

Boulevard Maintenance Bylaw, 2015, No. 2860

CONSOLIDATED FOR CONVENIENCE July, 2019

**In case of discrepancy, the original Bylaw
or Amending Bylaws must be consulted.**

Consolidates Amendments authorized by:

- Amendment Bylaw [No. 1], 2019, No. 2969

**CORPORATION OF THE TOWNSHIP OF
ESQUIMALT**

BYLAW NO. 2860

A Bylaw to provide for the maintenance of boulevards
In the Township of Esquimalt

WHEREAS Council is authorized to enact a Bylaw to regulate the construction and maintenance of boulevards by or on behalf of the **owners** of land **abutting** them;

NOW THEREFORE the Council of the Corporation of the Township of Esquimalt, in open meeting assembled, enacts as follows:

PART ONE: DEFINITIONS

1.1. In this Bylaw,

“**abutting**” means on the front, back or sides of a property **parcel**;

“**application**” means the application for a **Boulevard Alteration Permit**;

“**boulevard**” means that portion of the street between the curb lines or the lateral lines of a roadway and the abutting property line, exclusive of the sidewalk;

“**Boulevard Alteration Permit**” means a Permit issued by the Township pursuant to Part 3 hereof;

“**Bylaw Enforcement Officer**” means the Director of Community Safety Services, or a person or persons designated by the Director of Community Safety Services to carry out any act or function under this Bylaw, and every Bylaw Enforcement Officer employed or appointed by the Township to inspect and enforce any Bylaw of the Township;

“**Director**” means the person appointed by Council to the position of **Director of Engineering and Public Works** or their designate;

“**ditch**” means a drainage **ditch** located within the right-of-way of a **highway** in the possession and control of the Township;

“**highway**” means the same as defined in the *Transportation Act*, as amended from time to time;

“**non-standard landscaping**” means any type of boulevard landscaping and includes shrubs, mulch, herbaceous or perennial vegetation, other than grass;

“**noxious weeds**” means any plant designated as a weed in the *Weed Control Act* and Regulations, as amended from time to time;

“**owner**” has the same meaning as defined in the *Community Charter*;

“**parcel**” means any lot, block or other area in which land is held or into which it is subdivided, but does not include a **highway**;

“**property**” means land, with or without improvements so affixed to the land as to make them in fact and law a part of it;

“**roadway**” shall mean that portion of the street improved, designed or ordinarily used for vehicular traffic;

“**Township**” means the Township of Esquimalt;

“**tree**” means a perennial woody plant that has secondary branches supported clear of the ground on a single main stem or trunk;

PART TWO: GENERAL PROVISIONS

2.1. In regards to the **boulevard abutting** an **owner’s property**, such property **owner** must:

- a) keep grass or other plant material on the **boulevard** trimmed to a height of not more than 15 cm;
- b) keep such **boulevard**, including any sidewalk, free of brush, **noxious weeds**, leaves, litter, debris, garbage or discarded materials, and in a tidy condition;
- c) maintain the height and width of any shrubs or **non-standard landscaping** below a maximum height of 0.5 m from the **boulevard** level, and trimmed to prevent growth over an adjacent sidewalk, curb or **roadway**;
- d) maintain a one metre clearance for shrubs, hedges or other plants, excluding grass, from any fire hydrant or fire hydrant valve;
- e) ensure that landscaping does not interfere with intersection sightlines;
- f) not place any hard surfaces, such as rocks, gravel, landscape ties, tires, rails, asphalt, bricks, concrete structures or figurines on a **boulevard** except as allowed by a **Boulevard Alteration Permit**;
- g) adequately water any shrubs, trees and grass that is not watered by an automatic watering system operated by the Township;
- h) not prune or alter the appearance of the boulevard trees or shrubs except as required by this Bylaw;
- i) not change the grade or the elevation of the **boulevard** without the written permission of the Director or his/her designate in the form of a **Boulevard Alteration Permit**;
- j) not make any changes to a boulevard without first having obtained a **Boulevard Alteration Permit**;

- k) notwithstanding any of the above, remove or mitigate any landscaping or conditions on the **boulevard** that are deemed to be a hazard in the opinion of the **Director**.
- 2.2. The obligations to maintain the **boulevard** as specified in Section 2.1 do not apply where in the opinion of the **Director**, the property **owner** is unable to access the **boulevard** due to steep grades or the size of the **boulevard** is unreasonably large for the property **owner** to maintain. This exception does not apply if the **owner** has altered the site so as to adversely impact maintenance or access.
- 2.3. The Township has the authority to assume ownership of any **tree**, hedge or shrub in a **boulevard** for the purpose of being the sole maintainer of such **tree**, hedge or shrub.
- 2.4. Any utilities works conducted on a **boulevard** will require the return of the **boulevard** to the pre-existing condition, or to such other condition as is acceptable to the Director, within a reasonable time after the conclusion of the works and in any case, not longer than a time period as specified by the **Director**.
- 2.5. Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time, and any Bylaw referred to herein is a reference to an enactment of the Council of the Township, as amended, revised, consolidated or replaced from time to time.
- 2.6. **Non-standard landscaping** is permitted on a **boulevard**, under the following conditions:
- a) the property **owner** must first obtain a valid **Boulevard Alteration Permit** from the Township;
 - b) the property **owner** is responsible for locating the **property** line as well as all underground utilities prior to digging;
 - c) the property **owner** is solely liable for any claims regarding injury or hazards that may be created due to **non-standard landscaping**;
 - d) shrubs and plant materials must be drought tolerant and must be maintained to a height less than 0.5 m above the **boulevard** level except with Township approval;
 - e) **noxious weeds** or invasive plants are not permitted;
 - f) if the **boulevard** is located next to on-street parking, the **boulevard** landscaping must not interfere with the ability of people to open car doors or to enter in or exit from vehicles;
 - g) hedges, rocks or gravel are not permitted to be placed on the **boulevard** adjacent to a **roadway**, curb or a sidewalk, except gravel placed by Township personnel as required by the **Director**;

- h) the landscaping must not fill in or interfere with utilities, **ditches**, swales, gravel soaker strips, or drainage structures;
- i) permanent structures, such as retaining walls, fencing or private signs are prohibited in the **boulevard** other than those installed by the Township except as allowed by this or some other act or Bylaw;
- j) all landscaping placed in the **boulevard** may be removed by the Township at any time and without notice, and may not be replaced, except with soil and grass; and
- k) the Township is not responsible for damages to **non-standard landscaping**.

PART THREE: BOULEVARD ALTERATION PERMIT

- 3.1 No person shall improve or otherwise alter, modify, landscape or place structures, objects or improvements of any nature upon, within, over or under any **boulevard** unless that person holds a valid and subsisting **Boulevard Alteration Permit**.
- 3.2 An **owner** may apply for a **Boulevard Alteration Permit** by submitting an **application** in the form as prescribed by the Township.
- 3.3 The **Director** may approve, deny, or approve with such conditions as he or she considers appropriate, an **application** for a **Boulevard Alteration Permit**.
- 3.4 An **owner** who is issued a **Boulevard Alteration Permit** must carry out such improvements strictly in accordance with the conditions of the Permit.
- 3.5 The **Director** may revoke without compensation a **Boulevard Alteration Permit** for any reason, including but not limited to: if the holder of the Permit has failed to comply with the regulations of this Bylaw or with any condition of the Permit or if the holder of the Permit fails to maintain the **non-standard landscaping** in a suitable condition as specified in the Permit in the opinion of the **Director**. *[Bylaw No. 2969, Amendment Bylaw [No. 1]*
- 3.6 If the **Director** refuses to issue or revokes a **Boulevard Alteration Permit**, the applicant or **owner** is entitled to have Council reconsider the matter.
- 3.7 Where a **Boulevard Alteration Permit** has been revoked, the **owner** shall return the **boulevard** to the pre-existing condition prior to the **non-standard landscaping** being installed, or to such other condition as is acceptable to the **Director**, within a reasonable time and in any case, not longer than a time period as specified by the **Director**.

PART FOUR: VIOLATIONS, PENALTIES AND ENFORCEMENT

- 4.1. Whenever any person is in default of doing any matter or thing required to be done under the provisions of this Bylaw, the Township, through its officers, employees or agents may do what is required to be done, at the expense of the person in default. Recovery of the expenses of the work done, with interest at the rate applicable thereto, including all costs, can be made in the same manner as it may recover municipal taxes.

- 4.2. No person shall prevent or obstruct, or attempt to prevent or obstruct the **Bylaw Enforcement Officer** from entry onto any **parcel** for the purposes of enforcing this bylaw.
- 4.3. A person who contravenes, violates or fails to comply with any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this Bylaw, or who fails to do anything required by this Bylaw, commits an offence and shall be liable upon conviction of a fine of not more than \$10,000 (Ten Thousand Dollars), the cost of enforcement proceedings, and any other penalty or order imposed pursuant to the Community Charter, SBC, 2003, c. 26 or the Offence Act, RSBC, 1996, c. 338, as amended from time to time.
- 4.4. Where an offence under this Bylaw is of a continuing nature, each day that the offence continues or is permitted to continue shall constitute a separate offence.
- 4.5. This Bylaw may be enforced pursuant to the Bylaw Notice Enforcement Bylaw, 2014, No. 2839 and the Ticket Information Utilization Bylaw, 2005, No. 2619, as amended from time to time.
- 4.6. This Bylaw may be enforced by the Township **Bylaw Enforcement Officers** or the Township's officers, employees or agents.

PART FIVE: SEVERABILITY AND CITATION

- 5.1. If any part, section, subsection, sentence, clause, sub-clause, or phrase of this Bylaw is for any reason held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Bylaw.
- 5.2. This Bylaw may be cited for all purposes as the "**Boulevard Maintenance Bylaw, 2015, No. 2860.**"

READ a first time on the 26th day of October, 2015.
 READ a second time on the 26th day of October, 2015.
 READ a third time on the 26th day of October, 2015.
 ADOPTED on the 2nd day of November, 2015.

BARBARA DESJARDINS
 MAYOR

ANJA NURVO
 CORPORATE OFFICER