

Meeting Date: April 4, 2023

Subject: Proposed Amendment to the Delegated Authority By-law for Encroachment Agreement Purposes

Submitted By: Mark Sraga, Director, Building Services and Municipal Law Enforcement Department/Chief Building Official

---

## **RECOMMENDATION**

That the Director of Operations and/or the Director of Engineering be delegated authority to approve and execute Encroachment Agreements pursuant to the requirements outlined in the Town's Encroachment By-law; and

That a by-law be enacted to amend the Delegated Authority By-law 2016-106, to capture administrative changes in Schedule A – Approval and Execution of Documents relating to the Town's Encroachment By-law.

## **REPORT HIGHLIGHTS**

- Council enacted the Encroachment By-law which permits property owners the ability to seek approval for the placement of certain features on Town boulevards. As part of this approval process either the Director of Operations and the Director of Engineering Services may require an Encroachment Agreement to be executed between a landowner and the Town.
- Council enacted the Delegated Authority By-law 2016-106 for the purpose of providing the ability to delegate certain powers and duties to officers and employees within the corporation.
- The current Delegated Authority By-law 2016-106 does not authorize staff to approve and execute such agreements.
- Staff are recommending that a By-law be enacted to amend the Delegated Authority By-law to provide the Director of Operations and the Director of Engineering Services the authority to approve and execute Encroachment Agreements as contained within Schedule A – Execution of Documents.

## **DISCUSSION**

The purpose of this report is to obtain delegated authority to process applications related to encroachment matters between private property owners and the Town as outlined in the Town's Encroachment By-law.

## **Background**

On June 1, 2022, the Town's Encroachment By-law came into full force and effect. Prior to the enactment of the By-law, the Town did not have an ability to permit the use of public lands by private property owners.

## **Types of Encroachments**

The Encroachment By-law permits minor and major encroachments on Town boulevards. Minor encroachments are prescribed in the By-law, have narrow limits in terms of height and location and do not require any formal approval from the Town. Examples of a minor encroachment include the homeowner creating gardens on the Town boulevard or placing tree rings and mulch around trees located on the boulevard. However, in situations where the request is for a Major Encroachment such as entrance features to a property in the form of pillars or gates, school bus shelters or any other type of element that is not deemed a “minor encroachment” then a permit is required authorizing the installation of such a feature. This permit approval process may also require the need for an Encroachment agreement to be executed between the property owner and the Town. Such determination for when an agreement is required, is made by either the Director of Operations or the Director of Engineering Services. There is a standard Encroachment Agreement that has been drafted by Legal Services which includes the on-going responsibilities of the property owner in terms of the maintenance of the feature along with right for the Town to have it removed, if necessary. Encroachment agreements would be registered on title, where appropriate, to ensure that any future owners of the property are also aware of their obligations related to such a feature.

## **Delegated Authority**

Staff are recommending that the Director of Operations and the Director of Engineering be delegated the authority to approve and execute Encroachment Agreements when it is determined such an agreement is needed as part of the permit process. Delegating the approval and execution of Encroachment Agreements to staff would complete the process as was originally intended and would ensure that the process is customer-oriented, efficient and streamlined.

## **Proposed Change**

Outlined as Schedule A to this report are the proposed change to Schedule A within the existing Delegated Authority By-law.

The purpose of the change is to provide the Director of Operations and the Director of Engineering Services the ability to approve and execute Encroachment Agreements pursuant to the Town’s Encroachment By-law.

## **FINANCIAL IMPLICATIONS**

There are no immediate financial implications associated with this report.

**COUNCIL WORK PLAN**

Subject matter is not relevant to the Council Workplan

**ATTACHMENTS**

Schedule A: Proposed Amendments to Schedule A of the Delegated Authority By-law  
Schedule B: Draft Encroachment Agreement