

The Township Guide to Boulevard Modifications

March 2020

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INTRODUCTION

This guide describes the Township of Esquimalt's approach for boulevard modification and use.

FUNCTION

What is the boulevard? The right of way is divided into two main portions with the first portion being the travel corridor (road, curb and gutters). The remaining portion from the back of curb to the property line is defined as the boulevard. Its primary purpose is to allow for the installation of infrastructure (Township or other stakeholders) that provide services to the adjacent properties and the greater community. This infrastructure can be either on the surface or underground. Surface infrastructure includes such items as:

- Street furniture (i.e. bus stops, benches, garbage cans)
- Signage
- Sidewalks
- Trees
- Grass
- Utility poles
- Fire hydrants
- Walkways
- Driveways

Underground infrastructure can be either shallow or deep utilities along with their corresponding service lines. Shallow utilities are generally located within 0.5 metre (1.6 feet) of the surface with deep utilities being located at deeper depths. Underground infrastructure includes such items as:

- Gas (shallow)
- Telephone (shallow)
- Cable (shallow)
- Power (shallow)
- Potable water (deep)
- Sanitary collection (deep)
- Storm drains (deep)

The infrastructure that is located within the right of way is also broken down into two types: essential and non-essential. Essential infrastructure is a structure or conduit that provides access to the property or provides a service to the lot. (I.e. walkways, driveways, water, power, sewer, storm, telephone, cable). Non-essential infrastructure is a structure or vegetation (i.e. decorative statues, vegetable garden, flowers etc.) that provides benefit to one particular lot.

As well as providing a location for infrastructure, boulevards are also used to provide an aesthetically pleasing aspect to the right of way by including vegetation (i.e. grassed areas, trees) within its space.

OWNERSHIP

Who owns the boulevard? A common assumption many lot owners make is that the boulevard is a portion of their property. This assumption is incorrect; it is the Township that has ownership of the boulevard and a duty to manage it. Through its duty of management, the Township deals with three types of users. These users are: the Township, utility/service providers, and the lot owners (through permit). Each of these users installs and maintains various types of essential and non-essential infrastructure in the right of way. The Township, through bylaws, assigns maintenance of the various boulevard features to the adjacent lot owners (i.e. snow clearing on the sidewalk or the cutting of boulevard grass).

In order to allow access from the road surface portion of the right of way, the Township permits lot owners to install a walkway and driveway across the boulevard. The Township's duties include reviewing and granting approval to these structures to ensure that they meet Township standards (i.e. size, slope and location). Driveways and walkways may require a permit depending on their nature. The structures are constructed by the lot owner and the lot owner is responsible for the maintenance and replacement of these structures. These structures are governed by the Township's various bylaws.

STANDARD

The current standard for the surface appearance of boulevards is as follows:

- Back of curb and gutter (border)
- Grassed portion
- Boulevard trees
- Sidewalk
- Property line (border)

Between the two borders, the remaining components of the boulevard can be laid out in several arrangements which may or may not include all the components. Examples of the standard are highlighted in the following pictures.



Figure 1 - Boulevard with no sidewalk



Figure 2 - Boulevard with adjoining sidewalk



Figure 3 - Boulevard with separated sidewalk

In the pictures it can be seen that various types of surface infrastructure are located within the boulevard such as:

- Sidewalks,
- Signage
- Boulevard trees
- Grassed surfaces
- Power poles
- Walkway
- Driveway
- Street furniture (i.e. benches, signs, mailboxes, etc.)

MODIFICATIONS

There are instances that lot owners would like to modify the surface appearance of the boulevard. These modifications can take various forms (i.e. street furniture, different types of plantings such as flowers or shrubs, parking, etc.). Issues that may arise from a modification include:

- Disruption of sight lines for vehicular movements which can include serious risk to the safety of travel corridor users
- Encroachment of vegetation on sidewalks so that it is difficult to walk on the sidewalk
- Visually unpleasing street furniture
- Violation of the Streets and Traffic Bylaw by parking on the boulevard
- Disruption of the modifications due to infrastructure removal and replacement
- Disputes between neighbours

While the Township is open to modifications being proposed by lot owners, the Township reserves the right to review and approve any proposed modifications in order to minimize possible issues or the creation of unsafe conditions for the use of the right of way in its entirety or a portion of it. The proposed modifications will be reviewed by various Township departments (i.e. Engineering, Parks, and

Development Services). Part of the review process will look at neighbourhood plans (if applicable) and ensure that the proposed modification is in line with such a plan.

An important point to consider is that a segment of boulevard can face disruption. The disruption generally comes in the form of either a surface or underground utility repair/replacement or new construction. Where this work impacts essential infrastructure, the utility owner carrying out the work will replace damaged or replace essential infrastructure in the boulevard. Non-essential infrastructure is not replaced to its original form or function.

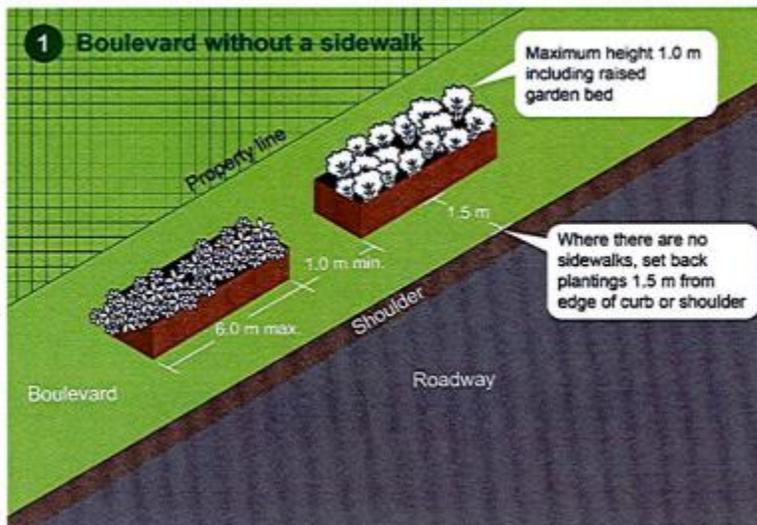
TYPES OF NON-ESSENTIAL INFRASTRUCTURE ALLOWED

Modifications that are allowable are the installation of grass, flowers, and vegetable beds within the boulevard. The type of boulevard (no sidewalk, separated sidewalk, sidewalk behind curb and gutter) would also determine the size, location and height that would be allowed.

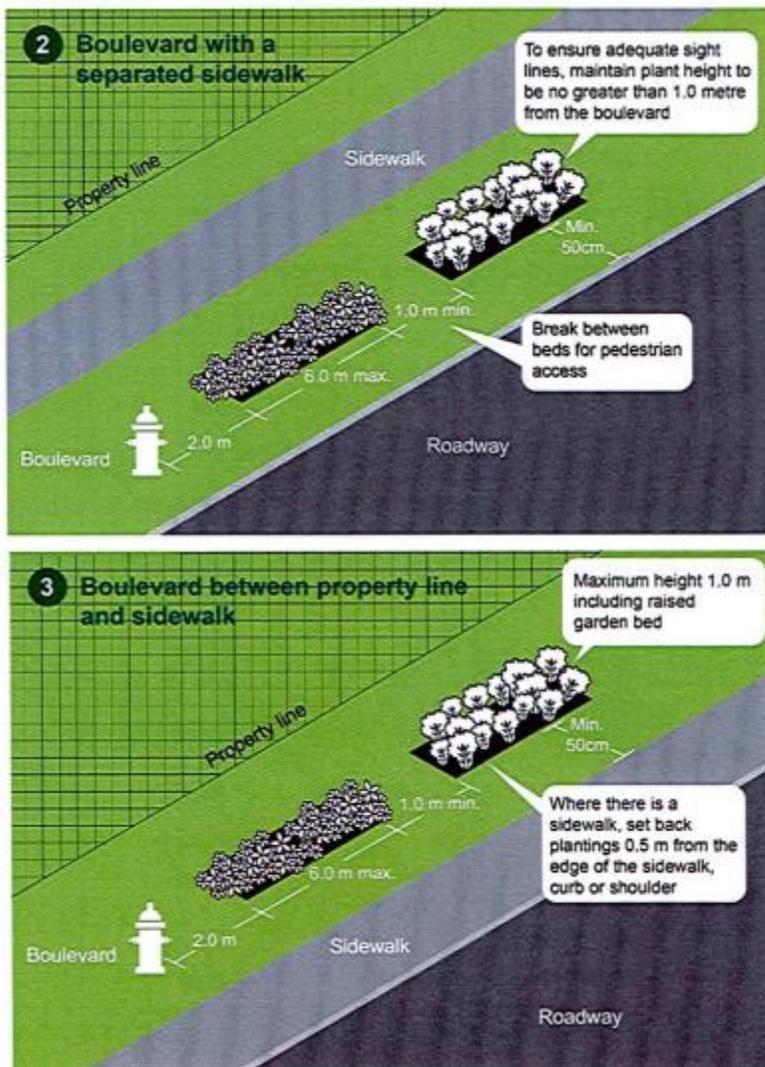
Mature plantings are not to exceed 1.0 m in height, so as not to impede sightlines. Planting areas are to be no longer than 6 m parallel to the curb, so that there are breaks between plantings for drivers to access the street. Breaks are to be at least 1.0 m in length.

Where there are utility poles, bus shelters, or fire hydrants, a 2.0 m clearance is to be maintained.

On roads that do not have a sidewalk, pedestrian access is to be maintained along the boulevard so that pedestrians are not forced to walk on the road. Alterations are to be at least 1.5 m away from the edge of the roadway, per the below.



On roads that do have a sidewalk, alterations are not to encroach on the sidewalk. Alterations are to provide a 50 cm setback from the sidewalk, or from the curb, depending on whether the sidewalk is separated or not (see below)



Images sourced from District of Saanich

WORKS THAT ARE NOT ALLOWED

Certain types of work are not allowed to be constructed in boulevards under a Boulevard Alteration Permit. If the proposed work on the permit is one of the disallowed types, the permit application and fee will be returned and the permit will not be considered.

Examples of disallowed works include:

- Large items (i.e. boulders, driftwood)
- graveled or river rock surface treatments
- hard surface treatments (i.e. concrete, pavers, asphalt)
- boulevards modified to become parking areas
- structures (i.e. fences, sheds, retaining walls, posts)
- fountains or water features
- street furniture (i.e. benches, swings, chairs)
- address signs or holders
- private mailboxes
- a continuous feature along the entire frontage of the property

- Community library structures

PROCEDURE FOR APPLICATION OF A BOULEVARD ALTERATION PERMIT

The procedure for applying for a Boulevard Alteration Permit is as follows:

1. The lot owner is to review this guide to gain an understanding of the requirements for a boulevard alteration.
2. The lot owner is to apply to Engineering for a Boulevard Alteration Permit.
3. The application will include a fulsome description of the proposed alteration. The description may or may not include diagrams of the proposed alteration but must show enough detail that the Township can review this information and verify permit compliance.
4. The application will be reviewed by the appropriate departments to determine how it complies with standards. It is also at this stage that the Township determines which requirements and conditions the lot owner will have to satisfy for the permit to be issued.
5. If the application complies with the standards, the lot owner will be directed to solicit feedback from their neighbours on the proposed alteration. Staff will define a sphere of influence for feedback, which will consist of a minimum of three lots on each side of the applicant's lot and a similar number on the opposite side of the street. Depending on the nature of the street (i.e. cul de sac), this sphere of influence maybe expanded to include a greater number of homes.
 - a. In order for the permit to be granted, it must meet two tests:
 - i. Test 1 – 90% of homes within the area must be polled
 - ii. Test 2 – 80% of homes polled must approve of the alteration
 - b. If the application passes both tests, staff will approve the permit, and the lot owner will carry out the alteration.
6. If the application does not comply with the standards, the lot owner will be directed to go through the feedback process described in section 5. At the conclusion of the feedback process, the lot owner will be directed to make a presentation to council. If Council directs staff to approve the permit, the permit will be issued, and the lot owner will carry out the alteration.
7. The Township will conduct a final inspection and sign off that the construction meets the intent of the permit.
8. Once the boulevard alternation construction has been completed, the deposit will be returned.

WORKS CARRIED WITHOUT A PERMIT

Some alterations have already been carried out within the boulevard without a Boulevard Alteration Permit being issued. As the Township becomes aware of these works, the Township will approach the lot owner to enter into a Boulevard Alteration Permit.

This process will see the Township review the existing alteration. If the alteration meets the Township standards and passes the two tests, a permit will be issued. If the alteration does not meet Township standards; and does not pass the tests or a complaint has been filed about it, the permit will not be issued. The Township will then work with the lot owner to complete the process outlined for obtaining a

Boulevard Alteration Permit. The modification or removal of the alteration will be an expense that is the lot owner's responsibility. The work can either be carried out by the lot owner or by Township forces.

DISPUTE RESOLUTION PROCEDURE

If a resident determines that a boulevard alteration does not meet the expectations of the neighbourhood, the following procedure will take place:

1. The Township receives a detailed, written complaint regarding a boulevard alteration
2. Engineering staff will determine a sphere of influence for feedback. This sphere would be at a minimum three lots to each side of the applicant's lot and similar number on the opposite side of the street. Depending on the nature of the street (i.e. cul du sac) this sphere of influence could be expanded to include a greater number of lots.
3. The complainant will poll the houses within the sphere of influence. In order for the complaint to be advanced, it must meet two tests:
 - a. Test 1 – 90% of homes within the area must be polled
 - b. Test 2 – 80% of homes polled must agree that the alteration should be removed
4. If the complaint meets the two tests, the following procedure will take place:
 - a. Staff will present the proposal to remove the alteration, and the poll results, to Council
 - b. The resident who carried out the modification will be invited to address Council to explain why the alteration should be allowed to remain
 - c. The resident(s) in opposition to the modification will also be invited to address Council
 - d. Council will make a decision as to whether the permit be revoked
5. If Council determines that the permit should be revoked, the resident will be instructed to restore the boulevard. The modification or removal of the alteration will be an expense that is the lot owner's responsibility. The work can either be carried out by the lot owner or by Township forces.
6. If Council decided that the permit be maintained, all residents involved would be informed of the decision and no further action would be taken by the Township.

DETAILS AND REQUIREMENTS OF THE PERMIT – FURTHER EXPLANATION

In Appendix A, a copy of the Boulevard Alteration Permit can be found. The Permit has a number of requirements and conditions that may be unfamiliar to most lot owners. This section will provide greater detail on these requirements and conditions. All these requirements and conditions form part of the Permit and are applicable to all modifications. The Township has the option to waive some of these requirements and conditions. If this option is pursued, the conditions and requirements waived will be dependent on the type of modification proposed.

Part 1 of 4 – Permit Accompaniments

1. A deposit in the form of cash, cheque, or letter of credit to meet the cost of repairing any damage which may be done to the highway during the proposed work and sufficient to ensure that the proposed work may be completed by the Municipality if left incomplete by the applicant.
 - i. This requirement is applied when the scope of work of the modification is extensive or has the potential to disrupt the surrounding infrastructure. Simple modifications will not require a deposit.
2. An indemnification and release of the Municipality from and against all claims, damages, and costs which may arise out of the proposed work.
 - i. The scope of work that is being proposed will not be undertaken by Township forces. The Applicant is required to enter into the waiver and release form with the Township to relieve the Township of the responsibility of the Applicant's actions. This release can be found in Part 2 of 4.
3. Proof of property damage and public liability insurance, showing Township of Esquimalt as an additional named insured, in the minimum amount of two million dollars (\$2,000,000), submitted by the general contractor and any sub-contractor in the work.
 - i. This insurance is necessary when the proposed work is substantial in nature and has the ability to affect the right of way and Municipal infrastructure. This insurance is generally carried by the General Contractor and any sub-contractors involved in the work. The scope of work of the modification will dictate whether or not this requirement is waived.
4. Assume role of Prime Contractor status for the project.
 - i. This requirement transfers the role of Prime Contractor to the Applicant from the Township. Worksafe BC has a requirement that a party is named Prime Contractor. The Prime Contractor carries the responsible and duty to insure that the work is carried out in a safety manner that meets current standards and as per a safety plan. This requirement will not be waived.

Part 2 of 4 – Waiver and Release

This is the Indemnification and release form.

Part 3 of 4 - Terms and Conditions

Under this heading, terms and conditions for various items for undertaking construction are supplied. Depending on the nature of the work, some or all of the terms and conditions may be applicable. The Applicant will be responsible for meeting terms and conditions identified by the Township.

Fees

The nature and extent of the scope of work will determine if a fee is required or waived. The decision whether the fee will be waived will be made after review of the proposed scope of work. The Applicant will be notified if the fee is applicable.

CONTACT US

Engineering and Public Works

Email: engineering@esquimalt.ca
Phone: 250-414-7108
Fax: 250-414-7160
Mail: Township of Esquimalt – Engineering & Public Works
1229 Esquimalt Road. 3rd Floor
Victoria, BC V9A 3P1

Community Safety Services (Bylaw Enforcement)

Email: bylaw@esquimalt.ca
Phone: 250-414-7161
Fax: 250-414-7111
Mail: Township of Esquimalt – Bylaw Officer
1229 Esquimalt Road. 3rd Floor
Victoria, BC V9A 3P1

APPENDIX A
BOULEVARD ALTERATION PERMIT



ENGINEERING SERVICES

1229 Esquimalt Road, Esquimalt, B.C., V9A 3P1
 Phone (250)414-7108 Fax (250) 414-7160
 www.esquimalt.ca

BOULEVARD ALTERATION PERMIT

Part 1 of 4

An application for Permission to alter the Municipal Boulevard must be obtained by the Contractor, the Firm or the Resident responsible for the work.

NOTE: All data fields must be filled out for the application to be processed. Please put N/A in any field that does not apply to this permit.

Date: _____

Please Print Clearly

Name		Company	
Address		City	
Email		Postal Code	
Phone	Cell	Fax	

Location of Work
Type of work:
Timetable Start Date and Time: _____ Finish Date and Time: _____

I/we _____, hereby apply for permission to construct works within the limits of the road under jurisdiction of the Corporation of the Township of Esquimalt in accordance with detailed plans and specifications of the work submitted herewith.

The following are also to accompany this application:

1. A deposit in the form of cash, cheque, or letter of credit to meet the cost of repairing any damage which may be done to the highway during the proposed work, and sufficient to ensure that the proposed work may be completed by the Municipality if left incomplete by the applicant;
2. An indemnification and release of the Municipality from and against all claims, damages, and costs which may arise out of the proposed work (please see below**);
3. Proof of property damage and public liability insurance, showing Township of Esquimalt as an additional named insured, in the minimum amount of two million dollars (\$2,000,000), submitted by the general contractor and any sub-contractor involved in the work.
4. Assume role of Prime Contractor status for the project.

BOULEVARD ALTERATION PERMIT No. _____



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**BOULEVARD
ALTERATION PERMIT**

Part 2 of 4

Waiver and Release **

* _____ in consideration of The Corporation of the
Township of Esquimalt granting * _____ permission to construction
works within the limits of a highway as per Permit No. _____ DOES HEREBY RELEASE and
DOES HEREBY COVENANT to indemnify and save harmless The Corporation of the Township of Esquimalt
of and from any and all manner of action, causes of action, claims and demands whatsoever which
* _____ or other persons may have as a result of the
works as specified herewith and agree to follow all Worker's Compensation Board Regulations.

Dated this _____ day of _____ 20____ at

SIGNED, SEALED and DELIVERED by

_____))
_____))
Authorized Signatory)

_____))
Authorized Signatory)

PERSONAL INFORMATION DECLARATION: Any personal information provided in this application is collected for the purpose of administering the Local Government Act, and the bylaws of the municipality under the Local Government Act, and under the authority of those enactments. Questions about the collection of the information may be directed to the Head of Freedom of Information Officer, 1229 Esquimalt Road, Esquimalt, BC V9A 3P1, 250-414-7135.



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**BOULEVARD
ALTERATION PERMIT**

Part 3 of 4

Terms and Conditions

- The Township reserves the right upon written notice to the property owner to have the boulevard restored to a condition acceptable to the Township at the property owner's expense.
- Maintain all traffic signs in current location. Any temporary relocation to be done by the Township of Esquimalt at the Owner's or Contractor's expense.
- Applicant or Contractor to complete a BC One call prior to commencing work (if applicable).
- Limit lane closures to the hours between 9:00 AM – 3:00PM.
- Open excavations and material/equipment stockpile to be securely barricaded and marked with flashing lights during non-working hours.
- Damage to Township of Esquimalt's services to be reported immediately. All repairs to be performed by the Township of Esquimalt personnel.
- All public and private roads, drives, boulevards, fences, etc., to be restored to "as found", or better, condition.
- Adjacent roads and sidewalks to be kept clean during construction. Costs borne by the Municipality will be billed to the applicant.

Permission has been granted for construction of the proposed works within the limit of a highway at the above-referenced location in accordance with Municipal By-laws, Construction Specifications and the above conditions.

A Boulevard Alteration Permit is required for permission to construct any works within the Municipal Road Allowance or any Municipal Right-of-Way. **Applications must be made a minimum of 7 days prior to the commencement of works.**

Contact: Engineering Services (250) 414-7108

Fees: A refundable security deposit of up to \$500.00 is required with the application. Surface restoration fees will be billed to applicant after completion if required.

Signature: _____

Date: _____



ENGINEERING SERVICES

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**BOULEVARD
ALTERATION PERMIT**

Part 4 of 4

Office Use Only

BOULEVARD ALTERATION PERMIT No. _____

Received By: _____

Date: _____

Fee: _____

Approved By: _____
(Engineering Manager)

Date: _____

Distribution

- Engineering Department
- Parks Department
- Planning Department

Approval for Release of Deposit

(Inspector)

(Engineering Manager)

(Date)

(Date)