

BYLAW NO. 9957

The Tree Protection Bylaw, 2024

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BYLAW NO. 9957

The Tree Protection Bylaw, 2024

The Council of the City of Saskatoon enacts:

PART I Preliminary Matters

Short Title

1. This Bylaw may be cited as *The Tree Protection Bylaw, 2024*.

Definitions

2. In this Bylaw:
 - (a) **“City property”** means any land owned, leased, controlled or maintained by the City;
 - (b) **“General Manager”** means the General Manager of Community Services or their designate;
 - (c) **“injure”** includes the following:
 - (i) pruning;
 - (ii) applying pesticides, either directly or indirectly to a tree;
 - (iii) applying harmful chemicals, such as gasoline, either directly or indirectly to a tree;
 - (iv) interfering with a tree’s access to water, air or nutrients;
 - (v) removing or interfering with a tree’s protective device;
 - (vi) carving into or otherwise marking the bark of a tree;
 - (vii) a vehicle or other equipment hitting or otherwise coming into contact with a tree;

- (d) **“near a tree”** means within 6 metres of the trunk of a tree, measured from the nearest point of the trunk;
- (e) **“protective device”** means any device or structure used to protect a tree from injury, including anti-compaction devices, barriers and fencing;
- (f) **“tree”**:
 - (i) means any plant that reaches a height of 4.5 metres or more at maturity; and
 - (ii) includes any part of a tree, including its root system;
- (g) **“tree protection plan”** means a plan, in a form approved by the City, for work being undertaken near a tree on City property that:
 - (i) describes the proposed work to be completed, including the nature of the work, timelines for completion and how the proposed worksite will be accessed;
 - (ii) identifies the measures that will be taken to minimize or eliminate injury to or destruction of trees on City property; and
 - (iii) includes any other information or documentation as required by the City;
- (h) **“tree removal costs”** means the costs of removing a tree, including labour, disposal, clean up and area restoration costs, as determined by the City;
- (i) **“tree’s appraised value”** means the monetary value of a tree, as determined by the City;
- (j) **“work”** means any work that will or may result in injury to or destruction of a tree on City property, including the following:
 - (i) any work involving heavy equipment, machinery or vehicles;
 - (ii) construction projects;
 - (iii) building moves and demolitions;
 - (iv) installation of large stones, boulders or other significant landscaping features;

- (v) excavations and significant grade changes.

Purpose

- 3. The purpose of this Bylaw is to protect trees on City property by:
 - (a) prohibiting injury to or destruction or removal of trees on City property without City approval;
 - (b) prohibiting the attachment of items or materials to a tree on City property without City approval;
 - (c) prohibiting the placement or parking of heavy equipment, machinery, vehicles or construction materials on or near trees on City property without City approval;
 - (d) regulating work occurring near trees on City property; and
 - (e) regulating the planting of trees on City property.

Application

- 4.
 - (1) This Bylaw applies to all trees on City property.
 - (2) For the purposes of this Bylaw, a tree is considered to be on City property if 50% or more of its trunk is on City property, as determined by the City.
 - (3) The entirety of a tree on City property is protected by this Bylaw, including any part of a tree on City property that may be located on, over or below private property.

PART II Prohibited Activities

Prohibited Activities

- 5.
 - (1) No person shall, without the prior approval of the City:
 - (a) injure or destroy, or permit injury to or destruction of, a tree on City property;
 - (b) remove, or permit the removal of, a tree from City property;

- (c) attach, or permit the attachment of, any item or material to a tree on City property;
 - (d) place or park, or permit to be placed or parked, heavy equipment, machinery, vehicles or construction materials on or near a tree on City property;
 - (e) plant a tree, or permit the planting of a tree, on City property; or
 - (f) conduct, or permit to be conducted, any work near a tree on City property.
- (2) Notwithstanding subsection (1), prior approval of the City is not required with respect to the following:
- (a) trees in back lanes;
 - (b) trees in areas that are subject to a plan that:
 - (i) has been approved by the General Manager; and
 - (ii) outlines specific tree protection, management and replacement measures specific to the area;
 - (c) minor landscaping such as hand digging or mowing;
 - (d) any work or persons that cannot be regulated by this Bylaw due to the application of superseding federal or provincial legislation;
 - (e) the temporary placement of items such as extension cords, lights or decorations on a tree between the months of October and March, inclusive, so long as doing so does not create a safety hazard or cause injury to a tree;
 - (f) the placement or parking of heavy equipment, machinery, vehicles or construction materials on or near a tree if the equipment, machinery, vehicles or materials are placed on a driveway, street or paved path;
 - (g) the clearing of tree roots from sewer lines.

**PART III
Approvals and Permits**

Planting Trees on City Property

6. (1) A person may apply to the City for approval to plant a tree on City property.
- (2) In reviewing applications to plant a tree, the City may consider any factor it considers relevant, including the following:
 - (a) appropriateness of the proposed planting site and species of tree;
 - (b) distance from infrastructure, including other trees;
 - (c) the long-term costs of maintaining the tree.
- (3) The City may attach any terms or conditions it considers appropriate to an approval to plant a tree on City property, such as a requirement to water the tree for a specified period of time.
- (4) A person who receives an approval to plant a tree on City property must comply with any terms or conditions of the approval.
- (5) Any tree that is planted on City property immediately becomes subject to this Bylaw, regardless of whether the tree was planted with or without City approval.

Permits to Work Near Trees on City Property

7. (1) Prior to working or permitting work near a tree on City property, a person shall, unless otherwise exempt by the City or this Bylaw, apply to the City for a permit to work near a tree on City property.
- (2) A permit to work near a tree on City property may be issued upon:
 - (a) submission of an application, including a tree protection plan, that is satisfactory to the City;
 - (b) payment of, or agreement to pay, any required costs that may be applicable, as determined by the City, including the following:
 - (i) a deposit;

- (ii) tree removal costs;
 - (iii) an amount equivalent to a tree's appraised value;
 - (iv) tree replacement or relocation costs, including costs of labour and costs to establish a tree, as determined by the City;
 - (v) costs to prune an injured tree;
 - (vi) an amount reflecting the decrease, as determined by the City, in a tree's appraised value as a result of injury; and
 - (c) submission of any other information or documentation, such as proof of insurance, as may be required by the City.
- (3) The City shall provide written reasons to a person whose application for a permit is denied.
- (4) A permit holder must notify and obtain approval of the City in the event there is a change to the nature or scope of the work to be conducted that was originally approved by the City.
- (5) The City may attach any terms or conditions it considers desirable to a permit, including the following:
- (a) a requirement to comply with a tree protection plan, which may include a requirement to install protective devices;
 - (b) a requirement to adhere to City specifications and procedures relating to tree protection.
- (6) A person who receives a permit pursuant to this section must comply with any terms or conditions of the permit.
- (7) In the event a tree is injured by a permit holder without the prior approval of the City, the permit holder shall pay to the City any costs relating to the injured tree, including an amount reflecting the decrease, as determined by the City, in the tree's appraised value as a result of the injury.
- (8) In the event a tree is destroyed by a permit holder without the prior approval of the City, the permit holder shall pay to the City tree removal costs, costs of tree replacement as determined by the City and the tree's appraised value.

Permits May Be Revoked or Amended

8. (1) The City may revoke or amend a permit issued pursuant to section 7 where a permit holder:
 - (a) fails to comply with any provision of this Bylaw;
 - (b) fails to comply with a term or condition of their permit;
 - (c) gave false or misleading information in an application for a permit; or
 - (d) changes the nature or scope of the work from what was originally approved by the City.
- (2) The City may additionally amend a permit where, due to material changes in circumstances or new information that was not known at the time the permit was issued, it is determined that the initial permit's terms or conditions are not affording trees on City property with adequate protection.
- (3) The City may revoke or amend a permit regardless of whether the permit holder has been charged with or convicted of an offence under this Bylaw.
- (4) The City shall provide written reasons to a person whose permit is revoked or amended.

Right to Appeal Permit Decisions

9. (1) A person may, in accordance with the requirements of this section, appeal the City's decision to deny, amend, revoke or impose terms or conditions on a permit.
- (2) A person may not appeal a City's decision to use a particular formula to determine a tree's appraised value or the decrease in a tree's appraised value as a result of injury.
- (3) An appeal pursuant to subsection (1) may be made to the Environmental Management Appeal Board.
- (4) A notice of appeal must:
 - (a) be in a form approved by the City;
 - (b) be filed with the Environmental Management Appeal Board and served onto the City within 30 days of the date of the notice of the City's decision; and

- (c) set out the reasons for the appeal and the material facts upon which the appeal is based.

PART IV Administration and Enforcement

City May Remedy Contraventions

- 10. (1) The City may remove from City property:
 - (a) any item or material that has been attached to or placed near a tree in contravention of this Bylaw, and charge the person who attached or placed, or permitted the attachment or placement of, the item or material with the costs of removal and disposal; and
 - (b) any tree that was planted in contravention of this Bylaw, and charge the person who planted or permitted the planting of the tree with tree removal costs.
- (2) Where a person is required to install a protective device and has failed to do so, the City may install the required protective device and charge the person who was required to install the protective device with all costs associated with the installation.
- (3) The City may move or relocate any heavy equipment, machinery, vehicles or construction materials that has been placed or parked on or near a tree on City property in contravention of this Bylaw.

Order to Remedy Contravention

- 11. (1) If the City finds that a person is contravening this Bylaw, the City may issue a written order pursuant to section 328 of *The Cities Act* requiring the owner or occupant of the land to which the contravention relates to remedy the contravention.
- (2) Without limiting the generality of subsection (1), an order may require persons to do either or both of the following:
 - (a) adjust working practices in a specified manner to help reduce or eliminate potential injury to or destruction of trees on City property;
 - (b) cease working or permitting other persons to work near a tree on City property.

Appeal of Order to Remedy Contravention

12. A person may appeal an order made pursuant to section 11 by:
 - (a) filing a notice of appeal, including grounds for the appeal, with the Environmental Management Appeal Board in accordance with section 329 of *The Cities Act*, and
 - (b) serving a copy of the notice of appeal on the City.

Administration and Enforcement

13. (1) The administration and enforcement of this Bylaw is delegated to the General Manager.
- (2) The General Manager is authorized to further delegate the administration and enforcement of this Bylaw, in whole or in part, to other employees of the City.

Entry Onto Private Land

14. (1) The City may enter onto private land for any purpose related to the protection of trees on City property, including the following:
 - (a) ensuring compliance with this Bylaw;
 - (b) ensuring compliance with the terms or conditions of a permit issued pursuant to this Bylaw;
 - (c) removing items or materials that have been attached to a tree on City property, including removing items that have been lawfully attached pursuant to clause 5(2)(e) when necessary for maintenance or other purposes;
 - (d) maintaining or removing a tree on City property;
 - (e) evaluating a tree's health or assessing whether a tree on City property poses a hazard.
- (2) Inspections carried out pursuant to this Bylaw shall comply with section 324 of *The Cities Act*.

PART V
Offences and Penalties

Offences and Penalties

15. (1) No person shall:
- (a) contravene or fail to comply, or permit another person to contravene or fail to comply, with any provision of this Bylaw;
 - (b) contravene or fail to comply, or permit another person to contravene or fail to comply, with an order made pursuant to this Bylaw;
 - (c) contravene or fail to comply, or permit another person to contravene or fail to comply, with any term or condition of an approval or a permit;
 - (d) hinder or obstruct, or attempt to hinder or obstruct, a person lawfully carrying out the administration or enforcement of this Bylaw; or
 - (e) give false or misleading information in an application for an approval or a permit.
- (2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction:
- (a) in the case of an individual, to a fine of not more than \$10,000.00 and, in the case of a continuing offence, to a further fine of not more than \$2,500.00 for each day during which the offence continues; and
 - (b) in the case of a corporation, to a fine of not more than \$25,000.00 and, in the case of a continuing offence, to a further fine of not more than \$2,500.00 for each day during which the offence continues.
- (3) In addition to the penalties set out in subsection (2), a judge or justice of the peace may order a person to pay additional costs related to the offence committed, including the following:
- (a) costs to prune an injured tree;
 - (b) tree removal costs;
 - (c) an amount equivalent to a tree's appraised value or an amount reflecting the decrease, as determined by the City, in a tree's appraised value as a result of injury;

- (d) tree replacement or relocation costs, including costs of labour and costs to establish the tree, as determined by the City;
- (e) costs to install or replace protective devices.

Failure to Comply with Order to Remedy Contravention

16. A conviction for failing to comply with an order to remedy a contravention does not relieve the person convicted from complying with the order, and the convicting judge or justice of the peace may, in addition to any fine imposed, order the person to comply, within a specified time, with the order.

Notice of Violation Offences

17. (1) The City may issue a notice of violation to any person who has, in contravention of this Bylaw:
- (a) attached or permitted the attachment of any item or material to a tree on City property;
 - (b) placed or permitted the placement of heavy equipment, machinery, vehicles or construction materials on or near a tree on City property;
 - (c) removed or interfered with, or permitted the removal of or interference with, a protective device;
 - (d) failed to install a protective device as required;
 - (e) pruned a tree on City property;
 - (f) applied pesticides or harmful substances directly or indirectly to a tree on City property; or
 - (g) planted a tree on City property.
- (2) The following procedure applies to notices of violation issued pursuant to subsection (1):
- (a) the notice of violation must require the recipient of the notice to pay to the City the applicable minimum penalty set out in section 18;
 - (b) the fine may be paid:

- (i) in person, during regular office hours, to a cashier located at City Hall, Saskatoon, Saskatchewan;
 - (ii) by deposit, at the depository located at the main entrance to City Hall, Saskatoon, Saskatchewan; or
 - (iii) by mail, addressed to Corporate Revenue, City Hall, 222 – 3rd Avenue North, Saskatoon, Saskatchewan, S7K 0J5;
- (c) if the fine is paid before the date when the person contravening this Bylaw is required to appear in court to answer the charge, the person shall not be prosecuted for the offence;
- (d) the amount of the fine shall be discounted to \$50.00 for a first offence if paid within 14 calendar days of the date of the notice of violation;
- (e) the date of payment shall be determined as follows:
- (i) for payment in person, the date of payment shall be the date payment is received by the City;
 - (ii) for payment by deposit, the date of payment shall be the date payment is deposited in the depository at City Hall;
 - (iii) for payment by mail, the date of payment shall be the post marked date on the remittance;
- (f) notices of violation that have been cancelled or dismissed by the court shall not be counted toward calculating whether an offence is a first, second, third or subsequent offence.

Minimum Penalties

18. (1) Where a person contravenes any provision of this Bylaw for which a notice of violation may be issued, the minimum penalty is as follows:
- (a) for a first offence, \$100.00;
 - (b) for a second offence, \$250.00;
 - (c) for a third or subsequent offence, \$500.00.
- (2) Where a person fails to comply with an order made pursuant to section 11 of this Bylaw, the minimum penalty is as follows:

- (a) for a first offence, \$500.00;
- (b) for a second offence, \$750.00;
- (c) for a third or subsequent offence, \$1,000.00.

PART VI
Application of Other Bylaws and Coming Into Force

Application of Other Bylaws

19. In the event of a conflict between this Bylaw and another bylaw, the bylaw that affords the most protection prevails.

Coming into Force

20. This Bylaw comes into force on the day of its final passing.

Read a first time this _____ day of _____, 2024.

Read a second time this _____ day of _____, 2024.

Read a third time and passed this _____ day of _____, 2024.

Mayor

City Clerk