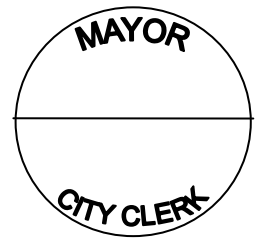


PROVINCE OF QUÉBEC
CITY OF BEACONSFIELD

BY-LAW BEAC-120

BY-LAW REGARDING WORK AND LANDSCAPING IN THE MUNICIPAL RIGHT-OF-WAY

Adopted at the regular Council meeting
held on May 22, 2018



PROVINCE OF QUÉBEC
CITY OF BEACONSFIELD

BY-LAW BEAC-120

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At the regular meeting of the Municipal Council of the City of Beaconsfield, held at City Hall, 303 Beaconsfield Boulevard, Beaconsfield, Québec, on Tuesday, May 22, 2018, at 8 p.m.

WERE PRESENT : His Honour the Mayor Georges Bourelle, Councillors Dominique Godin, Karen Messier, Robert Mercuri, David Newell, Roger Moss and Al Gardner

CONSIDERING the importance of regulating the usage of, and work by third parties in, municipal rights-of-way;

CONSIDERING the importance of preserving the integrity and the original function of these rights-of-way;

CONSIDERING sections 62, 67 and 68 of the *Municipal Powers Act* (C.Q.L.R. c.-47.1) and sections 29.19 to 29.22 of the *Cities and Towns Act* (C.Q.L.R. c. C-19)

WHEREAS a presentation and a notice of motion of the present by-law were given at the regular Council meeting held on Monday, April 23, 2018, at 8 p.m.;

On motion of Councillor R. Mercuri, seconded by Councillor K. Messier and UNANIMOUSLY RESOLVED:

THE COUNCIL OF THE CITY OF BEACONSFIELD ENACTS THE FOLLOWING:

SECTION 1 DEFINITIONS AND APPLICATION

1.1 Definitions

For the purposes of applying this by-law, the following terms mean:

- a) PUBLIC RIGHT-OF-WAY: Piece of municipal land used or intended to be used as a public thoroughfare, including the roadway, sidewalk, median, cycle path or lane, ditch, storm drain or any other municipal installation, as well as the additional right-of-way;
- b) ADDITIONAL RIGHT-OF-WAY: Portion of the public thoroughfare situated between the private landsite line and the edge of the roadway, sidewalk, cycle path or lane, ditch or storm drain, depending on the case.

1.2 Application

This by-law applies to all the territory in the City and to any type of work carried out in the public right-of-way by a third party.

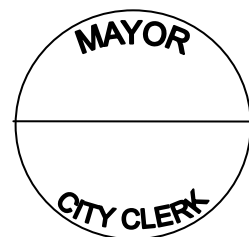
The Director of Public Works and the Director of Urban Planning and Municipal Patrol are responsible for applying this by-law. They may, however, delegate its application to any person they deem appropriate.

SECTION 2 LANDSCAPING AUTHORIZED IN THE ADDITIONAL RIGHT-OF-WAY

2.1 Authorized work and landscaping

Only the following work, installations and landscaping are authorized in an additional right-of-way:

- a) Grass seeding and grass sod laying, and their maintenance;
- b) Installation of a vehicular or pedestrian curb cut without exceeding the levels of the street curb, sidewalk or public thoroughfare;
- c) In the case of steep-sloped properties, installations and landscaping such as steps, stairs or low walls are authorized, provided that they are at least (1.0 metre from a street curb, sidewalk, cycle path or lane, ditch or storm drain;



- d) The installation of an automated garden watering system, under the strict condition that it be located further than 1.0 metre from the edge of the sidewalk, street curb or roadway paving.

However, in the case of steps or stairs, an entrance to these is permitted on condition that it is at the level of the roadway or sidewalk and does not in any way affect the proper functioning of a ditch or storm drain.

This work is carried out at the cost and risk of the person who undertakes it. It shall be carried out in such a way that it does not affect vehicular or pedestrian traffic, maintenance of the public thoroughfare or the safety of those who use it.

Should the City require these areas for public utility purposes, the City will remove any such installations with no compensation to the owner involved.

2.2 Maintenance and responsibility

An owner of property abutting an additional right-of-way is responsible for maintaining at his own cost all the landscaping he carries out on the additional right-of-way.

The owner is responsible for any damage caused to third parties resulting from work in the additional right-of-way and must therefore agree to indemnify the City from any action against it for repairing this damage.

2.3 Restoration

Should the City carry out work in the additional right-of-way, it will rehabilitate any damaged landscaping on condition that the landscaping meets all the by-laws in force.

SECTION 3 WORK CARRIED OUT IN THE PUBLIC RIGHT-OF-WAY

3.1 Certificate of authorization

3.1.1 Requirement for a certificate of authorization

Whoever wishes to carry out work in a public right-of-way, such as: excavation work, installation of a culvert, fence, work site shelter, scaffolding, equipment, storage of any kind or any other work not listed here, other than that mentioned in section 2.1, shall first obtain a certificate of authorization to this effect.

3.1.2 Restrictions on issuing a certificate of authorization

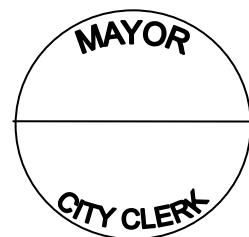
A certificate of authorization as required by this by-law cannot be issued to an applicant or his agent when violations to this by-law by this applicant have been observed, notified in writing and not corrected.

SECTION 4 ISSUANCE OF A CERTIFICATE OF AUTHORIZATION

4.1 Conditions for issuing a certificate of authorization

A certificate of authorization is prepared and issued by the Director of Public Works, the Director of Urban Planning and Municipal Patrol or their representatives, upon provision of the following:

- a) Location and details of the work, including start and finish dates for the work, and the name and contact details of the contractor who will be responsible for the work;
- b) Address or the lot number as well as the exact location where the work will be carried out;
- c) For approval, a plan showing the safety measures, including a signage plan as listed in section 5.3;
- d) Signed commitment to return the site to its previous state prior to the work;
- e) Signed responsibility agreement in case of damage to the public right-of-way as a result of the work;
- f) Payment of the costs related to processing the application for the certificate of authorization;



- g) Payment of the security deposit required under the tariff by-law. This deposit is refunded in full when all the rehabilitation work has been carried out to the satisfaction of the Director of Public Works;
- h) Proof that the person carrying out the work holds a liability insurance policy with minimum coverage of one million dollars (\$1,000,000);
- i) Landscaping, construction or installation drawings signed by a professional duly authorized to do so, as the case may be;
- j) Any other documents that those responsible for the application of this by-law may deem necessary.

4.2 Issuance of a certificate of authorization

The Director of Public Works, the Director of Urban Planning and Municipal Patrol or their representatives are authorized to issue any certificate of authorization concerning work in a public right-of-way when all the conditions listed in this by-law are met.

However, the directors or their representatives may refuse such issuance if they deem the planned work or the construction period unduly compromises Public Works' operations or if they compromise public safety.

4.3 Posting of the certificate of authorization

The holder of a certificate of authorization shall post it in a visible location on the work site, or leave it in the possession of a responsible person on the site, at all times.

4.4 Revocation of the certificate of authorization

The Director of Public Works, the Director of Urban Planning and Municipal Patrol or their representatives may revoke any certificate of authorization issued under this by-law if they determine that the conditions for issuance or any provision in this by-law have not been met. This revocation shall be sent in writing to the holder of the certificate of authorization.

The holder of the certificate of authorization shall then cease all work and immediately contact the Director of Public Works, the Director of Urban Planning and Municipal Patrol or their representatives. The revocation may require the restoration of the site, without completion of the work initially proposed.

A new request for a certificate of authorization must then be made.

4.5 Validity of the certificate of authorization

Subject to section 4.4, any certificate of authorization for work remains valid for a period equivalent to the period planned for the execution of the work, and written on the certificate.

SECTION 5 WORK ON MUNICIPAL INFRASTRUCTURES

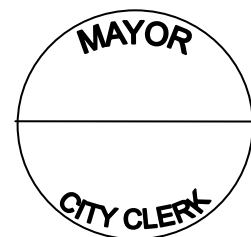
5.1 Infrastructure locations

Anyone who carries out work in a public right-of-way shall communicate with the Director of Public Works or his representative at least 72 hours before starting such work. The City will then proceed with locating the underground infrastructures belonging to the City.

5.2 Responsibilities of the holder of the certificate of authorization

Anyone who holds a certificate of authorization to carry out work in a public right-of-way is responsible for any breakage or damage to municipal infrastructures or to those of public utility companies located in a public right-of-way.

It is the responsibility of the holder of the certificate of authorization to take all necessary measures to avoid such damage, in particular by using, but not limited to, the services of Info-Excavation.



5.3 Safety signage and storage of material on City property

A signage plan that conforms to the requirements of the Ministère des Transports, de la Mobilité durable et de l'Électrification des transports shall accompany any request for a certificate of authorization that involves the occupation of a public right-of-way.

5.4 Water supply and sanitary sewer system connections

In addition to the certificate of authorization required by this by-law, a certificate of authorization is also required when a new connection to the City's water supply and sewer systems or a replacement service line is installed. Any such connection is subject to applicable by-laws.

5.5 Restoration

Once the work has been completed, the holder of the certificate of authorization or his representative shall restore the site and the underground infrastructures to the satisfaction of the City, to his own cost, according to the deadlines and standards set out on the certificate of authorization. He shall also assume the costs for removing and replacing any installations or infrastructure located in the public right-of-way, and remove all debris resulting from the work.

Once all the work has been completed, the holder of the certificate of authorization must notify the Director of Public Works.

5.6 Damage to municipal infrastructure

The Director of Public Works or his representative must be notified immediately of any damage caused to installations in a public right-of-way belonging to the City. Any corrective work carried out by the City or its agents will be billed to the owner of the property where the work was carried out. These costs will be deducted from the security deposit.

5.7 Cleaning of the public right-of-way

- a) It is the responsibility of the holder of the certificate of authorization to maintain the public thoroughfare in a good state of cleanliness. To this end, the holder of the certificate shall wash down the street at least once a day whenever the work has soiled the street.

If this condition is not met, the City will proceed with said washing down and the cost thereof will be deducted from the security deposit.

- b) Any excavation work involving the storage of material within the public right-of-way shall be followed by a complete cleaning.

Should the Director of Public Works or his representative deem the cleaning work to be incomplete at the end of the project, he may, after a waiting period of 24 hours, proceed with a final cleaning of the site. The cost thereof will be deducted from the security deposit.

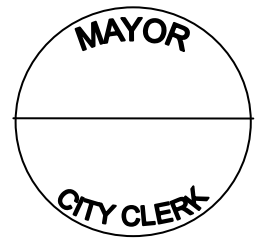
5.8 Access to the worksite

The holder of the certificate of authorization shall, upon request from the Director of Public Works for reasons of emergency work that may be required, cease his work and move all materials and equipment. Damages and compensation cannot be claimed from the City in such cases.

5.9 Quality and conformity of the work

The holder of the certificate of authorization is responsible for the quality and the conformity of all the work he carries out in the public right-of-way. Any work or installations deemed non-conforming by the Director of Public Works or by his representative shall be corrected to their satisfaction within the time period given in a notice sent for this purpose.

If this condition is not met, all the corrective work will be carried out by Public Works or its agents to the cost of the holder of the certificate of authorization. The cost thereof will be deducted from the security deposit.



5.10 Work stoppage

The Director of Public Works and the Director of Urban Planning and Municipal Patrol or their representatives may, at any time, order that work be stopped on any work that:

- a) does not meet the municipal by-laws;
- b) is not carried out in accordance with the terms and conditions for issuing a certificate of authorization for the work in a public right-of-way;
- c) is not carried out in accordance with the prescribed safety rules;
- d) is not carried out in accordance with best practices.

5.11 Period of responsibility for the holder

The holder of a certificate of authorization is responsible for all work in the public right-of-way, as well as any movement of the roadway related to this work, for a period of two (2) years from the date of the completion of the work.

5.12 Public utility companies

Public utility companies are subject to all the provisions in this by-law with the exception of the obligation to obtain a certificate of authorization, the cost of this certificate and the security deposit.

SECTION 6 PROHIBITIONS AND PENALTIES

6.1 Prohibitions

In addition to the provisions listed in this by-law, the following are prohibited:

- a) modifying or altering work that has been subject to a certificate of authorization issued for work in a public right-of-way, without prior written authorization from the Director of Public Works or his representatives;
- b) preventing or restricting a City employee's access to a work site that has received a certificate of authorization under this by-law;
- c) helping, inciting or encouraging another person to commit an offence against this by-law;

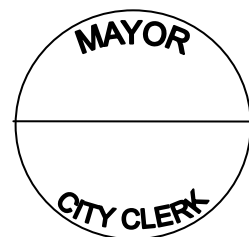
6.2 Unauthorized interventions

The City reserves the right to remove any obstacle, piece of equipment, materials or landscaping installed or carried out in contravention to this by-law.

To this end, notice in writing is sent to the offender requiring that the site be restored within 48 hours. If this deadline is not met, the City will proceed with the restoration work at the cost of the owner of the lot where the work was carried out.

The City can remove any landscaping, equipment or material that it finds in a public right-of-way:

- a) for which a certificate of authorization has not been duly issued;
- b) in virtue of a revoked certificate of authorization when the removal deadline set out in the notice has expired;
- c) that puts the safety of the public at risk;
- d) when the holder of the certificate of authorization has failed to pay all the required costs;
- e) when, in the case of an emergency, the City must use the site in question.



6.3 Civil actions

Criminal or penal proceedings against an offender do not limit other means of recourse that the City may wish to use against him, including civil proceedings before any court for the application of this by-law or the recovery of any costs related to this same by-law.

6.4 Offences

6.4.1 Fines

- a) Anyone who contravenes the provisions in Chapter 2 of this by-law is committing an offence and is liable for a fine of \$500. In the case of a repeat offence, the fine is \$1,000;
- b) Anyone who contravenes the terms and conditions of a certificate of authorization issued in conformity with this by-law or who carries out such work without previously having obtained this certificate is committing an offence and is liable for a fine of \$1,000. In the case of a repeat offence, the fine is \$2,000;
- c) Anyone who contravenes any other provision in this by-law is committing an offence and is liable for a fine of \$500. In the case of a repeat offence, the fine is \$1,000.

6.4.2 Fines for contractors

Should the offender hold a contractor's licence issued by the Régie du Bâtiment du Québec, the minimum and maximum fines indicated in sections 6.4.1 a), b) and c) are doubled.

6.4.3 Additional costs

If the cost of the work carried out by the City in accordance with the present by-law exceeds the amount provided in the security deposit, the City can bill the difference to the holder of the certificate of authorization, in accordance with the tariff by-law.

6.4.4 Responsibility of the owner

An owner of a property for whom work was carried out in a public right-of-way may be declared responsible for an offence listed in this by-law, without any need to demonstrate that he helped, advised, encouraged, invited or participated in committing the offence.

6.4.5 Individuals authorized to issue a ticket for an offence

For the purposes of this by-law, any employee or official in the City's Public Works Department or the Urban Planning and Municipal Patrol Department is authorized to issue one or more tickets for offences, for and on behalf of the City, when he observes a violation of this by-law.

6.4.6 Precedence of this by-law

The provisions of this by-law take precedence over any other section in any other by-law that may be incompatible with, or in contradiction to, the provisions in this by-law.

SECTION 7 COMING INTO FORCE

This by-law shall come into force according to law.

MAYOR

CITY CLERK