

	<h1>Town of Vegreville Policy</h1>
Policy No.: Policy Title: Approval Date: Revision Date: Department:	2015-04 Encroachment Policy April 13, 2015 Planning & Development Department

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 also has interests in privately owned land by way of rights of way and easements. On behalf of the citizens of Vegreville, 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 and enjoyment of lands for public use. Identified owners of the encroachment may be required to enter into an agreement or, alternatively, remove the encroachment.

Part One

1.1 Reason for Policy

- (1) 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.

1.2 Related Information

- (1) Municipal Government Act, as amended; and
- (2) Land Use Bylaw, as amended.

1.3 Definitions

- (1) "Chief Administrative Officer" means Town Manager.
- (2) "Council" means the Municipal Council for the Town of Vegreville.
- (3) "Development Authority" means the Development Authority established and appointed by Council pursuant to the Municipal Government Act (MGA) through the municipality's Development Authority Bylaw.

- (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.
- (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:
- (i) Buildings and all projections (including, but not limited to, eaves, cantilevers, etc.) and siding;
 - (ii) Sheds including those attached to a dwelling and/or a fence;
 - (iii) Fences;
 - (iv) Asphalt, concrete or brick and wood sidewalks, curbs, parking pads, aprons or driveways;
 - (v) Structures (including, but not limited to, decks, stairs, patios, balconies, etc.);
 - (vi) Retaining walls;
 - (vii) Swimming pools and hot tubs;
 - (viii) Shrubs, trees or other organic landscape materials;
 - (ix) landscaping (including but not limited to, structures, fire pits and planters);
 - (x) Light standards;
 - (xi) Signs.
- (6) "Encroachment Agreement" means an agreement between the applicant and the Town authorizing an encroachment and shall, among other things, include:
- (i) location and identification of the encroachment;
 - (ii) fees;
 - (iii) term;
 - (iv) termination notice;
 - (v) cost and liability for removal;
 - (vi) indemnification of the Town, its agents or licensees;
 - (vii) a provision requiring removal following a minimum of thirty (30) days' notice by the Town.

- (7) "Encroachment Assessment Tool" (see Schedule 'C') 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 encroachment agreement and have the encroachment remain.
- (8) "Fence" means a vertical physical barrier constructed to try to reduce sound or visual intrusion or to limit unauthorized access.
- (9) "Hard Encroachment" means anything constructed or placed permanently or semi-permanently outside of the legal property boundaries.
- (10) "Municipal Lands (Reserve Lands)" means environmental reserve, municipal reserve, community reserve, school reserve, and municipal and school reserve.
- (11) "Park-like Manner" means soft encroachments planted or placed so to not impede access and/or visual site lines. Acceptable access and site lines will be determined by the Development Authority.
- (12) "Property Owner" means the registered owner of the land from which an Encroachment extends onto an Easement, Municipal Lands or Public Lands.
- (13) "Public Lands" means roads, lanes and boulevards of the Crown in right of Alberta.
- (14) "Road" means any thoroughfare, highway, road, 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 or permitted to use.
- (15) "Soft Encroachment" means flowers/vegetation, shrubbery and trees that do not restrict access and/or line of site. This also includes non-permanent landscaping such as rock accents and materials, the purpose of which is to edge vegetation. Soft encroachments on Municipal Lands must be planted or placed in a Park-like Manner.
- (16) "Town" means the Corporation of the Town of Vegreville.
- (17) "Town Owned Parcel" is any titled land the Town owns excluding a reserve, road or easement.

(18) "Utility" means any of the following:

- (i) Systems for the distribution of gas, whether artificial or natural, electricity, communication, cable television, and oil products;
- (ii) Facilities for storage, transmission, treatment, distribution, or supply of water;
- (iii) Facilities for the collection, treatment, movement, or disposal of sanitary sewage, including pumping stations;
- (iv) Storm sewer drainage facilities, including collection, pumping stations, storm water ponds, and wetlands;
- (v) Any other items that may be prescribed by the Lieutenant Governor in Council by regulation.

1.4 Responsibilities

(1) Town Council is to:

- (i) Approve, by resolution, this Policy and any amendments;
- (ii) Consider the allocation of resources for successful implementation of this Policy in the annual budget process;
- (iii) To consider any requests to enter the Municipal Reserve disposition or Environmental Reserve boundary adjustment processes; and
- (iv) To amend the Policy as required.

(2) Chief Administrative Officer is to:

- (i) Ensure policy and procedure reviews occur and verify the implementation of policies and procedures.

(3) Director of the Department is to:

- (i) Ensure implementation of this Policy and procedure;
- (ii) Ensure that this Policy and procedure is reviewed at least every three years;
- (iii) Make recommendations to the Chief Administrative Officer of necessary policy or procedure amendments;
- (iv) To receive, review, and respond to all requests for Encroachments;

- (v) To prepare and have executed Encroachment Agreements;
 - (vi) To maintain an inventory of all agreements and Encroachments onto Public Lands, Municipal Lands, Town Owned Lands and Easements; and
 - (vii) To advise Council on matters related to the disposition of Municipal Reserve or boundary adjustment of Environmental Reserve.
- (4) Supervisor is to:
- (i) Understand, and adhere to this Policy and procedure;
 - (ii) Ensure employees are aware of this Policy and procedure;
 - (iii) To advise any applicants of the process required for obtaining Town consent for Encroachment and provide a listing of contact people of various franchises; and
 - (iv) To issue Letters of Compliance and Development Permits on properties where encroachments exist once an Encroachment Agreement is executed.
- (5) All Employees are to:
- (i) Understand and adhere to this policy.

1.5 Exclusions

- (1) Encroachments shall not be allowed except where:
 - (i) The Encroachment meets the criteria as outlined in Schedule "A", or
 - (ii) A Property Owner enters into an Encroachment Agreement, where applicable, for Encroachments into Public Lands, Municipal Lands or Easement as per Schedule "B", or
 - (iii) The Town has previously authorized an Encroachment by written agreement
- (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.
- (3) As identified in Schedule "A" (Encroachments into Public Lands, Municipal Lands, or an Easement Not Requiring an Encroachment Agreement).

1.6 Special Situations

- (1) No Encroachments into an emergency access easement shall be permitted. All such Encroachments shall be removed immediately by the Property Owner at his expense. Should the Property Owner be unable or unwilling to remove the Encroachment, then the Town shall immediately remove the Encroachment and all costs associated with the removal incurred by the Town shall be borne by the Property Owner.
- (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 onto Easements, the Property Owner can apply for a Variance on a Development Permit to allow such an Encroachment for safety reasons.

Part Two

2.1 Policy Guidelines

- (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 shall be at the cost of the Property Owner.
- (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.
- (3) An Encroachment Agreement authorized by the Town and executed by the applicant shall be registered by caveat on the title of the applicant's land at the Property Owner's cost.
- (4) An authorized Encroachment Agreement does not release an applicant from the responsibility to comply with Provincial or Federal requirements or other municipal bylaws.
- (5) All expenses, costs, liabilities, or other risk associated with an authorized Encroachment shall be borne by the Property Owner.
- (6) All Soft Encroachments that fit within Schedule '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 and all fees incurred enforcing such will be borne by the Property Owner, or if any Encroachment causes imminent danger, the Town can remove such immediately without notice.
- (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:
 - i. as may be necessary to remove the Encroachment; or
 - ii. as may be necessary for the routine maintenance of the Encroachment.

- (8) If an Encroachment or the structure benefiting 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.
- (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.
- (10) Existing Encroachments authorized by Encroachment Agreements, or any other existing agreement with the Town authorizing an Encroachment, shall be deemed to be an authorized Encroachment subject to the terms of the existing agreement.
- (11) An Encroachment shall not interfere with the Town's, or other utility operator's, need to access the Easement.
- (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 and at the sole cost of 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.

2.2 General Guidelines:

- (1) Where an Encroachment is identified, an applicant may make an application to the Town, as outlined in Schedule 'B', for consideration of such Encroachment, if within:
 - (i) an Easement: it will be reviewed by the Development Authority utilizing the Encroachment Assessment Tool (see Schedule 'C'), 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.
 - (ii) Public Lands: it will be reviewed by the Development Authority utilizing the Encroachment Assessment Tool (see Schedule 'C'), all affected departments and any affected utility operator. If deemed acceptable, an Encroachment Agreement will be issued.

- (iii) **Municipal Lands:** it will require removal unless other alternatives are pursued as referenced in this Policy document under Soft Encroachments.
- (iv) **any other Town Owned Parcel:** it will be reviewed by the Development Authority utilizing the Encroachment Assessment Tool (see Schedule 'C') all affected departments and any affected utility operator. If deemed acceptable, an Encroachment Agreement will be issued.

2.3 Guidelines for Encroachment into Municipal Lands:

- (1) There will be no Hard Encroachments permitted onto 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 shall be at the cost of the Property Owner.
 - (i) Soft Encroachments as identified in Schedule 'A' will not require an Encroachment Agreement.

2.4 Guidelines for Encroachment into Public Lands:

- (1) An application for an Encroachment Agreement (see Schedule 'D') into Public Lands will be reviewed on a case by case basis by the Development Authority utilizing the Encroachment Assessment Tool (see Schedule 'C'), all affected departments and any affected utility operator.
- (2) An application for an Encroachment Agreement (see Schedule 'D') is to be made to the Town under the following condition:
 - (i) As per Schedule 'B', the Encroachment will be reviewed on a case by case basis by administration utilizing the Encroachment Assessment Tool (see Schedule 'C'), all affected departments and any affected utility operator, and, if deemed acceptable, an Encroachment Agreement will be granted; otherwise,
 - (ii) Encroachments as identified in Schedule "A" will not require an Encroachment Agreement.

2.5 The Encroachment Agreement will allow the Town to require removal within thirty (30) days of being notified to do so.

2.6 Pursuant to Section 21 of the Municipal Government Act, when the Town acquires land to be incorporated into the road database, but prior to the lands being developed into a road, the Town shall, 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 would be necessary for the Town to commence construction to widen or construct a roadway.

2.7 Guidelines for Encroachment into Easements:

- (1) An Encroachment into an Easement where the Town is the grantee will be considered on a case by case basis reviewed by the Development Authority utilizing the Encroachment Assessment Tool (see Schedule 'C'), all affected departments and any affected utility operator, and, if the Encroachment is acceptable an Encroachment Agreement will be issued.

2.8 Enforcement

- (1) An Encroachment into Public Lands, Municipal Lands, an Easement, or other Town Owned Parcel is enforced by the Designated Officers under the jurisdiction of relevant Town Bylaws and Provincial Statutes.
- (2) Fees and Charges: all costs incurred due to enforcement of this Policy will be charged back to the Property Owner.
- (3) Any additional costs required facilitating an Encroachment, including but not limited to a road closure or subdivision application or reserve disposition, shall be borne by the Property Owner.
- (4) Any costs of utility relocation or reconstruction required to facilitate an Encroachment shall be the responsibility of the Property Owner.



Mayor



Town Manager

2.9 Appendix

- (1) Schedule "A" Encroachment into Public Lands, Municipal Lands, or an Easement **not** requiring an Encroachment Agreement.
- (2) Schedule "B" Encroachment into Public Lands, Municipal Lands, or an Easement requiring an Encroachment Agreement.
- (3) Schedule "C" Encroachment Assessment Tool.
- (4) Schedule "D" Encroachment Agreement Application.

Schedule "A"

- A. Encroachments into a Public Lands, Municipal Lands, or an Easement NOT Requiring an Encroachment Agreement:**
 - A.1 Soft Encroachments;**
 - A.2 Driveways, sidewalks, curbs, or steps which provide access to a building or structure;**
 - A.3 Garage aprons encroaching less than 0.3 m into lanes;**
 - A.4 Signs or canopies projecting into a Road complying with Town's current Land Use Bylaw;**
 - A.5 Any fence projecting across or through an overland drainage right of way in the Urban Reserve (UR) district;**
 - A.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.).**

Schedule "B"

B. Encroachments into a Public Lands, Municipal Lands, or an Easement, Encroachment Agreement Required

B.1 Applications for Encroachment Agreements will be made to the Town.

- (i) If WITHIN the guidelines set out in Schedule 'A', the applicant will be advised in writing that no Encroachment Agreement is necessary.**
- (ii) If NOT WITHIN the guidelines set out in Schedule 'A', the applicant will be required to enter into an Encroachment Agreement and asked to provide:**
 - (a) an originally signed Real Property Report, surveyed after January 1, 1995, detailing the property and the extent of the Encroachment;**
 - (b) the application fee, as approved by Council; and**
 - (c) a cover letter or letter of intent.**

Upon receipt of items (a) through (c), the Town will commence processing an Encroachment Agreement.



Schedule "C"

Town of Vegreville
Planning & Development Department
4829 - 50 Street, Lower Level
Box 640
Vegreville, AB T9C 1R7

Phone: 780-632-6479

Fax: 780-632-6856

Website: www.vegreville.com

ENCROACHMENT ASSESSMENT

This assessment is only to be used by the Planning & Development Department to evaluate encroachments whereby an individual or company is occupying public lands (roads, lanes, boulevards). Encroachments by an individual or company occupying a particular private space that is rightfully owned by a different individual or company are a matter that must be dealt with privately or in a court of law.

APPLICANT: _____

CIVIC ADDRESS OF ENCROACHING PROPERTY: _____

LEGAL ADDRESS OF ENCROACHING PROPERTY: _____

DIMENSIONS (SIZE) OF ENCROACHMENT: _____

PHOTOS OF ENCROACHMENT ATTACHED: [] YES [] NO

[] Legal Issue: An encroachment occupying municipal lands contrary to an Act of Government or Municipal Bylaw that forbids the granting of an encroachment agreement.
- Including, but not limited to, encroaching on lands designated municipal reserve, school reserve, municipal & school reserve, environmental reserve, community services reserve, public utility lot.

[] Liability Issue: An encroachment by an individual or company occupying public lands and thereby resulting in a liability issue by reason of the private individual occupying the space for which the municipality remains liable.

[] Access Issue: An encroachment that is:
- occupying a particular space that is designated as a public space or occupying a particular space in such a manner so as to deny access to a public space; and/or
- occupying a particular space in a manner so as to narrow or otherwise impede visibility or access to, or along, a public roadway or lane.

[] Safety Issue: An encroachment of a particular space in a manner that results in a safety issue.

[] Unsightliness Issue: An encroachment occupying a particular space:
- that results in an unsightly appearance or an appearance not conforming to the look and appeal of the general neighborhood; and/or
- with debris, objects or such other materials that result in an unsightly appearance and/or present a safety issue.

[] Fairness Issue: A significant encroachment effectively enlarging one's land space for which the individual or company is not taxed.

ASSESSMENT DATE: _____

ASSESSED BY: _____

SIGNATURE: _____

Schedule "D"



Town of Vegreville
PO Box 640
VEGREVILLE, AB T9C1R7
Phone: 780-632-6479
Fax: 780-632-6856
www.vegreville.com

ENCROACHMENT AGREEMENT REQUEST FORM

Date:

Your File No:

Applicant Name:		
Additional Names: (if applicable)		
Mailing Address:		
City:	Province:	Postal Code:

When you apply, personal information may be collected under the authority of Section 39 of the Alberta Freedom of Information and Protection of Privacy Act, Section 652 of the Municipal Government Act and/or Section 63 of the Safety Codes Act. The information will be used to process your application(s) and your name and address may be included on the reports that are available to the public. If you have any questions, please contact the Town at 780-632-2606

WHERE IS YOUR ENCROACHMENT LOCATED?

MUNICIPAL ADDRESS: _____

LEGAL DESCRIPTION: PLAN: _____ BLOCK: _____ LOT: _____

SUBMISSION DOCUMENT CHECKLIST:

- ➡ One (1) original copies of Alberta Land Surveyor's Real Property Report (faxed, emailed or spliced copies will not be accepted)
- ➡ A copy of title

ENCROACHMENT TYPES AND FEES

- ➡ Application fee for encroachments is \$250

Method of Payment (check one)			
Cash: _____	Cheque: _____	Visa/MC: _____	Debit: _____
Receipt No: _____			

Signature of Applicant

Date (YYV /MM /DD)



Town of Vegreville Procedure

Policy No.: Policy Title: Department:	2015-04 Encroachment Policy Planning & Development Department
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1. The following is a list of items that combined will form an Application for Encroachment

- 1.1 **(i) A Real Property Report (RPR)**

Real Property Reports (survey) may be obtained from any registered Alberta Land Surveyor. RPR's provide a detailed map of a specific property. The Town requires at least one originally signed Report. A RPR that is greater than one year old prior to making application shall be accompanied by a statutory declaration signed by the Property Owner. The statutory declaration shall state that the RPR is an accurate depiction of all improvements on the property and no further improvements have been made to the property. The Town shall not accept RPR's surveyed prior to January 1, 1995.

- (ii) A Letter of Intent**

This is a cover letter that will explain the circumstances that have led you to apply for an agreement. Please highlight anything you would like brought to the Town's attention and be sure to reference the property's address and legal description.

- (iii) Fee**

Fees for Encroachment Applications are subject to which Schedule they fall under in the Town of Vegreville Planning and Development Fees and Charges Bylaw. If a feature is identified under Schedule "B", the fee is **\$250.00**, or as set by resolution of Council from time to time, and the application is subject to review prior to a decision to approve or refuse the encroachment. The fee is not subject to reimbursement.

Applications will not be processed if any part of these requirements is missing.

2. Once your application is complete, **one (1)** copy of the complete application must be delivered to:

**Town of Vegreville
Planning & Development Department
Box 640, 4829-50 Street
VEGREVILLE AB, T9C 1R7
(780) 632-6479**

3. The Property Owner shall also provide **one (1)** complete copy of the application required under 1.1 above, in addition to a copy of the Consent Letter (attached) to **all** of the relevant utility companies. The Town of Vegreville shall provide a list of addresses to which the information package is to be sent.
4. No Agreement shall be drafted or executed until responses have been received from all potentially affected parties.
5. If any utility company or other potentially affected party refuses to provide consent to an Agreement, no Agreement shall be drafted or executed, and the Property Owner shall be required to remove the encroachment, at the cost of the Property Owner.
6. If any utility company or other potentially affected party provides conditional consent to an Agreement, then the conditions of consent shall be satisfied prior to an Agreement being executed and registered.
7. If all potentially affected parties provide consent to an Agreement, the Town shall draft an Agreement for execution by the Property Owner. A document will be prepared for signature. The Agreement will allow the Encroachment to remain for the life of the structure; that is, the feature may not be rebuilt on Town land if it is removed for any reason.
8. Once the document is fully executed the document must be registered at an Alberta Registries, Land Titles Office against the property owner's title. Town administration will ensure the document is properly registered, which completes the process.
9. **End of Procedure**

If you have any questions regarding any element of the Encroachment Application Procedure, please contact the Town of Vegreville, Planning and Development Department, at (780) 632-6479.

LIST OF AGENCIES TO BE CIRCULATED AN APPLICATION:

TELUS Communications Inc.
10th Floor, 10035-102 Avenue NW
Edmonton, AB T5J 0E5
Ph: 780-508-2048
rightofwayab@telus.com

ATCO Electric
10035-105 Street
Edmonton, AB T5J 2V6
Ph: 780-508-4688
landinquiries@atcoelectric.com

ATCO Gas
6th Floor, 10035-105 Street
Edmonton, AB T5J 2V6
Attn: Kristine Sheremeta
Kristine.Sheremeta@atcogas.com

**Town of Vegreville
Utilities Department**
Box 640, 5417-Birch Avenue
Vegreville, AB T9C 1R7
Ph: 780-632-3439

**Alberta Transportation
Central Region
Vermilion District**
Box 28, 4701-52 Street, Provincial Building
Vermilion, AB T9X 1J9
Ph: 780-853-8178
Fx: 780-853-8270

Standard Form Letter for Utility Company Response

MAIL TO:

Town of Vegreville
Planning & Development Department
Box 640, 4829-50 Street
VEGREVILLE AB T9C 1R7
Attn: Planning and Development Coordinator

FROM:

*Corporate Name &
Dept. Street Address
Municipality, Province
Postal Code
Contact Person
Phone No.*

Re: Town of Vegreville Request for Encroachment Agreement

Lot _____, Block _____, Plan _____

Street Address: _____

Applicant's Name: _____

Please be advised that _____ has:
(corporate name)

A. NO OBJECTIONS TO THE IDENTIFIED ENCROACHMENT

And hereby consent to the registration of an Encroachment Agreement.

B. THE FOLLOWING CONCERNS WITH THE IDENTIFIED ENCROACHMENT

And therefore refuses to consent to the registration of an Encroachment Agreement.