



CITY OF RICHMOND

REPORT TO COMMITTEE

TO: Public Works and Transportation Committee **DATE:** February 9, 2001
FROM: Jeff Day, P. Eng. **FILE:** 2270-00
Director, Engineering
**RE: Zero Tolerance - City Property Policy 9015, Restoration of Existing
Unauthorized Changes**

STAFF RECOMMENDATION

It is recommended that the "Zero Tolerance - City Property" Policy 9015 be repealed and replaced with the appended "Unauthorized Changes or Damages to City Property" Policy 9016.

Jeff Day, P. Eng.
Director, Engineering

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ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Sewerage and Drainage Department.....	Y <input type="checkbox"/> N <input type="checkbox"/>	
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STAFF REPORT

ORIGIN

At a regular Council meeting on March 28, 1994, it was resolved *"That staff be directed to immediately implement a zero-tolerance policy on any unauthorized changes or damage to City property, and to develop a restoration program to deal with existing unauthorized changes"*. Since adoption of Zero Tolerance – City Property Policy 9015, staff have implemented this policy for enforcement of Bylaws.

During enforcement of Bylaws in the Broadmoor area, pursuant to Zero Tolerance Policy 9015 staff served a notice dated September 8, 2000, to a resident in the process of constructing an unauthorized timber structure in the City ditch fronting his property. The resident appeared as a delegation before the Public Works and Transportation Committee on October 4, 2000, to appeal the notice, and complained of 68 additional properties in the Broadmoor area with unauthorized structures in the fronting ditches. Pursuant to Policy 9015 which requires staff to act "on each and every instance of such unauthorized changes", staff acted on the resident's complaint and investigated all 68 properties. As a result of this resident's complaint, 60 Bylaw infraction notifications were issued to property owners directing restoration of unauthorized changes to City property. In response to staff's actions, property owners in the Broadmoor area who received the notifications, and several who did not receive notifications, have raised concerns.

This report is intended to address many of the Broadmoor residents' concerns with respect to Zero Tolerance – City Property Policy 9015.

ANALYSIS

Background

Zero Tolerance – City Property Policy 9015 is the result of a public delegation which appeared before the Public Works and Services Committee in February of 1994, favouring stronger City control and prevention of unauthorized construction in City boulevards and ditches. This control was desired because unauthorized changes to City property cause safety and maintenance concerns as well as a concern for loss of character of some neighbourhoods as a result of ad hoc changes to City boulevards. Additional information is presented in the report to the Public Works and Services Committee dated March 1, 1994, recommending implementation of a zero tolerance policy. Zero Tolerance – City Property Policy 9015 was adopted by Council on March 28, 1994.

Discussion

This matter is complicated because:

- Hundreds of unauthorized pavements in City boulevards and unauthorized structures in City ditches currently exist.
- It is difficult to determine if an existing unauthorized change pre-dated Zero Tolerance Policy 9015.
- It is difficult to determine if an existing unauthorized change was installed by the current property owner or was already in place when the current owner bought the property.

Despite these challenges, it is important to continue to prevent future proliferation of ad hoc unauthorized changes to City property because of concerns for safety, liability and maintenance.

Specifically,

- Safety and liability concerns are those which pose a threat of personal injury or damage to public or private property. Examples are timber ditch coverings with weak or missing planks, or timber ditch shoring which is failing and undermining the adjacent public boulevard resulting in sink-holes. These situations could result in persons falling and injuring themselves or vehicles falling in and being damaged.
- Maintenance concerns are those which obstruct the City's regular or emergency maintenance procedures. Examples are timber ditch coverings, which prevent the routine inspection and cleaning of ditches which may result in ditch blockages or flooding.

In order to balance these issues, it is recommended that Zero Tolerance – City Property Policy 9015 be repealed and replaced with a new policy on the following bases:

- Immediate action would only be taken when the party responsible for the unauthorized change or damage can be determined, or the unauthorized change or damage poses an immediate and apparent threat to public safety, property or infrastructure.
- All other unauthorized changes or damage could be addressed during the regular course of maintenance or capital construction by the City.
- Where the party responsible for the unauthorized change or damage is determined, cost for restoration of the City property is theirs.
- Where the party responsible for the unauthorized change cannot be determined, cost for restoration of the City property will be absorbed by the City.

This approach may raise some concern from those residents who have abided by City Bylaws in the past. For example:

- Of the 60 Zero Bylaw infraction notifications issued in the Broadmoor area in October 2000, two residents in the Broadmoor area have already complied, four are in the process of complying, and 16 have indicated their intent to comply.
- Five residents in the Broadmoor area verbally indicated they are supportive of the City's efforts to uphold Bylaws, but they are reluctant to come forward publicly because they do not want any trouble with their neighbours. These residents do not have any Bylaw infractions in the City property fronting their properties.
- In the Broadmoor area alone, 52 legal ditch infill permits have been issued in the past indicating a high rate of compliance with the City's Ditch Filling and Construction of Ditch Crossings Bylaw 6370.

This approach mitigates these concerns because party's identified as being responsible for unauthorized changes or damage to City property would still be held accountable.

Finally, this approach still recognizes the concern many property owners have with eroding ditch banks. Many property owners who have installed unauthorized structures in ditches in the past advise they have done so to stabilize eroding ditch banks. Such structures cause concern for the City because they hinder ditch cleaning operations and there is no way to assess their design for long term safety.

Accordingly, if ditches are eroding, the two primary options still available to residents are:

1. Report the erosion to the Sewerage and Drainage Department of the City of Richmond who will stabilize the ditch under the annual ditch maintenance program.
2. Fill in the ditch through a permit under Ditch Filling and Construction of Ditch Crossings Bylaw 6370.

A third option is to pursue a ditch in-fill under the Local Improvements Program. Generally, a minimum project length of 400 metres is required for this to be considered a viable option by the City.

FINANCIAL IMPACT

This recommendation will add a marginal cost to road and ditch maintenance needs, but this cost can be managed by prioritizing the removal of unapproved structures and restoration of City property using City resources to address public safety and protection of property foremost. Where the party responsible for making the unauthorized changes can be identified, the cost for restoration of City property would be passed on to that party. Also, to minimize cost, site restoration should be limited to rough grading and finish with topsoil and seed .

CONCLUSION

Protection and control of City property such as ditches and boulevards within public right of ways is an important staff responsibility which is supported by many residents of Richmond. However, this issue is complicated by the desire of some residents to make changes to City property fronting their homes such as construction of structures in ditches or paving of grassed boulevards. This is evident by the many such installations throughout Richmond, primarily in subdivisions serviced by unimproved roads.

In order to achieve a practical balance between enforcement of City Bylaws, the existence of many unauthorized changes to City property, and the desire of residents to shore up eroding ditch banks, some flexibility beyond 'Zero Tolerance' is desirable in City policy. This flexibility could be based on prioritizing protection of public safety and property foremost in deciding upon the urgency of follow-up action. It could also have the City assume financial responsibility for restoration of City property whenever the party responsible for the unauthorized change or damage is not readily apparent. For those residents who would like eroding ditches shored up, the onus would be on the resident to notify the City, who would then take action to stabilize the ditch. For those residents who would like eroding ditches filled in, Bylaw 6370 currently provides the appropriate permit process.



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Appendix A
Unauthorized Changes or Damages to City Property Policy



POLICY 9016:

It is Council Policy that:

1. Where an unauthorized change or damage to City property which is an apparent threat to public safety or property comes to the attention of staff, the City will take immediate action to have the City property restored.
2. Where an unauthorized change or damage to City property which is not an apparent threat to public safety or property comes to the attention of staff, the City may choose not take action to have the City property restored until it becomes a threat or until City forces are undertaking regular maintenance or capital construction in the immediate vicinity.
3. Where the party responsible for unauthorized changes or damage to City property can be identified, they must restore the City property at their cost within a reasonable time as determined by the General Manager of Engineering and Public Works but not to exceed one calendar year.
4. The property owner fronting changed (unauthorized) or damaged City property will have the option of restoring the City property to an approved condition themselves, or having City forces restore the City property.
5. If City forces restore unauthorized changes or damage to City property, the City will take reasonable precautions to protect private property, but will not be responsible for any damage to privately placed improvements on the City right of way which may result from the restoration of City property.