CITY OF MOOSE JAW

Boulevard Bylaw

Bylaw No. 5610

Date of Passage April 13, 2020
(effective date April 13, 2020)

Disclaimer:
This information has been provided solely for research convenience. Official bylaws are available at the Office of the City Clerk and must be consulted for purposes of interpretation and application of the law.

BYLAW NO. 5610

BOULEVARD BYLAW

THE COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS FOLLOWS

Purpose

1. Pursuant to Section 8 of *The Cities Act,* the purpose of this Bylaw is to:

    (a) establish minimum standards for the proper maintenance of boulevards in the City; and

    (b) control and regulate the installation of private boulevard treatments on public land.

Definitions

2. In this Bylaw:

    (a) **"abut"** or **"abutting"** means adjacent to or touching a boulevard;

    (b) "**Act**" means *The Cities Act*, SS 2002, c. C-11.1;

    (c) **"boulevard"** means that portion of a street between the curb line or the lateral lines of a street and the abutting property line exclusive of the sidewalk, as well as areas from the property line to any adjacent multi-use trail or walkway not within a designated park area;

    (d) **"boulevard treatment"** normally consisting of topsoil with turf, or seed, but may include hedges, shrubs, fences, retaining walls or other permanent fixtures;

    (e) "**Bylaw Enforcement Officer**" means the Director of Parks and Recreation or any person authorized by the Director appointed as designated officers or a person appointed by the City Manager to enforce City Bylaws pursuant to Sections 324 to 337 of the Act and the provisions of The Planning and Development Act, SS 2007, c P-13.2;

    (f) "**Committee**" means the Executive Committee of Council or a committee designated by Council to hear appeals pursuant to this Bylaw;

    (g) **"City"** means the City of Moose Jaw;

    (h) **"City lands"** means all areas or lands within the municipal boundaries of the City that are under the care, management, or jurisdiction of the City and/or that are vested in, owned or held by the City.

(i) **"Director"** means the Director of Parks and Recreation as appointed by the City or the Director's designate;

(j) "**owner**" means the owner and/or occupant as defined in the Act;

(k) **"private crossing"** means a crossing such as a driveway, culvert or sidewalk which is constructed by a private owner that crosses a City sidewalk or boulevard.

(l) **"private tree"** means any tree with more than fifty (50) percent of the main tree trunk growing on all lands within the municipal boundaries of the City that are not City Lands.

(m) **"property"** means land or improvements, or both;

(n) **"public tree"** means any tree with fifty (50) percent or more of the main tree trunk on areas or lands within the municipal boundaries of the City that are City Lands.

(o) **"sight triangle"** means that triangular area where two (2) streets intersect, where a driveway intersects a street or where a lane intersects a street, as depicted in Appendix I;

(p) **"street"** includes all or any part of a culvert or drain or a public highway, road, lane, bridge, place, alley, square, thoroughfare or way intended for or used by the general public for the passage of vehicles or pedestrians; and

(q) **"working day"** means a day other than Saturday, Sunday or statutory or generally followed holiday in Moose Jaw, Saskatchewan.

Care and Maintenance

3. (1) The owner of any property abutting a boulevard shall be responsible for the general care and maintenance of such boulevard area including cutting grass, maintaining a neat appearance and keeping clean and free from:

(a) Weeds, refuse and litter;

(b) hazardous objects or materials;

(c) domestic animal excrement;

(d) rubbish, building materials or other debris;

(e) holes, ruts and excavations that are health, fire or safety hazards;

(f) anything that would attract or harbour nuisance rodents or insects;

(g) abandoned machinery, equipment or other items; and

(h) graffiti.

(2) The lower branches and foliage of any mature tree on private property are to be trimmed from ground level to a height of 2 metres when in or overhanging a sight triangle, 3 metres when over a sidewalk or pathway, and 4.5 metres when over streets. Shrubs, hedges and other plant material must be trimmed so that it is not overhanging or obstructing a sidewalk.

(3) No owner or occupant may prune or remove any public tree.

(4) All boulevard treatments are to be maintained in a neat and orderly manner with hedges, shrubs, fences and retaining walls to be in compliance with the standards contained in this bylaw, Bylaw No. 5484, The Property Maintenance and Nuisance Bylaw, Bylaw No. 5346 Zoning Bylaw of the City of Moose Jaw and Bylaw No. 4423, Miscellaneous Bylaw.

Boulevard Treatments

4. (1) Boulevard treatments shall not:

(a) obscure or obstruct access to fire hydrants, utility installations or post office boxes;

(b) restrict public access to any public place;

(c) block traffic devices, signage and street lighting;

(d) include hedges, fences, structures or shrubs within 1 metre of a fire hydrant;

(e) affect overland drainage, or cause gutters or catch basins in the neighborhood to become blocked;

(f) inhibit or obstruct snow removal operations, including the storage of snow removed from the street or sidewalk;

(g) include fences, retaining walls, mature hedges, shrubs or plants over 0.75 metres in height when in any sight triangle as depicted in Appendix I;

(h) include any fruit trees, fruit bushes or vegetables;

(i) include any raised landscape features, hedges, shrubs, fences or retaining walls within 1.5 metres from the back of any curb or the edge of any street surface where there is no sidewalk to allow for unobstructed pedestrian access and snow removal;

(j) harm any boulevard tree including its roots;

(k) include any prohibited, noxious or nuisance weeds as listed in *The Weed Control Act,* SS 2010, c.W-11.1;

(l) allow vegetation to spread beyond that portion of the boulevard that is adjacent to his or her property;

(m) require excavating soil more than 8 centimetres;

(n) require trenching of an irrigation line more than 30 centimetres; nor

(o) involve the use of soil sterilant or herbicides with residual effects greater than thirty (30) days after application.

(2) Boulevard treatments with loose materials shall be retained with edging or a structure, not more than 15 centimetres in height, to prevent spillage onto the sidewalk, street or adjacent boulevard property.

(3) All trees planted on boulevards must be approved by the Director.

(4) All private crossings are regulated in Bylaw No. 4425, a bylaw of the City of Moose Jaw which provides for the construction of private crossings and the regulation and control of the same and therefore exempt for the provisions of this Bylaw.

(5) This section shall apply to all boulevard treatments installed after the passing of this Bylaw.

Boulevard Treatment Permits

5. (1) A Boulevard Treatment Permit is required for the installation of all boulevard treatments other than topsoil and seed. Applications are available through the City of Moose Jaw Parks and Recreation Department and a permit must be obtained from the Director prior to installation. The permit is free of charge.

(2) Upon receiving an application for a permit pursuant to Subsection 5(1), the Director shall have the information verified for compliance with this Bylaw and issue the permit if compliance is met.

(3) When a permit to construct is issued, the following conditions apply:

(a) Property owners are responsible for contacting all utilities prior to any work on a City boulevard; and

(b) Any vegetation planted on, items placed on or affixed to, and improvements made to a boulevard becomes the property of the City, however it remains the responsibility of the adjacent property owner to maintain it, except for trees.

(4) Upon approval of an application for a permit pursuant to this Bylaw, the Director shall give notice by mail to all persons who are either registered or assessed owners of the lands immediately adjacent to the affected boulevard, notifying them that the proposed work meets the regulations of the Bylaw and has been approved by the City.

Boulevard Work by City

6. (1) In the event that emergency works or service connection replacements that will disturb an existing boulevard treatment are required, no notification is required to be provided to the property owner by the City.

(2) In scheduled boulevard work, the City will notify the property owner at least four (4) working days in advance, giving them the opportunity to salvage any items placed under authority of a permit.

(3) Following any boulevard work, the City is responsible for restoring the boulevard to a regular boulevard treatment of topsoil and turf or seed.

(4) The City assumes no responsibility for the cost of repairs of any damages to any private boulevard treatment installed on public land.

Enforcement

7. (1) Bylaw Enforcement Officers are designated for the purpose of conducting inspections within the meaning of Section 324 of the Act and all inspections conducted pursuant to the authority of this Bylaw shall be carried out in accordance with the provisions of this Bylaw and the Act.

(2) A Bylaw Enforcement Officer is hereby authorized to enter property and to inspect any premises in the City to determine if the provision and requirements of this Bylaw are being complied with by the owner or occupant. A Bylaw Enforcement Officer may enter and inspect any property during daylight hours, with or without the consent of the owner or occupant of that property or premises.

(3) No person shall obstruct a Bylaw Enforcement Officer who is authorized to conduct an inspection under this section, or a person who is assisting an Inspector.

Notice of Contravention

8. (1) Upon determining that a contravention of this Bylaw has occurred, a Bylaw Enforcement Officer may issue a notice, verbally or in writing, to the owner to remedy the contravention within such time as may be deemed necessary to correct the issue.

Issuance of an Order to Remedy Contravention

9.(1) If the notice issued pursuant to Section 8 is not complied with, an Order to Remedy Contravention ("Order") per Section 328 of the Act, shall be issued in accordance with Section 347 of the Act.

(2) An Order mentioned in Subsection 9(1) of this section shall be served on the owner:

(a) personally; or

(b) by registered or certified mail sent to their last known address as shown on the assessment roll; or

(c) by posting on the property.

(3) The Order is to include the section of the Bylaw contravened, the nature of work to be performed to correct the contravention, the date to have the work completed, the right to appeal and the possible consequences of failing to comply.

(4) If the owner does not comply with the Order, the City may proceed to have the work done and the cost of the work shall be billed to the owner, added to and form part of the taxes on the land constituting the property, or privately enforced via other methods of civil enforcement available to the City in law.

Appeal of an Order

10.(1) A person may appeal an order made pursuant to Section 9 in accordance with the procedures set forth in Section 329 of the Act. The appeal must be made to the Committee within fifteen (15) days of the date of the order.

(2) The Committee is hereby designated as the local appeal board within the meaning of Section 329 of the Act for the purpose of hearing appeals from Orders made pursuant to Section 9 and, for such purposes, the Committee shall have the authority set forth in Section 329 of the Act.

Adding Amount to Tax Roll

11. The City may, in accordance with Section 333 of the Act, add any unpaid expenses and costs incurred by the City in remedying an order or a contravention of this Bylaw to the tax roll of the offending property.

Penalty for Contravention

12.(1) Every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction to a fine of not more than:

(a) $10,000 in the case of an individual; or

(b) $25,000 in the case of a corporation.

(2) All fines, penalties and forfeitures mentioned in this Bylaw may be recovered and enforced with costs by summary conviction before a judge and, in default of payment, the person convicted may be imprisoned for a term of not more than ninety (90) days, unless the fine or penalty are paid sooner.

(3) This Bylaw may be enforced, and the contravention of any provision of the bylaw, by any court on action brought by the City of Moose Jaw, whether or not any penalty is imposed for the contravention.

(4) Conviction of a person for a contravention of any provision of this Bylaw does not relieve said person from compliance with the Bylaw, and the convicting judge or justice of the peace shall, in addition to any fine imposed, order the person to perform, within a specified period, any act or work necessary for the proper observance of the Bylaw or to remedy the contravention of the

Bylaw.

(5) A person who fails to comply with an Order made pursuant to Subsection 11(4) within the period specified in the Order, is guilty of an offence and liable on summary conviction to a fine of not more than $250 for each day during which the failure continues, to imprisonment for a term of not more than ninety (90) days or to both.

Repeal of Previous Bylaw

13. Bylaw No. 4760 is hereby repealed.

Effective Date of Bylaw

14. This Bylaw comes into force and effect upon the passage thereof.

READ a first time the 23rd day of March, A.D. 2020

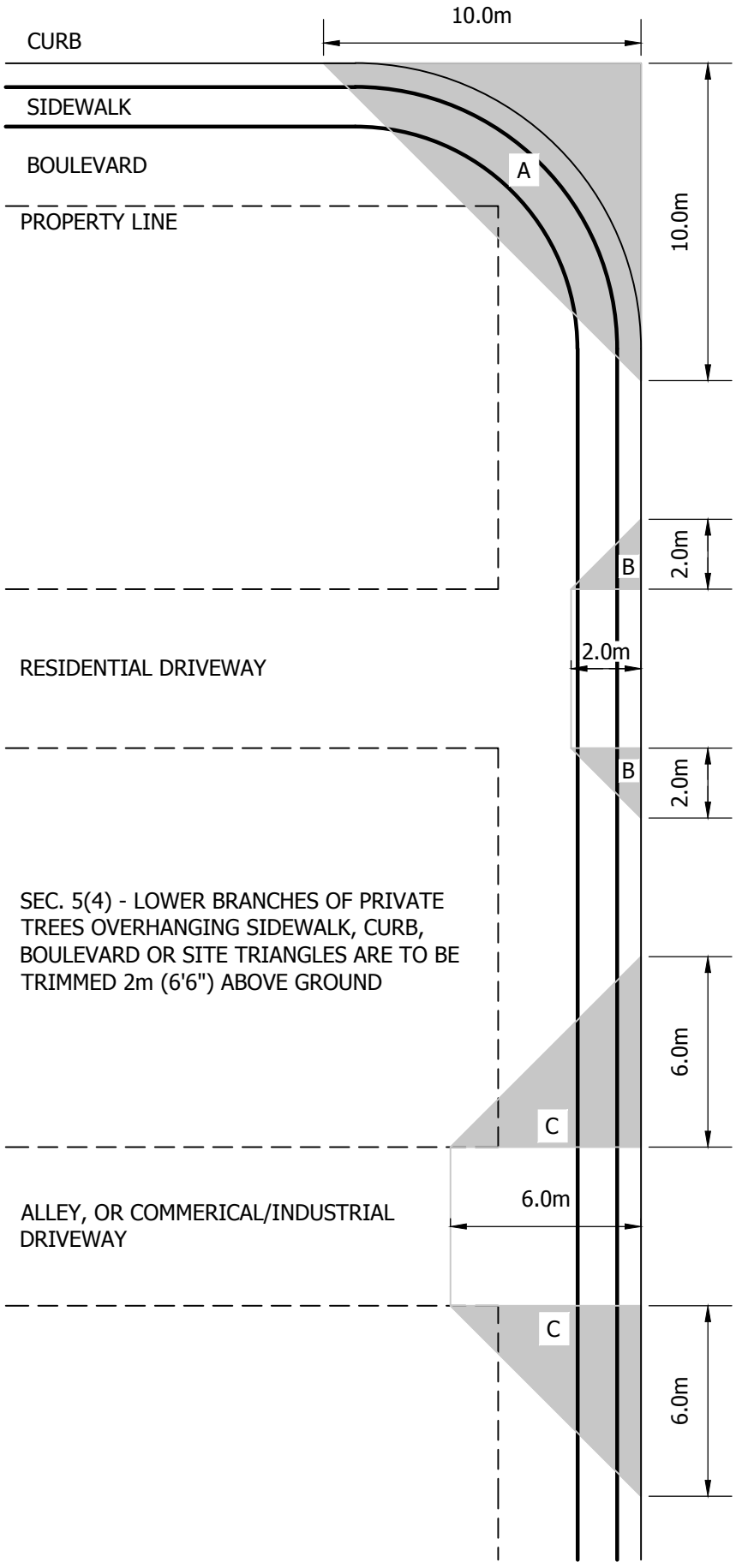
READ a second time the 23rd day of March, A.D. 2020

READ a third time the 13th day of April, A.D. 2020

(Sgd.) "Fraser Tolmie"
Mayor

(SEAL)

(Sgd.) "Myron Gulka-Tiechko"
City Clerk



APPENDIX 1
BYLAW 5610

PURPOSE:

TO PROVIDE A CLEAR LINE OF SIGHT FOR MOTORISTS APPROACHING A STREET INTERSECTION OR EXISTING DRIVEWAY

LEGEND

RESTRICTED AREAS:

NOTHING OVER 0.75m IN HEIGHT

A CORNER SIGHTLINE

B DRIVEWAY SIGHTLINE

C LANE SIGHTLINE

CITY OF MOOSE JAW
BYLAW ENFORCEMENT

APPENDIX 1
BYLAW 5610

DESIGNED
DRAWN
DATE (YYYY/MM/DD) 2020/01/17
HORIZ. SCALE N.T.S
VERT. SCALE N.T.S
SHEET 1 / 1
APPROVED BY CITY ENGINEER