

**CANADA
PROVINCE OF QUEBEC
MRC VALLEY OF THE GATINEAU
MUNICIPALITY OF CANTON OF LOW**

**REGULATIONS CONCERNING THE USE, PLANNING AND MAINTENANCE OF
THE UNUSED PORTION OF A PUBLIC TRACK AND CONCERNING ENCRYPTIONS
AND ENFORCEMENT ON PUBLIC ROADS AND PLACES - 1**

REGULATION 04-2018

WHEREAS section 19 of the Municipal Powers Act allows a municipality to adopt environmental regulations;

WHEREAS section 59 of the Municipal Powers Act allows a municipality to adopt by-laws nuisance ;

WHEREAS section 62 of the Municipal Powers Act allows a municipality to adopt by-laws security ;

WHEREAS section 67 of the Municipal Powers Act allows a municipality to adopt by-laws to regulate encroachment on a highway;

WHEREAS Council considers it advisable to adopt a by-law concerning congestion and encroachment on public roads and squares and the maintenance of some of these spaces;

WHEREAS a notice of motion was given at a regular session of City Council, with dispensation from 7 May 2018, that this draft by-law would be submitted for adoption and presented;

THEREFORE, it is ordained and determined by the Low Township Municipal Council and the said Municipal Council hereby orders and rules as follows:

ARTICLE 1 - PREAMBLE

The preamble forms an integral part of this Regulation.

ARTICLE 2 - TERRITORY

These Regulations apply throughout the entire territory of the Township of Low.

ARTICLE 3 - INTERPRETATION AND DEFINITION

In the event of incompatibility between two provisions within this Regulation or in this Regulation and another Regulation, the specific provision shall prevail over the general provision.

Where a restriction or prohibition prescribed by this by-law or any provision of it is found to be inconsistent with a more restrictive or prohibitive provision, it shall apply unless there is an indication to the contrary.

Right of way:

Area of land, generally located between the boundaries of the waterfront buildings on each side, on which part of which is arranged one or more lanes open for public use.

The right of way of a public road can be registered or not.

Waterfront building: Private land that is adjacent to the right-of-way of a highway in its front, back or side line.

Line of right of way of a public road line separating the private property from the right of way of a way.

Unused portion of a public road right of way: A portion of the right of way of a highway that is adjacent to a waterfront property in its front, rear or side line and between the right-of-way line of the roadway and the edge of a traffic lane, but which is not used by the township, the Government of Québec or the Government of Canada, as a traffic lane.

The installation or installation authorization by the township, the Government of Québec, the Government of Canada, a public transit company or a public utility company, of surface or underground public utility infrastructures, equipment, structures or structures, other than a taxiway, on part of the right-of-way of an otherwise unused highway, does not constitute "use" within the meaning of the first paragraph of this definition.

Unused portion of the right of way of a highway used by:

Unused portion of the right-of-way of a highway that is located in the extension of the dividing lines of the adjacent waterfront building.

Extension of the dividing lines:

For buildings located on the façade of a right lane, the extension of the dividing line is determined along the perpendicular line to be drawn from the point of intersection of the dividing line between the two (2) neighbouring properties and the right of way from the public road to the edge.

For buildings located on the frontage of a traffic lane with a curve, the extension of the dividing line is determined according to the line to be drawn from the point of intersection of the dividing line of the two (2) neighbouring properties and from the right of way of the public road towards the center of the circle coming from the curve.

Public place :

Parks, streets, beaches, wharves, public parking, public areas under the jurisdiction of the township.

Waterfront owner:

Without restricting the ordinary meaning of the owner, means a natural or legal person, a syndicate, a trust, a patrimony, a society, or any group or association of any natural or legal persons having an interest in a waterfront property in as owner, co-owner, emphyteus, usufructuary, surrogate or liquidator. The obligations imposed on the waterfront owner under this by-law may also be required of the owner, occupant or tenant, as the case may be.

Traffic way :

Any land or structure that is used for the public traffic of vehicles and pedestrians, including the edge of the taxiway, the median, the islands located in the center of the carriageway or separating two lanes and the roadway, including a road, street or lane, a crossing or pedestrian path and a bike path.

ARTICLE 4 - GENERAL PROVISIONS RELATING TO THE USE, PLANNING AND MAINTENANCE OF THE UNUSED PORTION OF A PUBLIC ROAD

4.1 Subject to the rights of the township and the respect of the applicable legislation and regulations, the riparian owner holds, in respect of the non-utilitarian part of the right-of-way of a public thoroughfare situated in the extension of the dividing lines its waterfront property, the same rights and obligations of use, development and maintenance as those prevailing with respect to the waterfront property that it owns.

4.2.1 The exercise by the waterfront owner of the rights and obligations of use, development and maintenance on an unused portion of the right-of-way of a highway must not be interpreted as having as its to deprive the township of the rights it holds over part or all of the right-of-way of a highway and which must, at all times, take precedence over the rights of any person in respect of such right-of-way.

4.3 Despite any other provision of this by-law, every owner of a waterfront property must, at his own expense, construct and maintain all the unused portion of the right-of-way of a public thoroughfare situated along the lines separating the waterfront building which he owns.

4.4 The part of the right of way of a public road used by the riparian owner must be arranged and maintained, by this owner, in a homogeneous way with the rest of his building and in accordance with the provisions of this by-law and the other regulations of the canton. The by-laws of the township shall apply, with the necessary modifications, to the part of the right-of-way of a highway used by the riparian owner, in the same manner and according to the same rules as apply to the part of the waterfront building adjacent to the right of way of a public thoroughfare.

4.5 The shoreline owner may not, at any time and in any manner, modify or otherwise alter the infrastructures, equipment, construction or structures installed or authorized, in the right-of-way of a public road, by the township, the Gouvernement du Québec, the Government of Canada, a public transit company or a public utility company in accordance *with and the applicable laws* regulations and the waterfront owner cannot, at any time and in any way, be held responsible for the maintenance of such equipment, construction or structure.

4.6 In all cases where the execution of work, to be carried out both on a waterfront property and in the part of the right of way of a public road used by the riparian owner, is subject to the obligation to obtain a permit or a certificate of authorization in accordance with the applicable regulations, all of these works may be the subject of a single application for a permit or certificate.

ARTICLE 5 - PROVISIONS RELATING TO DEVELOPMENT

5.1 With the exception of spaces used by the waterfront owner, as vehicular access and private sidewalk, the entire area of the portion of the right of way of a public road used by the riparian owner shall be lined with grass, trees, shrubs or other plants.

5.2 Except for existing plantings conforming to the date of coming into force of this by-law, no tree, shrub or other plant, other than turf, may fill the part of the right-of-way of a public highway used by the owner waterfront within the first three (4) meters calculated from the edge of the taxiway.

5.3 Subject to existing plantings in accordance with the date of coming into force of this Regulation, no tree may fill the part of the right-of-way of a highway used by the riparian owner within the first three (3) meters of the location of a shut-off valve that is part of the right-of-way of a public road used by the waterfront property owner within the first three (3) meters of the location of a fire hydrant.

5.4 The development of the part of the right-of-way of a public road used by the riparian owner shall not, at any time and in any way, constitute a nuisance to traffic or a danger to public safety.

5.5 With the exception of public utility infrastructures, equipment, structures or structures installed or authorized in the right-of-way of a public highway by the township, the Government of Québec, the Government of Canada, a public transit corporation, and a public utility company, no underground or superficial construction other than a private sidewalk, a vehicular access, a carport or temporary garage and a fence, may be erected in the part of the right-of-way a public road used by the riparian owner.

5.6 All developments and constructions carried out by the riparian owner, in the part of the right of way of a public road used by the riparian owner, must be carried out in a homogeneous way to any other part of such installations or constructions located on the building waterfront.

5.7 All improvements and constructions made in the part of the right-of-way of a public road used by the riparian owner must be carried out in such a way that they are not likely to interfere with the various maintenance and snow removal operations. Of the Township in the grip of a public road. No construction may exceed the height of the curb or, if there is no curb, paving, over a distance of one (2) meter calculated from the curb or pavement.

ARTICLE 6 - PROVISIONS RELATING TO MAINTENANCE

6.1 The part of the right of way of a public road used by the riparian owner must be maintained in such a way as to keep it in a good state of health and free from any nuisance in accordance with the applicable municipal regulations.

Without limiting the scope of the foregoing, the Township may require the removal of any tree, or any other necessary maintenance operation, when one or more elements of the riparian owner's development is nonconforming, causing damage capital assets, installations or equipment of the canton or if it becomes dangerous for public safety. If the riparian owner fails to do so himself

within the prescribed time, the township may carry out the work at the expense of the riparian owner.

6.2 Without limiting the scope of the obligations provided for in Article

6.1. The waterfront owner's obligation to maintain includes lawn mowing, pruning, pruning and felling of trees, shrubs and other vegetation found in the part of the right-of-way. a public road used by the waterfront owner.

6.3 The riparian owner is liable for any damage to persons or property resulting from the use of the riparian owner or the breach of his obligations in the part of the right of way of a public road used by the riparian owner.

ARTICLE 7 - OVERALL DIMENSION - OBSTRUCTION IMPAIRMENT

No person shall embarrass, obstruct, encumber or encroach in any manner whatsoever, by means of any article, effect, or vehicle whatsoever or by means of objects or materials of any kind whatever, including snow and ice, some way or public square of the canton.

It is also forbidden to allow trees or vegetation from private property to harm, embarrass, obstruct, encumber or encroach on a public street or public square.

ARTICLE 8 - APPLICATION OF THE REGULATION

The officer designated for the purposes of this Regulation is the Director of the Public Works Department.

The Council may appoint one or more persons, other than the above-mentioned officials, to oversee the application of this Regulation.

ARTICLE 9 - POWERS OF DESIGNATED OFFICIAL

9.1 The officials responsible for the application of this by-law are authorized to have any obstructions, obstructions, encumbrances or encroachments or any nuisance that encroach upon, obstruct, remove or remove, without delay or at the end of a specified period of time or embarrassing a view or a public square by the people who caused them or the owner concerned.

In the event of a refusal to comply with this request within the prescribed time, the designated officer may, without further delay or notice, proceed to the removal of any embarrassment, obstruction or encroachment in a public way or square, including cutting or making cut any branches, trees or vegetation in this respect.

9.2 The designated officer is entitled to visit the site between 7:00 am and 7:00 pm to ensure that the provisions of this by-law are followed.

9.3 The Designated officer may take photographs and any samples they deem necessary to ensure that the provisions of these Regulations are complied with.

9.4 Any occupant of the places visited must receive the designated official or any representative accompanying him.

ARTICLE 10 - DISPOSAL OF PROPERTY

In the case of encroachment or encumbrance in the right-of-way of a road or public square, the canton may proceed to the removal and disposal of the materials if its owner does not remove such encroachments obstructions or obstructions within the time limit set by the canton.

In the case of property placed on the floor, which has been laid on a street or public square, if it is necessary for the township to rent a building or a warehouse for the purpose of preserving such property, the owner shall , before recovering these assets, pay to the township the storage costs representing actual rental costs and the labour required to remove and store such property.

If the person who caused this congestion, embarrassment or nuisance is not known, the canton will be able to dispose of these goods, according to the law.

ARTICLE 11 - PENALTIES

11.1 Any natural person who contravenes one of the provisions of this Regulation how an offence and is liable in addition to the payment of expenses:

- (a) for a first offence, a fine of not less than \$ 400;
- (b) for a first recidivism in the same calendar year, a minimum fine of \$ 800;
- (c) for a second recurrence in the same calendar year, a minimum fine of \$ 1,000;
- (d) if an offence continues, it constitutes a separate offence day by day and the offender is liable to a fine on each day during which the offence continues.

11.2 Every corporation that contravenes a provision of this by-law commits an offence and is also liable for the payment of costs:

- (a) for a first offence, a fine of not less than \$ 400;
- (b) for a first recidivism in the same calendar year, a minimum fine of \$ 800;
- (c) for a second recurrence in the same calendar year, a minimum fine of \$ 1,000;
- (d) if an offence continues, it constitutes a separate offence day by day and the offender is liable to a fine on each day during which the offence continues.

11.3 When pronouncing the sentence, the competent court may, in addition to ordering the offender to pay the fine provided for in the preceding articles, order that the latter take the necessary measures to put an end to the nuisance, obstruction or obstruction and that failure to execute within the prescribed time that such arrangements are made by the canton at the expense of the offender.

ARTICLE 12 - INTERPRETATIVE PROVISIONS

The masculine is used in this regulation without discrimination and includes the feminine in order to avoid a text too heavy.

ARTICLE 13 - ENTRY INTO FORCE

This by-law will come into force after the completion of the formalities enacted by the Act.

Pierre Gagnon
Director General

Carole Robert
Mayor

Notice of motion: May 7, 2018
 Adoption of the draft by-law: May 7, 2018
 Adoption of by-law: May 7, 2018
 Posting of public notice: June 4, 2018
 Entry into force: May 24, 2018
 Resolution: #177-06-2018

THAT the Council adopts the draft by-law proposed by-law 04-2018 concerning the use, development and maintenance of the unused part of the right-of-way of a public road and concerning congestion and encroachment on the tracks and public places.

IT IS MOVED by Conselor Luc Thivierge,

SECONDED by Conselor Ghyslain Robert

		Yes	No	Abstain	Absent
Carole Robert	Mayor	x			
Joanne Mayer	Seat # 1	x			
Maureen Rice	Seat # 2	x			
Lucie Cousineau	Seat # 3	x			
Luc Thivierge	Seat # 4	x			
Roch Courville	Seat # 5				x
Ghyslain Robert	Seat # 6	x			