

**Subject: Amendments to the Use and Care of Roads By-law**

**File Number: ACS2023-PRE-RHU-0026**

**Report to Transportation Committee on 22 June 2023**

**and Council 28 June 2023**

**Submitted on May 26, 2023 by Court Curry, Director, Right of Way, Heritage, and Urban Design Services, Planning, Real Estate and Economic Development**

**Contact Person: Chris Warren, Specialist By-law Review / Right of Way, Heritage, and Urban Design Services / Planning, Real Estate and Economic Development Department**

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**Ward: Citywide**

**Objet : Modifications apportées au *Règlement sur l'utilisation et l'entretien des routes***

**Dossier : ACS2023-PRE-RHU-0026**

**Rapport au Comité des transports**

**le 22 juin 2023**

**et au Conseil le 28 juin 2023**

**Soumis le 26 mai 2023 par Court Curry, Directeur, Services des emprises, du patrimoine, et du design urbain, Services de la planification, des biens immobiliers et du développement économique**

**Personne ressource : Chris Warren, Spécialiste, examen de règlements municipaux, Services des emprises, du patrimoine, et du design urbain, Services de la planification, des biens immobiliers et du développement économique**

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**Quartier : À l'échelle de la ville**

**REPORT RECOMMENDATION(S)**

**That Transportation Committee recommend Council:**

- 1. Approve the amendments to the Use and Care of Roads By-law No. 2003-498 and the Road Activity By-law No. 2003-445 as described in this report.**

## **RECOMMANDATION(S) DU RAPPORT**

**Que le Comité des transports recommande au Conseil:**

- 1. Approuve les modifications apportées au *Règlement sur l'utilisation et l'entretien des routes* (n° 2003-498) et au *Règlement sur les travaux routiers* (n° 2003-445), comme décrites dans le présent rapport.**

## **EXECUTIVE SUMMARY**

The City of Ottawa's Use and Care of Roads By-law does not currently permit alterations to the grass boulevard within the right of way. Further, the by-law does not allow for free library boxes to be installed within the right of way, or pop-up retail display and vending within the City's right of way.

The previous Council directed staff to look at opportunities to provide residents and community groups the ability to undertake landscaping projects or install a free library box within the right of way. This report will expand on the directions received from Council as well as additional feedback received from businesses by way of the Right-of-Way Patio By-law update [ACS2023-PRE-RHU-0012](#) in respect to providing retail opportunities within the City's right of way. The following were the motions brought forward:

On May 4, 2022, [ACS2022-OCC-TRC-0012](#) from Transportation Committee:

- Transportation Committee recommend Council approve that staff report back to Committee in 2023 with the results of a comprehensive review as to the feasibility of permitting resident or community group landscaping projects within the right of way, as well as recommendations concerning its implementation, including any necessary internal resources, by-law amendments, associated procedural and permitting requirements, and an analysis or recommendation of any broader programs or funding that could support the above framework.

On June 22, 2022,

- Council, by way of motion 79/16, directed staff in the Planning, Real Estate and Economic Development department, the Public Works department and Emergency and Protective Services to jointly review the feasibility of alternate approaches to permitting Little Free Libraries, while still maintaining the objectives of relevant City by-laws, with a report back to the appropriate Standing Committee in the next Term of Council.

These motions were the result of a growing trend towards promoting more naturalized areas, increasing biodiversity and climate resiliency, as well as providing residents with more options versus cutting the existing grass and weeds only. Additionally, there has been an increased interest in free library boxes that provide a host of benefits to a community, and where there is currently no formal framework in place to permit their installation within the right of way.

It was also determined that the review of the Use and Care of Roads By-law was the appropriate method to propose permanent by-law amendments to allow for pop-up retail display and vending, associated with commercial businesses and creating the appropriate process and parameters for this to take place.

The proposed parameters for residential gardening opportunities and the installation of a free library box within the right of way were developed through ongoing discussions with staff from various departments, including subject matter experts across a broad range of Service Areas. This ensures that City operations or capital project activity will not be compromised and mitigates risk to the City. Staff engaged residents and horticultural groups to ensure that amendments proposed were in accordance with current trends, and shared information on the proposed regulation development process. Staff further consulted with utility companies to ensure that the proposed amendments do not conflict with existing and future utility projects. Finally, staff evaluated other municipalities that currently permit landscaping opportunities or free

library boxes within the municipal right of way, and used municipal best practices observed elsewhere as a guideline in developing the proposed recommendations within this report.

Additionally, Staff are recommending pop-up retail display and vending opportunities within the right of way abutting commercial establishments. Staff have consulted with the Ottawa Coalition of Business Improvement Areas, who in turn canvassed their membership regarding the proposed processes and regulations, with positive feedback received.

The proposed amendments will be effective immediately following Council approval allowing for residents to garden and install free library boxes within the City's right of way, abutting residential property. Additionally, retailers where appropriately zoned, will have immediate access to pop-up display and vending opportunities within the right of way.

Staff continue to review gardening opportunities within the right of way, as well as other City property, coordinating intake and available funding programs to address community requests. Staff will report back to the appropriate standing committee once this review is complete.

## **RÉSUMÉ**

Le *Règlement sur l'utilisation et l'entretien des routes* de la Ville d'Ottawa ne permet pas actuellement de modifier le terre-plein gazonné situé dans l'emprise. De plus, le Règlement ne permet pas l'installation de petites bibliothèques gratuites ou l'aménagement d'espaces temporaires d'exposition et de vente au détail dans l'emprise de la Ville.

Le Conseil précédent avait demandé au personnel d'examiner la possibilité d'offrir aux résidents et aux groupes communautaires la capacité d'entreprendre des projets d'aménagement paysager ou d'installer une petite bibliothèque gratuite dans l'emprise. Le présent rapport élargira les directives du Conseil et tiendra compte des commentaires supplémentaires reçus des entreprises par le biais de la mise à jour du *Règlement régissant les terrasses sur emprise* [ACS2023-PRE-RHU-0012](#) afin d'offrir des possibilités de vente au détail dans l'emprise de la Ville. Les motions suivantes ont été présentées :

Le 4 mai 2022 : la motion [ACS2022-OCC-TRC-0012](#) du Comité des transports :

- Que le Comité des transports recommande au Conseil d'approuver la présentation par le personnel d'un rapport au Comité en 2023 comprenant les résultats d'un examen complet visant à déterminer la possibilité de permettre aux résidents et aux groupes communautaires d'entreprendre des projets d'aménagement paysager sur l'emprise de la Ville ainsi que des recommandations sur la mise en œuvre de cette autorisation, y compris sur les ressources internes nécessaires, les modifications aux règlements municipaux, les exigences connexes en matière de procédures et de permis, et une analyse ou des suggestions sur les programmes généraux ou de financement qui pourraient soutenir ce cadre.

Le 22 juin 2022 :

- Par le biais de la motion 79/16, le Conseil a demandé au personnel de la Direction générale de la planification, de l'immobilier et du développement économique, de la Direction générale des travaux publics et de la Direction générale des services de protection et d'urgence d'évaluer conjointement la possibilité d'adopter d'autres approches pour autoriser les petites bibliothèques gratuites, sans déroger des objectifs des règlements municipaux, et d'en faire rapport au comité permanent compétent au cours du prochain mandat du Conseil.

Ces motions sont le résultat d'une tendance croissante à promouvoir un plus grand nombre de zones naturalisées, à accroître la biodiversité et la résilience du climat, et à offrir aux résidents davantage d'options plutôt que de simplement tondre le gazon existant. De plus, on a noté un intérêt accru pour les petites bibliothèques gratuites offrant une foule d'avantages à la communauté là où il n'existe actuellement aucun cadre officiel en place pour permettre leur installation dans l'emprise.

On a également déterminé que l'examen du *Règlement sur l'utilisation et l'entretien des routes* était la procédure appropriée pour proposer des modifications législatives permanentes afin de permettre l'aménagement d'espaces temporaires d'exposition et de vente au détail associés aux entreprises commerciales et créer le processus et les paramètres appropriés pour ce faire.

Des discussions continues avec le personnel de diverses directions générales, notamment des experts en la matière dans un large éventail de secteurs d'activité, ont permis d'élaborer les paramètres proposés pour les occasions de jardinage résidentiel et l'installation d'une petite bibliothèque gratuite dans l'emprise. Cela permet de

s'assurer que les opérations ou les projets d'immobilisations de la Ville ne seront pas compromis et de réduire les risques pour la Ville. Le personnel a consulté des résidents et des groupes d'horticulture afin de s'assurer que les modifications proposées étaient conformes aux tendances actuelles et il a partagé de l'information sur le processus d'élaboration du règlement proposé. Le personnel a également consulté les entreprises de services publics pour s'assurer que les modifications proposées n'entraient pas en conflit avec des projets de services publics actuels et futurs. Enfin, le personnel a évalué les pratiques d'autres municipalités qui autorisent actuellement les aménagements paysagers ou l'installation de petites bibliothèques gratuites dans l'emprise municipale et a utilisé les meilleures pratiques municipales observées ailleurs comme lignes directrices pour élaborer les recommandations proposées dans le présent rapport.

De plus, le personnel recommande d'offrir des occasions d'aménagement d'espaces temporaires d'exposition et de vente au détail dans l'emprise adjacente aux établissements commerciaux. Le personnel a consulté la Coalition des zones d'amélioration commerciale d'Ottawa, qui à son tour a demandé à ses membres leurs points de vue sur les processus et règlements proposés, et des commentaires positifs ont été reçus.

Les modifications proposées entreront en vigueur immédiatement après avoir obtenu l'approbation du Conseil, ce qui permettra aux résidents de jardiner et d'installer des petites bibliothèques gratuites dans l'emprise de la Ville adjacente à une propriété résidentielle. Là où le zonage le permet, les détaillants pourront immédiatement aménager des espaces temporaires d'exposition et de vente au détail dans l'emprise.

Le personnel continue d'examiner les possibilités d'aménagement paysager dans l'emprise, ainsi que sur d'autres propriétés de la Ville, en coordonnant les demandes reçues et les programmes de financement disponibles pour répondre aux besoins de la communauté. Le personnel fera rapport au comité permanent approprié une fois l'examen terminé.

## **BACKGROUND**

### *1. Existing Regulatory Context*

The City of Ottawa's Use and Care of Roads By-law 2003-498 identifies the activities permitted and prohibited within the City's right of way. Right of way's are vital to residents, businesses and visitors providing vehicular, bicycle and pedestrian travel throughout the city. They also serve as the conduit for utility services including water,

sewer, gas, electric and telecommunication infrastructure. The right of way includes the travelled portion of a roadway as well as sidewalk and boulevard areas.

The Use and Care of Roads By-law was enacted in 2003 and has not undergone significant changes since inception. Where the City right of way includes a grass boulevard, that grass boulevard has historically been required to remain in its original condition as installed, grass only. Currently, the Use and Care of Roads By-law states that “the owner of land zoned residential shall cut the grass and weeds on the boulevard abutting the owner's land, whenever the growth of grass or weeds is out of character with the surrounding environment.” The Use and Care of Roads By-law further prohibits any alterations or modifications to a grass boulevard, where “no person shall break, dig up, destroy or damage the sod or grass of a boulevard,” preventing the removal of grass, further enhancements, or installations of soft or hard landscaping items within a boulevard.

### *2. Why are alterations to the right of way currently not permitted?*

Grass boulevards have long been the standard treatment in the City of Ottawa. It allows for appropriate grading, storm water drainage, soil erosion protection and permeability. This standard ensures that utility access, maintenance activities including snow plowing and snow storage, as well as re-installment standards by the City or utility companies remain consistent.

Historically, the regulations found within the Use and Care of Roads By-law were designed to protect the infrastructure located on and within the right of way, as well as ensuring that roadways and surrounding areas remained unencumbered and safe to all users. Given the context, purpose and intended function of a right of way, the existing regulations are risk-adverse and do not allow for modifications or additions within the right of way. These regulations reduce unintended damages within the right of way and potential risks to roadway and other right of way users.

### *3. Current approach to requests for residential gardening*

Staff have generally adopted a reactive-based enforcement approach when responding to right of way complaints under the Use and Care of Roads By-law, where residents or community groups have altered the existing grass. Where appropriate, exceptions have been granted to residents or community groups requesting to undertake gardening projects such as the installation of a pollinator garden or naturalized area within a right of way, or the installation of a free library box. Exceptions to allow these activities may be offered by way of a signed acknowledgement or standard agreement, which outlines

the conditions and rules surrounding the exemption. There may be further insurance requirements in some situations.

While this is a temporary measure in providing some residents or community groups with options on a case-by-case basis, the requests consume staff resources and generally lacks consistency. There is no formal intake process or internal circulation list to ensure that all relevant City departments have had the opportunity to review a proposal, and no standard set of criteria for what an acceptable proposal may include. Furthermore, exemptions are not readily available to all users and requires a resident or community group to locate the appropriate service area to begin the discussion. This is cumbersome and creates an imbalance for residents that may not be able to access the appropriate service area. There is a notable lack of consistency because of this current practice, and the recommended changes to the Use and Care of Roads By-law will provide better framework to remove barriers for all residents.

#### *4. Benefits of Residential Gardening and Little Free Library Boxes within the City Right of Way*

There is an increasing trend where residents would like to have more options and alternatives versus cutting existing grass and weeds within the right of way. There has been a fundamental public shift towards a more naturalized environment, the benefits of which include:

- Conserving water
- Improving on-site stormwater retention
- Encouraging naturalization, pollinator gardens, and biodiversity while avoiding monocultures
- Increasing drought and soil erosion resistance
- Reducing heat-island effects
- Reducing fertilizer and pesticide usage
- Promoting climate change resiliency
- Fewer emissions produced from gasoline engines (mowing)
- Promoting mental and physical health benefits

There has further been a trend amongst residents requesting to install free library boxes within City right of way. This trend can be seen as a positive development as it reflects a growing desire amongst members of the community to promote literacy and access to education. By providing free access to books within the community, residents can promote a culture of reading and lifelong learning, as well as:

- Increasing a sense of community



- Improving literacy rates
- Ensuring affordability as these resources are free for all users
- Providing access to different reading materials
- Providing a means to recycle used books

#### 5. *Council direction*

On May 4, 2022, the following motion ACS2022-OCC-TRC-0012 was received from Transportation Committee:

- That the Transportation Committee recommend Council approve that staff report back to Committee in 2023 with the results of a comprehensive review as to the feasibility of permitting resident or community group landscaping projects within the right of way, as well as recommendations concerning its implementation, including any necessary internal resources, by-law amendments, associated procedural and permitting requirements, and an analysis or recommendation of any broader programs or funding that could support the above framework.

On June 22, 2022, the following motion 79/16 was received from City Council:

- That Council direct staff in the Planning, Real Estate and Economic Development department, the Public Works department and Emergency and Protective Services to jointly review the feasibility of alternate approaches to permitting Little Free Libraries, while still maintaining the objectives of relevant City by-laws, with a report back to the appropriate Standing Committee in the next Term of Council.

As a result of both motions received in 2022, staff have been focusing on researching and developing a framework that supports residential gardening and free library box installations within the City right of way.

#### 6. *Pop-up retail display and vending*

Pop-up retail display and vending refers to a retail establishment displaying or vending goods for sale within the right of way, for a limited period of time and within a limited area that does not impede the right of way. With limited indoor capacities during the COVID-19 pandemic, the City gave the opportunity to retailers to expand their sales capacity by issuing café seating style permit to allow them to sell their merchandise on the sidewalk as part of the 2022 Patio Innovation Program. To allow a pop-up retail vending program in perpetuity, amendments to the City's Use and Care of Roads By-

law are required. Staff are proposing a clear and simplified approach to permitting pop-up retail display and vending within the right of way by amending the Use and Care of Roads By-law. Simplified standards and requirements to allow for limited retail display and vending on the right of way on a daily basis in commercially zoned locations within the Urban Area and Serviced Villages, are outlined in the proposed recommendations below. These include a limitation on size, duration, and location to ensure that retail display and vending is appropriately scaled to suit the intended pop-up function. The proposed process would include a letter of acknowledgement requirement per year and the provision of the appropriate liability insurance by the business operator. The by-law requirements will create a clear indication of what is appropriate and will ensure key allowances such as a 2-metre pedestrian clearway be maintained where retail display and vending is requested. Due to the scale and nature of the allowances, and the limited size and duration, no fees are proposed for business operators at this time.

Following other permanent amendments to the Right of Way Patio By-law in April, staff have engaged internally and with the Ottawa Coalition of Business Improvement Areas (OCOBIA) and their membership to determine the appropriate approach for retail display and vending moving forward. Staff have determined that a simplified, alternative approach as outlined above will better suit the needs of business operators looking to display or vend in the right of way on a limited basis, providing the following benefits:

- Providing businesses with further options for limited retail display and vending
- Expanding the usable space and retail capacity for businesses where possible.
- Creating the opportunity for increased sales
- Bringing convenience to both consumers and retailers
- Increasing access to retail goods for consumers
- Creating the opportunity for dynamic displays and additional public realm vibrancy in commercial areas

### *7. Other Municipalities*

Staff have been reviewing and consulting with other municipalities across Canada to benchmark the municipal best practices with respect to residential gardening and free library boxes within the right of way. The municipalities reviewed included Toronto, Kitchener, Mississauga, Brampton, City of London, Waterloo, Hamilton, Guelph, Montreal, Winnipeg, Saskatoon, Calgary, Edmonton, Vancouver, Victoria and Halifax.

There are a variety of approaches being taken by these municipalities in relation to residential gardening within a right of way, which include:

1. A permit requirement whereby a resident must submit a formal application to the municipality. There may be fees associated with applications, and there are inspection requirements in order to receive an approval.
2. Non-permit approach with publicly available by-law requirements and recommended guidelines in place, so that residents can undertake right of way gardening projects without having to proactively contact the municipality first.
3. No residential gardening projects formally permitted within the right of way, however, a discretionary enforcement approach is generally followed.

There were no municipalities found to have formal regulations or framework in place to allow free library boxes to be installed within right of way space. Some municipalities do not permit free library boxes to be installed within the right of way at all, and others apply a discretionary approach and address them where required or if a complaint is received.

## **DISCUSSION**

The recommendations proposed below are formulated through a cumulation of thorough consultation with internal staff and subject matter experts, external stakeholders and the general public, as well as other Canadian municipalities which identified recent trends and municipal best practices. Staff are proposing parameters that modernize the Use and Care of Roads By-law with a host of benefits for the public, while ensuring that the City's right of way interests remain protected and safe for all users.

### ***Recommendation 1 – Amendments to the Use and Care of Roads By-law***

**A)** *Allow for gardening activities within the right of way abutting residential property, without a permit, subject to regulation.*

Staff recommends amendments to the Use and Care of Roads By-law to allow for residential gardening opportunities within the right of way, abutting residential property, without the need to obtain a permit. Residents would be subject to complying with the updated regulations proposed within the by-law.

Implementing this recommendation will allow residents to undertake gardening projects within the right of way next to their homes. A non-permit system is less cumbersome for residents and aligns with inquiries and requests received to initiate right of way projects. This approach also follows municipal best practices observed elsewhere in Canada, where the majority of municipalities that allow projects within the right of way, do not have a permit requirement. The non-permit option will have fewer implications on staff

resources, with no requirement to process permits. The proposed by-law amendments are designed to minimize risks to the City, so the requirement for a permit and associated elements such as insurance and indemnity is not considered necessary.

Staff have reviewed and considered alternative options when considering the proposed by-law updates. One of the municipalities identified in the external municipal review that has adopted a permit system, is Mississauga. Mississauga has commented that their municipality currently receives approximately 50-60 applications per year for boulevard gardens and having a single staff resource to review and process these applications, which has been challenging. Their application fee is currently \$50.00, however, in many cases the fee is waived and not indicative of a true cost recovery for the municipality. Adopting these changes to the Use and Care of Roads By-law and implementing a formal permit system would invoke positive change in modernizing the by-law, however, a permit requirement would make access more cumbersome and may be prohibitive for residents looking to undertake right of way gardening projects. Requiring permits to undertake projects will result in additional staff resources to administer and review applications. In accordance with the corporate User Fee Policy, a fee would be required to ensure administration and resource cost are recovered. Moreover, requiring a permit would cause processing delays for residents who wish to install a garden within the right of way. As this option is not being recommended, full costing of a permit system implementation, including potential fees for applicants or full-time employee (FTE) requirements for City staffing was not reviewed.

Staff have further reviewed maintaining the status quo. There are examples of other municipalities that have not updated and amended their respective by-laws to allow for alterations, gardening, or landscaping projects within the right of way. These municipalities include the City of Montreal, Brampton, and Hamilton. While there are no formal provisions in place permitting alterations within the right of way in these municipalities, they have adopted a discretionary enforcement approach and do have some level of tolerance for alterations within the right of way, on a case-by-case basis.

Maintaining the status quo is unmanageable because current by-laws prohibit alterations to the right of way and provides no guidance for residents or staff. This leads to inconsistencies in exemptions and enforcement measures due to a lack of standard conditions for what is acceptable. Furthermore, doing nothing does not align with the direction from Council and development of new policy goals, such as improving climate resiliency.

In summation, staff have concluded that implementing a permit system or keeping the status quo, as not being preferred options for the City of Ottawa for the reasons outlined within both alternatives.

To effect opportunities for residential gardening, free library boxes, and pop-up retail display and vending, staff propose amendments to the by-law to outline the parameters under which these activities can occur. These parameters represent regulations designed to allow these activities, while ensuring City and utility company operations can be maintained. Infrastructure within the right of way will remain protected, accessibility needs are considered, and the risk to the City or public is mitigated. Tables 1 through 4 within this report will provide a detailed description of the proposed by-law regulations:

- Table 1 includes proposed residential gardening regulations within the right of way
- Table 2 includes proposed set back requirements from elements within the right of way
- Table 3 includes proposed regulations for free library boxes
- Table 4 includes proposed regulations for pop-up retail display and vending within the right of way

Table 1

<b>Proposed Regulations for Residential Gardening within the Right of Way</b>	
<b>Proposed Regulation</b>	<b>Rationale</b>
Only soft landscaping to be permitted.	Diverse vegetation promotes climate resiliency and positive environmental impacts. Hard landscaping materials like pavers can decrease permeable surfaces and river stone can create tripping hazards if washed onto sidewalks or

	roadways, and may interfere snow clearing operations.
Noxious weeds and invasive species will not be permitted.	Noxious weeds and invasive species will be defined as per the Ontario Invasive Species Act, as well as the Ontario Weed Control Act. A list of recommended species to avoid will also be provided on the City's webpage, for species that are currently legal but known to have invasive tendencies.
Consumables (vegetables, fruit, herbs, nuts & seeds, etc) will not be permitted.	As information on risks and benefits is continuing to be gathered, at this time it is not being proposed to permit growing consumables (the growing of food) within City right of way lands. At the request of Ottawa Public Health, Public Health Ontario is currently reaching out to municipalities who have arrived at a position on this issue, in order to determine the evidence bases of their decisions. This review should permit a better understanding and possibly a quantification of the risks and benefits associated with growing consumables within this land. It is our experience that historical land uses on City lands have resulted in costly remediation of community gardens in the past (i.e., the Children's Community Garden and the Nanny Goat Hill Community Gardens), as well as an ongoing City duty to notify residents of health risks associated with growing produce on their properties in three impacted neighbourhoods, where homes are situated on former landfill sites. In order to have more clarity on the

	<p>risks and benefits associated with this activity, it is staff's recommendation to exclude consumable planting until we have better information on which to base this decision. We intend to revisit this recommendation after evidence that could properly inform this decision becomes available.</p>
<p>Only hand-digging will be permitted for the installation of residential gardens.</p>	<p>To ensure the protection of underground utilities such as gas lines, hydro lines and telecommunication cables as well as tree roots, mechanical excavation is not proposed to be permitted.</p>
<p>A resident may only install a residential garden within the right of way directly abutting their own property.</p>	<p>Currently, residential property owners are required to cut the grass and weeds within the right of way abutting their property.</p> <p>Under the proposed regulations for resident gardening within the right of way, residential property owners would also be responsible for any gardening within the right of way, abutting their property.</p>
<p>While a resident may only create a garden within the right of way directly abutting their own property, they may also create a garden within the right of way abutting another person's residential property, where written consent is provided by that abutting owner.</p>	<p>Consent must be written from the abutting property owner for another person to undertake a gardening project within a right of way, that is not abutting their own residential property. This is necessary as the by-law requires the property owner of lands zoned residential to cut the grass or weeds or maintain a garden within the abutting City right of way. Should there be an issue with a gardening project within the right of way, the City would hold the abutting property owner responsible.</p>

<p>No gardening will be permitted within the front or back slope of a ditch.</p>	<p>Ditches are designed to move stormwater out of a neighbourhood. Any modification to a ditch can result in impacts to the ditch's ability to move stormwater and provide adequate drainage of the area.</p>
<p>No plants will be permitted to exceed a maximum height of 0.75 metres.</p>	<p>A maximum height limit is proposed to help ensure the safe movement of vehicles in and out of driveways, as well as at intersections and corner lots.</p> <p>The proposed height limit harmonizes with the City of Ottawa Zoning and Fence By-laws related to the maximum height of visibility triangles for corner lots.</p>
<p>No residential gardening will be permitted within one (1.0) metre of the edge of roadway where no curb exists.</p>	<p>This helps to protect roadway shoulders and ensures that parking and roadway travel remains unencumbered on streets with no curb. When a shoulder is lost, it can narrow roadways and eliminate on-street parking where reduced in width. Residential areas with no curb also sustain significant winter damages through City snow clearing and storage operations. Staff currently receive approximately 800 Service Requests annually to reinstate damaged grass after the winter season.</p>
<p>Sidewalks and roadways must remain clear and unobstructed.</p>	<p>To allow for unobstructed and accessible use of City sidewalks, no residential garden may grow onto or over a roadway or sidewalk.</p>

Table 2



<b>Proposed Setback Requirements from Elements within the Right of Way</b>	
<b>Proposed Regulation</b>	<b>Rationale</b>
Residential gardening must not be located within one (1.0) metre of a City tree as measured from the trunk as shown in Figure 1, of Document 1.	A minimum distance from a tree trunk is proposed to help ensure the critical root zone of the tree is protected. No digging is permitted within this zone as a result.
Fire Hydrants – Right of way gardening will not be permitted within a 1.5 metre radius of a fire hydrant, as well as within a three (3.0) metre wide corridor from the fire hydrant to the roadway as shown in Figure 2, of Document 1.	This ensures that fire hydrants remain readily accessible in the event of an emergency, ensuring visibility and reducing tripping hazards for maintenance and emergency staff.  City of Ottawa Water By-law No. 2019-74, as amended, requires fire hydrants be kept clear in accordance with the minimum distances proposed.
Hydro Transformers – Right of way gardening will not be permitted within 1.5 metres at the back or sides of a hydro transformer, as well as a three (3.0) metre wide corridor from the front of a transformer to a right of way gardening project as shown in Figure 3, of Document 1.	This ensures that hydro transformers remain readily accessible in the event of an emergency, as well as accessible for any required maintenance.  This follows the Electrical Safety Authority guidelines.
Catch basins and manholes – Residential gardening will not be permitted within 1.5 metres of a catch basin or manhole.	This proposed setback helps to ensure that City maintenance operations are not impeded, and that the necessary equipment can be brought in for access.
Infrastructure other than those listed above (e.g., Gas and telecommunication	This proposed setback ensures sufficient space for visibility, access and

pedestals, grade level boxes, hydro poles, guide wires, City signage, and Canada Post mailboxes). Residential gardening will not be permitted within one (1.0) metre of infrastructure, as illustrated in Figure 4, of Document 1.	maintenance of utility infrastructure, and assists in preventing damage when digging.
OC Transpo Bus Stops – Residential gardening will not be permitted within the area of an OC Transpo bus stop as shown in Figure 5, of Document 1:	The proposed setbacks from OC Transpo bus stops are proposed to ensure the continued safe operation of OC Transpo services, including the maintenance and operation of bus stops. These setbacks further ensure that pedestrians can move freely in and around bus stops.

Further to the proposed regulations, there are some additional considerations that residents should understand before initiating a residential gardening project within the right of way. Any installed projects within the right of way is done at the abutting residential property owner's own risk. The City will not guarantee the success of, nor will it maintain any residential garden within the right of way. Should the City, or a utility company require access to install, maintain, or repair infrastructure, neither the City nor the utility company will be responsible for replacing or reinstating a residential garden. Similarly, the City shall not be obliged to restore any residential garden if damaged by any snow removal operations, or any other road maintenance activity.

Upon receiving notice of planned City capital projects or utility work within the right of way, residents should take the appropriate measures to determine if the work will impact a garden installed within the right of way. Residents can then remove any plants from the garden they wish to save in advance of the work taking place. This will provide residents with an opportunity to save and re-install gardens once work is completed. Residents may have an opportunity to request that soil be re-instated only, following planned utility or City work within the right of way, for ease of re-installing their garden project. Residents should contact the City or utility company when notice is received ahead of planned work to request this re-instatement treatment.

*Community group gardening activities within the right of way*

Community group requests to undertake landscaping projects within the right of way was identified in the motion from Transportation Committee. Formal requests are being received from community groups and organizations looking to undertake projects within the right of way. Requests may include pollinator or naturalized gardens and are typically intended to beautify a boulevard space while providing benefits for wildlife. Typical right of way project proposals from community groups are not for right of way lands abutting residential property, but rather, are received for right of way lands in other areas that the City currently maintains.

Staff are continuing to review opportunities to coordinate intake and available funding programs to address community requests on all City property. There is currently no formal framework in place to receive, review, and approve community project requests. Staff continue to work towards standardizing and building an internal intake, review and circulation process for all community requests, which would include projects within the City right of way. Staff will report back to the appropriate standing committee once this review is complete. In the interim, staff within the applicable Service Areas will continue to work with community groups when such requests are received for right of way's on a case-by-case basis. Approvals are being issued by way of signed acknowledgement or maintenance and liability agreement where applicable, providing an interim solution.

***B) Allow for the installation of free library boxes within the right of way abutting residential property, with a signed acknowledgement.***

The following describes the recommended amendments to the Use and Care of Roads By-law to allow for the installation of free library boxes within the right of way.

Staff propose that a signed acknowledgement be required prior to a resident undertaking a free library box project within the right of way. This will ensure that those installing a library box will read through all guidelines and by-law requirements prior to constructing and installing their library box within the right of way.

The requirement for a signed letter of acknowledgement will also help to inform the City of the installation and location of a free library box, as well as provide provisions to hold the installer responsible for any potential damages or issues that may arise.

Residents must acknowledge that they will be required to indemnify the City if someone is injured by a free library box. An internal database will be created to track the locations of all libraries including owner address and phone number. This provides the City with a quick reference and contact information should there be a complaint, maintenance concern, or work occurring where a library may be installed. Throughout external

Canadian municipal research, it was not found that other municipalities had formal framework in place specifically to permit free library boxes to be installed within the right of way. Some municipalities would prohibit the installation of libraries within the right of way altogether, and others would address complaints or inquiries on a case-by-case basis and work with the library owner or community to find a resolution.

Staff reviewed alternative options to permitting free library boxes within the right of way. One alternative was to implement a permit system with user fees, and another to keep the status quo which would not see amendments to the Use and Care of Roads By-law.

While implementing a permit system with user fees may seem like a viable alternative to allowing free library boxes within the right of way, it is important to consider the potential drawbacks. A permit system may create an unnecessary burden for both applicants and staff responsible for processing permits. Additionally, user fees may create a financial barrier for those who wish to install a free library box, potentially limiting access to free library boxes within a community. Maintaining the status quo would also have its drawbacks, as it does not address the issue of unregulated free library boxes within the right of way. There is no current approval process, guidance, or regulation standards, which leads to inconsistencies in enforcement, exemptions, build requirements and setback requirements. This creates inequalities and inconsistencies for both staff and residents, and does not resolve the intent of the motion from Council in seeking measures to find a resolution to permitting free library boxes within the City's right of way.

In summation, the City's risk is minimized by the proposed approach, while also providing a means for residents to pursue the installation of a free library box with no user fees. A signed acknowledgement is a practical and efficient way to ensure that residents are aware of their responsibilities and obligations without creating unnecessary hurdles that may be present with a permit system.

In addition to complying with the proposed regulations for residential gardening, anyone wishing to install a free library box within the right of way will also be subject to the proposed regulations in Table 3.

Table 3

**Proposed Regulations for Free Library Boxes**

(In addition to the regulations proposed for residential gardening projects)

<b>Proposed Regulation</b>	<b>Rationale</b>
A signed letter of acknowledgement must be provided to the City before installing a free library box.	To assist with the tracking of installations should the free library box require modifications or removal, and to ensure that residents have read and understand the regulations as well as insurance indemnity.
No free library box may be installed within one (1.0) metre of a roadway.	This helps to ensure that our roadways remain clear and unencumbered from library installations and provides a setback so that users are visiting away from the travelled portion of a roadway. This setback provides parking room for vehicles and an area for passengers to enter and exit. Additionally, this setback provides clearance from roadway snow maintenance operations as well as sufficient room for snow storage.
A free library box must have a minimum accessible height of (0.9) metres, and maximum accessible height of no greater than (1.1) metre, measured from the grade of the base of the library box when installed.	The minimum and maximum height requirement harmonizes with the City of Ottawa library book drop accessibility design standards. This ensures inclusivity for everyone in the community including children and those with additional accessibility requirements.
A free library box must not impede or encumber a sidewalk by any means.	Installation may be towards the sidewalk edge furthest from the roadway to provide easy access for a passerby. This will allow for more installations city-wide without compromising roadway safety. Libraries cannot overhang, encumber, or have doors opening that impede the path of travel, or impede sidewalk

	maintenance operations including snow clearing and storage.
A free library box may not have a permanent foundation.	Free library boxes must be removable should the City or a utility company require access to install, maintain, or repair infrastructure.  Additionally, permanent foundations such as poured concrete present a greater risk to underground utility infrastructure.
All free library boxes must be maintained in a good state of repair.	To ensure that free library boxes do not present a safety hazard.
A person may only install a free library box within the right of way abutting their residential property.	To ensure the free library box is installed near the owner's residence for ease of maintenance and monitoring.
A free library box will only be permitted within the right of way along a roadway classified as a "local road."	It is proposed to limit the installation of a free library box to local roads only, as defined by the Official Plan and illustrated on <a href="#">GeoOttawa</a> . As these installations can draw motorists to park near them, this prevents mobility and safety concerns along busier roadways.
Corner lots - A free library box will not be permitted within the area illustrated in Figure 6, of Document 1:	To help ensure the safe movement of vehicles, cyclists and pedestrians at intersections.

In addition to the proposed regulations for residential gardening and free library boxes within the right of way, it is important to highlight that in accordance with provincial law, utility locates must be obtained for all projects or installations by contacting Ontario OneCall. Installation of a free library box should not be over top of any subsurface utilities, which obtaining locates will help to identify.

Similar to the proposed residential garden regulations, free library boxes are subject to modification or removal should the City or a utility company require access to install, maintain, or repair infrastructure. A resident may be required to remove a free library

box, and neither the City nor the utility will be liable for any damage to the box or its replacement and re-installation.

Additionally, it is important to consider that if a residential garden or free library box is installed within the right of way and in accordance with the proposed regulations, that the City reserves the right to intervene and request modification or removal, if, for example, an operational, safety, or drainage issue is present. If the abutting property owner fails to modify or remove a garden project or free library box upon reasonable notice received, the City may modify or remove the garden or library at their discretion and the cost of such will be recovered from the abutting owner and may be added to the property tax roll where the property owner fails to reimburse the City.

**C) *Allow for pop-up retail display and vending within the right of way***

Staff have determined that allowances for retail display and vending of a limited nature associated with commercial business is an appropriate use of the right of way provided certain parameters are established. The appropriate mechanism for this allowance is the Use and Care of Roads By-law which is proposed to be amended to include the following regulations associated with pop-up retail display and vending in the right of way. Due to limited indoor capacities during the COVID-19 pandemic, the City gave the opportunity for retailers to expand their sales capacity by issuing café seating style permit to allow them to sell their merchandise on the sidewalk as part of the 2022 Patio Innovation Program. As reported in the 2023 Right of Way Patio By-law update reporting, it was determined that this was not the right tool to allow for this to occur, as it did not provide the appropriate parameters, process, and flexibility required by business operators to undertake retail display and vending. The proposed by-law amendments provide business operators with a simplified process and regulations to allow retail display and vending in commercially zoned locations, within Urban Area and Serviced Villages, subject to the proposed regulations.

Keeping the Use and Care of Roads By-law in its current state without making any amendments would cease to allow pop-up vending or retail display within the City right of way. This is not recommended by staff as it does not provide retailers and businesses any form of flexibility to display and vend in an appropriate manner on the right of way. With the appropriate by-law regulations in place, it is proposed that this activity can occur in a positive manner that will provide additional opportunities to business operators and provide additional vibrancy to Ottawa's commercial streets.

A retailer that wishes to display pop-up retail or vending within the right of way will be subject to the proposed regulations below.

Table 4

<b>Proposed Additional Regulations for Pop-up Retail Display and Vending within the Right of Way</b>	
<b>Proposed Regulation</b>	<b>Rationale</b>
A signed letter of acknowledgement renewed yearly must be provided to the City before displaying or vending goods within the right of way.	To help with the tracking of these locations to ensure pedestrian clear ways and space allocations are maintained.
Retail display and vending on the right of way shall ensure that a 2.0 metre pedestrian clearway is maintained at all times.	This ensures that a 2.0 metre pedestrian clearway is maintained and provides sufficient space for those with additional accessibility requirements.
Retail display and vending on the right of way must be cane detectable. The bottom of a display or vending unit must be between (0.73) metres and (0.865) metres measured from the ground surface and must be detectable at the leading edge and trailing edge of the display or vending unit.	The vending unit height minimum allows people using mobility devices (in a seated position) to interact with the vending unit without encountering a barrier.
Retail display and vending is limited to a daily basis and must be removed on a nightly basis.	Retail display and vending must be removed on a nightly basis as this type of vending is intended to be temporary in nature.
No permanent structures are permitted to support retail display and vending.	To ensure that sidewalks are free and clear as required, and to allow for operational maintenance.



Retail display and vending may only be permitted within the right of way abutting the subject commercial establishment.	To ensure the retail display and vending is monitored and controlled by the commercial operator and so as not to encumber other business frontages.
Retail display and vending may only be located on the right of way in Urban Area and Serviced Villages, where the abutting property is zoned Commercial as identified in the Zoning By-law, as amended.	It is proposed to limit retail display to Urban Area and Serviced Villages only, where commercially zoned. This aligns with the intent of the program which would not be appropriate in a Residential Zoning designation.
Retail display and vending will be limited in area to a maximum of 5 square metres per commercial business frontage. This area may not impede the 2-metre pedestrian clearway.	This is an appropriate scale for a temporary daily pop-up approach to retail display and vending. Pedestrian safety, comfort, and accessibility remains the priority.
Retail display and vending must be located on a hard and level surface within the right of way.	This will ensure safe usage and viewing of products by patrons.
Commercial operators of pop-up retail display and vending will be required to obtain and maintain the necessary liability insurance as required.	This is based on the same standard requirements as a café seating permit.
Corner lots - Retail display and vending will not be permitted within the area shown in Figure 6, of Document 1.	To help ensure the safe movement of vehicles, cyclists and pedestrians at intersections.

In addition to the proposed regulations above, business operators must be aware that they are providing retail display and vending within the City's right of way at their own risk, and are responsible for any installation, maintenance, upkeep, and removal on a daily basis. Furthermore, where a pop-up retail vending area is installed in accordance with the proposed regulations and presents a safety, operational or drainage issue, the City may require the modification or removal of the retail vending or display area by the

business. Retail display and vending will not be permitted if it interferes with City operations, including, but not limited to snow removal and storage.

***Recommendation 2 - Amend the Road Activity By-law to reflect the following changes:***

*Waive the Road Cut permit requirement for the installation of residential gardens and free library boxes within the right of way*

A “Road Cut” means a surface or subsurface cut in any part of a highway made by any means, including any excavation, reconstruction, cutting, saw cutting, overlaying, crack sealing, breaking, boring, jacking or tunneling operations. The act of residential gardening or installing a free library box within the right of way would fit within this definition under the current regulations.

The proposed recommendations are intended to streamline the process for residents to undertake residential gardening projects or install free library boxes within the right of way, as well as mitigating the risk to the City. Eliminating the Road Cut permit requirement will allow for easier access to these options for residents, and better align with the recommended updates to the Use and Care of Roads By-law. The City’s risk is minimized by the proposed regulations, which only allow hand digging and no hard surface cuts. As a result, insurance and indemnity which are associated with a Road Cut Permit are not deemed necessary.

## **CONCLUSION**

In conclusion, Staff have followed the directions from Council in finding solutions for residential gardening projects and permitting the installation of free library boxes within the City right of way, as well as improving commercial opportunities for businesses. Through the recommended changes, these amendments will benefit the City through more diverse and sustainable vegetation within the right of way, increase sense of community with free library boxes, and expand options for retail animation alongside commercial areas.

## **FINANCIAL IMPLICATIONS**

There are no direct financial implications; implementation of the amendments will be completed from within existing resources. As noted in the report, any installed projects within the right of way is done at property owner’s own risk.

## **LEGAL IMPLICATIONS**

There are no legal impediments associated with the implementation of the recommendation of this report.

## **COMMENTS BY THE WARD COUNCILLOR(S)**

This is a City-wide report.

## **CONSULTATION**

Consultation has included a project website (Engage Ottawa), soliciting feedback from residents. The project website has additionally been shared with various community groups (including the Federation of Citizen's Associations as well as the Ottawa Horticultural Society) and individuals who have previously expressed an interest in undertaking gardening projects, installing free library boxes, or providing retail vending within the City right of way. Staff have been reviewing the comments and feedback received with the appropriate departments to prepare a response and make additional changes if they are feasible and do not pose further risk to the city. Through feedback received, there have been notable changes to the proposed regulations which included the removal of a setback requirement from the curb, where one exists, for residential gardening within the right of way. This provides further gardening opportunities within the right of way to the edge of curb and increases the footprint available to residents to plant right of way gardens. The second proposed regulation change is adjusting setback requirements for free library boxes to 1.0 metre from the roadway, with no setback requirement from a sidewalk. Initially, staff had proposed a 2.0 metre setback requirement from the roadway, or sidewalk where one exists. Staff had learned that this would exclude too many residents from the ability to install a free library box, as well as limiting access to those with accessibility considerations, and proposed changes were made as a result. Furthermore, to ensure accessibility to more users, minimum and maximum height parameters are now proposed for all library installations. These changes will also increase inclusivity, allowing easier access to a library for those with additional accessibility needs.

## **ACCESSIBILITY IMPACTS**

Many positive impacts for people with disabilities can be recognized in the proposed updates to the Use and Care of Roads By-law.

Requirements that maintain accessibility in the proposed by-law amendments for residential gardening and free library box installations within the right of way, include:

- Restrictions on plant height to ensure pedestrian and vehicle visibility
- Limitations to gardening to ensure on-street parking and accessible public spaces features (such as TWSI) are maintained and unencumbered
- Sidewalks to remain clear and unobstructed
- Height restriction limit to be recommended for little free library box to ensure it can be used by all, including people with disabilities and those using mobility devices (use from a seated position)

The pop-up display and vending of retail goods will be subject to the following regulations to ensure a clear and unobstructed path of travel and pedestrian accessibility is maintained along the right of way. No permanent structures are permitted to support pop-up retail display and vending to ensure that sidewalks are free and clear as required to allow for both mobility and operational maintenance.

- Will be limited in area to a maximum of 5 square metres per commercial business frontage. This area may not impede the 2 metre pedestrian clearway
- Must be located on a hard and level surface within the right-of-way to ensure safe and accessible usage and viewing of products by patrons, including people with disabilities
- Staff have been reviewing the comments and feedback received with the appropriate departments to prepare a response and/or make changes if they are feasible and do not pose further risk to the city.
- Advice and feedback will be requested from the City's Accessibility Advisory Committee (AAC) to inform greatest cross-disability perspectives and functionality.

Furthermore, as the City's Accessibility Design Standards (ADS) do not have a section specific for free library box installations of this type in outdoor locations, accessibility recommendations in the design and use of the free library boxes will continue in consultation with disability stakeholders to ensure accessibility is both promoted and incorporated to the greatest extent possible.

All actions that arise from the amendments to the Use and Care of Roads By-Law will adhere to accessibility legislative framework that includes the *Integrated Accessibility Standards Regulation* of the *Accessibility for Ontarians with Disabilities Act* (AODA, 2005) and the City of Ottawa Accessibility Design Standards (ADS) to the greatest extent possible. Through its Accessibility Policy, the City of Ottawa is committed to providing equal treatment to people with disabilities with respect to the use and benefit of City services, programs and goods in a manner that respects their dignity and that is

equitable in relation to the broader public. The City recognizes its obligations under the Ontario Human Rights Code, the Accessibility for Ontarians with Disabilities Act, 2005, and City Policy, and is committed to exploring strategies that mitigate accessibility barriers.

## **ASSET MANAGEMENT IMPLICATIONS**

The proposed updates to the City of Ottawa Use and Care of Roads By-law 2003-498 have several asset management implications. The following points highlight the specific implications:

- Integration of Best Practices: Staff considered best practices from other municipalities that permit landscaping projects, free library boxes, and pop-up retail displays within the right of way. This integration of successful approaches from other jurisdictions promotes knowledge sharing and allows for the adoption of effective strategies in asset management.
- Collaboration with Utility Companies: Consultations with utility companies ensure that the proposed amendments do not conflict with existing or future utility projects. This collaboration minimizes potential disruptions to utility infrastructure and promotes coordination between asset management efforts and utility operations.
- Maintaining Service Levels: The objective during the integration of new assets was to ensure there was no decrease in the service life, level of service, or disruption of service or maintainability for existing assets. This approach safeguards the performance and functionality of the city's infrastructure, avoiding any adverse effects on service delivery to residents and other stakeholders.
- Risk Assessment for Infrastructure: The report considers risks and potential damages to infrastructure within the right of way. This assessment helps identify potential vulnerabilities and develop strategies to mitigate risks, ensuring the resilience and longevity of the city's assets.
- Limitations on City's Responsibilities: The report clarifies that the City will not guarantee the success of, nor maintain any residential garden within the right of way. It also highlights that the City and utility companies will not be responsible for replacing or reinstating a residential garden if damaged by infrastructure

installation, maintenance, repair, snow removal operations, or road maintenance activities. This clarifies the limitations on the City's obligations and reduces potential liabilities.

- Consideration of Stormwater Management: The report emphasizes that no gardening will be permitted within the front or back slope of a ditch due to its importance in stormwater management and drainage. This ensures that modifications or encroachments into the ditch area do not compromise its ability to effectively move stormwater, mitigating the risk of flooding and waterlogging in the neighborhood.
- Financial Sustainability Considerations: The proposed amendments, such as allowing residential gardening, free library boxes, and pop-up retail displays within the right of way, should include considerations for financial sustainability. Staff should assess the potential costs associated with implementing and maintaining these activities, ensuring that they are financially viable and align with the City's budgetary constraints. This evaluation will help ensure that the proposed amendments support long-term financial sustainability while providing additional options for residents and businesses within the right of way.

Overall, these implications demonstrate a proactive approach to asset management, considering compliance, collaboration, service levels, financial considerations, risk assessment, and the protection of critical infrastructure elements such as stormwater management systems.

## **CLIMATE IMPLICATIONS**

Allowing gardening in City right of ways supports the goals of the Climate Change Master Plan to reduce emissions and build resiliency to changing climate conditions. Gardens absorb rainfall and reduce stormwater runoff and help reduce the urban heat island effect. Native species also attract pollinators, which contribute to biodiversity and food production. Reducing mown areas will reduce emissions from gas-powered mowers.

## **ENVIRONMENTAL IMPLICATIONS**

The proposed changes to the by-law would establish a more environmentally sustainable framework for the maintenance of rights of way in residential areas, by enabling residents to adopt other styles of soft landscaping that may require less active

management and be more biodiverse than mown turfgrass. The proposed changes would not permit hardscaping, thereby retaining the permeability and infiltration capacity of right of way lands. Restrictions on the types of vegetation and the methods of planting, as well as proposed setbacks, will protect the City's street trees. Prohibitions on noxious and invasive weed species are aligned with provincial legislation, however, residents will also be provided with supplementary information on Ottawa.ca promoting the use of native or non-invasive species.

The other proposed by-law change to permit free library boxes and pop-up retail are not anticipated to have adverse environmental impacts.

There are no environmental implications for this report.

### **INDIGENOUS GENDER AND EQUITY IMPLICATIONS**

The proposed updates to the Use and Care of Roads By-law are intended to provide further opportunities for residents and businesses within the right of way. Opportunities will include residential gardening projects, the installation of a free library box, and additional pop-up retail display and vending within commercial areas in the City right of way.

This will provide an overall enhancement to City right of way in promoting diversification, a sense of community, and expanded options for retail animation alongside commercial areas.

By expanding the options provided to residents and businesses within the right of way, every person will have an opportunity to benefit equally. The proposed regulations are designed in such a way to promote more accessibility to shared space and use of the right of way. Working within the regulations of an updated Use and Care of Roads By-law will provide an additional outdoor amenity space that extends beyond private property. This further benefits those that may not have additional greenspace available to them elsewhere within their property in which to garden, and also benefits those with existing greenspace as it further extends their footprint and ability to undertake a project beyond their existing property lines.

While residents can benefit by being able to undertake gardening projects within the right of way, passerby's can also have the added benefit of viewing the variety of streetscaping or utilizing free library boxes where installed. Businesses can be more creative and imaginative with opportunities for temporary outdoor pop-up display and

retail vending, benefiting both the business community and residents in providing variety and beautifying the City.

These positive changes can improve the quality of life for everyone in the City of Ottawa, including indigenous communities and those with additional accessibility requirements, amongst other groups that can all share in the benefits of an updated Use and Care of Roads By-law equally.

## **RISK MANAGEMENT IMPLICATIONS**

There are risks associated with the proposed Use and Care of Roads By-law amendments. These risks have been identified and mitigated through the regulation parameters recommended by Staff:

- Potential damages to utility infrastructure where residents undertake a gardening project or install a free library box within the right of way
- Potential damages to the City's existing boulevard when residents dig and install their own project within the right of way
- Increased potential liability considerations for the City with motorist, cyclist, or pedestrian incidents

The proposed regulations were designed to minimize risk to the City and public. Staff have recommended regulations that put forward safety, mobility, and infrastructure protection as a priority. The need for a permit and associated elements such as an insurance indemnity are not considered necessary for residential gardening projects or pop-up retail display and vending within the right of way due to the proposed regulations minimizing impact. A signed acknowledgement and insurance indemnity is required for free library boxes, given that an actual structure is being placed on or installed within the right of way in residential areas, and in close proximity to the sidewalk and roadway areas. Free library box installations were identified as a higher risk to the City and public, and therefore, stricter requirements are proposed to mitigate those risks.

These regulations were developed in conjunction with internal subject matter experts to ensure that they are effective and appropriate for the specific application, while still allowing for additional opportunities within the right of way for each of the three categories covered in this report.

## **RURAL IMPLICATIONS**



The report recommendations will have no rural implications. The potential concern of interference with the operation of farm vehicles on rural roads is mitigated by including Urban Area and Serviced Villages only in the proposed regulations.

## **DISPOSITION**

Right of Way, Heritage, and Urban Design Services (ROWHUD) will work with Legal Services to prepare by-law amendments to reflect the changes described in this report. Legal Services to list the by-law on the Council Agenda. ROWHUD staff will be responsible for implementing the recommendations included in this report, which include the amendments to the Use and Care of Roads By-law and Road Activity By-law. There will be continued consultation with the Accessibility Advisory Committee in developing regulations that are inclusive. Website content on Ottawa.ca will be updated to reflect the proposed changes and will include guidelines, regulations, and best practices for residents looking to install a residential garden or free library box within the right of way. The website will also be updated to reflect the changes for pop-up retail display and vending within the right of way. Documentation for signed letters of acknowledgement will be created and available on Ottawa.ca for free library boxes and retail vending within the right of way. Staff will be briefed on the new regulations and by-law amendments across all relevant Service Areas, and Knowledge Base Articles will be updated to reflect the by-law amendments and will direct inquiries to Ottawa.ca for further information.

### *Note:*

*“Pursuant to the Delegation of Authority By-law (By-law No. 2020-360), Schedule “C”, Section 7, the City Clerk authorized the correction of a minor error in this report to correct the French Recommendation in the report such that it now matches the English recommendation providing that Council approve the Mission Statement. The corrected report will be published with the Final City Council Agenda on June 28, 2023.”*

Document 1

Figure 1



Figure 2

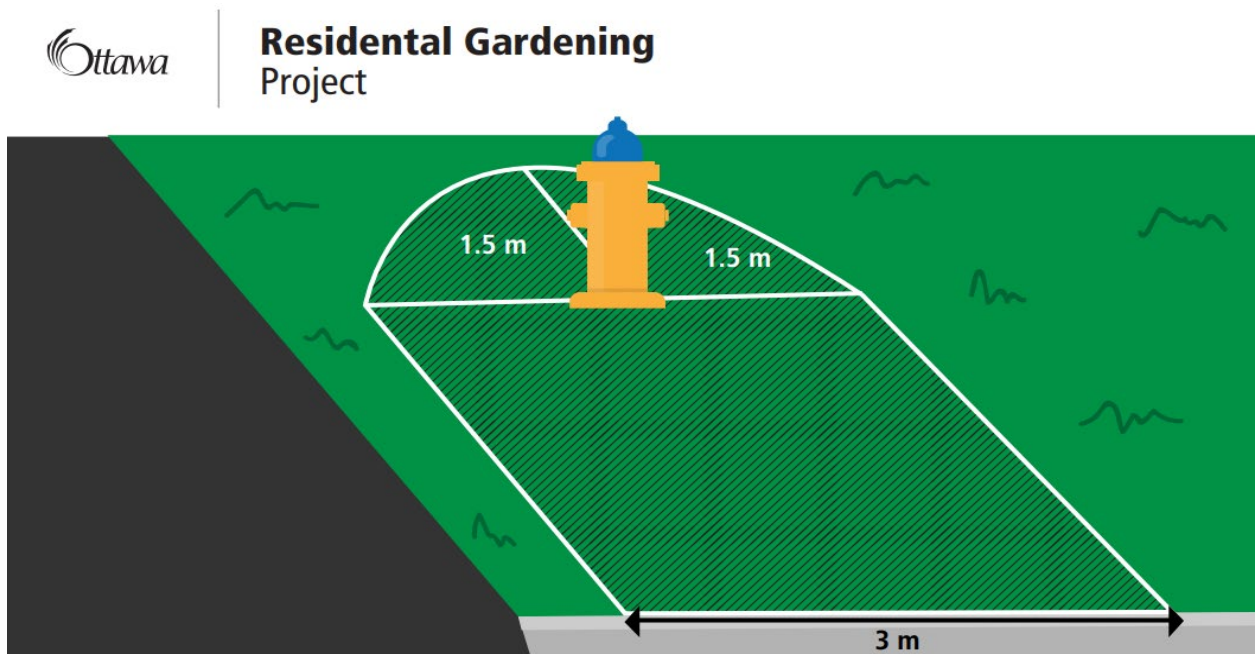


Figure 3

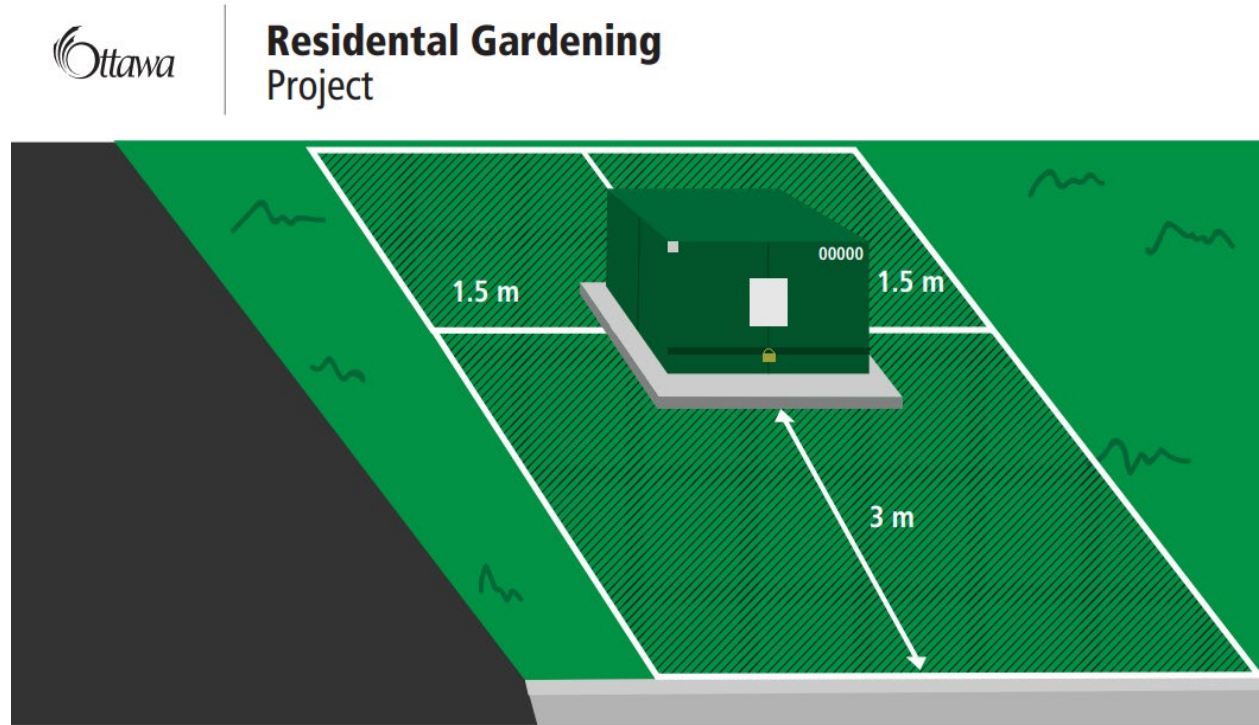


Figure 4



Figure 5

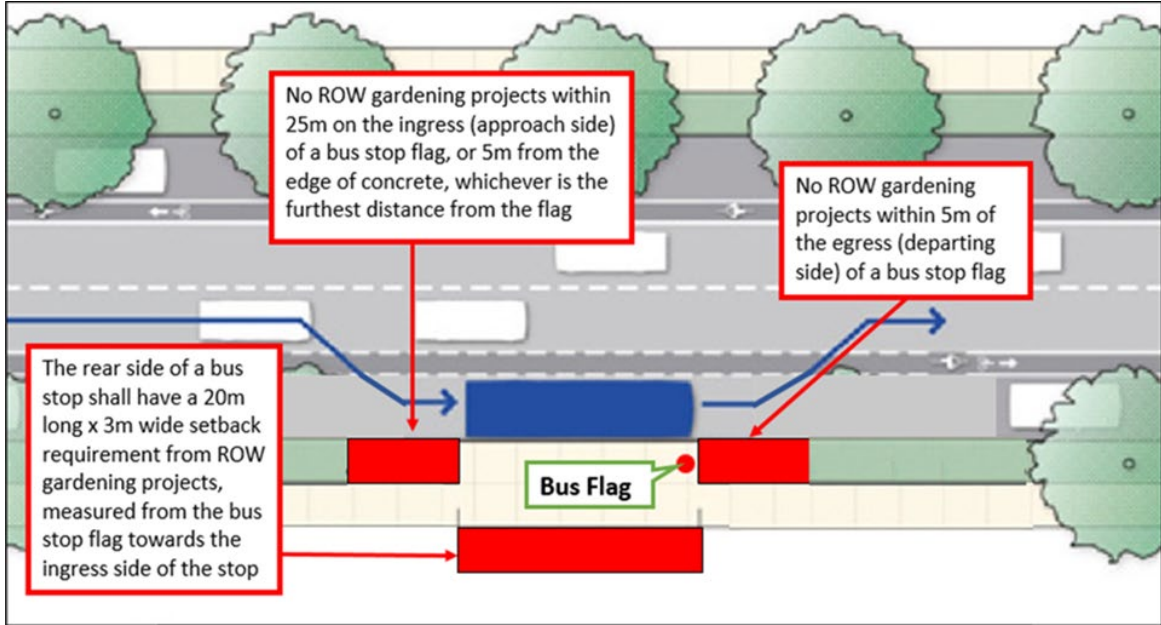


Figure 6

