Municipal Government Act, R.S.A. 2000, c. M-26, and in accordance with the Freedom of Information and Protection of Privacy Act, R.S.A. 2000, c. F-24, as amended (the "FOIP Act"). Information contained in your application may be used to administer and enforce the Summer Village's Tree Preservation Bylaw. If you have any questions about the collection and use of this information, please contact the Chief Administrative Officer of the Summer Village of Birchcliff at (403)887-2822.*