

THE CORPORATION OF THE DISTRICT OF SAANICH

BYLAW NO. 9487

BOULEVARD REGULATION BYLAW

The Municipal Council of the Corporation of the District of Saanich, in open meeting assembled, enacts as follows:

PART 1 - Definitions

1.1 In this Bylaw:

“**boulevard**” means that part of a highway, other than a sidewalk or driveway, between the adjacent property line and the curb of the roadway, or where there is no curb, the edge of the shoulder;

“**boulevard permit**” means a permit issued pursuant to Part 6 of this Bylaw;

“**bylaw enforcement officer**” means a bylaw enforcement officer employed by Saanich;

“**Director of Engineering**” means the Director of Engineering employed by Saanich and includes any employee authorized to act on his or her behalf;

“**Director of Parks and Recreation**” means the Director of Parks and Recreation employed by Saanich and includes any employee authorized to act on his or her behalf;

“**driveway**” means that part of a highway between the curb or lateral lines of the roadway and the adjoining property line which is improved to allow vehicular access to the property in accordance with Driveway Access Bylaw, 2011, No. 9136;

“**highway**” means any public road, street, lane, bridge, viaduct or thoroughfare and any other way open to public use, but does not include a private right-of-way on private property;

“**invasive plant**” means a plant that is not indigenous to the District of Saanich whose introduction or spread causes or is likely to cause economic or environmental harm or harm to human health, and includes those plants listed in the Schedule to the Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation, B.C. Reg.144/2004;

“**landscaping**” means lawns, plants, edibles, shrubs, mulch, and other features that may be planted, installed or otherwise established in a boulevard in accordance with this Bylaw, but does not include trees, rain gardens or native vegetation;

“**Manager of Inspection Services**” means the Manager of Inspection Services employed by Saanich and includes any employee authorized to act on his or her behalf;

“**native vegetation**” means plants that are indigenous to the District of Saanich, but for certainty does not include noxious weeds, invasive plants or landscaping;

“**noxious weed**” has the meaning assigned in Noxious Weeds Bylaw, 2000, No. 8080;

“**occupier**” has the meaning assigned in the *Community Charter*;

“**owner**” has the meaning assigned in the *Community Charter*;

“**parcel**” means a lot, block, or other area of land in which land is held or into which land is subdivided, but does not include any part of a highway;

“**protected tree**” has the meaning assigned in Tree Protection Bylaw, 2014, No. 9272;

“**rain garden**” means a pit or depression in a boulevard that utilizes soil and landscaping within it for the purpose of managing storm-water runoff from roadways, sidewalks and other impervious surfaces;

“**roadway**” means the portion of a highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder;

“**Saanich**” means The Corporation of the District of Saanich;

“**shoulder**” in the case of a roadway without curbs means that portion of the highway 0.5 metres in width and immediately adjacent to the lateral lines of the roadway;

“**sidewalk**” means that portion of a highway between the curb lines or lateral lines of a roadway and the adjacent property line and intended primarily for pedestrian use, including without limitation any sidewalk, walkway, stairway, ramp, multi-use pathway or curb letdown, and any customarily traveled footpath made of gravel, asphalt, limestone, or other material;

“**street furniture**” means objects or equipment that typically are, or may be, installed or placed upon or adjacent to a highway, including without limitation benches, kiosks, canopies, shelters, mail boxes, bike racks, and refuse receptacles;

“**tree**” has the meaning assigned in Tree Protection Bylaw, 2014, No. 9272.

PART 2 - Application and Exemptions

2.1 This Bylaw does not apply to Saanich, its servants or agents.

2.2 Notwithstanding the issuance of any boulevard permit, and notwithstanding any other provision of this Bylaw, Saanich and its servants and agents may at any time without notice and without compensation to any person:

(a) enter on, break up, alter and use any boulevard;

(b) construct works through, under or over any boulevard;

- (c) cut, prune, disturb, damage or remove any landscaping, rain garden, or street furniture within a boulevard, or any other thing planted, constructed, installed, built or placed within a boulevard.

2.3 The obligations to maintain boulevards as specified in section 4.1 do not apply where, in the opinion of the Director of Engineering, the owner or occupier of a parcel is unable to access the boulevard due to steep grades, or the size of the boulevard is unreasonably large for the property owner to maintain, or the boulevard forms part of a protected watercourse or consists primarily of native vegetation, provided that the foregoing exception does not apply in circumstances where the owner or occupier of the parcel, or a previous owner or occupier, has altered the parcel or the boulevard to the detriment of the owner's or occupier's ability to access or maintain the boulevard.

PART 3 - Prohibitions

3.1 No person shall do any of the following within or upon any boulevard:

- a) deposit any waste, litter, paper, glass, tin cans, offensive matter or any other substance of any kind, except in receptacles provided for such purposes;
- b) injure, remove, deface or in any way destroy any notices, signs, or regulations affixed by order or permission of Saanich;
- c) willfully or carelessly damage the boulevard, or any wall, rain garden, fence, street light, street furniture or any other improvement upon or within the boulevard;
- d) cut, prune, break, remove or injure or in any way destroy any tree;
- e) except as necessary to comply with section 4.1(d) of this Bylaw, cut, prune, break, remove or injure or in any way destroy any native vegetation;
- f) plant a tree;
- g) except as authorized by a permit issued under another bylaw of Saanich, install, remove or damage a pipe, culvert, ditch, swale or watercourse.

3.2 An owner or occupier of a parcel abutting a boulevard may request that Saanich plant a tree in a boulevard, which request Saanich may grant or deny in its sole and unfettered discretion.

PART 4 - Obligations of Owners and Occupiers

4.1 Every owner or occupier of a parcel must, with respect to any boulevard abutting the parcel:

- a) keep grass or weeds within the boulevard mowed or trimmed to a height of not more than 15 centimetres;
- b) keep the boulevard free of brush, noxious weeds, invasive plants, litter, loose materials including leaves or debris, and in a tidy condition;
- c) keep any rain garden within the boulevard free of litter, loose materials including leaves or debris.;
- d) ensure that any landscaping and native vegetation within the boulevard does not interfere with the passage of pedestrians, cyclists, or vehicles, and that sight lines to intersections, driveways, sidewalks, vehicle and bicycle travel lanes, and traffic control devices are maintained;
- e) keep landscaping, other than grass, within the boulevard -, trimmed or pruned:
 - (i) below a maximum height of 1.0 metres, measured from the grade of the boulevard, within 3.3 metres of the curb of the roadway, or where there is no curb, the edge of the shoulder;
 - (ii) below a maximum height of 1.5 metres, measured from the grade of the boulevard, when greater than 3.3 metres distant from the curb of the roadway, or where there is no curb, the edge of the shoulder;
 - (iii) not less than 0.5 metres horizontally distant from the edge of any sidewalk;
 - (iv) where there is no sidewalk, not less than 1.5 metres horizontally distant from the curb of the roadway, or where there is no curb, the edge of the shoulder;
 - (v) not less than 2.0 metres horizontally distant from any fire hydrant or fire hydrant valve;
- f) ensure that any landscaping or trees within the boulevard receive, in accordance with applicable watering regulations of the Capital Regional District or any other authority having jurisdiction, such water as is necessary for their sustained growth and health except where such landscaping or trees are watered by an automatic watering system operated by Saanich;
- g) promptly remedy, by removal or other appropriate means, any landscaping or other material or condition, except for trees and native vegetation, within the boulevard that is, or is likely to be or become, a hazard to persons or

property, or that is deemed to be a hazard in the opinion of the Director of Engineering.

PART 5 - Activities Requiring Boulevard Permit

5.1 No person shall do any of the following unless in accordance with a valid boulevard permit:

- a) plant, install or otherwise establish landscaping within, or otherwise improve or alter a boulevard;
- b) place any rocks, gravel, tires, raised plant beds, asphalt, pavers, bricks, or structures on any boulevard;
- c) erect, construct, build, place or maintain on any boulevard any fence, wall, rockery, rocks, pavilion, tent, shelter or any temporary or permanent structure.

PART 6 - Issuance of Boulevard Permit

6.1 An owner or occupier of a parcel abutting a boulevard may apply to the Director of Engineering for a boulevard permit authorizing one (1) or more of the activities or things referred to in section 5.1.

6.2 The Director of Engineering may do the following:

- a) establish the forms of the boulevard permit and the application for a boulevard permit;
- b) require an owner or occupier applying for a boulevard permit to provide, at the owner or occupier's expense, such information as the Director of Engineering deems necessary or desirable for the purpose of evaluating the application including, without limitation, photos of the existing boulevard, plans, drawings, specifications and the like;
- c) issue, or refuse to issue a boulevard permit in any instance as the Director of Engineering deems appropriate having regard to all relevant circumstances;
- d) impose conditions, restrictions or requirements upon the holder of a boulevard permit, in addition to those imposed under section 4.1, as the Director of Engineering deems appropriate having regard to all relevant circumstances;
- e) without limiting subsection d) above, where the Director of Engineering determines there is a reasonable possibility that damage to public property will occur as a consequence of an activity or thing authorized by a boulevard permit, require the holder of a boulevard permit to provide security in a form

- and amount satisfactory to the Director of Engineering having regard to the likely cost of remedying such damage, and provide that such security may, without limiting any other right or remedy available to Saanich, be drawn upon in whole or in part by Saanich to remedy the damage where such damage occurs and is not remedied by the holder of the boulevard permit within five (5) business days of written notice from Saanich to do so;
- f) revoke or cancel a boulevard permit without compensation in any instance where the permit holder fails to comply with the conditions of the boulevard permit, or where the Director of Engineering determines that the boulevard or any portion thereof is required for municipal or other public purposes of any kind whatsoever.

6.3 Every owner or occupier of a parcel who applies for a boulevard permit must pay to Saanich the fee prescribed in Schedule “A” attached to this Bylaw.

PART 7 - Conditions of Permit

7.1 Every boulevard permit issued pursuant to this Bylaw shall be issued subject to the following conditions, without the necessity of the same being endorsed upon the boulevard permit or annexed thereto:

- (a) Every boulevard for which a boulevard permit is issued shall be maintained by the owner or occupier in accordance with all applicable requirements of this Bylaw;
- (b) Only the landscaping or other activity or thing specifically authorized by the boulevard permit shall be carried out, and no other, unless otherwise permitted under this Bylaw;
- (c) Any landscaping authorized by the boulevard permit shall be limited to the approved boulevard plantings list attached to this Bylaw as Schedule “B”, or any other shrub, grass or plant approved in writing by the Director of Parks and Recreation;
- (d) No landscaping or other activity or thing authorized by the boulevard permit shall fill in or interfere with any pipe, conduit or other utility, ditch, rain garden, swale, water control curb or other drainage structure, or any other property of Saanich or another public body;
- (e) No landscaping or other activity or thing authorized by the boulevard permit shall cause damage to any tree, its roots, trunk or canopy;
- (f) The owner or occupier is responsible for locating property lines as well as all underground utilities prior to digging;

- (g) The owner or occupier is solely liable for any claims regarding injury or damage to persons or property that may result from the landscaping or other activity or thing authorized by the boulevard permit;
- (h) Any construction, installation or planting authorized by a boulevard permit shall be completed within twelve months of issuance of the boulevard permit.

PART 8 - Municipal Action

8.1 In any instance where an owner or occupier of a parcel is not in compliance with this Bylaw or the conditions of a boulevard permit, the Director of Engineering or Director of Parks and Recreation may serve upon the owner or occupier notice that Saanich will be entitled to take the required action at the expense of the person given the notice if the owner or occupier does not take the action required to comply with the Bylaw or the boulevard permit within five (5) business days of the notice.

8.2 A notice under section 8.1 may be served upon the owner or occupier by any of the following means:

- a) personal service;
- b) deposit in a mail box or other receptacle for messages, if any, on the parcel;
- c) posting on the parcel; or
- d) registered mail to the address of the owner or occupier shown on the most recent property tax assessment roll.

8.3 A notice under section 8.1 is deemed to be served, in the case of personal service, on the day it is personally served, and in the case of deposit, posting or mailing under subsections b), c) and d), on the third day following the deposit, posting or mailing.

8.4 If the owner or occupier referred to in section 8.1 does not pay the costs of the action taken by Saanich on or before December 31st in the year in which the costs were incurred, the costs shall be added to and form part of the taxes payable on the parcel as taxes in arrears.

PART 9 - Enforcement and Penalties

9.1 Every person who contravenes this Bylaw by doing any act which it forbids, or omitting to do any act which it requires to be done, is guilty of an offence and is liable upon summary conviction to a fine of not less than \$100.00, and not more than \$500.00,

and for each subsequent offence a fine of not less than \$150.00 and not more than \$500.00.

9.2 Notwithstanding section 9.1 of this Bylaw, any person who cuts, prunes, breaks, removes, injures or in any way destroys any tree in a boulevard, other than a protected tree, is guilty of an offence and is liable upon summary conviction to the following:

- a) where such activity does not cause the demise or removal of the tree, a fine of not less than \$250.00 for the first offence and not less than \$300.00 for a second or subsequent offence;
- b) where such activity causes the demise or removal of the tree, a fine of not less than \$1,000.00 for the first offence and not less than \$2,000.00 for a second or subsequent offence.

9.3 Any person who cuts, prunes, breaks, removes, injures or in any way destroys any protected tree in a boulevard is guilty of an offence and is subject to the fines and penalties prescribed in Tree Protection Bylaw, 2014, No. 9272.

9.4 A separate offence shall be deemed to be committed upon each day during and in which a contravention of this Bylaw occurs or continues.

9.5 The Director of Engineering, the Director of Parks and Recreation, the Manager of Inspection Services, arborists employed by Saanich, and bylaw enforcement officers are authorized to enforce the provisions of this Bylaw.

PART 10 - Severability

10.1 If any section, clause, sub-clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Bylaw

PART 11 - Commencement

11.1 This Bylaw comes into force on the date of its adoption.

PART 12 - Repeal

12.1 Boulevards Management By-law, 1982, No. 4806 and all amendments thereto are hereby repealed.

PART 13 - Citation

13.1 This Bylaw may be cited for all purposes as “Boulevard Regulation Bylaw, 2018, No. 9487”.

Schedule “A” to Boulevard Regulation Bylaw, 2018, No. 9487

The fee for a boulevard permit is \$0.00.

Schedule "B" to Boulevard Regulation Bylaw, 2018, No. 9487

Approved Plant List

The following shrubs, grasses and plants are approved boulevard plantings for purposes of this Bylaw:

Plant Types: S = Shrub, GC = Ground Cover, P = Perennial

BOTANICAL NAME	COMMON NAME	Plant Type	Sunny Dry	Shady Moist	Shady Dry	Native
<i>Achillea millefolium</i>	Yarrow	P	X			X
<i>Amelanchier alnifolia</i>	Saskatoon (up to 1m)	S	X			X
<i>Anaphalis margaritacea</i>	Pearly Everlasting	P	X			X
<i>Antennaria microphylla</i>	Pussy Toes	P	X			X
<i>Arctostaphylos columbiana</i>	Hairy Manzanita	S	X			X
<i>Arctostaphylos uva-ursi</i>	Kinnickinnick Bearberry	GC	X			X
<i>Arctostaphylos x-media</i>	Hairy manzanita and Kinnickinnick hybrid	S	X			X
<i>Astilbe chinensis 'pumila'</i>	Dwarf Astilbe	P		X		
<i>Berberis thunbergii</i> (dwarf)	Barberry	S	X			
<i>Bergenia cordifolia</i>	Bergenia	P	X	X		
<i>Blechnum spicant</i>	Deer fern	P		X		X
<i>Calluna vulgaris</i>	Summer heather	GC	X			
<i>Cassiope mertensiana</i>	White Mountain Heather	S	X			X
<i>Chamaecyparis obtusa nana 'Gracilis'</i>	Dwarf false cypress	S	X			
<i>Chamaecyparis pisifera filifera nana</i>	Dwarf thread-leaf cypress	S	X			
<i>Cornus canadensis</i>	Bunch berry	GC		X		X
<i>Erica carnea</i>	Winter heather	GC	X			
<i>Erigeron mucronatus 'Profusion'</i>	Mexican Daisy	P	X			
<i>Erysimum 'Bowles Mauve'</i>	Bowles Perennial Wallflower	P	X			
<i>Escallonia 'Newport Dwarf'</i>	Newport Dwarf Escallonia	S	X			
<i>Euonymus fortunei</i>	Wintercreeper	GC	X			
<i>Euphorbia myrsinites</i>	Donkey tail Spurge	P	X			
<i>Festuca ovina 'Glauca'</i>	Blue Sheep fescue	P	X			
<i>Fragaria chiloensis</i>	Coastal Strawberry	GC	X			X
<i>Fragaria vesca</i>	Woodland Strawberry	GC	X			X
<i>Fuchsia magellanica</i>	Hardy Fuchsia	S	X	X		

BOTANICAL NAME	COMMON NAME	Plant Type	Sunny Dry	Shady Moist	Shady Dry	Native
<i>Gaultheria procumbens</i>	Wintergreen	GC		X		X
<i>Gaultheria shallon</i>	Salal	S	X	X		X
<i>Genista lydia</i>	Genista	S	X			
<i>Geranium macrorrhizum</i>	Cranesbill	P	X	X	X	
<i>Hebe</i> (dwarf species)	Hebe	S	X			
<i>Helianthemum mummularium</i>	Rock Rose	S	X			
<i>Helicrysum angustifolium</i>	Curry plant	P	X			
<i>Helleborus</i>	Hellebore	P	X	X	X	
<i>Heuchera micrantha</i>	Coral Bells	P	X	X		X
<i>Hosta</i>	Hosta	P		X		
<i>Iberis sempervivum</i>	Evergreen candytuft	P	X			
<i>Ilex crenata convexa</i>	Japanese Holly	S	X			
<i>Iris</i> (bearded)	Iris	P	X			
<i>Juniperus communis</i>	Juniper	S	X			
<i>Juniperus communis</i>	Common Juniper (1 - 3m)	S	X			X
<i>Lavandula</i>	Lavender	S	X			
<i>Leucothoe fontanesiana</i> 'Rainbow'	Leucothoe	S		X		
<i>Liatris spicata</i>	Gay Feather	P	X			
<i>Limonium latifolium</i>	Sea Lavender	P	X			
<i>Lithodora diffusum</i> 'Grace Ward'	Lithodora	S	X			
<i>Mahonia aquifolium</i>	Tall Oregon grape	S	X	X	X	X
<i>Mahonia nervosa</i>	Dull Oregon grape	S		X	X	X
<i>Myrica Gale</i>	Sweet Gale (up to 1.5 m)			X		
<i>Nandina domestica</i> 'Gulfstream'	Heavenly bamboo	S	X			
<i>Nepeta fassenii</i>	Nepeta	P	X			
<i>Pachistima myrsinites</i>	False box	S	X			X
<i>Penstemon</i>	Penstemon	P	X			
<i>Pernettya mucronata</i>	Pernettya	S	X			
<i>Perovskia atriplicifolia</i>	Russian sage	P	X			
<i>Phormium</i> (dwarf species)	New Zealand flax	S	X			
<i>Phyllodoce empetriformis</i>	Pink Mountain Heather (10 - 40 cm)	S	X			X

BOTANICAL NAME	COMMON NAME	Plant Type	Sunny Dry	Shady Moist	Shady Dry	Native
<i>Phyllodoce glanduliflora</i>	Yellow Mountain Heather	S	X			X
<i>Polystichum munitum</i>	Sword fern	S	X	X	X	X
<i>Potentilla fruticosa</i>	Potentilla	S	X			
<i>Prunus laurocerasus</i> 'Otto Luyken'	Cherry laurel	S	X			
<i>Rosa gymnocarpa</i>	Baldhip Rose (up to 1.5 m)	S			X	
<i>Rosa Nootkana</i>	Nootka Rose (up to 1.5 m)	S	X			X
<i>Rosmarinus</i>	Rosemary	S	X			
<i>Rudbeckia fulgida</i>	Black-eyed Susan	P	X			
<i>Salvia officinalis</i>	Sage	P	X			
<i>Sarcococca humilis</i>	Sarcococca	S		X	X	
<i>Sedum</i> 'Autumn Joy'	Stonecrop	P	X			
<i>Sedum spathulifolium</i>	Stonecrop	P	X			X
<i>Sempervivum</i>	Hens and Chicks	P	X			
<i>Skimmia japonica</i>	Skimmia	S		X		
<i>Solidago</i> (dwarf species)	Goldenrod	P	X			
<i>Spirea japonica</i>	Spirea	S	X			
<i>Stachys lanata</i>	Lamb's ears	P	X			
<i>Symphoricarpos albus</i>	Snowberry (up to 2 m)	S	X		X	X
<i>Taxus baccata repandens</i>	Spreading Yew	S	X	X	X	
<i>Tellima grandiflora</i>	Fringecup	P		X		X
<i>Thymus</i>	Thyme	GC	X			
<i>Tiarella trifoliata</i>	Foamflower	P		X		X
<i>Vaccinium ovatum</i>	Evergreen huckleberry	S		X		X
<i>Vaccinium vitis-idaea</i>	Lignonberry	GC		X		X
<i>Viburnum davidii</i>	David viburnum	S	X	X		