

CITY OF ST. ALBERT

BYLAW 5/98

A Bylaw to prevent the spread of Dutch Elm Disease in St. Albert.

NOW THEREFORE BE IT RESOLVED THAT Council proposes this Bylaw to control and prevent the spread of Dutch Elm Disease.

Definitions

1. In this Bylaw:
 - a) "Act" means the Agricultural Pests Act, S.A. 1984, c.A-8.1;
 - b) "City" means the City of St. Albert;
 - c) "City Engineer" means the person hired by the City as City Engineer, or that person's delegate;
 - d) "Disposal Bin" means a sealed bin designated by the City Engineer for the purposes of disposing of Elm Trees;
 - e) "Dutch Elm Disease" or "D.E.D." means the disease caused by the fungus *Ophiostoma ulmi* (Buis.) Nannf. (Syn. *Ceratocystis ulmi* (Buis.) or *Ophiostoma novo-ulmi* (Brasier);
 - f) "Elm Tree" means any tree, either living or dead, or part of a tree, of the *Ulmus* genus, including elm wood;
 - g) "Hazard Tree" means any Elm Tree that in the opinion of an Inspector, has deteriorated to the point that it is capable of supporting Vector habitation or breeding;
 - h) "Infected Tree" means any Elm Tree that in the opinion of an Inspector is infected by Dutch Elm Disease;
 - i) "Inspector" means a person appointed as Inspector pursuant to the Act;
 - j) "Vector" means either or both of the smaller European elm bark beetle (*Scolytus multistriatus* [Marsh]) and the Native elm bark beetle (*Hylurgopinus rufipes* [Eichh.]) and any other bark beetle capable of causing or spreading Dutch Elm Disease.

Inspection

2. An Inspector has the powers and duties set out in the Act.

Hazard of Infected Trees

3. (1) Where an Inspector is of the opinion that an Elm Tree is a Hazard Tree or an Infected Tree, the Inspector may issue a notice in accordance with the Act.

- (2) A person on whom a copy of the notice is served shall carry out the directions contained in the notice in accordance with the Act, subject to the appeal provisions set out in the Act.

Removal of an Elm Tree

4. Every person who removes an Elm Tree shall:
- a) remove the stump of the Elm Tree to a minimum depth of 10 centimetres below the soil line; or
 - b) treat the Elm Tree stump in a manner satisfactory to an Inspector.

Pruning an Elm Tree

5. (1) Subject to subsections (2) and (3), every Owner of an Elm Tree shall keep the Elm tree pruned:
- a) so that the Elm Tree is free of wood that is dead or dying; or
 - b) within a reasonable time after damage to the Elm Tree occurs so that the Elm Tree is free of wood that is dead or dying.
- (2) No person shall prune an Elm Tree that is an Infected Tree or is a Hazard Tree unless pruning is authorized in writing by an Inspector pursuant to subsection (4).
- (3) No person shall prune an Elm Tree between April 1 and September 30 in any year unless pruning is authorized in writing by an Inspector pursuant to subsection (4).
- (4) Where an Inspector is satisfied that it is safe, having regard to the control of Dutch Elm Disease, to prune an Elm Tree,
- (a) which is an Infected Tree or a Hazard Tree, or
 - (b) between April 1 and September 30 in any year
- the Inspector may give written authorization to a person to prune the Elm Tree and may grant such authorization subject to such terms and conditions as the Inspector deems appropriate.
- (5) A person receiving an authorization under subsection (4) shall comply with any terms and conditions imposed thereon.

Transportation and Storage of Elm Trees

6. (1) No person shall transport into the City an Elm Tree unless the person has obtained the written authorization of an Inspector pursuant to subsection (3) to store, use, exchange, sell or transport the Elm Tree.
- (2) No person shall store, use, exchange, sell, or transport an Elm Tree within the City unless the wood has been rendered useless for Vector habitation or breeding.

- (3) An Inspector may give written authorization to a person to store, use, exchange, sell or transport an Elm Tree where the Inspector is satisfied that:
 - a) it is safe to do so;
 - b) the storage, use, exchange, sale or transport will not spread Dutch Elm Disease or dangerously increase the risk of spreading Dutch Elm Disease; and
 - c) the Elm Tree or part of an Elm Tree to be stored, used, exchanged, sold or transported is not from an Infected Tree or a Hazard Tree;
- (4) Where an Inspector gives authorization under subsection (3), an Inspector may impose conditions including:
 - a) the type and location of storage;
 - b) limitations on the use, exchange or sale; and
 - c) limitations on the mode of transport, times and route.

Disposal Bin

7. (1) The City Engineer shall designate a disposal bin where Elm Trees may be taken to be disposed.
- (2) An Elm Tree shall only be disposed of in a bin designated under subsection (1), unless an Inspector authorizes another mechanism of disposal in writing.

Appeal of Order

8. (1) A person who receives a notice pursuant to subsection 3(1) may appeal the order in accordance with the Act.
- (2) The City shall, at the beginning of each calendar year, appoint a committee to hear appeals in accordance with the Act.
- (3) On receipt of a notice of appeal, the City shall refer the appeal to the appeal committee.

Recovery of Expenses

9. The City has the right to recover expenses incurred by an Inspector in accordance with the Act.

Offences

10. (1) Every person who contravenes a section of this Bylaw or fails to comply with an order issued under section 3 is guilty of an offence and liable to a fine of not more than \$5,000.00 and in default of payment to a term of imprisonment of not more than 60 days.
- (2) A person who is guilty of an offence under this Bylaw may also be liable in a civil proceeding.

READ a first time this 2nd day of February, 1998.

READ a second time this 17th day of February, 1998.

READ a third and final time this 17th day of February, 1998.

MAYOR

LEGISLATIVE SERVICES MANAGER