

PROVINCE OF QUÉBEC
CITY OF BEACONSFIELD

BY-LAW BEAC-120

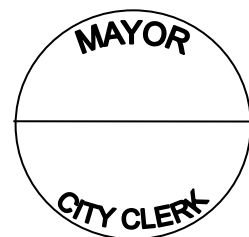
BY-LAW REGARDING WORK AND LANDSCAPING IN THE MUNICIPAL RIGHT-OF-WAY

CONSOLIDATED

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(BEAC-120-1) 2024-012-16

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



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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.
- c) **UTILITY OR PUBLIC SERVICE COMPANY:** including cable companies, telephone companies, bus, plane, boat or train carriers, and companies producing, transporting, distributing or selling gas, water or electricity

1.2 Application

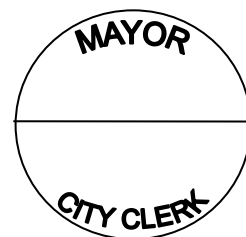
This by-law applies to all the territory in the City and to any type of work carried out in the public right-of-way by a third party.

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.

1.3 Purpose

The purpose of the by-law is to establish rules for the integrated management of actions taken by an applicant within the City's rights-of-way in order to ensure the sustainability of municipal infrastructures and public safety

(BEAC-120-1, sec. 1 and 2)



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

2.1 General

- 2.1.1 It is prohibited to carry out work, build structures, install equipment, landscape and plant in the additional right-of-way, except as specifically provided for in the present by-law.
- 2.1.2 The City may remove any construction, landscaping, equipment and other items installed or planted in the additional right-of-way in contravention of the provisions of this by-law, at the expense of the property owner.
- 2.1.3 Only the City may plant and maintain a tree in the additional right-of-way. A planted tree becomes the property of the City by accession

2.2 Authorized works, installations and landscaping

Occupation of the additional right-of-way is prohibited. Notwithstanding the foregoing, only the following works, installations and landscaping are authorized in the additional right-of-way, on condition that they do not exceed the levels of the street curb, sidewalk and public thoroughfare, for paragraphs a) and b), and this, over a minimum length of one metre in order to respect the profile of the lot:

- a) The seeding, laying and maintenance of sod;
- b) Creation of an asphalt or unistone driveway or walkway for vehicles or pedestrians. If this work requires changing the culvert, the level of the culvert will be determined by the City;
- c) The installation of an automatic sprinkler system, on the strict condition that it is installed more than 1.0 metre from the curb, sidewalk or public thoroughfare.

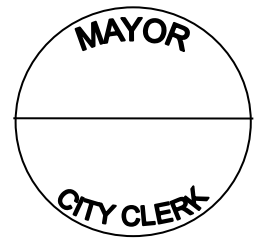
The City may remove any other installation, work or construction that does not comply with these conditions.”

2.3 Damage and liability

- 2.3.1 The work listed in section 2.2 is at the expense and risk of the person carrying it out. The work must be carried out in such a way as to have no impact on vehicular or pedestrian traffic, the maintenance of the public thoroughfare and the safety of those using it. The owner is responsible for any accident or damage resulting from the work or occupation in the additional right-of-way.
- 2.3.2 The City shall not be held liable for any damage caused to structures, works, facilities, equipment or other items located in the additional right-of-way as a result of snow removal or maintenance operations on the public road or storm sewer system.
- 2.3.3 In the event that the City requires these spaces for public utility purposes, if it deems it necessary for operational reasons, or when the works, installations and developments present risks related to public safety, health or environmental protection, the City will remove these developments, installations and constructions without compensation to the owner concerned.

2.4 Maintenance and repairs

- 2.4.1 The property owner is obliged to maintain, at his or her own expense, all structures built in the additional right-of-way.
- 2.4.2 Any construction, work or development carried out in the additional right-of-way is the sole responsibility of the owner and will not be repaired, replaced, restored or otherwise maintained by the City if maintenance work on the public road or storm sewer system takes place in 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.



2.4.3 In the event of municipal work being carried out in the public right-of-way which results in the level of the curb, sidewalk or public thoroughfare being adjusted, the owner is responsible for adjusting his level of asphalt or unistone so as not to exceed the levels of the curb, sidewalk and public thoroughfare thus modified, and this, over a minimum length of one metre in order to respect the profile of the lot.

2.5 Ditches and culverts

2.5.1 No one may install a culvert and/or channel a ditch located in the additional right-of-way without first obtaining written authorization duly signed by the authorized officer.

2.5.2 The owner or occupant of the land must ensure that no obstruction, object, material or act interferes with or is likely to interfere with the normal flow of water. It is forbidden to reduce or prevent the flow of water through landscaping or any other installation.

2.5.3 Only the City may re-profile public road ditches in order to improve drainage

(BEAC-120-1, sec. 3, 4, 5, 6 and 7)

SECTION 3 TEMPORARY WORK 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 temporary 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, 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.

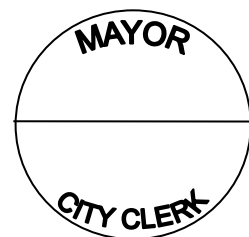
(BEAC-120-1, sec. 8 and 9)

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) in effect for the duration of the certificate of authorization;
- 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.

(BEAC-120-1, sec. 10)

SECTION 5 WORK ON MUNICIPAL INFRASTRUCTURES

5.1 Infrastructure locations

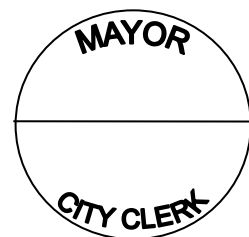
Anyone who carries out work in a public right-of-way shall communicate with the Director of Public Works or his representative at least 72 hours before starting such work. The City will then proceed with locating the underground infrastructures belonging to the City.

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.

Any person holding a certificate of authorization must ensure compliance with CNESST and signage standards.

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 provincial requirements 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 in order to restore the roadway to its original state.

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.

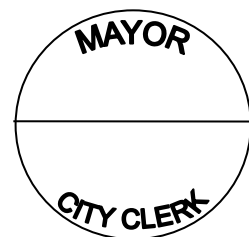
5.8 Access to the worksite

The holder of the certificate of authorization shall, upon request from the Director of Public Works for reasons of emergency work which must be carried out by the City or its agent, 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 or service company

All public utility companies are subject to all the provisions of the present by-law, with the exception of the obligation to obtain a certificate of authorization, payment of the certificate of authorization and payment of the security deposit. Municipal consent must be obtained before any work is carried out.

All new installations are subject to the fees applicable in the Tariff By-law, or, where applicable, to the fees agreed between the parties.

5.13 Work period

Unless work is deemed necessary by the Director of Public Works, no work may be performed in the public right-of-way between December 1st of one year and April 30th of the following year

(BEAC-120-1, sec. 11, 12, 13, 14, 15, 16)

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;

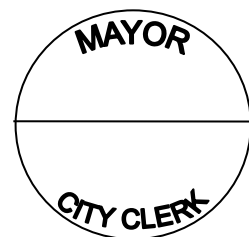
6.2 Unauthorized interventions

The City reserves the right to remove any obstacle, piece of equipment, materials, installation 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.

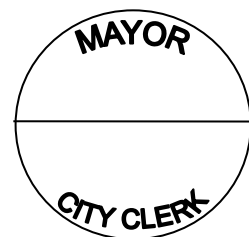
6.4.5 Individuals authorized to issue a ticket for an offence

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.

(BEAC-120-1, sec. 17)



SECTION 7 COMING INTO FORCE

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

MAYOR

CITY CLERK