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**To:** Mayor and Council  
**From:** Paul Gipps, CAO  
**Meeting Date:** October 7, 2025  
**Meeting Type:** Regular Council Meeting

**Prepared by:** Scott Unser, Public Works Manager  
**Department:** Infrastructure & Development Engineering

**Title:** Encroachment Application E000018 at 11090 Eva Road  
**Description:** Formalize existing retaining wall re-construction and encroachment at 11090 Eva Road

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### **RECOMMENDATION**

THAT the owners of the property having a civic address of 11090 Eva Road, legally described as Lot 44, Plan KAP32546, Section 15, Township 20, Osoyoos Div of Yale Land District, (the "Applicant") be authorized to encroach on the District's Right-of-Way, with a re-constructed retaining wall;  
AND THAT prior to issuance of an Encroachment Permit, the Applicant be required to register a Long-Term Encroachment Agreement and Covenant on Title.

### **EXECUTIVE SUMMARY**

In August 2025, District Engineering staff were contacted by the owner, and their contractor, regarding permissions required to replace the existing wooden landscape tie retaining walls at 11090 Eva Road. Staff conducted a site visit and requested design details. At the time of the site visit, it was noted that the existing, and proposed wall, encroach onto the District Right-of-Way. Through collaboration with the District, the existing retaining wall was removed in June of 2025, under a Permit to Construct in the Right-of-Way, and the applicant applied for the Encroachment Permit on August 26, 2025.

The District's and the Owners' objective is to formalize the encroachment, clearly establish legal responsibilities and effectively manage risk. Highways Bylaw 1189, 2022, applies specifically to regulating Encroachment, and Section 219 of the Land Title Act authorizes the use of covenants by municipal government. Section 219 covenants run with the land and ensure the District's interests are protected over time and throughout any changes in ownership of the land. Highways Bylaw 1189, 2022, speaks to encroachments and prescribes Council authorization of long term surface encroachments.

The proposed new retaining wall, as designed, does not currently impact District infrastructure or operations. Staff are supportive of this solution as it replaces an older failing wooden structure with a more durable product and will mitigate some drainage concerns in this area. If necessary for future works, the District may invoke the termination clause in the Covenant at any time.

### **DISCUSSION/ANALYSIS**

Drainage and retention on the west side of Eva Road presents challenging constraints due to the natural topography. The proposed new retaining walls will encroach by approximately 5 to 5.5 metres, however, they will address slope stability and drainage in an effective manner and reduce the encroachment by approximately .5m versus the original. The residence at 11090 Eva Road predates incorporation of the District. It is uncertain when the original landscape tie wall was constructed, however, it has exceeded its life span and was exhibiting signs of failure. The new wall will be constructed of segmental concrete block (Allan Block or similar) for an extended life span.

**COMMUNICATION**

No statutory advertising or public communication is required for an Encroachment Permit.

**ALTERNATE RECOMMENDATION(S)**

1. THAT the owners of the property having a civic address of 11090 Eva Road, legally described as Lot 44, Plan KAP32546, Section 15, Township 20, Osoyoos Div of Yale Land District, (the "Applicant") NOT be authorized to encroach on the District's Right-of-Way with a re-constructed retaining wall.

Respectfully Submitted.

**Scott Unser, Public Works Manager**



Figure 1 - Extents of Retaining Wall at 11090 Eva Road

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**Report Approval Details**

Document Title:	Encroachment 11090 Eva Road.docx
Attachments:	
Final Approval Date:	Oct 1, 2025

This report and all of its attachments were approved and signed as outlined below:

**Matthew Salmon, Infrastructure & Development Engineering Director - Sep 29, 2025 - 8:59 AM**

**Reyna Seabrook, Director of Corporate Services - Sep 29, 2025 - 12:25 PM**

**Paul Gipps, Chief Administrative Officer - Oct 1, 2025 - 12:47 PM**

**Makayla Ablitt, Manager of Corporate Administration - Oct 1, 2025 - 3:22 PM**