



COUNCIL POLICY C-PD02

Encroachment Agreements

Prepared By: Planning and Development Services

Council Approval Date: January 25, 2011

Effective Date: January 25, 2011

Council Resolution No.: 17-11

References: Procedures C-PD02-P1
Municipal Government Act
Land Use BylawPrevious Revision Date: November 26, 2002
(PD-002)

Function: Planning and Development

LAS Review Date: June 3, 2014

PURPOSE

The purpose of this policy is to provide the standards to which Encroachment Agreements may be permitted for fencing, landscaping improvements, and/or structures placed within County Lands.

POLICY STATEMENT

Parkland County may, from time to time, enter into Encroachment Agreements pursuant to Section 651.2 of the *Act* pertaining to fences, landscaping improvements or structures that encroach onto County Land, provided these encroachments do not adversely affect the use or purpose of the County Lands.

DEFINITIONS

1. "Act" means the *Municipal Government Act* being the Revised Statutes of Alberta, 2000, Chapter M-26.1, and amendments thereto.
2. "County Lands" for the purpose of this policy means lands where Parkland County is listed as the owner on the Certificate of Title which may include, but is not limited to: environmental reserves (ER), municipal reserves (MR), undesignated reserves (R), municipal and school reserves (MSR), park reserves (PR), public utility lots (PUL), utility lots (U), walkways, statutory road allowances, and municipal rights-of-way (MRW).
3. "Encroachment" means any portion of a fence, landscaping improvements, or structures which extend onto County Lands. There are generally two main categories of encroachment:
 - a. Fences and landscaping Improvements – wood post and barb wire, brick, wooden plank, wrought iron, steel pipe, or some combination of these fence materials, trees, retaining walls, approaches and private driveways, or other landscaping improvements; and
 - b. Structures – buildings, sheds, retaining walls, swimming pools, satellites, and others.
4. "Encroachment Agreement" means an agreement, pursuant to Section 651.2 of the *Act* under which a municipality permits the encroachment of fences and landscaping improvements, and structures onto County Lands.
5. "Landowner" means all owner(s) listed on the Certificate of Title as having an interest in the titled land.
6. "May" means discretionary compliance or a choice in applying policy.
7. "Shall" means mandatory compliance.

SCOPE

This policy applies to requests received from Landowners within Parkland County for permission to keep existing development that may be encroaching onto County Land.

MANAGEMENT RESPONSIBILITIES

1. Parkland County Council shall approve any amendments to, or any variations of, this policy.
2. The Manager of Planning and Development Services is responsible for the development, implementation, monitoring, and evaluation of this policy.

STANDARDS

1. Council authorizes the Chief Administrative Officer (CAO), or their designate, to approve a generic Encroachment Agreement and Caveat Agreement as developed in consultation with the County Solicitors. These legal documents may be updated with minor adjustments as required by Administration on a case-by-case basis.
2. The Landowner is to consult with County Administration prior to applying for an Encroachment Agreement under Procedure C-PD02-P1.
3. When the County agrees to enter into an Encroachment Agreement, subject to whatever conditions it deems appropriate, any legal costs associated with the preparation of these agreements shall be borne by the Landowner benefiting from the agreement.
4. Any request received by the County to enter into an Encroachment Agreement where the encroached-upon land is a County-owned or managed reserve, the Encroachment Agreement request shall also be reviewed against any other Parkland County Bylaws or policies pertaining to the use and management of County Lands.
5. A one-time minimum administrative fee shall also be charged to cover administration's costs to prepare and facilitate the agreement preparation. This fee is as set out in the Fees and Charges Schedule approved by Council as part of the Capital and Operating Budget. If required, the fee may be increased, at the discretion of the Manager of Planning and Development Services, to reflect any additional costs incurred in the preparation of specific or unique encroachment agreement situations.
6. The Landowner shall provide a Real Property Report (RPR) at the time of application as described in detail under Procedure PD-002-P1 as part of the application requirements. This RPR shall be no more than ten (10) years old.
7. The Encroachment Agreement shall be registered by Caveat against the Certificate of Title for which the encroachments belong.
8. Landowners may submit in writing to Parkland County Council an appeal requesting a review of a decision to refuse a request to enter into an Encroachment Agreement by the CAO, or his designate, further to Encroachment Agreement Procedures C-PD02-P1.
9. The CAO, or his designate, shall provide Council an update on decisions rendered under this policy as agreed upon between the CAO and Council on a regular basis.