



TO: GENERAL COMMITTEE

SUBJECT: DELEGATED AUTHORITY TO EXECUTE ENCROACHMENT AGREEMENTS (ALL WARDS)

PREPARED BY AND KEY CONTACT: EVAN. EMBACHER, REAL ESTATE SERVICES OFFICER, EXT. 4479

SUBMITTED BY: I. PETERS, DIRECTOR OF LEGAL SERVICES 

GENERAL MANAGER APPROVAL: E. ARCHER, CMA, GENERAL MANAGER OF CORPORATE SERVICES 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: CARLA. LADD, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That the City Clerk be authorized to execute encroachment agreements on behalf of the City of Barrie for City owned land subject to the following:
 - a) That all new encroachment applications be circulated in memorandum format to all applicable departments for comments to address any objections or concerns.
 - b) The contents of all encroachment agreements be to the satisfaction of the Director of Legal Services or designate.
 - c) That staff prepare an annual memorandum to General Committee with a summary of encroachment transactions completed under delegated authority.

REPORT OVERVIEW

2. The delegation of authority to execute encroachment agreements has been identified as an efficient way to eliminate staff time in having encroachment agreements approved or denied. This report outlines the benefits to the City by providing delegated authority to the Clerk to enter into and execute encroachment agreements.

PURPOSE & BACKGROUND

3. The purpose of this staff report is to seek delegated authority for the City Clerk, or his/her designate, to enter into and execute encroachment agreements for City owned property.
4. The request for delegated authority will aid Council as well as the Legal Services Department in continuous improvement and maximize efficiency as the City grows.

ANALYSIS

5. Encroachments onto City property are most often created by overhanging signs and canopies, the construction of walkways, fences, steps, buildings, gardens, landscaping, and other forms of development by property owners adjacent to City owned lands including sidewalks, roads and parks.

6. Encroachments can create liabilities for which the City is responsible. The entering into of encroachment agreements is a way to manage these liabilities and control the permissible uses.
7. The intent of an encroachment agreement is to control use of City property and protect against liability that may occur should there be personal or property damage caused by the encroachment onto City property. Encroachment agreement applicants are required to maintain in full force and effect an insurance policy of public liability naming the City as an additional insured. The specific limits of liability of the insurer are specified by the City's Insurance Risk Examiner.
8. A City approved encroachment agreement is not permanent in nature and is only applicable to the original Applicant/Owner for the duration of their ownership of adjacent real property. At the City's sole discretion, any encroachment can be requested to be removed from City property at anytime and at the Owner's sole expense. If an Owner fails to do so, the City may complete such removal and the reasonable costs of doing so must be paid by the Owner.
9. If there are objections or any un-resolvable concerns from any City department, the application will be denied by staff and the applicant notified.
10. City Council will not have to review individual staff reports for each encroachment application.
11. Delegated authority to approve and execute encroachment agreements is utilized in many local cities and municipalities including the City of Vaughan, City of Guelph, and City of Toronto.

ENVIRONMENTAL MATTERS

12. There are no environmental matters related to the recommendation.

ALTERNATIVES

13. There is one alternative available for consideration by General Committee:

Alternative #1 General Committee could deny the recommendation to allow the City Clerk to enter into and execute encroachment agreements on behalf of the City and instead maintain the existing procedure of having staff request Council approval for each application that comes forward.

This alternative is not recommended as Council will not reduce their valuable time in considering matters with no policy issues and staff will not be able to reduce the amount of time spent to complete encroachment agreements and to further improve the efficiency of service provided to the citizens of Barrie.

FINANCIAL

14. The Applicant/Owner is responsible for all costs associated with the preparation of any agreements including the City's in-house legal costs and any survey requirements. The Applicant/Owner is responsible to pay the annual encroachment fee as established by Council and provide proof of liability insurance in the amount specified by the City's Insurance Risk Examiner naming the City as an additional insured.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

15. The recommendation(s) included in this Staff Report support the following goals identified in the 2010-2014 City Council Strategic Plan:
- Strengthen Barrie's Financial Condition
 - Continual improvement by increasing efficiency of service demands and decreasing burden on staff resources

 - Improve & Expand Community Involvement & City Interactions
 - Enhance customer service experiences by reducing application timelines