

## **Encroachment Policy and Procedures**

### **1. POLICY**

- 1.1 It is the policy that encroachment agreements will be entered into when County interests are not adversely affected by permitting the encroachment.
- 1.2 A standard encroachment agreement will be entered into by both the property owner and the County (attached as Appendix A)
- 1.3 The standard agreement may be modified slightly to suit individual circumstances.
- 1.4 The standard agreement will be presented to the Public Works Committee for authorization. If the encroachment is not onto a municipal road allowance, the agreement will be presented to the Recreation, Parks and Culture Committee.
- 1.5 The standard agreement will be registered on title of the private owners property.
- 1.6 The application fee will be established by By-law from time to time to recoup all municipal costs in processing the application.
- 1.7 A Commissioner can waive the application fee if the encroachment agreement is required as a result of the actions of the County of Prince Edward. i.e. the taking of a road widening.

### **2. PROCEDURES**

- 2.1 A property owner requesting an encroachment agreement will submit the required application form along with fee, (attached as Appendix B), together with a survey showing the encroachment to the Public Work's Department.
- 2.2 If the encroachment is not on a municipal road allowance the application will be directed to the Recreation, Parks and Culture Department.
- 2.3 The Public Works Department or appropriate department will, in addition to carrying out its own review, submit the application to the Planning Department for a review of Zoning and/or other by-law compliance, as well as to any other affected Department for comment.
- 2.4 Following receipt of comments from the affected Departments the Public Works Department will discuss the details of encroachment agreement with the Applicant and prepare an agreement.

- 2.5 The Commissioner of Public Works will submit a report outlining the nature of the encroachment, the staff review and comments and the proposed agreement to the Public Works Committee for approval.
- 2.5 Upon approval by the Public Works Committee, the Public Works Department forward to the Clerk's office a copy of the Encroachment Agreement and advise the applicant that the agreement is ready to be executed at the Clerk's office.
- 2.6 Upon execution of the agreement by the applicant the Clerk's Department shall prepare the necessary by-law for presentation to the next meeting of Council.
- 2.7 Following, passage of the by-law the Clerks Department shall arrange to register the Encroachment Agreement on title and provide copies to the Applicant and Public Works Department.

**APPENDIX A**

THIS AGREEMENT made this     day of     , 200

BETWEEN:

THE CORPORATION OF THE COUNTY OF PRINCE EDWARD  
hereinafter called the “Grantor”

OF THE FIRST PART,

-     and –

hereinafter called the “Grantee”

OF THE SECOND PART.

WHEREAS the Grantee is the owner of the property known as     and more particularly described as Part     ;

AND WHEREAS the part so owned by the Grantee has frontage on     and erected thereon is a     on the road allowance known as     ;

AND WHEREAS the Grantee has applied to the Grantor for permission to encroach upon     to maintain and use the     , and the Grantor has agreed to grant the necessary permission upon the limitations and conditions hereinafter set forth.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of ONE DOLLAR (\$1.00) paid by the Grantee to the Grantor, the receipt of which is hereby acknowledged, the parties hereto hereby mutually covenant and agree each with the other as follows:

1. The Grantee is hereby granted permission to encroach upon the     allowance for the purpose of maintaining the     on Part     , subject to the conditions and limitations set forth herein.
2. The Grantee shall be permitted to occupy that portion of     on which the said     is located and extending approximately     onto the     at the will of the Grantor.
3. The Grantee agrees that should it be necessary for the Grantor to request the removal of the     referred to in Paragraph 1 for any reason, the Grantee will undertake the removal of the     at their expense.

4. The Grantee further covenants with the Grantor to indemnify and keep harmless the Grantor from any claims whatsoever arising either directly or indirectly as a result of the Grantees occupancy of that part of the road allowance hereinbefore noted.
5. The Agreement may be registered against the land and the cost of the registration shall be paid by the Grantee.
6. The covenants on the part of the Grantee shall ensure to and bind not only the Grantee but also their heirs, executors, administrators, successors and assigns respectively.

IN WITNESS WHEREOF the Party of the Second Part has hereunto affixed their hand and seal and the Party of the First Part, The Corporation of the County of Prince Edward has hereunto affixed its seal attested by the hands of its proper officers.

SIGNED, SEALED AND DELIVERED ) The Corporation of the County  
Of Prince Edward

IN THE PRESENCE OF

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Peter A Mertens, Mayor

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Victoria Leskie, Clerk

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**APPENDIX B**

**REQUEST FOR ENCROACHMENT AGREEMENT**

**Name and address of Registered Owner:**

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**Name and address of applicant/agent (if other than registered owner)**

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**Legal Description of Property on which agreement to be registered:**

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**Description of encroachment and reason for requesting agreement:**  
*(attach letter if insufficient space)*

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**Attach:**

- Sketch, plan or survey
- Proof of ownership
- Application fee of \$250. plus legal costs payable to the County of Prince Edward as per By-law 1500-2005, Schedule E

**Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20**

\_\_\_\_\_  
**Signature**