



## ADMINISTRATIVE PROCEDURES C-PD02-P1

## Encroachment Agreements

Related Policy: Policy C-PD02

Prepared By: Planning and Development Services

Effective Date: October 19, 2015

Previous Revision Date: January 25, 2011 (PD-002-P1)

## APPROVALS:

CAO

General Manager

Manager

LAS Review Date: October 19, 2015

Function:

Planning and Development

**PURPOSE**

These procedures are established for processing Encroachment Agreement applications, which include circulating to other departments or agencies having an interest in the encroachment, and making a decision on whether the County will enter into an agreement respecting the encroachment or enforcement of removal of the encroachment.

**ACTION STEPS****Application Requirements**

Applications will not be accepted and processed if any of these requirements are missing.

1. The Landowner with an encroachment on a County-owned parcel of land or on a road right-of-way must submit to the General Manager of Development Services, or delegate:
  - a. A letter of intent explaining why the Landowner is requesting an Encroachment Agreement. Important factors should be clearly noted, as well as the property's legal description, municipal address, and the applicant's/Landowner's mailing address and phone number;
  - b. Payment of an Administration Fee as set out in the Fees and Charges Schedule approved by Council as part of the Capital and Operating Budget;
  - c. The County will consider the request as one application when there are more than one encroachments (i.e.) road and municipal reserve;
  - d. A Real Property Report (original required), prepared by an Alberta Land Surveyor no more than ten years old from the date of the encroachment agreement request to verify the encroachment. Facsimiles are not accepted; and
  - e. Photographs of the encroaching feature(s) shall be provided to give an idea of what the area looks like and clearly shows the encroachment, as required by the Development Officer.

**Application Process**

2. An initial review of the request by Planning and Development Services will determine if there are any other means to satisfy the encroachment concern, i.e. lease of road allowance, road closure, or other as well as review the encroachment against any other Parkland County Bylaws or policies pertaining to the use and management of County Land.

3. County Administration will evaluate the application for an Encroachment Agreement with consideration for such factors as public liability, future development plans, environment/wildlife sensitivities, existing or future requirements of utilities, existing easements, and any other factor relevant to the encroachment to determine if the encroachment(s) adversely affect the use or purpose of the County Lands. If the application is not feasible (i.e. adverse effect) the applicant will be notified in writing as set out below.
4. If Administration decides to grant the encroachment, then Planning and Development Services will prepare an Encroachment Agreement and forward to the Landowner/applicant for review. The Landowner/applicant shall be required to pay any additional fees and complete a Real Property Report if not previously provided.
5. Upon Planning and Development Services receiving all required payments from the applicant and completion of all required documentation, the proper signing officers of the County are authorized and empowered to sign and seal all Encroachment Agreements.
6. Planning and Development Services will prepare and register a caveat against the property to which the encroachment has occurred to provide notice and permanent record of the County's approval of encroachment.

#### **Non-Approval of Encroachment**

7. If permission for an encroachment is denied to the Landowner, then the Manager of Planning and Development Services or the Manager of Protective Services, or their designate, will issue a written notice outlining the reasons of refusal to the Landowner and require the immediate removal of the encroachment and restoration of the encroached land, pursuant to the County's legal interest in the land or as otherwise directed under any other Parkland County Bylaws or policies pertaining to the use and management of County Land.
8. If the encroachment is not removed after a reasonable time frame from notification at the discretion of the Manager of Planning and Development Services or the General Manager of Community and Protective Services, Administration may take whatever steps or legal remedies are available to the County to enforce the removal.

#### **Appeal Process**

9. The Landowner may submit in writing to Parkland County Council an appeal requesting a review of Administration's decision as set out in Encroachment Agreement Policy C-PD02.

#### **RESPONSIBILITY**

The Manager of Planning and Development Services is responsible for coordinating the development and evaluation of this policy.

#### **The responsibilities of Planning and Development Services include:**

1. To receive, review, coordinate between departments, and respond to all requests for encroachments onto County right-of-ways or a County owned parcel of land.
2. To advise Landowners of the County process when an encroachment onto County-owned land is identified during the processing of a Compliance Certificate (refer to Policy C-PD06).
3. To prepare and execute Encroachment Agreements.
4. To ensure the caveat re Encroachment Agreement is registered against the property at the Land Titles Office.
5. To ensure the caveat re Encroachment Agreement is discharged from the property when the encroachment has been removed in accordance with the terms of the Encroachment Agreement.
6. To maintain an inventory of all Encroachment Agreements entered into throughout the County.

**The responsibilities of Agriculture, Public Works, Engineering, and Enforcement Services include:**

1. To provide the technical support to inspect and review requests for encroachments onto County Land, as referred.
2. To determine if an encroachment is to be authorized on County Land or easement and, if so determined, will advise the Planning and Development Services Department to proceed with appropriate documentation and required conditions.
3. Enforcement Services shall coordinate all enforcement actions, as required.