

By-law 25-40 – Encroachment By-law
The Corporation of the Township of Clearview

Schedule A – Boulevard Garden Encroachments

1. Definitions

1.1 For the purposes of this Schedule “A”, the following definitions shall apply:

“Boulevard” means the non-travelled portion of a public highway under the jurisdiction of the Township of Clearview, consisting of the grassed or earthed area between the roadside curb, or edge of a ditch where there is no curb, and the property line of the abutting property owner, save and except for the Sidewalk, if applicable.

“Director” means the Director of Public Works of the Corporation of the Township of Clearview and their designate.

“Hardscaping” means paving stones, boulders, stones, gravel, concrete asphalt, rail or any other hard materials.

“Invasive Plant/Species” has the meaning ascribed to it by the Nottawasaga Valley Conservation Authority.

“Noxious Weed” means a plant that is deemed to be a noxious weed under the Weed Control Act, 1990.

“Raised Planter” means any above-ground container or frame holding soil and/or plants.

“Sidewalk” means the non-travelled portion of the public highway, whether paved or not, intended for the use of pedestrians and/or cyclists and is generally situated between the public highway curb and property line of the abutting property owner.

“Sight Triangle” means a triangular open area formed at a driveway or a corner lot where the two streets meet. This open area increases street visibility for pedestrians and traffic.

2. Application for Permit

2.1 Any person requesting a permit for a boulevard garden encroachment shall be required to submit a signed and completed permit application to the Township not less than five (5) business days in advance of the proposed installation date, along with the payment of the non-refundable application fee, as outlined in the Fees and Charges By-law.

- 2.2 Notwithstanding the above, as approved by Council resolution, the fee for a permit is waived for the first year of the pilot project only, ending May 24, 2026.
- 2.3 The permit application shall include the following:
- a) two copies of a detailed plan or sketch on a minimum of 8.5" x 11" paper showing:
 - the proposed boulevard garden, including dimensions and its location relative to fixed features, and delineating any sight triangle restrictions;
 - all topographical features;
 - all boundary lines for the lots abutting the garden;
 - street names and municipal addresses; and
 - north arrow depicting true north.
 - b) property owner's consent, if applicable;
 - c) copies of any additional municipal permits, if applicable.
- 2.4 Where an applicant has not complied with the terms, conditions and requirements of this by-law, the Director may refuse to approve the permit application.
- 2.5 Upon submittal of a completed permit application, the Director will inspect the public land to confirm it has been brought up to the municipal standard.

3. Conditions

- 3.1 Where a boulevard garden encroachment permit has been granted, the permit holder is solely responsible for ensuring that the boulevard garden complies with the Encroachment By-law and the terms contained herein.
- 3.2 A garden is only permitted within the Boulevard of the public highway. The permit holder is responsible for ensuring the garden falls within Boulevard portion of the public highway.
- 3.3 Permits will only be issued for the Boulevard area directly abutting lands owned, rented or leased by the permit holder.
- 3.4 The permit holder is responsible for locating all utility services, including but not limited to gas, phone, hydro and cable, prior to commencing any works on the Boulevard.

- 3.5 Gardens shall not pose any danger to the public, compromise drainage, impede any sightlines or adversely affect the delivery of municipal maintenance activities, as determined by the Director and Public Works staff.
- 3.6 Invasive Plant material and noxious weeds shall not be permitted in gardens.
- 3.7 Plant material not in a sight triangle shall not exceed 1 metre in height.
- 3.8 Plant material in the following sight triangles shall not exceed 0.6 m:
 - a) driveway sight triangle is 3 m by 3 m.
 - b) Intersection sight triangle for a collector road to a local road is 7.5 m on the collector roadside and 3 m on the local road side.
 - c) Intersection sight triangle for a local road to a local road is 3 m by 3 m.
- 3.9 Notwithstanding the above, all plant material shall comply with the following requirements, unless otherwise approved by the Director in writing:
 - a) fire hydrants must be easily visible and accessible from both the public highway and the Sidewalk. Any plant material within a 1.5 m radius of the fire hydrant shall be no higher than 15 cm;
 - b) no plant material of any kind shall be planted within a 1 m radius of a utility structure;
 - c) plants shall not overhang the Sidewalk or path or pose a hazard to pedestrians or other users of same;
 - d) plant material shall not interfere with proper water flow or proper draining, including but not limited to within roadside ditches and drainages swales;
 - e) no plants of any kind, with the exception of grass, shall be planted, grown or maintained within a 1 m radius of any Boulevard tree.
- 3.10 The following are not permitted, unless otherwise approved by the Director in writing:
 - a) permanent fixtures, chattels, equipment or any non-plant installations, including but not limited to below surface irrigation systems;
 - b) Raised Planters or other above-ground planting structures;
 - c) any Hardscaping materials or landscaping stones;
 - d) any garden or outdoor furniture;
 - e) any railings, hoarding or fencing.
- 3.11 The garden shall be at the same grade as the adjacent Sidewalk or path.
- 3.12 The garden shall be used for planting and shall not be used for parking. If the garden area is subsequently used as a parking area, the permit will be revoked

without notice and the permit holder shall restore the Boulevard to its former condition within thirty (30) calendar days.

- 3.13 The permit holder accepts full sole responsibility for the garden and assumes all risk, responsibility and expense related to its presence, installation and maintenance, including any damage arising out of any works undertaken by the Township or by other agencies or damage from any other means.
- 3.14 The permit holder is responsible for ensuring the garden complies with the terms and conditions of this by-law and the Township shall not be responsible for any damage to the garden whatsoever.

4. Discontinuance of Permit

- 4.1 The Director reserves the right to revoke a permit at any time, effective immediately, and shall provide written notice to the permit holder of the revocation of the permit.
- 4.2 Where a permit has been revoked or discontinued, the permit holder shall restore the public lands to their former condition at the permit holder's sole cost and expense within thirty (30) calendar days.

5. Removal of Boulevard Garden

- 5.1 At any time following written notice, the Director may order the removal or alteration of any garden within the public highway which has not been:
- a) permitted;
 - b) installed in accordance with the permit issued;
 - c) adequately maintained in accordance with this and/or any other applicable by-law.
- 5.2 If a permit holder fails to remove or alter the garden or restore the Boulevard to its former condition in accordance with this by-law or upon the termination of the permit, the Township may, on behalf of the permit holder, remove or alter the garden, and/or restore the public lands to their former condition at the expense of the permit holder and the property owner, and the Township may recover these expenses by adding same to the tax roll of the property owner in accordance with section 10 of this by-law.

6. Property Standards

- 6.1 For the purpose of permitting boulevard gardens on Township owned lands, the provisions set forth herein apply, and the regulations outlined in the Township's Property Standards By-law and Clean and Clear By-law do not apply.