



**CITY OF RICHMOND**

**REPORT TO COMMITTEE**

**TO:** Public Works and Transportation Committee

**DATE:** June 11, 2001


**FROM:** Jeff Day, P. Eng.  
Director, Engineering

**FILE:** 6060-01

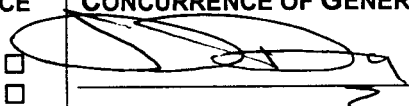
**RE:** Boulevard Maintenance Regulation

**STAFF RECOMMENDATION**

1. That staff prepare an amendment to Bylaw 7174 as proposed in Option 1.

*for*   
Paul H. Lee, P. Eng.  
Manager, Engineering Planning

Att. 5

| FOR ORIGINATING DIVISION USE ONLY         |  |  |
|---|--|--|
| ROUTED TO:                                | CONCURRENCE  | CONCURRENCE OF GENERAL MANAGER   |
| Community Bylaws and Administration ..... | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |  |
| Parks Maintenance .....                   | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |  |

## STAFF REPORT

### ORIGIN

In 1999, Council adopted Bylaw 7055 that regulated the maintenance of City boulevards. The objectives of the bylaw are as follows:

1. To provide a mechanism and guidelines for local residents to enhance boulevards fronting their property. Currently, the City rejects all proposed modifications to existing City boulevards in accordance with the City's Zero Tolerance Policy (#9015).
2. To empower the City to act upon complaints from residents regarding specific boulevards that are not being maintained.

The general intent of the bylaw was to create a greener, tidier and safer boulevard.

Subsequent to Bylaw 7055 modifications were requested by various City departments to provide the City the authority and means to bill the property owner the cost for the City to maintain the boulevard (e.g., trim grass, remove obstructions, etc.) should the property owner not undertake the improvements themselves. This resulted in staff bringing forth the new Boulevard Maintenance Bylaw 7174 in November 2000.

This report is in response to Committee's referral to staff regarding the November 21, 2000 proposed Boulevard Maintenance Bylaw 7174.

Staff were directed to amend the proposed bylaw to:

1. Deal with the area between the edge of a sidewalk or curb and the property line;
2. Differentiate between commercial/industrial and residential developments; and
3. Define improved and unimproved roads.

Staff were also requested to provide information on:

4. The amount of revenue which could be generated from "force cleans", if the proposed bylaw was adopted and put into effect;
5. The cost of hiring an additional inspector; and
6. Provide a business case analysis for the proposed additional inspector.

The above items 1 through 3 will be addressed in this report whereas items 4 through 6 will be addressed by the Manager, Community Bylaws under a separate report.

### DISCUSSION

The concern over proposed Bylaw 7174 involves the undue hardship it would cause for residential properties that have a gravel, or other hard surface, strip in between the property line and the sidewalk or curb (see Figure 1). Under existing Bylaw 7055 and proposed Bylaw 7174 the property owner would have to remove the hard surface and replace it with grass or other landscaping.

Staff propose to delineate between an improved and unimproved property in the definition section of the proposed bylaw. The distinction will be that an improved property is one that has sidewalk and/or curb (see Figure 2 and 3 for an improved and unimproved example).

To resolve this concern three options are proposed:

**Option 1:** (see Figure 4)

Modify proposed Bylaw 7174 to allow the only hard surface to be gravel, behind the sidewalk or curb, fronting improved residential properties but not for industrial or commercial properties. Therefore, only residential properties with curb/gutter and/or sidewalk would be allowed gravel behind the sidewalk. This would permit those properties with rock gardens, for example, to remain. The original intent of the bylaw would be upheld under this definition as the major concern for hard surfaces in unimproved areas was the use of the boulevard area for parking.

A disadvantage with this option is that it would create a dissimilar appearance to the City's boulevard with improved residential properties being able to place gravel or grass on the City boulevard. Another disadvantage is the hardship it would cause for the numerous commercial and industrial properties that currently have hard surfaces on the boulevard, which would then contravene the bylaw. However, a grandfather clause could address this situation by permitting those properties with hard surfaces prior to the adoption of the new bylaw to remain.

**Option 2:** (see Figure 5)

Modify proposed Bylaw 7174 to allow hard surfaces behind the sidewalk, fronting all improved residential, industrial and commercial properties. This option is similar to Option 1 with the addition of improved commercial and industrial properties being able to place hard surfaces on the boulevard. A disadvantage to this option (as with Option 1) is that it will allow a dissimilar appearance to the City's boulevard. This option also has the potential to allow areas such as the improved Mitchell Road to revert back to a "parking lot" condition and is therefore not recommended.

**Option 3:** (see Figure 6)

Leave Bylaw 7174 "as is". This will treat all properties the same, regardless of the zoning or developed condition, but will create a hardship for the numerous properties that are in contravention of the bylaw. One of the main purposes of this bylaw was to address properties that were creating unsightly and dangerous parking areas in the boulevard area. This was mainly directed at properties with no curb/gutter and/or sidewalks. Therefore, this option would inadvertently impact numerous improved properties and is also not recommended.

More recently, the "Zero Tolerance – City Property" Policy 9015 was repealed and replaced with the "Unauthorized Changes or Damages to City Property" Policy 9016. This Policy gives staff direction on how to enforce bylaws such as the Boulevard Maintenance Bylaw. Two clauses of Policy 9016 that will be key to the proposed Boulevard Maintenance Bylaw are as follows:

- Where an unauthorized change or damage to City property which is an apparent threat to public safety or property comes to the attention of staff, the City will take immediate action to have the City property restored.

- Where an unauthorized change or damage to City property which is not an apparent threat to public safety or property comes to the attention of staff, the City may choose not to take action to have the City property restored until it becomes a threat or until City forces are undertaking regular maintenance or capital construction in the immediate vicinity.

By utilizing the above clauses of the Policy, staff can enforce the proposed Boulevard Maintenance Bylaw as per Option 1 giving the City the ability to enforce the Bylaw when needed and the flexibility not to take action against those properties who meet the general intent of the bylaw.

In addition to the above-suggested revisions, the proposed bylaw would be modified to remove the 0.5 metre separation between the sidewalk or curb and any hedges, trees or shrubs. The reason for this was to provide a level of comfort in ensuring that there would be sufficient room for passage on the sidewalk and in maintaining clearance on the roadway for cyclists and vehicular traffic. Since there are numerous instances throughout the City where an existing hedge is directly abutting a sidewalk, the 0.5 metre separation is not practical. This will mean that the property owner must ensure that vegetation is regularly trimmed back from the sidewalk or road edge. It should be noted that the sight line provision will still remain in the proposed bylaw to ensure safety is not compromised.

#### FINANCIAL IMPACT

None.

#### CONCLUSION

Staff recommend that proposed Bylaw 7174 be revised as per Option 1. By utilizing the proposed bylaw in conjunction with the new "Unauthorized Changes or Damages to City Property" policy, the City will have the discretion to enforce the bylaw on only those properties that contravene the general intent of the bylaw.

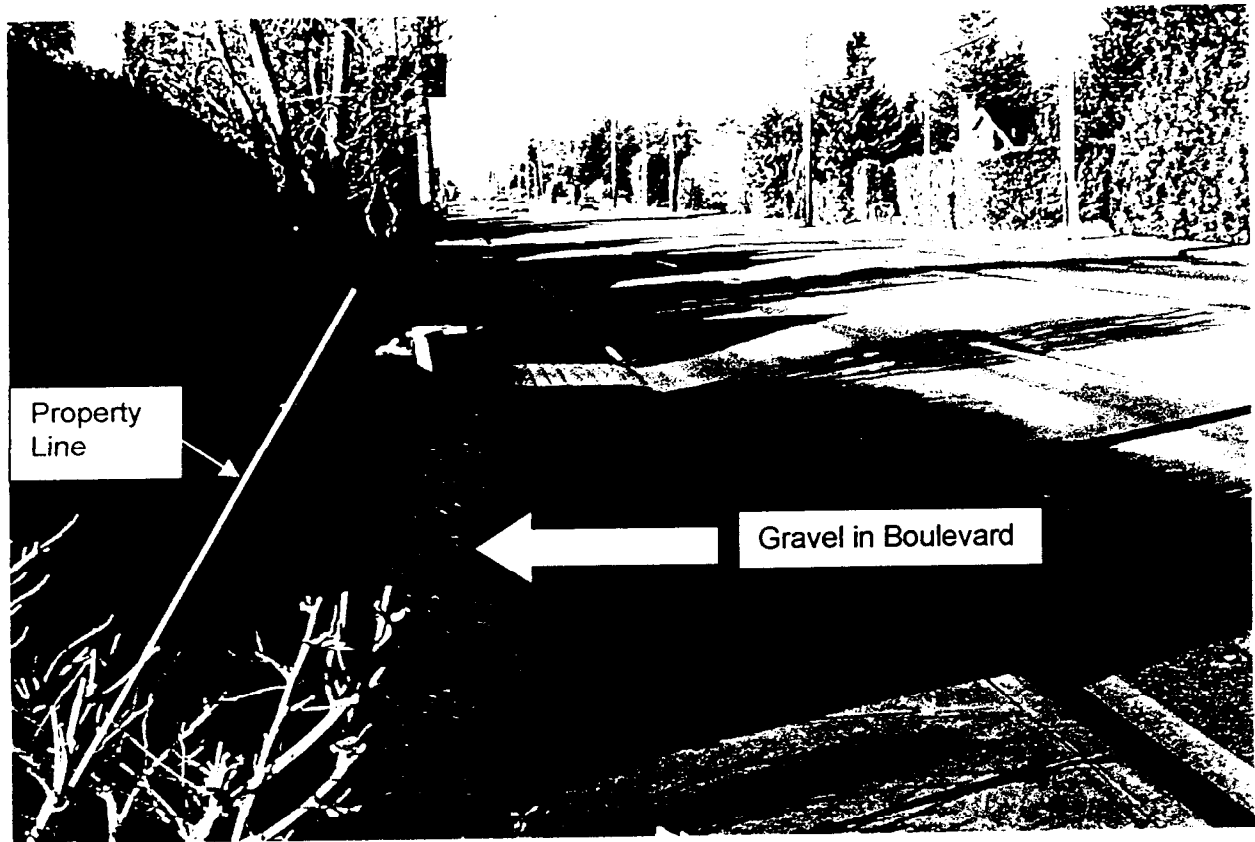
Staff also recommends that an additional inspector position be submitted as part of the 2001 additional budget request to administer Bylaw 7174.



For Paul Lee, P. Eng.  
Manager, Engineering Planning

MM/PHL:mm

Figure 1



Residential

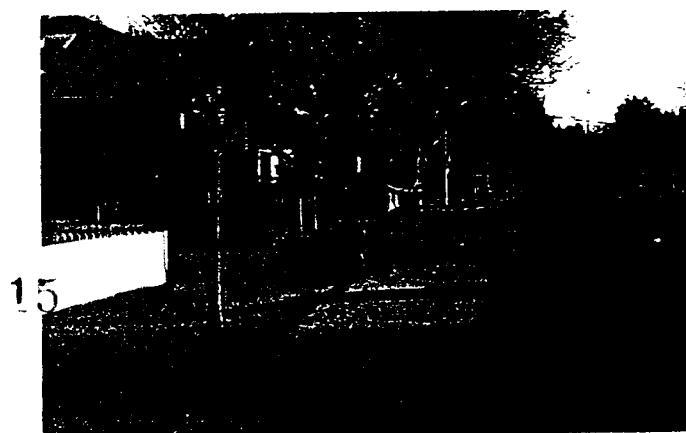
**Figure 2**

“Improved”

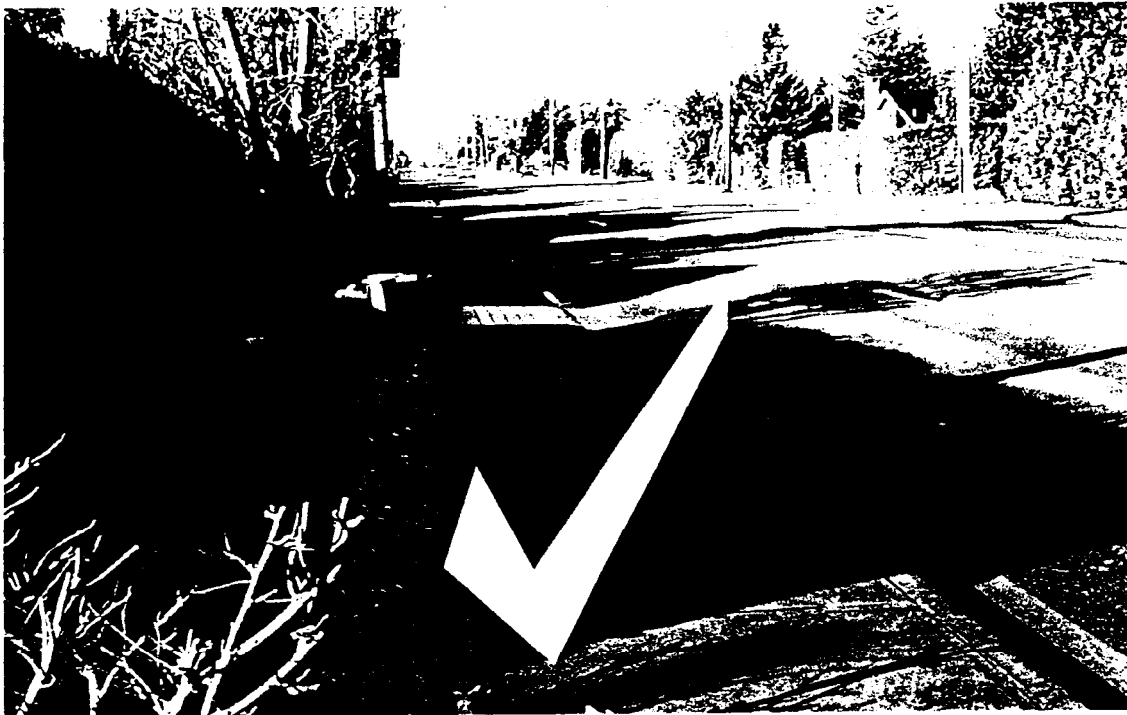


**Figure 3**

“Unimproved”



**Figure 4 - Option 1**

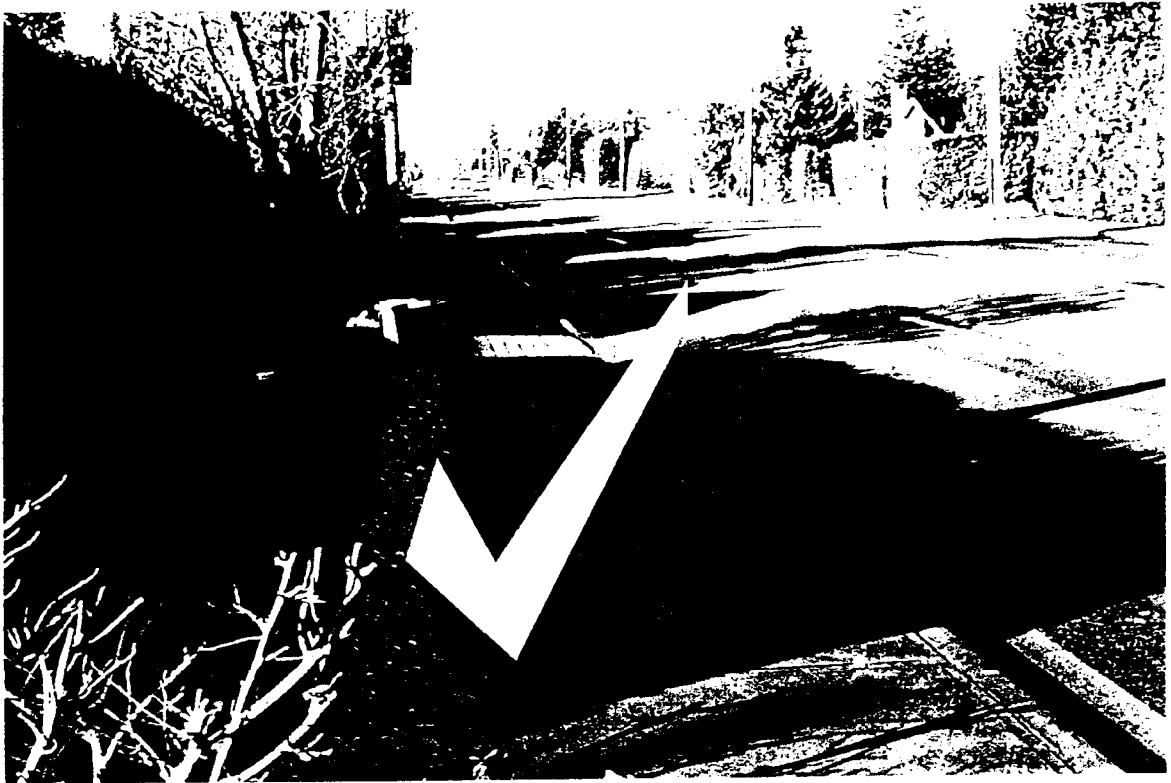


Residential

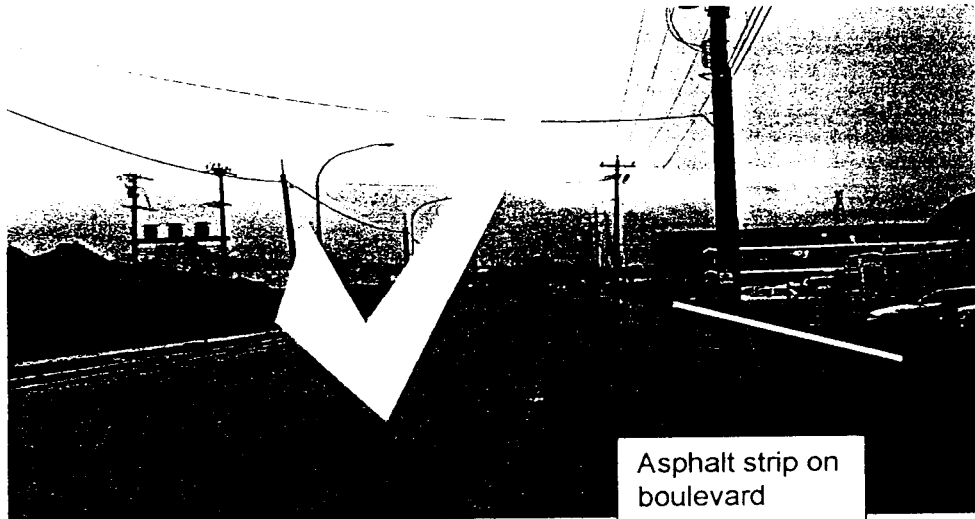


Industrial/Commercial

## Figure 5 - Option 2



Residential



Industrial/Commercial



**Figure 6 - Option 3**



Residential



Industrial/Commercial



CITY OF RICHMOND

## ***BOULEVARD MAINTENANCE REGULATION***

**BYLAW NO. 7174**

-EFFECTIVE DATE -

## BOULEVARD MAINTENANCE REGULATION BYLAW 7174

The Council of the City of Richmond enacts as follows:

### PART ONE: GENERAL PROVISIONS

#### 1.1 Property Owner Prohibitions

1.1.1 A property owner must not:

- (a) permit any garbage, debris or discarded materials to accumulate; or
- (b) place any hard surfaces, such as rocks, gravel, landscape ties, rails, asphalt, bricks, concrete structures or figurines,

on the **boulevard**, immediately **fronting** such owner's property.

#### 1.2 Property Owner Obligations

1.2.1 In regard to the **boulevard** immediately **fronting** an owner's property, such property owner must:

- (a) keep grass on the **boulevard** trimmed to a height of not more than 20 centimetres;
- (b) keep such boulevard free of brush and **noxious weeds**;
- (c) prune and trim hedges, trees and shrubs in the **boulevard**, except for those planted by the **City**, as part of a development requirement, or in accordance with sub-section 1.4.7, so that a *minimum clearance of 0.5 metres* from:

- (i) a sidewalk; or
- (ii) a **highway**, where there is no sidewalk;

and a minimum vertical clearance of 3.0 metres above the sidewalk and 5.0 metres above the **roadway**, is maintained;

- (d) ensure that sight lines to intersections, driveways, sidewalk, walkways, travel lanes, and visibility to all **traffic control devices** is not restricted by modifications to the **boulevard** which the property owner may undertake; and
- (e) maintain any shrubbery, landscaping, and flower beds on the **boulevard** below a maximum permitted height of 0.5 metres from the **boulevard** level; and

- (f) maintain a one meter clearance for shrubbery, hedges and trees from any fire hydrant or fire hydrant valve.

### 1.3 Property Owner Plantings in Boulevards

1.3.1 Notwithstanding the provisions of sections 1.1 and 1.2, a property owner may add flower beds, plant shrubbery, and ground cover in a **boulevard**, provided that a minimum 0.5 metre grass strip parallel to:

- (a) the sidewalk; or
- (b) a **highway**, where there is no sidewalk

is not altered.

### 1.4 Authority of the General Manager of Engineering & Public Works

1.4.1 The **General Manager of Engineering & Public Works** may require an owner of real property to:

- (a) remove all flower beds, plant shrubbery, and landscaping located in the **boulevard** under section 1.3, to facilitate work that the **City** will have to undertake in the vicinity;
- (b) remove any additions to the **boulevard** undertaken by the property owner; and
- (c) remove or trim any trees, shrubs, hedges, or bushes growing or standing on property adjacent to a **highway**, where in his opinion:
  - (i) the safety or convenience of the public so requires; or
  - (ii) where any such trees, shrubs, hedges or bushes become injurious to the roadbed,

by giving notice in writing to the owner or occupier of such property, in accordance with subsection 1.4.2.

1.4.2 The notice referred to in subsection 1.4.1 must specify:

- (a) the work to be undertaken by the property owner;
- (b) the period of time within which the work must be completed;

and be served in accordance with subsection 1.4.3.

1.4.3 The notice referred to in subsection 1.4.2 must be served:

- (a) on the owner of the real property from which the vegetation referred to in clauses (a), (b) or (c) of subsection 1.4.1 is to be removed or trimmed, by either:
  - (i) personal service, or
  - (ii) registered mail with acknowledgement of receipt, to the address of the owner shown on the last real property assessment rolls;

provided that where the owner is a registered company, service may be accomplished according to the provisions of the *Company Act*; and

- (b) on the occupier of the real property from which the vegetation referred to in clauses (a), (b) or (c) of subsection 1.4.1 is to be removed or trimmed, by either:
  - (i) personal service,
  - (ii) delivery to a mail box or other receptacle for messages, if any, on the real property, or
  - (iii) posting on the real property; and
- (c) on any agent of the owner or occupier of the real property from which the vegetation referred to in clauses (a), (b) or (c) of subsection 1.4.1 is to be removed or trimmed, by either:
  - (i) personal service, or
  - (ii) registered mail with acknowledgement of receipt.

1.4.4 When a notice is not personally served, it is deemed to have been served on the third day after mailing, by delivering pursuant to clause (b) (ii) or by posting pursuant to clause (b) (iii) of subsection 1.4.3.

1.4.5 If the property owner, occupier or any agent of the owner or occupier does not comply with the requirements of the said notice within the period specified, the **General Manager of Engineering & Public Works** has the authority to:

- (a) have **City** staff or a contractor acting under his direction to enter onto the property to undertake the work required specified in the notice; and
- (b) invoice the property owner or occupier in question for the reimbursement of the cost of such work.

1.4.6 Where the property owner or occupier fails to reimburse the **City** as required under the provisions of subsection 1.4.5, the cost of such work, if unpaid on or before December 31<sup>st</sup> in the year in which the costs are incurred, is deemed to be taxes in arrears and will be transferred to the property tax roll.

1.4.7 The **City** has the authority to assume ownership of any tree, hedge or shrubbery in a **boulevard** for the purpose of being the sole maintainer of such tree, hedge or shrubbery.

## 1.5 Restoration of the Boulevard After Construction

1.5.1 Upon completion of any work by the **City** under the provisions of subsection 1.4.5, which required the removal of any flower beds, plant shrubbery and landscaping, the property owner may replace such vegetation with the permission of the **General Manager of Engineering & Public Works**.

## PART TWO: VIOLATIONS AND PENALTIES

### 2.1 Any person who:

- (a) violates or who causes or allows any of the provisions of this bylaw to be violated; or
- (b) fails to comply with any of the provisions of this or any other bylaw or applicable statute; or
- (c) neglects or refrains from doing anything required under the provisions of this bylaw, or
- (d) obstructs, or seeks or attempts to prevent or obstruct a person who is involved in the execution of duties under this bylaw,

is deemed to have committed an infraction of, or an offence against this bylaw is liable on summary conviction, to the penalties provided for in the *Offence Act*, and each day that such violation is caused, or allowed to continue, constitutes a separate offence.

## PART THREE: INTERPRETATION

### 3.1 In this bylaw, the following words have the following meanings:

|  |   |
|--|---|
| <b>BOULEVARD</b>   | includes the portion of a <b>highway</b> between the roadway or <b>ditch</b> and the boundary of a parcel adjacent to the <b>highway</b> .                          |
| <b>CITY</b>  | means the City of Richmond.   |
| <b>DITCH</b>   | means a drainage ditch located within the right-of-way of a <b>highway</b> in the possession and control of the <b>City</b> .                                       |
| <b>FRONTING</b>  | means on the front, back or sides of a parcel.  |
| <b>GENERAL MANAGER OF<br/>ENGINEERING &amp; PUBLIC<br/>WORKS</b> | means the person appointed by Council to the position position of General Manager of Engineering & Public Works, and includes a person designated as his alternate. |
| <b>HIGHWAY</b>   | includes a developed street, road, lane, bridge, and viaduct, but does not include a private right-of-way on private property.                                      |
| <b>NOXIOUS WEEDS</b>   | means any weed designated by a provincial regulation to be a noxious weed, and includes seeds of a noxious weed.  |
| <b>ROADWAY</b>   | means that portion of a <b>highway</b> which is improved for use by vehicular traffic, and includes paving, underground utilities, curbs and gutters.               |

**TRAFFIC CONTROL DEVICE**

means a sign, line, meter, marking, space, barrier, or device; painted, placed or erected; to guide, regulate, warn, direct, restrict, control or prohibit traffic.

**PART FOUR: PREVIOUS BYLAW REPEAL**

- 4.1 Boulevard Maintenance Bylaw No. 7055 (adopted February 14<sup>th</sup>, 2000) and Tree Removal and Hedge Trimming Bylaw No. 1308 (adopted September 13<sup>th</sup>, 1954) are repealed.

**PART FIVE: SEVERABILITY AND CITATION**

- 5.1 If any part, section, sub-section, clause, or sub-clause of this bylaw is, for any reason, held to be invalid by the decision of a Court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.
- 5.2 This bylaw is cited as "**Boulevard Maintenance Regulation Bylaw No. 7174**".

FIRST READING

SECOND READING

THIRD READING

ADOPTED

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| CITY OF<br>RICHMOND                                |
| APPROVED<br>for content by<br>originating<br>dept. |
| APPROVED<br>for legality<br>by Solicitor           |

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MAYOR\_\_\_\_\_  
CITY CLERK