



Town of  
**East Gwillimbury**

**THE CORPORATION OF THE TOWN OF EAST GWILLIMBURY**

**BY-LAW NUMBER 2016-119**

**A By-law to provide for the Regulation of Construction, Maintenance and Protection of Boulevards within the Town of East Gwillimbury**

**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 Town of East Gwillimbury enacts as follows:

**1. DEFINITIONS:**

1.1. In this by-law:

- (a) "**Back Lot Property**" refers to that portion of a property where the rear yard is adjacent to a Town or Regional road allowance;
- (b) "**Boulevard**" means the portion of a Highway on either side of a Roadway;
- (c) "**Driveway Apron**" includes that section of a driveway contained within the municipal Boulevard;
- (d) "**General Manager**" means the General Manager of Community Infrastructure & Environmental Services or his or her designate;
- (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**" includes the entire public road allowance;
- (g) "**Maintenance**" means any action required to sustain a Boulevard including but not limited to cutting, watering, removing debris or repairing damage to any Driveway Apron or feature located within the Boulevard area;
- (h) "**Owner**" means the lawful Owner of property, a lessee, tenant, mortgagee in possession of property, or occupant of property;
- (i) "**Person(s)**" includes an individual, association, firm, corporation, partnership, sole proprietorship, trust, organization, trustee, and agent;
- (j) "**Region**" means the Regional Municipality of York;
- (k) "**Roadway**" means any portion of a Highway that is improved, designed, or ordinarily used for vehicular traffic, and may include a curb and/or shoulder;
- (l) "**Sidewalk**" shall mean that portion of the Highway that is intended for the use of pedestrians and/or cyclists and which surface is finished with concrete, asphalt or granular;
- (m) "**Town**" means the Corporation of the Town of East Gwillimbury;
- (n) "**Tree**" means any tree, shrub, hedgerow growing within the boulevard;
- (o) "**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;
- (p) "**Turf grass**" means a perennial strand of plant that can form turf and withstand mowing, traffic and/or wear;
- (q) "**Utilities**" includes infrastructures such as cables, pipelines or structures that are owned and maintained by the Town, Region, or other utility companies.

## **2. PLANTING IN BOULEVARDS**

- 2.1 No Person shall plant or permit to be planted a Herbaceous Plant on a Boulevard or section of Boulevard abutting his or her property that:
- (a) exceed a height of 45 centimeters;
  - (b) impair drainage; or
  - (c) contain vegetables or grains;
  - (d) interferes with pruning, removal or replacement of Town Trees
  - (e) is within a distance of 3m or less from the base/trunk of a Town Tree

2.2. No Person shall plant or permit to be planted a tree on a Boulevard or section of Boulevard abutting his or her property without written permission from the General Manager.

2.3. Subsection 2.2. does not apply to Town planted Trees.

### **3. BOULEVARD MAINTENANCE OBLIGATIONS**

3.1. Subject to any permission granted by the Town or Region, on a Boulevard abutting his or her property, no Owner shall permit anything on the Boulevard that:

- (a) is protruding, sharp, dangerous in any way, or which may otherwise cause damage/injury a Person or thing;
- (b) restricts sight lines of pedestrians, cyclists or drivers of vehicles to intersections, driveways, Sidewalks, walkways, travel lanes, or Traffic Control Devices;
- (c) inhibits or obstructs snow removal operations;
- (d) obscures or obstructs access to fire hydrants, post office boxes, or other installations belonging to the Town, Region, or any utility provider;
- (e) is located within 0.6 metres of the Sidewalk, unless it is turf grass, Herbaceous Plants, wood chips, mulch, or inorganic material;
- (f) is located within 1.8 metres of the curb, unless it is turf grass, Herbaceous Plants, wood chips, mulch, or inorganic material (any inorganic material, wood chips, or mulch permitted under this subsection must be installed flush to the curb).
- (g) 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 (any inorganic material, wood chips, or mulch permitted under this subsection must be installed flush with the existing grade of the Boulevard and provide positive drainage);
- (h) is more than 20 centimeters in height, unless it is a Herbaceous Plant and governed by subsection 2.1. of this by-law; or
- (i) overflows onto the Sidewalk, Roadway or adjacent property;
- (j) is located within 3m of the base/trunk of a Town Tree.

3.2. No Person shall permit turf grass to exceed a height as prescribed under Town by-law No. 2006-23 (as amended), being a by-law respecting property standards on a Boulevard abutting his or her property.

- 3.3. No Person shall alter an area of the Boulevard that is abutting his or her property or regularly maintained by the Town or Region.
- 3.4. The Owner is to maintain their Driveway Apron in a state of good repair and control material from the driveway from entering onto the Roadway. A road occupancy permit is not required for repairs or replacement of a Driveway Apron, provided there is no change to material, size or location.
- 3.5. The provisions of subsection 3.1 do not apply to snow.
- 3.6. The provisions of subsection 3.1 do not apply to anything on a Boulevard that is permitted under Town by-Law No. 2010-073 (as amended), being a by-law to establish and maintain a system for the collection, removal and disposal of garbage, other refuse, yard waste materials, recyclable materials including blue box materials and source separated organics in the Town.
- 3.7. Where an Owner has obtained written permission from the General Manager under section 3.1, that Owner shall comply with any conditions set forth in the written permission of the General Manager.

#### **4. DAMAGE TO BOULEVARD**

- 4.1. No Person shall damage, construct or re-construct a Sidewalk, curb, Driveway Apron or Boulevard without the written permission of the General Manager.
- 4.2. For the purposes of Section 4.1, "Person" shall not include the Town, the Region, a utility, or a contractor hired by the Town, Region or utility.
- 4.3. If a Boulevard, is damaged by the Town, the Region, a utility, or a contractor hired by the Town, Region or utility, the person who that caused the damage shall only be responsible for restoring (turf grass or asphalt for a Driveway Apron) that Boulevard, and shall not be obligated to restore any alterations to the Boulevard made by the Owner.

#### **5. PENALTIES AND ENFORCEMENT**

- 5.1. Where anything required to be done by an Owner in accordance with this by-law is not done, the Town 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 or in the case of a contractor working on behalf of a utility company, the cost will be added to the Road Occupancy Permit.
- 5.2. 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.

6. **GENERAL**

6.1. 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***

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

***Effective Date***

This by-law shall come into force on November 15, 2016.

ENACTED AND PASSED this 15<sup>th</sup> day of November, 2016.

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Virginia Hackson, Mayor

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Fernando Lamanna, Municipal Clerk