



**City of Kingston  
Report to Council  
Report Number 24-258**

---

**To:** Mayor and Members of Council

**From:** Brad Joyce, Commissioner, Infrastructure, Transportation & Emergency Services

**Resource Staff:** Karen Santucci, Director, Public Works & Solid Waste

**Date of Meeting:** November 5, 2024

**Subject:** By-Law to Amend By-Law Number 2004-190 to Allow Planting in the Right-of-Way

---

**Council Strategic Plan Alignment:**

Theme: Policies & by-laws

Goal: See above

**Executive Summary:**

The City of Kingston has made efforts to allow for the ongoing development of naturalized lawns and the support of pollinator gardens throughout the city. This has occurred with changes to the Yards By-Law in 2023, to allow for naturalized lawns, and through the adoption of community-based pollinator gardens in 2024. These changes did not address the planting of naturalized gardens within municipal boulevards and medians adjacent to private property. Under the City of Kingston's Streets By-Law, only grass is permitted on municipal boulevards and medians.

On August 13, 2024, Council passed a motion which directs staff to prepare an amendment to the City's Streets By-Law to allow for the planting of vegetation other than grass on municipal boulevards and medians, subject to specified conditions.

The purpose of this report is to provide Council with the implementing by-law to give effect to this change. As directed by Council, the by-law is proposed to receive all three readings at the November 5, 2024 meeting of Council.

November 5, 2024

Page 2 of 5

**Recommendation:**

**That** a By-Law be presented for all three readings to amend By-Law Number 2004-190, being "A By-Law to Regulate the Use of City Streets", as amended, as per Exhibit A to Report Number 24-258.

November 5, 2024

Page 3 of 5

**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

---

**Brad Joyce, Commissioner,  
Infrastructure, Transportation &  
Emergency Services**

ORIGINAL SIGNED BY CHIEF

ADMINISTRATIVE OFFICER

---

**Lanie Hurdle, Chief  
Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Paige Agnew, Commissioner, Growth & Development Services

Jennifer Campbell, Commissioner, Community Services Not required

Neil Carbone, Commissioner, Corporate Services Not required

David Fell, President & CEO, Utilities Kingston Not required

Peter Huigenbos, Commissioner, Major Projects & Strategic Initiatives Not required

Desirée Kennedy, Chief Financial Officer & City Treasurer Not required

November 5, 2024

Page 4 of 5

**Options/Discussion:****Background**

On August 14, 2023, Council approved changes to the City of Kingston's Yards By-Law to better facilitate the planting of naturalized yards. Subsequently, in early 2024, Council supported the creation of a simplified process for allowing community groups to convert designated naturalized areas within City parks and rights-of-way to pollinator gardens and to enhance existing pollinator gardens.

While these amendments allowed for naturalized lawns and pollinator gardens within certain City parks, they did not address the naturalization of municipal boulevards and medians in front of private properties. The City received feedback in this regard from residents who sought to naturalize their front yards or support pollinator gardens with municipal boulevards and medians adjacent to their property.

On August 13, 2024, Council passed the following motion to address resident feedback:

**Therefore Be It Resolved That** Council direct staff to prepare a By-Law to amend By-Law Number 2004-190, "A By-Law to Regulate the Use of City Streets", to permit the owner, lessee or occupant of adjoining property to improve the boulevard by planting one or more plants, provided that:

the plant is not a prohibited plant;  
the plant does not obstruct or pose a danger to the safety of persons using the boulevard, the public sidewalk or other parts of the highway;  
the plant does not interfere with the activities or adversely affect the condition or operation of the equipment or facilities of the City, Utilities Kingston, or their agents;  
if an owner, lessee or occupant plants a plant in the boulevard, the owner, lessee or occupant must maintain the plant;  
the City will be deemed to own any plant planted in a boulevard and may remove, injure or destroy any such plant at any time and for any purpose; and

**That** staff bring the recommended amending By-Law to Council for all three readings no later than the end of September 2024.

The purpose of this report is to present the implementing by-law to Council for all three readings, as directed by Council. A copy of the amending by-law is attached to this report as Exhibit A.

**Climate Risk Considerations**

The proposed by-law amendment will help to increase biodiversity within the city by allowing for diverse naturalized plants in municipal boulevards and medians.

November 5, 2024

Page 5 of 5

**Existing Policy/By-Law**

By-Law Number 2004-190, A By-Law to Regulate the Use of City Streets

**Financial Considerations**

None

**Contacts:**

Karen Santucci, Director Public Works & Solid Waste, 613-546-4291 extension 1856

**Other City of Kingston Staff Consulted:**

Kyle Compeau, Director Licensing & Enforcement, Licensing & Enforcement

**Exhibits Attached:**

Exhibit A – A By-Law to Amend City of Kingston By-Law Number 2004-190, “A By-Law to Regulate the Use of City Streets”

# City of Kingston By-Law Number 2024—...

## ***A By-Law to Amend City of Kingston By-Law Number 2004-190, A By-Law to Regulate the Use of City Streets***

### **Whereas:**

The Corporation of the City of Kingston (the “**City**”) is a single-tier municipality incorporated pursuant to an order made under section 25.2 of the *Municipal Act*, R.S.O. 1990, c. M.45.

The powers of a municipality must be exercised by its council (*Municipal Act*, 2001, S.O. 2001, c. 25 (the “**Municipal Act, 2001**”), s. 5 (1)).

A municipal power must be exercised by by-law unless the municipality is specifically authorized to do otherwise (*Municipal Act*, 2001, s. 5 (3)).

A single tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public (*Municipal Act*, 2001, s. 10 (1)).

On July 14, 2004, council for the *City* (“**council**”) enacted *City of Kingston By-Law Number 2004-190 “A By-Law To Regulate The Use of City Streets”*.

*Council* considers it necessary and desirable for the public to amend *City of Kingston By-Law Number 2004-190, “A By-Law To Regulate The Use Of City Streets”*.

**Therefore**, *council* enacts:

### **1. Amendment**

1.1 *By-Law Number 2004–190, A By-Law To Regulate The Use Of City Streets*, is amended as follows:

- (a) Section 1 (Definitions) is amended by adding the following definition of “prohibited plant(s)” in alphabetical order:

““**prohibited plant(s)**” has the meaning ascribed to it in City of Kingston By-Law Number 2007-136, A By-Law To Provide For Maintaining Land In A Clean And Clear Condition, as amended or replaced”; and

*By-Law to Amend By-Law 2004-190*

- (b) by deleting section 4.38 thereof in its entirety and replacing it with the following:

“4.38 Despite section 4.36, every owner of an adjoining property may improve the boulevard directly abutting the owner’s property by planting a boulevard garden thereon, subject to section 4.39 and the following terms and conditions:

- (1) No person shall plant a prohibited plant on the boulevard;
- (2) No person shall plant or permit the planting of a boulevard garden in a manner that obstructs or poses a danger to the safety of persons using the boulevard, the public sidewalk or other parts of the highway, or that impairs any sightlines or compromises drainage, all as determined by the Operations Manager of Public Works or their designate;
- (3) No person shall plant or permit the planting of a boulevard garden in a manner that interferes with the activities of the City or any utility provider, or their respective agents, or with the condition, maintenance, repair, replacement or operation of any equipment, facilities or infrastructure of the City or any utility provider, or their respective agents;
- (4) The owner shall be responsible for locating all servicing, such as gas, phone, hydro, cable, etc. prior to commencing any works on the boulevard;
- (5) No person shall install any permanent installations on the boulevard, such as in-ground irrigation systems;
- (6) No person shall use raised planters to contain a boulevard garden;
- (7) The owner shall maintain the boulevard garden in a state of healthy growth, at its own cost, and free of prohibited plants; and
- (8) The City will be deemed to own the boulevard garden and may remove, injure or destroy the boulevard garden, in whole or in part, at any time and for any purpose, without liability.

*By-Law to Amend By-Law 2004-190*

If an owner refuses or fails to comply with the above-noted terms and conditions, the Operations Manager of Public Works or their designate may, in its sole discretion, remove the boulevard garden and/or perform any required remediation works, and all costs thereof shall be invoiced to the owner.”

**2. Coming into Force**

2.1 This by-law will come into force and take effect on the day it is passed.

1 <sup>st</sup> Reading	Date
2 <sup>nd</sup> Reading	Date
3 <sup>rd</sup> Reading	Date
Passed	date

Janet Jaynes  
City Clerk

Bryan Paterson  
Mayor