

STRUCTURES BENEATH PUBLIC STREETS POLICY
PLANNING & DEVELOPMENT DEPARTMENT

Council Adoption Date: July 27, 2020

Revision Date: February 10, 2025

Reason for Policy

Streets play a critical role in conveying local and regional traffic along with providing important public places, pedestrian walkways, cycling routes and utility corridors. The City of Coquitlam (“the City”) recognizes the importance of protecting streets as public assets and safeguarding their multiple functions. On a number of occasions, applicants have requested consideration for structures beneath public streets. This policy aims to establish a transparent and consistent approach, when responding to proposals for encroaching structures beneath City streets.

Definitions

“Benefiting Owner” means the owner of real property, and their successors, who has access to, and benefits from, the Encroachment Structure.

“Encroachment” means an intrusion of a Structure beneath a Public Street.

“Property Line” means the boundary between private property and a Public Street (i.e., the outer edge of a Public Street).

“Public Street” means every Street that has been (or will be) established as public road.

“Street” has the same meaning as in the *City’s Street and Traffic Bylaw*.

“Structure” means any sub-surface structures, or part thereof, such as parkades, tunnels and areas for operational activities such as loading and waste collection, that enable vehicle and/or pedestrian movements.

“Utility” or **“Utilities”** means any City-owned utilities such as water, storm, and sanitary, and third-party utilities such as BC Hydro, Telus, Fortis, and Shaw, but does not include private utilities owned by strata corporations.

Policy

This policy outlines the conditions for evaluating and processing proposals for Structures beneath Public Streets in connection with a development application (e.g., master development plan, rezoning, subdivision, development permit, etc.).

This structures beneath public streets policy is most applicable to Master Development Plan applications which involve large sites combined with the necessity to widen or establish Public Streets and where an experienced, commercial/institutional property owner will remain involved with the project to accept the long-term responsibility of these below grade Structures. Proposals for eligibility under this policy will need to demonstrate that the future owner has the organizational capability, business track record, financial capacity and operational experience to operate, maintain and repair these Encroachments.

1. Eligibility Criteria

Proposals for Structures beneath Public Streets will only be considered for development sites, where:

- a. The Street where the Encroachment is proposed is a limited Local Street or Lane. Encroachments may not be considered under Collector or Arterial Streets;
- b. The proposed encroaching Structures do not conflict with existing or planned Utilities, or will require Utility relocation approval;
- c. The encroachment area must extend across the street from property line to property line (no partial encroachments).
- d. Where the entire proposed Street is not contained within a development site from Property Line to Property Line, a written agreement demonstrating support from the owner(s) of the property on the opposite side of the Street would be required;
- e. The Benefiting Owner is a commercial or institutional entity who will take on all long-term responsibility for the Encroachment; and has demonstrated organizational capability, business track record, financial capacity and operational experience to operate, maintain and repair the proposed Encroachment. 100% residential projects and strata corporations of commercial strata lots are not eligible; and
- f. There is a public benefit of the Encroachment (e.g., improved public realm, safety, vehicle circulation, etc.). The benefit must be sufficient to offset the cost and risk to the City and the public such that there is a net benefit to the public.

If the applicant has successfully demonstrated the above, the proposal will be evaluated using criteria outlined in Sections 2 and 3.

2. Encroachment Acceptability Criteria

The following criteria will be taken into consideration when evaluating the acceptability of a proposed Encroachment:

- a. The Benefiting Owner has demonstrated that the proposed Encroachment cannot be reasonably accommodated entirely outside of the Public Street and every effort has been taken to design the site in a way to remove or minimize the size of the Encroachment;
- b. Anticipated traffic volume at build-out, and the availability of alternative circulatory routes should the Public Street be fully/partially out of service for repairs;
- c. Maintenance and operational impacts to existing and/or reasonably anticipated future Utilities (including third-party utilities);
- d. Site or environmental considerations, such as a high water table, that prevent underground Structures from being accommodated entirely within the development site; and
- e. Legal and financial implications to the City due to unforeseen injury or property damage.

3. Encroachment Design Criteria

The proposed Encroachment Structure must meet the following design conditions:

- a. Dimensioned cross sections must be included in the proposal, showing the location of the underground Structure and any existing/future Utilities;
- b. An additional slab acceptable to the City may be required atop/above the roof of the Encroachment Structure to protect the Structure from inadvertent physical impacts caused by sub-surface construction or maintenance activity (i.e., roadworks or Utility repairs);
- c. The Structure is to be located at a depth that would preclude impediments to the placement, operation, and maintenance of existing and future Utilities. The Structure may be located at a min. depth of 1.0m, with preferred 3.0 meters below grade to accommodate shallow Utilities (typical depth, which may vary depending on the type of Utility and slope of terrain), with a min. buffer of 0.6 meters between the top of the Structure (inclusive of an additional slab as per condition 3b and the lowest elevation of existing and future Utilities);
- d. The Structure must be designed and constructed for a long service life (i.e., minimum 99 years), in order to reduce the need for frequent maintenance of the Structure and disturbances to the above Public Street and Utilities following industry best practices for such Structures located under a Public Street.

4. Tenure

The tenure for an approved Encroachment is for the road area to be provided as a titled fee simple lot to the City instead of typical highway road dedication. The encroachment area of the Structure will be a volumetric lease and the City will then bring forward a Reservation Bylaw consistent with the regulations at the time for road purposes.

5. Fee and Legal Requirements

Subject to the approval from the City of the proposed Encroachment, the appropriate Benefiting Owner will be required to:

- a. Enter into legal agreements in respect of the ongoing use, operation, maintenance and replacement or removal of the encroaching Structure beneath the Public Street;
- b. Accept all responsibility for any associated maintenance and repair costs to the Public Street resulting from the use, operations, maintenance, and replacement or removal of the encroaching Structure;
- c. Accept all responsibility for the Encroachment and release the City of any and all liability for the Encroachment;
- d. Hold appropriate liability insurance for the term of the encroachment agreement;
- e. If required by the City, provide security in respect of ongoing obligations; and
- f. Compensate the City for the Encroachment as follows:
 - 50% of full fee simple current Market Value for volumetric leases less than 3m beneath surface level for new Street being provided to the City; and
 - 35% of full fee simple current Market Value for volumetric leases 3m or greater beneath surface level.
- g. Determination of the current market value of the area of roadway impacted will be provided by City Lands and Real Estate division.
- h. In the event of dispute for the determination of the estimate of current market value for the lands, a third party independent appraisal co-funded by the City and applicant may be commissioned; however, the partial interest calculation will remain static.

6. Term

The City's consent for Structures beneath Public Streets shall have an initial term of 99 years, subject to any early termination provisions. After the 99-year term such consent may be extended subject to any additional considerations as required. Upon expiry or termination of the encroachment agreement the Benefiting Owner shall remove the Encroachment and reconstruct the Public Street, each at the Benefiting Owner's cost, to the current applicable standard in the City's *Subdivision and Development Servicing Bylaw*.

7. Encroachment Approval

The General Manager of Engineering and Public Works is authorized under this policy to evaluate proposed Structures beneath Public Streets that meet the eligibility, acceptability, and design criteria of this policy and has the authority to approve or deny a request. When proposed Encroachments are approved, the formal approval of the proposed encroachment and execution of accompanying legal agreements will be consistent with the City's delegation of authority regulations at the time.