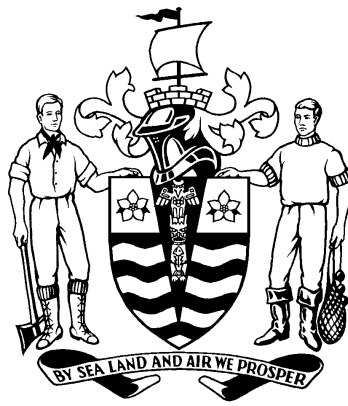


CITY OF VANCOUVER BRITISH COLUMBIA



ENCROACHMENT BY-LAW NO. 4243

**This By-law is printed under and
by authority of the Council of
the City of Vancouver**

**(Consolidated for convenience only
to December 10, 2024)**

BY-LAW NO. 4243

**A By-law for regulating encroachments upon,
under or over streets within the City**

**[Consolidated for convenience only,
amended to include By-law No. 14209
effective January 1, 2025]**

THE COUNCIL OF THE CITY OF VANCOUVER, in open meeting assembled, enacts as follows:

1. This By-law may be cited as the "Encroachment By-law".
2. In this By-law, unless the context otherwise requires:
 - (a) "Anchor rods" include any steel, fibreglass or other rod, pipe or thing an intended purpose of which is to shore or support an excavation face or to prevent subsidence;
 - (b) "Appurtenant" means adjacent to, adjoining or enjoyed with;
 - (c) "canopy" means canopy as defined in the Building By-law;
 - (d) "Engineer" means the City Engineer of the City of Vancouver;
 - (e) "Footing" means that part of the foundation of a building which projects or extends into a street;
 - (f) "Owner" means any person who is the registered owner, owner under agreement, lessee, or occupier of real property;
 - (g) "professional engineer" means an engineer who is a member of The Association of Professional Engineers and Geoscientists of the Province of British Columbia; and
 - (h) "solar shading device" means solar shading device as defined in the Building By-law.
- 2A. This By-law shall not be applicable to any encroachment to the extent that it is specifically regulated by some other By-law of the City.
- 2B. Where this By-law is in conflict with the Crossing By-law, the provisions of this By-law shall prevail.
- 3.(1) Subject to subsections (2) and (3) and to section 3A, and except for the case of an encroachment consisting of a temporary or time limited permission to occupy a street for specific purposes pursuant to the Street Vending By-law or by way of an agreement to occupy with the City, no person shall excavate for, construct, use or maintain any encroachment upon, under or over a street unless such person shall have first entered into an agreement with the City in accordance with Section 5.
- (2) Instead of the agreement specified in Section 5 the Engineer may grant a permit for the placement of aerial communication wires along or across any street, subject to the following conditions:

- i) An application shall be made in writing and shall be accompanied by plans showing the location of the wires with respect to other equipment on the street, the method of supporting such wires, and any other details that may be required by the City Engineer. The equipment to be operated by means of such wires shall be specified and the operating voltage and current shall be shown.
 - ii) Each of the premises served by such wires shall be either owned by, or under lease in writing to, the applicant.
 - iii) No such wires shall extend for a greater distance than 200 feet along or across any street or lane.
 - iv) Before commencing the construction or erection of any such wires, the applicant shall deposit with the City a policy of insurance, or some other form of indemnity, satisfactory to the Director of Legal Services, indemnifying the City against all liability which may arise out of or be in any way attributable or incidental to the erection, construction, maintenance or use of such wires.
 - v) The right granted by such permit may be revoked by resolution of the Council at any time and for any reason. Upon being notified in writing by the City Engineer of such revocation the owner shall within one week remove such wires at the owner's expense.
 - vi) The person maintaining or using such wires shall pay to the City an annual charge, payable in advance, as set out in the Schedule attached hereto.
- (3) Permission is hereby granted for the use and existence of all encroachments which comprise only grassed areas, access sidewalks, steps, fences, rockeries, hedges or garden areas, provided that the Engineer is satisfied as to the safety and advisability of such encroachment. Where the Engineer is satisfied as to the safety and advisability of such encroachment, an agreement in accordance with Section 5 is not required, and the owner of the real property to which such encroachment is appurtenant shall not be required to pay an annual charge.
- (4) Instead of the agreement specified in Section 5, the Engineer may grant permission for the placement of a canopy or solar shading device that projects into a street, if the Engineer is satisfied that the canopy or solar shading device complies with all applicable city by-laws.
- 3A.(1) This section 3A applies to anchor rods and whenever any other provision of this By-Law conflicts with this section 3A, the provisions of this section 3A shall prevail.
- (2) A person intending the installation of anchor rods under any street or lane shall, before commencing the installation, submit to the Engineer a written application for permission accompanied by plans sealed by a professional engineer indicating the proposed:
- (a) depth, length, material and number of anchor rods;
 - (b) area of excavation face abutting a street or lane;
 - (c) details of which anchor rods will be removed, de-tensioned or fully grouted and the time by which they will be removed, de-tensioned or fully grouted; and

- (d) such other details as the Engineer may require.
- (2A) The Engineer may, in the Engineer's sole discretion, require the use of certain materials and equipment, including fibreglass anchor rods.
- (3) The Engineer, if of the opinion that the use of anchor rods will not adversely affect the City's undertakings, may (but need not) permit the installation of anchor rods in accordance with plans submitted under subsection (2) if the owner of the real property to which the anchor rods will be appurtenant:
- (a) first pays the City a non-refundable fee of \$1,248.87 and enters into and registers against such real property an agreement in favour of the City containing terms, conditions, indemnities and charges against such real property as the Engineer and Director of Legal Services may require; or
 - (b) first deposits with the Engineer a deposit in a sum satisfactory to the Engineer, which deposit shall be refunded to the party who paid it if the owner either provides the Engineer with evidence satisfactory to the Engineer from a professional engineer certifying that all anchor rods have been removed, de-tensioned or fully grouted as indicated on the plans submitted under subsection (2) and that no damage has been caused to plant, property or utilities of the City or any utility company or, if the plans submitted under subsection (2) show some anchor rods as intended to remain without being de-tensioned or fully grouted and if no damage has been caused to plant, property or utilities of the City or any utility company, enters into the agreement and pays the non-refundable fee described in subsection 3(a); and
 - (c) in either case first pays to the City the charge referred to in subsection (4).
- (4) In addition to any fees payable under the Schedule hereto, and in lieu of any continuing annual charges, the owners of the real property to which anchor rods will be appurtenant must pay a one-time charge of \$65.21, exclusive of a goods and services tax imposed under the Excise Tax Act (Canada), per square metre of area of the proposed excavation face that will be supported by anchor rods and abuts a street or lane as calculated by the Engineer.
- (5) Every owner of real property to which anchor rods are appurtenant shall remove, de-tension or fully grout all anchor rods in accordance with and by the time shown on plans submitted pursuant to subsection (2).
- (6) The City may cut or remove anchor rods in accordance with the terms of any agreement entered into with an owner or, in the absence of any agreement, at any time.
- (7) The Engineer may authorize the Director of Legal Services to release and discharge any agreement, whether entered into before or after the coming into force of this section, relating to anchor rods in circumstances that would entitle an owner to a refund of the deposit referred to in subsection (3) if a charge equal to the charge described in subsection (4) is first paid to the City.
- (8) The manner and priority of registration of any agreement concerning anchor rods may be determined by the Director of Legal Services in consultation with the Engineer.
- (9) Without derogating from section 13 of this By-law, the amount of any loss, damage, expense or liability suffered by the City or by any utility company and occasioned by or incidental to or that would not have occurred "but for" the installation, use or existence of

anchor rods may be inserted in the real property tax roll as a charge imposed with respect to the parcel to which the anchor rods are appurtenant.

4. Any owner of real property desiring permission to excavate for, construct, use or maintain any encroachment upon, under or over a street appurtenant to such real property, or desiring permission to continue the existence, maintenance or use of any encroachment on a street appurtenant to such real property heretofore existing, maintained or used without permission, shall submit to the Engineer a written application therefor accompanied by such number of copies of a plan as the Engineer may require showing the detail of such encroachment, to the satisfaction of the Engineer; and the Engineer, upon being satisfied as to the safety and advisability of such encroachment, may recommend to Council that such permission be granted.
- 5.(1) Before proceeding with the excavation for or construction of or continuing the existence, use or maintenance of an encroachment for which permission has been granted by Council, the owner shall first enter into an agreement with the City and shall thereupon pay to the City the applicable fees and charges set forth in the schedule hereto, together with the first annual charge as herein provided, such first annual charge to be pro-rated by dividing the applicable annual charge by 12 and multiplying the resulting number by the number of full or partial months remaining until the next June 30. Such agreement shall include provision for:
 - (a) annual charges and maintenance costs, if applicable;
 - (b) the right of the Engineer or authorized representatives of the Engineer to enter upon the premises of the owner for the purpose of inspecting or maintaining the encroachment;
 - (c) payment by the owner of all costs of and incidental to the removal of the encroachment;
 - (d) the termination of all rights of the owner.
- (2) The agreement provided for in subsection (1) shall be registered as a charge against the interest of the owner in the real property to which the encroachment is appurtenant; provided, however, that if the owner does not wish to provide the security aforesaid, a bond in form and amount satisfactory to the Director of Legal Services shall be furnished by such owner. Such bond shall provide reasonable security for the indemnity described in Section 13, the payment of the annual charge, and all other obligations of such owner imposed under this By-law.
6. An owner who has entered into an agreement with the City in accordance with Section 5 shall, before commencing the construction, repair or removal of any encroachment, obtain all permits necessary therefor under this or any other By-law of the City, and shall pay any applicable fees and charges for such permits.
7. The right of an owner to excavate for or to construct, maintain or use any encroachment under this By-law shall be subject at all times to the right of the Engineer, or authorized representatives of the Engineer, to enter into and upon the premises of the owner for the purpose of
 - (a) inspecting, maintaining or removing the encroachment in accordance with this By-law and the terms of any agreement entered into pursuant to this By-law;

- (b) constructing, inspecting, maintaining or removing any public works or utilities that have been or may in the future be installed in the street in proximity to any encroachment.
- 8. Where an owner has entered into an agreement with the City in accordance with Section 5 and has provided the City with the security required by this By-law, the owner shall advise the Engineer when ready to commence the work, and shall obtain the Engineer's permission in writing before any work is commenced; and the owner shall ensure that all work is performed in accordance with the agreement entered into and this By-law, and in such manner as to render the street safe for the use of the public; provided, however, that if such work is not fully completed within twelve months from the date of the agreement, such agreement, unless extended by the Engineer, shall thereafter be null and void, and all rights and privileges of an owner thereunder shall be absolutely terminated, and all amounts paid by the owner with respect thereto shall be forfeited to and become the property of the City, and such owner shall have no recourse whatsoever against the City by reason of the termination of the agreement or the permission granted thereunder.
- 9. Subject to the provisions of section 9A, in the event of:
 - (a) the termination of an agreement to excavate for, construct, maintain or use any encroachment; or
 - (b) an encroachment being excavated for or constructed, maintained, used or continued by any person without that person having entered into an agreement with the City pursuant to Section 5; or
 - (c) any person otherwise failing to comply with any of the provisions of this By-law;the Engineer may serve notice on the owner of the real property to which such encroachment is appurtenant requiring such owner within six (6) months thereafter to remove any structure or works and fill up any excavation made, and to replace and put the sidewalk, street, lane or other area in, under, or over such encroachment in the same condition as the adjoining sidewalk street, lane or other area to the satisfaction of the Engineer; provided that the City Council may require such work to be completed within a shorter period than six (6) months as the Council may designate by notice.
- 9A. Despite the provisions of section 9, the Engineer may revoke the permission granted under section 3 and require the immediate removal of an encroachment if, in the opinion of the Engineer, the encroachment or the placement, use, repair, maintenance or operation of the encroachment:
 - (a) obstructs or interferes with construction activity, street improvements, street work, or repair and maintenance related to transit or utilities; or
 - (b) interferes with or obstructs access to the street for any other municipal purpose.
- 10.(1) An annual charge shall be paid for every type of encroachment referred to in Part B of the Schedule attached to this By-law. The annual charge shall be paid to the City by the owner of the real property to which the encroachment is appurtenant or by a person required by an agreement with the City to pay the charge. If an encroachment is of a type not referred to in Part B of the Schedule to this By-law no annual charge shall be paid unless the City Council by resolution determines that the circumstances warrant the imposition of an annual charge. Annual charges, when due, may be recovered by the

City either by action in any court of competent jurisdiction, or the City may insert in the real-property tax roll such annual charges as a charge imposed with respect to the real property to which the encroachment is appurtenant.

- (2) In the case of the excavation for or the construction, use, or maintenance of an encroachment without permission as required by this By-law, the owner of the real property to which such encroachment is appurtenant, and the said real property, shall nevertheless be and remain liable for all indemnities, liabilities and charges at the rates for the period during which it is so continued.
11. Every owner of real property shall keep the encroachment appurtenant to such real property in good and sufficient repair to the satisfaction of the Engineer; and in the event of the owner failing or neglecting to keep such encroachment in good and sufficient repair as aforesaid, the Engineer may notify such owner to forthwith execute the necessary repairs.
12. In case an owner of real property fails to keep an encroachment appurtenant to such real property in good and sufficient repair to the satisfaction of the Engineer, or fails to remove any structure or works thereon or therein, or to fill up any excavation pursuant to notice duly given under this By-law, the Engineer may make such repairs, including structural changes, or remove such structure or works, or fill up such excavation, as the case may require in the opinion of the Engineer, and the owner shall pay the costs of such work to the City forthwith; and in default of payment, such costs may be recovered by the City in any court of competent jurisdiction or the City may insert in the real-property tax roll such costs, as a charge imposed with respect to the real property to which the encroachment is appurtenant.
13. Every owner of real property who excavates for, constructs, maintains, or permits the existence of, or uses any encroachment appurtenant to such real property under the provisions hereof or otherwise, shall at all times be liable for and shall indemnify the City against any and every claim, loss, expense or damage, and any suit or demands which may be occasioned by or incidental to the construction, existence, use or maintenance of an encroachment, and the amount of any loss or damage occasioned to the City thereby, except as otherwise herein provided, shall be a lien or charge on all real property to which such encroachment is appurtenant.
14. The liability of owners under this By-law, where there is more than one such owner, shall be deemed to be, and shall be, for all purposes joint and several.
15. Every person who offends against this By-law, or who suffers or permits any act or thing to be done in contravention or in violation of this By-law, or who neglects to do or refrains from doing anything required to be done by this By-law, or who does any act or thing which violates this By-law, shall be deemed to be guilty of an offence against this By-law, and shall be liable to the penalties hereby imposed.
- 16.(1) Every person who commits an offence against this By-law is liable to a fine and penalty not less than \$250.00 and not exceeding \$10,000.00.
- (2) Every person who commits an offence of a continuing nature against this By-law is liable to a fine not less than \$250.00 and not more than \$10,000.00 for each day such offence continues.
17. Any permission by the City given prior to the date of this By-law to excavate for, construct, maintain, or use any encroachment, is hereby revoked whether or not such

encroachment is the subject of an agreement between the owner and the City or otherwise; provided, however, that this section shall not apply to encroachments that constitute footings, or encroachments that are, at the date of this By-law, the subject of a lease for a fixed term.

18. The Engineer and the Director of Legal Services may grant permission for and authorize the execution by the City of:
- (a) a release of any agreement pertaining to an encroachment when such encroachment has been removed to the satisfaction of the Engineer;
 - (b) an encroachment agreement pursuant to this By-law in substitution for encroachment agreements cancelled under Section 17 hereof;
 - (c) an agreement with respect to any type of encroachment referred to in subsection (3) of section 3 or in Parts B or C of the Schedule to this By-law;
 - (d) the release of an existing encroachment agreement when such agreement is to be replaced by a new agreement.
19. This By-law shall come into force and take effect from and after the first day of May, 1966.

DONE AND PASSED in open Council by not less than two-thirds of all its members this 26th day of April, 1966.

(sgd) _____ "W.G. Rathie"
MAYOR

(sgd) _____ "R. Thompson"
CITY CLERK

SCHEDULE TO BY-LAW NO. 4243

Unless otherwise specifically provided for by Council in a resolution authorizing an agreement, or unless otherwise provided for in this By-law, the following fees and charges shall be payable:

A. REGISTRATION AND MISCELLANEOUS FEES

- (1) For the preparation of an agreement having reference to an encroachment..... \$1,286.34
- (2) If an agreement is required to be registered in the Land Title Office, any fee payable to effect the registration thereof shall also be payable
- (3) For information relating to an encroachment..... \$385.90
- (4) For the granting of an easement over a portion of a street or lane to accommodate encroachment by a building \$5,731.95
- (5) For sewer and drainage closed circuit television inspection, pre and post anchor rod installation \$3,283.03

B. ANNUAL CHARGES

The following types of encroachments shall for each period of 12 consecutive months pay a charge of \$234.42 plus \$6.25 for every square foot exceeding 150 square feet. For the purpose of computing this charge, two or more encroachments appurtenant to the same property shall be treated as one, and may be included in a single agreement.

- aerial communication wires (with the charge above based on the longest lineal foot measurement over 150 feet)
- areaways
- balconies
- buildings that project more than 3 (three) inches into a street
- bridges
- conveyors
- ducts
- footings
- pipes
- stairways
- tunnels
- underground tanks

C. ENCROACHMENTS NOT REQUIRING AN ANNUAL CHARGE

- bulkheads
- buildings that project no more than 3 (three) inches

- into a street
- canopies
- Fire Department connections (sprinkler, standpipe and test)
- fire escapes
- lighting works
- planters
- public art
- retaining walls
- sidewalk crossings
- sidewalk surfaces (non-standard)
- solar shading devices
- underground sprinkler systems
- uses of a street or lane, not yet opened by the City, for access purposes
- vents

- D. Despite anything to the contrary in this By-law and specifically in Part B or C of this Schedule, an owner of protected heritage property, as defined in the *Vancouver Charter*, is exempt from any obligation to pay annual fees for portions of structures, except for areaways, that encroach more than 3 (three) inches into a street.