

ENCROACHMENT AGREEMENTS

Date Issued: December 7, 2017

Mandated by: City Manager

Current Revision: March 3, 2026

Cross Reference:

- Encroachment Agreements Procedure GEN-025-A

Next Review: January 1, 2031

Responsibility:

Director, Planning & Development

1. PURPOSE

To establish a coordinated and consistent approach for the processing of Encroachment Agreements to ensure protection of all parties' interests with a fair and equitable procedure.

2. POLICY

The City shall review each request for encroachment on its own merit. No precedence is set by previous agreements or for following agreements.

3. DEFINITIONS

- 3.1** *City* – means the municipal corporation of the City of Fort Saskatchewan.
- 3.2** *City Easement* – is an agreement that confers on the City the right to use a landowner's property in some way and is registered against the Land title (typically right-of-ways).
- 3.3** *City Land* – land owned by the City of Fort Saskatchewan.
- 3.4** *Encroachment* - to infringe upon the boundaries of adjacent property.
- 3.5** *Encroachment Agreement* – an agreement which permits an Encroachment onto City Land or City Easement.
- 3.6** *Encroachment Area* – Length multiplied by width or any other means of calculating the area that is encroaching onto City Land or City Easement.
- 3.7** *Registered Owner* – the person(s) shown as owner(s) of land as verified on the City's Assessment Roll and a current Land Title document from Service Alberta.

- 3.8** *Reserve* – legally described suffix of, but not limited to environmental reserve, municipal reserve or school reserve.

4. GUIDING PRINCIPLES

- 4.1 The City may require an Encroachment onto City Land to be either removed or authorized through an Encroachment Agreement entered into with the Registered Owner.
- 4.2 The City may refuse to issue an Encroachment Agreement when there are outstanding issues, orders, or other regulative infractions deemed related until they are resolved.
- 4.3 The City cannot authorize an Encroachment onto a parcel registered as 'Reserve'. The Registered Owner will be directed to remove the Encroachment Area.
- 4.4 The City may require a survey prepared by a qualified land surveyor to confirm the location and proportion of the Encroachment.
- 4.5 The City shall not grant Encroachments that interfere with existing City owned utility right-of-ways or easements.
- 4.6 Encroachments on two or more privately owned lands are deemed to be a private matter between the affected registered owners.

AUTHORITY / RESPONSIBILITY TO IMPLEMENT

The City Manager delegates responsibility to the Director, Planning & Development to ensure the uniform application of this Policy within the organization and in accordance with legislative requirements.



City Manager

ENCROACHMENT AGREEMENTS

Date Issued: November 24, 2017

Responsibility:
Director, Planning & Development

Current Revision: March 3, 2026

Cross Reference:

- Encroachment Agreements Policy GEN-025-A

1. PURPOSE

To establish a coordinated and consistent approach to the processing of Encroachment Agreements to ensure protection of municipal interests with a fair and equitable procedure.

2. DEFINITIONS

- 2.1 *Applicant* – means the registered owner as shown on the Land Title or their authorized representative acting on their behalf.
- 2.2 *Building* – anything constructed or placed on, in, over or under land but does not include a highway, road or bridge.
- 2.3 *Caveat* – legal instrument registering an interest in the land.
- 2.4 *City* – means the municipal corporation of the City of Fort Saskatchewan.
- 2.5 *City Land* – land owned by the City of Fort Saskatchewan.
- 2.6 *City Easement* – is an agreement that confers the City the right to use a landowner's property in some way and is registered against the Land Title (typically right-of-ways).
- 2.7 *Compliance Certificate* – a letter or stamp verifying compliance or non-compliance with the current City of Fort Saskatchewan Land Use Bylaw based on a Real Property Report.
- 2.8 *Encroachment Agreement* – an agreement which permits an Encroachment onto City Land or City Easement.
- 2.9 *Encroachment Area* – Length multiplied by width or any other means of calculating the area that is encroaching onto City Land or City Easement.
- 2.10 *Land Title* – Administered through Service Alberta, the Land Title document identifies the current owner and shows all registered interests in the land.

- 2.11 *Real Property Report (RPR)* – survey plan locating buildings in relation to the boundaries of a legal lot.
- 2.12 *Registered Owner* – the person(s) shown as owner(s) of land as verified on the City's Assessment Roll and a current Land Title document from Service Alberta.
- 2.13 *Reserve* – legally described suffix of, but not limited to, environmental reserve, municipal reserve or school reserve.
- 2.14 *Setback* – the distance that a Building shall be set back from the lot line or any other features on a site as specified in the current Land Use Bylaw.

3. PROCEDURE

The need for an Encroachment Agreement is typically identified through the preparation of a Compliance Certificate but can be identified through other means. An Encroachment Agreement is not a development permit or a building permit.

3.1 Application:

- 3.1.1 The Applicant may apply to the City for an Encroachment Agreement.
- 3.1.2 The names of the Registered Owners on the Land Title on the date of the Encroachment Agreement shall be stated on the Encroachment Agreement.
- 3.1.3 Payment according to the City's current Fees and Charges Bylaw is required at time of submission. Fees are non-refundable.
- 3.1.4 Encroachments on two or more privately owned lands are deemed to be a private matter between the affected registered owners.

3.2 Review:

- 3.2.1 The City may conduct an on-site inspection of the subject property, upon receipt of an Encroachment Agreement application.
- 3.2.2 An Encroachment Agreement application shall be reviewed by City departments to provide direction as to whether the Encroachment Area may be granted or removed.
- 3.2.3 An Encroachment onto a private easement representing interests from parties other than the City, are not part of this procedure.
- 3.2.4 The City is not liable for any inaccuracy in the RPR or inaccuracies in other information submitted in support of a request for an Encroachment Agreement.

3.3 Approval or Refusal Process:

- 3.3.1 If approved, the Encroachment Agreement shall be forwarded to the Applicant for signature(s).

- 3.3.2 Once signed, the Applicant shall return the Encroachment Agreement to the City for execution.
 - 3.3.3 Once the Encroachment Agreement is executed by the City a copy will be sent to the Applicant for their record.
 - 3.3.4 If the Encroachment Agreement is on City Land, the City will proceed with registering the Encroachment Agreement against the affected Land Title as a Caveat.
 - 3.3.5 If the Encroachment Agreement is on City Easement, the Encroachment Agreement may be registered against the affected Land Title at the option of the Applicant. Registration against the Land Title Certificate will be responsibility of the Applicant. The Applicant shall provide a copy of the updated Land Title Certificate if they choose to register the Encroachment Agreement.
 - 3.3.6 The City may refuse, in writing, to issue an Encroachment Agreement that may negatively affect the interests of the City.
 - 3.3.7 The City may refuse, in writing, to issue an Encroachment Agreement that would misappropriate the lands for the exclusive use of the private property and deny the public use and enjoyment of the lands.
 - 3.3.8 The City may refuse, in writing, to issue an Encroachment Agreement when there are outstanding issues, orders, or any other regulative infractions deemed related.
 - 3.3.9 The City may refuse, in writing, to issue an Encroachment Agreement when in their opinion, there is insufficient information to determine if the Buildings shown on the RPR are correct.
- 3.4 Remedies:**
- 3.4.1 The Applicant can remove the Encroachment Area and restore the lands. They shall provide the City with a signed Affidavit or updated RPR evidencing the Encroachment has been removed.
 - 3.4.2 The Applicant may then request an updated Compliance Certificate, as per the Compliance Policy PD-001.
 - 3.4.3 The City cannot authorize an Encroachment onto a parcel registered as 'Reserve'. The Applicant will be directed to remove the Encroachment Area and restore the lands.