



TITLE: ENCROACHMENTS ONTO PUBLIC LANDS

POLICY

POLICY STATEMENT:

The Town of Slave Lake is the owner of public lands and is therefore responsible for the operation, maintenance and development of public lands. The Town will mitigate potential exposure to liability by ensuring that Public Lands are operated, maintained and developed in accordance with current Statutory Plans and Land Use Bylaw regulations. The Town will ensure no developments or encroachments occur on Public Lands without the permission of the Town and in accordance with existing regulations and policies.

POLICY OBJECTIVE:

The objective of this policy is to:

1. Provide clear direction to Administration, developers and private landowners in regard to the Town's role and responsibility with respect to the ownership, operation, maintenance and development of Public Lands.
2. Ensure that all encroachments that occur on Public Lands are addressed in a consistent and timely manner and that the exposure of liability to the Town is mitigated or minimized.
3. Ensure that any and all developments carried out on Public Lands are in accordance with current Statutory Plans and Land Use Bylaw Regulations.


Brian Vance, Chief Administration Officer

April 12 2016
Date

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1.0 DEFINITIONS

1.01 Accessory Structure

Accessory Structure means a structure that is separate and subordinate to the main building, the use of which is incidental to the main building and is located on the same parcel of land. Accessory Structures are not considered permanent as they can be reasonably and practicably relocated. Examples of accessory structures are sheds, sea containers, play structures, greenhouses, etc.

1.02 Boulevard

Boulevard means:

- 1) that portion of Town road lying between the curb line of a Town road and the adjacent front property line excepting that portion occupied by a constructed sidewalks; or
- 2) where there is no curb, that portion of Town road lying between the portion of the road ordinarily travelled by vehicles and the adjacent front property boundary line excepting that portion occupied by a constructed sidewalk and main include drainage ditches; and
- 3) are owned, operated and maintained in whole by a public authority or municipality.

1.03 Development Permit

Development Permit means a document authorizing a development or use issued by a Development Authority pursuant to the Land Use Bylaw.

1.04 Encroach

Encroach means to gradually move or go into an area that is beyond the usual or desired limits or to take, use or affect something that belongs to someone else.

1.05 Encroachment

Encroachment means the structure, fence or object that is encroaching.

1.06 Encroachment Agreement

Encroachment Agreement means an agreement entered into between a landowner and the Town of Slave Lake which authorizes the continued encroachment of a structure, fence or object onto Public Lands.

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1.07 Environmental Reserve Lot

Environmental Reserve Lot means a parcel of land owned, operated or maintained in whole by a public authority or municipality and consists of a swamp, gully, ravine, coulee or natural drainage course, or land that is subject to flooding, or is considered unstable, or is a strip of land abutting a bed and shore of any lake, river, stream or other body of water.

1.08 Fence

Fence means a structure like a wall built outdoors usually of wood or metal that separates two area or prevents people or animals from entering or leaving and includes a perimeter fence.

1.09 Municipal Reserve Lot

Municipal Reserve Lot means a parcel of land owned, operated or maintained in whole by a public authority or municipality and consists of land dedicated and designated as Municipal Reserve in accordance with the Municipal Government Act.

1.10 Object

Object means a material thing that can be seen and touched.

1.11 Permanent

Permanent means something that is lasting or intended to last or remain unchanged indefinitely.

1.12 Permanent Structure

Permanent Structure means a structure which is the primary structure and use on the subject lands and is constructed and intended to be Permanent. Examples of Permanent Structures are residential dwellings, detached garages, industrial, commercial and institutional buildings.

1.13 Public Open Space

Public Open Space means an open space area, owned, operated or maintained in whole or in part by a public authority or municipality as a recreational area for public use, including passive and active forms of recreation, designed to serve the neighborhood and community and may include buildings for recreational and community facilities. A Public Open Space includes a park or tot lot.

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1.14 Public Utility Lot

Public Utility Lot means a parcel of land owned, operated and maintained in whole by a public authority or by a municipality and is used for the installation and maintenance of utilities owned by the municipality.

1.15 Public Road or Lane

Public Road or Lane means a road or lane owned, operated and maintained in whole or in part by a public authority or by a municipality and is used for the movement of vehicular and pedestrian traffic.

1.16 Structure

Structure means a constructed building or thing built on land.

1.17 Use

Use means a building or an area of land and the function and activities thereon or therein.

1.18 Walkway

Walkway means a path or passage owned, operated and maintained in whole by a municipality and is defined for the movement of pedestrians and which is primarily constructed of concrete, asphalt, paving stone or any similar material.

2.0 RESPONSIBILITIES

2.01 Town Council:

Approves the Encroachments onto Public Lands Policy and any amendments thereto.

2.02 Chief Administrative Officer (CAO):

Ensures the Encroachments onto Public Lands Policy is implemented and followed.

2.03 Director of Planning & Development:

Ensures that all encroachments into Public Lands are dealt with in a timely manner and in accordance with the approved Policy.

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3.0 STANDARDS/GUIDELINES

- 3.01 The Town of Slave Lake, as the owner of Public Lands, is responsible for the operation, maintenance and development of Public Lands.
- 3.02 No encroachment of a Structure, Fence or Object on Public Lands shall be permitted unless the encroachment is a Permanent Structure and the relocation of that Permanent Structure is not reasonable and practical, in the opinion of the Town of Slave Lake.
- 3.03 Where it is deemed that a Permanent Structure cannot be reasonably and practicably relocated, the Town may enter into an Encroachment Agreement with the owner/landowner of the said Permanent Structure. The Encroachment Agreement shall ensure that all claims, damages and costs associated with the encroaching Permanent Structure are the responsibility of the owner/landowner of the said Permanent Structure.
- 3.04 Encroachments Agreements will not be considered for Structures that are not considered permanent and that can be reasonably and practicably relocated, in the opinion of the Town of Slave Lake. Encroachment Agreement will not be considered for Fences or Objects.
- 3.05 All existing Permanent Structures that encroach onto Public Lands, and whose continued encroachment has been authorized under an Encroachment Agreement, shall be permitted to remain as they are currently sited in accordance with the conditions so established under the said Encroachment Agreement.
- 3.06 All existing Structures, Fences, or Objects that encroach onto Public Lands and whose continued encroachment has been authorized under an Encroachment Agreement signed on or before March 8, 2016, shall be permitted to remain as they are currently sited in accordance with the conditions so established under the said Encroachment Agreement. Encroachment Agreements will not be extended to a future owner/landowner of the subject encroachment and as such, when the subject property sells, the encroaching Structure, Fence or Object shall be relocated off of the subject Public Lands.
- 3.07 Any Use of Public Lands must be approved under the issuance of a Development Permit. Uses of Public Land by an individual other than the Town of Slave Lake will only be approved if that Use is temporary. The Development Permit shall approve the Use for a specified period of time and shall indicate a date when the Use shall cease.

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4.0 POLICY PROCEDURES

- 4.01 As the owner of Public Lands, the Town of Slave Lake will carry out all required operations and maintenance on public lands including, but not limited to the cutting of grass, removal of snow, landscaping, etc. The Town will also review, approve and issue development permits for any and all development or use that occur on Public Lands.
- 4.02 Immediately upon discovery of an encroachment onto Public Lands, the Director of Planning and Development, the registered owner/landowner of the encroachment, the person in possession of the encroachment or all or any of them shall be notified in writing of the Encroachment.
- 4.03 The recipient of the letter shall be advised that they have Twenty One (21) days from receipt of the letter to remove the encroachment from the subject Public Lands. Receipt of the letter is deemed to be five (5) days from the date of the letter.
- 4.04 On the date and time of compliance, as specified in the letter, a site inspection shall be conducted by the Director of Planning and Development or his/her authorized designate, to ensure the notice has been complied with.
- 4.05 Failure to comply with the requirements of the letter will result in the issuance of a STOP ORDER as established in the Municipal Government Act and the prevailing Land Use Bylaw. The Stop Order must be either hand delivered or sent by registered mail.
- 4.06 Failure to comply with the Stop Order will result in the file being turned over to the Town's Legal Counsel.
- 4.07 Where it is the opinion of the Town of Slave Lake that the encroachment in question is a Permanent Structure and it is not reasonable and practical to relocate that Structure; the Director of Planning and Development, the registered owner/landowner of the Structure, the person in possession of the Structure or all or any of them shall be notified in writing that an Encroachment Agreement will be required to allow the Encroachment to remain as sited.
- 4.08 The location of the encroachment on the affected lands must be surveyed and shown on a Real Property Report which will form part of the Encroachment Agreement.
- 4.09 Once the required fees for the Encroachment Agreement have been paid, the Director of Planning and Development or his/her authorized designate will prepare the required Encroachment Agreement in triplicate. All three (3) copies of the Encroachment Agreement will be forwarded, under a covering letter, to the owner/landowner for required signatures.

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- 4.10 The owner/landowner of the Encroachment shall sign all three (3) copies of the Encroachment Agreement and return all three (3) copies of the Agreement to the Town Office for further signatures.
- 4.11 Once the Encroachment Agreement has been signed by the Town, two (2) original copies of the Encroachment Agreement will be returned to the affected owner/landowner who will then be required to register the Encroachment Agreement on the Title of the affected lands by a specified date.
- 4.12 Failure to register the Encroachment Agreement on the Title of the affected lands will render the Encroachment Agreement null and void. In the event the Encroachment Agreement is rendered null and void, the owner/landowner of the Structure will be advised in writing that the Encroachment must then be removed from the affected Public Lands within twenty one (21) days of receipt of the subject letter. Receipt of the letter is deemed to be five (5) days from the date of the letter.
- 4.13 On the date and time of compliance, as specified in the letter, a site inspection shall be conducted by the Director of Planning and Development or his/her authorized designate, to ensure the notice has been complied with i.e. removal of the subject encroachment from the subject Public Lands.
- 4.14 Failure to comply with the requirements of the letter will result in the issuance of a STOP ORDER as established in the Municipal Government Act and the prevailing Land Use Bylaw. The Stop Order must be either hand delivered or sent by registered mail.
- 4.15 Failure to comply with the Stop Order will result in the file being turned over to the Town's Legal Counsel.
- 4.16 Annually the Director of Planning and Development or his/her authorized designate will send affected landowners written notice advising that in accordance with the March 8, 2016 motion of Council, all existing Structures (i.e. non-Permanent), Fences or Objects that encroach onto Public Lands and whose continued encroachment has been authorized under an Encroachment Agreement signed on or before March 8, 2016; shall be permitted to remain as they are currently sited in accordance with the conditions so established under the said Encroachment Agreement. The notice will further advise that the Encroachment Agreement will not be extended to a future owner/landowner of the subject encroachment and as such, when their property sells, the encroachment shall be relocated off of the subject Public Lands.
- 4.17 When an Encroachment, as identified in Section 4.15, has been removed from Public Lands the Town will discharge the caveat regarding the Encroachment Agreement from the Title of the affected lands.

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- 4.18 Annually, the Director of Planning and Development or his/her authorized designate will send written notice to the local real estate and law offices advising that in accordance with the March 8, 2016 motion of Council, all existing Structures (i.e. non-Permanent), Fences or Objects that encroach onto Public Lands and whose continued encroachment has been authorized under an Encroachment Agreement signed on or before March 8, 2016; shall be permitted to remain as they are currently sited in accordance with the conditions so established under the said Encroachment Agreement. The notice will further advise that the Encroachment Agreement will not be extended to a future owner/landowner of the subject encroachment and as such, when their property sells, the encroachment shall be relocated off of the subject Public Lands. Further the notice will advise of all public lands where such an Encroachment Agreement still exists.
- 4.19 Upon receipt of an application for a Development Permit for a Use to be carried out on Public Lands by the Town of Slave Lake, the Director of Planning and Development or his/her authorized designate shall review the application. A Development Permit shall be issued if the Use in question meets with the requirements of the Land Use Bylaw.
- 4.20 Upon receipt of an application for a Development Permit for a Use to be carried out on Public Lands by an individual other than the Town of Slave Lake, the Director of Planning and Development or his/her authorized designate shall review the application. A Development Permit shall be issued in accordance with the prevailing Land Use Bylaw if the Use in question meets with the requirements of the prevailing Land Use Bylaw. Conditions shall be included that provide a period of time in which the Use may continue and a date at which the Use must cease.