



Township Of Zorra General Policy Manual

Policy #: 200-12

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POLICY: Encroachment upon Municipal Lands Policy **SECTION: Administration**

EFFECTIVE DATE: April 4, 2012

REVISED:

APPROVED BY: April 3, 2012

SIGNATURE:

Purpose:

Zorra Township owns property that it uses to provide services to its residents. The Township is responsible for the protection of its property from unauthorized encroachments. From time to time Council may allow encroachments to take place. A policy is required that outlines the steps necessary to ensure municipal property is encroachment free and guidelines are required to outline the process required where abutting landowners can apply for approval to encroach on municipal property.

The purpose of this policy is to provide guidelines for dealing with encroachments on municipal properties and if warranted, the processing of applications to recognize existing encroachments upon property owned by the Township.

Procedure

1. General Statement

It is the general policy of the Township that encroachments not be allowed onto Township-owned lands. If an encroachment has been identified it must be removed and the lands returned to their original state to the satisfaction of the Township. All related costs shall be at the expense of the encroaching party. Council may however, approve encroachments under special circumstances. Permission to allow an encroachment shall be by written agreement between the property owner and the Township. The department under whose jurisdiction the property falls is responsible for initiating this process. Failure on the part of the encroaching party to agree to this process will result in the removal of the encroachment at the encroaching party's expense.

2. Right-of-Way (ROW) Encroachments (Road Allowances, Highways, etc.)

No person shall encroach upon a municipal right of way. If an encroachment is discovered, the encroaching party may make an application to the municipality to continue the encroachment. See Application for encroachment set out below (Appendix "B"). If the Township determines that the encroachment is deemed to have significant commercial value, a one-time or annual charge may be assessed against the property.

3. Other Encroachments (Parkland, Open Space, Development Lands, etc.)

No person shall encroach upon or take possession of any municipally owned lands by any means whatsoever, including the construction, installation or maintenance of any fence or structure, the dumping or storage of any materials or plantings, or planting, cultivating, grooming or landscaping thereon. Parkland encroachments may be structural (e.g. construction of decks, pools, and retaining walls) non-structural (e.g. pool drainage, application of pesticides, waste dumping), or vegetative (e.g. planting of vegetable gardens, removal of wildflowers, shrubs, and trees). When an encroachment is discovered, the encroaching party may make an application to the municipality to continue the encroachment. See Application for encroachment set out below (Appendix "B").



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4. Insurance

In cases of an approved encroachment on a right of way, the landowner must provide insurance acceptable to the Township. If the landowner is a company it will be required to maintain general liability insurance in the amount of \$2,000,000 and the Township of Zorra must be named as an additional insured. The onus is on the landowner to carry the insurance in perpetuity and to provide the Township with a certificate of insurance at renewal. If the landowner is a private resident, it will be required to keep in force Property insurance on a replacement cost basis for the building(s) against fire and such other perils including liability in the amount of \$2,000,000. The onus is on the landowner to carry the insurance in perpetuity and to provide the Township with a certificate of insurance at renewal.

5. Implementation Procedure

Upon the discovery of an encroachment, the registered owner of the property will be notified in writing of the encroachment and the options available to him/her. See appendix "A" Letter of Notification of Encroachment

- 1.0 Where the encroachment is to be removed, removal and the associated expenses are the responsibility of the encroaching party. Should the encroaching party not remove the encroachment within the specified period of time, then the Township shall do so at the registered owner's expense. All associated fees and charges will be billed to the encroaching landowner. If the fees and charges are not paid as requested they will be added to the tax roll as provided for under section 398(2) of the Municipal Act.
- 2.0 If the encroaching party wants to apply to Council for the right to remain they may make an application to the Township following the process as outlined below under Application for an Encroachment.
- 3.0 Where the encroachment has existed for a number of years and the use has been exclusive to the encroaching party, consideration may be given to the disposition of the occupied lands for costs including, but not limited to, survey, legal and registration fees. Where appropriate the Township may require some compensation towards the value of the lands. If the encroaching party does not wish to purchase the lands, then a lease agreement may be considered for a period equal to the shorter of:
 - a) As long as the occupant owns the adjoining lands; or,
 - b) Until the encroachment is removed. Costs relating to the lease shall be the responsibility of the encroaching party.
 - c) Until the property is required for municipal purposes.

Staff shall forward a report outlining the details of a proposed sale or lease agreement to Council for approval.



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6. Application for Encroachment

The following information must be submitted before Council will approve an existing encroachment upon municipal property:

1. A completed Application Form attached as Appendix "B" to this policy.
2. An application fee as established by Council (See Municipal Service Fees By-law 11-09).
3. A copy of the deed of the encroaching party's lands which abut the subject municipal lands.
4. A plan or sketch of the subject lands with details of the encroachment clearly marked thereon.
5. Any pertinent history of the encroachment such as the estimated length of time of the said encroachment has been in place, purpose, need to extend, etc.

The Application will be submitted to the Clerk's Department and circulated to appropriate Departments for review, comment and recommendations.

A staff report with a recommendation is then presented to Council for their consideration.

If approved, the applicant will be required to pay all costs associated with the transaction, including the costs of the registration of the encroachment agreement. A Registered Reference Plan, indicating the encroachment as a Part thereon is required for the preparation of the Encroachment Agreement and for registration purposes. The Encroachment Agreement for Zorra Township will be prepared by the Township of Zorra Clerk's Department and the County of Oxford Planning Department.

7. Attachments

1. Letter of Notification of Encroachment (Appendix "A")
2. Application for an Encroachment (Appendix "B")



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Letter of Notification of Encroachment
APPENDIX "A"

Date

Address

Dear:

RE: Encroachment onto Lands Owned By the Township of Zorra

It has come to our attention that you are encroaching (occupying without permission) onto lands owned by the Township of Zorra. A sketch showing the approximate area of the encroachment is attached.

The Township of Zorra encroachment policy requires that all encroachments be removed from municipal property. A copy of the Zorra Township Encroachment Policy is enclosed.

If you would like to request permission to remain on municipal lands and are prepared to comply with the requirements of the encroachment agreement policy, please contact the undersigned to initiate the process.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Yours truly,

(Applicable Township Department)

Attachment.



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TOWNSHIP OF ZORRA

APPLICATION FOR AN ENCROACHMENT

APPENDIX "B"

Please note that this application must be typed or printed in ink and completed in full. An incomplete or improperly prepared application may not be accepted and could result in delays.

A. APPLICANT INFORMATION

Name of Owner(s): _____

Phone: Residence: _____

Address: _____

Business: _____

City/Town: _____

Fax: _____

Postal Code: _____

E-mail: _____

B. LOCATION/LEGAL DESCRIPTION OF PROPERTY

Geographic Township: _____

Urban Area or Hamlet: _____

Concession Number: _____

Lot Number: _____

Registered Plan Number: _____

Lot(s)/Block(s): _____

Reference Plan Number: _____

Part Number(s): _____

Land Titles Property Identification Number: P.I.N. # (_____ - _____)

911 Number and Name of Street/Road: _____

C. PROPERTY INFORMATION

Present use of the subject land: _____

D. ENCROACHMENT INFORMATION

1. Municipal Road/Property encroaching upon: _____



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2. Please describe any existing buildings and structures that are encroaching on municipal property.

3. Dimensions of encroachment: _____

4. History and estimated length of time of encroachment: _____

E. FREEDOM OF INFORMATION

For the purposes of the Municipal Freedom of Information and Protection of Privacy Act, I authorize and consent to the use by or the disclosure to any person or public body any information that is collected un the authority of the Municipal Act for the purposes of processing this application.

Please return completed form with application fee in cash or cheque to the undersigned and payable to The Corporation of the Township of Zorra.

Submit to: Clerk
Township of Zorra
P.O. Box 306
Ingersoll, ON N5C 3K5

Signature of Owner/Applicant/Agent

Date