

BY-LAW NO. 167-08
OF THE
CORPORATION OF THE CITY OF CAMBRIDGE

Being a by-law of the Corporation of the City of Cambridge to provide for regulating the construction, maintenance and protection of boulevards within the City of Cambridge.

WHEREAS subsection 11(2)(6) of the Municipal Act, 2001, S.O. 2001, c. 25 as amended (“the Act”) provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

WHEREAS subsection 11(2)(8) of the Act provides that a municipality may pass by-laws respecting the protection of persons and property;

WHEREAS subsection 30 of the Act provides that a highway is owned by the municipality that has jurisdiction over it subject to any rights reserved by a person who dedicated the highway or any interest in the land held by any other person;

WHEREAS subsection 27(1) of the Act grants a municipality the power to pass by-laws in respect of highways over which it has jurisdiction;

WHEREAS subsection 28(2) of the Act grants a municipality jurisdiction over all road allowances located in the municipality that were made by the Crown surveyors [subsection 28(2)(a)] and all road allowances, highways, streets and lanes shown on a registered plan of subdivision [subsection 28(2)(b)].

NOW THEREFORE the Corporation of the City of Cambridge enacts as follows:

1. DEFINITIONS:

1.1. In this by-law:

- (a) “Apron” includes that section of a driveway contained within the boulevard;
- (b) “Back Lot Property” refers to that portion of a property where the rear yard is adjacent to a city or regional road allowance;
- (c) “Boulevard” means the portion of a highway on either side of a roadway, but does not include a sidewalk or traffic island;
- (d) “City” means the Corporation of the City of Cambridge;
- (e) “Director” means the Commissioner of Transportation & Public Works or his or her designate;
- (f) “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;
- (g) “Highway” includes a common and public highway, common and public walkway, street, road, avenue, parkway, square, place, bridge, viaduct, trestle, or any other way open to public use, and includes the area between the lateral property lines thereof;

- (h) "Maintenance" means the action required to sustain a boulevard including but not limited to cutting, watering, removing debris or repairing damage to any driveway located within the boulevard area;
- (i) "Owner" means the lawful owner of property, a lessee, tenant, mortgagee in possession of property, or occupant of property;
- (j) "Person" includes an individual, association, firm, corporation (with the exception of the Corporation of the City of Cambridge), partnership, sole proprietorship, trust, organization, trustee, agent;
- (k) "Region" means the Regional Municipality of Waterloo;
- (l) "Roadway" means the portion of a highway that is improved, designed, or ordinarily used for vehicular traffic, and includes a curb and shoulder;
- (m) "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;
- (n) "Traffic control device" means a sign, lane, meter, marking, space, barrier or device painted or erected to guide, regulate, warn, direct, restrict, control or prohibit traffic;
- (o) "Turf grass" means a perennial strand of plant that can form turf and withstand mowing, traffic and/or wear;
- (p) "Utilities" includes infrastructures such as cables, pipelines or structures that are owned and maintained by the City, Region, a municipality or other utility companies.

2. PLANTING IN BOULEVARDS

Herbaceous Plants

2.1. A property owner shall not plant or permit to be planted herbaceous plants that:

- (a) exceed a height of 45 centimeters;
- (b) impair drainage; or
- (c) contain vegetables or grains;

on a boulevard abutting his or her property.

2.2. No person shall plant or permit to be planted a herbaceous plant on a boulevard or section of a boulevard that is regularly maintained by the City or Region.

Trees

2.3. On a boulevard abutting his or her property, an owner shall not plant or place, or permit the planting or placement of, a tree or shrub unless it is in accordance with the requirements set out in the City of Cambridge Tree By-Law (No. 71-06), as amended.

3. BOULEVARD MAINTENANCE OBLIGATIONS

General Maintenance

3.1. Subject to any permission granted by the City or a utility, on a boulevard abutting his or her property, no owner shall permit anything on the boulevard that:

- (i) is protruding, sharp, dangerous in any way, or which may otherwise injure a person;
- (ii) may cause damage to any person or thing;
- (iii) restricts sight lines of pedestrians, cyclists or drivers of vehicles to intersections, driveways, sidewalks, walkways, travel lanes, or traffic control devices;
- (iv) inhibits or obstructs snow removal operations;
- (v) obscures or obstructs access to fire hydrants, post office boxes, or other installations belonging to the City, Region, or any utility provider;
- (vi) is located within 0.6 metres of the sidewalk, unless it is turf grass, herbaceous plants, wood chips, mulch, or inorganic material;
- (vii) is located within 1.8 metres of the curb, unless it is turf grass, herbaceous plants, wood chips, mulch, or inorganic material;
 - a. Any inorganic material, wood chips, or mulch permitted under this subsection must be installed flush to the curb.
- (viii) is located within 1.8 metres of the roadway, where there is no curb, unless it is turf grass, herbaceous plants, wood chips, mulch, or inorganic material;
 - a. Any inorganic material, wood chips, or mulch permitted under this subsection must be installed flush with the existing grade of the boulevard and provide for a 2% to 4% grade for drainage.
- (ix) is more than 20 centimeters in height, unless it is a herbaceous plant and governed by subsection 2.1(a) of this by-law; or
- (x) may overflow onto the street, sidewalk, highway or adjacent property.

Exception – Snow

3.2. Subsection 3.1 does not apply to snow.

Grass

- 3.3. On a boulevard abutting his or her real property, an owner shall not permit turf grass to exceed a height of 20 centimeters.

Alteration of Boulevard

- 3.4. On a boulevard abutting his or her property, no owner shall alter an area of the boulevard that is regularly maintained by the City or Region.

Exception – Waste Collection

- 3.5. The provisions of section 3.1 do not apply to anything on a boulevard that is permitted under the Regional Municipality of Waterloo Waste Collection By-Law (No. 02-011) as amended.

4. DAMAGE TO BOULEVARD

Damage by Person

- 4.1. No person shall damage, construct or re-construct a sidewalk, curb, apron driveway or boulevard without the written permission of the Director.
- 4.2. For the purposes of Section 4.1, “person” shall not include the City, the Region, a utility, or a contractor hired by the City, Region or utility.

Damage by City, Region, Utility

- 4.3. If a boulevard, or property located on or under a boulevard is damaged by the City, the Region, a utility, or a contractor hired by the City, Region or utility, the City, 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.
- 4.4. Where an owner has obtained written permission from the Director under section 3.1, that owner shall comply with any conditions set forth in the written permission of the Director.

5. BOULEVARD APPEAL COMMITTEE

Establishment of Committee

- 5.1 There shall be and there is hereby established a Boulevard Appeal Committee of at least three (3) ratepayers of the City to be appointed for the term of office of Council.

Duties

- 5.2 The Committee shall hear and consider appeals of By-law Officers’ decisions made under this by-law.

Filling of Vacancies

- 5.3 The Council of the City, when a vacancy occurs in the membership of the Committee, shall forthwith fill the vacancy.

Compensation

5.4 The members of the Committee shall be paid such compensation as Council may deem necessary.

Chair

5.5 The members of the Committee shall elect a Chair from among themselves and, when the Chair is absent through illness or otherwise, the Committee may appoint another member as acting Chair.

Secretary

5.6 The Director of Building & Enforcement Services shall act as the Secretary for the Committee.

Duties of Secretary

5.7 The Secretary shall keep on the file the records of all official business of the Committee, including records of all applications and minutes of all decisions respecting those applications.

Quorum

5.8 A majority of the Committee members constitutes a quorum for transacting the Committee's business.

Oaths

5.9 Any member of the Committee or the Secretary may administer oaths.

Notice

5.10 The Committee shall give notice or direct that notice be given of the hearing of an appeal to such persons as the Committee considers advisable.

6. APPEAL TO BOULEVARD APPEAL COMMITTEE

Appeal to Committee

6.1. An owner may appeal the decision of a By-law Officer under this by-law to the Boulevard Appeal Committee in writing within ten (10) days of the By-law Officer's decision.

Hearing

6.2. A hearing shall be held as soon as practicable after receipt of the notice of the intent to appeal in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22.

Powers of Committee at Hearing

6.3. The Committee may affirm, rescind, or modify the decision of the By-law Officer at the hearing.

Adjournment of Hearing

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

Failure to Appear at Hearing

6.5. Where a person has requested a hearing and does not appear at the appointed time, the 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 Committee, the decision of the By-law Officer shall stand.

Rulings

6.6. Rulings of the Committee shall be provided to the appellant.

6.7. Rulings shall be circulated to City Council through the Management Committee Information Report Process.

7. PENALTIES AND ENFORCEMENT

7.1. Where anything required to be done by an owner in accordance with this by-law is not done, the City may do so and recover the cost of so doing by adding the cost to the tax roll of the real property adjoining the boulevard and collecting the cost in the same manner and with the same priority as municipal taxes.

7.2. Every person who contravenes a provision of this by-law is upon conviction guilty of an offence and is liable to a fine recoverable under the *Provincial Offences Act*, R.S.O., 1990, c. P. 33, as amended, or any successor legislation.

8. GENERAL

Severability

8.1. If any part, section, sub-section, clause or sub-clause of this by-law is for any reason held to be invalid, such decision does not affect the validity of the remaining portions of this by-law.

Short Title

8.2. This by-law may be cited as the "Boulevard By-Law."

Effective Date

8.3. This by-law shall come into force on May 1, 2009.

READ A FIRST, SECOND AND THIRD TIME.

ENACTED AND PASSED, THIS 27TH DAY OF OCTOBER, 2008

MAYOR

CLERK