

## COUNCIL POLICY

### D-04-2023: Encroachment Policy

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Policy #: D-04-2023

Section: Development

Rescind Policy #: N/A

Legislative Reference: Municipal Government Act, M-26 RSA 2000, Sec. 651.2; Land Titles Act, R.S.A. 2000, Chapter L-4, Sec 72.

#### 1. PURPOSE

- 1.1. To implement a policy that will provide clarity and guidance to Town's Administration and Landowners with respect to encroaching structures and improvements on municipally owned lands and road allowances.

#### 2. DEFINITIONS

2.1. In this Policy:

- a) "CAO" shall mean the Chief Administrative Officer of the Town of Smoky Lake;
- b) "Encroachment" means a structure, improvement or land use that projects beyond the boundaries of the property, or is constructed over an easement or Utility Right-of-Way crossing the property;
- c) "Encroachment Agreement" shall mean an agreement, pursuant to the MGA under which a municipality permits the encroachment of landscaping improvements, and structures onto a Roadway. This Agreement may be registered on the Landowner's title per the MGA;
- d) "GIS" shall mean Geographic Information System used for gathering, managing, and analyzing data;
- e) "Landowner" shall mean all owner(s) listed on the Certificate of Title as having an interest in the titled land;
- f) "May" shall mean discretionary compliance or a choice in applying policy;
- g) "MGA" shall mean the Municipal Government Act being the Revised Statutes of Alberta 2000 Chapter M-26, and amendments thereto;
- h) "Real Property Report" shall mean a plan that illustrates the survey performed by an Alberta Land Surveyor showing what is and what is not on a parcel of land at the time of the survey;

i) “Town” shall mean the Municipal Corporation of the Town of Smoky Lake;

### 3. GUIDELINES

- 3.1. When an Encroachment(s) onto Municipally-Owned Lands or a Road Allowance is identified, the Town may send a Notice in writing that the Owner must enter into an Encroachment Agreement with the Town to allow said Encroachment(s) to remain.
- 3.2. Those seeking permission for an Encroachment to remain shall submit an application. Applications are available at the Town’s website ( [www.SmokyLake.ca](http://www.SmokyLake.ca))
- 3.3. The CAO or Designate shall review the encroachment application and provide a recommendation to Council. However, Encroachments perceived as having minimal or negligible impact on the Town's access to or utilization, operation, maintenance, or replacement of utilities and easements may be approved by the CAO.
- 3.4. Council will retain the right to refuse any request for an Encroachment Agreement and will also retain the right to force the Owner of the Encroachment(s) to remove said Encroachment(s) at the Owner’s sole expense.
- 3.5. Encroachment applications will be assessed for their impact on safety, public access. Neighbouring properties, environmental considerations, zoning regulations, and any additional relevant factors.
- 3.6. Encroachment agreements can be registered on title if a Real Property Report, completed within the three months preceding the application submission, is provided.
- 3.7. Council will retain the right to refuse any request for an Encroachment Agreement and will also retain the right to force the Owner of the Encroachment(s) to remove said Encroachment(s) at the Owner’s sole expense.

	DATE	RESOLUTION NUMBER
Approved	February 5, 2024	73-2024

Original Signed \_\_\_\_\_  
**Amy Cherniwchan**  
**Mayor**

Original Signed \_\_\_\_\_  
**Dawn Phillips**  
**Chief Administrative Officer**