



Encroachment Policy

POLICY NUMBER: 104-DA-08

Approval Date: March 25, 2008

Revise Date:

Motion Number: 2008-088

Repeal Date:

Supersedes: New

Review Date:

1.0 Policy Intent

It is the City's intention to provide land owners within the City a fair and reasonable approach to addressing existing and proposed encroachments onto City owned lands provided such encroachments do not adversely affect the City in terms of its liability; its ability to maintain services and public access.

2.0 Purpose

The purpose of the Encroachment Policy to establish guidelines for consideration of requests to permit the continuation of existing encroachments onto City owned lands or permission to encroach onto City owned lands.

3.0 Policy Statement

- 3.1. For the purposes of this policy, "Encroachment" and "Encroachments" shall be defined as any portion of a building, fence, retaining wall or other similar structure and any parking area, commercial storage or display area or other similar structure used for the benefit of a private business or residence that extends onto City owned property including but not limited to streets, lanes, public utility lots, easements/utility rights-of-way and parks.
- 3.2. Formal approval of all Encroachments that come to the attention of the City in writing through such means as development applications, requests for compliance or written complaints shall be required.

- 3.3. Encroachments shall be divided into two categories:
- 3.2.1. Minor Encroachments – Encroachments located on rights-of-way within private property;
 - 3.2.2. Major Encroachments – Encroachments located on streets, lanes, public utility lots and parks.
- 3.4. Depending on the effect that any existing or proposed Encroachment may have on matters such as public safety, public use, public access or City/Franchise Utilities, the City may or may not approve the Encroachment and in the case of an existing Encroachment, the City may require that the Encroachment be relocated or removed.
- 3.5. Encroachment Agreements may be required for Minor Encroachments.
- 3.6. Encroachment Agreements shall be require for Major Encroachments.
- 3.7. A fee shall be applied to any approved Encroachment and such fee shall be set out in the City's User Fee Bylaw, as amended from time to time.

4.0 Managerial Guidelines

- 4.1. Upon the identification of an existing Encroachment and a formal request to permit the Encroachment to continue or upon receipt of a development permit application in which an Encroachment is proposed, the Planning and Development Department shall be responsible to undertake a review of that request.
- 4.2. In its review of a request to approve an Encroachment and in determining whether or not the request is to be approved, the Planning and Development Department shall consult with affected City Departments, Franchise Utilities and any other party that may be affected by the Encroachment to determine such matters as but not limited to:
- 4.2.1. The effect the Encroachment may have on the City's/Franchise Utility's liability.
 - 4.2.2. The effect the Encroachment may have on the City's/Franchise Utility's ability to repair and maintain services.
 - 4.2.3. The effect the Encroachment may have on any other aspect of the City's/Franchise Utility's operations.

- 4.2.4. The effect the Encroachment may have on public use or access.
- 4.3. Minor Encroachments may be approved or refused by the City Manager or his/her delegate.
- 4.4. Should a Minor Encroachment be approved and where an Encroachment Agreement is deemed necessary, the City Manager or his/her delegate shall be authorized to approve such Agreements.
- 4.5. Should a Minor Encroachment for an existing Encroachment be refused, the Encroachment shall be removed by the encroaching party at its sole cost and expense within 14 days of written notice of refusal or within a time period mutually agreed to;
- 4.6. Should the Minor Encroachment not be removed within the required time period, the City will remove the Encroachment and invoice the encroaching party/land owner for the costs of such removal. Should the invoice not be paid within 30 days, the City shall apply the costs of the removal of the Encroachment to the relevant property tax account;
- 4.7. Major Encroachments shall be approved or refused by Council;
- 4.8. Should a Major Encroachment be approved, an agreement for the Major Encroachment shall be required and shall be approved by Council;
- 4.9. Should a Major Encroachment for an existing Encroachment be refused, the Encroachment shall be removed by the encroaching party at its sole cost and expense within 30 days of written notice of the refusal or within a time frame mutually agreed to;
- 4.10. Should the Major Encroachment not be removed within the agreed to time period, the City will remove the Encroachment and invoice the encroaching party/land owner for the costs of such removal. Should the encroaching party/land owner not pay the invoice within 30 days, the City shall apply the costs of the removal of the Encroachment to relevant tax account.
- 4.11. Approved encroachment agreements shall be subject to registration at the Alberta Land Titles Office.
- 4.12. Encroachment Agreements shall contain a schedule illustrating the Encroachment based on a legal survey.
- 4.13. Encroachment Agreements shall contain provisions for indemnity and require liability insurance coverage in the amount of not less than Two Million (\$2,000,000.00) Dollars.

- 4.14. Encroachment Agreements shall contain provisions for the removal of the Encroachment should it be deemed necessary and in the public interest to remove the Encroachment prior to the expiration of the agreement or in the event that the Encroachment Agreement is not renewed by the encroaching party or the City.
- 4.15. Encroachment Agreements shall contain provisions to permit the Encroachment to remain in place for the life of the Encroachment and to be maintained and repaired but not rebuilt, replaced or expanded.
- 4.16. Encroachment Agreements shall contain provisions requiring a level of maintenance and repair of the Encroachment that will ensure that the encroachment does not become unsightly or could cause harm to the public.
- 4.17. Encroachment Agreements shall contain provisions requiring the Encroachment to be removed by the encroaching party or if necessary by the City in the event that the Encroachment is not adequately maintained or repaired as required.
- 4.18. Encroachment Agreements may contain any other provisions that may be deemed necessary by the City.

5.0 References

Section 651 of the Municipal Government Act permits the Municipality to enter into agreements and the registration of those agreements with respect to encroachments into roads.

Section 70 of the Municipal Government Act permits the Municipality to dispose of its interest in lands provided that if that disposal involves a value less than market value or it involves a public park or recreation or exhibition ground such disposal must be advertised.

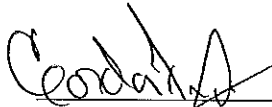
6.0 Persons Affected

Citizens of the City of Cold Lake, Department of Public Works and Infrastructure, Department of Community Services, Department of Planning and Development, and Franchise Utilities operating under agreement within the City of Cold Lake.

7.0 Revision/Review History

April 22, 2008
Date

April 23, 2008
Date


Chief Administrative Officer


Mayor