



TITLE: ENCROACHMENT AGREEMENT PROCEDURE

PROCEDURE NO: PI-61-014

SPECIAL NOTES/CROSS REFERENCE:
PI-61-014 ENCROACHMENT AGREEMENT POLICY

AMENDMENT DATE:

1. GENERAL GUIDELINES

To establish a consistent approach to processing and reviewing an application for an encroachment agreement authorizing the encroachment of an improvement onto adjoining land owned by or under the direction, control and management of the County.

2. DEFINITIONS

- 2.1. **“County owned land”** means and includes all land registered in the name of Lac La Biche County and includes but is not limited to land under the direction, control and management of the County, including parcels of land designated as Municipal Reserve, Environmental Reserve, Public Utility lots and Road Allowances, as well as easements and right-of-ways registered in the County’s name across privately owned land.
- 2.2. **“Encroachment”** means any improvements, structure, building or landscaping improvement constructed by a private landowner which encroaches over or under the property line onto County owned land.
- 2.3. **“Encroachment Agreement”** means a legal contract between the County and an adjacent property owner to allow an encroachment onto County owned land.
- 2.4. **“Major Encroachment”** means an encroachment that covers 50m² or greater in area.
- 2.5. **“Minor Encroachment”** means an encroachment that covers less than 50m² in area.

3. PROCEDURES

- 3.1. Should a landowner construct or maintain an encroachment onto County owned land and desire the encroachment to remain, a written request for an Encroachment Agreement (including the description of the encroachment verified by an Alberta Land Surveyor and the reason for the encroachment) and payment of the appropriate fee must be submitted to the Senior Manager, Planning & Development Services.
- 3.2. The Senior Manager, Planning & Development Services will circulate the request to the relevant County department(s) or utility agencies for their review and comments.

- 3.3. The responsibility for deciding if an Encroachment Agreement is an option for the subject land is defined as follows:
- Municipal Reserve and Land Parcels used for parks and recreation: Manager, Parks and Facilities.
 - Public Utility Lots and Utility Right-of-ways: Manger, Utilities.
 - Road Allowance and Right of Ways: Manager Transportation.
 - All other titled County Owned Lands: Chief Administrative Officer.
- 3.4. Once relevant information has been obtained, the Senior Manager, Planning & Development Services will refer a copy of the Encroachment Agreement (as per the attached template) to Legislative Services for review.
- 3.5. Once reviewed by Legislative Services and in the case of a minor encroachment, the Senior Manager, Planning & Development Services will forward a report and proposed Encroachment Agreement to the Chief Administrative Officer or their delegate for a decision.
- 3.6. In the case of major encroachments, the Senior Manager, Planning & Development Services will prepare a Request for Decision (RFD) to Council. The request must include a recommended fee for the encroachment based on a ration of the value of the subject County Owned Land and the area of the encroachment. (value of land per/sq.ft. x area of encroachment).
- 3.7. In the case of a request for a major encroachment located on Municipal Reserve, the Senior Manager, Planning and Development Services will schedule a Public Hearing as per Section 230 of the *Municipal Government Act* prior to a Council decision.
- 3.8. If Council or, in the case of minor encroachments, the Chief Administrative Officer, supports the request, the Senior Manager, Planning and Development Services will prepare the documentation for signature by the Chief Administrative Officer or his delegate.
- 3.9. The Senior Manager, Planning & Development Services will ensure that both parties receive a copy of the executed Encroachment Agreement and, if registration of a caveat in respect of the Encroachment Agreement occurs, a copy of the relevant land title(s).
- 3.10. If Council or, in the case of minor encroachments, the Chief Administrative Officer, do not support the request, the Senior Manager, Planning & Development Services will take the necessary steps to have the encroachment removed.

"Original Signed"

Chief Administrative Officer

July 4, 2018

Date