

HALIFAX

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Item No. 11.1.1
Halifax Regional Council
February 23, 2021
March 23, 2021

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: January 20, 2021

SUBJECT: Boulevard Gardening – Public Right of Way By-Law Amendments

ORIGIN

At its meeting of May 12, 2020, Halifax Regional Council put and passed the following motion:

THAT Halifax Regional Council: ... 2. Direct the Chief Administrative Officer to prepare the necessary By-Law and Administrative Order amendments to permit the placement of boulevard gardens in the HRM public Right of Way, based on the guidelines outlined in the staff report dated February 13, 2020.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, 2008, c. 39, clause 320(3)(b):

320(3)(b) The Council may, by by-law,
(b) require the owner of the lands abutting a street to maintain an area of vegetation between the streetline and the main travelled way.

By-Law S-300 Respecting Streets:

Section 11. Abutters, except where grass cutting and maintenance service is provided by the Municipality, shall maintain any grass between the sidewalk and the curb closely clipped and to a height not greater than six inches and shall keep such areas in good order including raking and renewal of the grass as necessary.

RECOMMENDATIONS ON PAGE 2

RECOMMENDATION

It is recommended that Halifax Regional Council:

- 1) adopt By-law S-312, the purpose of which is to amend By-law S-300, *Respecting Streets*, to exempt Boulevard Gardens from certain provisions and establish the Engineer's oversight of them, as set out in Attachment B, and
- 2) adopt Administrative Order 2020-014-OP the *Boulevard Gardens Administrative Order*, as set out in Attachment C.

BACKGROUND

On October 22, 2019, Regional Council requested a staff report focusing on establishing guidelines for boulevard gardens. Regional Council's discussion leading to the request of the staff report highlighted the potential benefits of boulevard gardens and noted that other cities have guidelines in place to permit them. The discussion also noted that guidelines would have to consider existing street uses, safety concerns, responsibilities of homeowners, and what could be placed in gardens.

On May 12, 2020, staff brought forward a report outlining the recommended guidelines for the conversion of grass in the boulevard into a garden. The guidelines were informed by a cross-jurisdiction review from across nine Canadian urban centres with policies addressing boulevard gardens and input from HRM internal stakeholders. Council indicated that the guidelines should be adjusted so the policy did not exclude locations which do not have sidewalks, then directed staff to prepare the necessary legislative amendments to bring the policy into effect.

DISCUSSION

Boulevard Gardens located in the right of way would have to be exempted from the part of the Streets By-Law (S-300) dealing with the "Maintenance of Grass", provided they comply with design criteria. The necessary amendments to the By-law are presented in Attachments A and B.

The Policy for Boulevard Gardens is presented to Regional Council in the form of a new Administrative Order in Attachment C of this report. Administrative Order 2020-014-OP is based on the criteria outlined in the staff report dated May 12, 2020, including revisions as requested by Regional Council to not exclude locations where no sidewalk exists. A prohibition on planting invasive species was also added to the Administrative Order for Regional Council's consideration.

FINANCIAL IMPLICATIONS

There are no financial implications to consider at this time. Based upon the program criteria presented above, staff anticipate that any incremental costs will be minor and can be absorbed into current operating budgets.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this report. The risks considered rate Low.

COMMUNITY ENGAGEMENT

There has been no community engagement related to the preparation of this report.

ENVIRONMENTAL IMPLICATIONS

The planting of boulevard gardens within the right of way have positive environmental impacts. Depending on the vegetation, gardens can provide some ecosystem benefits such as carbon sequestration, pollinator services, flood mitigation, and habitat services. This can support naturalization efforts and actions of HalifACT, Halifax's climate plan.

ALTERNATIVES

1. Regional Council could choose not to adopt any by-law amendments intended to enable Boulevard Gardens.
2. Regional Council may direct staff to modify the amendments recommended in this report respecting Boulevard Gardens in HRM Public Right of Way. If this alternative is chosen, staff may have to prepare a supplementary report to explore the implications of different criteria on public safety and municipal road operations and maintenance prior recommending different amendments.

ATTACHMENTS

Attachment A Showing Proposed Changes to By-law S-300
Attachment B Amending By-law S-312
Attachment C Administrative Order 2020-014-OP Policy for Boulevard Gardens

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Christopher Davis, P.Eng, Supervisor, Right of Way Services, 902.490.7462

HALIFAX REGIONAL MUNICIPALITY

BY-LAW NUMBER S - 300

BY-LAW RESPECTING STREETS

Number and Short Title

- 1). This By-law shall be known as By-law Number S-300 and shall be cited as the “Streets By-law”.

Application

2. This by-law shall apply to those areas of the Halifax Regional Municipality located within the core area.

Definitions

3. In this By-law:
 - (a) "abutter" means the owner, lessee, or occupier of any premises or lot in the Municipality which abuts a street, and where the premises or lot has been registered as a condominium under the Condominium Property Act, includes the condominium corporation which manages the premises or lot;
 - (aa) “applicant” means any person who makes an application for, and obtains, any permit under the provisions of this by-law;
 - (b) “construct" includes the installation, alteration, or removal of any facility;
 - (ba) “contractor” includes any person who, for another person, carries out work or supplies labour for the alteration, construction, demolition, excavation, or development of land or a structure;
 - (c) “core area” means that portion of the Halifax Regional Municipality for which the Municipality has assumed responsibility for maintenance of public streets and is more particularly described in Agreement No. HRM - 01 between the Halifax Regional Municipality and the Minister of Transportation & Public Works which became effective on June 24, 1996;
 - (d) "Council" means the Council of the Halifax Regional Municipality;
 - (e) “crosswalk” means that portion of a roadway ordinarily included within the prolongation or connection of curblines or the edge of a roadway and property lines at intersections or any portion of a roadway clearly indicated for pedestrian crossings by lines

or other markings on the road surface;

(f) “eating establishment” includes any premises where foodstuffs are offered for sale or sold to the public for immediate consumption thereon or for immediate consumption or delivery where take-out is provided.

(g) "Engineer" means the Engineer of the Halifax Regional Municipality and includes a person acting under the supervision and direction of the Engineer;

(h) “facility” means any pole, pole lines (including braces and anchors), aerial cables, manholes, conduits, underground cables, pipes for the carriage of gas or liquids, and associated apparatus for the provision of utility services, including amplifiers, connection panels, transformers, valves and other fittings or equipment, but shall not include any service connection between private property and any main, wire, cable, conduit, duct or pipe in or upon any street.

(i) “municipal infrastructure” includes infrastructure that supports the provision of municipal services and without restricting the generality of the foregoing includes public trees, street lighting, traffic lights, traffic signs and other municipal signs;

(j) “municipal street furniture” includes banners, flower pot and other decorations owned by the Municipality;

(k) "Municipality" means the Halifax Regional Municipality;

(l) "owner" includes

(i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building, and

(ii) in the absence of proof to the contrary, the person or persons assessed for the property;

(la) “person” means a natural person, corporation, partnership, an association, society, firm, agent, trustee, or registered Canadian charitable organization as defined in section 3(bc) of the *Halifax Regional Municipality Charter*, and includes the heirs, executors or other legal representatives of a person, or owner;

(m) “public tree” means a tree the majority of the trunk of which, is located within a street or on municipal property;

(n) “roadway” means that portion of a street between the curb lines or the travelled portion of a street designed for vehicular travel;

(o) "sidewalk" means that portion of a street between the curb line and adjacent property line or any part of a street especially set aside for pedestrian travel and separated from the roadway;

(p) “street” means all public streets, roads, lanes, sidewalks, thoroughfares, bridges and squares, and all curbs, gutters, culverts and retaining walls in connection therewith and

without restricting the generality of the foregoing includes the full right of way width;

(q) “utility” includes any person or corporation that provides water, wastewater services, stormwater services, electric power, telecommunications service, natural gas or other gas intended for use as fuel to the public.

(r) “Appeals Committee” means the Appeals Committee established pursuant to Halifax Regional Municipality By-law A-100, the Appeals Committee By-law:

PART 1 - REMOVAL OF ICE AND SNOW FROM SIDEWALKS

Removal of Snow and Ice

4. (1) Owner, except where snow removal service is provided by the Municipality, shall remove all snow and ice,
 - (a) from any sidewalk which abuts any side of their property; provided , however, that where a property containing a detached one-family dwelling unit, a duplex dwelling or a semi-detached dwelling unit as defined in the Land Use Bylaws has frontage on a street at both the front and rear of the property, the owner shall not be required to remove the snow and ice from a sidewalk which is part of the street at the rear of the property, where the street at the front of the property is defined as the street on which the property has its civic address, and
 - (b) from any pathway leading from a sidewalk abutting their property to the roadway, and
 - (c) between any sidewalk abutting their property and a crosswalk

for a minimum width of three feet or the full width of the paved sidewalk, whichever is less, within twelve hours after the end of any snowfall or, where the snow stops falling during the night, six hours after daylight, and without restricting the generality of the foregoing, owners shall render the sidewalk completely free of snow and ice to bare pavement within said times.

- (2) No person shall deposit snow or ice on the travelled way of any street.

Removal of Icicles

5. No person shall permit icicles to accumulate on the eaves or gutters of any building owned or occupied by them so as to become dangerous to persons passing on the street.

Engineer May Remove

6. (1) Where the owner fails to remove snow or ice from sidewalks or structures as required by this By-law, the Engineer or a peace officer may serve an Order to Remove Snow and Ice from Sidewalks upon the owner by posting the Order in a conspicuous place upon the property.

(2) If the owner fails to comply with the Order to Remove Snow and Ice from Sidewalks within 24 hours of service of the Order, the Engineer or a peace officer may remove such snow and ice and may recover the cost of such work from the owner.

(2) If the owner fails to comply with the Order to Remove Snow and Ice from Sidewalks within 24 hours of service of the Order, the Engineer or a peace officer may remove such snow and ice and may recover the cost of such work from the owner.

(3) The Municipality's cost in removing the snow and ice pursuant to subsection (2) shall constitute a lien against the property which shall be applied and enforced in the same manner as for rates and taxes under the Assessment Act.

PART II - USE OF SIDEWALKS

Animals on Sidewalk

7. No person shall drive or ride any horse, cow, sheep or other animal, on any sidewalk where the passage or excrement of such animal would be likely to cause annoyance to persons using the sidewalk.

Damage to Sidewalks, Curbs and Landscaping

8. Whenever any sidewalk, landscaping between the sidewalk and the curb, or curb has been broken or otherwise damaged as a result of construction on an abutting property by the owner, his servant or agent, the Engineer may serve notice in writing upon the owner of the property requiring the owner to take immediate action to render the damaged area in a safe condition, to obtain a permit to repair said damage within 48 hours, as hereinafter provided, and to effect repair of such damage within 7 days from service of such notice or such time as stated on the notice, and if the owner fails to make such repairs within such time, the Engineer may cause the same to be done at the expense of the owner and the cost thereof may be recovered by the Municipality as by lien as provided by s. 49 of the Halifax Regional Municipality Act.

Encroaching hedges, tree roots, tree branches

9. (1) Abutters shall trim the branches or roots of any tree, hedging, bush or other shrubbery which encroaches from the abutting property over or under any street so as to prevent such trees, hedging, bushes or other shrubbery from interfering with or affecting the sightlines of any person travelling on a street or interfering with any structure on or in a street.

(2) Where the abutter has failed to comply with subsection (1), the Engineer may serve notice in writing upon the abutter requiring the trimming of said tree, hedging, bush or other shrubbery within such time as stated on the notice, and if the abutter fails to do so within such time, the Engineer may cause the same to be done at the expense of the abutter and the cost thereof may be recovered by the Municipality by action.

Littering

10. (1) Owners shall maintain the area between the curb and their property line free from garbage, waste or debris whether or not it is placed in containers.
- (2) Where the owner fails to maintain the area between the curb and their property line as required by subsection (1) the Engineer or a peace officer may serve an Order to remove Improperly Placed Solid Waste upon the owner by posting the Order in a conspicuous place upon the property. Such an Order shall not be given on a collection day for the property pursuant to By-Law S-600 Solid Waste Collection and Disposal by-law.
- (3) If the solid waste is not removed from the sidewalk in accordance to the by-law and the 24 hour time period outlined in the Order to Remove Improperly Placed Solid Waste the Engineer or a peace officer, may remove such garbage, waste or debris and may recover the cost of such work from the owner.
- (4) The Municipality's cost in removing the garbage, waste or debris pursuant to subsection (3) shall constitute a lien against the property which shall be applied and enforced in the same manner as for rates and taxes under the Assessment Act.
- (5) Abutters who operate an eating establishment shall empty all garbage receptacles within the sidewalk abutting the eating establishment immediately prior to closing each day.

Maintenance of Grass

11. Abutters, except where grass cutting and maintenance service is provided by the Municipality, shall maintain any grass between the sidewalk and the curb closely clipped and to a height not greater than six inches and shall keep such areas in good order including raking and renewal of the grass as necessary.

Boulevard Gardens

- 11A (1) Section 11 shall not apply where a boulevard garden has been placed in accordance with the Boulevard Gardens Administrative Order.
- (2) For greater certainty, a Streets and Services Permit is not required for a boulevard garden as set out in subsection (1).
- 11B. (1) A boulevard garden shall be constructed in accordance with the Boulevard Gardens Administrative Order.
- (2) Where the Engineer is satisfied that a boulevard garden is
- (a) not constructed in accordance with the Boulevard Gardens Administrative Order,
 - (b) a hazard to public safety, or
 - (c) a hinderance to municipal or utility operations,

the Engineer may issue an Order to Comply to the abutter.

(3) Every Order to Comply shall contain:

(a) the standards to which the boulevard garden does not comply;

(b) the date after which the boulevard garden will be subject to re-inspection to confirm compliance with the Order to Comply; and

(c) the action that will be taken against the abutter should the boulevard garden not comply with the standards at the time of re-inspection.

(4) Where an abutter fails to comply with the requirements of an Order to Comply within the time specified in the Order to Comply, the Engineer may enter upon the property and carry out the work specified in the Order to Comply.

11C. A boulevard garden that becomes unsightly or is not maintained may be removed by the Municipality.

11D. No person shall plant an invasive species, as set out in the Boulevard Gardens Administrative Order, in a boulevard garden.

PART III UTILITY PERMITS

Application

12. This Part shall apply to any utility constructing a facility in or upon any street.

Utility Permit Required

13. (1) No facility shall be constructed without first obtaining a permit therefor from the Engineer and shall be constructed in accordance with the conditions set out in the permit. The location thereof shall be subject to the approval of the Engineer.

(2) A separate permit shall be required for the construction of a facility on each street affected.

Contents of Application

14. The application shall include plans satisfactory to the Engineer showing the location of such facility, existing municipal and utility infrastructure, including public trees.

Permit Conditions

15. Every permit shall be issued on the following conditions:

(a) every line of poles must be run on one side of the street only, except when absolutely necessary to change to the other side, but such change may be made only by the permission of the Engineer;

- (b) new poles must not be deposited on any street more than 3 days in advance of their erection;
- (c) two lines of poles shall not be erected on the same side of the street;
- (d) when directed by the Engineer, or when required to clear trees, poles and wires shall be of such height as the Engineer deems necessary;
- (e) poles shall be located at least 18 inches (0.5m) from the curb face on local streets and 24 inches (0.6m) on major or collector streets unless specifically permitted by Engineer;
- (f) underground facilities shall be constructed no less than 30 inches (0.75m) below grade under paved surfaces or otherwise no less than 24 inches (0.6m) below the surface grade of the street.
- (g)
 - (i) the utility shall provide and maintain public liability insurance which names the Municipality as an additional insured party, such insurance shall indemnify the Municipality and its employees against any and all claims made as a result of the presence, operation and maintenance in the street of the facility and shall further agree to reimburse the Municipality for any damages caused to the Municipality or its property as a result thereof, except to the extent such loss or damage is caused by the Municipality; or
 - (ii) where the utility can satisfy the Municipality that it is financially capable of responding to a claim without the benefit of insurance, the utility need not provide proof of insurance as set out in clause (i) but shall save the Municipality and its employees harmless in the event of any claim made as a result of the presence, operation and maintenance in the street of the facility and shall further agree to reimburse the Municipality for any damages caused to the Municipality or its property as a result thereof, except to the extent such loss or damage is caused by the Municipality.

Removal of Wires and Poles

- 16.
 - (1) All broken and dead wires, and all wires, poles and fixtures not actually in use must be removed by the owner unless permitted to remain by the Engineer.
 - (2) Any broken pole or dead wire that is on any street more than 3 days may be removed by the Engineer at the expense of the owner, after three days notice to remove same.
 - (3) When a pole is taken down it must be removed the same day.

Change of Location

- 17. Where in the opinion of the Engineer the location of any facility shall interfere with any works or undertakings of the Municipality, the facility shall be changed or altered and, wherever necessary removed; whenever the Engineer orders such changes of location or

removal, it shall be done by the utility without unnecessary delay and at its expense, or it may be done by the Engineer at the expense of the utility.

Street and Services Permit

18. In addition to securing a Utility Permit as herein required, every utility which opens or works upon any street as part of the construction of a facility, shall first obtain a Street and Services Permit in accordance with Part IV and shall otherwise comply with the provisions of Part IV hereof.

Use by Municipality

19. Every utility owning poles shall allow the Municipality free of charge,

(a) (i) the use of a portion of each pole for the purpose of erecting and maintaining thereon municipal infrastructure or municipal street furniture owned by the Municipality, and appurtenances thereto advance notification of which will be provided to the utility; and

(ii) the Municipality indemnifies and saves the utility harmless in the event of any claim made as a result of the presence, operation and maintenance on poles of the utility of such municipal infrastructure or municipal street furniture, except to the extent that such loss or damage is caused by the utility or by a party or parties other than the Municipality;

(b) where the utility wishes to remove a pole which is being used to support municipal infrastructure, the Municipality shall have the option of requiring the pole to remain, and upon removal of the utility's facilities from the pole, ownership of and responsibility for the pole shall be transferred to the Municipality.

Records

20. When required by the Engineer, every utility shall file in the office of the Engineer such records of the facilities owned by it as the Engineer requires.

Public Trees

21. (1) Except in the event of an emergency, no utility shall disturb a public tree by pruning or other means without first obtaining permission therefor from the Engineer.

(2) In constructing any facility, a utility shall minimize any disturbance to a public tree.

(3) Where it is necessary for a utility to alter a public tree, the Engineer may assign an inspector to supervise the work, the cost of which shall be borne by the utility.

(4) The Engineer may require that the utility do such things as are necessary to ensure the health and safety of public trees affected by any works carried out by the utility, even where not required by the utility's own standards.

(5) Where a utility disturbs a tree by pruning or other means, the utility shall use sound arboricultural practices as determined by the Engineer.

Utility Penalty

22. Every utility constructing a facility in or upon a street shall comply with this bylaw; and in the event of failure to do so within the time specified by the Engineer, the Engineer may require the removal of the facility.

PART IV - STREETS & SERVICES PERMIT

Permit Required

23. (1) No person shall:
- (a) make any excavation in a street;
 - (b) install or repair any facility on a street
 - (c) make use of the street, or any portion thereof, for any activity other than as a right of way or a use already regulated under this or any other by-law of the Halifax Regional Municipality,
- without first obtaining a Street and Services Permit from the Engineer.
- (2) Every Streets and Services permit application shall include the appropriate application fee, dependant upon the type of activity to be undertaken, as specified in Administrative Order 15.
- (3) Where the activity is in association with a construction, demolition or restoration project on property abutting a street, the Streets and Services permit shall include the name of the contractor engaged in work in the right of way, if different from the applicant.

Performance Security

24. (1) Where there is an excavation within the street, the application shall include:
- a) a security deposit as specified in Administrative Order 15, and
 - b) for excavations within pavement areas, a non-refundable pavement impact fee as specified in Administrative Order 15, and
 - (c) for excavations outside the paved portion of the street, a non-refundable maintenance fee as specified in Administrative Order 15.
- (2) The security deposit shall be retained as a guarantee that the applicant or contractor will properly perform and complete the work for which the permit is granted, and restore and keep the surface of the street when such work is done, to a good condition and to the satisfaction of the Engineer, for a period of twenty-four months after the works are accepted by the Municipality.
- (3) If the Engineer is of the opinion that the work is not being properly performed, or the surface of the street is not kept in good condition, the Engineer may, with notice, perform such work in respect of the work or street as the Engineer considers necessary and the cost shall be deducted from the deposit, and the balance, if any,

returned upon the expiry of the twenty-four month period referred to in subsection (2). If the cost of such work exceeds the deposit, the balance may be recovered from the applicant by action.

- (4) Subject to subsection (3) if the permit is in association with a construction, demolition or restoration project on property abutting a street, the balance with interest at the rate determine by Council, by policy, from the date of the completion of the work until the date of payment, is a first lien on the property upon which, or for the benefit of which, the work was done.

Annual Permits

25. (1) The Engineer may grant a periodic or annual Streets and Services Permit for the purpose of service emergencies and routine maintenance including pavement patching related thereto which require excavation in municipal streets, subject to such conditions as the Engineer may determine, and, without restricting the generality of the foregoing, any such permit shall require that the Engineer be informed of the location, contractor and time of such work prior to its commencement and that the contractor provide liability insurance in accordance with subclause 28 (h)(I).
- (2) Applications for annual Streets and Services permits shall include the appropriate application fee and security deposit in the amounts specified in Administrative Order 15.
- (3) The provisions of s.24 shall apply, mutatis mutandis, to the annual permit security deposit and the said security deposit shall be returnable, upon the Engineer being satisfied that the provisions of this bylaw have been adhered to, on expiration of the permit.
- (4) Every utility shall file in the office of the Engineer a notice of completion of work for all facilities constructed or repaired within a street within one week of the completion of the work.
- (5) The water, wastewater and stormwater utility and the natural gas utility shall be responsible to keep records and inform the Engineer of excavations made in the roadway portion of the street by the utility for any works undertaken pursuant to the issuance of an annual permit and shall pay the Pavement Impact and Maintenance fees specified in Section 5(1).
- (6) All utility work carried out under an annual Streets and Services permit is subject to inspection by the Municipality and said inspection is subject to an inspection fee as set out in Administrative Order 15.

Closing of Openings

26. (1) Every excavation in a street shall, after notice, either written or verbal, given by the Engineer to the applicant, contractor or abutter, be closed and filled as required by the notice, and if not so closed and filled within 48 hours after such notice, then it may be closed and filled by the Engineer at the expense of the applicant, contractor

or abutter.

- (2) In the event of an emergency arising at the location of the excavation, the Engineer may immediately fill the excavation and recover the costs thereof from the applicant, contractor or the abutter.

Protection of Excavations at Night

27. Every person obtaining a permit to make any excavation or opening in or near any street shall at night sufficiently and continuously light the same and shall in addition, enclose and secure the same by a fence or barrier at least three feet in height, and sufficient to protect the public from injury in accordance with the provisions of any applicable regulations enacted pursuant to the Occupational Health & Safety Act.

Permit Conditions

28. In addition to any other conditions imposed by the Engineer for the granting of a street and services permit, all permits shall be subject to the following conditions:
 - (a) the Engineer may stipulate the hours of work;
 - (b) the applicant or contractor shall keep the work site at all times safe with respect to vehicular and pedestrian traffic, including direction of traffic, barricades, lights, signs, and supply of properly equipped and trained Traffic Control personnel for protection of traffic, in accordance with the Temporary Workplace Control Manual in force pursuant to the Occupational Health and Safety Act;
 - (c) notice being given to the Engineer prior to the installation of temporary steel plates over openings;
 - (d) the Engineer may order additional precautions, work stoppages and restorations of the street should circumstances warrant such action; upon the failure of the applicant or contractor to comply within 24 hours with such order or in the event of an emergency, the Engineer may undertake any necessary action and recover the cost of such action from the applicant or contractor;
 - (e) the applicant or contractor shall ensure that the street is kept free from nuisance, dirt, and dust;
 - (f) the applicant or contractor shall dispose, store, or haul away any clean material suitable for use as structural fill excavated from a street in accordance with the directions of the Engineer and the material shall remain Municipal property;
 - (g) the applicant or contractor shall ensure that all excavations are backfilled and restored in such manner and with such material as is approved by the Engineer and that advance notice of a minimum of 24 hours of the backfilling operation shall be provided to the Engineer so that it may be properly inspected;
 - (h) (i) the applicant or contractor shall provide and maintain public liability

insurance in an amount as outlined in Administrative Order 15, such insurance shall indemnify the Municipality and its employees from any and all claims made as a result of the excavation, and the Municipality shall be named as an additional insured;

(ii) where the applicant is a utility and can satisfy the Municipality that it is financially capable of responding to a claim in the amount set out in Administrative Order 15 without the benefit of insurance, the utility need not provide proof of insurance as set out in clause (I) but shall save the Municipality and its employees harmless in the event any claim is made as a result of the excavation.

(i) the permit shall be valid for a period of six months from date of issuance, but where work has commenced the permit shall expire 12 months after the date of issuance;

(j) unless otherwise authorized by the Engineer, pavement cuts shall not be permitted or two calendar years on streets which have been resurfaced, reconstructed or have received a pavement treatment;

(k) any other condition in respect of safety that the Engineer may impose; and

(l) the Engineer may require the completion of a Construction Management Plan as set out in Administrative Order 2016-003-ADM.

Emergencies

29. In the event of an emergency requiring the immediate excavation of the street, the Engineer may give verbal permission for such excavation on the condition that a Street and Services Permit is applied for and obtained on the first working day subsequent to the granting of such permission.

Obstructions

30. (1) No person shall obstruct any street without first obtaining a Street & Services permit from the Engineer.

(2) Where an obstruction may cause damage to the street, the Engineer may require a security deposit in the amount specified in Administrative Order 15, such deposit to be held until the Engineer is satisfied that no damage has occurred to the street after the obstruction has been removed.

(3) The Engineer may permit any person to use any portion of a street for construction or other temporary purpose subject to any conditions that the Engineer may reasonably impose.

(4) The Engineer may refuse to issue a Street & Services permit when it is in the public interest to do so.

PART V - DRIVEWAY ACCESS

Permit Required

31. Every property owner is required to obtain a street and services permit from the Engineer before constructing a driveway access.

Cost and Driveway Specifications

32. Every driveway within a street shall be constructed and maintained at the expense of the property owner of the lot served and in conformance with the specifications as determined by the Engineer in accordance with good engineering practice.

Separate Driveways

33. With the exception of signalized intersections, where more than 100 vehicles will enter or leave a street in any one hour, separate driveways are required, one for egress and the other for access, subject to the following conditions:
 - (a) separate driveways shall not be permitted to join or meet the roadway at an angle less than 45 degrees;
 - (b) separate driveways shall be physically separated from other driveways and shall be clearly marked as an entrance or an exit to the property the driveway will serve;
 - (c) separate driveways shall have a width greater than 10 feet (3m) and less than 23 feet (7m) at the point where the driveway joins the roadway.

Two-Way Driveways

34. (1) Driveways permitted to allow vehicles to both enter and leave a street by means of the same driveway shall conform to the following requirements:
 - (a) two-way driveways shall not be permitted to join the roadway at an angle less than 70 degrees;
 - (b) Two-way driveways serving residentially used property with 4 or fewer units shall have a width not less than 10 feet (3m) and not greater than 16 feet (5m) at a point where the driveway meets the edge of the public right of way, except where the property frontage exceeds 60 feet (18 m), a driveway up to 20 feet (6m) in width may be permitted;
 - (c) Two-way driveways serving commercially, institutionally or residentially used property with 5 or more units shall have a width not less than 23 feet (7m) and not greater than 33 feet (10m) at a point where the driveway meets the edge of the public right of way;
 - (d) Two-way driveways serving industrial used property or property which is zoned for industrial or construction and demolition use shall have a width not less than 33 feet (10m) and not greater than 39 feet (12m) at a point where the driveway meets the edge of the public right of way.
- (2) Notwithstanding subsection (1), where there are limiting or special circumstances,

the Engineer may approve a driveway width subject to special conditions, where in the opinion of the Engineer the driveway will not affect the safe movement of traffic.

Maximum Number of Driveways

35. (1) The Engineer shall not issue a permit to construct a driveway which does not conform to the following requirements:

- (a) no more than one driveway may serve any residentially used or zoned lot having less than 100 feet (30m) of frontage on one street, except where the lot is a corner lot fronting on two local streets in which case one driveway on each street may be permitted by the Engineer;
- (b) no more than two driveways may serve any residentially used or zoned lot which having less than 600 feet (180m) and more than 100 feet (30m) of frontage on one street;
- (c) no more than two driveways may serve any commercially used or zoned lot having less than 100 feet (30m) of frontage on one street;
- (d) no more than three driveways may be permitted to serve any commercially used or zoned lot which has less than 600 feet (180m) and more than 100 feet (30m) of frontage on one street.
- (e) any lots having more than 600 feet (180m) of frontage on one street may be permitted an additional driveway for each additional 500 feet (150m) of lot frontage on the street.

(2) Notwithstanding subsection (1), the Engineer may refuse more than one access where the additional access would affect the safe movement of traffic on the street due to high traffic volumes or other reason.

(3) Notwithstanding subsection (1), where there are limiting or special circumstances, the Engineer may approve an additional driveway subject to special conditions, where in the opinion of the Engineer the driveway will not affect the safe movement of traffic

Proximity to Intersections

36. (1) No driveway shall be located

- (a) within 100 feet (30m) of a street intersection controlled by traffic signals;
- (b) within 100 feet (30m) of the intersection of a major street;
- (c) within 25 feet (8m) of the intersection of a local street;

measured from the nearest street line of the intersecting street or property line where no street line exists.

(2) No driveway shall be located on any street where the property to be served abuts and has reasonable access to another street that carries a lesser amount of daily traffic

(3) Notwithstanding subsection (1), the Engineer may approve a driveway where there is no other means of access to the lot, and in such cases, the Engineer may issue the permit subject to any condition which, in the opinion of the Engineer, will minimize the impact to traffic by reason of said access.

(4) Notwithstanding subsection (1), the Engineer may refuse access, or approve access subject to special conditions, where there are limiting circumstances such as compound curves, right turn by-pass lanes, acceleration or deceleration lanes.

Driveway Culverts

37. Where a driveway crosses an existing ditch, the property owner shall install a culvert at the owner's expense and in conformance with the specifications as determined by the Engineer in accordance with good engineering practice.

Sight Distances

38. (1) All driveways shall meet minimum stopping sight distances requirements in conformance with the specifications as determined by the Engineer in accordance with good engineering practice.

(2) Notwithstanding subsection (1), the Engineer may approve a driveway where there is no other means of access to the lot, and in such cases, the Engineer may issue the permit subject to special conditions.

Curbs

39. No person shall drive a vehicle over a curb.

Driveway Drainage

40. Driveways shall be constructed and maintained so as to prevent surface drainage, dirt or dust from private property such as to constitute a nuisance or hazard or in such amount as will enter the public sewer system, from being carried onto the street or sidewalk by means of the surface of a driveway.

GENERAL PROVISIONS

Encroaching Gates

41. No person shall construct or permit to be used any gate or barriers that open into or encroach upon any portion of the street or that may in any way impede pedestrian or vehicular traffic.

Revocation of Permits

42. (1) The Engineer may cancel, revoke or suspend any permit where there is a violation of this bylaw, any order made pursuant to this bylaw and any condition of any permit issued under the authority of this bylaw.

(2) Any person who has been refused a permit or whose permit has been revoked pursuant to the exercise of any discretion by the Engineer may appeal to the Appeals Committee.

(3) All appeals shall be in writing, in the form of a notice, and filed with the Municipal Clerk within 15 days of the refusal or revocation and shall clearly state the grounds for the appeal.

(4) The Appeals Committee shall hear the appeal at a time and place as it determines and may confirm the refusal or revocation by the Engineer or direct the immediate issuance or re-issuance of the permit by the Engineer subject to such conditions as the Appeals Committee may determine.

Dirt and Other Nuisances

43. No person shall place, permit to be placed, or permit to escape from an abutting property dirt, dust, or other nuisance onto the street surface.

Signs

44. No person shall place or allow to be placed any sign or advertising board, including sandwich boards, within the street without first obtaining a permit therefor pursuant to a sign or encroachment bylaw.

Penalty

45. (1) Any person who contravenes any provision of this By-law is guilty of an offence and is liable on summary conviction to a penalty of not less than one hundred dollars (\$100) and not more than five thousand (\$5,000.00) dollars and in default of payment to imprisonment for not more than sixty days.

(2) A person who is alleged to have violated this bylaw and where the notice so provides, may pay a penalty in the amount of \$50.00 to the Chief of Police at the Halifax Regional Police Department provided that said payment is made within a period of fourteen (14) days following the day on which the alleged violation was committed and where the said notice so provides for a voluntary payment, said payment shall be in full satisfaction, releasing and discharging all penalties and imprisonments incurred by the person for said violation.

Repeal

46. Parts I, II, III, IV and V of Ordinance 180, the Streets Ordinance of the City of Halifax; Bylaw S-1400 of the City of Dartmouth; Halifax County Municipality Bylaw No. 6 respecting Municipal Streets and Property; City of Halifax Ordinance No. 7 respecting Poles and Wires in Streets; and City of Halifax Ordinance No. 7A respecting Wires, Cables, Conduits, Ducts and Pipes in the Street are repealed but City of Dartmouth amending bylaw S-1401 is not repealed.

Done and passed in Council this 18th day of November, 1997.

Walter R. Fitzgerald
MAYOR

Vi Carmichael
MUNICIPAL CLERK

I, Vi Carmichael, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on November 18, 1997.

BY-LAW S-300

Notice of Motion:	September 15, 1997
First Reading:	September 30, 1997
☒Notice of Intent☒ Publication:	October 18, 1997
Second Reading:	November 18, 1997
Third Reading:	November 18, 1997
Approval of Minister of Housing & Municipal Affairs:	N/A
Effective Date:	November 22, 1997

**No. 1 Amendment by S-301
Subsection (2) of Section 23**

Notice of Motion:	November 17, 1998
First Reading:	December 1, 1998
☒Notice of Intent☒ Publication:	December 5, 1998
Second Reading:	December 15, 1998
Third Reading:	December 15, 1998
Approval of Minister of Housing & Municipal Affairs:	N/A
Effective Date:	January 2, 1999

**No. 2 Amended by S-302
Clause (a) and (c) of Subsection (1) of Section 4**

Notice of Motion:	February 20, 2001
First Reading:	March 6, 2001
☒Notice of Intent☒ Publication	March 10, 2001
Second Reading:	March 27, 2001
Approval of Minister of Housing & Municipal Affairs:	N/A
Effective Date:	March 31, 2001

No. 3 Amended by S-304

Subsection (1) of Section 10; Subsection (2) of Section 10 is renumbered as subsection (5) and subsections (2), (3), and (4), inserted between subsections (1) and (5).

Notice of Motion:	July 17, 2001
First Reading:	August 21, 2001
☒Notice of Intent☒ Publication:	August 25, 2001
Second Reading:	October 2, 2001
Approval of Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	October 6, 2001

**No. 4 (V-101)
Amending Subsection (1) of Section 45**

Notice of Motion:	August 19, 2003
First Reading:	August 26, 2003
☒Notice of Public Hearing☒ Publication:	September 6, 2003
Second Reading:	September 23, 2003
Approval of Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	September 27, 2003

No. 5 (S-305)
Amending Subsection (3) of Section 24
Amending Section 34 & 35
Amending Subsection 2 and 4 of Section 42
Notice of Motion: December 16, 2003
First Reading: January 13, 2004
☒Notice of Public Hearing☒ Publication: January 17, 2004
Second Reading: February 3, 2004
Approval of Service Nova Scotia and Municipal Relations: N/A
Effective Date: February 7, 2004

No. 6 (S-307)
Amending Sections 4, 5 6 and 10
Notice of Motion: October 26, 2004
First Reading: November 9, 2004
Notice of Public Hearing ☒Publication☒: November 20, 2004
Second Reading: December 7, 2004
Approval of Service Nova Scotia and Municipal Relations: N/A
Effective Date: December 11, 2004

No. 7 (S-308)
Amending section 3, 15, 18, 23, 24, 25 & 28
Notice of Motion: May 13, 2008
First Reading: May 27, 2008
Notice of Public Hearing Publication: June 7, 2008
Second Reading: June 24, 2008
Approved by Service Nova Scotia and Municipal Relations: N/A
Effective Date: July 12, 2008

No. 8 (S-309)
Amending sections 3, 23, 24, 25, 28 & 30
Notice of Motion: June 22, 2010
First Reading: July 6, 2010
Notice of Public Hearing Publication: July 17, 2010
Second Reading: August 3, 2010
Approved by Service Nova Scotia and Municipal Relations: N/A
Effective Date: August 7, 2010

No. 9 (A-500)
Amending Section 42
Notice of Motion: March 20, 2012
First Reading: March 27, 2012
Notice of Second Reading Publication: March 31, 2012
Second Reading: April 17, 2012
Approval by Service Nova Scotia and Municipal Relations: N/A
Effective Date: April 21, 2012

No. 10 (A-501)
Notice of Motion: June 14, 2016

First Reading:	June 21, 2016
Notice of Public Hearing Publication:	July 2, 2016
Second Reading:	July 19, 2016
Approval by Service Nova Scotia and Municipal Relations:	N/A
<u>Effective Date:</u>	<u>July 23, 2016</u>
No. 11 (S-311)	
Amending Sections 5, 24, 25, 30	
Notice of Motion:	August 18, 2020
First Reading:	September 1, 2020
Notice of Second Reading Publication:	September 5, 2020
Second Reading:	September 22, 2020
Approval by Minister of Municipal Affairs and Housing:	N/A
Effective Date:	September 26, 2020

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW S-312
RESPECTING STREETS**

BE IT ENACTED by the Council of Halifax Regional Municipality, under the authority of the *Halifax Regional Municipality Charter*, that By-law S-300, the *Streets By-law*, is amended as follows:

1. By adding the following title line and sections after section 11 and immediately before Part III, Utility Permits:

Boulevard Gardens

11A (1) Section 11 shall not apply where a boulevard garden has been placed in accordance with the Boulevard Gardens Administrative Order.

(2) For greater certainty, a Streets and Services Permit is not required for a boulevard garden as set out in subsection (1).

11B. (1) A boulevard garden shall be constructed in accordance with the Boulevard Gardens Administrative Order.

(2) Where the Engineer is satisfied that a boulevard garden is

(a) not constructed in accordance with the Boulevard Gardens Administrative Order,

(b) a hazard to public safety, or

(c) a hinderance to municipal or utility operations,

the Engineer may issue an Order to Comply to the abutter.

(3) Every Order to Comply shall contain:

(a) the standards to which the boulevard garden does not comply;

(b) the date after which the boulevard garden will be subject to re-inspection to confirm compliance with the Order to Comply; and

(c) the action that will be taken against the abutter should the boulevard garden not comply with the standards at the time of re-inspection.

(4) Where an abutter fails to comply with the requirements of an Order to Comply within the time specified in the Order to Comply, the Engineer may enter upon the property and carry out the work specified in the Order to Comply.

11C. A boulevard garden that becomes unsightly or is not maintained may be removed by the Municipality.

11D. No person shall plant an invasive species, as set out in the Boulevard Gardens Administrative Order, in a boulevard garden.

Done and passed by Council this day of , 2021.

MAYOR

MUNICIPAL CLERK

I, Iain MacLean, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted by-law was passed at a meeting of the Halifax Regional Council held on , 2021.

Iain MacLean, Municipal Clerk

**ADMINISTRATIVE ORDER NUMBER 2020-014-OP
RESPECTING BOULEVARD GARDENS**

WHEREAS abutters are often responsible for maintenance of certain areas of the right of way immediately adjacent to their properties in accordance with the HRM Streets By-law;

AND WHEREAS some abutters would prefer to plant vegetation other than sods;

AND WHEREAS the Municipality is responsible to ensure public safety, access to the public and ongoing maintenance and municipal operations in the HRM right of way;

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of the Council of the Halifax Regional Municipality under the authority of the *Halifax Regional Municipality Charter*, as follows:

Short Title

1. This Administrative Order may be known as the “*Boulevard Gardens Administrative Order*.”

Purpose

2. The purpose of this Administrative Order is to set guidelines for the placement of boulevard gardens within the municipally owned public right of way.

Interpretation

3. In this Administrative Order,

(a) “abutter” means the owner, lessee, or occupier of any premises or lot in the Municipality which abuts a street, and where the premises or lot has been registered as a condominium under the *Condominium Property Act*, includes the condominium corporation which manages the premises or lot;

(b) “By-law” means By-law S-300, the *Streets By-law*;

(c) “core area” means that portion of the Halifax Regional Municipality for which the Municipality has assumed responsibility for the maintenance of public streets;

(d) “Engineer” means the Engineer of the Halifax Regional Municipality and includes a person acting under the supervision and direction of the Engineer;

(e) “Municipality” means the Halifax Regional Municipality;

(f) “roadway” means that portion of a street between the curb lines or the travelled portion of a street designed for vehicular travel;

(g) “sidewalk” means that portion of a street between the curb line and adjacent property line or any part of a street especially set aside for pedestrian travel and separated from the roadway; and

(h) “street” means all public streets, roads, lanes, sidewalks, thoroughfares, bridges, and squares, and all curbs, gutters, culverts and retaining walls in connection therewith and without restricting the generality of the foregoing includes the full right of way width.

Application

4. This Administrative Order shall apply to those areas of the Halifax Regional Municipality located within the core area.

Location of Boulevard Gardens

5. Residents may only place or cause to be placed a boulevard garden abutting their property.

6. Boulevard gardens are not permitted:

- (a) within centre medians or traffic islands, or
- (b) adjacent to accessible parking spaces.

7. Boulevard gardens are only permitted in the space between the front lot line and either:

- (a) the curb;
- (b) the back slope of the ditch; or
- (c) 1.0m from the edge of the shoulder where no ditch is present;

8. No part of any boulevard garden shall be located within 1.0 m of:

- (a) a utility pole;
- (b) a fire hydrant;
- (c) a municipal tree;
- (d) a bus shelter;
- (e) a bus stop pad; or
- (f) any other structure within the boulevard.

Design and Installation of Boulevard Gardens

9. Structures such as a planter box or irrigation system, whether permanent or temporary, are not permitted.

10. Digging shall not extend deeper than 30 cm below grade and shall be completed with hand tools only.

11. No person shall plant, or cause to be planted,

- (a) trees, woody plants, or climbing vines, or
- (b) an invasive species, as identified in Schedule A,

in any boulevard garden.

- 12. Soil in boulevard gardens must be at grade with the surrounding area.
- 13. No hardscaping, rocks, or stone mulch is permitted as part of any boulevard garden.

Maintenance of Boulevard Gardens

- 14. Maintenance and general up keep of any boulevard garden shall be the responsibility of the abutter.
- 15. No plants shall be permitted to overhang or encumber streets or sidewalks.
- 16. The maximum height of any vegetation in a boulevard garden shall be kept under 1.0m, except for any area within 5.0m from an intersection or a marked crosswalk where the maximum height of any vegetation in a boulevard garden shall be kept under 0.6m.

Damage to Boulevard Gardens

- 17. The Municipality shall not be responsible for any damages caused to any boulevard garden once installed, including, but not limited to, damage caused by road operations and maintenance, snow removal, or by vandalism, theft, or any other circumstance.
- 18. A utility acting under a Streets and Services permit issued under the By-law shall not be responsible for any damages caused to any boulevard garden once installed, including, but not limited to, damage caused by work, maintenance or emergency repairs.

Indemnity

- 19. The Municipality assumes no responsibility for the installation, maintenance, or replacement of boulevard gardens.

Schedules

- 20. Any Schedule attaches hereto shall form part of this Administrative Order.

Done and passed in Council this day of 2021.

Mayor

Municipal Clerk

I, Iain MacLean, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted Administrative Order was passed at a meeting of Halifax Regional Council held on [month], [day], 2021.

Iain MacLean, Municipal Clerk

Schedule A

The following plant materials are considered invasive species under this Administrative Order:

Number	Common Name	Latin Nomenclature (Genus, Species)
1	Coltsfoot	<i>Tussilago farfara</i>
2	Common Burdock	<i>Arctium minus</i>
3	Giant Hogweed	<i>Heracleum mantegazzianum</i>
4	Goutweed	<i>Aegopodium podagraria</i>
5	Himalayan Balsam (aka Policeman's Helmet)	<i>Impatiens glandulifera</i>
6	Japanese Knotweed	<i>Polygonum cuspidatum</i>
7	Multiflora Rose (aka Rambler Rose)	<i>Rosa multiflora</i>
8	Purple Loosestrife	<i>Lythrum salicaria</i>
9	Scotch Broom	<i>Cytisus scoparius</i>
10	Wild Parsnip	<i>Pastinaca sativa</i>
11	Yellow Floating Heart	<i>Nymphoides peltatum</i>
12	Japanese Barberry	<i>Barberis thunbergii</i>
13	Garlic Mustard	<i>Alliaria petiolata</i>
14	Glossy Buckthorn	<i>Frangula alnus</i>
15	Oriental Bittersweet	<i>Celastrus orbiculatus</i>
16	Common Horsetail	<i>Equisetum arvense</i>
17	Marsh Horsetail	<i>Equisetum palustre</i>