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|          | <h2>Town of Vegreville Policy</h2>  |
| <b>Policy No.:</b><br><b>Policy Title:</b><br><b>Approval Date:</b><br><b>Department:</b> | <b>MOS-2009</b><br><b>Encroachment Policy</b><br><b>May 13, 2024</b><br><b>Planning &amp; Development</b> |
| <b>Revisions:</b>   |   |

**Policy Statement:**

The Town of Vegreville realizes encroachments exist and will continue to be discovered and has established this policy as a result. The Town administers or owns a variety of parcels of land including roads, reserves, and has interests in privately owned lands by way of easements and rights-of-way. The Town must ensure that encroachments do not adversely affect these lands, rights-of-way and easements or the Town’s ability to maintain effective services or restrict public access to lands for public use. Identified owners of the encroachment may be required to enter into an agreement or, alternatively, remove the encroachment.

**1.0 Reason for Policy**

The following Encroachment Policy will assist the public and enable the Town to effectively manage encroachments. It is intended to provide a more consistent approach in processing applications, enforcing the policy, and protecting and indemnifying the Town wherever encroachments have been identified.

**2.0 Related Information**

- 2.1 Municipal Government Act, RSA 2000, c.M-26, as amended; and
- 2.2 Land Use Bylaw, as amended or repealed and replaced from time to time.

**3.0 Definitions**

- 3.1 **CAO** means the Town of Vegreville’s Chief Administrative Officer or their designate.
- 3.2 **Council** means the Municipal Council of the Town of Vegreville.
- 3.3 **Development Authority** means the Development Authority established and appointed by Council pursuant to the Municipal Government Act through the Town’s Development Authority Bylaw, as amended or repealed and replaced from time to time.



- 3.4 Easement** means any right-of-way or easement for the passage and maintenance of public utilities, identified by a registered plan or by description and document by a Registered Easement or Utility Right-of-Way Agreement granted to the Town and utility companies/operators.
- 3.5 Encroachment** means anything constructed or erected permanently or semi-permanently on the ground or attached to something that is permanent or semi-permanent extending on, over or under lands and shall include, but not be limited to the following:
- 3.5.1 Buildings and all projections including, but not limited to, eaves, cantilevers, etc. and siding;
  - 3.5.2 Sheds, including those attached to a dwelling and/or a fence;
  - 3.5.3 Fences;
  - 3.5.4 Asphalt, concrete, brick or wood sidewalks, curbs, parking pads, aprons, or driveways;
  - 3.5.5 Structures including, but not limited to decks, stairs, patios, balconies, etc.;
  - 3.5.6 Retaining walls;
  - 3.5.7 Swimming pools and hot tubs;
  - 3.5.8 Shrubs, trees, or other organic landscape materials;
  - 3.5.9 Landscaping including but not limited to structures, fire pits and planters;
  - 3.5.10 Light standards; and/or
  - 3.5.11 Signs.
- 3.6 Encroachment Assessment Tool** means a tool that is utilized by the Development Authority to determine, on a case-by-case basis, if a property owner can or cannot safely, fairly and legally enter into an Encroachment Agreement and have the encroachment remain.
- 3.7 Fence** means a vertical barrier constructed to reduce sound, visual intrusion or to limit access.
- 3.8 Hard Encroachment** means anything constructed or placed permanently or semi-permanently outside of the legal property boundaries.
- 3.9 Municipal Lands (Reserve Lands)** means, collectively or individually, roads, easements, utility rights-of-way, reserve parcels, public utility lots, and Town-owned parcels.
- 3.10 Park-like Manner** means soft encroachments planted or placed so as to not impede access and/or visual sight lines, as determined by the Development Authority.



**3.11 Property Owner** means the registered owner of the land from which an Encroachment extends to an Easement, Municipal Lands, or public lands.

**3.12 Public Lands** means roads, lanes and boulevards of the Crown in Right of Alberta.

**3.13 Road** means any throughfare, highway, trail, avenue, viaduct, lane, alley, bridge, causeway, trestle, walkway, or other similar feature which are lands administered by the Town, any part of which the public is entitled to or permitted to use.

**3.14 Soft Encroachment** means flowers, vegetation, shrubbery, and trees that do not restrict access and/or line of sight. This also includes non-permanent landscaping such as rock accents and materials, the purpose of which is to edge vegetation and, when on Municipal Lands, are planted and placed in a Park-like Manner.

**3.15 Town** means the Municipal Corporation of the Town of Vegreville.

**3.16 Utility** means any of the following:

3.16.1 Systems for the distribution of gas, whether artificial or natural, electricity, communication, cable television and oil products;

3.16.2 Facilities for storage, transmission, treatment, distribution, or supply of water;

3.16.3 Facilities for the collection, treatment, movement, or disposal of sanitary sewage, including pumping stations;

3.16.4 Storm sewer drainage facilities, including collection, pumping stations, storm water ponds, and wetlands; and/or

3.16.5 Any other items that may be prescribed by the Lieutenant Governor in Council by regulation.

## **4.0 Responsibilities**

### **4.1 Town Council to:**

4.1.1 Approve by resolution this policy and any amendments.

4.1.2 Consider the allocation of resources for successful implementation of this policy in the annual budget process.

4.1.3 To consider any requests to enter the Municipal Reserve disposition or Environmental Reserve boundary adjustment process; and

4.1.4 To amend the Policy as required.



**4.2 Chief Administrative Officer to:**

- 4.2.1 Implement this policy and approve procedures.
- 4.2.2 Ensure policy and procedure reviews occur and verify the implementation of policies and procedures.

**4.3 Director/Manager of the Department to:**

- 4.3.1 Ensure implementation of this policy and procedure.
- 4.3.2 Ensure that this policy and procedure is reviewed every three years.
- 4.3.3 Make recommendations to the Chief Administrative Officer for necessary policy or procedure amendments.
- 4.3.4 Understand, and adhere to this policy and procedure.
- 4.3.5 Ensure employees are aware of this policy and procedure.
- 4.3.6 To receive, review, and respond to all requests for Encroachments.
- 4.3.7 To prepare and have executed Encroachment Agreements.
- 4.3.8 To maintain an inventory of all agreements and Encroachments into Public Lands, Municipal Lands, Town-Owned Lands, and Easements.
- 4.3.9 To advise Council on matters related to the disposition of Municipal Reserve or boundary adjustment of Environmental Reserves.

**4.4 Coordinator to:**

- 4.4.1 Understand and adhere to this policy and procedure.
- 4.4.2 Ensure employees are aware of this policy and procedure.
- 4.4.3 To advise applicants of the process required for obtaining Town consent for Encroachment and provide a listing of contact people of various franchises.
- 4.4.4 To issue Letters of Compliance and Development Permits on properties where Encroachments exist once an Encroachment Agreement is executed.

**4.5 All Employees to:**

- 4.5.1 Understand and adhere to this policy and procedure.





## 5.0 Exclusions

5.1 Encroachments shall not be permitted except where:

5.1.1 The Encroachment meets the criteria as outlined in Appendix A; or

5.1.2 A Property Owner enters into an Encroachment Agreement, where applicable, for Encroachments into Public Lands, Municipal Lands, or Easements as per Appendix B; or

5.1.3 The Town has previously authorized Encroachment by written agreement.

5.2 Utilities authorized by the Town to be located within an Easement, Public Utility Lot, or Public Lands will not be considered as an Encroachment.

## 6.0 Special Situations

6.1 No Encroachments into an emergency access easement will be permitted. All such Encroachments will be removed immediately by the Property Owner at their expense. Should the Property Owner be unable or unwilling to remove the Encroachment, the Town will immediately remove the Encroachment and all costs associated with the removal incurred by the Town will be borne by the Property Owner.

6.2 Where a utility is on property line and there is no safe way to develop a fence to enclose a yard except to encroach into Public Lands, Municipal Lands or into an Easement, the Property Owner can apply for a Variance on a Development Permit to allow such an Encroachment for safety reasons.

## 7.0 General Provisions

7.1 Unless the Town authorizes an Encroachment, the Town or the Property Owner shall remove the Encroachment from the affected lands within thirty (30) days of receiving notice to do so. All work conducted in removing an Encroachment will be at the cost of the Property Owner.

7.2 Encroachments into Public Lands, Municipal Lands, or an Easement that are designated as, or are part of, an emergency access shall be removed from the affected lands at the cost of the Property Owner as soon as practically possible, but no longer than thirty (30) days of receiving notice to do so.

7.3 An Encroachment Agreement authorized by the Town and executed by the applicant will be registered by caveat on the title of the applicant's land at the Property Owner's cost.

7.4 An authorized Encroachment Agreement does not release an applicant from the responsibility to comply with Provincial or Federal requirements or other municipal bylaws.



- 7.5** All expenses, costs, liabilities, or other risk associated with an authorized Encroachment will be borne by the Property Owner.
- 7.6** All Soft Encroachments that fall within Appendix A and all other Encroachments that have Encroachment Agreements fully executed must be maintained by the Property Owner. If they are not maintained, notice may be given under the Community Standards Bylaw, as amended or repealed and replaced from time to time, and all fees incurred enforcing such will be borne by the Property Owner.
- 7.7** An Encroachment once authorized by the Town, may continue to be used, but the Encroachment shall not be added to, rebuilt or structurally altered, except:
  - 7.7.1** as may be necessary to remove the Encroachment; or
  - 7.7.2** as may be necessary for the routine maintenance of the Encroachment.
- 7.8** If an Encroachment or the structure benefitting from the Encroachment is damaged or destroyed to the extent of more than 75% of the replacement value of the Encroachment or such structure, the Encroachment shall not be repaired or reconstructed and shall be removed from the affected lands unless the repair or reconstruction has been authorized by the Town.
- 7.9** The Town will respond to all Encroachment complaints and will apply this policy when Encroachments are identified through normal management of Public Lands, Municipal Lands, and Easements.
- 7.10** Existing Encroachments authorized by Encroachment Agreements, or any other existing agreement with the Town authorizing an Encroachment, will be deemed to be an authorized Encroachment subject to the terms of the existing agreement.
- 7.11** An Encroachment will not interfere with the Town's, or other Utility operator's, need to access an Easement.
- 7.12** Notwithstanding any of the above, in the event that an Encroachment poses a clear and present danger to the public as determined by the Town, the Encroachment shall be removed immediately by the Property Owner. Should the Property Owner, for whatever reason, be unable or unwilling to remove the Encroachment, the Town shall immediately remove it and all costs of the removal incurred by the Town shall be borne by the Property Owner.
- 7.13** Where an Encroachment is identified, a Property Owner may make an application to the Town for consideration of such Encroachment, if within:
  - 7.13.1** an Easement: it will be reviewed by the Development Authority utilizing the Encroachment Assessment Tool, all affected departments, and any affected Utility operator. If deemed acceptable, an Encroachment Agreement will be issued, with the exception of an Encroachment into an emergency access easement, where the



Encroachment shall be immediately removed.

- 7.13.2 Public Lands: it will be reviewed by the Development Authority utilizing the Encroachment Assessment Tool, all affected departments, any affected Utility operator. If deemed acceptable, an Encroachment Agreement will be issued.
- 7.13.3 Municipal Lands: it will require removal unless other alternatives are pursued as referenced in this Policy document under Soft Encroachments.
- 7.13.4 any other Town-Owned Parcel: it will be reviewed by the Development Authority utilizing the Encroachment Assessment Tool, all affected departments, and any affected Utility operator. If deemed acceptable, an Encroachment Agreement will be issued.

#### **7.14 Encroachment into Municipal Lands**

- 7.14.1 There will be no Hard Encroachments permitted on Municipal Lands. If a Hard Encroachment is identified, the Property Owner must remove the Encroachment from the affected lands within thirty (30) days of receiving notice to do so. All work conducted in removing an Encroachment will be at the cost of the Property Owner.
- 7.14.2 Soft Encroachments as identified in Appendix A will not require an Encroachment Agreement.
- 7.14.3 Acquired land to be incorporated into the road database, but prior to the lands being developed into a road, the Town will, without charge, enter into an Encroachment Agreement with any Property Owner that has an existing Encroachment on said lands. The removal period would be related to the life of the Encroachment or until it is necessary for the Town to commence construction to widen or construct a Roadway.

#### **7.15 Encroachment into Easements**

- 7.15.1 An Encroachment into an Easement where the Town is the grantee will be considered on a case-by-case basis and reviewed by the Development Authority utilizing the Encroachment Assessment Tool, all affected departments, and any affected Utility operator, and if the Encroachment is acceptable, an Encroachment Agreement will be issued.

### **8.0 Appendix**

- 8.1 Appendix A:** Encroachment into Public Lands, Municipal Lands, or an Easement **not** requiring an Encroachment Agreement
- 8.2 Appendix B:** Encroachment into Public Lands, Municipal Lands, or an Easement requiring an Encroachment Agreement



**9.0 End of Policy**



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Mayor Tim MacPhee



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Sandra Ling, CAO





## APPENDIX A

### Encroachments into Public Lands, Municipal Lands, or an Easement NOT Requiring an Encroachment Agreement

1. Soft Encroachments;
2. Driveways, sidewalks, curbs, or steps which provide access to a building or structure;
3. Garage aprons encroaching less than 0.3 meters into lanes;
4. Signs or canopies projecting into a Road complying with the Town's current Land Use Bylaw;
5. Any fence projecting across or through an overland drainage right-of-way in the Urban Reserve (UR) district; and/or
6. Any Encroachment constructed for valid municipal purposes by the Town or its agents (e.g. bollards, sound barriers, developer fences, subdivision entrance signs, guard rails, etc.)



## APPENDIX B

### **Encroachments into Public Lands, Municipal Lands, or an Easement Requiring an Encroachment Agreement**

Applicable Encroachments that do not fall within the guidelines set out in Appendix A, will require an application for Encroachment Agreement to be made to the Town and will include:

1. an originally signed Real Property Report, surveyed after January 1, 1995, detailing the property and extent of the Encroachment;
2. the application fee as determined by Council; and
3. a cover letter or letter of intent.

Upon receipt of items 1 through 3, the Town will commence processing an Encroachment Agreement.

