



The Corporation of the Town of Orangeville

By-law Number 014 - 2019

A by-law to regulate the maintenance and use 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;

And 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;

And whereas Section 11 (3) 1 of the Municipal Act, 2001, provides that a municipality may pass by-laws within the following sphere of jurisdiction: Highways, including parking and traffic on Highways;

And whereas Section 128 (1) of the Municipal Act, 2001, provides that a local 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;

And whereas Section 391(1) of the Municipal Act, 2001, provides that a municipality may pass by-laws imposing fees or charges on any Person for services or activities provided by the municipality or done on behalf of it;

And whereas Section 436 (1) of the Municipal Act, 2001, provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

And whereas Section 429 (1) of the Municipal Act, 2001, provides that a municipality may establish a system of fines for a by-law passed under the Act;

And whereas Section 444 of the Municipal Act, 2001, provides that a municipality may make an order to require a Person to discontinue contravening a by-law and to do the work required to correct the contravention;

And 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;

Be it therefore enacted by the Municipal Council of The Corporation of the Town of Orangeville as follows:

1 Definitions

In this by-law;

"Boulevard" means that portion of the **highway** (whether assumed or unassumed by the **Town**) between the adjacent property line and the edge of the curb, or in cases where there is no curb, between the adjacent property line and that portion of the **highway** which is travelled or designed to be travelled by **vehicles**, and may include a sidewalk or a **driveway apron**;

"Driveway Apron" means that portion of any driveway, parking lot, or other hard surface, whether paved, poured, laid or otherwise constituted, which extends from private property onto the **Highway**;

"Fixture" means any structure or other fixture affixed or placed on the **boulevard**, including a utility box, newspaper vending box, bench, transit shelter, telephone box, telephone booth, transformer box or vault, telephone pole, hydro pole, streetlight, stoplight pole and street signs;

"Fixture owner" means the owner of the **fixture**;

"General Manager" means the General Manager of Infrastructure Services and shall include his or her designate;

"Graffiti" means one or more letters, symbols, numbers, etchings, inscriptions, pictorial representations or other markings that disfigure or deface a **fixture** howsoever made or otherwise affixed to a **fixture**;

"Highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle any portion of which is intended for or used by the general public for the passage of **vehicles** and includes the lateral property lines thereof;

“Inoperative vehicle” means a **vehicle** that is in a wrecked, dismantled, discarded, inoperative or abandoned condition such that it is prevented or prohibited from safe and immediate operation and includes **vehicles** that do not display a current validated licence plate;

“Maintain” means the action required to adequately sustain or preserve a **boulevard** including but not limited to cutting, watering, and the removal of prohibited materials, **vehicles, inoperative vehicles**, items and hazardous conditions;

“Occupant” means a lessee, tenant, mortgagee or any other **person** who has care and control of or is in possession of the property;

“Officer” means a police officer, a municipal law enforcement officer or any other **person** appointed by By-law to enforce the provisions of this By-law;

“Owner” includes,

- (a) the **person** for the time being managing or receiving the rent of the property in connection with which the word is used, whether on the **person’s** own account or as agent or trustee of any other **person**, or who would receive the rent if the property were let; and
- (b) an **occupant** of the property who, under the terms of a lease, is required to repair and **maintain** the property;

“Person” includes a corporation and its heirs, executors, administrators, or other representatives of a person to whom the context can apply according to law;

“Refuse” shall mean any article, thing, matter or any effluent belonging to or associated with a house or household, and any article, thing, matter or any effluent belonging to or associated with any industry, trade or business that is cast aside, discarded, abandoned, useless or of no practical value, or is in whole or in part worn out, and without limiting the foregoing, may include:

- a) an **inoperative vehicle**, including **vehicle** parts or accessories;
- b) machinery or machinery equipment or parts, including furnaces or furnace parts, pipes or pipe fittings, water tanks, fuel tanks, or septic tanks, tubing, conduits, cable fittings or other accessories;
- c) shipping or storage containers;
- d) garbage dumpster or roll off bins;

- e) materials resulting from, or as part of, construction or demolition projects, including decaying lumber, or other debris or material that does not appear to be actively utilized or intended for construction purposes;
- f) any other material or object that does not appear to be actively used for its intended purpose.

“**Sight Triangle**” means the triangular space formed by two intersecting **street lines** and a line drawn from a point in one **street line** to a point in the other **street line**, each such point being a minimum of 6 metres measured along the **street line** from the point of intersection of the **street lines**.

“**Street Line**” means the limit of a street and is the boundary line between a property and a street.

“**Town**” means The Corporation of the Town of Orangeville or the land within the municipal boundaries of the Town of Orangeville, as the context requires.

“**Vehicle**” includes a vehicle, trailer, traction engine, farm tractor, road building machine and any vehicle drawn, propelled or driven by any kind of power including muscular power.

2 Boulevard Maintenance

- 2.1 Every **owner** or **occupant** of a property shall **maintain** the **boulevard** that abuts their property clean and free from:
 - 2.1.1 grass, weeds and undergrowth that exceed fifteen (15) cm in height;
 - 2.1.2 **refuse** or unsanitary conditions; and
 - 2.1.3 hazardous objects, materials or conditions.
- 2.2 Every **owner** or **occupant** of a property shall **maintain** any hedges, shrubs, flowers or plantings on the **boulevard** that abuts their property, so that they do not:
 - 2.2.1 encroach on or over the travelled portion of a **highway** or a sidewalk;
 - 2.2.2 affect any **sight lines** for pedestrians or motorists; and
 - 2.2.3 obstruct any **sight triangle**.

- 2.3 Every **fixture owner** shall **maintain** their **fixtures** free from **graffiti**.
- 2.4 Every **owner** or **occupant** of a property shall **maintain** the **boulevard** that abuts their property so that all curbs, concrete blocks and/or driveway edgings are flush with the ground within 450 mm (18") from the edge of the sidewalk towards the house and 600 mm (24") from the edge of the sidewalk towards the edge of the travelled portion of a **highway**.
- 2.5 Every **owner** or **occupant** of a property shall **maintain** the **boulevard** that abuts their property so that all fences, posts, ornaments or other such features provide a minimum clearance of 450 mm (18") from the edge of the sidewalk towards the house and a minimum of 600 mm (24") from the edge of the sidewalk towards the edge of the travelled portion of a **highway**.

3 Exemptions

- 3.1 This by-law shall not be interpreted as preventing or prohibiting:
- 3.1.1 an **owner** or **occupant** of a property from placing any landscape features, materials, plantings, or **refuse**, on the **boulevard** abutting their property, if a Road Occupancy Permit has been obtained through the **General Manager**;
 - 3.1.2 the placement of signs that are in compliance with the **Town's** Sign By-law; or
 - 3.1.3 the temporary placement of garbage for collection in compliance with the standards of the County of Dufferin's Waste Management By-law.
- 3.2 Notwithstanding Section 3.1.1 the **Town** is not responsible for reinstating any plantings or landscape features on the **boulevard** due to any work undertaken by the **Town** or a utility company.

4 Order to Comply

- 4.1 Where an **Officer** is satisfied that there has been a contravention of any provision of this by-law, the **Officer** may issue an order requiring the **owner** or **occupant** of the property abutting the **boulevard** on which the contravention has occurred or the **fixture owner** to do work to correct the contravention.

- 4.2 An order shall set out,
- a) reasonable particulars of the contravention;
 - b) the location of the property or the **fixture**;
 - c) the general nature of work required to be done to correct the contravention; and
 - d) the date by which the work must be done.
- 4.3 An order may be served by,
- a) personally delivering it to the **owner** or **occupant**;
 - b) sending it by registered mail to the **owner** at the address of the **owner** shown on the last revised assessment roll for the property or the last known address of the **owner**; or
 - c) sending it by registered mail to the **occupant** at the last known address of the **occupant**; or
 - d) in the case of a corporation by sending it by registered mail to the corporation's registered head office
- 4.4 If the address of an **occupant** is unknown or the **Town** is unable to effect service on the **owner** or **occupant** in accordance with this By-law, a placard of the order may be placed in a conspicuous place on or near the **owner's** or **occupant's** property.
- 4.5 Service of an order under this By-law shall be deemed to have been effected on the date that it is delivered personally, seven days after it is sent by registered mail, or the date that it is posted on the property, as the case may be.

5 Inspections and Enforcement

- 5.1 An **Officer** may, at any reasonable time, enter upon any land for the purpose of carrying out an inspection to determine whether or not the provisions of this by-law have been complied with.
- 5.2 No **person** shall hinder or obstruct, or attempt to hinder or obstruct, an **Officer** exercising a power or performing a duty under this by-law.

6 Remedial Action

- 6.1 Where an order has been issued and compliance has not been achieved by the date specified in the order, the **Town** may cause the work set out in the order to be completed.
- 6.2 The **Town** may recover the costs of doing any work undertaken pursuant to this By-law, together with an administration charge equal to 15% of such costs from the **person** required to complete the work by legal action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

7 Penalty

- 7.1 Every **person** who contravenes any provision of this By-law or any order made under this By-law and every director or officer of a corporation, who knowingly concurs in the contravention by a corporation is guilty of an offence and upon conviction is liable to:
- a) on a first offence, to a fine not more than \$50,000.00; and
 - b) on a second offence and each subsequent offence, to a fine not more than \$100,000.00
- 7.2 Every **person** who is issued a Part 1 offence notice or summons and is convicted of an offence under this By-law shall be subject to a fine, to a maximum as provided for in the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.
- 7.3 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended.

8 Administration

- 8.1 The **General Manager** shall administer the by-law and establish any practices, policies and procedures necessary to implement the by-law.
- 8.2 The **General Manager** shall prescribe all forms and notices, including any orders, necessary to implement the by-law, and may amend such forms and notices from time to time as the **General Manager** deems necessary.

9 Word Usage

- 9.1 As used in this by-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.

9.2 The headings and subheadings used in this by-law shall not form part of the by-law, but shall be deemed to be inserted for convenience of reference only.

10 Severability

10.1 If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of **Council** that the remainder of the By-law shall continue in force unless the court makes an order to the contrary.

11 Conflict With Any Other By-law

in the event of any conflict between any provisions of this by-law and any other by-law heretofore passed, the provisions of this by-law shall prevail.

12 Short Title

This by-law may be referred to as the "Boulevard Maintenance By-law".

13 Effective Date

This by-law shall come into force and effect on the date of passing. Passed in open Council this 18th day of March, 2019.



Sandy Brown, Mayor



Susan Greatrix, Clerk