

THE CORPORATION OF THE  
**CITY OF WHITE ROCK**  
CORPORATE REPORT



**DATE:** June 26, 2023

**TO:** Mayor and Council

**FROM:** Jim Gordon, P.Eng., Director, Engineering and Municipal Operations

**SUBJECT:** Encroachment Update

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**RECOMMENDATIONS**

THAT Council:

1. Receive the report dated June 26, 2023, from the Director of Engineering & Municipal Operations, titled “Encroachment Update” for information.
  2. Endorse the concept that new minor low-level plantings and other uses providing community benefit be approved through a Road Alteration Permit (RAP) outlining conditions, details, maintenance, and termination.
  3. Endorse the concept that all new non minor encroachments be covered by encroachment agreements covering conditions, insurance requirements, maintenance, property rental and unilateral termination by the City. That property rental be set initially at \$10 per square foot.
  4. Direct that the concepts discussed in this report are for new encroachments, encroachments related to development, or encroachments affecting projects.
  5. Direct that staff prepare, in consultation with the City Solicitor, bylaw changes for Council approval.
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**EXECUTIVE SUMMARY**

Encroachments are unauthorized infrastructure such as parking pads, landscaping, fences and retaining walls on the City’s boulevard. The City of White Rock has over 4,038 single family parcels and it is estimated that 20% of these properties (approximately 800+ properties) have existing unauthorized encroachments.

Local governments struggle with encroachments for many reasons, including conflicts with planned and current right of way uses, potential liability concerns, equitable public use and enforcement, and restriction of public access to public property.

This report builds on previous Council direction and staff seek Council’s support for approval of the action items to address new encroachments with rental fees albeit with a provision to relax rental fees and provide a simpler permit process where an encroachment provides a community benefit and does not restrict public access to City right of ways.

**PREVIOUS COUNCIL DIRECTION**

| <b>Motion # &amp; Meeting Date</b> | <b>Motion Details</b>   |
|------------------------------------|---|
| 2021-G/L-086<br>September 20, 2021 | THAT The Governance and Legislation Committee direct an amendment be made in regard to encroachments on City land enforcement whereby there be a component included "excluding plants under four (4) feet in height" which would be excluded from being charged a fee for encroachment.<br><p style="text-align: right;"><b>CARRIED</b></p>   |
| 2021-G/L-085<br>September 20, 2021 | THAT the Governance and Legislation Committee endorse the Street and Traffic Bylaw for minor encroachments to be considered on a case by case basis through Encroachment Agreements that set out annual insurance requirements, maintenance, property rental and unilateral termination by the City with property rental rates of \$10/ft be including in the Fees and Charges bylaw.<br><p style="text-align: right;"><b>CARRIED</b></p> |
| 2021-G/L-084<br>September 20, 2021 | THAT the Governance and Legislation Committee endorse, staff continuing to administer the Street and Traffic Bylaw with respect to new encroachments and at the time of redevelopment.<br><p style="text-align: right;"><b>CARRIED</b></p>  |
| 2021-G/L-071<br>July 12, 2021      | THAT the Governance and Legislation Committee direct staff to bring forward a corporate report that reviews the definition of encroachments, consideration of small bushes, irrigation being excluded as an encroachment, if the encroachment bring beauty for the City, as well as any safety/ legal concerns.<br><p style="text-align: right;"><b>CARRIED</b></p>   |
| 2019-528<br>November 18, 2019      | Directs staff to continue to administer the Street and Traffic Bylaw with respect to new encroachments as well as at the time of property redevelopment.  |

**INTRODUCTION/BACKGROUND**

On November 18, 2019, Council directed that staff continue to administer the Street and Traffic Bylaw with respect to new encroachments as well as at the time of property redevelopment. The Governance and Legislation Committee endorsed this same direction on September 20, 2021.

On September 20, 2021, the Governance and Legislation Committee endorsed the concept that for approval of minor encroachments, encroachment agreements be considered which include rental fees. Further, the Governance and Legislation Committee directed for encroachments that comprised of plants under four (4) feet in height, rental fees be excluded.

**CURRENT SITUATION**

The common situations where work is carried out on City right of ways are:

1. Road Use Permit (RUP) – These permits are issued when the right of way is used temporarily for construction hoarding, concrete truck access, moving vans etc. Rental fees are collected.
2. Road Alteration Permit (RAP) – These permits are issued when there are alterations to the right of way, such as a driveway access, and one time permit fees are collected.

3. Encroachment Agreements – There are some encroachment agreements for walls and other structures on the right of way and. There are currently no annual fees.
4. Unauthorized Encroachments – Staff pursue removal of new unauthorized encroachments as they occur, or if they affect projects. Most are removed without litigation; however, some have proceeded through to litigation.

The authority for use of the right of way is provided through the Street and Traffic Bylaw 1529. The bylaw must be updated and subsequently approved by Council if procedure changes, including rental fees, are introduced.

### **DISCUSSION – NEW PROPOSAL**

Revisions to the Street and Traffic Bylaw and the Fees and Charges Bylaw will need to be made to update methodology for permitting minor encroachments. These revisions and the new process should be based on principles of fairness and equity to all residents.

#### **Principles**

The basic principles to be considered are:

- That City right of ways are for the benefit of all residents, not just adjacent property owners.
- If the public benefit is reduced through adjacent property owner usage, then it is reasonable that the City charge a rental fee to compensate residents.
- There can be cases where low level plantings “beautify” the City and balance the loss of public amenity resulting from moderately restricted public access.
- Provision needs to be made for removal of any encroachments should the City deem this necessary for pending projects, lack of upkeep, or other reasons.

A quick review of other BC local governments shows most have bylaws restricting encroachments; however, there is a wide range in enforcement. Ontario local governments generally have more defined processes with clear encroachment procedures, including encroachment agreements.

Staff propose establishing the procedures outlined below and to work with the City Solicitor to draw up the appropriate documents and to revise the Street and Traffic Bylaw accordingly. This new process will initially apply only to encroachments that:

- are newly installed,
- proposed,
- related to new development or
- affecting infrastructure projects.

#### **Minor Low Level Plantings and Other Uses Providing Community Benefit - RAP**

Staff propose to expand the current RAP permit process currently being used primarily for new developments.

Where proposed minor low-level plantings “beautify” the City and cause minimal loss of public amenity, a RAP may be issued subject to criteria outlined in the permit application including maintenance and unilateral termination by the City. Permit requirements will include planting types, setbacks and heights.

A second situation where a gravel parking pad has been installed providing a community benefit, a permit would clearly specify that the parking pad is for community use and conditions including material type, maintenance and drainage would be stipulated. Termination conditions removing entitlement would be clearly specified in the permit.

Staff propose there be two types of RAP:

1. Redevelopment RAP – Current standard RAP for driveway connections expanded to include minor encroachments as outlined above. Current onetime fee is \$743.
2. Non redevelopment RAP – For situations where minor encroachments, such as those outlined above, are requested by a property owner. Proposed onetime fee is \$743.

### **All Other New Encroachments**

All other new encroachments may be permitted subject to criteria outlined in the encroachment application including annual insurance requirements, maintenance, property rental and unilateral termination by the City.

There would be an initial encroachment fee to cover staff and legal cost plus the first annual rental fee. The agreement would be updated annually to confirm insurance and annual rental rate.

### **FINANCIAL IMPLICATIONS**

The additional staff time required to manage and administer the new process will need to be monitored. If additional resources are required, it could potentially be funded from the encroachment agreement rental fees.

Given that a sample of land values in White Rock for 2020 ranged from \$180/ft to \$200/ft with a low return on investment (ROI) of 5%, annual rental rates of approximately \$10/ft could be considered. For example, a rental rate for a two foot encroachment on a 66ft lot would be approximately \$1,300 per year. Fees for subsequent years could be updated subject to Council approval of the concept.

### **LEGAL IMPLICATIONS**

The City Solicitor will be consulted on all Street and Traffic Bylaw changes and permit changes.

### **COMMUNICATION AND COMMUNITY ENGAGEMENT IMPLICATIONS**

Staff will provide an update on the City Website and social media.

### **INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS**

Engineering and Municipal Operations will lead the process, but there will be involvement from other Departments.

### **CLIMATE CHANGE IMPLICATIONS**

Plantings on boulevards may have environmental benefits over turfgrass.

### **ALIGNMENT WITH STRATEGIC PRIORITIES**

The proposed updated encroachment policy aligns with Community – “We foster a livable city with connected residents enjoying distinctive places and activities.”

**OPTIONS / RISKS / ALTERNATIVES**

Continuation with the status quo does not address the needs of residents who may wish to install low level plantings or other minor encroachments to beautify or improve their neighbourhood. The status quo also does not address the need for equitable compensation to the community from those encroaching on City right of ways and limiting public amenity of the right of way.

**CONCLUSION**

Staff propose new methods for addressing new encroachments on City right of ways. For minor encroachments, a modified Road Alteration Permit that addresses encroachment conditions, details and termination can be developed. More significant new encroachments can be addressed through encroachment agreements that include conditions, insurance provisions, maintenance, rental and termination. Staff seek Council's endorsement of the proposed changes for new encroachments, encroachments related to development, or encroachments affecting city projects, in consultation with the City Solicitor, in the development of new or revised bylaws for Council's approval.


Respectfully submitted,



Jim Gordon,  
Director, Engineering & Municipal Operations

**Comments from the Chief Administrative Officer**

I concur with the recommendations of this corporate report.



Guillermo Ferrero  
Chief Administrative Officer