

SUMMER VILLAGE OF BIRCHCLIFF

Encroachment Policy

Passed: August 20, 2015

Purpose:

The Summer Village of Birchcliff has the responsibility to manage Municipal Reserve, Environmental Reserve, Recreational Leases, Licenses of Occupation and the Shoreline within the boundaries of the municipality.

Statement:

The Summer Village of Birchcliff asserts its right of ownership to all lands owned, leased and managed by the municipality. It is the policy of the Summer Village to work proactively with property owners to remove **encroachments** for all lands owned, leased and managed by the municipality.

Definitions:

“building(s)” includes anything constructed or placed on, in, over or under land but does not include a highway or road or a bridge forming part of a highway or road.

“development” means:

- (a) An excavation or stockpile and the creation of either of them; or
- (b) A **building** or an addition to, or replacement or repair of a **building** and the construction or placing in, on, over or under land of any of them; or
- (c) A change of use of land or a **building** or an act done in relation to land or a **building** that results in or is likely to result in a change in the use of the land or **building**; or
- (d) A change in the intensity of use of land or a **building** or an act done in relation to land or a **building** that results in or is likely to result in a change in the intensity of use of the land or **building**.

“encroachment(s)” means a **building** or **development** that illegally extends onto an adjacent property.

General:

1. The Summer Village requires the removal of all **encroachments** from lands owned, leased or managed by the municipality. The owners of the **encroachment** shall be required to remove the **encroachment** and restore the site to its original / natural state to the satisfaction of the municipality, and or
2. The Summer Village may permit **encroachments** onto property owned, leased or managed by the municipality if the **encroachment** is established and recognized in accordance with the provisions of this policy as of the date of the approval of the Policy.

3. Permitted **encroachments** identified by a letter of consent or a license agreement from the Summer Village of Birchcliff shall have a fee review every 5th year.

Encroachment on Environmental Reserve Lands

1. The Summer Village does not permit any type of **encroachment** on environmental reserve land.

Encroachments on Municipal Reserve Lands, Municipal Leased Properties and or Municipal Managed Properties

1. Existing **Encroachments** deemed by Council to be minor may be permitted provided a consent letter is issued by the Municipality. The consent letter shall include provisions reserving the Municipality's right to require the removal of the **encroachment** at any time at the expense of the owner of the **encroachment** and any other conditions deemed necessary by the municipality. Minor **encroachments** include the storing of piers and boat lifts.
2. Stairs, retaining walls, fire pits and other types of **development** encroaching onto Municipal property, excepting environmental reserves, may be permitted by the Council provided the owner of the **encroachment**:
 - a. Enters into an Agreement with the municipality outlining the terms by which both parties shall manage the **encroachment**.
 - b. Agrees that the existence of the **encroachment** in no way affect the Municipality's ownership of or authority over the lands.
 - c. Agrees to remove the **encroachment** at the encroaching party's expense at any time such removal is required by the municipality.
 - d. Agrees that upon the removal of the **encroachment**, the site will be restored to a condition acceptable to the municipality.
 - e. Provides, at the request of the municipality, 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 municipality prior to the execution of the agreement.
 - f. Pays all costs incurred by the municipality to facilitate the execution of the agreement.
 - g. Pays the annual **encroachment** fee assessed at time of agreement and reassessed every five years. Fee is calculated on actual square foot assessment of adjacent property (i.e. 1200 sq. ft. lot assessed at 16,000 land value – **encroachment** is 10 sq. ft. $(16,000 / 1200=13.33$ assess value per square foot) $(10 \times 13.33= 133.30$ **encroachment** value) times the mill rate for the current year.