



Report
Staff Report
The Corporation of the City of Brampton
3/19/2025

Date: 2025-02-25

Subject: **Proposed By-law to Regulate Encroachments on City Lands**

Contact: Rajat Gulati, Senior Manager, Realty Services
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Report number: Legislative Services-2025-196

RECOMMENDATIONS:

1. That the report from Allyson Sander, Strategic Leader, Project Management to the Committee of Council Meeting of March 19, 2025, re: **Proposed By-law to Regulate Encroachments on City Lands**, be received;
2. That the attached draft Encroachment By-law in Attachment 1 be enacted; and,
3. That the Administrative Penalties (Non-Parking) By-law 218-2019 be amended to adopt the proposed administrative penalties in Attachment 2.

OVERVIEW:

- **CW236-2022 directed staff to review and report back on by-laws regarding encroachments and permitting soft landscaping on boulevards.**
- **Currently, the City of Brampton does not have a dedicated Encroachment By-law to regulate encroachments on City lands. This absence creates a gap in effectively managing various types of encroachments.**
- **Existing by-laws provide tools to address encroachments on boulevards, highways and parklands, but exclude critical lands like flood control infrastructure, non-designated open space and easements.**
- **While certain encroachments pose risks and should be prohibited, others, such as gardens, can contribute to enhancing neighbourhood aesthetics and native habitats. These benefits align with the City's broader goals of improving the quality and visual appeal of local communities.**
- **Currently, Realty Services administers encroachment agreements for minor encroachments on City boulevards, including boulevard gardens.**
- **To provide a comprehensive framework, staff recommend enacting a dedicated Encroachment By-law with administrative penalties to regulate encroachments on City lands, and permit soft landscaped gardens to**

encroach onto boulevards, under conditions designed to ensure public safety and support ongoing City maintenance operations.

- **There is no financial impact resulting from the adoption of the recommendations in this report.**

BACKGROUND:

Beautifying local neighbourhoods as a means of enhancing safety and well-being is a theme residents and City Council have driven through the Community Safety Action Plan tactics of the Neighbourhood Association Guide and the Focused Neighbourhood Development and Engagement (Nurturing Neighbourhoods Program). In 2022, [CW236-2022](#) directed staff to review City by-laws with respect to encroachments and permitting soft landscaping beautification by abutting landowners and report back thereon. This report recommends the adoption of an Encroachment By-law to regulate encroachments onto City Lands and expand soft landscaping options on boulevards.

Encroachments are items of personal property which exists wholly upon or extend from a person's property onto City lands; or improvements to real property made on City lands. Certain encroachments may increase the City's risk exposure and should be prohibited, while others can help beautify local neighbourhoods and should be encouraged. Both are outlined below.

Encroachments That Can Increase Risks

Encroachments have the potential to cause safety and maintenance concerns that undermine the safety, well-being and quality of life for residents. These risks can include:

Risk Example	Encroachment Example
Sightline obstructions (pedestrians, vehicles)	Dense hedges or fences restricting line of sight requirements for accessing a roadway.
Damage to underground infrastructure	Installation of irrigation systems interfering with underground infrastructure and drainage channels.
Injury	Overhanging decorative structures near a sidewalk or bike lane, leading to collisions or trips, causing injuries.
Restricted access to perform maintenance and repairs	Hard landscape features or retaining walls reducing snow storage or reducing the clearance to allow for a safe exit from a vehicle parked curbside.
Compromise stormwater management/ Flooding	Large trees, fences, landscape features or structures erected over designated stormwater conveyance swales or drainage easements, redirecting water flow onto adjacent properties.
Compromise city tree health	Landscape pavers or garden walls installed over the root zone of a tree restricting water and nutrient absorption and oxygen exchange.
Compromise environmental integrity	Encroaching materials into a watercourse or park wetland risking habitat and ecosystem destruction, water pollution and soil erosion.
Increased risk of litigation	Encroachments leading to injuries or damages, resulting in claims.

Encroachments That Have Beautification and Ecological Advantages

Gardens, when thoughtfully planned and maintained, can add to neighbourhood character and aesthetics. Personalizing outdoor spaces with flowers and greenery can enhance curb appeal and create a more visually appealing streetscape while inspiring local urban communities to engage with nature.

Moreover, well-designed gardens can contribute to environmental sustainability by improving air quality, conserving water, providing habitat for beneficial insects and pollinators and sustaining biodiversity.

The draft Encroachment By-law aligns with the goals of the proposed Ground Cover Maintenance and Prohibited Plants By-law presented by Environmental Engineering which aims to improve alignment with the city's environmental policies and objectives by giving residents greater freedom to maintain more natural and sustainable gardens on their property, including City boulevards.

CURRENT SITUATION:

Realty Services currently oversees encroachment agreements for property owners wishing to install or maintain minor encroachments, such as gardens, on City-owned boulevards, provided they do not pose safety or operational concerns.

The City of Brampton does not currently have a by-law explicitly regulating encroachments onto City property. Staff can address encroachments on boulevards or highways through the Boulevard Maintenance and Highway Obstruction By-law [163-2013](#); and in parklands under the Parklands By-law [161-83](#). However, encroachments onto other types of city-owned land, such as flood control infrastructure, open space, and drainage easements, are not explicitly prohibited through any municipal by-laws. Furthermore, without a municipal by-law providing enforcement mechanisms – such as administrative penalties or the authority to recover removal costs through the municipal tax roll – staff have limited capacity to enforce or remove unauthorized encroachments on these lands in a cost-efficient manner.

Proposed Encroachment By-law

The draft Encroachment By-law was developed through collaboration across multiple divisions within the CAO's Office, Public Works and Engineering, Legislative Services, and Planning, Building and Growth Management to establish a regulatory framework for encroachments on City-owned lands.

The adoption of the proposed Encroachment By-law will achieve four main objectives:

1. Regulate encroachments on any form of City-owned lands.
2. Establish enforcement mechanisms to address unauthorized encroachments.
3. Promote the beautification of boulevards and biodiversity.
4. Formalize and streamline the existing encroachment agreement process.

1 - Regulate encroachments on any form of City-owned land

The proposed By-law prohibits the erection, placement or maintenance of an encroachment on City lands except where explicitly permitted in accordance with the By-law or under the authority of an encroachment agreement and any conditions made therein. The proposed By-law further prohibits alterations and improvements on or to City lands, without consent or authorization from the City.

These provisions aim to protect city assets and infrastructure while minimizing the city's risk exposure associated with the placement or installation of unauthorized property and alterations.

2 - Establish enforcement mechanisms to address unauthorized encroachments.

The proposed By-law would allow for the administration of the City of Brampton's Administrative Penalty System and create offences subject to increasing fines for non-compliance. Additionally, in cases of non-compliance or immediate danger, the proposed By-law authorizes staff to have unauthorized encroachments removed at the expense of the adjacent landowner, by recovering any incurred costs in the same manner as municipal taxes. It also establishes procedures for the disposal and release of removed encroachments, aligning with systems established in other by-laws.

3 - Promote the beautification of boulevards and biodiversity

To continue to promote a more sustainable and aesthetically pleasing urban environment, the proposed By-law would permit landowners to plant and maintain flower gardens on an adjacent boulevard directly abutting their residential property without an encroachment agreement, subject to strict conditions that would normally be prescribed in an agreement. Gardens located on a residential boulevard would be required to:

- be maintained in a clean, tidy and safe condition and in compliance with all other applicable by-laws (including any permit requirements).
- be dressed with soil, topsoil or mulch
- not contain shrubs, bushes, trees, thorns, sharp leaves or prohibited plants
- not exceed 0.45 metres in height or obstruct the visibility of motorists, pedestrians, traffic sightlines, traffic signs or control devices.
- not be in, or overhang, a ditch, swale, shoulder, sidewalk or roadway.
- not exceed the grade of any adjacent sidewalk.
- not be planted within 0.9 metres from any adjacent sidewalk, curb or shoulder.
- not contain a garden wall or any hard landscape features.
- not be dressed with anything other than soil, topsoil or mulch.
- not cause damage or injury to a person or thing.
- not inhibit or obstruct City operations.

This change would permit more soft landscaping options on boulevards that can support gardens without increasing the risk to the City. It will also result in a reduction of the administration of minor encroachment agreements for gardens pose minimal risk.

4 - Formalize the existing encroachment agreement process

While the system for administering encroachment agreements on City boulevards is not new, the proposed By-law formalizes the process, making minor refinements for efficacy. This process will be supplemented by an Encroachment Regularization Standard Operating Procedure to provide in-depth guidance to the staff and internal departments dealing with encroachment matters. A key improvement under the proposed by-law is allowing for the appeal of a city-decision to be heard by the Brampton Appeal Tribunal.

Realty Services - Encroachment Agreement Process

The encroachment agreement process serves as a critical tool for ensuring the responsible use of City lands. The process requires applicants to provide comprehensive documentation, including a detailed description of the proposed encroachment and its intended purpose, along with a drawing illustrating its location. These measures ensure that all encroachments align with the City's broader goals of safety, functionality and consistency across its lands, while maintaining fairness and accountability.

Following consultation and feedback from the internal City departments, Realty Services may deny requests based on impacts on public safety or access, legal compliance, interference with municipal operations or utilities, conflicts with municipal plans or by-laws, or lack of necessity. Approved agreements require proof of insurance, payment of fees and registration against the property title at the applicant's expense. Encroachment agreements can be suspended or terminated for breaches, City land use needs, or as specified in the agreement. Applicants are responsible for maintenance and ensuring that the encroachment does not pose safety risks. The City assumes no liability for any damage or injuries caused by an encroachment.

User Fees: An existing Encroachment Application Fee, established under the City's User Fee By-law 380-2003, as amended, will continue to be applied, unless the Encroachment Agreement is mandated by the City as a condition of site development approval. This fee is fully credited toward the Encroachment Charge upon the successful execution of the agreement. However, if the encroachment application is denied, the application fee is non-refundable, either in full or in part. For residential properties, the application fee also covers the cost of preparing the Encroachment Agreement. No changes to the encroachment application fee are being proposed at this time.

Encroachment Charge: The existing encroachment charge is equal to the value of permanent easement rights over the Encroachment Area, typically 50% of the fee simple property value, subject to further discounts based on industry standards for existing or potential encumbrances. It is typically payable by the Encroacher upon the Encroacher's execution of the Encroachment Agreement. The fee simple property value is in accordance with the current Average Land Value for Development Pursuant to Section 51.1 and 53 (For the purposes of calculating CIL-payable on draft plans of subdivision). Notwithstanding the above, the Encroachment Charge may be waived if the Encroachment does not physically enclose any City property. No changes to the encroachment charge are being proposed at this time.

CORPORATE IMPLICATIONS:

Financial Implications:

There is no financial impact resulting from the adoption of the recommendations in this report.

STRATEGIC FOCUS AREA:

The adoption of this by-law supports the City's strategic focus areas and priorities. Promoting safe, compliant and sustainable public spaces fosters environmental resilience and sustainability; service effectiveness; and community health and well-being.

CONCLUSION:

The introduction of a dedicated Encroachment By-law represents a proactive step toward balancing risk management with community enhancement. By establishing clear guidelines for all forms of encroachments on City lands, Brampton can ensure safety, maintain infrastructure integrity and promote beautification efforts that align with its vision for vibrant and sustainable public spaces.

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Attachments:

- Attachment 1 – Draft By-law to regulate encroachments onto City-owned lands within the City of Brampton
- Attachment 2 – Draft By-law to amend By-law 218-2019, as amended