

**THE CORPORATION OF THE
TOWN OF LINDSAY**

BY-LAW 97 - 136


c	<i>Short Title</i>	<u>A by-law to provide for the use and maintenance of boulevards within the Town of Lindsay.</u>
c	1.	<u>PREAMBLE:</u>
c	1.01	<u>WHEREAS</u> the Municipal Act, R.S.O. 1990, c.M.45, Section 308, subsection 1, allows the Council of a Municipality to pass by-laws for setting apart portions of the highways at or near the sides of them for the purpose of boulevards, and for permitting the owners of land abutting on a highway to construct, make and maintain at their own expense, boulevards on that part of the highway that may be set apart for that purpose, but not so as unreasonably to confine, impede or incommode public traffic;
c	1.02	<u>AND WHEREAS</u> the Municipal Act, R.S.O. 1990, c.M.45, section 308, subsection 2, allows the Council of a Municipality to pass by-laws for regulating the construction, maintenance and protection of such boulevards;
c	1.03	<u>AND WHEREAS</u> the Council of the Corporation of the Town of Lindsay deems it necessary to set apart portions of the highways for the purpose of boulevards, to allow for certain constructing, making and maintaining of such boulevards and regulating the construction, maintenance and protection of boulevards within the Town of Lindsay;
c	1.04	<u>AND WHEREAS</u> Section 28(g) of the Interpretation Act, R.S.O. 1990, c.I.11, authorizes Council to alter or revoke by-laws, regulations, rules or orders from time to time and to make others;
c	1.05	<u>NOW THEREFORE</u> the Council of the Corporation for the Town of Lindsay enacts as follows:
c	2.	<u>DEFINITIONS:</u>
c	2.01	"Council" shall mean the Council of the Corporation of the Town of Lindsay.
c	2.02	"Landscaping" vegetation in the form of lawns, shrubs, flowers or ornamental plantings, or any combination thereof, which is maintained at a height and in a way not having any safety implications for vehicular or pedestrian traffic and provided such vegetation does not adversely affect any municipal and/or public utility structures.
c	2.03	"Person" shall mean any individual, partnership, association, corporation or cooperative.
c	2.04	"Sign" shall mean a notice displayed publicly as an advertisement, to impart information or to give guidance and shall include any thing defined as a "sign" in the Town of Lindsay Sign By-law, as it may be amended from time to time.
c	2.05	"Town" shall mean the Corporation of the Town of Lindsay.
c	3.	<u>USE OF BOULEVARDS:</u>
c	3.01	All portions of highways lying between the travelled portion of the highway and the limit of the street allowance and within the Town's jurisdiction and control, exclusive of any area covered by sidewalk, shall be set apart and known as Boulevards. In addition, the median separating northbound and southbound traffic on Victoria Avenue North and Victoria Avenue South within the limits of the Town shall also be set apart and known as a Boulevard.
c	3.02	Subject to section 5 of this By-law, no person shall construct, place and/or maintain any type of structure or thing within any Boulevard, or use any Boulevard for any purpose other than landscaping.
c	3.03	Subject to section 5 of this By-law, no person shall permit the construction, placement and/or maintenance of any structure or thing within any Boulevard, or the usage of any Boulevard, for any purpose other than Landscaping.

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- c 3.04 *Relocation of Existing Structures* 3.04 Where it is necessary for the Town or any other public authority to service or relocate existing structures above or below grade or to install any new structure in a Boulevard, the Town or public authority is entitled to remove, as required, the existing Landscaping and to replace it with only a lawn upon completion of the work and neither the Town nor the public authority, as the case may be, has any obligation to replace any Landscaping which was not a lawn or to reimburse any person for same.
- c 4. **4. MAINTENANCE OF BOULEVARDS:**
- c 4.01 *Boulevards to be Kept Clear of Debris* 4.01 Every person shall keep all Boulevards within the portion of the highway abutting any property of which that person is the registered owner, clean and clear of all debris, waste, signs or any other article or structure other than Landscaping. This section shall not prevent the provision of entrances and exits to a property via the municipally approved driveway(s).
- c 4.02 *Grass to be Maintained* 4.02 Every person shall maintain the grass on any Boulevard within the portion of the highway abutting any property of which that person is the registered owner, at a height which is not greater than eight (8) inches.
- c 5. **5. BOULEVARD USE AGREEMENTS:**
- c 5.01 *Application May be Made* 5.01 Notwithstanding the provisions of this By-law, the registered owner(s) of any property abutting the portion of a highway containing any Boulevard may apply for a Boulevard Use Agreement authorizing the construction, placement and/or maintenance of any type of structure or thing within a Boulevard, or the use of a Boulevard, for purposes other than Landscaping. Where there is more than one registered owner of the property, all owners must sign the application and be a party to any Boulevard Use Agreement which might be approved.
- c 5.02 *Application Requirements and Submission* 5.02 An Application for a Boulevard Use Agreement shall be made to Council using the Town's prescribed application form, shall be accompanied by a scaled drawing depicting the entire extent of the Boulevard(s) in question and the exact location of the proposal for the Boulevard(s) and a detailed description of the proposal. The application shall be submitted to the Town's Director of By-law and Property together with a non-fundable application fee as prescribed in the Town of Lindsay Fee By-law from time to time. Before accepting any application, the Director of By-law and Property shall ensure that all local utility companies have completed the appropriate sections of the application form indicating their approval of the proposal for the Boulevard(s). Upon being satisfied that the application is complete, the Director of By-law and Property shall forward the completed application to the Town's Director of Municipal Works.
- c 5.03 *Distribution of Application and Council Determination* 5.03 The Town's Director of Municipal Works shall be responsible for distributing the application to the appropriate department heads within the Town for their comments and recommendations and, upon receipt of those comments and recommendations, the Director of Municipal Works shall forward the application to Council for its consideration and determination.
- c 5.04 *Compliance with Town Zoning By-law* 5.04 Prior to Council's approval of any Boulevard Use Agreement application and subject to any conditions which Council deems appropriate, the applicant shall ensure, and the Town's Municipal Law Enforcement Officer shall be satisfied, that the proposal for the Boulevard(s) will comply with the Town's Zoning By-law.
- c 5.05 *Execution and Registration of Boulevard Use Agreement* 5.05 Upon Council's approval of an application for a Boulevard Use Agreement, the Town shall prepare a Boulevard Use Agreement to be signed by the applicant and the Town and, upon its execution by both parties, the Town shall have it registered on title. The cost for the preparation and registration of the Boulevard Use Agreement shall be borne by the applicant. The terms of the Boulevard Use Agreement will permit the Town to terminate the Agreement if any applicant does not reimburse the Town for its preparation and registration costs within thirty (30) days of the Town's mailing of a written request for reimbursement being made. The preparation and registration costs are in addition to the application fee referred to in Section 5.02 of this By-law.

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- c 6. **6. ENFORCEMENT:**
- c 6.01 6.01 The provisions of this By-law shall be enforced by a Municipal Law Enforcement Officer, a By-law Enforcement Officer as appointed by Council, a sworn member of the Lindsay Police Service or any other Provincial Offences Officer.
- c 7. **7. CONTRAVENTION OF BY-LAW:**
- c 7.01 7.01 Any person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is subject to a fine as allowed in the Provincial Offences Act, R.S.O. 1990, c.P.33, section 61, as amended.
- c 8. **8. REPEAL OF PREVIOUS BY-LAWS:**
- c 8.01 *Repeal* 8.01 By-law 91-15 as amended by By-law 93-102 and By-law 96-70 are hereby repealed.
- c 9. **9. MUNICIPAL CODE AMENDMENTS:**
- c 9.01 *Municipal Code* 9.01 The Town of Lindsay Municipal Code is hereby amended by deleting Chapter 458 "Boulevard -Use" from the Municipal Code in its entirety.
- c 10. **10. FORCE AND EFFECT:**
- c 10.01 *In Force on Passing* 10.01 This By-law shall come into force and take effect on the final passing thereof.
- c 10.02 *First Reading* 10.02 Read a first time on: *September 23, 1997*
- c 10.03 *Second Reading* 10.03 Read a Second Time on: *September 23, 1997*
- c 10.04 *Third Reading and Passage* 10.04 Read a Third Time and Finally Passed on: *September 23, 1997*
- c 10.05 *Signatures* 10.05



Mayor



Clerk

wjh/df/27aug97/7,711/
wjh/fin/17sept97/7,734/
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