

Office Consolidation of Boulevard By-Law 2013-066



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The Corporation of the Municipality of Clarington By-Law 2013-066

Being a by-law to regulate the use of boulevards

Passed, by Council, on: June 17, 2013

Consolidated as of: October 18, 2021

Amendments:

| Amending By-Law | Date | Amendment Details |
|-----------------|------------------|--|
| 2015-013 | January 26, 2015 | Amend definitions of "damage", "encumber" and "waste" Add sections 22.1, 22.2, 22.3 Amend Section 33 |
| 2016-037 | April 11, 2016 | Amend definition of "boulevard" |
| 2021-076 | October 18, 2021 | Replace section 34; add section 36 and renumber accordingly; add Schedule A |

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The Corporation of the Municipality of Clarington

By-Law 2013-066

A by-law to regulate the use of boulevards

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

WHEREAS the Municipality of Clarington deems it necessary to regulate the use of the boulevard portion of highways under its jurisdiction.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON HEREBY ENACTS AS FOLLOWS:

PART I – INTERPRETATION**Definitions**

1. In this by-law,

“boulevard” means all parts of a highway other than the roadway and shoulder **and** includes any reserve owned by the Municipality that is adjacent to a highway;

“damage” means physical harm that impairs the value, usefulness or normal function of something and includes defacing, tagging and placing graffiti;

“Director of Operations” means the Municipality’s Director of Operations or a designate;

“Director of Engineering Services” means the Municipality’s Director of Engineering Services or a designate;

“encumber” means to block, hamper or impede through the placement or deposit of any object or material;

“driveway apron” means the portion of a driveway within the boulevard;

“erect” includes display, attach, affix, post, alter, construct, place, locate, install, relocate and maintain;

“fixture” includes a utility box, real estate box, newspaper vending box, bench, transit shelter, telephone box, telephone booth, transformer box or vault, telephone pole, utility pole, bollard, streetlight, stoplight pole, recycling waste module, mailbox and street sign or any similar public infrastructure;

“highway” has the same meaning as in subsection 1(1) of the *Highway Traffic Act*, R.S.O. 1990, c. H.8 and includes all unassumed road allowances in a registered plan of subdivision;

“Municipality” means the geographical area of the Municipality of Clarington or The Corporation of the Municipality of Clarington, as the context requires;

“obstruction” means a basketball net, hockey net, skateboard ramp or any other object that may interfere with the safe movement of pedestrians or vehicles;

“occupier” means a lessee, tenant, mortgagee in possession or any other person who appears to have care and control of any property;

“officer” means a municipal law enforcement officer or other employee of the Municipality whose duties include the enforcement of this by-law;

“order” means an order issued by an officer under subsection 30(1);

“owner” means the person identified in the most recent tax roll as the owner of any property;

“person” includes an owner, occupier, corporation and the heirs, executors, administrators or other legal representatives of an owner, occupier or corporation to whom the context can apply according to law;

“property” means any land, including the buildings and structures on the land;

“tree” means any species of woody plant which, at maturity, is usually 5 or more metres in height having one or more self-supporting trunks and includes the roots, branches, trunk, crown and all parts thereof;

“utility” includes underground pipes, wires and conduits, utility poles, light standards and overhead wires, water shut off valves and hydrants;

“vegetation” means vegetation of any kind including shrubs (woody plants smaller than a tree and having a very short stem with low branches), but does not include flowers, trees, sod or vegetables; and

“waste” includes garbage, refuse, debris, litter and any other object or material that has been dumped, cast aside, discarded or abandoned.

References

2. In this by-law, reference to any Act or By-Law is reference to the Act or By-Law as it is amended or re-enacted from time to time.
3. Unless otherwise specified, references in this by-law to Parts, sections and subsections are to Parts, sections and subsections in this by-law.

Word Usage

4. This by-law shall be read with all changes in gender or number as the context may require.
5. In this by-law, a grammatical variation of a defined word or expression has a corresponding meaning.

Severability

6. Each section of this by-law is an independent section, and the holding of any section or part of any section of this by-law to be void or ineffective for any reason shall not be deemed to affect the validity of any other section or parts of sections of this by-law.

Application

7. This by-law applies to all highways and sidewalks under the jurisdiction of the Municipality.
8. Nothing in this by-law shall be interpreted as requiring the Municipality to maintain rural ditches or drainage courses other than for the purpose of conveying road drainage.

Exemptions

9. This by-law shall not be interpreted as restricting or prohibiting,
 - (a) the placement or erection of signs in compliance with the Municipality's Sign By-law;
 - (b) the installation and use of a driveway apron that has been approved by the Director of Engineering Services;
 - (c) the temporary placement of refuse or debris for collection in compliance with the standards of the Region of Durham Waste Management By-law in effect at the time; or
 - (d) the placement of fixtures in locations approved by the Director of Engineering Services.

Conflict

10. To the extent of any conflict between the provisions of this by-law and any condition or other requirement imposed as part of any development approved under the *Planning Act*, R.S.O. 1990, c. P.13, the condition or other requirement shall prevail.

PART II – BOULEVARD REGULATIONS**Prohibitions**

11. No person shall plant any vegetation within a boulevard.
12. No person shall erect any fixtures, pillars, signage or similar objects within a boulevard without the prior approval of the Director of Engineering Services.
13. (1) In this section, “hard landscaping material” means asphalt, concrete, interlocking brick or block, crushed or solid stone, gravel, slag, ground asphalt or wood.
(2) No person shall place hard landscaping material, rocks, bricks, lawn ornaments, planters or similar objects within a boulevard.
(3) Notwithstanding subsection (2), hard landscaping material may be placed within a driveway apron approved of the Director of Engineering Services.
14. No person shall erect a fence within a boulevard.
15. No person shall re-grade any portion of a boulevard.
16. No person shall leave unattended any obstruction within a boulevard.
17. No person shall permanently erect any obstruction within a boulevard.
18. No person shall remove or damage any sidewalk or other municipal improvement within a boulevard.
19. (1) No person shall alter or damage a municipal curb, sidewalk, ditch, drainage course or culvert within a boulevard.
(2) Notwithstanding subsection (1), culverts and culvert treatments may be undertaken by an owner with the approval of the Director of Operations.
20. (1) No owner or occupier shall permit grass, turf or weeds in the boulevard area abutting their property to exceed a height of 20 centimetres.
(2) Notwithstanding subsection (1), rural ditches may contain tall grasses, weeds, bulrushes or similar vegetation and may have local areas of standing water and minor erosion provided that road drainage is not interfered with.
21. No owner or occupier shall,
 - (a) erect or deposit or permit to be erected or deposited any fill in a ditch or drainage course located within a boulevard abutting their property; or

- (b) allow any silt to migrate into a ditch or drainage course located within a boulevard abutting their property.

Driveways

- 22. All requests to create a new driveway entrance or to alter an existing driveway entrance shall be processed in accordance with the Municipality's Entrance Policy.
- 22.1 No person shall place or deposit or cause to be placed or deposited any waste within a highway including the boulevard.
- 22.2 No person shall leave unattended any obstruction within a highway.
- 22.3 No person shall encumber or damage any highway.

Sump Pumps

- 23. Owners shall be allowed to have sump pumps discharge into the Municipal stormwater system or rural ditches provided, in the opinion of the Director of Operations, there is no interference with the use or operation of any utility, any portion of the boulevard or any other part of a highway.

Damage Deposits

- 24. When the Municipality's Chief Building Official, in his sole discretion, deems it necessary, persons applying to the Municipality for a permit to construct or demolish a building shall be required to provide security in an amount sufficient to cover the cost of any damage that may be caused to a boulevard as a result of the construction or demolition.

General

- 25. No owner or occupier shall erect or deposit or permit to be erected or deposited within a boulevard abutting their property anything that would,
 - (a) interfere with the ability of the Municipality or any utility company to install, repair or maintain any utility; or
 - (b) obstruct sight lines or otherwise interfere with the use of any utility or the operation of a highway.

PART III - TREES

Tree Planting

- 26. No person shall plant any tree within a boulevard.

27. Owners may request a tree to be planted by the Municipality within the boulevard abutting their property. Such requests will be investigated and, if deemed appropriate by the Director of Operations and if sufficient funds have been budgeted for such purpose, a suitable species of tree will be planted.

Tree Pruning or Removal

28. No person shall remove, cut down, damage or destroy any tree within a boulevard.
29. (1) Any owner may request that the Municipality remove or prune a tree located within a boulevard abutting the owner's property.
- (2) Requests for the removal or pruning of a tree shall only be approved if, in the opinion of the Director of Operations, the removal or pruning of the tree is necessary for public safety, the health of the tree, or another public purpose.
- (3) Any tree removal or pruning of a tree shall be at the expense of the Municipality.

PART IV – ENFORCEMENT

Order to Comply

30. (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 occupier of the property abutting the boulevard on which the contravention has occurred or the owner of the fixture to do work to correct the contravention.
- (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.
- (3) An order may be served by,
- (a) personally delivering it to the owner or occupier;

- (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 occupier at the last known address of the occupier.
- (4) If the address of an occupier is unknown or the Municipality is unable to effect service on the owner or occupier in accordance with subsection (3), a placard setting out the terms of the order may be placed in a conspicuous place on or near the owner's or occupier's property.
- (5) Service of an order under this section shall be deemed to have been effected on the date that it is delivered personally, five days after it was mailed, or the date that it is posted on the property as the case may be.
31. No person shall fail to comply with an order.

Remedial Action

32. (1) Where an order has been issued and compliance has not been achieved by the date specified in the order, the Municipality may cause the work set out in the order to be done.
- (2) The Municipality may recover the costs of doing any work undertaken pursuant to subsection (1), together with an administration charge equal to 25% of such costs, from the person required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

Emergencies

33. In the event of an emergency, the Municipality may remove any plantings, waste or obstructions located within a boulevard without notice or compensation to the owners or occupiers of property abutting the highway including the boulevard.

Penalties

34. Without limiting any other section of this By-law, every Person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine in accordance with the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

PART V - GENERAL

Short Title

35. This by-law may be referred to as the “Boulevard By-law”.

Schedules

36. The following Schedules are attached to and form an integral part of this by-law:

Schedule “A” – Set Fines

Effective Date

37. This by-law comes into effect on the date of its passing.

BY-LAW passed in open session this 17th day of June, 2013.

ORIGINAL BY-LAW SIGNED

Schedule "A"

MUNICIPALITY OF CLARINGTON

PART I Provincial Offences Act

By-law #2013-066, as amended: Boulevard By-law

| ITEM | COLUMN 1 Short Form Wording | COLUMN 2 Provision creating or defining offence | COLUMN 3 Set Fine |
|-------------|---|--|------------------------------|
| 1 | Leaving unattended obstruction within a boulevard | s. 16 | \$150.00 |
| 2 | Removal or damage of sidewalk or other improvement within a boulevard | s. 18 | \$500.00 |
| 3 | Height of grass, turf or weeds in the boulevard in excess of 20 centimetres | s. 20(1) | \$150.00 |
| 4 | Leaving unattended obstruction within a highway | s. 22.2 | \$250.00 |
| 5 | Encumber or damage to a highway | s. 22.3 | \$500.00 |
| 6 | Removal, damage or destruction of a boulevard tree | s. 28 | \$500.00 |
| 7 | Failure to comply with an order | s. 31 | \$350.00 |

"NOTE: The penalty provision for the offences indicated above is section 34 of by-law no. 2013-066, as amended, a certified copy of which has been filed"