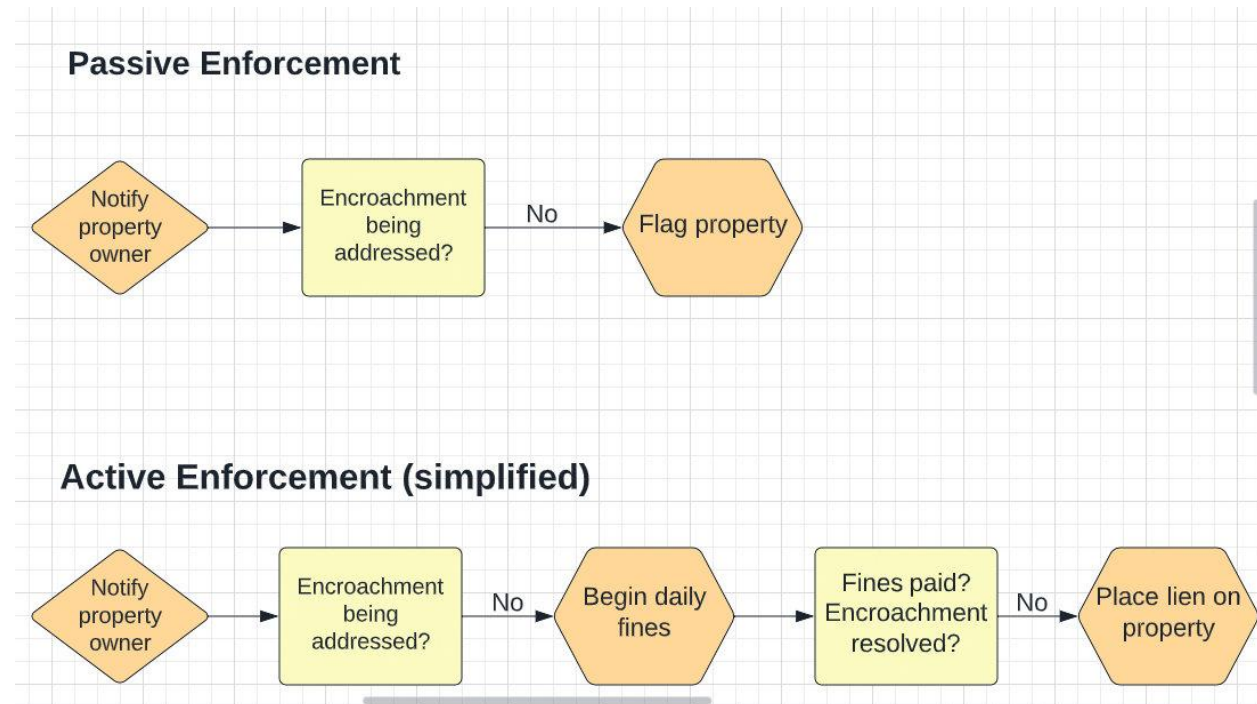


Encroachment Tree Part 3 - Potential Future Procedures

Two different strategies for future enforcement are discussed below. The first is “passive enforcement” via flagging the encroachment in land deeds and by land-use departments. The second is “active enforcement” modeled on the City’s Anti-Blight Ordinance.



Passive Enforcement: Landowners would be notified and given ample opportunity to eliminate the encroachment prior to their property being flagged. The first type of flagging would be in the Land Records by filing a “Notice of Encroachment.” This would alert potential purchasers that a yard, shed, or fence they are looking at is not legally part of the property they would be buying, and may complicate selling the property. The City already routinely files “Notice of Wetlands” in the Land Records. The second type of flagging would be via the land-use departments checklist (Zoning, Building, Wetlands). Landowners seeking a permit for a pool or shed would be directed to resolve the Open Space encroachment issue at that time prior to receiving their permit.

Note the City would still have the option of filing a lawsuit under the State Encroachment Act for any egregious violation. For “grandfathered” encroachments (existing prior to the City acquiring the land), filing a Notice of Encroachment in the Land Records would alert future purchasers, but there would be no need for the land use departments to flag the encroachment.

Active Enforcement: This option would require the Board of Aldermen to amend the Open Space Ordinance similar to the Anti-Blight Ordinance. This would allow designated City staff to implement fines. It might be enforced via the Zoning Department along with the antiblight and

zoning violations. Under the Anti-Blight Ordinance, the City can implement daily fines if a property owner is not cooperating. If the fines are not paid, the city can place a lien on the property. The Anti-Blight Ordinance specifies the types of notifications required and the length of grace periods before fines can be implemented. Another option would be for the City to contract land restoration and then charge that cost to the landowner.