



TOWN OF THREE HILLS

POLICY # 400-A1

TOWN-OWNED LANDS ENCROACHMENT POLICY

Adopted by Council on: **June 8, 2020**
Resolution No: **288-2020**

1. PURPOSE

- 1.1. The purpose of this policy is to establish a standard procedure for dealing with encroachments on Town-owned Lands. The Town deems it appropriate to deal with encroachments on Town-owned Lands in a consistent manner that protects their integrity.

2. AUTHORITY

- 2.1. The authority for this policy is by resolution of the Council of the Town of Three Hills.
- 2.2. The CAO is accountable and responsible for the development, evaluation and implementation of this policy.
- 2.3. The CAO reserves the right to exercise appropriate managerial judgement to take such actions as may be necessary to achieve the intent of this policy.

3. DEFINITIONS

- 3.1. Whenever the singular masculine gender is used in this policy, the same shall include the feminine and neutral gender whenever context requires.
- 3.2. In this policy, unless the context otherwise requires:
 - 3.2.1. “CAO” shall mean Chief Administrative Officer for the Town of Three Hills or his designate.
 - 3.2.2. “Council” shall mean the body of elected officials who govern the Town.
 - 3.2.3. “Encroachment” for the purpose of this policy, shall mean any structure, obstruction or alteration of the landscape existing on land designated as Reserve. These encroachments include, but are not limited to, buildings, fences, concrete pillars, posts, poles, tree plantings, tree removals, gardens, retaining walls, drainage works, satellite dishes, supporting structures, towers, and antennas.
 - 3.2.4. “Encroachment Agreement” shall mean an agreement between the landowner and the Town authorizing an Encroachment and shall, among other items, include:
 - i. The location and identification of the Encroachment;

- ii. The owner’s responsibility to maintain the Encroachment;
 - iii. Terms or conditions to terminate the agreement;
 - iv. Cost and liability for removal;
 - v. Indemnification of the Town, its agents and licensees.
- 3.2.5. “Owner” shall mean the person(s) registered under the Land Titles Act as the Owner of land. In the context of Town-owned Lands, Owner shall mean the Owner of the adjacent land which has an Encroachment onto Town-owned Lands.
- 3.2.6. “Reserve” shall mean all Municipal Reserves (MR), Environmental Reserves (ER), and School Reserves (SR) as defined in the *Municipal Government Act*.
- 3.2.7. “Town” shall mean the Town of Three Hills.
- 3.2.8. “Town-owned Lands” shall mean those lands under title to the Town of Three Hills.

4. POLICY

- 4.1. The Town may permit Encroachments onto Town-owned Lands if the Encroachment is established and recognized in accordance with the provisions of this Policy.
- 4.2. All Encroachments on Town-owned Lands shall be approved by the CAO.
- 4.3. Where an Encroachment exists without Town approval, the Owner shall be required to remove the Encroachment at his/her own expense or seek permission from the Town for the Encroachment to remain, pursuant to this Policy.
- 4.4. The Town does not permit any type of Encroachment on ER Lands.
- 4.5. Encroachments on MR Lands or Town-owned Lands may be permitted, provided that the Owner of the Encroachment:
- 4.5.1. Enters into an Encroachment Agreement with the Town outlining the terms by which both parties shall manage the Encroachment;
 - 4.5.2. Agrees that the existence of the Encroachment in no way affects the Town’s ownership of or authority over the lands;
 - 4.5.3. Agrees to remove the Encroachment at the Owner’s expense at any time such removal is required by the Town;
 - 4.5.4. Agrees that, upon the removal of the Encroachment, the site will be restored to a condition acceptable to the Town; and
 - 4.5.5. Provides, at the request of the Town, a survey plan illustrating the extent of the Encroachment prepared by a land surveyor registered to practice in the Province of Alberta to the satisfaction of the Town prior to the execution of the agreement.
- 4.6. An authorized Encroachment does not relieve an Owner from the responsibility to comply with all other applicable federal, provincial and municipal statutes, regulations, orders, bylaws and policies.

- 4.7. When a request for an Encroachment Agreement is not approved, the Owner shall have thirty (30) days to remove or remediate the Encroachment. If the remediation includes replacement/planting of vegetation, this limit may be extended in order to allow for an appropriate planting schedule, as agreed to by the CAO.
- 4.8. If the owner has not rectified the encroachment and restored the property to the satisfaction of the Town within the allotted time, the Town will take action to remove the Encroachment, restore the property, and take any other remedial action, as may be required at the expense of the Owner.
- 4.9. When the Town employs the services of such companies or other professional services as it deems appropriate to remove and restore the property, the Town shall invoice the owner the cost of the work as invoiced by those services, plus a 20% cost overhead in order for the Town to recover costs relating to the administration of this policy. In addition, all legal costs shall be covered by the owner of the encroachment.
- 4.10. In the event that the owner refuses to pay the Town for the Town's removal and/or remediation of an illegal encroachment, the cost of the work shall be due and payable as taxes on the property, as per the *Municipal Government Act*.
- 4.11. If an Encroachment has not been authorized, the Owner may appeal to Council, in writing, by requesting a review of the CAO's decision. Council's decision shall be final and binding.

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