



By-law No. 34-2024

Boulevard Maintenance By-law

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34-2024 [Original]	May 28, 2024
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**Consolidated for Convenience Only**

This consolidated copy of a Woolwich Township By-law is for convenient information. While every effort is made to ensure the accuracy of this copy, the original by-law must be consulted for all legal interpretations and applications. For more information or to view by-laws please contact the Clerks Division. This document is available in alternate formats on request.

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# The Corporation of the Township of Woolwich

## By-law No. 34-2024

### A By-law to regulate work on boulevards and highways in the Township of Woolwich

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WHEREAS subsection 11(2)(6) of the Municipal Act, 2001, S.O. 2001, c.25 (the "Municipal Act"), provides that a municipality may pass by-laws respecting the health, safety and well-being of persons; and

WHEREAS subsection 11(2)(8) of the Municipal Act, provides that a municipality may pass by-laws respecting the protection of persons any property; and

WHEREAS subsection 11(3) of the Municipal Act provides that a municipality may pass By-laws respecting highways and boulevards under its jurisdiction; and

WHEREAS subsection 27(1) of the Municipal Act grants a municipality the power to pass by-laws in respect to highways over which it has jurisdiction; and

WHEREAS subsection 28(2)(a) and (b) of the Municipal Act grants a municipality jurisdiction over all road allowances located in the municipality that were made by the Crown surveyors and all road allowances, highways, streets and lanes shown on a registered plan of subdivision; and

WHEREAS section 35 of the Municipal Act grants a municipality the power to pass by-laws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway by an owner of land abutting a highway; and

WHEREAS section 128 of the Municipal Act grants a municipality the power to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances; and

WHEREAS section 425 of the Municipal Act grants a municipality the power to pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence; and

WHEREAS section 426 of the Municipal Act provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a by-law passed under that Act; and

WHEREAS section 436 of the Municipal Act grants a municipality the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine if a by-law, direction, order or condition of licence is being complied with; and

WHEREAS section 446 of the Municipal Act grants a municipality the authority to direct or require a person to do a matter or thing, and the municipality may also provide that, in

default of it being done by the person or directed or required to do it, the matter or thing shall be done at the person’s expense and, the municipality may recover the costs of doing a matter or thing from the person directed or 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;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WOOLWICH HEREBY ENACTS AS FOLLOWS:

**Part I. Short Title, Purpose and Scope**

**Short Title**

- 1. This by-law shall be known as the “Boulevard Maintenance and Highway Obstruction By-law”.

**Purpose**

- 2. This by-law has been enacted to regulate work on boulevards and highways.

**Scope**

- 3. This by-law shall apply to all individuals or entities intending to carry out maintenance activities, alterations or occupying a boulevard or highway.

**Part II. Interpretation**

**Headings**

- 4. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.

**References to Applicable Law**

- 5. All references to applicable law are ambulatory and apply as amended from time to time.

**Definitions**

- 6. For the purposes of this by-law:

“Administrative Monetary Penalty System By-law” means the Administrative Monetary Penalty System By-law of the Township, as amended from time to time, or any successor thereof; (*By-law 67-2024*)

“Alter” means to change, modify or make different, and “Alteration” shall have a corresponding meaning;

“Back Lot Property” shall mean the portion of a property where the rear is adjacent to a Township or Regional road allowance;

“Boulevard” means that part of a highway including a sidewalk 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;

“Damage” means harm or injury to the Highway, including without limitation, harm, injury, disturbance, cracking, gouging or displacement of or to the pavement, curb, Boulevard or sidewalk, other than reasonable wear and tear;

“Designated Provision” means any section of this By-law designated in accordance with section 44.1 (*By-law 67-2024*)

“Director” means the Director of Infrastructure Services for the Township, or their designate;

“Fees and Charges By-law” means a by-law passed by Council from time to time pursuant to section 391 of the Municipal Act, 2001, S.O. 2001, c. 25, establishing the fees and charges for services or activities provided by or on behalf of the Township;

“Highway” means a “highway” as defined by the Highway Traffic Act, R.S.O. 190, c. H. 8, and for greater certainty, a Highway includes Boulevards;

“Interfere” means to alter, block, close, damage, hinder, obstruct or occupy, and “Interfered” and “Interference” shall have corresponding meanings;

“Maintain” shall mean the action required to sustain a boulevard including but not limited to cutting, watering, removing debris or repairing damage to any driveway located within the boulevard area and “Maintenance” shall have a corresponding meaning;

“Officer” means a Municipal Law Enforcement Officer as appointed by Council for the enforcement of this By-law;

“Original Condition” means the condition of the boulevard or highway prior to any alterations being made;

“Owner” shall mean the lawful Owner of a property, a lessee, tenant, mortgagee in possession of property, or occupant of property but does not include persons doing work authorized of the Township or the Region of Waterloo;

“Permit” means a permit under Section 4 of this by-law, and may otherwise be known as a “Work Permit”

“Permit Holder” means a person to whom a Permit is issued;

“Person” shall mean an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives of such Person to whom the context can apply according to law, but does not include persons doing work authorized by the Township or the Region of Waterloo;

“Sports Equipment” shall mean, including but not limited to, basketball nets, hockey

nets, skateboard ramps;

“Township” means the Corporation of the Township of Woolwich and includes, where the context permits, its duly authorized officers, contractors, employees and agents.

### **Part III. General Provisions**

#### **General Provisions**

1. No Person shall Interfere with a Highway or Boulevard, by any means whatsoever, without a Permit.
2. No person shall conduct work on a Highway or Boulevard without a Permit.
3. No owner shall make changes to the portion of the driveway located within the Boulevard without a Permit.
4. No person shall cut, damage, construct or re-construct a sidewalk, curb, driveway apron or Boulevard without a Permit.
5. No Person shall plant any tree on any Boulevard without a Permit
6. No Person shall install an irrigation system in the Boulevard without a Permit
7. No Person shall fail to comply with a term or condition of a Permit.
8. No Person shall injure, damage, interfere with or encumber any tree, shrub, plant, bush or hedge on any Boulevard or sidewalk planted by the Township.
9. No Person shall leave any unattended Sports Equipment on any Highway, Boulevard or sidewalk.
10. No Person shall utilize any Sports Equipment in such a manner as to interfere with or obstruct the passage on any Highway, Boulevard or sidewalk.
11. No Person shall discharge water in a way to cause excessive ponding, erosion or unsafe conditions.
12. No Person shall deposit snow on a sidewalk or on the travelled portion of the Highway.
13. No person shall restrict sight lines of pedestrians, cyclists or drivers of vehicles to intersections, driveways, sidewalks, walkways, travel lanes, or traffic control devices.

#### **Boulevard Maintenance**

14. Every Owner shall maintain the Boulevard that abuts that Owner’s property in accordance with the requirements of this by-law.

15. Every Owner shall maintain grass and/or weeds on any abutting Boulevard to a height not exceeding 20 centimetres.
16. No Owner shall permit anything on the Boulevard or Highway that is protruding, sharp, dangerous in any way, or which may otherwise cause damage/injury to a Person or thing.
17. No Owner shall permit anything on the Boulevard or sidewalk that impedes snow removal, access to fire hydrants, post office boxes, or other installations belonging to the Township, Region, or any utility provider.
18. No Owner shall permit anything on the Boulevard that may overflow onto the Highway, sidewalk or adjacent properties.
19. Where the Township, the Region or utility company, or agents and contractors thereof, Alter a Boulevard, the Township, the Region or utility company shall restore the Boulevard to soil and sod.
20. If a Boulevard, where alterations have been made by any homeowner, is damaged by the Township or a contractor hired by the Township in the course of doing any work, the Township or contractor shall not be responsible for any damages and shall only be responsible for restoring the Boulevard to soil and sod.
21. If the Township is obligated to remove any Sports Equipment from any Boulevard or Highway, where a notice has been issued, the Township shall not be responsible for any damages that may occur to the Sports equipment during its removal.
22. The Township reserves the right to remove unauthorized stone, plantings of trees and/or vegetation or any other alterations that do not comply with Township standards at the Owner's expense.

### **Permit Process**

23. Person may apply to the Director for a Permit authorizing an activity or event that would Interfere with a Highway or Alter a Boulevard. A person applying for a Permit shall submit the following to the Director:
  - a. a complete application in the form prescribed by the Director;
  - b. the applicable fee, in accordance with the Fees and Charges By-law; and
  - c. any other documents that the Director considers appropriate for reviewing the application.
24. After considering the merits of a Permit application, the Director may:
  - a. grant the Permit, subject to such terms or conditions as the Director considers appropriate; or

- b. deny the Permit application.
25. The Director may prescribe such forms as may be required from time to time, in order to implement the provisions of this by-law.
26. The Director may impose such terms and conditions on a Permit as he or she considers appropriate, including without limitation:
  - a. a requirement that the Permit Holder shall provide notice of the activity or event authorized by the Permit to every owner of land that is adjacent to the subject land, at least seven (7) calendar days prior to the commencement of the authorized activity or event.
  - b. a requirement that the Permit Holder provide proof of insurance satisfactory to the Township, and indemnify the Township in relation to the authorized activity or event; and
  - c. a requirement that the Permit Holder enter into an agreement satisfactory to the Township, containing all terms and conditions of the Permit as deemed appropriate by the Director.
27. Without limiting the generality of section 24 above, the Director may, in his or her sole discretion, deny a Permit application for any activity or even that would Interfere with the travelled portion of a Highway or that would Alter a Boulevard between December 1st and March 31st.
28. The Permit Holder shall keep the Permit at the site of the authorized activity or event at all times and shall produce the Permit forthwith upon request by the Director, Police Officer or an Officer.
29. A Permit may be immediately revoked by the Director if an applicant, or any Person acting on the applicant's behalf:
  - a. provided false or misleading information on the Permit application;
  - b. violates any term or condition of the Permit; or
  - c. violates any provisions of this by-law, or any other applicable law or policy.
30. In addition to any other condition of a Permit, every Permit Holder shall maintain or repair the right-of-way under the terms and conditions of the Permit until accepted as satisfactory by the Director and shall restore the right-of-way to Township standards.
31. The Permit Holder shall deposit a security with the Township in an amount acceptable to the Director and in a form acceptable to the Township's Treasurer, to cover the faithful performance of the terms of the Permit and of any agreement required in relation thereto, including maintenance, repair and restoration required to be carried out by the Permit Holder and every other obligation arising under and



imposed upon the Permit Holder pursuant to this by-law. The Director may require that such security be provided prior to the issuance of any Permit.

### **Work Order**

32. Where the Director or an Officer has reasonable grounds to believe that a contravention of this by-law has occurred, the Director or an Officer may make an Order requiring the Person who contravened this by-law, or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention.
33. An Order under section 32 above shall set out:
  - a. reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - b. the work to be done and the date by which the work must be done.
34. An Order under section 32 above may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
35. Any Person who fails to comply with an Order under section 32 above is guilty of an offence.

### **Order to Discontinue Activity**

36. Where the Director or an Officer has reasonable grounds to believe that a contravention of this by-law has occurred, the Director or an Officer may make an Order requiring the Person who contravened this by-law, or who permitted or caused the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity.
37. An Order under section 36 above shall set out:
  - a. reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - b. the date by which there must be compliance with the Order.
38. Any Person who fails to comply with an Order under section 36 above is guilty of an offence.

### **Remedial action**

39. If a Person is ordered to do work under section 32 of this by-law and that Person fails to comply with that Order, the Township may take steps to remediate the

contravention at the expense of the Person who was directed or required to do the work.

40. Where the Person, as indicated in section 39, is the owner of property adjacent to the municipal boulevard area that is subject to the Order as described in section 32, the Township may recover the costs of doing any remedial work from the Person directed or required to do the work by action or by adding the costs to the tax assessment roll of that property and collecting them in the same manner as municipal property taxes.
41. The costs outlined in section 40 above shall include interest calculated at a rate of fifteen percent (15%) per annum, calculated for the period commencing on the first day the Township incurs the costs and ending on the day the costs, including the interest, are paid in full or added to the tax roll.

### **Fees and charges**

42. Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law through the Fees and Charges by-law

## **Part IV. Enforcement and Penalty**

### **Enforcement**

43. The Director and any Officer is authorized to enforce this by-law.

### **Penalty**

44. Any person, organization or business who contravenes the provisions of this by-law is guilty of an offense and, upon conviction, is subject to the penalty set out in the Provincial Offences Act.

44.1 Part III, sections 1 to 18 inclusive, 35 and 38, inclusive of all subsections thereunder, of this By-law are hereby designated as parts of this By-law to which the Administrative Monetary Penalty System By-law applies. *(By-law 67-2024)*

44.2 Any person shall, upon issuance of a penalty notice for a contravention of this By-law, in accordance with the Administrative Monetary Penalty System By-law, be liable to pay an administrative penalty and any administrative fees, in accordance with the Administrative Monetary Penalty System By-law. *(By-law 67-2024)*

44.3 All the provisions of this by-law continue to apply in the Provincial Offences Act in addition to the Designated Provisions of this by-law. *(By-law 67-2024)*

44.4 Where a person has not paid the administrative penalty within 30 days in accordance with the Administrative Monetary Penalty System By-law, the Township may add the administrative penalty to the tax roll for any property for which the owner or owners are responsible for paying the administrative penalty under Section 44.2. *(By-law 67-2024)*

**Part V. Conflict and Transition**

**Conflict**

45. In the event the provisions of this by-law are inconsistent with the provisions of the Municipal Act, its Regulations or any other Act, the provisions of the Act or Regulation shall prevail.

**Terms Severable**

46. The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, in operative or invalid, the remainder of the by-law shall continue to be in full force and effect.

**Repeal or Amendment**

- 47. The following by-laws are repealed:
  - a. By-law number 92-1974
  - b. By-law number 17-2020

**Enactment**

48. This by-law shall come into full force and effect on the date it is passed at which time all by-laws, policies and resolutions that are inconsistent with the provisions of this by-law are hereby repealed insofar as it is necessary to give effect to the provisions of this by-law.

FINALLY PASSED AND ENACTED this 28th day of May, 2024.

Signature on file \_\_\_\_\_  
Mayor

Signature on file \_\_\_\_\_  
Clerk