

COUNCIL POLICY

Policy Title: Encroachment Policy
Policy Number: CS008
Report Number: OE96-36, OE97-38, OE98-31
Approved by: City Council
Effective Date: 1996 July 1 and amended 1998 February 23
Business Unit: Corporate Properties & Buildings

BACKGROUND

The City of Calgary recognized that encroachments exist, will continue to be discovered and has established this policy for processing encroachment applications.

Encroachments occur into City owned lands and into easements. On behalf of the citizens of Calgary, The City must ensure that encroachments do not adversely affect these lands and easements or The City's ability to maintain effective services or restrict public access and enjoyment of lands for public use.

At the regular meeting of Council on 1996 June 24, Council approved OE97-38 Corporate Policy on Encroachments and amendments were approved by Council on 1998 February 23.

PURPOSE

The policy will assist the public and enable The City to effectively manage encroachments. It is intended to provide a more consistent approach in processing applications, enforcing the policy and protecting and indemnifying The City wherever encroachments have been identified.

POLICY

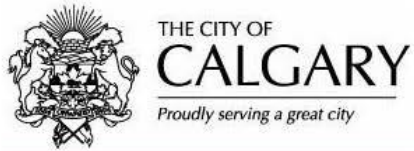
[Please see attached policy document](#)

PROCEDURE

[Please see attached document for the Encroachment Agreement for Application Procedures and section 2.0 Encroachment Guidelines](#)

AMENDMENTS

1998 February 23 OE98-31 report on Title Insurance/Encroachment Appeals



COUNCIL POLICY

2010 revision-policy number change from AMCW008 to CS008 due to
department reorganization

Corporate Properties Group

The City of Calgary

APPLICATION PROCEDURE ENCROACHMENT AGREEMENT

1. **A Copy of Title**
Copies may be obtained from private registry companies. You need to provide the legal description of the property for which you are seeking a title.
 2. **A Real Property Report**
Real Property Reports (survey) may be obtained from any Alberta Land Surveyor. They provide a detailed map of a specific property. We require an original or very clear copy (not reduced).
 3. **A Letter of Intent**
This is a cover letter that will explain the circumstances which have led you to apply for an agreement. Please highlight anything you would like brought to our attention and be sure to reference the property's address and legal description.
 4. **Photographs**
Photographs of the encroaching feature(s). This should give an idea of what the area in question looks like and clearly show the encroachment.
 5. **Fee**
Fees for Encroachment Applications are subject to which Schedule they fall under in the City of Calgary Encroachment Policy*. If a feature is identified under Schedule "B", the fee is \$200.00 and the application is automatically approved. If a feature is identified under Schedule "C", the fee is \$500. and the application is subject to approval.
- * Copies of the City of Calgary Encroachment Policy are available through the City of Calgary Public Library and are for sale at the City Clerks office.
- ** Applications will not be processed if any part of these requirements is missing.

Once your application is complete, you may drop it off at:
**City Hall, 800 Macleod Trail, 12th Floor
Corporate Properties Group**

or mail it to:
**The City of Calgary
Corporate Properties Group #8052
Attn. Land Titles Officer
PO Box 2100, Station M
Calgary, Alberta T2P 2M5**

Upon receipt of a complete Encroachment Application, the City will circulate your file to determine if an Encroachment Agreement will be approved.

If an encroachment is approved, a document will be prepared for your signature and registered at the Southern Alberta Land Titles Office. The Encroachment Agreement will allow the encroachment to remain for the life of the structure. That is, the feature may not be rebuilt on City land.

If an encroachment is rejected, and you have paid a \$500.00 application fee, you will be refunded \$300.00 and required to remove your encroachment.

If you have any questions regarding the Encroachment Application Procedure or any of the elements required for an Encroachment Application, please contact a Land Titles Officer at Corporate Properties Group at:
Tele: 403-268 2251 Fax: 403-268 1948

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THE CITY OF CALGARY
CORPORATE POLICY
FOR
PROCESSING ENCROACHMENT APPLICATIONS
FEBRUARY 23, 1998

Prepared by: Encroachment Taskforce
Approved by: Council June 29, 1996 (O&E 96-36)
Amendments approved by: Council February 23, 1998

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CORPORATE POLICY FOR PROCESSING ENCROACHMENT APPLICATIONS

This policy comes into effect July 01, 1996.

INTRODUCTION

The City realizes encroachments exist, will continue to be discovered, and has established this corporate policy for processing encroachment applications.

The City owns a variety of parcels of land including streets and reserves and also has interests in privately owned land by way of easements. Easements are granted to the City to allow utility line(s) to be installed and maintained on, over or under titled lands. Easements specify the rights and privileges of both the City and the property owners.

Encroachments occur into City owned lands and into easements. On behalf of the citizens of Calgary, the City must ensure that encroachments do not adversely affect these lands and easements or the City's ability to maintain effective services or restrict public access and enjoyment of lands for public use.

Formal approval is required to protect the City and other utility's where existing or proposed encroachments are identified: such approval takes the form of a License of Occupation for streets and an Encroachment Agreement for encroachments into easements. Identified owners of the encroachment are required to enter into an agreement or license or, alternatively, remove the encroachment.

The following Encroachment Policy will assist the public and enable the City to effectively manage encroachments. It is intended to provide a more consistent approach in processing applications, enforcing the policy and protecting and indemnifying the City wherever encroachments have been identified.

CORPORATE POLICY FOR PROCESSING ENCROACHMENT APPLICATIONS

1.0 ENCROACHMENT POLICY:

- 1.1 No encroachments shall be allowed or authorized effective July 01 1996 except where:
 - (a) An encroachment is identified as being authorized into a street or easement in attached Schedules "A" or "B",
 - (b) An encroachment has been previously authorized by the City by written agreement; or
 - (c) An application for an Encroachment Agreement has been made for an encroachment and is still being considered for authorization by Corporate Properties Group.
- 1.2 The City will accept Encroachment Agreement applications in accordance with this policy for authorization of encroachments that existed prior to 1996 July 01.
- 1.3 Unless an encroachment is authorized by the City, the encroachment shall be removed from the affected Municipal Lands.
- 1.4 Encroachments into Municipal Lands that are designated as or are part of an emergency access shall be removed from the affected Municipal Lands.
- 1.5 Encroachments identified on the attached Schedule "A" into a street or easement are authorized by the City and do NOT require an Encroachment Agreement.
- 1.6 Encroachments identified on the attached Schedule "B" into a street or easement require an Encroachment Agreement which shall be granted (a non-circulation process) if within the Schedule "B" tolerances.
- 1.7 Where an Encroachment Agreement includes a provision for removal following a minimum of 30 days notice by the City, such notice will be made for a valid municipal purpose only.
- 1.8 Where an encroachment has been authorized by the City an applicant shall execute the Encroachment Agreement prepared and delivered by the City, or the encroachment shall be removed from the Municipal Lands.
- 1.9 An Encroachment Agreement authorized by the City and executed by the applicant shall be registered by caveat on the title of the applicants land.

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- 1.10 Utilities located within an easement, public utility lot, City owned parcel or street authorized by the City will not be considered as an encroachment
- 1.11 Notwithstanding any other provision of this policy, a commercial or industrial encroachment application shall be reviewed on its own merits at the discretion of the City.
- 1.12 An authorized Encroachment Agreement does not release an applicant from the responsibility to comply with other Provincial or Federal requirements or municipal bylaws.
- 1.13 All expenses, costs, liabilities, or other risk associated with an authorized Encroachment shall be borne by the owner.

2.0 ENCROACHMENT GUIDELINES

2.1 GENERAL GUIDELINES

- 2.1.1 Where an encroachment occurring prior to 1996 July 01 is identified, an applicant may make an application to the City, as outlined in Schedule "C", for consideration of such encroachment. If within:
 - (a) an easement, it will be reviewed by all affected departments and any affected utility. If deemed acceptable, an Encroachment Agreement will be issued.
 - (b) a street, it will be reviewed by the Streets Division and any affected utility. If deemed acceptable, consideration for closure and sale of a portion of the street may be recommended or a License of Occupation will be granted.
 - (c) a reserve, it will require removal unless other alternatives are pursued as referenced in this policy document.
 - (d) a City owned parcel, it will be reviewed by the Corporate Properties Group, all affected departments and any affected utility. If deemed acceptable, sale of the City owned parcel or an interest (lease or licence of occupation) in any portion of that parcel may be recommended.

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- 2.1.2 An encroachment once authorized by the City may continue to be used but the encroachment shall not be 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.
- 2.1.3 If an encroachment or the structure benefitting 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 authorized by the City.
- 2.1.4 The City will respond to all encroachment complaints and will apply this policy when encroachments are identified through normal management of Municipal Lands.
- 2.1.5 Existing encroachments authorized by Licenses of Occupation, Encroachment Agreements, Maintenance and Indemnity Agreements, or any other existing agreement with the City authorizing an encroachment shall be deemed to be an authorized encroachment subject to the terms of the existing agreement.

2.2 GUIDELINES FOR ENCROACHMENT INTO RESERVES AND CITY OWNED PARCELS

- 2.2.1 **Reserve (including ER) or a City owned parcel**

Where an encroachment extends into a reserve (including ER) or a City owned parcel, the applicant shall remove the encroachment as directed by the Corporate Properties Group.
- 2.2.2 If an applicant objects to the removal, the applicant may apply to Council for disposition of the reserve affected by the encroachment (Section 70 and 674 of Municipal Government Act) or in the case of ER, for boundary rectification (section 676 of the Municipal Government Act).
- 2.2.3 The disposition of any interest in School Reserve (SR) and Municipal and School Reserve (MSR) parcels is subject to a review by the City and School Boards' Joint Use Coordinating Committee (JUCC) and a subsequent hearing at a public hearing of Council.

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- 2.2.4 The disposition of any interest in MR and ER parcels is subject to a hearing at a public hearing of Council.
- 2.2.5 Following the application by an applicant, a public complaint or discovery by City personnel, the process for resolving an encroachment into a reserve or any City owned parcel is as outlined in attached Schedule "C".

2.3 GUIDELINES FOR ENCROACHMENT INTO STREETS

- 2.3.1 An encroachment into a street is not permitted (Streets By-Law 20M88, Section 49, 56, and 85) and shall be removed from the street except as indicated in section 1.1 and 1.2 of this policy.
- 2.3.2 An application for a License of Occupation is to be made to the Corporate Properties Group under the following conditions:
 - (a) Encroachments up to 0.3 metres will receive a License of Occupation without circulation (Schedule "B"), unless identified in (Schedule "A").
 - (b) Encroachments over 0.3 metres will be reviewed by the Corporate Properties Group and circulated to the Streets Division, all affected departments and any affected utility. If deemed acceptable, a License of Occupation will be granted.
- 2.3.3 The License of Occupation will allow the City to require removal following 30 days notice to the applicant.
- 2.3.4 Where an encroachment is created by an owner granting land adjacent to a street to the City (i.e. A Dedication Agreement where an existing encroachment is to remain), the City shall without charge permit an Encroachment Agreement to be entered into with the owner. The removal period is subject to negotiation with the City and would be related to the life of the encroachment or until a road widening is required by the City.

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2.4 GUIDELINES FOR ENCROACHMENT INTO EASEMENTS

- 2.4.1 An encroachment less than or equal to 0.3 metres into an easement will be reviewed by the Corporate Properties Group and if in accordance with the attached Schedule "B" an Encroachment Agreement (without a 30 day removal clause) will be issued, except where adjacent to or located on a City owned parcel with an overhead electrical line. In cases involving overhead electrical lines, no encroachment will be permitted.
- 2.4.2 An application for an encroachment into an easement greater than 0.3 metres or any other form of encroachment not within Schedule "A" or "B" shall be submitted to the Corporate Properties Group and circulated to all affected departments, any affected utility or school board. If deemed acceptable, an Encroachment Agreement (with a 30 day removal clause) will be issued.
- 2.4.3 An encroachment which forms a barrier (which includes, but is not limited to development features such as entrance features, walls and decorative fences) preventing direct access by the City may be located on a parcel of land separating an easement from the nearest street or City owned parcel. However, in such a case the encroachment must have one or more easily removable and replaceable sections the length of which is greater than 2.4 metres on each affected lot.
- 2.4.4 An encroachment shall not interfere with the City's or other utility's need to access the easement.

3.0 ENFORCEMENT

- 3.1 An encroachment into a street is enforced by the Bylaw Enforcement officers within the Engineering and Environmental Services Department under the jurisdiction of the Street By-law 20M88 (Section 16, 44, 56, 85, 87 and 89).

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- 3.2 An encroachment into a City owned parcel, including a reserve, will be directed to the Corporate Properties Group and will be reviewed by all affected departments and any affected utility. The Corporate Properties Group will recommend either removal of the encroachment or the sale of an interest in or any portion of the affected City owned parcel.
- 3.3 The City will notify a property owner that an encroachment has been identified on adjacent Municipal Lands and that they are to make an encroachment application should the owner wish the encroachment to remain.
- 3.4 If it can be established that the encroachment was caused by the property owner, the owner may be liable for the costs of removal. If the owner refuses to remove the encroachment or fails to apply for authorization, the City will remove the encroachment and seek reimbursement from the property owner for all removal costs.

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4.0 ENCROACHMENT AGREEMENT FEES

Fee Schedule:

4.1 Easement

| | |
|----------------------------------------------------------------------------------------|---------------|
| Schedule "A" application | \$ 35.00 |
| Schedule "B" application | \$200.00 |
| Application for encroachment NOT within Schedule "A" or "B", (circulation required) | \$500.00 |
| Refund if no approval/ removal | (\$300.00) |
| If easement discharged | (full refund) |

4.2 Street

4.2.1 Residential

| | |
|-----------------------------------------------------------------|------------|
| Schedule "A" application | \$ 35.00 |
| Schedule "B" application | \$200.00 |
| Application for retaining walls: | |
| a) where the party who built the encroachment is unknown, or | |
| b) that may expose the City to liability if removed, or | |
| c) built prior to 1970 March 15 | \$ 50.00 |
| Application for encroachment NOT within Schedule "A" or "B" | \$500.00 |
| Refund if no approval/ removal | (\$300.00) |

4.2.2 Non-residential

All non-residential encroachments into City property will be required to remove the feature or enter into a Licence of Occupation with Corporate Properties Group, Sales and Leasing Department.

- 4.3 This fee schedule may be revised from time to time by the Board of Commissioners.
- 4.4 The "annual taxes" shall be calculated based on the assessed value per square meter of the applicants parcel and the area of land affected by the encroachment.
- 4.5 Fees, including municipal taxes, arising from the use of Municipal Land in

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accordance with an Encroachment Agreement by an applicant shall be the responsibility of the applicant.

- 4.6 Any additional costs required to facilitate an encroachment, including but not limited to a road closure or subdivision application, shall be borne by the applicant.
- 4.7 Any costs of utility relocation or reconstruction required to facilitate an encroachment shall be the responsibility of the applicant.

5.0 DEFINITIONS:

- 5.1 **Applicant** is the owner of land adjacent to Municipal Lands or the owner of land encumbered by an easement, who has required or may require an encroachment on the said municipal lands or easement
- 5.2 **City** means the corporation of The City of Calgary.
- 5.3 **City Owned Parcel** is any titled lands the City owns excluding a reserve, street or easement.
- 5.4 **Council** means the Municipal Council for The City.
- 5.5 **Developer Fence** means a fence installed under a subdivision development agreement which is usually of a consistent style and is continuous along 2 or more lots.
- 5.6 **Easement** means any right-of-way for the passage and maintenance of public utilities, identified by a registered plan or by description and documented by a Registered Easement Agreement granted to the City.
- 5.7 **Encroachment** means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground (excluding sound attenuation structures or fences as required by the City), that extends on, over or under municipal lands and shall include, but is not limited to the following:

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- (a) Buildings and all projections (including eaves, cantilevers, etc.) and siding.
 - (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, etc.)
 - (f) Extension of adjacent lands by fill.
 - (g) Retaining walls.
 - (h) Swimming pools and hot tubs.
 - (i) Shrubs, trees or other organic landscape materials planted in reserves or City owned parcels.
 - (j) Hard landscaping (including, but not limited to, retaining walls, structures, fire pits, planters).
 - (k) Light standards
 - (l) Signs
- 5.8 **Encroachment Agreement** means an agreement (including a License of Occupation or an agreement amending an existing utility right of way) between the applicant and the City authorizing an encroachment and shall, among other things, include:
- (a) location and identification of the encroachment;
 - (b) fees;
 - (c) term;
 - (d) termination notice;
 - (e) cost and liability for removal; or
 - (f) indemnification of the City, its agents or licensees.
- 5.9 **Fence** means a standard chain link, wooden fence or equivalent with posts no larger than 0.15 m by 0.15 m, centered approximately 2.4 m apart with a maximum height of 2.0 m.
- 5.10 **License of Occupation** means an agreement authorizing the right of an applicant to maintain an encroachment within a street. A License of Occupation shall have a provision requiring removal following a minimum of 30 days notice by the City.

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- 5.11 **Municipal Lands** means collectively or individually a street, easement, reserve or City owned parcel.
- 5.12 **Reserve** includes all municipal reserves (MR, R or CR or any of the original designates), environmental reserves (ER), municipal and school reserves (MSR) or school reserves (SR) as defined in sections 98, 99 and 110.1 of the Planning Act (Sept. 1, 95 The Municipal Government Act sections 664, 666 and 665) or a public park, recreation ground or exhibition ground as defined in section 70(1)(b) of the Municipal Government Act.
- 5.13 **Street** means any thoroughfare, highway, road, trail, avenue, viaduct, lane, alley, square, bridge, causeway, trestle, walkway or other place, which are lands owned by the City, any part of which the public is entitled or permitted to use.
- 5.14 **Tolerance** of measurements, when referred to in 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 as set out in the Land Use Bylaw 2P80 (i.e. 600 mm would change to 0.6 m, 3 m would change to 3.0 m, a survey measurement between 0.25 m and 0.34 m would be rounded to 0.3 m and between 0.35 m and 0.39 m would be rounded to 0.4 m).
- 5.15 **Utility** means any one or more of the following:
- (a) Systems for the distribution of gas, whether artificial or natural, electricity, telephone, cable television and oil products;
 - (b) Facilities for storage, transmission, treatment, distribution or supply of water
 - (c) Facilities for the collection, treatment, movement or disposal of sanitary sewage, including pumping stations;
 - (d) Storm sewer drainage facilities, including collection, pumping stations, storm water ponds and wetlands;
 - (e) Any other items that may be prescribed by the Lieutenant Governor in Council by regulation.

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Schedule "A"

1.0 Authorized Encroachments into a Street (Corporate Properties Group Letter Process):

- 1.1 Structures which provide direct access to a dwelling, including:
 - front driveways (of any material)
 - sidewalks to a maximum width of 2.0 metres
 - special needs access (ramps, elevators, fire escapes, etc.)
 - steps to a maximum width of 2.0 metres which provide access to a residential dwelling excluding retaining walls or landscape features that are in the opinion of the City Engineer considered to be features not directly benefiting the access.
- 1.2 Driveways which access lanes:
 - which are constructed of asphalt, gravel, or shale
 - which are constructed of concrete or other like material and which encroach not more than 0.3 metres into a gravel lane
 - which are hard surfaced and which encroach into a hard surfaced (asphalt or concrete) lane
- 1.3 Fences:
 - encroaching not more than 0.3 metres where the fence creates an enclosure
 - encroaching to the back of the sidewalk or to 1.0 metres from the curb (if there is no sidewalk) where the fence is a linear projection of a fence on the Applicant's property EXCEPT where adjacent to a Street
 - developer fences required under development agreements
 - fences running parallel to pathways (which run over a property line) may exceed 0.3 metres subject to minimum access requirements
- 1.4 Portable sheds:
 - under 10 square metres (107 square feet) and
 - encroaching not more than 0.3 metres
- 1.5 Retaining walls:
 - not more than 0.2 metres in height and where not located adjacent to Enmax or other utility above ground surface facilities
- 1.6 Non-permanent surface improvements including:
 - movable planters including any movable border material (eg. plastic, concrete, timber sections under 0.2 metres in height)
 - natural landscaping including trees and shrubbery
 - surface level rocks not more than 0.2 metres in height
 - interlocking brick
- 1.7 Garbage enclosures:
 - not more than 2.0 metres in width encroaching not more than 0.3 metres
- 1.8 Signs or canopies:
 - complying with the Land Use Bylaw 2P80 and Streets Bylaw 20M88
- 1.9 Any encroachment constructed for valid municipal purposes by the City or its agents (ie. bollards, sound barriers, developer fences, subdivision entrance signs, guard rails, etc.)

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Schedule "A"

2.0 Authorized Encroachments into an Easement (Corporate Properties Group Letter Process):

- 2.1 Structures which provide direct access to a dwelling, including:
- driveways (of any material) which cross over any easement and do not run parallel to it
 - sidewalks to a maximum width of 2.0 metres
 - special needs access (ramps, elevators, fire escapes, etc.)
 - steps to a maximum of width of 2.0 metres excluding retaining walls or landscape structures that are in the opinion of the City Engineer considered to be features not directly benefitting the access
 - self supporting steps over a utility right-of-way which provide access to a building
- 2.2 Fences:
- encroaching not more than 0.3 metres where the fence creates an enclosure
 - encroaching to the back of the sidewalk or to 1.0 metres from the curb (if there is no sidewalk) where the fence is a linear projection of a fence on the Applicant's property EXCEPT where adjacent to a Street
 - developer fences required under development agreements
 - fences running parallel to pathways (which run over a property line) may exceed 0.3 metres subject to minimum access requirements
 - fences running through a utility right-of-way bisected by a property line
- 2.3 Portable sheds:
- under 10 square metres (107 square feet)
- 2.4 Retaining walls:
- not more than 0.2 metres in height and where not located adjacent to Enmax or other utility above ground surface facilities
- 2.5 Non permanent surface improvements including:
- movable planters including any movable border material (e.g. plastic, concrete, timber sections not more than 0.2 metres in height)
 - natural landscaping including trees and shrubbery
 - surface levels rocks not more than 0.2 metres in height
 - interlocking bricks
- 2.6 Eaves:
- built prior to April 1994 and receiving a Planning and Building Department Certificate of Compliance
 - encroaching less than 0.1 metre into an easement
- 2.7 Signs or canopies:
- complying with the Land Use Bylaw 2P80 and Streets Bylaw 20M88
- 2.8 Any encroachment constructed for valid municipal purposes by the City or its agents (ie. bollards, sound barriers, developer fences, subdivision entrance signs, guard rails, etc.)

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Schedule "B"

- 1.0 Authorized Encroachments into a Street or Easement (Non-circulation Process), Encroachment Agreement Required.**
- 1.1 Residential footings for buildings or structures encroaching not more than 0.3 metres into an easement at a depth of more than 2.0 metres below grade, wherein the building or structure is not encroaching, will be accepted.
 - 1.2 Where the building or structure does not encroach, residential building eaves encroaching not more than 0.6 metres into an easement 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.
 - 1.3 Hard landscaping, steps, fill or retaining walls not more than 0.6 metres in height or encroaching less than or equal to 0.3 metres into a street will be approved, except where adjacent to or located on lands with an overhead electrical line.
 - 1.4 Where an encroachment is created by an owner granting land to the City (i.e. a Dedication Agreement where an existing encroachment is allowed to remain), the City shall without charge permit an Encroachment Agreement to be entered into with the applicant, the removal period to be negotiated as part of the purchase or dedication
 - 1.5 An encroachment not more than 0.3 metres into an easement unless identified in Schedule "A", will be approved.
 - 1.6 An encroachment that forms a barrier (which includes, but is not limited to development features such as entrance features, walls and decorative fences) preventing direct access by the City and is located on a parcel of land separating an easement from the nearest street or City owned parcel and has an easily removable and replaceable sections the length of which is more than 2.4 metres on each affected lot with support pillars encroaching not more than 0.6 meters into and easement.

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Schedule "C"

Corporate Properties Group Process

1.0 Applications

Applications for Encroachment Agreements will be made to the Corporate Properties Group. If within:

- (a) the guidelines set out in Schedule "A", the applicant will be advised that no Encroachment Agreement is necessary.
- (b) the guidelines set out in Schedule "B", the applicant will be asked to provide:
 - (1) a copy (preferably an original) of a Real Property Report detailing the property and the extent of the encroachment;
 - (2) a copy of the title to the parcel;
 - (3) the application fee, as set out in section 4.0 of this policy; and
 - (4) photographs of the encroachment.
 - (5) a cover letter or letter of intent

Upon receipt of items 1 through 5 an agreement will be immediately issued for execution by the applicant.

If NOT within:

- (c) the guidelines set out in Schedule "B", and the encroachment occurred prior to July 1, 1996, a circulation will be done to determine the acceptability of the encroachment (the applicant will be required to provide items 1 through 5 as above). If acceptable the appropriate agreement will be issued. If unacceptable the applicant will be required to remove the encroachment.
- (d) the guidelines set out in Schedule "B", and the encroachment occurred after July 1, 1996, the applicant will be required to remove the encroachment.

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2.0 Complaints

Encroachments identified by public complaints or by City personnel will be referred to the Corporate Properties Group.

2.1 Owner

For the purposes of reserves and City owned parcels, "owner" shall mean the owner of land adjacent to a reserve or City owned parcel who has an encroachment into the reserve or City owned parcel.

2.2 Investigation

- (a) A background investigation will be undertaken to determine if the encroachment resulted from an error, no easement registered, road plan after the fact, permit issued, etc..
- (b) Significance of the encroachment will be determined to see if it presents a safety hazard and if the encroachment should be authorized or removed.
- (c) Enmax's Easement Encroachment Reporting System (EERS) will recognize the safety factor ONLY, and will inform the applicant of any additional encroachment that is subject to the corporate policy. Enmax will identify this in their initial letter to the applicant and will copy the Corporate Property Group for their investigation.

2.3 Initial Contact

Depending on the investigation, the applicant will be notified by mail advising the applicant of the possible encroachment and requiring the applicant to apply for an Encroachment Agreement or remove the encroachment.

2.4 Final Contact

If after 30 days, the applicant has not made application for an Encroachment Agreement or removed the encroachment, written notice will be sent to the applicant. The letter written will indicate that, if the problem is not rectified within another 30 days, the situation will be referred to the Law Department and /or the bylaw enforcement officer for immediate action.

CORPORATE POLICY FOR PROCESSING ENCROACHMENT APPLICATIONS

3.1 Verification

Encroachment will be verified. At the discretion of The Corporate Properties Group, Manager of Real Estate Services, a survey or a Real Property Report, may be undertaken to confirm the extent of the encroachment. If the survey verifies that the encroachment exists, the costs of the survey will be recovered from the owner (Applicants who are requesting encroachment approval into reserves are required to submit a Real Property Report). The Corporate Properties Group, Land Titles Officer will make initial contact with the owner and shall notify the appropriate school board when an encroachment onto a SR or MSR site has been identified.

3.2 Initial Contact

Initial contact will be made with the owner advising that the encroachment must be removed within 30 days. Initial contact can be in person, via telephone, or in writing and will cite the policy of Council indicating that encroachments will not be allowed onto reserves.

3.3 Second Contact and Written Notice

If, after 30 days, the owner has not removed the encroachment or commenced application to Council for disposition of such portion of the reserve necessary to accommodate the encroachment, The Corporate Properties Group, Land Titles Officer will send written notice to the owner. The letter will indicate that, if the problem is not rectified within another 30 days, the situation will be referred to the Law Department for immediate action.

3.4 Third and Final Contact (From the Law Department)

If after 60 days the owner has not removed the encroachment or has not made application to Council as noted in section 3.3, the Law Department will issue a further letter to the owner requiring removal by a specified date, failing which the owner will be sued for trespass.