

CITY OF GARIBALDI
ORDINANCE NO. 247

AN ORDINANCE REGULATING ENCROACHMENTS INTO PUBLIC
STREET RIGHTS-OF-WAY.

Section 1. Purpose: The purpose of this Ordinance is to establish a procedure for addressing encroachments of private improvements into street rights-of-way.

Section 2. Policy: It is city policy to remove structural encroachments into public street rights- of-way.

Section 3. Property Owner Notification: When the City becomes aware of a structure that encroaches into a public street right-of-way, the affected property owner will be notified of the encroachment. Notification will include a statement of the City's policy with respect to structural encroachments, and instructions to the property owner to either remove the encroachment or apply for a waiver from the City Council.

Section 4. Waiver of Requirements:

(A) A property owner with a structural encroachment into a public street right-of-way may request that the city Council issue a waiver from the requirement that the encroachment be removed. The application for a waiver shall be made by the property owner on forms provided by the city for that purpose, and shall be accompanied by an application fee in such amount as the council shall by resolution require. Following receipt of the application and fee, the City Recorder shall schedule the matter for a hearing before the City Council.

(B) Notice of the hearing shall be given by first class mail not less than twenty (20) nor more than forty (40) days in advance of the City Council's hearing to all property owners within one hundred feet (100') of the exterior boundaries of the property which contains the structure encroaching on the right-of-way. Notice shall also be mailed to the person requesting the waiver, and to all franchised utilities operating within the City limits. Notice shall also be given to City of Garibaldi public works staff and to the Garibaldi Planning Commission.

(C) Notice shall include all information generally required for notices of land-use hearings pursuant to the Garibaldi Zoning Ordinance, as amended.

Section 5. Criteria for Granting Waiver: The granting of a waiver pursuant to this Ordinance shall be based upon an affirmative finding by the Council that:

(A) There is an exceptional circumstance which does not generally apply to other properties, or requiring removal of the encroachment would create a practical

difficulty or unnecessary hardship; and

- (B) Granting the requested waiver will not adversely affect the ability of the City to utilize the right-of-way, or adversely affect adjacent property.

Section 6. Grant or Denial of Waiver:

(A) Following the public hearing in Section 4., above, the Council shall approve the waiver, deny the waiver, or approve the waiver with conditions. The decision of the Council shall be in the form of a written order granting the waiver, denying the waiver, or approving the waiver with conditions. The Council may attach such conditions to granting the waiver as the Council may consider reasonable. The order shall incorporate findings of fact and conclusions that include a statement of the facts upon which the Council relied in establishing compliance or non-compliance with the applicable criteria or standards and how those facts support the decision.

(B) Notice of the Council's decision shall be provided to all parties to the hearing within five (5) working days of the date on which the order was signed. Notice of the decision shall include a brief description of the decision reached and a statement that the complete file, including the final order, is available for review at City Hall during regular working hours.

Section 7. Limitations on Approval: City Council approval of a waiver pursuant to this Ordinance shall be limited to the specific application which initiated the action. The granting of a waiver does not preclude the City Council from requiring removal of the encroachment at a later date, upon sixty (60) days' advance notice to the owner thereof.

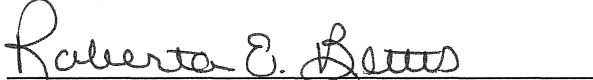
Section 8. Building Permits: Notwithstanding the provisions of Sections 1. through 7., above, the City shall not issue a building permit for a property with a structural encroachment into public street right-of-way without said building permit incorporating removal of the encroachment.

PASSED by the Common Council and approved by the Mayor of the City of Garibaldi, this 20th day of November, 2000.



Mayor

ATTEST:


City Recorder