

MANAGEMENT REPORT

Date: July 14, 2025
To: Infrastructure, Transportation and Safety Committee
From: Vicky Trotter, Council Committee Coordinator
Report Number: ITS25-015
Attachments: Encroachment Application for 40 Daly Avenue Management Report
ITS25-012

Title: Update on the Encroachment Application for 40 Daly Avenue

Objective: To consider the additional information obtained for the application for an encroachment at 40 Daly Avenue and to seek direction from Council.

Background: At the June 25, 2025 Infrastructure, Transportation and Safety Sub-committee meeting, staff advised Sub-committee that additional information had been provided on the encroachment application at 40 Daly Avenue which needed to be reviewed.

The information related to the gardens proposed for inclusion in the encroachment agreement and whether they complied with the provisions of the Fence and Hedge By-law.

Analysis: With respect to gardens, the Encroachment Policy states that an encroachment agreement for gardens on a road allowance is not required provided that the garden complies with the Fence and Hedge By-law.

The Fence and Hedge By-law states it is lawful for a person to plant and maintain planting material, excepting a tree(s), hedge(s) or a shrub(s) on the boulevard provided that:

- i. such planting material does not exceed 0.6 metres from the top of the curb or municipal sidewalk;
- ii. in the opinion of the by-law enforcement officer such planting material does not obstruct pedestrian or vehicular traffic;
- iii. in the opinion of the by-law enforcement officer such planting material does not obscure clear visibility approaching pedestrian or vehicular traffic; and

- iv. in the opinion of the by-law enforcement officer such planting material does not obstruct municipal operations.

Staff from the Building Division completed an inspection and determined that the flower beds are located within the right of way and exceed 0.6m in height above the adjacent sidewalk. This means that the flower beds require an encroachment agreement as they do not comply with Section 5.13.(i) of the Fence and Hedge By-law.

The initial report has been included as an attachment to provide full background and analysis on the requested encroachments.

Options for Consideration

As identified in the attached report, the options presented are:

1. Deny the request for an encroachment which would result in the owner having to remove the flower beds, retaining wall and driveway and return these areas to grass at their cost.
2. Permit the flower beds and retaining wall to encroach onto the municipal road allowance and require the "driveway" to be removed and returned to grass at the cost of the property owner;
3. Approve the flower beds, retaining wall and driveway to encroach onto the road allowance.

If approved, the annual fee would be added to the property tax bill and adjusted yearly by the CPI. The annual fee is based on the size of the encroachment and is calculated by taking the current property tax times the size of the encroachment (area) divided by the total area of the owned property.

Financial Implications:

Financial impact to current year and future year operating budgets:

Option 1: there will be no financial impact to the current year operating budget.

Option 2: the annual fee of \$58.76, adjusted yearly by the CPI, would be added to the property tax bill for this property for the encroachment agreement, representing revenue to the City.

Option 3: the annual fee of \$190.45, adjusted yearly by the CPI, would be added to the property tax bill for this property for the encroachment agreement, representing revenue to the City.

Alignment with Strategic Priorities:

Not applicable: The encroachment policy is a service offered by the City to permit existing building or structures to encroach onto municipal property. The City will exercise its right to require an encroachment agreement if the City intends to allow the encroachment to remain under certain terms and conditions.

Alignment with One Planet Principles:

Not applicable: The encroachment policy is a service offered by the City to permit existing building or structures to encroach onto municipal property. The City will exercise its right to require an encroachment agreement if the City intends to allow the encroachment to remain under certain terms and conditions.

Staff Recommendation: THAT Council consider Option 2, permitting the flower beds and retaining wall at 40 Daly Avenue to encroach onto the Daly Avenue road allowance for a total encroachment area of 6.35m²;

THAT the annual fee of \$58.76 adjusted yearly by the CPI, be added to the property tax bill for 40 Daly Avenue;

THAT staff be directed to work with the property owner to have the driveway removed in a reasonable timeframe;

AND THAT the City Clerk be directed to prepare a by-law authorizing the encroachment at 40 Daly Avenue.

Prepared by:

Vicky Trotter, Council Committee Coordinator

Reviewed and Approved for Council by:

Adam Betteridge, Interim Chief Administrative Officer