



# Encroachment Policy

**Policy Number:** ENG-001

**Date in Effect:** September 2, 2025

## POLICY STATEMENT

- 1 It is the policy of the Town that Encroachments in Town rights-of-way, Reserve parcels, and other Town-owned legal parcels must not adversely affect these lands, impact the Town's ability to maintain safe and effective service provision, create risks to public health or safety, create liability risks for the Town, or restrict public access and enjoyment of lands for public use.

## PURPOSE

- 2 The purpose of this policy is to enable the Town to manage Encroachments on Town land and rights-of-way effectively. It provides a consistent approach to managing Encroachments where Encroachments have been identified.

## DEFINITIONS

- 3 In this policy:
  - a) "Encroachment" means anything placed with a fixed location on the ground or attached to something having a fixed location on the ground, that extends on, over or under a Town Property or Interest, including the immediate airspace, and includes, but is not limited to the following, and does not include sound attenuation structures as required by the Town:
    - i) Improvements defined in the Alberta Land Surveyors' Association Manual of Standard Practice, 2022, as amended from time to time;
    - ii) Buildings and all projections including eaves, cantilevers, or similar and siding;
    - iii) Sheds or other accessory buildings, including those attached to a dwelling or fence;
    - iv) Fences;
    - v) Asphalt, concrete or brick sidewalks, curbs, parking pads, driveway aprons or driveways;
    - vi) Structures such as decks, stairs, patios, pergolas, gazebos or similar;
    - vii) Extension of adjacent lands by fill;
    - viii) Walls;
    - ix) Swimming pools and hot tubs;

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- x) Soft landscaping, including shrubs, hedges, trees or other organic landscape materials; and
- xi) Hard landscaping including, but not limited to stones, rocks, boulders, structures, fire pits, fixed planters, or other inorganic materials placed on or in the ground.
- b) "Encroachment Agreement" means an agreement between the Town and a Property Owner of land authorizing an Encroachment onto a Town Property or Interest, including any existing agreements that in substance provide for an Encroachment onto a Town Property or Interest even if not named as an Encroachment Agreement.
- c) "Property Owner" means the owner of land adjacent to Town Property or Interest or the owner of land against which is registered an easement or right-of-way in favor of the Town.
- d) "Reserve" includes all forms of designated Reserve lands provided by Part 17 of the Municipal Government Act.
- e) "Self-Supporting Steps" means a staircase occupying the airspace over a utility right-of-way without any supporting pillars or contact with the ground surface within the boundaries of said right-of-way.
- f) "Town Property or Interest" means Reserve, any other Town-owned parcels of land, streets and roads under the control and management of the Town, and easements and rights-of way in favor of the Town.

#### GENERAL PRINCIPLES

- 4 No Encroachment into a designated emergency access route or an easement for emergency access shall be permitted.
- 5 An Encroachment shall not adversely affect the Town's ability to access and maintain its infrastructure or the Town's ability to provide safe and effective services to the citizens of Canmore.
- 6 An Encroachment shall not restrict public access to, and enjoyment of lands intended for public use, such as Town parks.
- 7 An Encroachment shall not interfere with the Town's ability to access a Town Property or Interest or utility infrastructure contained within a Town Property or Interest.
- 8 An existing Encroachment extending onto Town owned land (non-Reserve land) or a street by greater than 3.0 metres is not eligible for an Encroachment Agreement.
- 9 An Encroachment that does not fit within the types and specifications of Encroachments listed in this policy may be permitted if deemed acceptable by the Chief Administrative Officer.

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- 10 Where an Encroachment has been authorized by the Town and an Encroachment Agreement is required, a Property Owner shall execute the Encroachment Agreement prepared and delivered by the Town, or the Encroachment shall be removed by the Property Owner, at the Property Owner's sole cost and expense, from the Town Property or Interest.
- 11 An Encroachment Agreement authorized by the Town and executed by the Property Owner shall be registered on the certificate of title to the Property Owner's land.
- 12 An authorized Encroachment does not release a Property Owner from the responsibility to comply with other municipal, provincial or federal regulations requirements or bylaws.
- 13 All expenses, costs, liabilities or other risk associated with both authorized and unauthorized Encroachments shall be borne by the Property Owner. The Town shall not be responsible for any expenses, costs, liabilities or other risk associated with both authorized and unauthorized Encroachments.
- 14 An Encroachment Agreement does not permit a Property Owner to add additional Encroachments to the property. Only Encroachments authorized at the time of the execution of the Encroachment Agreement are permitted, subject to all the terms of the Encroachment Agreement.
- 15 Public or franchise utilities located within a Town Property or Interest that is authorized by the Town will not be considered as an Encroachment.
- 16 Street patios as contemplated by the In Street Patio Policy that hold permits under the Traffic and Road Use Bylaw shall not be considered Encroachments.
- 17 Existing Encroachments authorized by Licenses of Occupation, Encroachment Agreements, Maintenance and Indemnity 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.
- 18 Where the term 'or similar' is used in the Policy, the Town will make the sole determination if a material or other variable is considered 'similar'.
- 19 Tolerance of measurements when applying this policy shall take into consideration errors introduced by survey measurements. For the purposes of determining compliance with this policy with respect to the location of Encroachments, measurements shall be rounded off to the same number of significant figures used in this policy.
- 20 No Encroachment(s) shall be permitted, unless:
  - a) expressly permitted by the Town through a bylaw or Encroachment Agreement; or
  - b) expressly listed below as exempt from this requirement for a permission under a bylaw or Encroachment Agreement.

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### ENCROACHMENTS ONTO RESERVES AND OTHER TOWN-OWNED PARCELS

- 21 An Encroachment Agreement is not required for the following:
- a) Fences encroaching not more than 1.0 metre, and that do not result in the enclosure of any part of a Reserve or the Town-owned land so that public access is discouraged or obstructed, or would result in exclusive access for the Property Owner; and
  - b) Any Encroachment constructed for municipal purposes by the Town.
- 22 Encroachments onto Reserves and Town owned parcels should not interfere with the purpose, use, or function of the land, or restrict the public's ability to access, use and enjoy the land.

### ENCROACHMENTS INTO STREETS/ROADS/LANES

- 23 An Encroachment Agreement is not required for the following:
- a) Surface improvements or structures which provide direct access to a residential dwelling, including attached and detached garages, including:
    - i) Driveways of any material;
    - ii) Sidewalks to a maximum width of 2.0 metres;
    - iii) Special needs or emergency access ramps, elevators, fire escapes, or similar; and
    - iv) Steps to a maximum width of 2.0 metres.
  - b) Fences:
    - i) Encroaching not more than 0.34 metres where the Fence creates an enclosure.
    - ii) Encroaching up to 1.0 metre to the back of the sidewalk or to the curb (if there is no sidewalk) where the fence is a linear projection of a fence on the adjacent private property.
    - iii) Developer fences or developer walls required under development agreements.
  - c) Portable sheds and other accessory buildings and structures under 10 square metres and encroaching not more than 0.34 metres including any eaves.
  - d) Retaining walls not more than 0.24 metres in height, encroaching not more than 0.34 metres and where not located within 2.0 metres to above ground utility surface facilities.
  - e) Non-permanent surface improvements including:
    - i) Moveable planters including any movable border material (e.g. plastic, concrete, timber sections under 0.24 metres in height).

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- ii) Natural landscaping including shrubs and flowers under 1.0 metre in height but excluding trees.
- iii) Moveable surface level rocks not more than 0.24 metres in height.
- iv) Interlocking block, asphalt, gravel or similar material.
- f) Eaves, window wells, cantilevers or air conditioning units encroaching by not more than 0.14 metres into a street.
- g) Unless otherwise specified in Sections 23 or 24, non-permanent structures (no footings or foundations) that encroach not more than 0.34 metres into a street.
- h) Any Encroachment constructed for valid municipal purposes by the Town.

24 An Encroachment Agreement is required for the following:

- a) Pedestrian shelter above sidewalks in commercial areas in the form of arcades, structural awnings or structural canopies attached to building and store fronts, subject to the following:
  - i) Signage attached to the arcade, structural awning or structural canopies shall be subject to Town discretion and any further permit requirements.
  - ii) The minimum vertical dimension from the sidewalk to the underside of the Encroachment shall be 2.4 metres.
  - iii) In horizontal dimension, the Encroachment shall only be permitted above pedestrian areas and may not be extended above vehicle travel areas.
  - iv) Foundations and/or supporting pillars do not encroach.
- b) Additional driveways or parking pads of any material adjacent to a residential road which cross over any utility right-of-way and do not run parallel to it.
- c) Sidewalks or steps:
  - i) Of any width, which provide access to a residential property, but do not provide direct access to a residential dwelling or to an attached or detached garage; or
  - ii) Greater than 2.0 metres in width, which provide access to a residential dwelling, including attached and detached garages.

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- d) Surface improvements or structures, as described in more detail below, which provide access to a commercial property, multi-unit residential property or other similar property type, and which are part of a Development Permit approval, including:
    - i) Access driveways (including curbs) that provide vehicular access;
    - ii) Sidewalks to a maximum width of 2.0 metres, unless otherwise approved by the Town, that provide pedestrian and/or cycle access;
    - iii) Special needs or emergency access ramps, elevators, fire escapes, or similar; and
    - iv) Steps to a maximum width of 2.0 metres.
  - e) Walls not more than 0.24 metres in height, encroaching more than 0.34 metres and where not located adjacent to above ground utilities surface facilities.
- 25 All existing Encroachments into a Street, Road or Lane not listed in Sections 23 or 24 require circulation to the Town of Canmore to determine the acceptability of the Encroachment. If approved by circulation, an Encroachment Agreement will be required.
- 26 An Encroachment into a Street, Road or Lane that does not fit within the types and specifications of Encroachments listed above may be permitted if deemed acceptable by the Chief Administrative Officer, having regard to the factors to consider on applications for Encroachments under this policy.

#### **ENCROACHMENTS INTO EASEMENTS AND RIGHTS OF WAY**

- 27 Encroachments of the following types into easements and rights-of-way held by the Town will be allowed provided that they meet the following specifications and do not interfere with the purposes, uses and restrictions for which the easement or right-of-way is granted:
- a) Surface improvements or structures, which provide direct access to a residential dwelling, including attached and detached garages, including:
    - i) Driveways of any material which cross over any utility right-of-way and do not run parallel to it;
    - ii) Sidewalks to a maximum width of 2.0 metres;
    - iii) Special needs or emergency access ramps, elevators, fire escapes, or similar;
    - iv) Steps to a maximum width of 2.0 metres; and
    - v) Self-Supporting Steps over a utility right-of-way which provide access to a building.

- b) Fences:
  - i) Encroaching not more than 0.34 metres where the Fence creates an enclosure.
  - ii) Encroaching to 1.0 metre to the back of the sidewalk or to the curb (if there is no sidewalk) where the fence is a linear projection of a fence on the adjacent private property.
  - iii) Fences running through a utility right-of-way bisected by a property line; and
  - iv) Developer fences or developer walls required under development agreements.
- c) Portable sheds and other portable accessory buildings (not on footings) under 10 square metres in size;
- d) Retaining walls not more than 0.24 metres in height, encroaching not more than 0.34 metres and where not located within 2.0 metres to utility above ground surface facilities;
- e) Non-permanent surface improvements including:
  - i) Moveable planters including any movable border material (e.g. plastic, concrete, timber sections under 0.24 metres in height);
  - ii) Natural landscaping including shrubs and flowers under 1.0 metres in height, but excluding trees;
  - iii) Moveable surface level rocks not more than 0.24 metres in height; and
  - iv) Interlocking block, asphalt, gravel or similar material.
- f) Eaves, window wells, cantilevers of air conditioning units encroaching by not more than 0.14 metres into a utility right-of-way.
- g) Unless otherwise specified in Sections 27 or 28, non-permanent structures (no footings or foundation) that encroach by not more than 0.15 metres into a utility right-of-way that is 2.4 metres or less in width OR non-permanent structures (no footings or foundation) that encroach by not more than 0.34 metres into a utility right-of-way that is greater than 2.4 metres in width.
- h) Any Encroachment constructed for valid municipal purposes by the Town.

28 The following Encroachments may be considered if they can be reflected in the existing or amended right-of-way agreement:

- a) Residential footings for buildings or structure encroaching not more than 0.34 metres into a utility right-of-way, wherein the building or structure is not encroaching, will be accepted.

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- b) Where the building or structure does not encroach, residential building eaves encroaching not more than 0.64 metres into a utility right-of-way above a height of 2.4 metres above grade will be authorized, except where adjacent to or located on lands with an overhead electrical line requiring minimum clearance.
  - c) Additional driveways or parking pads of any material adjacent to a residential road which cross over any utility right-of-way and do not run parallel to it.
  - d) Sidewalks or steps:
    - i) Of any width, which provide access to a residential property, not including those providing access to a residential dwelling or to an attached or detached garage; or
    - ii) Greater than 2.0 metres in width, which provide access to a residential dwelling, including attached and detached garages.
  - e) Surface improvements or structures, as described in more detail below, which provide access to a commercial property, multi-unit residential property or other similar property type, and which are part of a Development Permit approval, including:
    - i) Access driveways (including curbs) that provide vehicular access;
    - ii) Sidewalks to a maximum width of 2.0 metres, unless otherwise approved by the Town, that provide pedestrian and/or cycle access;
    - iii) Special needs or emergency access ramps, elevators, fire escapes, or similar; and
    - iv) Steps to a maximum width of 2.0 metres.
  - f) Walls not more than 0.24 metres in height, encroaching more than 0.34 metres and where not located adjacent to above ground utilities surface facilities.
- 29 All existing Encroachments not listed in Sections 27 or 28 require a full circulation to the Town of Canmore to determine the acceptability of the Encroachment. If approved by circulation, an amended right-of-way agreement will be required.
- 30 A proposed Encroachment into an easement or right-of-Way that does not fit within the types and specifications of Encroachments listed above may be permitted if deemed acceptable by the Chief Administrative Officer, having regard to the factors to consider on applications for Encroachments under this policy.



**APPLICATIONS**

- 31 When a Property Owner applies to the Town for an Encroachment Agreement, they shall provide the following:
- a) Real Property Report detailing the property and the extent of the Encroachment;
  - b) a copy of the title to the parcel;
  - c) the application fee; and
  - d) photographs of the Encroachment.
- 32 Where an Encroachment requiring an Encroachment Agreement is approved by the Town, the Property Owner shall execute the Encroachment Agreement prepared and delivered by the Town. This agreement shall be registered on the title of the Property Owner's land and on the Town parcel where applicable.
- 33 Nothing in this policy shall:
- a) restrict the Town's discretion to reject an application for an Encroachment, or
  - b) require the Town to enter into an Encroachment Agreement.
- 34 When considering applications for Encroachment Agreements, in addition to anything in this policy, the Town may consider:
- a) adverse effects on the land or the environment;
  - b) the Town's ability to maintain safe and effective service provision;
  - c) risks to public health or safety from the Encroachment;
  - d) restrictions of public access and the enjoyment of lands for public use; and
  - e) any other factors the Town considers relevant.
- 35 Encroachment Agreements shall provide for the following:
- a) the identification of the Encroachment and its location in relation to lands;
  - b) the time period for which the Encroachment is authorized to remain, which may be indefinite subject to the terms of the consent;
  - c) provisions for the termination of the agreement or consent and removal of the Encroachment;
  - d) responsibility for costs of maintaining, repairing and removing the Encroachment; and

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- e) liability for the Encroachment and indemnification for claims or damages related to the Encroachment.

#### **REMOVAL OF ENCROACHMENTS**

- 36 All unauthorized Encroachments shall be removed and affected lands restored by the Property Owner from the affected Town Property or Interest at the Property Owner's sole cost and expense.
- 37 The Town may, at its sole discretion, require the removal of any Encroachments that do not have an Encroachment Agreement under this Policy.
- 38 All unauthorized Encroachments shall be removed by the Property Owner upon notice from the Town.
- 39 The Town in carrying out any of its operations will not be responsible for the reinstatement of Encroachments other than as provided in applicable Encroachment Agreements.
- 40 Subsequent to the removal of an Encroachment, the Property Owner shall submit an updated Real Property Report with certificate of compliance stamp from the Town, evidencing removal of the Encroachment(s).
- 41 Notwithstanding any of the above, in the event that an Encroachment poses 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.
- 42 Should the Property Owner not remove the Encroachment or restore the impacted area following written notice from the Town, then the Town may remove the Encroachment and all costs associated with the removal incurred by the Town shall be borne by the Property Owner.
- 43 When considering unauthorized Encroachments, the Town shall consider the following and shall determine the appropriate course of action:
  - (a) adverse effects on the land or the environment;
  - (b) the Town's ability to maintain safe and effective service provision;
  - (c) risks to public health or safety from the Encroachment;
  - (d) liability risks for the Town;
  - (e) restrictions of public access and the enjoyment of lands for public use; and
  - (f) any other factors the Town considers relevant.

- 44 Where it is determined that the Town should enforce against an Encroachment, this Enforcement may be carried out under any Town bylaws, provincial statutes, Encroachment Agreements, or any other instruments applicable to the structures that comprise the Encroachment and the lands where the Encroachment is located.

#### **FEES AND COSTS**

- 45 The Town may charge a fee for entering into an Encroachment Agreement or amending a utility right-of-way agreement. This fee shall be established by resolution of Council and may be revised from time to time by Council.
- 46 Any additional costs required to accommodate an Encroachment, including but not limited to a road closure or subdivision application or Reserve disposition, shall be borne by the Property Owner responsible for the Encroachment.
- 47 Any costs of utility relocation or reconstruction required to accommodate an Encroachment shall be the responsibility of the Property Owner responsible for the Encroachment.
- 48 Where an Encroachment is created by a Property Owner granting land adjacent to Town Property or Interest (i.e. a dedication agreement concerning lands where an existing Encroachment is to remain), the Town shall enter into an Encroachment Agreement with the Property Owner for no charge.
- 49 Where an Encroachment Agreement is entered into, the Property Owner responsible for the Encroachment will pay all costs associated with preparation and registration of the agreement.
- 50 All costs associated with the preparation, execution and discharge of utility right-of-way agreements or amendments to right-of-way agreements that are needed to permit an Encroachment shall be borne by the Property Owner responsible for the Encroachment.

#### **RESPONSIBILITIES**

- 51 The Manager of Engineering is responsible for the maintenance of this policy.
- 52 The Chief Administrative Officer is responsible for the implementation of this policy through the creation and maintenance of any administrative procedures necessary for compliance with this policy.

#### **POLICY REVIEW**

- 53 This policy will be reviewed at least once in every term of Council.

#### **RELATED DOCUMENTS**

In-Street Patio Policy  
Entrance Features in Municipal Road Right-of-Way Policy  
Traffic and Road Use Bylaw 2020-03  
Parks Bylaw 2019-09

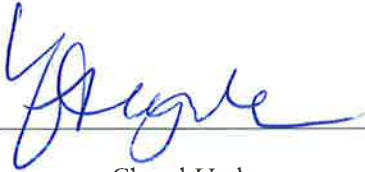
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**ATTACHMENTS**

None.

**REPEALS POLICY:** Encroachment Policy PD-002**AUTHORIZATION:**


Sean Krausert  
Mayor



Cheryl Hyde  
Manager, Municipal Clerk's Office

**REVISION HISTORY**

Action	Date	Council Motion	Notes
Approved	1999-02-16	80-99	Encroachment Policy
Repealed	2008-01-08	04-2008	
Approved	2008-01-08	04-2008	Encroachment Policy PD-002
Repealed	2025-09-02	239-2025	
Approved	2025-09-02	239-2025	Encroachment Policy ENG-001

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