

POLICY #701C

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Policy Title:	Encroachment Agreements
Policy Number:	701C
Approval:	Town Council
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Approved Date:	April 23, 2012, <u>Motion 12-117</u>
Supersedes Policy No.:	New

Policy Statement:

To establish a system to respond to requests to allow an Encroachment on a Town Owned Parcel, Street or Easement that is in the Town's name.

Purpose:

To ensure that requests for Encroachment Agreements are processed in a consistent manner and assessed on their own individual merit; and that the decision does not adversely affect the Town's ability to maintain services for public use or access infrastructure.

Standards:

1. Encroachment onto a Town Owned Parcel, Street or Easement, shall be discouraged.
2. The CAO or their designate(s) shall consider each request for an Encroachment Agreement on its own individual merits and upon the advice of applicable Town Departments.
3. No Encroachment that prevents public use, puts safety at risk, frustrates the intended purpose of a Town Owned Parcel, Street or Easement, or causes added public expense to maintain public utilities and infrastructure shall be authorized.
4. An Encroachment that extends less than 0.05m (0.16 ft) onto a Town Owned Parcel, Street or Easement or is not secured to a Fixed Location may be authorized through a Letter of Consent in lieu of an Encroachment Agreement.
5. An Encroachment that extends more than 0.05m (0.16 ft) onto a Town Owned Parcel, Street or Easement or is secured to a Fixed Location may be authorized through an Encroachment Agreement.
6. Encroachment onto an Emergency Access Easement:
 - a. Encroachments onto an Emergency Access Easement are not permitted unless it is classified as a Historical Encroachment under this policy and does not pose a significant public safety risk, as determined by the Town at their sole discretion.
 - b. The Applicant(s) shall remove an Encroachment from an Emergency Access Easement within 30 days of receiving a notice to do so at their sole cost.

7. Where an Encroachment has been authorized by the Town, the Applicant(s) shall execute the Encroachment Agreement prepared and delivered by the Town in a timeframe specified by the Town. If the Applicant does not execute the agreement, the Encroachment shall be removed from the Municipal Lands by the Applicant within 30 days of the Applicant receiving notice to do so.
8. If an Encroachment Agreement is not deemed acceptable by the CAO or designate(s), the Applicant shall remove the Encroachment within 30 days of the date of the written notice provided to the Applicant that their request has been denied.
9. Notwithstanding any other provision of the policy, the Town Reserves the right to limit the term of an Encroachment Agreement, or other authorization, or provide for the termination of an Encroachment Agreement, or other authorization.
10. All expenses, costs, liabilities, or other risks associated with an authorized Encroachment shall be borne by the Applicant(s).
11. Appeals:
 - a. If a request for an Encroachment has been refused, the Applicant(s) may appeal to Council by requesting a review of Administration's decision in writing to Council.
 - b. Appeals concerning Notice of Non-Approvals for Encroachments onto an Emergency Access Easement will not be accepted.
 - c. Council's decision shall be final and binding.
12. If the Applicant(s) refuse(s) to remove the Encroachment or fails to apply for authorization under this policy, the Town may take action to remove the Encroachment and seek reimbursement from the Owner for all such costs in accordance with the applicable Town bylaws and policies and in accordance with the *Municipal Government Act*. Any of the costs not paid shall be added to or deemed to be part of the taxes on the Applicant(s) land.