



EarthCare Advisory Committee Meeting Agenda

Wednesday, November 20, 2024, 4:00 p.m.

Martin Room - 3rd Floor, City Hall

Pages

1. EarthCare Advisory Committee Meeting 05-2024

Chair: Councillor Andrew Foulds

2. Members

Shannon Costigan

Kiera Essex

Councillor Andrew Foulds

Taylor Munro

Sandra Stiles

3. Officials

Cynthia Olsen, Director - Strategy & Engagement

Michelle Warywoda, Director - Environment Division

Jacob Porter, Climate Adaptation Coordinator

Danielle Thom, Climate Action Specialist

Lori Wiitala, Committee Clerk/Legislative Specialist

4. Land Acknowledgement

A Member of the EarthCare Advisory Committee to provide a Land Acknowledgement.

5. Welcome and Disclosures of Interest

6. Agenda Approval

WITH RESPECT to the November 20, 2024, meeting of the EarthCare Advisory Committee, we recommend that the agenda as printed, including any additional information and new business, be confirmed.

7. Confirmation of Previous Minutes

The Minutes of Meeting 04-2024 of the EarthCare Advisory Committee, held on October 9, 2024, be confirmed.

4 - 10

THAT the Minutes of Meeting 04-2024 of the EarthCare Advisory Committee, held on October 9, 2024, be confirmed.

8. Business Arising from Previous Minutes

8.1 Draft Boulevard Garden and Maintenance By-law - Review of Public Feedback

11 - 58

At the September 20, 2021 Committee of the Whole meeting, a resolution was passed recommending that Administration review the enforcement of a boulevard garden and maintenance bylaw as outlined in Report 120/2021 (Development & Emergency Services/Licensing & Enforcement).

At the September 23, 2024 Committee of the Whole meeting Report 349-2024 - City Manager's Office - Strategic Initiatives & Engagement, presented as a First Report and recommended the draft Boulevard Garden and Maintenance By-law, as appended to the report be approved.

At the October 21, 2024 Committee of the Whole meeting a resolution was passed deferring the re-presentation of Report 349-2024 to the November 25, 2024 Committee of the Whole meeting.

Report 349-2024-City Manager's Office-Strategic Initiatives & Engagement, for information.

Correspondence received via email from Kyla Moore, dated October 7, 2024, requesting to provide a deputation on the restrictions within the Draft Boulevard Garden & Maintenance By-law. Appendix A - Draft By-law Concerns, provided, for information.

Draft Memorandum from Councillor Andrew Foulds, Chair - EarthCare Advisory Committee supporting the proposed Boulevard Garden and Maintenance By-law, for review.

8.2 Updated Terms Of Reference

59 - 65

The updated Terms of Reference is provided, for information.

9. Net-Zero Strategy, Sustainability and Working Group Update

Danielle Thom, Climate Action Specialist to provide an update on Net-Zero Strategy, Sustainability and Working Group(s).

10. Climate Adaptation Update

Jacob Porter, Climate Adaptation Coordinator to provide an update relative to Climate Adaptation.

11. Upcoming Events

12. Announcements

13. New Business

14. Gratitude

15. Next Meeting

The EarthCare Advisory Committee Meetings will be held the 3rd Wednesday of each month with the exception of July and August, in the McNaughton Room, at 4:00 p.m. as follows:

- Wednesday, December 18, 2024

16. Adjournment



EarthCare Advisory Committee Meeting Minutes

**Wednesday, October 9, 2024, 4:00 p.m.
Martin Room - 3rd Floor, City Hall**

1. EarthCare Advisory Committee Meeting 04-2024

Chair: Councillor Andrew Foulds

2. Members

Kiera Essex
Councillor Andrew Foulds
Sandra Stiles
Jane Todd

3. Officials

Cynthia Olsen, Director - Strategy & Engagement
Jacob Porter, Climate Adaptation Coordinator
Danielle Thom, Climate Action Specialist
Lori Wiitala, Committee Clerk/Legislative Specialist

4. Land Acknowledgement

EarthCare Advisory Committee Member Kiera Essex will provide a Land Acknowledgement.

5. Welcome and Disclosures of Interest

At 4:06 p.m. quorum was not achieved and the Chair called the Information Session to order. At 4:10 p.m. the Committee achieved quorum.

6. Agenda Approval

MOVED BY: Keira Essex
SECONDED BY: Jane Todd

WITH RESPECT to the October 9, 2024, meeting of the EarthCare Advisory Committee, we recommend that the agenda as amended, including any additional information and new business, be confirmed.

CARRIED

7. Confirmation of Previous Minutes

The Minutes of Meeting 03-2024 of the EarthCare Advisory Committee, held on September 18, 2024, be confirmed.

MOVED BY: Keira Essex
SECONDED BY: Jane Todd

THAT the Minutes of Meeting 03-2024 of the EarthCare Advisory Committee, held on September 18, 2024, be confirmed.

CARRIED

8. Business Arising from Previous Minutes

8.1 Terms of Reference (TOR) Review

Discussion was held regarding the EarthCare Advisory Committee Terms of Reference (TOR) review.

The Committee discussed the changes below and the following motion was presented for consideration:

MOVED BY: Keira Essex
SECONDED BY: Sandra Stiles

WITH RESPECT to the EarthCare Advisory Committee Terms of Reference (TOR) we recommend that the changes outlined below be approved:

Land Acknowledgement

Paragraph 1: removed the word peoples:

'We acknowledge the land this Advisory Committee gathers on. The members of our committee are honoured to live, work, and play in Thunder Bay, on Anishinaabe lands within the Robinson-Superior Treaty of 1850 and on the traditional territory of Fort William First Nation. We also acknowledge the contribution of the Metis and Inuit to our community.'

Paragraph 2: removed the words - 'and stewards that have left the gift of'

'These lands and waters provide for our community we are grateful to the original caretakers that have continuously worked to nourish and protect the gifts of healthy soil, air, and water so that we can live good lives. However, we have been quick to justify the erosion of these gifts in pursuit of other goals.'

Paragraph 3: removed the words: 'restore the gifts left to us'

'The climate crisis is a symptom of our fractured relationship with the land and its gifts. Our Advisory Committee believes that it is through advocacy and action that we can reconcile with the land and with each other, not only to ensure the health and prosperity of these lands for future generations, but to repair and strengthen our relationship with all our relations.'

Deliverables:

Option b) added the word 'proactive'

1. b) Record of proactive advice on strategic direction and advocacy provided to City Council and Administration;

Committee Membership:

Removed the numbers of each member demographic.

Added a statement on seeking representation from all the identified groups in the committee.

Committee Composition

The Committee is comprised of one (1) Member of Council appointed by resolution of Council and eight (8) members of the community at-large appointed by resolution of Council.

Every effort should be made to establish balanced representation of diverse voices and stakeholders in Thunder Bay. As such, the application form for Citizen Representatives will ask for identifiers from all of the following:

- The academic community, focusing on research and innovation on climate action;
- Regulated health professionals, with a focus on public health;
- Community/citizen members with either education or lived experience with climate and/or social issues;
- Local Indigenous organizations and/or communities;
- Industry/Business members that represents the industrial, buildings, financial, or transportation sectors. An additional attribute would include members that can mobilize and/or communicate with industry and businesses across Thunder Bay;
- Non-Government members that can represent the environmental and social issues related to climate change. An additional attribute would include members that can mobilize and/or communicate with other organizations and community groups across Thunder Bay; and,
- Youth with either experience, passion, or lived experience with climate change issues who is 30 years of age or younger at the start of the term of this Committee.

In addition, the Committee shall strive to meet the Government of Canada's 50-30 Diversity Challenge objective:

- 50% gender diversity (women and/or non-binary people); and,
- 30% representation from equity-deserving groups, such as:
- BIPOC (Black, Indigenous, Person of Colour) and/or Racialized community members;
- People with disabilities; or,
- 2SLGBTQIA+ community members.

CARRIED

8.2 Boulevard Garden and Maintenance By-law

Discussion was held regarding the proposed Boulevard Garden and Maintenance By-law.

Draft Memorandum from Climate Action Specialist Danielle Thom was provided for discussion.

Discussion was held regarding the proposed Boulevard Garden and Maintenance By-law.

Draft Memorandum from Climate Action Specialist Danielle Thom, was provided for discussion.

Director - Strategy & Engagement Cynthia Olsen advised that a Memorandum will be presented to Council at the October 21, 2024, Committee of the Whole meeting to request deferral of the report back date to November 2024.

Public expressed concern with plant height restrictions, herbicides, plants with medicinal uses, and the use of planter boxes and snow removal. It was advised that other municipalities have adopted a 1-meter height restriction and allow the use of planter boxes.

Citizens are encouraged to complete the survey on the Get Involved website: <https://getinvolvedthunderbay.ca/boulevard-garden-and-maintenance-by-law>

The Memorandum in support of the Boulevard Garden and Maintenance By-law will be prepared in consideration of the public consultation feedback.

MOVED BY: Keira Essex
SECONDED BY: Sandra Stiles

WITH RESPECT to the Boulevard Garden and Maintenance By-law, we recommend that the Memorandum in support be deferred to the November committee meeting to include feedback from the public consultation survey.

CARRIED

8.3 Request for Presentations

Discussion will be held regarding request for presentations at upcoming meetings.

The Committee agreed to request presentations at upcoming meetings from the following:

- November 20, 2024: Green Development Standards with the Thunder Bay Climate Transition Cohort
- January 2025: Greenhouse Gas Reduction Roadmap with Vanessa DiGiacomo Zwaresh
- February 2025: The Champions Project Anthology Launch with the Champions Writers Collective

- March 2025: District Energy Project Overview with Biothermic

9. **Net-Zero Strategy, Sustainability and Working Group Update**

Climate Action Specialist Danielle Thom provided a thorough overview of the Net-Zero Strategy, Sustainability and Working Group(s) included in the agenda. The following additional information was provided.

- Green Development Standard Roundtable #2 will be held on November 1
- Boulevard Garden and Maintenance By-Law Get Involved Survey will be available from October 3 to October 18
- The Boulevard Garden and Maintenance By-Law Report Back has been pushed to November 25 to allow appropriate time for public consultation review.

10. **Climate Adaptation Update**

Climate Adaptation Coordinator Jacob Porter to provide an update on Climate Adaptation.

Climate Adaptation Coordinator Jacob Porter provided an update on Climate Adaptation.

Maamawe – All together. We honour the truth and reconcile for the future.

- Presenting on climate risks to northwest planning meeting

Safety and well-being. Our community is healthy, safe, and strong.

- Climate risk vulnerability assessment with Thunder Bay District Health Unit still underway; information will be used in renewal of Climate Adaptation Strategy and future TBDHU climate action plan and will be pursuing follow up with various organizations based on results.
- Piloted a vulnerability workshop with Confederation College students
- Providing in-kind support to Emergency Food Plan's emergency exercise in December
- Heat mapping undertaken with CityStudio and Confederation College, to inform what interventions may be most effective

Growth. We attract and retain new and diverse businesses and community members.

- Annual report to council planned for November 4

Sustainability. We advance a thriving economy and environment.

- Risk assessment for all asset classes is underway as part of the asset management plan

Climate lens guidance for Thunder Bay focused on climate adaptation and equity is being developed in partnership with the Ontario Resource Centre for Climate Adaptation

11. Upcoming Events and Announcements

North West Climate Gathering 2024
Saturday, October 19, 2024
Lakehead University

12. Gratitude

Committee Members and Administration to provide a roundtable of gratitude.

13. Next Meeting

The EarthCare Advisory Committee Meetings will be held the 3rd Wednesday of each month with the exception of July and August, in the McNaughton Room, at 4:00 p.m., unless otherwise noted, as follows:

- Wednesday, November 20, 2024
- Wednesday, December 18, 2024

14. Adjournment

The meeting adjourned at 5:13 p.m.

Corporate Report

REPORT NUMBER 349-2024-City Manager's Office-Strategic Initiatives & Engagement	
DATE PREPARED	August 30, 2024
FILE	
MEETING DATE	September 23, 2024
SUBJECT	Boulevard Garden and Maintenance By-law Report

RECOMMENDATION

WITH RESPECT to Corporate Report 349-2024 we approve the Boulevard Garden and Maintenance By-law as presented in this report;

AND THAT administration operationalizes the City of Thunder Bay to permit boulevard gardens as described in this report;

AND THAT any By-laws be presented to City Council for ratification.

LINK TO STRATEGIC PLAN

This report directly supports the City of Thunder Bay’s Corporate 2023-2027 Strategic Plan – Maamawe, All Together through the second goal under the Safety and Well-Being Strategic Direction to “promote and enable neighbourhood beautification”, and the first goal under the Sustainability Strategic Direction to “accelerate initiatives to reduce our greenhouse gas emissions”.

EXECUTIVE SUMMARY

Existing City of Thunder Bay By-laws do not include any provisions for using public land such as boulevards. This report summarizes the proposed Boulevard Garden and Maintenance By-law which will authorize the City of Thunder Bay to permit boulevard gardens.

This By-law will apply to all boulevards within the geographic boundaries of the Municipality of Thunder Bay. It will allow residents to grow annual or herbaceous perennial plantings that are native or adaptive to Ontario in the portion of a highway between the adjacent property lines and the edge of the curb or traveled road surface, or between the adjacent property lines and ditches, swales or other drainage infrastructure.

The appropriate administration process for the proposed By-Law has been debated at length. There is a strong call for a self-registration process from the Licensing and Enforcement Division, but 100% of external stakeholders suggest that an unregistered process will be a much better fit for the community. As such, this report recommends that the proposed Boulevard Garden and Maintenance By-law should be administered using an unregistered process until a registration process can be created.

DISCUSSION

Existing City of Thunder Bay By-laws do not include any provisions for using public land such as boulevards. The proposed Boulevard Garden and Maintenance By-law (see Attachment A – DRAFT Boulevard Garden By-law) will permit the soft landscaping of boulevard areas to plant native or adaptive annual plants and herbaceous perennial plants that do not exceed 600 millimetres in height. Residents who choose to create a boulevard garden will be subject to complying with the regulations proposed within the By-law. These regulations are designed to allow boulevard gardening while ensuring that City and local utility company operations can be maintained (see Attachment B – Table 1: Proposed Gardening Regulations and Rational). Enforcing this By-law will ensure that infrastructure within the boulevard area is protected, and risks to the City and the public are mitigated.

Moving forward with this By-law will allow residents to naturalize largely underutilized greenspaces within the City. This naturalization aligns with goals in The City of Thunder Bay's Corporate Strategic Plan, the Climate Adaption Strategy, and the Net-Zero Strategy as these naturalized spaces will:

- Conserve water;
- Improve on-site stormwater retention;
- Encourage biodiversity and avoid monocultures;
- Increase drought and soil erosion resistance;
- Reduce heat-island effects;
- Reduce fertilizer and pesticide usage;
- Promote climate change resiliency;
- Promote food sovereignty;
- Decrease the emissions produced by gasoline engines (mowing), and;
- Promote mental and physical health benefits.

Furthermore, By-laws, guidelines, and policies around boulevard gardening are very common among other Canadian municipalities. The administration of each By-law, guideline, or policy can be categorized into one of three processes:

1. **Registration Process:** Residents must register with the Municipality to receive a boulevard garden permit. Residents acknowledge the responsibility to maintain their boulevard gardens through a registration agreement.
2. **Unregistered Process:** No registration is required. By-law requirements are publicly available and recommended guidelines are in place so that residents can undertake boulevard gardening projects without having to proactively contact the Municipality.
3. **Permissive Process:** No residential gardening projects are formally permitted within the boulevard, but a discretionary enforcement approach is generally followed.

The City of Thunder Bay is currently using a permissive process. Administration recommends that the proposed Boulevard Garden and Maintenance By-law be administered using an unregistered process until a cohesive registration process can be created. This will allow residents to begin planting unregistered boulevard gardens in Spring 2025. Once the registration process is established, residents will acknowledge their responsibility to maintain their boulevard garden according to the proposed By-law through a Boulevard Garden Agreement.

CONSULTATION

The appropriate administration process for the proposed By-Law has been debated at length. There is a strong call for a self-registration process from the Licensing and Enforcement Division, but 100% of external stakeholders suggest that an unregistered process will be a much better fit for the community.

Using a registration process, homeowners who wish to establish a boulevard garden will need to enter into a Boulevard Garden Registration Agreement that includes the terms and conditions required to plant and maintain a boulevard garden. These homeowners will assume all risk, cost, loss, or expense associated with planting or maintaining the garden through this agreement.

The Licensing and Enforcement Division suggests that the Boulevard Garden Registration Agreement will make it easier to educate participants, inform homeowners of infrastructure maintenance that will impact their garden, and mitigate issues surrounding exemptions and enforcement measures due to a lack of standard conditions for what is acceptable. 100% of outside stakeholders dispute this. They believe that a registration system will be onerous for program participants and Administration alike, and they fear that a registration system will lead to the City

penalizing residents for their greening efforts. As such, these stakeholders champion an unregistered approach.

Using an unregistered process, homeowners who wish to establish a boulevard garden will not have to enter into a Boulevard Garden Agreement before they begin planting. These homeowners will still assume all risk, cost, loss, or expense associated with planting or maintaining the garden, but they will learn about boulevard garden guidelines through a public education campaign rather than through direct communications with Administration.

An equitable solution to this disagreement is to use an unregistered process while Administration creates a cohesive registration process. This will give Administration the time that they need to perform a privacy impact assessment and build a new online registration tool, while allowing residents to naturalize their boulevards using parameters set out by the City. Regardless of which approach is used, Municipal Law Enforcement Officers plan to administer the proposed By-Law on a nuisance complaint basis.

Administration processes aside, external stakeholders also present concerns surrounding the use of planter boxes and the proposed planting restrictions (see Attachment C – Boulevard By-Law Stakeholder Group Feedback). According to this feedback, adjustments to the proposed By-law should include:

- 1. Developing technical planting standards by Spring 2025 (86% in support).** These planting standards should define no-dig areas, dictate situational growth height allowances, mandate specific planter boxes, and outline potential street tree planting locations. They will be developed by the Parks and Open Spaces Division and may require consultation with key stakeholders such as Roads and Urban Forestry.
- 2. Permitting specific removable planter boxes (71% in support).** Planter boxes protect tree roots and underground utilities, can be removed to accommodate snow removal, allow participants with mobility barriers to create more accessible gardens, alleviate soil contamination concerns, and may eliminate the need for “consume at own risk” signage for homeowners who wish to grow food in their boulevard gardens. Planter boxes should be removed from the boulevard in mid-October and returned mid-May to accommodate snow removal, have a maximum capacity limit to ensure they are portable, and be made of degradation-resistant materials. More specific planter box guidelines should be defined in a technical planting standard developed by the Parks and Open Spaces Division.
- 3. Providing a specific definition for restricted plants or expanding the prohibited plants list (71% in support, 43% in support).** Existing restrictions around plants with hallucinogenic and pharmacological properties are vague. No concerns have been raised over explicitly banning the growth of cannabis or known hallucinogens, but stakeholders have noted that several plants with

pharmacological properties grow well in Thunder Bay and are readily sold at garden centres throughout the City. At minimum the definition of plants with pharmacological applications should be revised to distinctly identify prohibited plant species. Alternatively, specific plant species with known hallucinogenic properties can be placed on an expanded prohibited plants list. Creating an expanded prohibited plants list will also allow the City to proactively ban emerging invasive species and additional toxic or poisonous plants.

- 4. **Clarifying food, dried plants, and compost rules (29% in support).** The By-law’s definition of “Nuisance Litter” currently includes any accumulation of fruit, vegetables, and compost. This definition may restrict activities such as seed saving and natural reseeding, as they require participants to leave organic material in their garden through the winter months. Stakeholders suggest that the definition should be modified to explicitly accommodate these activities.

LINK TO EARTHCARE SUSTAINABILITY PLAN

A By-law authorizing the City of Thunder Bay to permit boulevard gardens supports Goal 9.0 of the EarthCare Sustainability Plan (2014-2020) to “protect, maintain and improve the biodiversity, ecosystems and the well-being of the green infrastructure of Thunder Bay” (Natural Environment: D.a; 56).

FINANCIAL IMPLICATION

There are no direct financial implications associated with this report. Implementation of the Boulevard Garden By-law will be completed using existing resources, and all gardens planted within City boulevards will be done at the property owner’s own risk.

CONCLUSION

In conclusion, the proposed Boulevard Garden and Maintenance By-law provides an equitable solution to issues surrounding residential gardening projects within public land and boulevards. The implementation of this By-law will allow homeowners to naturalize previously underutilized greenspaces within the geographic boundaries of the Municipality of Thunder Bay and mitigate issues surrounding infrastructure maintenance and a lack of standard conditions for what is acceptable within the boulevard. In turn, this naturalization will support City-wide climate mitigation and resiliency efforts while incurring little risk and minimal cost.

BACKGROUND

City Council directs Staff to begin research and development for a possible Boulevard Garden and Maintenance By-Law in June 2022.

Kyla Moore makes a deputation to City Council requesting that the Licencing and Enforcement Division explore the possibility of allowing boulevard gardens within city boundaries in September 2021.

REFERENCE MATERIAL ATTACHED

Attachment A – DRAFT Boulevard Garden and Maintenance By-Law
Attachment B – Table 1: Proposed Gardening Regulations and Rational
Attachment C – Boulevard By-Law Stakeholder Group Feedback

REPORT PREPARED BY

Danielle Thom, Climate Action Specialist – Strategic Initiatives and Engagement

REPORT SIGNED AND VERIFIED BY

Name, Title – Department

Date (MM/DD/YEAR)

Memorandum

Corporate By-law Number BL XX/2024

TO: Office of the City Clerk **FILE: XXXX-2024**

FROM: XX
XXX - XX

DATE: xx/xx/2024

SUBJECT: BL XX/2024 – BOULEVARD GARDEN AND MAINTENANCE BY-LAW

MEETING DATE: City Council – xx/xx/2024 (mm/dd/yyyy)

By-law Description: A By-law to permit boulevard gardens and require maintenance of boulevards.

Authorization: Committee of the Whole - xxxxxx, xx, 2024

By-law Explanation: The purpose of this By-law is to xxxxxxxxxxxx

Schedules and Attachments:

Amended/Repealed By-law Number(s):



THE CORPORATION OF THE CITY OF THUNDER BAY
BY-LAW NUMBER **BL XXX/2024**

A By-law authorizing the City of Thunder Bay to permit boulevard gardens and require maintenance of boulevards.

WHEREAS, Section 10 (2) (5) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality, including respecting climate change.

AND WHEREAS, Section 10 (2) (6) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws respecting the health, safety and well-being of persons.

AND WHEREAS, Section 10(2) (8) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended provides that a municipality may pass by-laws respecting the protection of persons and property.

AND WHEREAS, Section 27(1) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended grants a municipality the power to pass by-laws in respect of highways over which it has jurisdiction.

AND WHEREAS, Section 28(2) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended grants a municipality jurisdiction over all road allowances located in the municipality that were made by the Crown surveyors and all road allowances, highways, streets and lanes shown on a registered plan of subdivision.

AND WHEREAS, Section 30 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended provides that a highway is owned by the municipality that has jurisdiction over it subject to any rights reserved by a person who dedicated the highway or any interest in the land held by any other person.

AND WHEREAS, Section 128 of the *Municipal Act*, 2001, S.O. 2001, c.25 as amended provides that a local municipality may pass by-laws with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances.

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

1. SHORT TITLE

That this By-law may be cited as the “Boulevard Garden and Maintenance By-law.”

2. SCOPE OF THIS BY-LAW

That this By-law shall apply to all Boulevards within the geographic boundaries of the Corporation of the City of Thunder Bay.

3. DEFINITIONS

In this By-law,

- a) “Adjacent Boulevard” means the Boulevard immediately adjacent to the front, side, rear or exterior side of an Owner’s property that is between the property line and is an opened R.O.W.
- b) “Boulevard” means the portion of a Highway between the adjacent property lines and the edge of the curb or travelled road surface of a Highway, or where there is a ditch, swale or other drainage infrastructure, from the adjacent property lines to the nearest edge of the ditch, swale or other drainage infrastructure, but does not include traffic islands or traffic medians.
- c) “Boulevard Restricted Area” means a one-meter reserve, measured from the road edge toward the adjacent property line in any location where curbs are not present.
- d) “Boulevard Garden” means vegetation contained within a Boulevard, and consisting of annual or Herbaceous perennial plantings which are native or adaptive to Ontario and their cultivars, but does not include trees.
- e) “City” means the Corporation of the City of Thunder Bay;
- f) “Herbaceous” means a plant which does not form a woody stem but dies down to the root each year.
- g) “Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, or trestle under the jurisdiction of the City, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.
- h) “Nuisance Litter” means any condition, including Waste Material, that is found or stored upon lands, that is likely to create an immediate hazard or nuisance to other persons or lands by entrapment, odour or by attracting animal/vermin; including natural or intentional accumulations of fruit, vegetables and other discarded materials, including compost, not kept in accordance with this By-law, or other waste materials that migrate from the owners’ lands onto other surrounding lands including public lands, by any reason including wind or other environmental factors.
- i) “Officer” means a Municipal Law Enforcement Officer for the City or a police officer.
- j) “Order” means an order to complete required work or to stop work from continuing, that is issued under this By-law.
- k) “Owner” means any person, firm, or corporation that is the registered owner of the property under consideration.
- l) “Owner-Agent” means any person, firm or corporation, who does not otherwise have control of the Adjacent Boulevard property under consideration, but is provided permission in writing, to establish and maintain another property’s Boulevard Garden adjacent to the specific lands owned by the person(s) that provided such permission.

- m) “Maximum Growth Height” means the maximum height for any plant that is found within the Boulevard Garden, whether intentionally cultivated or otherwise occurring.
- n) “Public land” means any land under the ownership, management or jurisdiction of the City or a provincial or federal government authority.
- o) “R.O.W.” means any property of the City of Thunder Bay that is a Right-of-Way that contains an open street but does not include an unopened road Right-of-Way or one that was open but is now closed, or any laneway.
- p) “Soft Landscape” means up to ninety-five (95) percent of the surface of the Boulevard Garden is covered in natural material that is pervious to absorption of water, does not raise more than two decimal five (2.5) cm above grade at a minimum setback from both road and sidewalk of twenty-five (25) cm, but does not include artificial surface materials.
- q) “Turfgrass” means ground cover of various perennial grasses grown for lawns, of a type that forms a dense, uniform turf, if mown.
- r) “Waste material” includes refuse, garbage, debris, litter, domestic waste, industrial waste of any kind whatsoever and, without limiting the generality of the foregoing, includes:
 - (i) weighty or bulky items such as appliances or furniture;
 - (ii) vehicles, vessels, other motor-powered equipment and any parts thereof which, in its present state, appears discarded, inoperative, wrecked, partially or wholly dismantled, or not immediately available for the use it was originally manufactured for;
 - (iii) broken concrete, patio stones, bricks or pallets;
 - (iv) unused building material or material resulting from construction or demolition;
 - (v) yard waste, brush, fallen trees or tree limbs and branches except where integrated into a planned naturalized garden area that does not otherwise create a nuisance litter or other hazard condition;
 - (vi) animal and human feces;
 - (vii) unused tire or accumulations of unused tires;
 - (viii) unused or derelict lawnmowers, lawn tractors or similar mechanical devices and mechanical or electrical parts; and
 - (ix) any discarded item.

4. MAINTENANCE OF ADJACENT BOULEVARDS BY PROPERTY OWNERS

- 4.1 Every owner of property that abuts adjacent City Boulevard lands shall maintain those lands in a clean and clear condition, free of waste materials and when not being used as a Boulevard Garden, trim the turf grass and any herbaceous growth as to not exceed twenty (20) centimeters in height.

- 4.2 Every Owner, Owner Agent or other person who establishes or maintains a Boulevard Garden shall keep the Adjacent Boulevard clean and cleared of Waste Material and Nuisance Litter at all times.
- 4.3 Every Owner, Owner Agent or other person who establishes or maintains a Boulevard Garden, that includes Turfgrass, shall keep the Adjacent Boulevard trimmed of Turfgrass to not exceed twenty (20) centimeters in height.

5. BOULEVARD GARDENS REGISTRATION AGREEMENT/ TRANSFER/ REMOVAL

- 5.1 The City may establish a registration system for Owners planting Boulevard Gardens that includes terms and conditions required to plant and maintain a Boulevard Garden. Any such registration system may include as a condition precedent that an Owner agree to assuming all risks, costs, losses, or expenses associated with planting or maintaining a Boulevard Garden, including but not limited to those risks, costs, losses, or expenses arising from those circumstances set out in this By-law.
- 5.2 The City, a public utility, or their agents may remove or alter all or part of a Boulevard Garden in order to exercise any power authorized by law, including but not limited to carrying out municipal maintenance practices, or the construction and maintenance of a public utility, as determined at the City or public utility's sole discretion. In all circumstances the costs or losses associated with replacement of a Boulevard Garden shall be the responsibility of the Owner who establishes, maintains, or assumes responsibility for a Boulevard Garden.
- 5.3 The City its agents, or a public utility shall not be responsible for costs, losses, or damages arising from the establishment or maintenance of a Boulevard Garden and are not responsible for replacement of a Boulevard Garden.
- 5.4 Nothing in this By-law shall be construed as creating a property interest in Public land, and any Owner who plants or maintains a Boulevard Garden does so at their sole risk and expense.
- 5.5 All Owners, who have established a Boulevard Garden and sell or transfer the property, shall inform the purchaser in writing, before completing the transfer, of the continued obligations to the City, concerning the Boulevard Garden(s) associated with the property under this By-law.
- 5.6 All new owners of property are deemed to have assumed the obligations for an existing Boulevard Garden pursuant to this By-law, where a Boulevard Garden was established or maintained by the prior Owner of the purchased property, on an Adjacent Boulevard.

- 5.7 All new owners of property are required to either enter into an Acknowledgement Agreement or remove the Boulevard Garden within one hundred and eighty days (180) of ownership.
- 5.8 Where a new Owner of property fails to either remove or maintain the Boulevard Garden, the City may remove the Boulevard Garden and rehabilitate the area, without notice or liability to an Owner and may require the reimbursement of all costs, including administrative fees as a debt owed the City and may recover by placing on the property roll to be recovered in a manner like taxes.
- 5.9 All Boulevard Gardens which existed prior to the coming into force, are not “Grandfathered” or exempt to the application of this By-law and must conform with the provisions of this By-law.

6. REGISTRATION OF ACKNOWLEDGEMENT AGREEMENT REQUIRED

- 6.1 Every Owner that wishes to establish or maintain a Boulevard Garden in an Adjacent Boulevard of their property, shall first complete and register a Boulevard Garden Establishment & Removal Acknowledgement Agreement, and agree to the terms of use, maintenance and removal, with the City.
- 6.2 Every Owner that has Registered a Boulevard Establishment & Removal Acknowledgement Agreement may, in writing, allow another person(s) to be an Owner-Agent, to permit them to establish and maintain Boulevard Gardens that are adjacent to their property.
- 6.3 Boulevard Gardens cannot be established adjacent to vacant lands or where occupancy/use appear to have been abandoned and the property no longer meets the Standards set out in the Minimum Standards For Property Occupancy By-law.
- 6.4 Every Owner and Owner-Agent, shall comply with the terms and conditions required to establish, maintain or remove any Boulevard Garden.
- 6.5 Every Owner and Owner-Agent, when requested by the City, shall make alterations or remove the Boulevard Garden, in a manner and time frame prescribed.
- 6.6 Every Owner and Owner-Agent, when requested by an Officer, shall Register an Acknowledgement Agreement, in the manner and timeframe required.
- 6.7 Every Owner and Owner-Agent, shall not permit the Boulevard Garden to create a health safety, or fire hazard to anyone.
- 6.8 Every Owner and Owner Agent, shall not permit the Boulevard Garden or its’ growth, to encroach over adjacent public walkways or roads, including the Boulevard Restricted Area or private property.
- 6.9 Prior to establishing a Boulevard Garden or carrying out any excavation required to maintain a Boulevard Garden, an Owner shall ensure that they have complied with the

Ontario Underground Infrastructure Notification System Act, S.O. 2012, c. 4, and regulations made thereto.

- 6.10 Notwithstanding the above provisions, these requirements do not relieve the Owner from first obtaining any other regulatory approvals or complying with any other government legislation in fulfilling this section's requirements.
- 6.11 No Boulevard Garden shall be planted or maintained contrary to any other by-law of the City, legislation of the Province of Ontario, or statute of Canada.
- 6.12 Notwithstanding 6.11 above, the provisions of City of Thunder Bay By-law 119-1983 prohibiting obstruction or encumbrance of any Highway under the jurisdiction of the City do not apply to a Boulevard Garden properly conforming to this By-law.

7. ADDITIONAL REQUIREMENTS TO ESTABLISH AND MAINTAIN BOULEVARD GARDEN

- 7.1 Every Owner, who have registered an Acknowledgement Agreement to establish and maintain a Boulevard Garden, in addition to other provisions of this By-law, are required to adhere to the following provisions:
 - a) Only soft landscaping and hand-digging is permitted.
 - b) Slopes and basins of draining swales or ditches cannot be filled, altered or used to accommodate a Boulevard Garden.
 - c) No Boulevard Garden shall exceed 600 mm in Maximum Growth Height above the grade of the Boulevard.
 - d) No Boulevard Garden shall raise the existing bed height and enclosures to hold additional soils (garden planter boxes) shall not be permitted.
 - e) No Boulevard Garden shall be installed or located as to impede access to a fire hydrant or utility pole, electrical or utility box by a distance of a 1.5 metre radius.
 - f) No Boulevard Garden shall be installed or located if it is likely to damage or interfere with existing uses or maintenance infrastructure.
 - g) No Boulevard Garden shall be established closer to one (1) metre from the trunk of any City tree.
 - h) No Boulevard Garden shall alter the original or designed elevation of a Boulevard.

- i) No Boulevard Garden shall alter or remove any existing and authorized hardscapes or structures, City or utility equipment contained within a Boulevard.
- j) No Boulevard Garden shall contain any prohibited local plant listed in Schedule “A”, any Noxious Weed within the meaning of the *Weed Control Act*, R.S.O. 1990, c. W.5, or any Invasive Species within the meaning of the *Invasive Species Act*, S.O. 2015, c. 22.
- k) No Boulevard Garden shall contain any plants which have hallucinogenic properties or pharmacological applications.
- l) No Boulevard Garden shall contain any hard or impervious substances, unless they are placed at or below grade of the curb and sidewalk and shall not cover more than five (5) percent of the Boulevard Garden surface area.
- m) No Boulevard Garden shall restrict driver and pedestrian sight lines at intersections, driveways, sidewalks, walkways, or visibility to all traffic control devices.

8. GROWING OF EDIBLES OR OTHER CONSUMABLES

- 8.1 The City advises that they cannot provide information on the safety of the use of any Boulevard area soil or any possible content of contaminants or other substances that may be present and could potentially be considered a human risk to health if consumed through the consumption of any plants grown therein. For this reason, it is therefore recommended that Owners and Owner-Agents take any and all prudent examinations, including soils testing, public health literature or professional consultations before deciding to consume anything from a Boulevard Garden; any consumption of such things is a risk assumed by the grower.
- 8.2 No Boulevard Garden shall contain any plants which have hallucinogenic properties or pharmacological applications.
- 8.3 Where an Owner or Owner Agent chooses to grow plants for consumption, a sign no bigger than five (5) inches, square, must be clearly visible to public, that advises consumption “at own risk”.

9. PENALTIES AND ENFORCEMENT

- 9.1 The City may remediate any contraventions of this By-law, and in all circumstances the costs or losses associated with replacement of a Boulevard Garden shall not be the responsibility of the City.
- 9.2 Any person who fails to comply with any requirement of this By-law is guilty of an offence, and shall upon conviction be liable to a penalty as set out in section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended from time to time, or any successor thereof.

10. WORK ORDER

- 10.1 Where the Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened this By-law to do work to correct the contravention.
- 10.2 An Order under subsection 10.1 of this By-law shall set out:
- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - b) the work or remedial action required to be done and the date by which the work or remedial action must be done.
- 10.3 An Order under subsection 10.1 of this By-law may require work or remedial action to be done even though the facts which constitute the contravention of this By-law were present before this By-law came into force.
- 10.4 Any person who fails to comply with an Order issued under subsection 10.1 of this By-law, is guilty of an offence.

11. STOP WORK ORDER

- 11.1 Where the Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened this By-law to do work to discontinue the contravening activity.
- 11.2 An Order under subsection 11.1 of this By-law shall set out:
- a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - b) the date by which there must be compliance with the order.

- 11.3 Any person who fails to comply with a stop work Order issued under subsection 11.1 of this By-law is guilty of an offence.

12. SERVICE OF ORDER

- 12.1 An Order may be delivered in person to an Owner, at the address of lands from an Adjacent Boulevard which is subject of the Order or left with an inmate therein that is over the apparent age of eighteen years, or
- 12.2 An Order may be sent via e-mail or text to an e-mail address or phone number that has been supplied for a communication purpose and will be deemed served only when such e-mail or text is acknowledged as being received and is not an autoreply, or
- 12.3 An Order may be sent via registered mail to the last known address supplied to the City's tax office and shall be deemed to be delivered on the fifth (5th) day after the date mailed, or
- 12.4 An Order may be posted in a conspicuous place on the property or placed in any open mail receptacle in proximity to the main entrance and shall be deemed to be delivered on the seventh (7th) day after being affixed/deposited.
- 12.5 It is an offence for any person other than the Owner to remove, tear down, or interfere with any Notice or Order posted on the property.

13. WHERE ORDER TO FOLLOW COMPLIANCE ACTION

- 13.1 Where the condition of a Boulevard Garden is such that it does, or is likely to, constitute a safety hazard to the public and/or a health hazard, including from nuisance litter or waste materials, the Officer may institute remedial actions, without first giving an Order, and may pursue cost recovery in the same manner as if an Order had been issued in advance and not complied with.
- 13.2 Where remedial actions are carried out prior to an Order being issued; the Officer shall at the earliest reasonable opportunity, issue and serve the Order on an Owner who is the subject of the Order.

14. OBSTRUCTION PROHIBITED

- 14.1 No person, including an Owner, shall impede, interfere, or obstruct an Officer in the execution of their duties and the inspection of property required under this By-law, by doing any act or refusing an Officer direction.
- 14.2 No person, including an Owner, shall obstruct an Officer by providing any false or misleading information.
- 14.3 It is an Offence for any person to obstruct an Officer in the discharge of their duties.

15. REMEDIAL ACTION

- 15.1 If a person fails to do a matter or thing as directed or required by this By-law, including to comply with an Order under this By-law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The City may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll an Owner's property and collecting them in the same manner as property taxes.
- 15.2 The costs outlined in subsection 15.1 of this By-law shall include any fees and charges imposed by the City in accordance with this By-law in relation to the matters identified therein.
- 15.3 The amount of the costs, including interest, constitutes a lien on the land on the subject Owner upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office.

16. EXEMPTIONS

- 16.1 Nothing in this By-law shall affect:
- a) Any right or duty of the City with respect to any Highway right of way; or
 - b) The application and enforcement of the *Weed Control Act*, R.S.O. 1990, c. W.5, as amended, with respect to noxious weeds.
 - c) The application and enforcement of the *Invasive Species Act*, S.O. 2015, c. 22, as amended, with respect to invasive species.

17. GENERAL PROVISIONS

- 17.1 Should any provision of this By-law be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the part which was declared to be invalid.
- 17.2 This By-law shall come into force and take effect upon final passing thereof.

Enacted and passed this xxx day of XXX, A.D. 2024 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Mayor

City Clerk

Boulevard Garden and Maintenance By-law

Schedule “A” Prohibited Local Plants

Canada thistle (*Cirsium arvense*)
Common buckthorn; Glossy buckthorn (*Rhamnus cathartica*; *Frangula alnus*)
Dog-strangling vine (*Cynanchum rossicum*; *Cynanchum louiseae*)
Garlic mustard (*Alliaria petiolata*)
Giant hogweed (*Heracleum mantegazzianum*)
Himalayan Balsam (*Impatiens glandiflora*)
Japanese knotweed (*Reynoutria japonica* var. *japonica*)
Phragmites (*Phragmites australis* subsp. *australis*)
Poison ivy (*Toxicodendron radicans*)
Purple loosestrife (*Lythrum salicaria*)
Ragweed (*Ambrosia artemisiifolia*)

Attachment B – Table 1: Proposed Gardening Regulations and Rational

Proposed Gardening Regulation	Rational
Only soft landscaping and hand-digging is permitted.	Soft landscaping will eliminate some potential tripping hazards, ensure that boulevards remain permeable, and leave space on the boulevard for snow clearing operations; hand digging will protect underground utilities and tree roots.
Slopes and basins of draining swales (ditches) cannot be filled, altered or used to accommodate a boulevard garden.	Slopes and basins of draining swales (ditches) are designed to remove stormwater. Modifications to a ditch can result in impacts to its ability to provide adequate drainage to the area.
No boulevard garden shall exceed 600 mm in maximum growth height above the grade of the boulevard.	The proposed maximum height limit will help ensure that vehicles can safely move in and out of driveways, through intersections, and in corner lots.
No boulevard garden shall raise the existing bed height and enclosures to hold additional soils (garden planted boxes) shall not be permitted.	Prohibiting planter boxes will allow the City and local utility companies to access their infrastructure quickly and easily, and alleviate their responsibility for restoration once the boulevard has been excavated.
No boulevard garden shall be installed or located as to impede fire a fire hydrant or utility pole, electrical or utility box by a 1.5 m radius.	The proposed clear radius will ensure that fire hydrants remain readily accessible in the event of an emergency.
No boulevard garden shall be installed or located if it is likely to damage or interfere with existing uses or maintenance infrastructure.	The City and local utility companies must be able to access their infrastructure quickly and easily to provide the best service possible.
No boulevard garden shall be established closer than one (1) metre from the trunk of any City tree.	The proposed clear radius will ensure that the critical root zone is protected from digging and other disturbances.
No boulevard garden shall alter the original or designed elevation of a boulevard.	Properly graded boulevards are designed to remove stormwater. Modifications to

Proposed Gardening Regulation	Rational
	their elevation can result in impacts to their ability to provide adequate drainage to the area.
No boulevard garden shall alter or remove any existing and authorised hardscapes or structures, City or utility equipment contained within a boulevard.	This will ensure visibility, access and maintenance of utility infrastructure, and assist in preventing damage when digging.
No boulevard gardens shall contain any plants which have hallucinogenic properties or pharmacological applications.	Substances that are known to effect psychomotor performance may be considered a risk to human health if consumed and therefore should not be accessible via the boulevard.
Prohibited local plants, noxious weeds, and invasive species will not be permitted.	Prohibited local plants are listed in Schedule “A”; noxious weeds will be defined as per the <i>Weed Control Act</i> , R.S.O. 1990, c. W.5; invasive species will be defined as per the <i>Invasive Species Act</i> , S.O. 2015, c. 22.
No boulevard garden shall contain any hard or impervious substances, unless they are placed below or at grade of the curb and sidewalk and shall not cover more than five (5) percent of the boulevard garden surface area.	This will ensure that boulevards remain permeable and mitigate impacts to stormwater drainage to the area.
No boulevard garden shall restrict driver and pedestrian sight lines at intersections, driveways, sidewalks, walkways, or visibility to all traffic control devices.	This will help ensure that vehicles can safely move in and out of driveways, through intersections, and in corner lots.
Where an Owner or Owner Agent chooses to grow plants for consumption, a sign no bigger than five (5) inches, square, must be clearly visible to public, that advises consumption “at own risk”.	The City cannot provide information on the safety of the use of boulevard areas. The soil may contain contaminants or other substances that are considered risks to human health if consumed through plants grown therein.

Boulevard By-law Stakeholder Group Feedback

Compiled by Jeff Walters

July 4, 2024

Administration provided the draft by-law to a group of targeted stakeholders for their input and feedback between the period of June 24 and July 2, 2024.

Stakeholders shared that they were pleased they had the opportunity to comment and give feedback. We received eight responses, one of which was to note they were unable to give fulsome comments by the deadline.

One respondent noted the tone of the By-law was one of restriction rather than one of permissibility. They wrote:

"[It feels as] this is something we don't want in our city, and we need to make it as restrictive and difficult as possible." instead of from the perspective of "This is something we want in our city, and we're going to make it as easy as possible while still taking into account the need for city maintenance and safety." Overall, reading the draft, you'd think that boulevard gardens were a dangerous menace to society."

Respondents noted in general the following benefits to having a By-law in place:

- Creating pollinator habitats, increasing the corridors that improve our ecosystems
- More sustainable boulevards through rain and storm water management
- Opportunity for residents to work together and contribute to their neighbourhoods
- Easier access to healthy foods at your fingertips
- Lower the cost of food bills

The overlying themes of the responses are found below:

Registration System

Nearly all respondents had concerns over the creation of a registration system for a boulevard garden. One respondent said, "a registration system is not necessary and would require extra capacity and cost for the City. This simply should read that anyone creating a boulevard garden assumes all risks, etc."

They noted that not having a registration system would also allow the City to take a number of clauses out of the By-law, specifically sections 5.7 and 6.1.

Respondents also felt that the City agreeing to give homeowners notice, "when possible" about work taking place on a Boulevard would alleviate the need for a registration system. It was noted that homeowners could receive a copy of the

guidelines suggested by the City, and start planting, instead of dealing with an “onerous” registration system.

Many pointed to the City of Ottawa, where a registration system is not required, as long as people follow the By-law. This would remove administrative burden on the City and would not “penalize residents.”

Creating a strong education campaign and diagrams on how close gardens are allowed to utility poles, fire hydrants, etc. would be more beneficial than a registration system, many wrote.

Planter Boxes/Raised Gardens

Most of the stakeholders felt that raised planter boxes should be allowed in boulevard gardens. The thought is more food could potentially be grown in boulevard areas with the addition of the raised boxes. Additionally, it could help eliminate/reduce any contamination concerns with soil, as a raised box would require new soil to be placed in it, not just from the ground.

Additional comments said those with physical restrictions can take part in boulevard gardening if raised beds were permitted. This would also create another option to grow healthy food. Raised planter boxes also extends seasonal plantings, and when done properly, does have an aesthetic appeal. Additionally, due to varying soil types throughout the city, raised planter boxes may be necessary in some areas to grow food.

Some suggested that raised planter boxes could be removed during the winter months, along with any decorative items, to alleviate any concerns about snow plowing.

The suggestion to have warning signs regarding consumption of garden items was deemed, “as quite excessive and unnecessary.” It was also noted that this could lead to the unintended consequence of the public helping themselves to food grown in the boulevard garden when the food was not intended for public consumption.

One suggestion is to not permit planter boxes only in areas where there are safety concerns, such as on arterial roads.

Height restrictions

Many felt the current height restrictions of 0.6m was too low. Stakeholders noted that in Ottawa, the height restriction was set at 1m, which proponents successfully fought for. All noted they understood the need for a height restriction, but felt the value proposed in the draft by-law is too low. One suggestion was to have an overall height limit of 1m, but have it lowered to either 75 cm or 60 cm in corner visibility triangles, and around utility setbacks.

One person stated that if growing food, many items are trellised or grow to heights exceeding .6m. This will directly impact those who will use the boulevard garden to grow food.

Plant Restrictions

There was a large amount of concern based on the wording of restricting plants with hallucinogenic and pharmacological properties. There was no concern over restricting the growth of cannabis or hallucinogens, however plants that have other medical benefits, or would be considered sacred plants could also fall into this category.

The concern is that many plants would be restricted based on the current wording in the By-law. For example, native species that have pharmacological applications include Yarrow, Milkweed, Coneflower, Mullein, Dandelion, Chamomile, Arnica and Borage. These plants are well established in the city, are sold at garden centres, and are listed as permitted plants by the Ontario Ministry of Agriculture and Rural Affairs. If the provision is to be kept, it should be very specific, and not as broad as it currently is.

Additional suggestions

There was some feedback regarding the setback/edge of the garden and its distance from the sidewalk and road edge. This included questioning why additional grass strips are really needed between the garden and sidewalk, and why the By-law is encouraging the use of turfgrass. It was noted by a few respondents that there are numerous low-growing plants that would suitably replace turfgrass. These include bush honeysuckle, dogbane, potentilla, new jersey tea, bearberry and creeping juniper.

Additional feedback included questions regarding the definition of nuisance litter and waste material. For nuisance litter, there is concern that the current definition could be used to penalize those growing food, or seed saving, which often requires allowing plants to 'die off' prior to harvesting the seeds. For waste material, the feedback was that the definition is very broad, and that if the material is being repurposed in a deliberate manner, it should be permitted.

Further feedback was provided in relation to gardening on adjoining vacant land. Respondents felt that there should not be limits on using vacant land for gardens. Numerous respondents referred to Vancouver's Class 8 Land provision, which allows for community gardens to be created, temporarily, in areas slated for development.

Two respondents asked for the banning of artificial turf from boulevard gardens. Others requested the prohibition of planting invasive species, using the Office of the Auditor General of Ontario's Invasive Species report, to include banning: Lily of the Valley, Goutweed, and Creeping Bellflower.

Finally, many respondents had concerns over the restriction of shrubs, rocks, wood, and other décor from boulevard gardens. Many felt that the draft By-law is too restrictive, and these items should be permitted. Décor could be removed during the winter months to assist with snow removal. Respondents said wood and other materials provide valuable pollinator habitat, and this portion of the By-law was overly restrictive.

Draft Boulevard Garden & Maintenance By-law – Correspondence from K. Moore

Sunday, October 20, 2024

Hi Lori,

If appropriate, please forward to the Clean, Green and Beautiful Committee as well as the EarthCare(Climate Action) Advisory Committee for consideration of my requests to present on this matter at their next meetings.

I believe you mentioned there was another clerk working with the Accessibility Committee but I cannot recall the name. I think it was either Flo-Ann or Dana, so I have included them both - I would like the Accessibility Committee to be aware a portion of the proposed bylaw may fall under their purview - specifically the issue of universally restricting raised garden planter boxes on the boulevard, which may impact the ability of those with limited mobility to participate in boulevard gardening. Seed Feedback Section 3.

If there are any other committees which may be linked to beautification, greening, or sustainability, please let me know, as I'd like to raise as much awareness as possible before Nov 25th.

Thank you,

Kyla

----- Forwarded message -----

From: **Kyla M** <kylaturner@gmail.com>

Date: Fri, Oct 18, 2024 at 6:41 PM

Subject: DRAFT Boulevard Garden and Maintenance Bylaw - Concerns/Request to meet 1:1

Dear Mayor and City Councillors,

I have submitted my feedback on the Draft Boulevard Garden and Maintenance Bylaw via the Get Involved Survey. My comments are available in this shareable, living document, which I will continue to update before the final draft is submitted as a deputation letter on Nov

25th: <https://docs.google.com/document/d/1cDGDfvPYZakrHXjyvPHJU piv0fwsIfGh/edit?usp=sharing&oid=103873093924612817609&rtpof=true&sd=true>

I was very pleased to hear the survey deadline was extended to Oct 23rd! This will allow more residents the opportunity to respond. For example, since my original deputation in 2021, I have been marking down addresses with boulevard gardens. Over the last couple weeks, I have been going door to door to speak to the residents who will be most affected by this regulation. Unfortunately, 95% were unaware of the coming bylaw. And of the few who were aware, only a fraction of those (maybe 5 people so far?)

understood how the excessive restrictions would impact their gardens - most thought the bylaw would protect their gardens... until I explained otherwise.

So, you can imagine the reactions I've been getting as I point out specific prohibited elements, such as edging, rocks, driftwood, signs, gnomes, and plants, whole 1.5m sections, **and entire gardens**... no matter whether one's garden has existed around the fire hydrant without issue since 1998 (true story). Residents are shocked. Those in neighborhoods affected by the "1m garden restricted area" feel it's unfair that others living in neighbourhoods with curbs would be allowed to plant "right to the edge," while the size of their garden would be reduced. One street alone had five gardens that would become illegal simply because they're on slopes or extend into ditches, despite legal precedent affirming that ditch gardens are protected under the Charter of Rights and Freedoms (*Counter v Toronto* 2002). How will this bylaw stand up to future Charter challenges now that these people are aware of the case law? Is it appropriate to enact policy that contravenes the supreme law of Canada?

I have spent an incredible amount of time researching and compiling examples for your review. Over the next month, I will be reaching out to all councillors to discuss the findings. One councillor asked me, if I had to choose a single model bylaw from another city, which one would I choose, and I would have to say Saskatoon, SK has a lot of great elements that could work here, especially their SnowProgram Map which allows residents to safely install permanent raised planter boxes on streets where they will not pose a hazard for snow removal operations. But, even their bylaw contains provisions which could be improved, for example by creating an enhanced prohibited plants list using the Ontario Auditor General's list of 30 harmful plants, like Ottawa did last year. So, it is my hope we can learn from what others have done right, and wrong, and do better here.

I realize I may be an idealist, but honestly, if Thunder Bay adopts these suggested changes, we'll have the strongest biodiversity-supporting, food-friendly boulevard garden bylaw in Canada—likely in the world! We wouldn't just set the bar, we'd change the game, inspiring other cities to follow suit. This may be just one tiny bylaw in a vast ocean of policy, but we are facing a declared climate emergency and a global biodiversity crisis. The [Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services Assessment Report](#) has made it clear: "It's not too late to make a difference, but only if we start now at every level from local to global," through "transformative change." Our boulevard gardening bylaw can be part of that change. It's not nothing; it's exactly what those IPBES scientists and researchers are asking for, from you. This is something you *can* do - and building "climate victory gardens" on our boulevards is something your constituents *want* to do. So, let's get it right!

I'm not sure which city was the very first to allow 1m tall boulevard plants... It would have been considered a bold, unprecedented idea... imagine the conversations that took place, the debate behind the scenes. I don't know how they did it. But I do know how the second city did it: with a bit more courage to follow suit, and the third, and the fourth... and now there are 13 Canadian cities with a 1m height allowance on the

Draft Boulevard Garden & Maintenance By-law – Correspondence from K. Moore

boulevard, with total populations of over 7 million people safely living, working, and playing around 1m tall boulevard flowers (true story, I googled and added them).

So why are we even proposing a 60cm plant height limit, when other cities have safely embraced 1m?

I will stop this rant here because everything is in my feedback letter, including the answer to that question, so I will let it speak for itself. Please spend some time with it. If any of my “asks” speak to you, please reach out to speak to me. I am looking for councillors to champion these changes with motions. I will see you at my Nov 25thdeputation, but I’m a terribly nervous public speaker, so I really hope we can connect 1:1 before then :)

Thank you for taking the time to review my concerns.

Sincerely,

Kyla Moore

On Mon, Sep 23, 2024 at 5:32 PM Kyla M wrote:

Dear Mayor and City Councillors,

My name is Kyla Moore and on Sept 20, 2021 I brought a deputation to city council (attached) asking the city to allow residents to garden on their boulevards.

I have reviewed the proposed DRAFT Boulevard Garden and Maintenance Bylaw. While I am thrilled by some features of the draft and grateful for all the work that staff have put into this, my review of similar municipal policies highlighted sections of our proposed regulations as unnecessarily restrictive and vague. As written, I am concerned some parts of our draft bylaw could be challenged as void for vagueness, unconstitutional, and unenforceable (Deputation Letter: Constitutionality Test: Are These Sections of the Bylaw Legal?).

On pages 5-6 of my deputation letter, I discuss the colonial roots of our bylaw and ask the city to consider guidance and consultation from the Indigenous Relations & Inclusion Section during bylaw review, but it is unclear whether this has occurred (Deputation Letter: The History of Turf Lawns and Lawn Maintenance Bylaws, pages 5-6).

The July 11, 2024, [Open Letter to Canadian Municipalities](#) (attached), co-signed by the Canadian Society of Landscape Architects, Canadian Wildlife Federation, David Suzuki Foundation and Ecological Design Lab at Toronto Metropolitan University, calls for revisions to municipal bylaws to better support habitat gardens and biodiversity. It outlines key “features of biodiversity-supporting bylaws,” **none of which are achieved in our draft bylaw** (Table 1).

Table 1. Open Letter to Canadian Municipalities, Features and Bylaw Shortcomings

Essential Features of Biodiversity-Supporting Bylaws	Deficiencies in Our Draft Boulevard Garden and Maintenance Bylaw
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Draft Boulevard Garden & Maintenance By-law – Correspondence from K. Moore

List prohibited plants rather than using vague and subjective terms such as “weeds.”	Sections 7.1(k) and 8.2 broadly restrict plants with “hallucinogenic properties or pharmacological applications,” potentially excluding important medicinal or sacred plants for Indigenous communities and other cultural and traditional groups, as well as beneficial native species.
Engage with Indigenous communities and Rights holders to develop the list of prohibited plants.	I could find no evidence of engagement with Indigenous communities and Rights holders for development of sections 7.1(k) and 8.2.
Specify that height restrictions apply to mowed lawns (turfgrass), not non- turfgrass plants that do not obstruct sightlines.	This feature is intended to prioritize and protect non-turfgrass plants from height restrictions typically applied to lawns. However, while sections 3(q), 4.1, and 4.3 target turfgrass with a 20cm height limit, the bylaw still favours turfgrass as the “standard” municipal groundcover in all setback areas where there is an expectation turfgrass be planted, mowed, and trimmed to 20cm in perpetuity. As a result, the height restrictions are also applied to non-turfgrass plants in these areas, even when they do not obstruct sightlines or access.
Focus on health and safety rather than aesthetics, and avoid the use of subjective, aesthetically-based terms such as “excessive growth” and “tidy.”	Although the draft claims to focus on health and safety, it frequently targets gardening activities rather than addressing actual health and safety risks. It enforces unnecessarily strict regulations, imposing conventional landscaping aesthetic in areas where access and visibility would not be compromised.
Offer clear support for the protection of habitat elements including fallen leaves and logs, and old plant stalks	Sections 3(r) “Waste Material,” (v) definition excludes a “naturalized garden area” but lacks a clear definition. At the same time, Section 3(h) “Nuisance Litter” definition includes “natural or intentional accumulations of fruit, vegetables and other discarded materials” which could be misinterpreted to restrict important habitat elements like fallen leaves and plant stalks. Furthermore, Section 7.1(l) broadly restricts all hard objects, including wood, which serves as essential habitat for pollinators and wildlife.

Jurisdictional scans also revealed systemic trends concerning inconsistencies in other city bylaws, and in ours, which seem to be driven more by policymakers' preferences and public perception than by genuine health and safety concerns. In general, our bylaw is overly restrictive, favours turfgrass over superior alternatives (including indigenous plants present before colonization), frequently targets gardening activities instead of focussing on actual risks (e.g., health, safety, and access), and misses opportunities to benefit and protect our natural heritage. **The majority of existing boulevard gardens would need to be modified, and all raised planter boxes and gardens located in setback/restricted areas would need to be completely removed to align with proposed regulations. This will impact hundreds of residents.**

I am currently finalizing a more detailed feedback letter that outlines comprehensive recommendations for improving these aspects, including examples from other municipalities' bylaws and the rationale for each proposed change. While I am traveling at the moment, I will submit the report as soon as it is complete. This document will provide a thorough analysis of the ways we can create a more inclusive and beneficial bylaw for our community, and reduce the number of gardens affected. I am confident that our city can safely accommodate a wider variety of diverse and creative boulevard gardens, as **none of the changes I am suggesting are unprecedented – they are established policies in other cities.**

To expand opportunities for growing food, encourage freedom of expression, and maximize the social, health, economic and environmental benefits through stewardship of these public spaces, **I urge the Mayor and City Councillors to consider putting forward a motion to amend these aspects of the draft bylaw:**

- **Allow shrubs**
- **Clarify food, dried plants, and compost rules**

Draft Boulevard Garden & Maintenance By-law – Correspondence from K. Moore

- **Define "Natural Garden Area"**
- **Remove registration requirement**
- **Notify residents of planned work, return to standard**
- **Open vacant land**
- **Allow gardens in setback/restricted areas**
- **Raise maximum plant height to 1m**
- **Allow garden planter boxes, objects, and repurposed items**
- **Eliminate "At Own Risk" signs**
- **Restrict artificial turf**
- **Restrict pesticides, insecticides, herbicides, fungicides, rodenticides**
- **Add positive wording**

Thank you for taking the time to review these materials. Your consideration is greatly appreciated. I am always available for questions, please don't hesitate to reach out.

Sincerely,

Kyla Moore

November 6, 2024

Dear Clean, Green and Beautiful Committee,

After reviewing boulevard garden bylaws, regulatory language, and guidelines from across Canada, it is clear Thunder Bay's proposed DRAFT Boulevard Garden and Maintenance By-law (Bylaw) is overly restrictive. The Bylaw prioritizes turfgrass over superior alternatives, such as indigenous plants, and imposes limits on gardening activities rather than addressing genuine accessibility and safety risks. It also overlooks key opportunities to protect and enhance our natural heritage. Enacting this restrictive regulation will result in immediate, widespread bylaw non-compliance, resulting in over 90% of existing boulevard gardens requiring modification or removal, directly impacting hundreds of residents.

We need to provide necessary enforcement power while respecting the freedoms of citizens. To achieve this balance, I am asking City Staff, the Mayor, and Councillors to explore two possibilities:

Saskatoon's Boulevard Garden Guidelines¹ as an alternative model to a restrictive Bylaw
Saskatoon's Snow Program Map² as a mechanism for allowing year-round structures in areas where it is safe to do so.

Developing a progressive, permissive standard could:

Reduce the resource implications of managing an actual bylaw

Minimize disruptions to existing gardens

Support the creation of future gardens

Preserve the character of our neighbourhoods

Prove effective from an enforcement perspective—as demonstrated in Saskatoon, with an average of one to two garden complaints received *per year*.

The user-friendly Saskatoon Boulevard Garden Guideline supports biodiversity for climate resilience, mitigates stormwater to reduce downstream flooding, and provides opportunity for urban food growing.

This letter outlines 18 key areas where the Bylaw fails to serve the needs of our community, and offers well-supported recommendations and clear rationale for development of an accessible, equitable guideline. None of these suggestions are unprecedented; they are established in other cities. While the City Manager warns that “comparisons are dangerous” and what works elsewhere may not always apply here, it is equally true that progressive approaches should not be dismissed simply because they challenge the status quo; indeed, what is considered progressive today will become the norm in the next 10-20 years.

Failure to dismiss the Bylaw and its Charter-infringing regulatory overreach exposes our city to potential litigation and reputational damage, as seen in the widely publicized Smiths Falls case.³ “Since 1995 for example, Ontario courts have ruled in various cases that individuals’ rights to freedom of expression, as protected under section 2B of the Canadian Charter of Rights and Freedoms, extend to the expression of environmental values and relationships to

¹ <https://www.saskatoon.ca/sites/default/files/documents/community-services/parks/Boulevard%20Gardens%20Update%20Final%202024.pdf>

² <https://apps4.saskatoon.ca/app/aSnowProgram/>

³ <https://globalnews.ca/news/9251225/smiths-falls-local-family-legal-fees-naturalized-yard/>

nature through gardening practices.”⁴ Imposing conventional and colonial landscaping practices on non-constitutional grounds with vague and arbitrary restrictions motivated by aesthetic considerations, public perception, and enforcement convenience, may render the Bylaw invalid.⁵

Fostering a more permissive, guideline-based approach to boulevard gardening would not only address these legal concerns but also enable a triple bottom line framework to support broader climate, biodiversity, and food security goals. Such a framework not only protects Charter rights but leverages community stewardship to enhance under-managed green infrastructure, unlocking potential long-term social, economic, and environmental benefits (Appendix A).

Thank you for taking the time to review my concerns.

Sincerely,

Kyla Moore

Please find attached some detailed notes for further information. As I did not have time to finish putting together notes for this meeting, the living document which contains more detailed information can be found here:

<https://docs.google.com/document/d/1cDGDfvPYZakrHXjyvPHJU piv0fwsIfGh/edit?usp=sharing&ouid=103873093924612817609&rtpof=true&sd=true>

⁴ <https://ecologicaldesignlab.ca/project/by-laws-for-biodiversity>

⁵ <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdI/check/art521.html>

Section 1.

Reduce the Scope of the Bylaw.

Exempt Continuous Boulevards.

Replace the Bylaw with a guideline narrowed in scope by exempting continuous boulevards to protect the community's existing gardens.

Saskatoon's Boulevard Garden Guidelines differentiate between boulevards, medians, and public land adjacent to private property. Their guidelines apply only to separated boulevards which are public land areas between the sidewalk and the road, allowing residents to treat the continuous boulevard, or the public land areas connected to their property, like their own yard.

Saskatoon's flexible approach offers a practical solution for preserving the integrity of existing gardens in Thunder Bay. It was based on their **Findings from the Boulevard Gardening and Maintenance Guidelines Review** which recognized that the rules for separate boulevards would create non-compliant situations if applied to attached boulevards. This is critical for Thunder Bay, as applying the proposed Bylaw's restrictions to both separate and continuous boulevards would create widespread non-compliance, increasing enforcement workload, confusion, and unfavourable public backlash. Creating a guideline which exempts continuous boulevards will reduce these negative impacts and ensure standards are applied fairly.

Section 2.

Allow Garden Planter Boxes, Structures, and Objects.

A Universal Ban is Inappropriate and Excessive.

Allow structures and objects on the boulevard where it is safe to do so. The current Bylaw proposes a universal ban on planter boxes and other objects across all boulevards in the city. Blanket prohibition, applied in the absence of legitimate operational hazards, constitutes unjustified, overreaching policy that prioritizes administrative convenience over community needs. I provide our city administration with ten examples of cities that allow planter boxes or other objects on boulevards, including Ottawa, ON, which allows Little Free Libraries, Saskatoon, SK, Regina, SK, Calgary, AB, and Edmonton, AB.

Focus on Safety and Accessibility, Not Planter Boxes & Objects.

Rather than a universal ban, a more equitable approach would allow garden planter boxes and other objects **year-round** in neighbourhoods where they do not pose hazards, and **seasonally** in designated areas where snow removal operations require temporary removal in winter. Other cities with significant snowfall, like Saskatoon, have demonstrated that this can be safely accomplished by providing guidelines, priority street maps, and installation diagrams.

Suggested Technical Planting Standards for Setbacks, Access, and Mobility.

Boulevards are shared public spaces, and inclusive design should consider the needs of all community members. These guidelines help ensure that, while enhancing urban greening, we maintain accessible and safe movement for pedestrians, people with mobility aids, vehicles, and snow removal operations. Some key considerations:

1. Adequate Movement Space Along Boulevard Edges.

Design for movement along boulevard edges where no sidewalk exists, ensuring sufficient clearance for people using mobility aids or where cars park along the road edge, ensure adequate clearance to open and close doors. For example, 60-centimeters in Saskatoon, SK.

2. Snow Clearing and Trip Hazard Reduction

Design with seasonal accessibility in mind by maintaining setbacks near driveways and along sidewalks to allow for snow clearing and reduce trip hazards in high-traffic zones. by incorporating setbacks along driveways and on either side of a sidewalk. For example, 30-centimeters in Victoria, BC.

3. Accessible Pathways in Long Gardens

Where objects and planter boxes are incorporated, add periodic gaps or stepping stone pathways across long gardens. Specify a maximum planter box length between breaks to ensure safe passage for all, including those with mobility devices, between the street and sidewalk. For example, maximum box length of 8m in Victoria, 6m in Vancouver, and 1.5m in Saskatoon.

4. Clear Access to Civil Infrastructure

Ensure no civil infrastructure is buried under garden planter boxes. For example, Saskatoon allows temporary potted plants on utility covers provided they can be easily seen and moved by one person, maintaining access and ease of movement for city workers if necessary.

5. Use of Safe and Durable Materials

Select untreated lumber to prevent chemical exposure. Cedar, which lasts longer, is a recommended choice. Galvanized nails or screws ensure stability and longevity, supporting those who may lean on planters for support.

6. Non-slip Surfaces and Sturdy Installation

Consider incorporating non-slip surfaces on pathways and secure planter bases to support accessibility, ensuring these areas remain safe for people with limited mobility or stability concerns.

Accessible Approach: Support Participation & Align with Policy.

Our city's **Official Plan** states, "The City will seek to increase residents' access to nutritious, safe, and healthy local food, while increasing opportunities for residents to grow and raise their own food."

We should avoid restricting raised planter boxes and objects in neighbourhoods where they present no legitimate operational hazards. Such limitations make the Bylaw explicitly inaccessible, reinforcing structural inequities in our community, contravening the Official Plan's goals, hindering local food security, and needlessly stifling freedom of expression. Consider the following:

1. Accommodation.

To support a broader participation in boulevard gardening, raised garden planter boxes are essential for accessibility. Raised planters enable individuals with restricted mobility, the elderly, those using mobility aids, and people with conditions such as arthritis to engage in gardening. By supporting participation in this accessible format, we foster neighbourhood pride, civic identity, and community cohesion.

2. Food Access.

Many residents have successfully grown food in raised planter boxes on their boulevards for years, often using raised garden boxes and other structures like trellises. The proposed Bylaw, however, would criminalize these established food gardens and their support materials, forcing residents to dismantle valuable food-growing spaces. This jeopardizes an annual supplemental food source for many families, limits future gardening opportunities, and reduces equitable land access for growing food.

Not all residents have access to large, sunny yards, making boulevards the only available space for crops like tomatoes. Limiting gardening in these areas disproportionately affects residents without private outdoor spaces, raising questions of fairness and equity: should gardening be accessible only to those with larger properties? Additionally, Little Free Pantries and Kindness Cupboards are community-based sources of dried foods and essentials which would also be restricted, further limiting neighbourhood food access.

3. Creative Expression.

Court rulings have upheld gardening as a form of protected expression under Section 2(b) of the Charter of Rights and Freedoms. Background from the Eco Design Lab highlights a a boulevard-specific Ontario Superior Court decision which affirmed the right to express environmental beliefs through gardening in public spaces. Residents could also be given freedom of expression by repurposing items like small boats, tires, or wheelbarrows as creative garden features, especially if these elements manage waste, enhance biodiversity, or support food security, provided they remain safe.

4. Literacy with Little Free Libraries.

The proposed Bylaw's prohibition of boulevard structures would also prevent the installation of Little Free Libraries, which foster community connection and literacy. Ottawa's bylaw update includes provisions for Little Free Libraries, recognizing their communal value. Thunder Bay could similarly permit book exchanges on boulevards, providing diverse, accessible reading materials, promoting literacy, and encouraging book recycling within neighbourhoods.

These images depict examples of accessible raised planter boxes, food gardens, creative expression, and literacy-supporting features.



Equitable Approach of Seasonal Restrictions on Priority Streets.

An equitable policy would balance safety and liability with principles of food sovereignty, starting from a permissive position and imposing restrictions **only where necessary**. This approach could involve reviewing historical snow-clearing records to compile an inventory of high-traffic streets and intersections where garden planter boxes and objects cannot be safely accommodated year-round. By making this information available in a public map, residents could easily determine whether they can install raised boxes and objects year-round, or if they need to remove them seasonally to accommodate snow removal operations.

An equitable approach:

1. **Allows temporary structures and objects seasonally along priority streets.**
2. **Permits permanent structures and objects in all other areas.**

Using this framework, residents in neighbourhoods that can safely accommodate raised planter boxes would be supported in doing so, just as many have been for years.

Saskatoon, SK as a Model Bylaw for Consideration Saskatoon.

Saskatoon's **Boulevard Garden Guidelines** could provide an accessible and equitable model that Thunder Bay could follow. Saskatoon allows edibles to be grown in permanent raised garden planter boxes and permits the use of various objects and materials up to 1-metre in height **year-round**, unless the garden is located on a "priority street" for snow clearing. Here, residents simply remove objects by October 15 annually. Although Saskatoon receives less snowfall than Thunder Bay, this adaptable approach could work in any city with snow, accommodating flexibility while prioritizing safety.

Snow Program Map

Saskatoon residents can access an online **Snow Program map** to confirm whether they live on a priority street. This map allows residents to determine whether they need to remove objects by snowfall, supporting a system where garden planter boxes and other objects are included wherever safe. Thunder Bay could develop similar guidelines using historical snow-clearing data and road designation maps.

Thunder Bay's **Official Plan** has Road Classification and Designated Road Right-of-Way maps which identify specific road functions, restrictions, and rights-of-way widths to accommodate:

1. Safe and efficient movement.
2. Space for landscaping and green infrastructure.

While the Plan encourages “opportunities to incorporate urban agriculture into public spaces such as parks, easements, boulevards, and other publicly owned lands” and speaks to a Complete Streets approach needing to balance needs and priorities of users and uses, the draft Bylaw heavily prioritizes vehicular access, ease of enforcement and infrastructure and utility access, often overlooking the benefits for pedestrian and cyclist use, local ecosystems, and all the perceptual safety and traffic-calming benefits which come from curbside beautification by an engaged neighbourhood or business improvement area group. A rebalanced approach, using a triple bottom line framework, would better serve all residents.

Seasonal Object Removal: Align with Snowfall(s) or Calendar Parking

The deadline to remove temporary objects from the boulevard should correspond with actual snowfall or snow removal operations, rather than an arbitrary date. Saskatoon requires removal by October 15, but snow may not fall much later than that. Similarly, Regina, SK requires removal “before the first snowfall,” although snow can be sporadic. Instead, consider flexible language like ‘before snowfalls’ to allow for object removal and reinstallation as weather permits. Alternatively, aligning removal dates with Thunder Bay’s calendar parking schedule, which applies from November 15 to March 31, would offer predictability, ensuring that objects are cleared when vehicles are moved for snow removal operations, balancing flexibility for residents with the city’s winter operational needs.

Solution to Contamination Concerns

Allowing raised planter boxes directly addresses soil contamination concerns, as demonstrated by cities like North Vancouver, BC, which recommend filling planters with clean soil to ensure safety. Raised planters can also be essential due to variable soil quality and depth across the community, providing suitable conditions for residents wishing to grow food.

Section 4.

Raise Plant Height Limit to 1 metre.

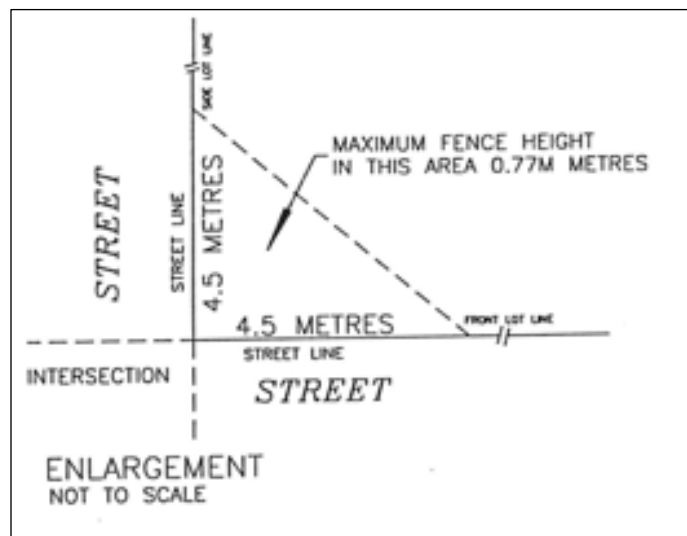
60-centimetre Height Limit: More Restrictive than 25 Cities

The proposed Maximum Growth Height of 60-centimetres is unnecessarily restrictive. While it is important to ensure visibility for all users, neighbouring cities have safely allowed boulevard plants to grow up to 1-metre tall for years, as this is the height at which a driver sitting in a vehicle can safely see a child out their window. Some cities even permit taller plants when sightlines aren’t affected, and situational rules that address genuine risks should be considered. Raising the maximum growth height to 1-metre, and taller where possible, would align Thunder Bay with these progressive cities and provide numerous benefits. It is essential to also consider how plant height impacts urban agriculture by limiting the choice of food plants residents can grow. **I provide twenty-five examples of cities allowing vegetation taller than 60 centimetres, and thirteen of those allow vegetation to grow up to 1-metre in height, including Ottawa, ON, Mississauga, Oakville, ON, Saint Catharine’s, ON, and Waterloo, ON.**

Hybrid Height Model of 77-centimetre in Visibility Triangles and 1-metre Elsewhere.

Thunder Bay could adopt a hybrid height model to balance visibility concerns with the benefits of taller plants. This model would set a general maximum growth height of 1-metre on most boulevards, with a reduced maximum growth height of 77-centimetre in visibility triangles, such as near intersections. **I provide the city with 10 examples of cities using a hybrid height model.**

Setting the maximum growth height at 77-centimetre in visibility triangles would also align with the city's current fence height regulations, as shown in this diagram from our Fence Bylaw:



Technical Planting Standard for Setbacks, Access, and Mobility.

Boulevards are shared public spaces. Guidelines should suggest that when designing boulevard gardens, one must consider how workers, pedestrians, vehicles, and snow removal operations will be affected by vegetation, which may vary depending on the neighbourhood.

Some key considerations:

1. Design for movement along boulevard edge where no sidewalk exists, and where cars park along the road edge, ensure adequate clearance to open and close doors (e.g., 60cm in Saskatoon, SK).
2. Design for sidewalk/driveway snow-clearing and reduce trip hazards in high-traffic zones by selecting and arranging plants to avoid encroachment over travelled portions of the road or sidewalk (e.g., shorter plants along edges helps prevent flopping) and by incorporating shrub setbacks along driveways and on either side of a sidewalk.
3. Some cities suggest to add periodic gaps or stepping stone pathways across long gardens to allow movement between street and sidewalk.
4. Consider additional height restrictions around fire hydrants (e.g., 45cm in Saskatoon, SK) for clearance and visibility, with only herbaceous plants in the 1.5m setback area, to prevent tripping day or night and to accommodate snow removal operations.

5. Consider suggesting residents leave a space for recycle bins. Guelph suggests two 60 by 75cm patio stones.

60-centimetre Height Limit Excludes 211 Ontario Native Plant Species.

The proposed 60cm height limit would exclude 211 Ontario Native Plant species from boulevard gardens. These important plants, including milkweed, the specific plant that is needed to support the rapidly declining Monarch butterfly, are needed for creating pollinator habitat. Hundreds of additional attractive, non-native ornamental plants which would also be excluded. Raising the height limit to 1 metre would significantly expand the diversity of boulevard plantings, promoting biodiversity and creating more resilient green spaces.

1 metre Height Boosts Climate & Biodiversity Benefits 67 Percent.

Increasing the maximum growth height to 1 metre might seem like a small change, but now is not the time for a conservative approach. Consider the significant benefits that an additional 67% in vegetative growth can provide, both above and below the soil:

1. Biodiversity

A higher maximum growth height allows for broader variety of plant species, fostering a richer and more diverse plant community. According Xerces and the Monarch Joint Venture, current research suggests that enhancing the diversity and abundance of wildflower habitat on roadsides reduces pollinator mortality. A 60-centimetre limit excludes many options, including essential species like various milkweeds, goldenrod, aster, grasses, Black-Eyed Susan, Purple Coneflower, Blue Vervain, Cardinal Flower, Liatris, and many more.

2. Stormwater Management

Taller plants with deeper root systems can absorb more stormwater, reducing runoff during heavy rain.

3. Carbon Sequestration

Larger root systems mean more carbon sequestered below ground, contributing to climate change mitigation.

4. Air Quality & Heat Mitigation

Taller plants with greater leaf surface area are more effective at filtering air pollutants and reducing the urban heat island effect.

5. Support for Pollinators & Wildlife

Allowing taller plants increases nectar and pollen available for pollinators, food for plant-eating insects, food for insect-eating birds, enhancing overall ecosystem support.

1-metre Height Boosts Food Growing and Aligns with Policy.

For years, residents have successfully grown edible boulevard gardens with food crops that exceed the proposed 60-centimetre maximum growth height. This restrictive limit threatens food security by excluding essential crops like tomatoes, sunflowers, corn, dill, climbing beans, peas, potatoes, squash, zucchini, and cucumbers, and more. Food plants are being supported by hoops, trellises, or poles that stand over 1-metre, without obstructing sightlines or posing

safety concerns. However, the proposed Bylaw's strict height rule for all boulevards, regardless of where visibility is an actual issue, and universal ban on hard structures would significantly hinder the ability to grow food in boulevard gardens, is a concern.

The City's Official Plan recognizes the importance of local food production, stating, "The City will seek to increase residents' access to nutritious, safe, and healthy local food, while increasing opportunities for residents to grow and raise their own food." To align with this policy, the maximum growth height should be raised to at least 1-metre, or even higher where appropriate. For example, Guelph, ON, provides a flexible model allowing city staff to approve plant height exceedances without an encroachment agreement, provided sightlines remain unobstructed. Guelph also offers design suggestions to "keep taller plants toward the centre of the garden, and stake them if they droop." Similarly, Saskatoon, SK, permits plants, objects, and raised garden planter boxes up to 1-metre in height. This flexibility supports food-growing efforts while ensuring public safety.

If Thunder Bay were to adopt similarly flexible and situational regulations, residents could grow a wider variety of food crops, enhancing food security and supporting urban agriculture. Height limits and restrictions should be evaluated based on actual safety risks, and situational allowances should be made for food-growing purposes, ensuring that residents can maximize the benefits of boulevard gardening without unnecessary constraints.

Rethinking Plant Height Limits to Allow Natural Growth Height.

Thunder Bay residents routinely face visibility challenges while navigating around towering snowbanks for half the year, some exceeding 1.8-metres. Yet the proposed Bylaw suggests that flowers taller than 60-centimetres on the boulevard pose a deadly hazard. This raises important questions, such as "Are plants as dangerous as snowbanks, which completely obstruct views and movement but are tolerated as a natural part of winter?" and "Are we misjudging the real risks posed by plants?"

Obviously, sightlines must be maintained for safety, especially at intersections. It is not my intention to suggest gardens should be allowed to impede sightlines like snowbanks, parked cars, and other roadside objects are doing daily. However, there is a clear disconnect from reality here, which assumes a worst-case scenario without considering the true characteristics of plants, or the capability of drivers and pedestrians to navigate complex environments. Given that residents safely navigate around snowbanks taller than their vehicles, proposed regulations seem overly cautious. Vegetation is dynamic and less visually obstructive than solid objects. Plants like Purple Coneflower and Milkweed sway in the breeze, allowing partial visibility even at heights of 1-metre or more. Their motion doesn't obstruct views, it enhances visibility by drawing attention to the surrounding area, perhaps even making it easier to spot hidden objects.

In 25 other municipalities, taller plants are growing safely in boulevards. 7 million people safely live, work, and play around boulevard vegetation that grows up to 1-metre in height. This proves that raising the maximum growth height to 1-metre is not only feasible, but would pose little to no risk to drivers or pedestrians.

Rather than imposing arbitrary restrictions on urban greening and agriculture efforts, the city should focus on balanced, situational rules that address genuine risks. For example, hybrid sightlines at intersections. A height limit of 10-metre, as evidenced by practices in other cities,

would not only support our goals for urban agriculture and biodiversity, but would also align with common-sense safety measures. Currently, the proposed regulations are out of step with both reality and progressive urban planning and need to be addressed in a pragmatic way.

Section 5. Allow Shrubs.

Permit Shrubs Within Height Limits.

Small woody plants that comply with the maximum height limit should be permitted on boulevards, or allowed to grow higher if sightlines are not a concern. Many native shrubs and creeping woody species are particularly well-suited to thrive in the challenging conditions of boulevards. **I provide the city with twenty examples of cities that allow shrubs on boulevards**, including Coburg, ON, Guelph, ON, Kitchener, ON, London, ON, and Oakville, ON.

Potential Compromises for Setbacks, Locations, and Height.

These compromises are offered for your consideration in order of potential suitability. Before implementing stricter regulations for shrubs:

1. Consider introducing setbacks specifically for shrubs, as in Kitchener, ON. General setbacks for shrubs, such as 30-centimetres from the sidewalk and 60-centimetres from the curb, allow for snow clearing and access along sidewalks or when opening car doors at curbs.
2. Suggest woody shrubs be placed in the centre of a boulevard, similar to Guelph, ON, where taller plants are placed in the middle of the garden. The dense rose bush in the image below is situated furthest from the curb and intersection, with an airy, see-through shrub closer to the corner where the two roads intersect.
3. Impose a further height limit as in Barrie and Centre Wellington. This compromise is not recommended.



Section 6.

Allow Gardens and Indigenous Plants in Setback and Restricted Areas.

Boulevard Restricted Areas

Focus on Roadway Encroachments, Not Gardening.

Remove the “Boulevard Restricted Area” to equalize potential garden size and ensure everyone has access to garden in the space that is available. Permit gardening up to the road edge where there is no curb, focusing restrictions only on conditions that pose genuine safety risks. For example, Markham, ON requires that “materials do not encroach over the roadway” while Winnipeg, MB, similarly mandates that vegetation “not interfere with the movement of vehicular or pedestrian traffic.” Incorporate similar language to focus on actual encroachments rather than restricting gardening and turfgrass alternatives, allowing all neighbourhoods to maximize benefits from gardens, curb or no curb.

Inconsistent Roadway Setback Policies.

Roadway setback policies vary widely from city to city, often favouring turfgrass, which raises questions about their basis in health and safety. For instance, North Vancouver, BC, enforces a 2-metre setback, and Oshawa, ON, requires 1.8-metres. In contrast, Ottawa, ON, and Cambridge, ON, allow gardening “right to the edge” of the roadway. These inconsistencies, along with the mandate for turfgrass use where Indigenous plants are prohibited, is problematic and should be addressed.

Road Edge Setbacks Reduce Garden Size.

Limiting vegetation within 1-metre of roadways to turfgrass overlooks the biodiversity and climate benefits of indigenous plants and limits space for food production. This rule could **significantly reduce gardening space in narrow boulevards**. It is inequitable that in neighbourhoods without curbs one’s boulevard garden size is limited, compared to neighbourhoods with curbs where gardens can extend “right to the edge.”

Slopes and Ditches.

Focus on Water Flow in Slopes & Ditches, Not Gardening.

Permit garden plants and turfgrass alternatives in slopes and ditches as long as proper water flow is maintained. This can be achieved through regulatory language that specifically addresses water flow obstruction. **I provide four examples of cities that target interference with water flow rather than restricting gardens**, including Oakville, ON, Sarnia, ON, Mississauga, ON and Kelowna, BC. These cities use language like, “Plant material shall not interfere with proper water flow,” and, “Plant material shall not interfere with proper water flow or proper draining, including but not limited to within roadside ditches and drainage swales.”

Charter Challenge Ruling Affirms Right to Garden in Ditch.

In the Ontario Superior Court case **Counter v. Toronto (2002)**, Justice Pitt affirmed that gardening on city-owned land within a stormwater drainage ditch is a Charter-protected right limited only by valid safety concerns. Ditch gardens, like the one defended by Douglas Counter, provide stormwater filtering and infiltration benefits. These practices could be integrated into Thunder Bay's **Stormwater Management Plan** with guidelines for maintaining water flow such as cutting vegetation at season's end to prevent buildup, and guidelines preventing erosion such as a requirement to plant densely or to use living groundcovers between larger plants, so as to leave no soil exposed.

Guidelines should align with established court precedent in Ontario, particularly given prior Charter rights challenges, to ensure consistency with legal rulings that protect residents' rights. A Bylaw which disregards the highest law of the land, alongside mandates for turfgrass use, coupled with baseless, Indigenous plant prohibitions, raises serious concerns and should be addressed. Gardens such as the one in these two images, built on steep slopes, would be completely prohibited under the proposed bylaw, despite the fact that they help to slow, filter, and absorb over-land stormwater before it even reaches the ditch or street, and provide no visibility issues.



Fire Hydrants, Utility Poles, and Electrical Boxes.

Focus on Infrastructure Access in Setbacks, Not Gardening.

Permit turfgrass alternatives in setback areas around fire hydrants, utility poles, and electrical boxes, restricting only conditions that affect access. For example, residents can maintain access by ensuring "clearance" around these structures. **I provide eight examples of cities that allow gardening around these features in setback areas, or which have no setback requirements**, including Cambridge, ON, Guelph, ON, Markham, ON, Mississauga, ON, and Oakville, ON. Language used includes "plants must not obscure or obstructed access to fire hydrants, post office boxes, or other installations," and, "fire hydrants must be easily visible and

accessible from both the street and the sidewalk. Maintain clearance to ensure that plants do not interfere with the operation of the hydrant.”

Inconsistent Infrastructure Setback Policies.

Vegetation height limits in setbacks can vary widely, from total bans on gardening activities and turfgrass alternatives, to allowing low-growing plants or pathway materials, or specifying height limits ranging from 15-centimetres to 45-centimetres, while some cities have no setbacks at all and simply require “clearance.” These inconsistencies, along with the mandate for turfgrass use where Indigenous plants are prohibited, is problematic and should be addressed.

Technical Planting Standards to Provide Situational Allowances.

To safeguard workers and gardeners while ensuring access and clearance, a technical planting standard developed by the Parks and Open Spaces Division could allow low-growing turfgrass alternatives in setback areas with the following considerations:

1. Fire Hydrants

To ensure quick and easy access to fire hydrants, limit the height of vegetative growth within a 1.5-metre radius to 45-centimetres, as in Saskatoon, or simply state that **clearance** must be maintained. Given the additional snow clearing activities around fire hydrants, often involving machinery, and the need for urgent access night or day, a restriction on all objects, structures and shrubs within 1.5-metre of any fire hydrant would ensure safe snow removal and eliminate potential tripping hazards. The image below depicts a local example of low-growing herbaceous plants around a fire hydrant.



2. Electrical Boxes

Before starting any digging, guidelines should direct residents to contact OntarioOneCall.ca, and should additionally warn residents that locates may not always be 100% precise and therefore care should be taken when gardening near any electrical boxes. Extra caution and safety measures can be taken, such as in Edmonton where digging is limited in depth and only done with a hand trowel. To ensure easy access to electrical boxes while still allowing for aesthetic enhancements, consider limiting vegetation for 1.5-metres in front of an electrical box to herbaceous plants of 1-metre maximum height, while still allowing shrubs, objects, and structures to be incorporated behind and beside electrical boxes.

3. Hydro Poles

Before starting any digging, guidelines should direct residents to contact OntarioOneCall.ca, and should additionally warn residents that locates may not always be 100% precise and therefore care should be taken when gardening near any hydro poles. Extra caution and safety measures be taken, such as in Edmonton where digging is limited in depth and only done with a hand trowel. It is doubtful that additional limits on variety or height of vegetation, objects and structures would be necessary around hydro poles.

Acknowledge Frequent Disturbances.

Oakville highlights the likelihood of frequent excavation in setbacks areas. This warning should be included in a user-friendly gardening guideline so residents understand setback areas face frequent disturbance, and can plan and design gardens accordingly.

Boulevard Trees.

Focus on Tree Health, Not Gardening.

Requiring turfgrass setbacks around trees is counterproductive as turfgrass naturally grows tall and requires constant mowing and trimming. This action compacts the soil and regularly exposes trees to harm. Mower blades can shave shallow or exposed tree roots, and trimmer damage to bark around the lower trunk can lead to girdling that hinders nutrient uptake and affects tree health. A better approach is to allow residents to replace turfgrass with low-maintenance, perennial plants which grow to the proper height and don't require any mowing or trimming. **I provide nine examples of cities protecting tree health rather than restricting gardening activities**, including Coburg, ON, Guelph, ON, Oakville, ON, Edmonton, ON, and Saskatoon, ON. Additionally, trees are already protected under the city's Tree Protection Bylaw.

Technical Planting Standards for Tree Protection.

The city can use boulevard gardens to protect trees by allowing residents to replace turfgrass with low-maintenance perennial plants, which grow to the proper height without the need for mowing or trimming. To further safeguard trees, the Parks and Open Spaces Division could develop technical planting standards that specify the following:

1. **Perennial Planting Only**

Allow only perennial species, which regrow in the spring each year, within 1-metre of any boulevard tree to reduce root disturbance. I could find no examples of this provision elsewhere, but it makes so much sense I have included it as a suggestion.

2. **Low-Impact Digging**

Permit only low-impact hand digging to shallow depth. For example, in Edmonton the maximum digging depth is 5.1-centimetres using hand trowels only.

3. **Tree Protection Zone**

As outlined in the Thunder Bay **Parks Standards and Specifications for Tree Planting** guide, the **Tree Protection Zone**, extends to the dripline of the canopy or a

minimum of 3-metres from the trunk. In this area, residents must carefully hand dig to avoid disturbing or damaging roots. Edmonton provides a weblink to calculate a tree's diameter for this purpose.

4. **Soil Amendment Depth**

Limit soil amendment depths above tree roots. Cities like Regina, Vancouver and Victoria allow soil amendments depths of up to 10-centimetres.

5. **Planter Box Setback**

Specify a setback for garden planter boxes from trees, such as in Saskatoon where raised beds are not allowed within 60-centimetres of street trees. While Saskatoon also prohibits the placement of edging or borders on or around trees, consider that many residents have already installed boxes or barriers around boulevard trees to protect them from mowers and trimmers. If a planter box setback were required, or borders around trees were restricted, it may be appropriate to arrange a site visit by trained Parks and Open Spaces management or supervisory staff to confirm a border is actually harmful before removal.

6. **Materials Near the Trunk**

Soil, mulch, and other materials should not be in direct contact with the tree trunk. Additionally, no signs, trellises, or other structures should be attached to trees, following guidelines similar to those in Regina, Vancouver, and Victoria.

7. **Protection for New Trees**

Extra protections for newly planted trees are important. For example, Oakville restricts all plants, including turfgrass, within 50-centimetres of a tree for the first two years. Thunder Bay's Urban Forestry Section's tree planting notification letter encourages the use of mulch over the root zones during the first 3 to 5 years after planting.

8. **Soft Landings**

Growing a community of plants beneath trees, known as **soft landings**, supports tree longevity by retaining soil moisture, preventing erosion, and providing habitat for beneficial insects that spend part of their lifecycle in the canopy and part in the soil below.

Align Bylaw with City Practice by Using Gardens to Protect Trees.

City staff have recently **discontinued mowing and trimming around all park trees to protect their health**, recognizing that turfgrass maintenance puts valuable city assets at risk. However, the draft bylaw contradicts this shift in practice by allowing only turfgrass within a 1m radius of all boulevard trees and requiring residents to maintain this grass at 20-centimetres in height, forcing them to bring machinery into the middle of their boulevard garden to mow small patches of turf. This approach puts these assets at constant risk of damage and is impractical from a gardener's perspective. Below are two images of trees that have mechanical damage from maintenance of the turfgrass boulevard where they grow.



Instead, as the city's **Urban Design & Landscape Guidelines** recommend, "large mulched planting beds around tree plantings can also be considered instead of grass." Allowing residents to peel back turfgrass from the base of trees and replace it with low-maintenance perennial gardens protects trees from harm. This approach aligns with sustainable urban greening practices and supports boulevard trees to thrive while enhancing biodiversity, reducing water use, retaining soil moisture, and minimizing upkeep demands.



Future Tree Planting and What Gardeners Should Know.

As the number of boulevard gardens in Thunder Bay continues to grow, it is important that the city provide a clear and direct communications regarding future tree planting. Trees and the urban canopy are valuable city assets, and the presence of a boulevard garden will not prevent the city from planting trees in these spaces which can displace garden plants. It should be emphasized in a user-friendly guideline that the city reserves the right to plant a boulevard tree, which may impact a garden's design, the amount of light it receives, and the types of plants allowed. For example, if a guideline specifies that only perennials may be permitted within 1-metre of a tree, then annuals would be excluded.

MEMORANDUM (Draft V.4)



TO: Krista Power, City Clerk
FROM: Councillor A. Foulds, Chair – EarthCare Advisory Committee
DATE: [DATE]
RE: Proposed Boulevard Garden and Maintenance By-Law

Boulevard gardens are considered a type of Green Infrastructure. They encourage biodiversity, conserve water, improve stormwater retention, increase drought and erosion resistance, reduce heat-island effects, reduce fertilizer and pesticide usage, promote climate resiliency, decrease emissions, and promote mental health and wellbeing. As such, this memorandum identifies how the proposed Boulevard Garden and Maintenance By-Law aligns with the City’s Net-Zero Strategy, Climate Adaptation Strategy, and Stormwater Management Plan.

Net-Zero Strategy

Boulevard gardening directly impacts the following objectives and priority actions outlined in the Net-Zero Strategy:

- **Objective 2:** Thunder Bay’s forests and greenspaces are protected and provide essential ecosystem services (p. 30).
- **Priority Action, Focus Area A.5:** Identify mechanisms that provide incentives for the preservation, establishment and maintenance of green infrastructure (p. 76).

Climate Adaptation Strategy

The adoption of the proposed Boulevard Garden and Maintenance By-Law also meets the following goals and actions outlined in the Climate Adaptation Strategy:

- **Goal 5:** Foster Resiliency of the City’s Natural Landscape to Ongoing Changes in Climate (p. 32).
- **Action 5.2 c:** Develop policies and bylaws to protect existing and prioritized natural areas (p. 40).

Stormwater Management Plan

Finally, the Stormwater Management Plan states that “Green infrastructure, Low Impact Development and integrated site design are examples of adaptation strategies that provide additional capacity within the existing stormwater management system” (p. 74). Furthermore, “[o]ne of the ‘low hanging fruit’ options identified through this plan is to harness the potential of underutilized publicly owned lands” (p. 74).

This sentiment is directly expressed by the following goals and objectives:

- **Goal:** The City's surface water, groundwater and natural resources maintain their ecological integrity and provide their original level of function and value (p. 92).
- **4.6.1 (Objectives – Regulatory Language):** Examine policies and regulations...that can aid in enhancing the natural environment and community greening beyond current policies, including policies that support: [e]nhanced forested areas, particularly types of forests that are at risk of being lost by inventorying the amount of forested cover and reviewing the establishment of a specified forest cover target; [and] establishment of community greening projects (p. 111).

As such, the EarthCare Advisory Committee endorses the proposed Boulevard Garden and Maintenance By-Law, knowing it will move the City closer to meeting its goals and objectives under the City's Net-Zero Strategy, Climate Adaptation Plan, and Stormwater Management Plan by increasing biodiversity in urban areas and fostering place-based belonging through community building.

Sincerely,

[SIGNATURE]

Councillor A. Foulds, Chair
EarthCare Advisory Committee

cc. [NAME], [TITLE] – [DIVISION]
[NAME], [TITLE] – [DIVISION]
[NAME], [TITLE] – [DIVISION]

CLIMATE CHANGE ADVISORY COMMITTEE

TERMS OF REFERENCE

1. Name of Committee

The Advisory Committee shall be named the “Climate Change Advisory Committee”. The accepted acronym will be CCAC.

2. Land Acknowledgement

We acknowledge the land this Advisory Committee gathers on. The members of our committee are honoured to live, work, and play in Thunder Bay, on Anishinaabe lands within the Robinson-Superior Treaty of 1850 and on the traditional territory of Fort William First Nation. We also acknowledge the contribution of the Métis and Inuit to our community.

These lands and waters provide for our community, and we are grateful to the original caretakers and stewards that have continuously worked for the gift of healthy soil, air, and water so that we can live good lives. However, we have been quick to justify the erosion of these gifts in pursuit of other goals.

The climate crisis is a symptom of our fractured relationship with the land and its gifts. Our Advisory Committee believes that it is through advocacy and action that we can reconcile with the land and with each other, not only to ensure the health and prosperity of these lands for future generations, but to repair and strengthen our relationship with all our relations.

We are eager to walk the path of healing and commit to nurturing good relations with the land, water, sky, and all our relations that call this area home.

3. Vision

To achieve climate justice for all by inspiring urgent climate action that incorporates western science and traditional ecological knowledge.

4. Mandate

The Advisory Committee has been established by Council to examine, advise, report on, and recommend initiatives of the City as it relates to climate change and environmental sustainability. This includes monitoring progress on the City’s response to the Climate Emergency Declaration and the net-zero greenhouse gas (GHG) emissions target pledged by City Council.

The Advisory Committee will:

- Provide expertise and advice to City Council and Administration to influence sustainable community development;
- Inspire environmental exceptionalism within the Corporation and community;
- Place value on diverse perspectives and reconciliation;
- Engage and inform the community; and,
- Create a climate just future for all.

5. Deliverables

- a. Minutes of monthly meetings of the Advisory Committee;
- b. Record of proactive advice on strategic direction and advocacy provided to City Council and Administration;
- c. Record of letters of support for Corporate and community-led projects that address climate change and environmental sustainability; and,
- d. Annual presentation on Council and Corporate integration of climate change considerations in new or proposed infrastructure projects, policies, programs, and services.

6. Committee Membership

Committee Composition

The Committee is comprised of one (1) Member of Council appointed by resolution of Council and eight (8) members of the community at-large appointed by resolution of Council.

Every effort should be made to establish balanced representation of diverse voices and stakeholders in Thunder Bay. As such, the application form for Citizen Representatives will ask for identifiers from all of the following:

- The academic community, focusing on research and innovation on climate action;
- Regulated health professionals, with a focus on public health;
- Community/citizen members with either education or lived experience with climate and/or social issues;
- Local Indigenous organizations and/or communities;
- Industry/Business members that represents the industrial, buildings, financial, or transportation sectors. An additional attribute would include members that can mobilize and/or communicate with industry and businesses across Thunder Bay;
- Non-Government members that can represent the environmental and social issues related to climate change. An additional attribute would include

- members that can mobilize and/or communicate with other organizations and community groups across Thunder Bay; and,
- Youth with either experience, passion, or lived experience with climate change issues who is 30 years of age or younger at the start of the term of this Committee.

In addition, the Committee shall strive to meet the Government of Canada’s [50-30 Diversity Challenge](#) objective:

- 50% gender diversity (women and/or non-binary people); and,
- 30% representation from equity-deserving groups, such as:
 - BIPOC (Black, Indigenous, Person of Colour) and/or Racialized community members;
 - People with disabilities; or,
 - 2SLGBTQIA+ community members.

Term of Office

Community members of the Committee will be appointed to staggered four-year terms to ensure overlap of terms and continuity of experience. Council representatives shall be appointed for their elected term at the discretion of City Council. Committee members may reapply upon expiration of their term through the public application process. There is no limit on the number of terms a member may hold consecutively.

Vacancies

When vacancies arise, appointments to the Committee shall be made by a public application process coordinated by the Office of the City Clerk.

7. Roles and Responsibilities

Commitment of Advisory Committee

Members of the Committee shall endeavor to work collectively to achieve the vision and mandate of this committee. Members shall make themselves familiar with the Committee’s Terms of Reference.

General expectations for all members include:

- Commitment to attend meetings and actively participate in respectful discussions;
- Review data and information presented by City Staff and other sources of trusted climate change information to make informed decisions and recommendations;

- Pro-actively identify emerging issues and solutions to bring forward to the Committee to support discussions and recommendations;
- Share, lead, and mobilize their respective communities and sectors to accelerate climate action by reducing GHG emissions and building climate resiliency; and,
- Monitor the integration of climate change considerations in Council decision-making.

Members are expected to attend all regularly scheduled meetings of the Committee, advising the Committee Clerk in advance of any absence. Should a member fail to attend three consecutive meetings, their appointment to the Committee will be subject to review.

Chair/Vice-Chair/Co-Chair

Members will, from amongst themselves, select and appoint a Chair for the Committee whose role it will be to preside over the meetings of the Committee and generally provide leadership to the Committee in its activities. The Chair will work with Administration to review agenda items, minutes, reports, and memoranda as required.

The Chair will act as the official Committee spokesperson. This includes representing the Advisory Committee on other Committees when necessary and serving as the media contact. The Chair may appoint an appropriate designate to act as spokesperson on their behalf.

In addition, members will select and appoint a Vice-Chair to act on behalf of the Chair in their absence. Alternatively, members may choose to appoint Co-Chairs in lieu of a Chair and Vice-Chair. The selection of the Chair and Vice Chair or Co-Chairs is to be conducted on an annual basis. If the Advisory Committee chooses to appoint Co-Chairs, the duties of the Chair, as outlined above, shall be shared amongst the Co-Chairs with the division of duties decided on an annual basis.

Ad-Hoc Working Groups

Task-specific and time-limited ad-hoc working groups may be established, by vote of the Advisory Committee, to work on specific actions and report back to the Advisory Committee. Community members may be invited to participate. Ad-hoc Working Groups shall not speak on behalf of the Committee and shall report back to the Committee for consideration.

8. Governance

Voting and Quorum

Voting on motions and questions before the Committee, and the general proceedings of the Committee, shall be in accordance with the City’s Procedural By-law (BL 51/2021) for City Council and its Committees. All appointed members have one vote each; a majority is required for an item to pass. Quorum at a meeting shall be a simple majority (five) of appointed voting members.

Where it would benefit the decision-making process of the Advisory Committee, additional voices will be sought and invited to participate in discussion and debate but will have no vote at the Committee. These voices may include, but not be limited to, representatives from stakeholder groups, experts in the topic of discussion, or individuals with lived experience.

Reporting Relationship to Council and Administration

The Committee will report to the Committee of the Whole (Administrative Services Session) through the regular presentation of its minutes for public information. In addition, the Committee may present information, advice, or feedback to Committee of the Whole through memorandums and reports.

When requested, the Committee may also present information, advice, or feedback to Administration through memorandums or alternative engagement tools provided. The Committee shall not have the authority to assign tasks to City Administration.

Terms of Reference

The Committee’s Terms of Reference will be reviewed annually and, if changes are made, presented to Council for approval.

9. Meeting Frequency

The Committee will generally meet monthly, aside from the months of July and August, with a minimum of four meetings per year. Additional meetings may be authorized by the Chair at the request of the Committee or Administration. The date and time of regular meetings of Committee will be reviewed annually and decided on by consensus.

All meetings of the Committee will be open to the public, except when dealing with matters that are deemed to fall within the conditions of a Closed Session Meeting in accordance with *The Municipal Act, 2001*. Closed Session Meetings shall follow the

rules as identified in Section 3.12 – Closed Meetings of the City’s Procedural By-law (BL 51/2021) for Council and its Committees.

10. Resources and Finances

The Committee will be supported by City Administration through the Strategic Initiatives and Engagement Division and a Committee Clerk from the Office of the City Clerk. Given the complexity of climate change, and its intersection with multiple City departments, additional staff resources may be required to help support and provide information to this Committee.

Expenses and other resources for the normal ongoing work of the Committee shall be provided through the Strategic Initiatives and Engagement Division, dependent on Council’s annual budget process. Additional resources will be sought as required.

Members of the Committee will not receive remuneration for their participation.

11. Background and Assumptions

In 2008, Thunder Bay City Council adopted the Community Environmental Action Plan (CEAP) and established the EarthCare Advisory Committee (formerly the EarthWise Advisory Committee) to guide the implementation of the CEAP, and to advise Council on matters pertaining to the EarthCare initiative.

The CEAP was updated and replaced by the EarthCare Sustainability Plan in 2014. Over the next six years, the goals and objectives included in the Sustainability Plan were integrated and embedded into new City plans and strategies, including:

- Thunder Bay Climate Adaptation Strategy, 2015
- Stormwater Management Plan, 2016
- Transportation Master Plan, 2019
- Active Transportation Plan, 2019
- Corporate Energy Management Plan, 2019
- Official Plan, 2019
- Maamawe, Growing Together: City of Thunder Bay Strategic Plan, 2023-2027

The Sustainability Plan included a Corporate and community-wide greenhouse gas (GHG) reduction target of 20% below 2009 levels by 2020. While the Corporation of the City of Thunder Bay achieved this target, emissions increased within the community. These increases highlighted the need for a new approach and work began on a community energy plan late 2019.

In January 2020, City Council declared a Climate Emergency. This declaration was incorporated into the community energy planning process to create the Thunder Bay Net-Zero Strategy. The Net-Zero Strategy was adopted June 2021, and City Council set a community-wide GHG reduction target of net-zero by 2050. Council re-pledged this target in November 2021 by signing on to the United Nation’s Cities Race to Zero campaign.

Recognizing the urgency of acting on climate change, and City Council’s Climate Emergency Declaration, the EarthCare Advisory Committee participated in a consensus workshop to reflect on the Committee’s mandate, vision, and composition. The Committee proposed a name change to better reflect the mandate and vision of the Advisory Committee.

12. Contact

Correspondence and agenda materials are to be directed to the assigned Committee Clerk in the Office of the City Clerk. Each Committee member is asked to make sure that their contact information is kept current with the Office of the City Clerk.

The Office of the City Clerk can be reached by:

Telephone: (807) 625-2230
Facsimile: (807) 623-5468