

TOWN OF VULCAN

Policy Manual

<u>POLICY NUMBER</u>			<u>TITLE OF POLICY</u>
PL-02			Encroachment Policy
Approval	D/M/Y	Resolution #	
Adopted	27/07/2015	15.260	
Amended	22/05/17	17.197	

STATEMENT:

The Town of Vulcan recognizes that encroachments exist and will continue to be discovered. The Town has established this policy to ensure that encroachment applications are evaluated in a consistent manner.

1. Purpose

- 1.1** The Town shall, at its sole discretion, authorize encroachments which have occurred onto Town property or a Town Easement/Right-of-Way through execution of a written agreement with the infringing party.
- 1.2** Encroachment applications will be reviewed on their own merits and the Town must ensure that the encroachment does not adversely affect the Town's or a utility operator's ability to maintain services for public use.

2. Authorization

Section 61 of the Municipal Government Act Authorizes a municipality to grant rights over its property.

3. Definitions

- 3.1 Council** means the Municipal Council for the Town of Vulcan.
- 3.2 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 granted to the Town and utility companies/operators.

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3.3 Encroachment means anything constructed or erected with a fixed location on the ground or attached to something fixed to something having a fixed location on the ground, that extends on, over or under municipal lands and shall include but not be limited to the following:

- (a.) Buildings and all projections, including eaves, cantilevers, etc.
- (b.) Sheds including those attached to a dwelling and/or fence
- (c.) Fences
- (d.) Asphalt, concrete or brick sidewalks, curbs, parking pads, aprons or driveways
- (e.) Structures (including decks, stairs, patios, balconies, etc.)
- (f.) Retaining walls
- (g.) Swimming pools and hot tubs
- (h.) Signs

3.4 Encroachment Agreement means an agreement between the property owner and the Town authorizing encroachment.

3.5 Municipal Lands means collectively or individually a street, easement, reservoir or Town owned parcel.

3.6 Property Owner means the owner of the land adjacent to Municipal Lands or owner of land encumbered by an easement.

3.7 Major Encroachment means improvements to a private property which encroach 0.3m (1ft) onto a public roadway or Town owned Utility Right-of-Way.

3.8 Minor Encroachment means improvements to a private property which encroach less than 0.3m (1ft) onto a public roadway or Town owned Utility Right-of-Way.

4. Responsibilities

4.1 Council is to make decisions on major encroachments.

4.2 Chief Administrative Office is to endorse encroachment agreements for minor encroachments on the behalf of the Town.

4.3 Development Officer is responsible for review, circulation and co-ordination of all applications for encroachment.

4.4 Development Officer to maintain an inventory of Encroachment Agreements.

5. Procedures

5.1 Property owner is responsible for provision of encroachment agreement to the Town for approval.

5.2 It is the responsibility of the owner to ensure that the signed encroachment agreement is registered at Land Titles and provision of proof of registration to the Town.

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- 5.3** Unless an Encroachment is authorized by the Town pursuant to this Policy, the Encroachment shall be removed from the affected Municipal Lands.
- 5.4** Unless an Encroachment Agreement states otherwise, an Encroachment once authorized by the Town may continue to be used providing the size of the Encroachment is not increased, and the Encroachment is not added to, rebuilt or structurally altered, except:
- (a.)** As may be necessary to remove the Encroachment, or
 - (b.)** As may be necessary for the routine maintenance of the Encroachment
- 5.5** If the 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 Municipal Lands unless the repair or reconstruction has been approved by the Town.
- 5.6** An authorized Encroachment does not relieve an Owner from the responsibility to comply with all applicable federal, provincial and municipal statutes, regulations, orders, bylaws and policies.

6. Attachments

- 6.1** Attached to and forming part of this policy is Schedule “A”– Encroachments Not Requiring an Encroachment Agreement

- END OF POLICY -

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PL-02 ENCROACHMENT POLICY

SCHEDULE "A"

ENCROACHMENTS NOT REQUIRING AN ENCROACHMENT AGREEMENT

Encroachments into Roads Not Requiring an Encroachment Agreement

1. Driveways or sidewalks which provide access to a residential dwelling or commercial business, excluding all retaining walls or landscape structures that are considered to be features not directly benefiting the access or which may adversely affect access to or use of the road.
2. Concrete garage aprons encroaching less than 0.3m into lanes.
3. Steps which do not interfere with public sidewalks or trails and do not decrease the usable width of the lane.
4. Non-permanent surface improvements within a boulevard area, including landscaping features, ground cover, driveways and irrigation systems which extend beyond a property line to a sidewalk, curb or edge of pavement.
5. Sign or canopies projecting into a street complying with current Land Use Bylaw.
6. Encroachments less than 0.05m (0.16ft) may not require an Encroachment Agreement.

Encroachments into Easements Not Requiring an Encroachment Agreement

1. Driveways or sidewalks which provide access to a residential or commercial building excluding retaining walls or landscape structures that are considered to be features not directly benefiting the access or which may adversely affect access to or use of the Easement.
2. Fence sections that span an easement or encroaches less than 0.3m into an easement.
3. Any fence projecting across or through an overland drainage right of way.
4. Retaining walls less and 0.2m in height, encroaching less than 0.3m into an easement except where the retaining wall is located adjacent to an above ground utility facility.
5. Eaves encroaching less than 0.1m into an easement.
6. Encroachments less than 0.05m (0.16ft) may not require an Encroachment Agreement.