

The Corporation of the Township of Brock

By-law Number 3259-2024

Being a By-law Respecting the Maintenance of Boulevards

Whereas Section 8(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, (“Municipal Act, 2001”) provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues.

Whereas Section 9 of the Municipal Act, 2001, provides that a municipality has the capacity, rights, powers, and privileges of a natural Person for the purpose of exercising its authority under the Act;

Whereas Section 11(2)6 of the Municipal Act, 2001, provides that a municipality may pass by-laws in the interest of the health, safety, and well-being of its residents;

Whereas paragraph 11(3)1 of subsection 11 (3) of the Municipal Act, 2001, provides that a municipality may pass by-laws respecting highways under its jurisdiction;

Whereas Section 128 of the Municipal Act, 2001, provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

Whereas Section 446 of the Municipal Act, 2001, provides that a municipality may proceed to do things at a Person’s expense which that Person is otherwise required to do under a by-law, but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes;

And Whereas the Council for The Corporation of the Township of Brock deems it necessary to regulate the maintenance and use of the boulevard portion of highways under its jurisdiction.

Now Therefore, the Council of The Corporation of the Township of Brock enacts as follows:

Section 1: Short Title

This by-law may be cited as the Boulevard Maintenance By-law.

Section 2: Definitions

2. In this by-law,

- a) **“Apron”** includes that section of a driveway contained within the boulevard.
- b) **“Boulevard”** means that portion of a Highway (assumed or unassumed) between a travelled portion of a roadway and the Property Line and is not used or intended for use for vehicular travel by the public and includes landscaped areas and any driveway Apron but does not include a sidewalk or traffic island.
- c) **“Boulevard Alteration”** means any activity that results in a removal, addition, alteration, or material change to the Township of Brock’s Lands including, but not limited to, the removal, addition, or alteration of, or material change to grading, vegetation or trees, structures, or any other natural or human- made features located therein or thereon.
- d) **“Boulevard Garden Policy”** means a policy issued by the Township of Brock, with a set of guidelines that must be followed for the installation of a garden on a Boulevard. Attached as Appendix “A” in this By-Law.
- e) **“Herbaceous plant”** means a plant without woody above-ground parts, with a stem that dies back to the ground each year but excludes turf grass.
- f) **“Highway”** means a common and public highway and includes one or both of the following:

- i. any street, road, avenue, parkway, lane, driveway, boulevard, sidewalk, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles or persons, or,
 - ii. the area between the lateral property lines of any highway or road allowance including any curbs, gutters, boulevards, culverts, ditches and retaining wall;
- g) **“Municipal Law Enforcement Officer”** means By-Law Officer, and shall include a “Property Standards Officer” and/or a person or persons duly appointed by the Council of the Township to enforce the provisions of this by-law;
- h) **“Owner”** means the person or persons shown on as the registered Property owners on the Land Registry Office or the Municipal tax roll as having title to the land or responsibility for it, as well as any tenant or person or persons lawfully in possession of or exercising control over the property;
- i) **“Person”** means an individual, firm, corporation, association or partnership and their heirs, executors, or assigns;
- j) **“Property”** means a parcel of land having specific boundaries, which is capable of legal transfer;
- k) **“Property Standards Committee”** means the Property Standards Committee as defined by Section 6.09 of the Township Property Standards By-Law 1562-98-PP
- l) **“Property Standards Officer”** means Municipal Law Enforcement Officer, and/or a person or person duly appointed by the Council of the Township of Brock for the inspection and enforcement of provisions of the Minimum Property Maintenance and Occupancy Standard Bylaw also known as the Property Standards Bylaw, as amended from time to time;
- m) **“Property Line”** means any boundary of a property and the vertical projection thereof;
- n) **“Region”** means the Region of Durham
- o) **“Sidewalk”** shall mean that portion of the Highway that is intended for the use of pedestrians and which surface is finished with concrete or asphalt;
- p) **“Township”** means the Corporation of the Township of Brock;
- q) **“Turf Grass”** means ground cover comprised of one or more species of growing grass with or without trees, shrubbery or maintained planting beds for other vegetation; and/or strand of plant that can form turf and withstand mowing, traffic and/or wear.
- r) **“Utilities”** includes infrastructures such as cables, pipelines or structures that are owned and maintained by the Township, Region, a municipality or other utility companies.
- s) **“Vehicle”** includes a motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment and any vehicle drawn, propelled, or driven by any kind of power excluding devices powered solely by mean of human effort, such as bicycles, etc.;
- t) **“Weed(s)”** means a noxious weed designated by or under the Weed Control Act, R.S.O. 1990, c.W.5, and shall include invasive plant species.

Section 3: Boulevard Maintenance Obligations

- 3.1 Any **Person** or **Owner** of a property completing any **Boulevard Alteration** for the purpose of the installation of a garden must ensure are following the **Boulevard Garden Policy** that is attached as Schedule “A” in this By-Law.

- 3.2 Every **Owner** of a property shall maintain the **Boulevard** portion of any **Highway**, or part of a **Highway**, which abuts their property. Maintaining the **Boulevard** portion of a **Highway** includes the following:
- (a) cutting the grass that exceed 20.32 cm (8 inches) in height and removing the cuttings;
 - (b) keeping the **Boulevard** clean and free from:
 - (i) hazardous objects or materials;
 - (ii) domestic animal excrement,
 - (iii) rubbish or other debris,
 - (iv) yard waste,
 - (v) holes, ruts, and excavations that are actual or potential health, fire or safety hazards,
 - (vi) anything that may attract or harbour rodents, insects, or pests,
 - (vii) anything that may overflow onto the **Sidewalk, Highway**, or adjacent property
 - (viii) noxious Weeds. Please see Schedule "C" and Schedule "D" in the By-Law for a list of Weeds and invasive species.
- 3.3 No **Person** shall erect, display, repair or alter, cause, or permit to be erected, displayed, repaired, or altered, any sign or advertising device or any other object or thing that restricts sight lines of pedestrians, cyclists, or drivers of vehicles to intersections, driveways, sidewalks, walkways, travel lanes, or traffic control devices;
- 3.4 **No Person** shall obscure or obstruct access to fire hydrants, post office boxes, or other installations belonging to the Township, Region, or any utility provider;
- 3.5 Every Owner shall maintain clear and easy access to all aboveground and underground services and Utilities, including but not limited to, fire hydrants, water valves, Bell pedestals, telecommunications pedestals and hand wells, and hydro transformer boxes.
- 3.6 Every **Owner** or of a property shall maintain the paved portion or hard surface of a **Boulevard** that forms part of a driveway **Apron** in front of, alongside, or at the rear of the property.
- 3.7 Maintaining the driveway **Apron** portion of a **Boulevard** includes the following:
- (a) keeping the driveway **Apron** of the **Boulevard** in a good state of repair to afford safe passage under normal use for persons and vehicles;
 - (b) keeping the driveway **Apron** of the **Boulevard** clear of snow and ice within 24 hours of a snowfall to provide safe passage for persons and vehicles;
 - (c) keeping the driveway **Apron** portion of the **Boulevard** clean and free from:
 - (i) hazardous objects or materials,
 - (ii) domestic animal excrement,
 - (iii) rubbish or other debris, and
 - (iv) holes, ruts, and excavations.
- 3.8 Installations such a leash less dog fencing, in-ground irrigation systems, fencing, pavers or hard mulches such as pea gravel and rocks are not permitted on the **Boulevard**.

Section 4: Planting in Boulevards

Herbaceous Plants

- 4.1 An **Owner** shall not plant or permit to be planted herbaceous plants on a **Boulevard** that:
- (a) exceed a height of 75 centimeters;
 - (b) exceed a height of 30 centimetres on a corner lot;
 - (c) impair drainage; or
 - (d) contain vegetables or grains.

Please see Schedule "A" **Boulevard Garden Policy** and Schedule "B" in this By-Law for a list of acceptable plants.

- 4.2 Artificial turf is generally not permitted. **Owners** interested in artificial turf should contact the Public Works Department to discuss requirements.
- 4.3 A 30 cm (1 ft) buffer for all plants shall remain in place for all **Sidewalks**, curbs, road, and driveway edges. Manicured turf and mulches are the only acceptable materials within the 30 cm buffer. The surface of the mulch is not to extend above any adjacent **Sidewalk** surface within the buffer. A minimum 1.2 metre (4 foot) buffer around all sides of a fire hydrant is to be maintained at all times.

Trees

- 4.4. On a **Boulevard** adjacent to his or her property, an **Owner** shall not plant or place, remove, alter, or permit the planting or placement, removal or alteration of a tree or shrub.

Section 5: Damage to Boulevard

Damage by Person

- 5.1. No **Person** shall damage, construct or re-construct a sidewalk, curb, apron driveway or boulevard without the written permission of the **Township**, the **Region** and or applicable utility.
- 5.2. For the purposes of Section 5.1, "**Person**" shall not include the Township, the Region, a utility, or a contractor hired by the **Township**, **Region**, or utility.

Damage by Township, Region, Utility

- 5.3. If a boulevard, or property located adjacent to a **Boulevard** is damaged by the Township, the Region, a utility, or a contractor hired by the Township, Region or utility, the Township, Region, utility or contractor that caused the damage shall only be responsible for restoring **Turf Grass** on a **Boulevard** and shall not be obligated to restore any alterations to the **Boulevard** made by the **Owner**.
- 5.4 In the event that emergency or unscheduled works are required that will disturb an existing **Boulevard Garden**, no notification will be provided.
- 5.5 In the event of scheduled **Boulevard** works, Township staff will provide 30-calendar days' notice to the Owner, giving them the opportunity to salvage plant material.
- 5.6 Following scheduled or unscheduled works in the **Boulevard**, the **Boulevard** will be restored to Turf Grass unless the **Owner** states their intent to re-establish the **Boulevard** plantings within 30 calendar days, weather permitting, or reasonable date set by the Township in consultation with the **Owner**. Re-established **Boulevard** gardens shall follow this By-Law and will be the sole responsibility of the **Owner**. Following the 30-day period or date set by the Township, if the plantings have not taken place, the Township

will restore the **Boulevard** to **Turf Grass**. The Township assumes no responsibility for the cost of repairs of any damages to a garden on the **Boulevard**.

- 5.7 The Township assumes no responsibility for the cost of repairs of any damages to a garden on a **Boulevard**.

Section 6: Enforcement

- 6.1 For the purpose of ensuring compliance with this by-law, a **Municipal Law Enforcement Officer, Property Standards Officer**, or Police Officer, may at all reasonable times, enter upon and inspect the **Boulevard**, any land or Property to determine whether the following are being complied with:
- (a) this by-law and any schedules;
 - (b) a direction or order made under this by-law; or
 - (c) a prohibition order made under Section 431 of the Municipal Act, 2001.
- 6.2 A **Municipal Law Enforcement Officer, Property Standards Officer**, or Police Officer, may for the purposes of the inspection, under Section 6.1 of this by-law, require information in writing or otherwise as required by the officer from any person concerning a matter related to the inspection; or alone or in conjunction with a person possessing special or expert knowledge, undertake an inspection to determine compliance with this by-law.
- 6.3 A **Municipal Law Enforcement Officer, Property Standards Officer**, or Police Officer, may make an Order, sent, or served by prepaid regular mail to the last known address, posted on-site or personally delivered to a person requiring the person who contravened the by-law, within the time specified in the Order to:
- (a) discontinue the contravening activity; and/or
 - (b) do work to correct the contravention.
- An Order under this Section shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the property abutting the **Boulevard** where the contravention occurred.
 - (b) the work to be completed; and
 - (c) the date(s) by which the work must be complete.
- 6.4 If an Order under Section 6.3 is served by regular mail, the service shall be deemed to have been made on the fifth (5th) day after the day of mailing.
- 6.5 An Order may be served on a person personally by handing it to the person, but where the Order cannot be given or served by reason of the person's absence from the person's property or by reason of evasion of service, the order may be given or served:
- (a) by handing it to a person that is an adult person on the person's property; by posting it in a conspicuous place upon part of the **Owners** property and by sending a copy by ordinary mail; or
 - (b) by sending it by prepaid registered mail to the **Owner** at the address where he/she resides.
- 6.7 Where the **Owner** fails to comply with an Order issued under section 6.3 of this by-law, within the time specified for compliance, a **Municipal Law Enforcement Officer, Property Standards Officer**, or Police Officer, with such assistance by others, as may be required, may bring the **Boulevard** into compliance with any section of this by-law by:

(a) bringing the property under compliance of the by-law by conducting the work necessary to bring the property under compliance as identified in Sections 3, 4 and 5 of this by-law.

6.8 **A Municipal Law Enforcement Officer, Property Standards Officer**, or a Police Officer is authorized to give immediate effect to any order issued under Section 6.3 of this by-law that has not been complied with by the **Owner**.

6.9 Where a **Municipal Law Enforcement Officer, Property Standards Officer**, or Police Officer or **Township** employee so authorized by the By-Law Enforcement Department and or the Director of Public Works and/or his/her designate, determines that on the **Boulevard** there is anything that is protruding, sharp, dangerous or anything that would obstruct or impair the vision of a vehicle operator, the **Municipal Law Enforcement Officer, Property Standards Officer** or Police Officer or Township employee so authorized may take immediate steps, without issuing an order, to bring the **Boulevard** into compliance with this by-law by immediately removing the danger or obstruction.

Section 7: Boulevard Garden Policy

7.1 An **Owner** who installs a **Boulevard Garden** shall comply with all provisions and conditions of the **Boulevard Garden Policy**, this by-law and schedules.

Section 8: Recovery of Costs

8.1 Where the Township, its employees or authorized agents or contractors have performed the work required to bring the **Boulevard** or property into compliance with this by-law, all expenses incurred by the Township in doing the work as well as any related fees, shall be deemed to be a debt to the Township and may be collected by action or the costs may be added to the tax roll for the property and collected in the same manner as municipal taxes.

Section 9: Appeal to Property Standards Committee

9.1 An **Owner** may appeal the decision or an order of a **Municipal Law Enforcement Officer, Property Standards Officer**, or Police Officer under this by-law to the **Property Standards Appeals Committee** in writing within fourteen (14) days of the issuance of the Order made under section 6.3 of this by-law.

9.2 A hearing shall be held as soon as practical after receipt of the notice of the intent to appeal.

9.3 The **Property Standards Committee** may affirm, rescind, or modify the decision or order of the Municipal Law Enforcement Officer at the hearing.

9.4 The **Property Standards Committee** may adjourn the hearing to a later date if in the opinion of the **Property Standards Committee** it will have more complete or useful evidence to assess at that time.

9.5 Where a person has requested a hearing and does not appear at the appointed time, the **Property Standards Committee** may dismiss the hearing as abandoned, or may, where it has cause to believe it would be beneficial to adjourn the hearing, may do so to allow the **Owner** an opportunity to be present. If the appeal is dismissed as abandoned by the **Property Standards Committee**, the decision of the **Municipal Law Enforcement Officer, Property Standards Officer** or Police Officer shall stand.

9.6 Rulings of the **Property Standards Committee** shall be provided to the appellant.

9.7 The rulings of the **Property Standards Committee** for this by-law cannot be appealed to Ontario Court

9.8 The fees for an appeal to the **Property Standards Committee** shall be payable at the time of filing a notice of appeal and shall be in accordance with the "Fees By-Law " as amended from time to time.

Section 10: Penalty

10.1 Every **Person** who contravenes any of the provisions of this by-law and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable:

- (a) On a first conviction, to a fine of not more than \$25,000; and
- (b) On a subsequent conviction, to a fine of not more than \$10,000 for each day, or part thereof, upon which the contravention has continued after the day on which the person was first convicted.

10.2 If the person referenced in Section 9.1 is a Corporation, the maximum penalty that may be imposed is:

- (a) On a first conviction, a fine of not more than \$50,000; and
- (b) On a subsequent conviction, a fine of not more than \$25,000 for each day or part day, or part thereof, upon which the contravention has continued after the day on which the corporation was first convicted, and not as provided in subsection (a).

Section 11: Obstruction

11.1 No **Person** shall or attempt to hinder or obstruct a **Municipal Law Enforcement Officer, Property Standards Officer**, or Police Officer from performing his or her duties as described under this by-law.

11.2 No **Person** shall obstruct any employee or agent authorized to complete the work for the Township required to bring the **Boulevard** into compliance with this by-law.

Section 12: Severability

12.1 If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law will be considered to be severed from the balance of the by-law, which will continue to operate in full force.

13. That this By-law shall come into force and effect on the date of its enactment.

Enacted and passed this _____ day of _____

Mayor
Walter Schummer

Clerk/Deputy CAO
Fernando Lamanna