

STREET

Chapter 842 HEDGES - OTHER OBJECTS TRAFFIC HAZARDS

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Article 1
INTERPRETATION

842.1.1 Corner visibility triangle - defined

“corner visibility triangle” means a triangular area formed within a corner lot by the intersecting highway lines or the projections thereof and a straight line connecting them 7.5 metres from their point of intersection. A corner lot is a lot situate at the intersection of, and abutting, two highways, or parts of the same highway, the adjacent sides of which highway or highways (or in the case of a curved corner, the tangents of which) contain an angle of not more than 135 degrees. By-law 97-23, 3 February, 1997.

842.1.2 Driveway line - defined

“driveway line” means the line forming a boundary between that portion of a lot not normally used by vehicular traffic and the lateral limit of a driveway. By-law 98-141, 21 September, 1998.

842.1.3 Driveway visibility triangle - defined

“driveway visibility triangle” means a triangular area formed within a lot by the intersection of a driveway line and a highway line or the projections thereof and a straight line connecting them 4.57 metres from their point of intersection. By-law 98-141, 21 September, 1998; By-law 2001-240, 10 December, 2001.

842.1.4 Highway - defined

“highway” means a common and public highway and includes a street or lane.

842.1.5 Highway line - defined

“highway line” means the line forming a boundary between a lot and lateral limit of a highway.

842.1.6 Object - defined

“object” means any thing which may obstruct traffic or obscure traffic visibility and, for greater certainty but not so as to restrict the generality of the foregoing, may include any tree, shrub, bush, hedge or lawn ornament, but does not include any fence or sign.

842.1.7 Person - defined

“person” means and includes a corporation and a partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply according to law.

842.1.8 Sidewalk - defined

“sidewalk” means that portion of a highway between the curb line and the property line of the lot abutting the highway improved for the use of pedestrians.

842.1.9 Zoning By-law - defined

“Zoning By-law” means any by-law administered by The Corporation of the City of Kitchener passed pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, or a predecessor or successor thereof, as may be amended from time to time. By-law 98-141, 21 September, 1998.

Article 2 GENERAL PROVISIONS

842.2.1 Object - within corner visibility triangle - height

No person shall erect, construct or situate or permit to be erected, constructed or situated an object exceeding a height of 1 metre (3.2 feet) above the grade of the abutting highway within any corner visibility triangle. The height above the grade shall be measured from the nearest edge of that portion of the highway which is paved for the use of motor vehicles. By-law 97-23, 3 February, 1997.

842.2.2 Hedge - maximum height - distance from highway

No person shall plant or maintain or permit to be planted or maintained a hedge exceeding a height of 1 metre (3.2 feet) above the grade of the abutting highway within any driveway visibility triangle. The height above the grade shall be measured from the nearest edge of that portion of the highway which is paved for the use of motor vehicles. By-law 98-141, 21 September, 1998.

842.2.3 Obstruction - pedestrian - traffic - visibility

No person shall erect, construct or situate or permit to be erected, constructed or situated an object that:

- (a) obstructs normal pedestrian or vehicular traffic on a highway including a sidewalk; or

- (b) obscures clear visibility of normally approaching pedestrian or vehicular traffic on a highway including a sidewalk.

842.2.4 Exceptions - set out

Sections 842.2.1, 842.2.2 and 842.2.3 do not apply to those areas zoned D-1 and D-2 by the Zoning By-law of The Corporation of the City of Kitchener. By-law 97-23, 3 February, 1997.

842.2.5 Remedy by City - owner's failure to comply

Where a person who is directed or required to do a matter or thing in accordance with the provisions of this Chapter does not do so and in the opinion of the Director of Enforcement the costs associated with such matter or thing are not anticipated to exceed Five Thousand Dollars (\$5,000), the Director of Enforcement or his/her designate is hereby delegated the authority to cause the matter or thing to be done and for this purpose to enter or cause the City's employees or agents together with persons accompanying them who are under their direction from time to time to enter in and upon land or structures at any reasonable time for the purpose of causing the matter or thing to be done in accordance with the requirements of this Chapter.

842.2.6 Remedy by City - immediate danger

Notwithstanding Section 842.2.5, if the person who is directed or required to do a matter or thing in accordance with the provisions of this Chapter fails to do the matter or thing and in the opinion of the Director of Enforcement such failure to comply with the requirement or direction poses an immediate danger to the health or safety of any person, the Director of Enforcement is hereby delegated the authority to cause the thing or matter to be done to the extent that in the Director of Enforcement's sole opinion is necessary to remedy the immediate danger to the health or safety of any person and for this purpose to enter or cause the City's employees or agents together with persons accompanying them who are under their direction from time to time to enter in and upon land or structures at any reasonable time for the purpose of causing the matter or thing to be done in accordance with the requirements of this Chapter.

842.2.7 Remedy by City - owner's expense

Where a matter or thing is done in accordance with Section 842.2.5 or 842.2.6, it shall be done at the expense of the person directed or required to do it and the municipality may recover the costs by action or by adding them to the tax roll and collecting them in the same manner as taxes.

842.2.8 Entry to dwelling unit - restriction

Notwithstanding Section 842.2.5 or 842.2.6, any entry to a room or place being used as a dwelling unit shall be in accordance with the provisions of the *Municipal Act, 2001*. By-law 2006-13, 16 January, 2006.

Article 3
ENFORCEMENT

842.3.1 Fine - for contravention

Every person who contravenes any provisions of this Chapter is guilty of an offence and is liable, upon conviction, to a fine not exceeding Five Thousand Dollars (\$5000), exclusive of costs, for each offence, and every such fine is recoverable under the *Provincial Offences Act*.

Article 4
SEVERABILITY

842.4.1 Validity

Each and every of the provisions of this Chapter is severable and if any provision of this Chapter should for any reason be declared invalid by any court, it is the intention and desire of this Council that each and every of the then remaining provisions of this Chapter shall remain in full force and effect. By-law 97-23, 3 February, 1997.