

**CITY OF MORDEN  
BY-LAW NO. 17-2017**

Being a By-law of the City of Morden to provide for the care and maintenance of boulevards.

WHEREAS subsection 232(1) of *The Municipal Act*, C.C.S.M., c. M225 provides as follows:

“A council may pass by-laws for municipal purposes respecting the following matters:

(d) municipal roads ...

(f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;”

(o) the enforcement of by-laws.”

AND WHEREAS subsection 236(1) of *The Municipal Act* provides as follows:

“Without limiting the generality of clause 232(1)(o) (enforcement of by-laws), a by-law passed under that clause may include provisions

(a) providing for procedures, including inspections, for determining whether by-laws are being complied with; and

(b) remedying contraventions of by-laws, including

(i) creating offences,

(ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the by-law,

(iii) providing that an amount owing under subclause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act,

(iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,

(v) charging and collecting costs incurred in respect of acting under subclause (iv),

(vi) imposing a sentence of imprisonment for not more than six months for the commission of offences or nonpayment of fines.”

AND WHEREAS it is deemed necessary and desirable to regulate the care and maintenance of boulevards in the City of Morden;

NOW, THEREFORE, the Council of the City of Morden enacts as follows:

**1. DEFINITIONS**

“Boulevards” means that portion of highway or municipal road, on either side or in the centre thereof, that are adjacent to the traveled portion thereof and is leveled and maintained, for the purpose of improving the appearance of the highway or municipal road,

- a) by the planting thereon of grass, flowers, trees, or shrubs, or all or any of those things;
- b) by paving or otherwise surfacing it; or
- c) by treating part thereof as stated in clause (a), and part thereof as stated in clause (b);

and by regularly cutting the grass thereon, if any, and trimming, pruning, or otherwise caring for the trees, shrubs, and flowers; and includes,

- i) Centre Median: The unpaved area separating the roadways of a divided highway or municipal road.
- ii) Flanking Boulevard: That boulevard within the public right of way between the pavement and the side (usually longitudinal) of a designated property.
- iii) Fronting Boulevard: That boulevard between the curb and the front of a designated property.
- iv) Traffic Islands: Unpaved, isolated areas within the public right of way, i.e. cul-de-sacs, service road islands.
- v) Ditches: those ditched boulevards fronting or flanking property that has been improved by means of landscaping or by regular homeowner maintenance.
- vi) Rearages: Boulevards and/or ditches on a right of way which are located at the rear of a designated property.
- vii) Extended Boulevards: Excessively wide boulevards that are scheduled for future street development.

“Municipality” means the City of Morden.

“CM” means the City Manager.

“Designated Officer” means the By-law Officer or his designate.

“Motor Vehicle” means any self-propelled vehicle.

“Person” means any individual and includes firm, partnership, association, corporation or company.

## RESPONSIBILITY OF MAINTENANCE

2. Every owner, agent, lessee, or tenant of an owner shall care for and maintain boulevards that abut, flank or are at the rear of the land of that owner or the land which that agent, lessee or tenant occupies except those boulevards set out in Section 3.

## MUNICIPALITIES RESPONSIBILITIES

3. The Municipality shall care for and maintain the boulevards as designated below:
  - i) All centre medians and traffic islands
  - ii) Boulevards pertaining to Municipal lots.
  - iii) Undeveloped Municipal right of ways.

- iv) Extended Boulevards
- v) Rearages located on highways

#### DAMAGE TO BOULEVARDS

- 4. No person shall break, dig up, or remove or in any way injure or deface the trees, shrubs, plants or turf located on a boulevard.

#### DEPOSIT OF WASTE PROHIBITED

- 5. No person shall throw or deposit any waste, refuse, or substance of any kind, upon any boulevard.

#### ARTICLES DETRIMENTAL TO PROPER MANAGEMENT

- 6. No person shall install, place or deposit anything on a boulevard which would obstruct or hinder traffic on any street or cause damage to the boulevard or prove offensive or detrimental to the proper management of boulevards except as provided in section 7.

#### SOILS AND LAWN DRESSING

- 7. Soil and well-rotted lawn dressing may be deposited on a boulevard for removal to private property, but it shall not be allowed to remain longer than seven (7) days.

#### BUILDING MATERIALS

- 8. No person shall store, place or deposit on any boulevard any building materials whatever without first obtaining permission from the CM and any person obtaining such permission shall be held responsible for any damage which may occur to any tree, shrub, or plant, or to any lawn area.

#### DEFACING NOTICES

- 9. No person shall deface, destroy or mutilate any notices posted by order of the Municipality within a boulevard.

#### ADVERTISING MATTER

- 10. No person shall display or distribute advertising matter of any kind on any boulevard without permission of the Municipality.

#### NO BUSINESS OF ANY KIND

- 11. No person shall use any boulevard for business purposes, and no business of any kind shall be carried out except such as may from time to time be approved by the Municipality or outlined in Schedule B.

#### PARKING OF VEHICLES

- 12. No person shall cause a vehicle to be parked in such a manner as to encroach upon or damage a tree, shrub, plant or the turf on any boulevard. or outlined in Schedule B.

#### MOTOR VEHICLES

- 13. No person shall drive a motor vehicle on, across, or along any boulevard at any place other than an authorized crossing unless written permission has been obtained from the CM or outlined in Schedule B.

#### HORSES

- 14. No person shall ride a horse on, across or along any boulevard.

#### PLANTING ON A BOULEVARD

15. No person shall plant any tree, sapling, shrub or plant of any kind on any boulevard, without first obtaining the written permission of the CM.

#### SPACING

16. The method of planting, placement and spacing between each tree, sapling, shrub or plant shall be to the satisfaction of the CM.

#### OWNERSHIP

17. All trees, shrubs, saplings or plant planted in accordance with section 15 and 16 shall become the property of the Municipality. The trees are to be maintained at the expense of and by the owner of the premises or property abutting the boulevard.

#### DAMAGE TO PLANTINGS

18. No person shall remove, destroy, cut, deface, trim any tree, shrub, sapling, or plant or sod on any boulevard except as expressly authorized by the CM.

#### REMOVAL

19. No tree, shrub, or sapling growing on a boulevard shall be destroyed or removed, except as ordered by the CM for reasons of disease, hazard or emergency.

#### MOVING BUILDINGS ON STREETS

20. No person, whether licensed or otherwise, shall move any building along the right of way in such a way as to damage any tree, shrub, sapling, plant or turf on any boulevard. In case of any possibility of damage a permit shall be obtained and funds deposited with the CM to cover estimated damages.

#### NEWLY CONSTRUCTED BOULEVARDS

21. Where any person, or persons propose to cross any newly constructed boulevard for the purpose of delivery or removal of furniture, household goods, or other like chattels; they shall first place planks of sufficient width, length and strength over the boulevard so that no injury to the boulevard shall result and all packing materials used in such delivery or removal shall be removed from the boulevard.

#### CROSSING PERMIT REQUIRED

22. No vehicle shall drive across a boulevard in order to deliver or remove any furniture, household goods or other like chattels unless first obtaining the written permission of the CM.

#### PERMIT TO EXCAVATE

23. No person shall make an excavation into the surface of any boulevard without first obtaining the necessary permit from the CM.

#### INTERFERENCE WITH OFFICIALS

24. No person shall interfere with the CM or Designated Officer in the performance of his duties imposed by this By-law.

#### RIGHT TO ENTER AND INSPECT

25. Subject to Section 239(1) of The Municipal Act, the proper officer of the Municipality is hereby authorized to enter any lands or premises to inspect for conditions that may contravene or fail to comply with the provisions of the By-law.

## SUMMONS OR ORDER

26. If the Designated Officer determines that an offence under this By-law has been or is being committed, the Designated Officer may issue an Order pursuant to subsection 242(1) of The Municipal Act or cause a Summons to be issued.

## APPEAL TO COUNCIL

27. A person served with an Order pursuant to this By-law may appeal such Order to the Council within fourteen (14) days of being served with the Order.

## GENERAL PENALTIES WHERE BOULEVARD NEGLECTED

28. Property owners who neglect to regularly mow and maintain their boulevards, will be issued a written notice. The Municipality may cause the work to be done as necessary to maintain the boulevard. All costs incurred will be charged against the land of the owner that adjoins the roadway and levy and collect the amount thereof from the owner in any manner in which taxes in arrears are collectible as provided in the Municipal Act.

29. Any person or corporation contravening this By-law commits an offence and is subject to a penalty notice as determined by Schedule A in accordance with the Enforcement By-Law.

## CONTINUING OFFENCE

30. Where the contravention, refusal, neglect, omission, or failure, continues for more than one day, the person is guilty of a separate offence for each day that it continues, and will be issued further penalty notices each day.

## REPEAL OF EXISTING BY-LAWS

31. Upon the passing of this By-law, all by-laws passed prior hereto and still in force, relating to the use and maintenance of boulevards shall cease to have effect.

DONE AND PASSED as a By-law of The City of Morden, at City of Morden, in Manitoba, this 26<sup>th</sup> day of June, 2017.

### **CITY OF MORDEN**

**Ken Wiebe**

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**Mayor**

**John Scarce**

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**City Manager**

Read a first time this 29th day of May 2017.  
Read a second time this 26th day of June 2017.  
Read a third time this 26th day of June 2017.

City of Morden  
Schedule A to By-law 17-2017

Penalty for offence of clause(s):

4. No person shall break, dig up, or remove or in any way injure or deface the trees, shrubs, plants or turf located on a boulevard. \$150
5. No person shall throw or deposit any waste, refuse, or substance of any kind, upon any boulevard. \$150
6. No person shall install, place or deposit anything on a boulevard which would obstruct or hinder traffic on any street or cause damage to the boulevard or prove offensive or detrimental to the proper management of boulevards except as provided in section 7. \$150
7. Soil and well-rotted lawn dressing may be deposited on a boulevard for removal to private property, but it shall not be allowed to remain longer than seven (7) days. \$150
8. No person shall store, place or deposit on any boulevard any building materials whatever without first obtaining permission from the CM. \$150
9. No person shall deface, destroy or mutilate any notices posted by order of the Municipality within a boulevard. \$150
10. No person shall display or distribute advertising matter of any kind on any boulevard without permission of the Municipality. \$150
11. No person shall use any boulevard for business purposes without approval \$150.
12. No person shall cause a vehicle to be parked in such a manner as to encroach upon or damage a tree, shrub, plant or the turf on any boulevard. \$150
13. No person shall drive a motor vehicle on, across, or along any boulevard at any place other than an authorized crossing unless written permission has been obtained from the CM \$150
14. No person shall ride a horse on, across or along any boulevard. \$150
15. No person shall plant any tree, sapling, shrub or plant of any kind on any boulevard, without first obtaining the written permission of the CM \$150
18. No person shall remove, destroy, cut, deface, trim any tree, shrub, sapling, or plant or sod on any boulevard except as expressly authorized by the CM \$150.
19. No tree, shrub, or sapling growing on a boulevard shall be destroyed or removed, except as ordered by the CM for reasons of disease, hazard or emergency. \$150
20. No person, whether licensed or otherwise, shall move any building along the right of way in such a way as to damage any tree, shrub, sapling, plant or turf on any boulevard. In case of any possibility of damage a permit shall be obtained and funds deposited with the CM to cover estimated damages. \$150
21. Where any person, or persons propose to cross any newly constructed boulevard for the purpose of delivery or removal of furniture, household goods, or other like chattels; they shall first place planks of sufficient width, length and strength over the boulevard so that no injury to the boulevard shall result and all packing materials used in such delivery or removal shall be removed from the boulevard. \$150

22. No vehicle shall drive across a boulevard in order to deliver or remove any furniture, household goods or other like chattels unless first obtaining the written permission of the CM \$150
23. No person shall make an excavation into the surface of any boulevard without first obtaining the necessary permit from the CM \$150.
24. No person shall interfere with the CM or Designated Officer in the performance of his duties imposed by this By-law. \$300

City of Morden  
Schedule B to By-law 17-2017

Properties that should be granted an exception to use boulevards for parking:

- 164 Stephen Street (Pembina Valley Chrysler)
- 220 Stephen Street (Pembina Valley Chrysler)
- 484 Stephen Street (Morden Physiotherapy)
- 500 Stephen Street (Variety Advertising)
- 536 Stephen Street (Various Government Offices)
- 570 Stephen Street (The Brick)
- 505 North Railway Street east boulevard along 10<sup>th</sup> Street (Café La Manche)
- 301 Mountain Street South (Farm King)
- 186 Cochlan Drive (MCDC)
- 132 Mountain Street North (Mountain Automotive Service)
- 80 Thornhill Street (Ed's Ok Tire)
- 15 Thornhill Street (Fehr Glass)
- 215 Thornhill Street (Morden Appliance Service)