



# THE CORPORATION OF THE TOWN OF WHITBY

## Property and Boulevard Maintenance

A by-law to require owners and occupiers of land to clean and clear land, maintain boulevards and clear snow and ice from sidewalks and roofs of buildings.

By-law # 6937-15

Consolidated Version

### As Amended by By-laws:

**By-law Number:**

# 7645-20

# 7921-22

**Date Passed:**

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September 26, 2022

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The Corporation of the Town of Whitby

By-law # 7645-20

Being a By-law to require owners and occupiers of land to clean and clear land, maintain boulevards and clear snow and ice from sidewalks and roofs of buildings.

Whereas Section 11(3) of the Municipal Act, 2001, S.O. 2001, c. 25 provides that a local municipality may pass by-laws regulating highways under its jurisdiction;

And Whereas Section 122 of the Municipal Act, 2001, S.O. 2001 c. 25 provides that a local municipality may require the owners and occupants of buildings to remove snow and ice from the roofs of buildings and may regulate when and how the removal of snow shall be undertaken;

And Whereas Section 127 of the Municipal Act, 2001, S.O. 2001 c. 25 provides that a local municipality may require the owner and occupants of land to clean and clear the land or to clear refuse or debris from the land, not including buildings;

And Whereas the Town of Whitby deems it necessary to regulate the cleaning and clearing of land, maintenance of boulevards and the clearing of snow and ice from sidewalks and roofs of buildings within the Town.

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

**1. Definitions**

- 1.1 “adjacent boulevard” means the boulevard immediately adjacent to the front yard and/or side yard of a property;
- 1.2 “adjacent sidewalk” means a public sidewalk located on a boulevard immediately adjacent to the front yard and/or side yard of a property;
- 1.3 “agricultural purposes” means land designated for agricultural purposes under the Town’s Zoning By-laws and used for cultivating soil, producing crops or for the raising of livestock as an “agricultural operation” as defined in the Farming and Food Production Protection Act;
- 1.4 “boulevard” means that part of a highway 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;
- 1.5 “clean and sanitary” means clean and sanitary in the opinion of an officer;
- 1.6 “Commissioner of Public Works” means the Commissioner of Public Works for the Town or designate;

- 1.7 “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, hydro pole, streetlight, stoplight poles and street signs;
- 1.8 “fixture owner” means the owner of a fixture;
- 1.9 “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;
- 1.10 “highway” means a common and public highway, whether assumed or unassumed, and includes a bridge, trestle, viaduct, or other structure forming part of the highway which is under the jurisdiction of the Town;
- 1.11 “injure” means any action which causes physical, biological or chemical damage;
- 1.12 “inoperative motor vehicle” means a vehicle that is in a wrecked, dismantled, partially dismantled or abandoned condition such that it is prevented or prohibited from safe and immediate operation and includes motor vehicles that do not have current and valid licence plates attached to the vehicle unless such vehicles are covered by a fitted vehicle cover which is maintained in good condition;
- 1.13 “municipal property” means any land owned or occupied and operated by the Town;
- 1.14 “naturalized property” means a property that is owned or occupied and operated by the Town of Whitby, Regional Municipality of Durham, the Provincial or Federal Government or Central Lake Ontario Conservation Authority that is left in a naturalized condition for the purposes of recreation or to protect the surrounding environment or any woodlot as defined in the Town’s Tree Protection By-law;
- 1.15 “occupant” means a lessee or occupant of property, but does not include an owner;
- 1.16 “officer” means a municipal law enforcement officer appointed by the Council of the Town to administer and enforce the provisions of this by-law;
- 1.17 “order” means an order issued by an officer pursuant to Section 6.2 of this by-law;
- 1.18 “owner” includes the registered owner, owner in trust, a mortgagee in possession, the person for the time being who is managing or receiving the rent of the land or premises in connection with which the land is used whether on his account, or as agent or trustee of any other person, or who would receive the rent if the land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a

lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of the property, and includes a person, firm, partnership, corporation, company, association, or organization of any kind and its principal(s);

- 1.19 “person” includes a natural person, a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
- 1.20 “property” means any grounds, yard, parking lot, vacant land or other parcel of land not including any buildings;
- 1.21 “sidewalk” means a Municipal or Regional sidewalk located on a boulevard;
- 1.22 “Town” means The Corporation of the Town of Whitby or the geographic limits of the Town of Whitby as the context requires;
- 1.23 “utility company” means a company which supplies water, electrical, gas, cable, internet or telephone services to a property;
- 1.24 “refuse or debris” means any article, thing, matter or effluent that appears to be waste material and includes but is not limited to the following types of material: grass clippings, tree cuttings, brush, tree branches, leaves, garden refuse, earth and fill, paper, cardboard, clothing, kitchen and table waste, animal or organic waste, cans, glass, plastic containers, dishes, refrigerators, freezers, stoves, clothes washers, dryers, dish washers, microwaves or other appliances, disused furniture, furnaces, furnace parts, pipes, fittings to pipes, water or fuel tanks, fencing materials, piping, tubing, conduits or cable, containers of any size, type or composition, rubble, broken concrete, bricks, broken asphalt, patio or sidewalk slabs, mechanical equipment, mechanical parts, accessories to mechanical equipment, paper products, lumber or wood products, chemical products, bones, feathers, hides, material resulting from, or as part of construction or demolition projects, inoperative motor vehicles, vehicle parts and accessories, vehicle tires either mounted or unmounted on rims.

## **2. Interpretation**

- 2.1 The provisions of this by-law apply to the entire Town.
- 2.2 Unless otherwise specified, references in this by-law to parts, sections, subsections, clauses and schedules are references to parts, sections, subsections, clauses and schedules in this by-law.
- 2.3 References in this by-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted.
- 2.4 This by-law shall be read with all changes in gender or number as the context requires.

- 2.5 References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 2.6 The words “include”, “includes” or “including” are not to be read or interpreted as limiting the words, phrases or descriptions that precede it.
- 2.7 If a court of competent jurisdiction declares any section, or any part of any section of this by-law to be invalid or to be of no force or effect, it is the intention of the Town that every other provision of this by-law be applied and enforced in accordance with its terms to the extent possible according to law.
- 2.8 This by-law and the provisions contained within are intended to be complementary to other by-laws passed by Council and in the event that any other applicable law requires a higher standard than the provisions contained in this by-law, the higher standard shall apply.

### **3. Property Maintenance**

- 3.1 Every owner or occupant of a property shall maintain their property free of excavations, trenches or ditches which present, or could present an unsafe condition.
- 3.2 Every owner or occupant of a property shall maintain their property free of long grass or weeds exceeding fifteen (15) centimetres in height.
- 3.3 Every owner or occupant of a property shall maintain their property free of refuse or debris.
- 3.4 Section 3.2 of this by-law does not apply to the owner or occupant of that portion of a property that is being used for agricultural purposes.
- 3.5 Section 3.2 of this by-law does not apply to the owner or occupant of a naturalized property.
- 3.6 Section 3.3 of this by-law does not apply to an owner or occupant of a property that has refuse or debris on the premises of an amount and in proper containers suitable for collection at the next available waste collection date in accordance with the Town of Whitby Waste Management By-law.
- 3.7 Section 3.3 of this by-law does not apply to an owner or occupant of a property when the refuse or debris on the property is required and used for a lawful business purpose in accordance with the Town’s Zoning By-laws and any other applicable legislation.

### **4. Boulevard Maintenance**

- 4.1 No owner or occupant of a property shall install or place or permit the installation or placement of a fence, post, wall or rock on a boulevard.

- 4.2 No owner or occupant of a property shall install, place, plant or locate or permit the installation, placement, planting or locating of anything that is protruding, sharp or dangerous on a boulevard.
- 4.3 No owner or occupant shall install, place or locate or permit the installation, placement or locating of any electrical wiring or other electrical systems or any plumbing pipes or other plumbing systems on a boulevard.
- 4.4 Every owner or occupant of a property may landscape or improve the adjacent boulevard with hedges, shrubs, flowers or tree plantings provided that no hedge, shrub, flowers or tree plantings exceed 0.9 meters in height above the grade of the boulevard and that no hedge, shrub, flowers or tree plantings are installed or located within 2 meters of a curb or the edge of the travelled portion of a highway or within a 1 meter radius of a fire hydrant.
- 4.5 Every owner or occupant of a property may landscape or improve the adjacent boulevard provided that landscaping, hedges, shrubs, flowers and tree plantings are pruned and maintained so that they do not encroach over the travelled portion of a highway or sidewalk.
- 4.6 Every owner or occupant of a property may landscape or improve the adjacent boulevard with hard or solid materials such as interlocking stone, asphalt or concrete provided that the owner or occupant has first obtained written permission from the Commissioner of Public Works and that any hard or solid materials located within 0.3 metres of the edge of a sidewalk, footpath, curb or travelled portion of the road are level with the surrounding grade of the boulevard.
- 4.7 Every owner or occupant of a property shall maintain the adjacent boulevard free of excavations, trenches or ditches which present, or could present an unsafe condition.
- 4.8 Every fixture owner shall maintain their fixtures free from graffiti.
- 4.9 Every owner or occupant of a property in an area identified as residential, commercial or industrial pursuant to the Town's Zoning By-laws shall maintain the adjacent boulevard free of long grass or weeds exceeding fifteen (15) centimetres in height.
- 4.10 Every owner or occupant of a property shall maintain the adjacent boulevard free of refuse or debris.
- 4.11 Section 4.1 and Section 4.2 of this by-law do not apply to the owner or occupant of a property when any fence, wall, landscape rock or tree planting has been planted, placed, installed or located on a boulevard by the Town or the Regional Municipality of Durham.
- 4.12 Section 4.7 of this by-law does not apply to the owner or occupant of a property when excavations, trenches or ditches on adjacent boulevards are

caused by work undertaken by the Town, Regional Municipality of Durham or a utility company.

- 4.13 Section 4.10 of this by-law does not apply to the owner or occupant of a property that has refuse or debris on adjacent boulevards of an amount and in proper containers suitable for collections at the next available waste collection date in accordance with the Town of Whitby Waste Management By-law.
- 4.14 Nothing in Section 4 of this by-law shall be construed as preventing or limiting the placement or erection of signs which comply with Town and Regional Municipality of Durham Sign By-laws.
- 4.15 Nothing in Section 4 of this by-law shall be construed as preventing or limiting the creation and use of hard surface materials for bus stops, bus shelters or bus stop seating.
- 4.16 Nothing in Section 4 of this by-law shall be construed as preventing or limiting the placement of structures, electrical wiring or plumbing by the Town, the Regional Municipality of Durham, GO Transit, a utility company, Canada Post, or the placement of newspaper boxes which have been approved by the Commissioner of Public Works.
- 4.17 Unless a written agreement is in effect to the contrary, the Town shall not be held liable and no person shall have any claim against the Town for the removal or damage of any landscaping or improvements that are placed or installed on a boulevard or on municipal property in accordance with Sections 4.4 to 4.6 (inclusive) of this by-law.

## **5. Snow and Ice Removal from Sidewalks and Roofs**

- 5.1 Every owner or occupant of a property shall remove snow and ice from adjacent sidewalks within 24 hours of the end of a snow accumulation or the freezing of precipitation or the freezing of moisture on adjacent sidewalks.
- 5.2 Every owner or occupant of a building which is located in close proximity to a sidewalk or highway shall remove snow and ice from the roof of the building to prevent snow and ice from falling upon the sidewalk or highway
- 5.3 Every owner or occupant of a building which is located in close proximity to a sidewalk or highway shall take sufficient care while removing snow and ice from the roof of the building to protect the safety of pedestrian and vehicle traffic.

## **6. Enforcement and Penalties**

- 6.1 Pursuant to Section 436(1) of the Municipal Act, as amended, an officer may enter on any land at any reasonable time without a warrant to



determine whether or not there is compliance with the provisions contained in this by-law or with a direction or order pursuant to this by-law.

- 6.2 Where an officer is satisfied that there has been a contravention of a provision of this by-law, the officer may issue an order requiring the owner or occupant of the property to do work to the property or adjacent boulevards to correct the contravention.
- 6.3 An order issued pursuant to Section 6.2 of this by-law shall set out reasonable particulars of the contravention, the general location of the contravention, the general nature of the work required to be done to correct the contravention and the date by which the work must be done.
- 6.4 An order issued pursuant to Section 6.2 of this by-law may be served by personal delivery to the owner or occupant or by sending it by registered mail to the last known address of the owner or the address of the owner as shown on the most recent assessment roll from the premises or by sending it by registered mail to the occupant at the last known address of the occupant.
- 6.5 Service of an order pursuant to Section 6.4 of this by-law shall be deemed to have been effected on the date that it is delivered personally or three days after it was mailed as the case may be.
- 6.6 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 done.
- 6.7 The Town may recover the costs of doing any work undertaken pursuant to Section 6.6. of this by-law, together with an administration charge equal to 25 percent of the total costs, from the owner or occupant by legal action or by adding the costs and administration charge to the tax roll and collecting them in the same manner as property taxes.
- 6.8 Every person who contravenes or fails to comply with any provision of this by-law is guilty of an offence, and upon conviction is liable to a fine for each day on which the offence occurs, pursuant to the provisions of the *Municipal Act*.
- 6.9 For the purposes of this by-law, "hazardous condition" means a condition that is subject to the provisions of this by-law which exists on a property and is identified by an officer as posing an immediate threat to the safety or health of persons or animals and includes, but is not limited to, conditions identified by an officer as negatively impacting neighbouring properties.
- 6.10 Notwithstanding Sections 6.2 to 6.6 (inclusive) of this by-law, an officer who finds a hazardous condition may enter onto any property to remove or control such hazardous condition or to limit the negative impact on neighbouring properties without the requirement of first sending an order,

but an order shall be sent as soon as practical after the removal or control of the hazardous condition or after limiting the negative impact on neighbouring properties.

6.11 The Town may recover the costs of doing any work undertaken pursuant to Section 6.10 of this by-law, together with an administration charge equal to 25 percent of the total costs, from the owner or occupant by legal action or by adding the costs and administration charge to the tax roll and collecting them in the same manner as property taxes.

6.12 An order issued after the hazardous condition is remedied in accordance with Section 6.10 shall set out: (1) that the hazardous condition has been remedied; (b) the manner in which the hazardous condition was remedied; (c) any other contraventions of the by-law; and (d) any costs payable, and shall otherwise comply with the provisions of Sections 6.3 to 6.5 (inclusive).

## **7. Offences**

7.1 No person shall fail to comply with an order.

7.2 No person shall injure or destroy, or permit, allow or direct a person to injure or destroy, a hedge, shrub, flower or tree planted by the Town on a boulevard or other municipal property.

7.3 No person shall mark, deface, wax or damage any curb, sidewalk or part of a highway.

7.4 No person shall leave or utilize any structure, including a basketball net, hockey net, skateboard ramp or other play structure in a manner that interferes with or obstructs safe passage on a highway or sidewalk.

7.5 No person shall place or deposit, or cause or permit to be placed or deposited, any snow, slush, or ice on the travelled portion of a highway.

7.5.1 No person shall move, or cause or permit to be moved, any snow, slush, or ice across the travelled portion of a highway.

7.6 No person shall place or deposit, or cause or permit to be placed or deposited, any leaves on the travelled portion of a highway.

7.7 No person shall place or deposit, or cause or permit to be placed or deposited, any grass or grass clippings on the travelled portion of a highway.

7.8 No person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an inspection or investigation undertaken by an officer.

**8. Short Title**

- 8.1 This by-law may be cited as the “Property and Boulevard Maintenance By-law”

**9. Repeal of Existing By-law**

- 9.1 Any by-law which was in effect in the Town on the date of passage of this by-law which covers the same subject manner as this by-law shall remain in effect only for the purposes of the completion of any procedure that was commenced under that by-law.
- 9.2 By-law #2059-86, being a by-law to require and regulate the filling up, draining, cleaning, clearing of any grounds, yard and vacant lots in the Town of Whitby is repealed effective April 1, 2015.
- 9.3 By-law #5685-05, being a by-law to provide for the clearing away and removing of snow and ice from sidewalks and the roofs of buildings in the Town of Whitby is repealed effective April 1, 2015.
- 9.4 By-law #6456-11, being a by-law to regulate the maintenance, occupancy, use of, and other matters pertaining to boulevards under the jurisdiction of the Town of Whitby is repealed effective April 1, 2015.
- 9.5 By-law #6662-12, being a by-law to amend By-law #6456-11 is repealed effective April 1, 2015.

**10. Effective Date**

- 11. This by-law shall come into force and effect on April 1, 2015.

By-law read and passed this 19th day of January, 2015.

Original Approved and Signed.

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Don Mitchell, Mayor

Original Approved and Signed.

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Debi Wilcox, Town Clerk