



**701C
Encroachment Agreements**

Supporting Procedure: 701P

Prepared By: Planning

Council Approval Date: October 11, 2022

Effective Date: Upon Approval

Council Resolution No.: 22-313

References: Municipal Government Act
Section 18 and Section 61

POLICY STATEMENT

To establish a system to respond to requests to allow an Encroachment on a Town Owned Parcel, Street, or Easement that is in the Town's name.

PURPOSE

To ensure that requests for Encroachment Agreements are processed in a consistent manner and assessed on their own individual merit; and that the decision does not adversely affect the Town's ability to maintain services for public use or access infrastructure.

DEFINITIONS

"Applicant(s)" means the owner(s) of land, who has requested an Encroachment Agreement from the Town.

"Easement" means any rights granted to the Town to allow for passage over land, use of land, or the installation and maintenance of public utilities in the form of an easement agreement or right of way agreement.

"Emergency Access Easement" means an Easement for the purposes of providing a route for emergency response vehicles and personnel to reach an area or a means of evacuating an area.

"Encroachment" means anything constructed or erected that extends on, over or under Municipal Lands and is not owned by the Town of Olds.

"Encroachment Agreement" means an Agreement (including a License to Occupy or an Agreement amending an existing Easement or right of way agreement) between the Applicant and the Town authorizing an Encroachment.

"Fixed Location" means securely attached to the ground in a permanent manner.

"Historical Encroachment" means an Encroachment that is at least 50 years of age.

"Letter of Consent" means a letter from the Town of Olds authorizing an Encroachment

"Municipal Lands" means collectively or individually a Street, Easement, or Town Owned Parcel.

“Real Property Report or RPR” means a legal document prepared by an Alberta Land Surveyor that clearly illustrates the location of significant visible building(s) and/or structures relative to the property boundaries.

“Reserve” means all municipal reserves (MR or any of the original designates), environmental reserves (ER), municipal and school reserves (MSR) or school reserves (SR), as defined in the *Municipal Government Act*, or a public park, recreation ground or exhibition ground as defined in the *Municipal Government Act*.

“Street” means any thoroughfare, highway, road, trail, avenue, viaduct, lane, alley, square, 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.

“Town” means the Corporation of the Town of Olds.

“Town Owned Parcel” means any land owned by the Town for which a certificate of title has been issued in accordance with the *Land Titles Act*.

SCOPE

This policy applies to all requests for an encroachment agreement within the Town of Olds municipal boundaries.

RESPONSIBILITIES

The CAO or their designate(s) are responsible for ensuring that this policy is implemented, monitored, and evaluated. The CAO is authorized to establish such procedures, forms, processes, agreements and similar materials and tools as determined necessary by the CAO to implement this policy.

STANDARDS

1. Encroachments onto a Town Owned Parcel, Street or Easement, shall be discouraged.
2. The CAO or their designate(s) shall consider each request for an Encroachment Agreement on its own individual merits and upon the advice of applicable Town Departments.
3. No Encroachment that prevents public use, puts public safety at risk, frustrates the intended purpose of a Town Owned Parcel, Street or Easement, or causes added public expense to maintain public utilities and infrastructure shall be authorized.
4. An Encroachment that extends less than 0.05 m (0.16 ft.) onto a Town Owned Parcel, Street or Easement and that is not secured to a Fixed Location may be authorized through a Letter of Consent in lieu of an Encroachment Agreement.
5. An Encroachment that extends more than 0.05 m (0.16 ft.) onto a Town Owned Parcel, Street or Easement or is secured to a Fixed Location may be authorized through an Encroachment Agreement.
6. Encroachments onto an Emergency Access Easement:
 - a. Encroachments onto an Emergency Access Easement are not permitted unless it is classified as a Historical Encroachment under this policy and does not pose significant public safety risk, as determined by the Town at their sole discretion.

- b. The Applicant(s) shall remove an Encroachment from an Emergency Access Easement within 30 days of receiving a notice to do so at their sole cost.
7. Where an Encroachment has been authorized by the Town, the Applicant(s) shall execute the Encroachment Agreement prepared and delivered by the Town in a timeframe specified by the Town. If the Applicant does not execute the agreement, the Encroachment shall be removed from the Municipal Lands by the Applicant within 30 days of the Applicant receiving notice to do so.
8. If an Encroachment Agreement is not deemed acceptable by the CAO or their designate(s), the Applicant shall remove the Encroachment within 30 days of the date of the written notice provided to the Applicant that their request has been denied.
9. Notwithstanding any other provision of this policy, the Town Reserves the right to limit the term of an Encroachment Agreement, or other authorization, or provide for the termination of an Encroachment Agreement, or other authorization.
10. All expenses, costs, liabilities, or other risk associated with an authorized Encroachment shall be borne by the Applicant(s).
11. Appeals
 - a. If a request for an Encroachment has been refused, the Applicant(s) may appeal to Council by requesting a review of Administration's decision in writing to Council.
 - b. Appeals concerning Notice of Non-Approvals for Encroachments onto an Emergency Access Easement will not be accepted.
 - c. Council's decision shall be final and binding.
12. If the Applicant(s) refuse(s) to remove the Encroachment or fails to apply for authorization under this policy, the Town may take action to remove the Encroachment and seek reimbursement from the owner for all such costs in accordance with the applicable Town bylaws and policies and in accordance with the *Municipal Government Act*. Any of the costs not paid shall be added to or deemed to be part of the taxes on the Applicant(s) land.