

## BYLAW NO. 474-08

### A BYLAW OF THE VILLAGE OF MARWAYNE IN THE PROVINCE OF ALBERTA

#### to authorize and regulate the planting, care, maintenance, protection, preservation and removal of public trees on Village property

**WHEREAS** it is important to affirm that trees on Village Property are “living” assets owned by the Village of Marwayne and maintained as a legacy for the citizens of the Village of Marwayne;

**WHEREAS** it is important to provide for the management, improvement and operation of urban trees and forests;

**WHEREAS** to address public involvement in tree maintenance

**AND WHEREAS** trees provide benefits including: improvement of air quality; absorption of carbon dioxide; climate moderation and energy conservation; storm water retention; wildlife habitat; aesthetics and general improvement of quality of life;

**AND WHEREAS** the Municipal Government Act, R.S.A. 2000 Chapter M-26 provides that Council may pass bylaws for regulating people, activities and things in public places that are open to the public;

**NOW THEREFORE** by the authority of the Council of the Village of Marwayne, in the Province of Alberta, Council enacts the bylaw as follows:

1. This Bylaw may be referred to as the Public Tree Bylaw
2. In this Bylaw:
  - a. **“Boulevard”** means that strip of land between the curb and the sidewalk and between the sidewalk and the property line; or where there is no sidewalk, the strip of land between the curb and the property line, or where there is no curb, the strip of land between the near edge of the road and the property line
  - b. **“CAO”** means the Chief Administrative Officer
  - c. **“Pruning”** means the removal of specific branches for the purpose of preserving the health and appearance of a tree and for public safety
  - d. **“Public Tree”** includes any tree which has any part of its trunk located on Village property
  - e. **“Village”** means the Village of Marwayne or, where the context requires, the area comprised within the boundaries of the village as it may exist from time to time while this Bylaw is in force
  - f. **“Village Property”** means all land owned, controlled or maintained by the Village including parks, green spaces, boulevards, buffer strips, streets, right-of-way and natural stands

#### **General Provisions**

3. The Village maintains the exclusive right and responsibility for planting, removing, pruning and protecting any and all boulevard trees and/or shrubs on Village Property. The only exception to this principle will in those instances where a development plan requires the developer to plant the boulevard trees. In these instances, the developer will be required to follow the guidelines contained within this policy.

## **Public Tree Planting**

4. Specifications governing the placement of boulevard trees will follow the provisions of Schedule A.
5. Any person who wishes to plant a tree on Village Property, making it a Public Tree by definition, must apply to the CAO for permission to do so. Approval by the CAO will include the planting location, species, size and condition. Adherence to the standards referenced in Schedule A are required. Written authorization to plant trees on Village property does not relieve a person from obtaining any other approvals which may be required under any other regulation.
6. A person who has planted a Tree on Village Property has the obligation to provide care and maintenance of that tree.
7. Boulevard trees on any given block will be planted in a straight line parallel to the street curb.
8. In line with the Municipal Development Plan, the Village will require residential developers to provide at least two trees per internal lot and five trees per corner lot, to be planted in the front yard, boulevard or street right of way.
9. In line with the Municipal Development Plan, the Village will require industrial and commercial developers to provide at least five trees planted along the boulevard or an alternate location deemed suitable by Village Council.
10. If the Village is required to plant under the terms of a specific development agreement, the Village will not plant until the lot is improved, all underground structures and services have been installed, and the boulevard is finish graded.

## **Maintenance**

11. The Village is responsible for the ongoing maintenance of all trees/shrubs that are located on Village property. In order to avoid contact with vehicular/pedestrian traffic and municipal equipment use, all branches on boulevard trees below the height of 2.3 meters will be removed. The only exception to this will be on designated truck routes, where the boulevard tree branches will be removed below the height of 4.2 meters.
12. The person who planted the Tree is authorized to care for and maintain their Public Tree. However, the Public Works Foreman is also authorized to care for and maintain all Public Trees. Care and maintenance includes: pruning, fertilizing, providing support systems, and implementing preventative measures to protect Public Trees from insect or disease problems.
13. The CAO or Public Works Foreman may remove, trim or otherwise dispose of a Public Tree or authorize the removal, trimming or disposal of any Public Tree if in the opinion of the CAO or the Public Works Foreman the tree:
  - a. constitutes a hazard to life or property
  - b. is infected by disease or injurious insects
  - c. interferes with overhead utility lines
  - d. to facilitate emergency workFor all other circumstances, Council approval is required. Council will use section 23 in making their decision.
14. An abutting landowner or occupant and public utilities have permission to prune small branches on a Public Tree in accordance with the Tree Pruning Guidelines in Schedule B, or to have a qualified arborist prune the branches or roots of a Public Trees.

## **Protection**

15. Tree safety can become an issue because of physical damages, rot and disease. The Village is responsible for ensuring, inasmuch as is reasonably practical, the safety of all trees and shrubs located on Village property.

16. The Village expects residents, contractors and agencies working near or carrying on any operation near a tree on Village property to take reasonable precautions to prevent damage to such trees.
17. No person shall attach any object including electrical cords to a public tree.
18. No person shall remove the bark of any public tree or cause the bark of a public tree to be removed without the prior written authorization from the CAO.
19. No person shall use or cause to be used an object of any kind to penetrate the bark of a public tree without the prior written authorization from the CAO.
20. No person shall put any thing on the branches of a public tree or cause anything to be put on the branches of a public tree. Except a person may place strings of lights in a public tree during the months of October, November, December, January, February and March so long as doing so does not offend any regulation respecting the location of electrical cords or create a safety hazard.
21. No person shall place, apply or spray or cause to be placed, applied or sprayed any substance other than water on or near any public tree without prior written authorization of the CAO.

### **Public Tree Removal**

22. The Village reserves the right to remove any tree/shrub that is located on Village property.
23. Trees/shrubs will only be removed due to one of the following:
  - a. The tree is deemed to be dangerous to public safety or property due to its:
    - i. Location
    - ii. Physical condition – e.g. broken limbs
    - iii. Health – e.g. severe rot or pest infestations
    - iv. Interference with overhead utility lines
  - b. the tree is no longer viable to maintain, or which , for any reason, constitute a hazard or a potential hazard to the public
  - c. to facilitate emergency work
  - d. any public tree planted or growing on Village property contrary to the provision of this Bylaw or contrary to any Council-approved agreements
  - e. other circumstances will be evaluated on their own merits.
24. No person shall remove, move or cut a Public Tree or cause a Public Tree to be removed, moved, or cut without prior written authorization from Council. Exception for the Public Works Foreman and the CAO are made in section 11 and emergency personnel in section 25.
25. 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. The emergency personnel shall notify the CAO of the emergency and work done on the public tree as soon as possible.
26. Any person who accidentally, negligently or willfully damages a Public Tree shall reimburse the Village for the cost of treatment. Alternatively, and with the CAO's written authorization, the person who caused the damage may cause the Public Tree to be repaired by a qualified arborist, and shall in those circumstances bear the cost of repairs, materials and labour.
27. Where a Public Tree is irreparably damaged, whether accidentally, negligently or willfully, (as determined by the CAO in his or her sole discretion), the person who caused the damage must replace the tree.

### **Offences**

28. Any person who contravenes any provision of the bylaw or the regulations is guilty of an offence.
29. All violations under this bylaw shall be constituted as separate offences and treated as such.

30. Except as otherwise provided in this bylaw, a person who is guilty of an offence under this bylaw or the regulations for which a penalty is not otherwise provided is liable for each offence to a fine of not more than \$10,000.00 or imprisonment for not more than 1 year, or both, and in default of payment to imprisonment for a term not exceeding 1 year.
31. A person who is guilty of an offence under this bylaw is liable upon summary conviction to a fine of:
- a. for a first offence, direct costs for replacement or repair of a damaged tree and a fine, in default of payment to imprisonment for term of not more than 30 days, and
  - b. for a second or subsequent offence, direct costs for replacement or repair of the damaged tree and a fine, in default of payment to imprisonment for a term of not more than 60 days.
32. Where a Bylaw Enforcement Officer has entered a specified penalty as per Schedule “C”, and a defendant wishes to plea guilty, he/she may make a voluntary payment in respect to an offence, by delivering the municipal tag, violation ticket, or summons together with an amount equal to the specified penalty for the offence as provided for in Schedule “C”, to the Village office or a Provincial court as identified on the violation ticket.

### **Violation Notices**

33. Where a Bylaw Enforcement Officer or other person authorized to carry out the provisions of this bylaw believes that a person has contravened any provisions of this bylaw he may serve upon such person a notice, or form of intention to prosecute by way of municipal tag, Provincial Violation Ticket, or by ways of a summons to appear in court. The notice shall set out the name of the offender, time, location and date of offence, briefly describing the nature of the offence and the section, applicable penalty and the court date on which the accused has the option of appearing to enter a plea.
34. A notice, ticket or summons shall be deemed to have been sufficiently served if:
- a. served personally on the accused, or
  - b. served by register mail, or
  - c. left at the accused usual place of residence with an inmate thereof who appears to be at least sixteen (16) years of age.

READ A FIRST TIME THIS 24<sup>th</sup> DAY OF NOVEMBER, A.D. 2008,  
READ A SECOND TIME THIS 24<sup>th</sup> DAY OF NOVEMBER, A.D. 2008,  
READ A THIRD TIME AND FINALLY PASSED THIS 24<sup>th</sup> DAY OF NOVEMBER, A.D.  
2008,

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Mayor

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Administrator

## Schedule A

The width of the existing/planned boulevard, the relation to overhead utilities, underground utilities and the soil conditions will govern the species of tree selected for planting on all Village property. A mix of species is essential to reduce the chances of insect epidemics and to guard against the spread of disease as trees are trimmed.

Spacing between trees shall reflect the chosen tree species' ultimate width, its conditions, and design criteria. Spacing shall be chosen to maximize the number of trees on the streetscape, while allowing for the development of a full crown. Within this rationale, fastigiated trees could be planted closer together than trees with spreading crowns, and more small trees could be planted than larger trees.

It is recommended that developers avoid planting trees at fixed distances along the boulevard, as doing so can lead to conflicts with underground utilities and above ground structures. Planting at irregular intervals will create a less formal appearance of the streetscape and will make gaps due to site constraints and removal of dead or vandalized trees less conspicuous.

The following trees are authorized within the Village:

### Category 1 Trees:

Plant materials on boulevards along roads with residential lot frontage			
Common Name	Scientific Name	Site Conditions	height (h) width (w) meters
<i>Ash Species (Fraxinus)</i>			
▪ Black Ash	fraxinus nigra 'fall gold'	male clone only, favour moist site, hardy cv only	12 (h) 5-9 (w) medium tree
▪ Green Ash	fraxinus pennsylvanica including cultivar 'Patmore'	hardy tree, tolerant of drought and salt, hardy and long lived	15 (h) 9-12(w) medium tree
<i>Linden Species (Tilia):</i>			
▪ American Basswood	tilia americana & cultivar 'wascanan'	sheltered sites, prefers moist, well drained soil	15 (h) 9-15 (w) medium tree
▪ Little Leaf Linden	tilia cordata & hybrid 'dropmore'	sheltered sites, prefers moist, well drained soil	10 (h) 7-9 9(w) medium tree
<i>Chokecherry Species</i>			
▪ Schubert Chokecherry	prunus virginiana 'schubert' & bailey select & midnight	hardy, drought-resistant, susceptible to black knot	6 (h) small tree
▪ Amur Chokecherry	prunus mackii	susceptible to winter injury, needs sheltered location, 4 season appeal	6 (h) 4-7(w) small tree
<i>Crabapple Species</i>			
▪ Almey Crabapple	malus x adstringens 'almey'	sun, susceptible to black knot	5(h) small tree
▪ Siberian Crabapple	malus baccata	sun, susceptible to black knot	5.5(h) 4-7 (w) small tree
▪ Columnar Siberian Crabapple	malus baccata 'columnaris'	sun, susceptible to black knot	5(h) small tree

▪ Dolgo Crabapple	Malus 'dolgo'	sun, susceptible to black knot	10(h) small tree
▪ Hopa Crabapple	Malus x adstringens 'hopa'	sun, susceptible to black knot	5(h) small tree
▪ Kelsey Crabapple	malus x adstringens 'kelsey'	sun, susceptible to black knot prefers moist, well drained soil	4(h) small tree
▪ Thunderbird Crabapple	malus x adstringens 'thunderbird'	sun, susceptible to black knot	5(h) small tree
▪ apple varieties	malus spp.	well drained soils, >4 m setback without sidewalk susceptible to black knot	4.0 – 8.0(h) small tree
<i>Elm Species</i>			
▪ Brandon Elm	ulmus americana 'brandon'	no pruning April to Aug due to threat of Dutch Elm disease	20(h) medium tree
▪ Discovery Japanese Elm	ulmus davidiana var Japonica 'discovery'	highly resistant to dutch elm disease, extra care required	10-15(h) 7-10(w) medium tree
<i>Hawthorn Species</i>			
▪ Hawthorn	crataegus spp. includes Toba	well drained soil, well adapted to environmental stresses	5(h) 5-7(w) small tree
<i>Lilac Species</i>			
▪ Japanese Tree Lilac	syringa reticulata including 'ivory silk'	sheltered area	6(h) 5-8(w) small tree
<i>Maple Species (Acer)</i>			
▪ Amur Maple	acer ginnala	sun to partial, tolerates dry soil, well drained	4(h) 5-8(w) small tree
▪ Tatarian Maple	acer tataricum	tolerates shade and drought, prefers moist well drained soil	6(h) 5-9(w) small tree
<i>Mountain Ash Species (Sorbus)</i>			
▪ Showy Mountain Ash	sorbus decora	most resistant to fire blight >4 m setback without sidewalk	8(h) small tree
▪ European Mountain Ash	sorbus aucuparia including 'rossica'	>4 m setback without sidewalk	8 (h) 5-8(w) small tree
<i>Poplar Species</i>			
▪ Tower poplar	populus x canescens 'tower'		10(h) small tree
<i>Oak Species (Quercus)</i>			
▪ Bur Oak	quercus macrocarpa	sheltered, loam/silt or sandy soils only, mid pH	15(h) 10(w) medium tree

### Category 2 Trees:

Plant materials for boulevards without residential lot frontage and within parks. May include Category 1 trees that meet site conditions.

Common Name	Scientific Name	Site Conditions	height (h) width (w) meters
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<i>Larch Species</i>			
▪ Siberian larch	larix sibirica		19 (h) large tree
<i>Pine Species</i>			
▪ Scot's Pine	pinus sylvestris	min 20 m setback from road prefers moist well drained site	12 (h)
▪ Lodgepole Pine	pinus contorta var latifolia	min 20 m setback from road drought resistant	12(h) 5-8(w)
<i>Spruce Species</i>			
▪ Colorado	picea pungens spp	min 20 m setback from road	15-30 (h) 6-10(w)
▪ White	picea glauca	min 20 m setback from road	15-30 (h)
<i>Poplar Species</i>			
▪ Northwest Poplar	populus x jackii 'northwest'	min 20 m setback from road	15-18 (h)
▪ Swedish aspen	populus tremula 'erecta'	needs high water table, full sun, may sucker	12 (h)
<i>Maple Species</i>			
▪ Manitoba Maple	acer negundo		12 (h)
▪ Silver Maple	acer sacharinum	prefers moist, susceptible to die back in exposed areas or under moisture stress	20(h) large tree
The developer may suggest other trees depending on specific site constraints. These will be subject to approval by the CAO.			

### Shrubs

<b>Common Name</b>
Cotoneaster
Dogwood
Pin Cherry
Potentilla varieties
Mugo Pine
Juniper
American Highbush Cranberry
Hackberry
Lilac, spirea, elder, caragana and others will be considered

Tree and shrub planting in beds shall give consideration to the importance of vehicular sightlines, street lighting efficiency, and designed to minimize mowing/maintenance requirements.

If alternative tree materials are requested along boulevards, the following considerations must be addressed:

- limited horizontal root growth and no sucker-type roots to avoid encroachment
- limited vertical root growth to avoid entry into sewer systems

Larch, pine, and spruce should not be planted close to walkways, streets or buildings because of their broad base that may become an obstruction as the tree matures. Therefore, they are not allowed on residential boulevards.

**Stock and Canopy Clearance:**

All trees shall be single stock and provide a minimum canopy clearance of 7 feet. Preferred that at least 5 to 7 gallon size trees be planted.

**Tree Spacing & Setbacks:**

Minimum linear distances between plantings of boulevard trees:

- large size tree: 13 – 16 meters apart
- medium size trees: 10 – 13 meters apart
- small size trees: 7 - 10 meters apart

Minimum linear distances from above and below grade utilities and property lines as measured from the center of the tree trunk as follows:

<b>Setbacks from corners, curbs, streets, sidewalks , signs and other structures</b>	
street corners	7.0 m
stop signs	7.0 m
yield signs	7.0 m
all other signs	2.0 m
road and boulevard curbface	1.5 m
alley/driveways/walkways	2.0 m
sidewalk	1.0 m
<b>Setbacks from underground and overhead utilities</b>	
fire hydrants	3.0 m
water & sewer lines	3.0 m
street light poles	3.0 m
overhead power lines	2.0 m
telephone, pedestals, gas, cable lines	2.0 m

## **Schedule B**

### **Homeowner's Guide to Pruning Public Trees**

Public Trees are a valuable aspect of our community. They contribute to the beauty of our Village and provide many benefits such as improvement of air quality, absorption of carbon dioxide, energy moderation, storm water retention, wildlife habitat, aesthetics and general improvement of quality of life. You can help the Village by pruning small branches on the boulevard tree adjacent to your property. This will help keep Village trees neat and trim by removing sucker shoots that grow from the bases of the trees, small damaged branches and small overhanging branches that get in the way of walking and parking.

Pruning of trees is both an art and science that requires a considerable amount of knowledge and talent. Significant long-term damage such as wood decay, truck cracking and branch breakage can occur if a tree is pruned improperly. For this reason, we have set limits upon the size and height of branches that can be pruned back by homeowners. These limitations are necessary to prevent injury to both homeowners and trees.

### **Pruning**

If you would like to conduct minor pruning on the boulevard trees, homeowners are allowed to prune branches on public trees immediately adjacent to their properties that are:

- new shoots, commonly referred to as sucker shoots, which originate from the ground near the base of the tree. Only shoots with diameters up to 40 mm (1 ½ in) and are located within 30 cm (12 in) of the ground may be removed.
- overhanging branched that interfere with pedestrian traffic and vehicular parking. Branches up to 40 mm (1 ½ in) in diameter may be pruned to a height of 3 m (10 ft) only. Young and establishing trees are excluded from this allowance (see below).
- broken branches up to 40 mm (1 ½ in) in diameter.
- other circumstances after discussion with the CAO

### **Sucker Shoot Removal**

Sucker shoots up to 40 mm (1 ½ in) in diameter and located within 30 cm (12 in) of the ground would be removed as close to the ground as possible using hand pruners or loppers.

### **Young Trees**

Young trees are those which are less than 5 m (16 ft) in height or which are smaller than 10 cm (4 in) in diameter when measured 30 cm (12 in) above the ground.

### **Overhanging, Damaged or Broken Branch Removal**

Homeowners can shorten damaged branched, branched that have been broken or which are hanging low over the ground to provide clearance for pedestrian traffic or vehicle parking, provided that the proper pruning practices detailed below are followed.

Homeowners are permitted to prune trees where clearance is required up to 3 m (10 ft) above the road or sidewalk by removing only downward-growing branches smaller than 40 mm (1 ½ in) in diameter. Village staff must be called to attend to branches that are

growing higher than 3 m (10 ft) above the road or sidewalk, branches that are larger than 40 mm (1 ½ in) in diameter or branches that require removal at the trunk.

### Pruning Techniques and Practices

The pruning techniques and practices upon which these guidelines are based are the current arboricultural standards as outlined in ANSI A300 Part 1 – Tree, Shrub and Other Woody Plant Maintenance – Standard Practices. Pruning and its companion publication Best Management Practices: Tree Pruning, published by the International Society of Arboriculture.

The following standards shall be adhered to:

1. Proper pruning cuts to be used to shorten branches are:
  - a. A reduction cut (Figure 1) is to be used to shorten a branch back to a lateral branch that is large enough to assume the terminal role. Typically, this lateral branch should be at least 1/3 to 1/2 the diameter of the removed portion. At such a size, the lateral branch should be able to produce enough energy to keep the parent branch alive and enough growth regulator should be present to suppress excessive sprouting on many species.

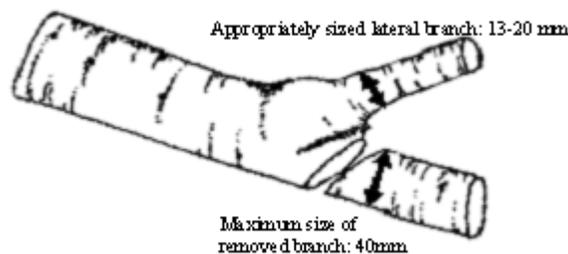


Figure 1. A reduction cut is used to reduce the length of a branch to a lateral branch that is 1/3 to 1/2 the diameter of the removed branch. In this example, the diameter of the removed branch is 40 mm and the diameter of an appropriately sized lateral branch should be between 13 and 20 mm.

- b. A heading cut (Figure 2) can be used on current year's growth to reduce the length of a branch or sprout.

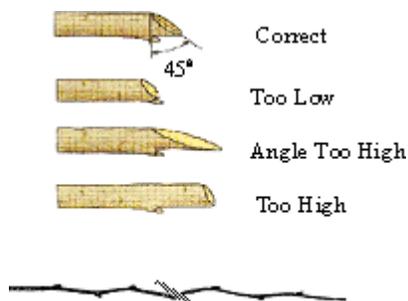


Figure 2: A heading cut to be used for shortening one-year old branches

2. All pruning is to take place from the ground using hand pruners (secateurs), loppers and pole pruners. Use of any type of saw or power tool is not permitted and ladders are not to be erected on municipal property. Tools are to be sharp so as to make clean cuts without jagged edges or stubs. Anvil-

- type pruning tools, with a blade that cuts to a flat surface, should be avoided because they crush tissue; tools with bypass (scissors-type) blades are preferred. Place the blade side of the pruner toward the tree and squeeze the blade up through or across the branch. Passing the blade down through the branch can cause the union to split.
3. Pruning tools are to be properly sterilized between each use and between each tree pruned to reduce the chances of transmitting diseases. Undiluted methyl hydrate (gas line antifreeze) contained in a spray bottle is recommended for this use.
  4. Wound dressings are not to be applied to pruning cuts. Once thought to accelerate wound closure and reduce decay, research has shown that these products do not reduce the spread of decay. Proper pruning cuts are the best means by which to assist a tree in using its own defenses to close wounds and barrier off decay.
  5. Birch and maple trees should not be pruned in spring until after the end of June to avoid excessive 'bleeding'. Elm trees shall not be pruned from April 1 to August 1, which is the period during which the beetles that transmit Dutch elm disease are active.

### **Responsibility of Homeowners**

The Village appreciates the help that it receives from citizens who wish to keep the boulevard trees trimmed. It is the responsibility of each citizen to follow the guidelines and pruning techniques detailed in this document. Diversions from these standards will be considered a breach of the Public Tree Bylaw.

## Schedule C

### Specified Penalties for an Offence

<b>Section</b>	<b>Description</b>	<b>Specified Penalty</b>
4	planting tree without authorization	\$50
12	prune more than a small branch	\$100
15	attach object or electrical cord to tree	\$100
16	remove bark of tree	\$100
17	penetrate the bark of tree	\$100
18	things in or on a public tree	\$100
19	apply or spray harmful substance to tree	\$100
22	remove, move or cut a tree without written permission	\$100
24	accidentally, negligently or willfully damage	\$100 + costs