



## OFFICE CONSOLIDATION

### **Boulevard Maintenance and Highway Obstruction By-law 163-2013**

A By-law to Repeal the Boulevard Maintenance  
By-law 133-97 and Replace it with  
The Boulevard Maintenance and Highway  
Obstruction By-law

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#### **Recitals:**

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;

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;

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;

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;

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;

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;

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;

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;

Section 1 of the *City of Brampton Act, 1996*, S.O. 1996, c. Pr18 (“*City of Brampton Act, 1996*”) provides that the City may pass by-laws requiring owners or occupants of designated class of building or property in the municipality or an area thereof to maintain the boulevard portion of any highway abutting the building or property which includes the grassy portion of the boulevard as well as any paved portion that may form part of a driveway apron;

The Council of The Corporation of the City of Brampton desires to repeal and replace the Boulevard Maintenance By-law No. 133-97, as amended with this updated By-law;

NOW THEREFORE the Council of The Corporation of the City of Brampton enacts as follows:

## **PART I – TITLE, INTERPRETATION AND SEVERABILITY**

1. This By-law may be referred to as the “Boulevard Maintenance and Highway Obstruction By-law”.
2. (1) Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Part II of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.  
  
(2) Wherever a word defined in Part II of this By-law is used in the form of a noun, verb, adverb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case  
  
(3) All words importing the singular shall include the plural, and words imparting the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.
3. This By-law applies to all property within the City.
4. If a court of competent jurisdiction declares any provision or part of a provision of this Bylaw to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

## **PART II – DEFINITIONS**

5. For the purpose of this By-law:

“By-law” means this by-law;

“Boulevard” means that portion of the Highway between the City property line and the roadway which is not used or intended for use for vehicular travel by the general public, and includes the landscaped areas and any driveway apron, but does not include any paved or poured hard-surface sidewalk or a curb or gutter that is not part of a driveway apron;

“City” means The Corporation of the City of Brampton or the land within the municipal boundaries of the City of Brampton, as the context requires;

“Commissioner” means the Commissioner of Corporate Services for the City and shall include his or her designate;

“Construction” means anything done in the erection, installation, extension or material alteration, demolition or repairs of a building

or structure and includes the installation of building units fabricated or moved from elsewhere and the installation of swimming pools;

“Contractor” means a Person, alone or with others conducting work on a property on behalf of the Owner or Occupant;

“Council” means the Council of The Corporation of the City of Brampton;

“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.

“Highway” means a common and public highway, and includes one or both of the following:

- (a) any street, road, avenue, parkway, lane, driveway, boulevard, sidewalk, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles or persons, or
- (b) the area between the lateral property lines of any highway or road allowance including any curbs, gutters, boulevards, culverts, ditches and retaining wall;

“Landscape or Construction Material” includes gravel, soil, sod, bricks, and paving stones, landscaping rocks, wooden planks or boards;

“Obstruct” means to obstruct, encumber, damage or foul;

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

“Officer” means a Person employed by the City to perform the duties of enforcing By-laws and appointed by Council as a Municipal Law Enforcement Officer;

“Owner” includes,

- (a) the Person who is the registered owner of a property; and
- (b) the Person for the time being managing or receiving the rent of the property whether on the Person’s own account or as agent or trustee of any other Person, or who would receive the rent if the land or premises were let;

“Person” includes an individual, corporation, partnership or limited liability partnership.

### **PART III – HIGHWAY OBSTRUCTION**

6. (1) No Person shall Obstruct any Highway by any means whatsoever.

(2) Without limiting the generality of subsection 6 (1), the obstruction of a Highway includes any one or more of the following:

- (a) the depositing of snow or ice on the portion of a Highway normally used for pedestrian or vehicular traffic;
  - (b) the relocation of snow from a Highway or private property to the portions of a Highway normally used for pedestrian or vehicular traffic;
  - (c) parking or depositing of equipment, motorized equipment other than motorized equipment permitted and licensed under the regulations of the Ministry of Transportation of Ontario, containers, trailers, or any Landscape or Construction Material on a Highway without having obtained the appropriate permission to do so from the City;
  - (d) the cutting, altering, extending, in any manner whatsoever of a concrete curb, open or contained culvert, culvert overpass, or similar structure or landscape without having first applied for and obtained the appropriate permission to do so from the City;
  - (e) throwing, placing or depositing of dirt, glass, handbills, paper or other refuse and debris or the carcass of any animal on a Highway;
  - (f) the excavation, removal or damage to any portion of a Highway, including sod, trees, light poles, street signs or other objects within the Highway without the permission to do so from the City;
  - (g) the placing or depositing of sporting equipment, including but not limited to basketball nets, hockey nets, soccer nets, skateboard ramps and bicycle ramps, on a Highway;
  - (h) the placing or depositing of any kind of furniture or fencing on a Highway.
7. (1) If an Officer determines that an Obstruction of a Highway exists, the Officer may issue an order requiring the Owner, Occupant and/or Contractor of the property from which the Obstruction comes from, relates to, or was created for, to discontinue causing the Obstruction and to remove the Obstruction and repair, as necessary, at the expense of the Owner, Occupant and/or Contractor, the Highway so that the Highway is brought back to its former condition prior to the Obstruction.
- (2) Where the order described in subsection 7 (1) is not complied with within the time period stipulated therein, the City may remove the Obstruction and repair, as necessary, the Highway and all the costs incurred by the City in undertaking this work shall be expenses owed to the City by the Owner, Occupant and/or Contractor of property from which the Obstruction comes from, relates to, or was created for.
- (3) Every Person who fails to comply with an order made under section 7(1) is guilty of an offence.

#### **PART IV – BOULEVARD MAINTENANCE**

8. (1) Every Owner or Occupant of a property shall maintain the grassy Boulevard portion of any Highway, or part of a Highway, that abuts their property.
- (2) Without limiting the generality of subsection (1), maintaining the grassy Boulevard portion of a Highway includes the following:
- (a) cutting the grass and weeds and removing the cuttings whenever the growth of grass or weeds exceeds 20 cm in height;

- (b) keeping the boulevard clean and free from:
    - (i) hazardous objects or materials,
    - (ii) domestic animal excrement,
    - (iii) rubbish or other debris,
    - (iv) holes, ruts and excavations that are actual or potential health, fire or safety hazards, or
    - (v) anything that may attract or harbour rodents or insects
9. (1) Every Owner or Occupant of a property shall maintain the paved portion of a Boulevard that forms part of a Driveway Apron in front of, alongside or at the rear of the property.
- (2) Without limiting the generality of subsection (1), maintaining the paved portion of a Boulevard includes the following:
- (a) keeping the paved portion of the Boulevard in a good state of repair so as to afford safe passage under normal use for persons and vehicles;
  - (b) keeping the paved portion of the Boulevard clear of snow and ice within 24 hours of a snowfall to provide safe passage for persons and vehicles;
  - (c) keeping the paved portion of the Boulevard clean and free from:
    - (i) hazardous objects or materials,
    - (ii) domestic animal excrement,
    - (iii) rubbish or other debris, and
    - (iv) holes, ruts and excavations.
10. (1) If an Officer determines that an Owner or Occupant of a property has failed to maintain a Boulevard that abuts the Owner's property, the Officer may issue an order requiring the Owner or Occupant to maintain the Boulevard in accordance with this By-law.
- (2) Where an order under subsection 10 (1) is not complied with within the time period stipulated therein, the City may carry out, or cause to be carried out, any work necessary to maintain the Boulevard in accordance with this By-law, and all the costs incurred by the City in undertaking this work shall be expenses owed to the City by the Owner or Occupant of the property.
- (3) Every Person who fails to comply with an order made under section 10(1) is guilty of an offence.

#### **PART V - HAZARDOUS CONDITION**

11. If an Officer determines that an Obstruction of a Highway is, or may create, a hazardous condition to the safety of any Person using the Highway, the Officer may take any action necessary to have the Obstruction immediately removed and the Highway repaired, if necessary, and all the costs incurred by the City in undertaking this work shall be expenses owed to the City by the Owner, Occupant and/or Contractor of

the property from which the Obstruction comes from, relates to, or was created for.

#### **PART VI - DISPOSING OF MATERIAL AND EQUIPMENT**

12. (1) Any Landscape or Construction Material removed by the City from a Highway under this By-law may be directly deposited onto the property from which the Obstruction comes from, relates to, or was created for, or the material may be treated as refuse by the City or become property of the City which can be disposed of in any manner or used for any City purpose.
- (2) Any motorized equipment, containers, trailers, or motorized tools removed by the City may, at the discretion of the Commissioner, be deposited at the property from which the Obstruction comes from, relates to, or was created for, or be stored at a City facility for 60 days at the owner's expense.
- (3) Any item in subsection 12 (2) shall only be released to its owner after the owner has shown proof of ownership and paid the City any applicable expense for the removal and storage of the item.
- (4) Any item in subsection 12 (2) that is stored at a City facility for more than 60 days and for which an owner has not been identified may be disposed of by the City in any manner that it deems appropriate.
- (5) Any item in subsection 12 (2) that is stored at a City facility for more than 60 days and for which the owner, having been identified, has failed to pay the applicable expenses and claim the item, may be disposed of pursuant to the provisions of the *Repair and Storage Liens Act*, R.S.O. 1990, c.R.25, as amended.

#### **PART VII – USE OF CONTRACTOR AND RECOVERY OF EXPENSES**

13. (1) The City may retain the services of a contractor to carry out any of the work that the City may carry out under this By-law.
- (2) All expenses incurred by the City in connection with the enforcement of this By-law shall be paid to the City by the Person owing those expenses and may be collected in the same manner as property taxes by adding the expenses to the tax roll of the property from which the Obstruction of the Highway or maintenance of the Boulevard relates.

#### **PART VIII – PENALTY**

14. (1) Every Person who contravenes any provision of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, and the *Municipal Act, 2001*, as both may be amended from time to time.
- (2) In addition to subsection 14 (1), any Person who is charged with an offence under this By-law in accordance with Part III of the *Provincial Offences Act* and is found guilty of the offence, is liable, in addition to any other penalties:
  - (a) If an individual, to a fine of not more than \$25,000; or

- (b) If a corporation, to a fine of not more than \$50,000.

#### **PART IX – INSPECTION**

- 15. An Officer acting under this By-law may, at any reasonable time, enter and inspect any property, including all buildings and structures thereon, to determine any one or both of the following:
  - (a) Whether there is compliance with this By-law.
  - (b) Whether there is compliance with any order made under this By-law.

#### **PART X – EXEMPTIONS**

- 16. (1) Section 6 (1) of this By-law shall not apply to an Obstruction on a Highway where the Obstruction is permitted under a valid and binding encroachment agreement or permit between a Person and the City.
- (2) Section 6(1) of this By-law shall not apply to any sign that is in compliance with the City's Sign By-law 399-2002, as amended, or any successor by-law.

#### **PART XI – SERVICE OF DOCUMENTS**

- 17. (1) Service of any document, including an order, under this By-law may be given in writing in any of the following ways and is effective:
  - (a) when a copy is delivered to the Person to whom it is addressed;
  - (b) on the 5th day after a copy is sent by registered mail to the Person's last known address;
  - (c) where service is unable to be done under subsections 17 (a) or (b), notice may be given by placing a placard containing the terms of the document or order in a conspicuous place on the property to which the document or order relate and shall be deemed to be sufficient service on the Owner or Occupant.

#### **PART XII – BY-LAW ADMINISTRATION**

- 18. The Commissioner shall administer the By-law and establish any practices, policies and procedures necessary to implement the By-law.
- 19. The Commissioner 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 Commissioner deems necessary.

#### **PART XIII – REPEAL AND EFFECTIVE DATE**

- 20. By-law 133-97, as amended, is hereby repealed.
- 21. This By-law comes into force on the day it is passed by Council.

READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL  
THIS 19th day of June, 2013.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by: Susan Fennell, Mayor

Original signed by: Peter Fay, City Clerk