

## **ENCROACHMENT POLICY**

### **1.0 Policy Statement**

The City of Mount Pearl recognizes that encroachments onto City Land exist and will continue to be identified. The City owns a variety of parcels of land, including streets, trails, road right of ways and easements. The City has established this policy to provide a consistent process for effectively evaluating, managing, and approving encroachments and to create a system regarding which encroachments require a Letter of Consent, an Encroachment Agreement or removal.

Once an encroachment has been identified, the property owner(s) is obligated to resolve the encroachment issue and must seek approval from the City to encroach onto Municipal Land and subject to Council approval, enter into an Encroachment Agreement with the City and pay the required fees. A Letter of Consent may be obtained from the delegated authority for certain encroachments as outlined below in Section 6.0 Encroachments Requiring a Letter of Consent.

Where an encroachment exists without approval, the owner must remove the encroachment at their own expense or seek approval from the City for an encroachment to remain by means of an Encroachment Agreement or a Letter of Consent.

### **2.0 Scope**

This policy applies to all encroachments identified on City owned land, including streets and easements, within the City of Mount Pearl municipal boundary.

### **3.0 Purpose**

The purpose of this policy is to formalize and clarify the procedure for granting encroachments on City owned land, streets and easements. Outlining the City's process for granting and terminating encroachments will provide consistency and transparency for property owners and will serve as a guideline for City staff.

### **4.0 Definitions**

**City-** the Corporation of the City of Mount Pearl.

**Council-** the Municipal Council for the City of Mount Pearl.

**Director of Planning, Engineering and Development-** the employee of the Corporation of the City of Mount Pearl holding the title of Director of Planning, Engineering and Development.

**Easement-** any right of way or easement for the passage and maintenance of public infrastructure, identified by a registered plan or by description and document by a Registered Easement or conveyance granted to the City.

**Encroachment-** anything constructed or erected with a fixed location on the ground or attached to something fixed to something having a fixed location on the ground, that extends on, over or under Municipal Land.

**Encroachment Agreement-** an agreement between the property owner and the City of Mount Pearl authorizing an encroachment.

**Letter of Consent means--** a letter issued by the City of Mount Pearl to the property owner which is recorded on the civic file of a privately owned parcel, which allows an identified encroachment(s) to remain without the requirement of an Encroachment Agreement.

**Minor Encroachment –** an encroachment that does not classify as an encroachment requiring a Letter of Consent, Encroachment Agreement, or removal and is considered minor in nature.

**Municipal Land-** collectively or individually a parcel of land, street, or easement, owned by the City of Mount Pearl.

**Property Owner(s)-** the registered owner of the land adjacent to Municipal Land or owner of land encumbered by an easement.

## **5.0 Encroachment Guidelines**

Identified Property Owners of an encroachment will be provided with one of the following four (4) options:

1. Permission for the encroachment to remain on City Land with a Letter of Consent issued by the Director of Planning, Engineering and Development.
2. Requirement to enter into an Encroachment Agreement.
3. Requirement to remove the encroachment(s).
4. The encroachment will be classified as a "Minor Encroachment" and may remain temporarily at the City's discretion.

The City of Mount Pearl considers the following a non-exhaustive list of factors when considering the appropriateness of an encroachment to remain:



1. Whether the encroachment interferes with the City's use, enjoyment or purpose in holding the City Land;
2. The City's ability to maintain effective municipal services;
3. The restriction of public access and enjoyment of City Land for public use;
4. The creation of unsafe or hazardous conditions if the encroachment is permitted;
5. Whether the encroachment interferes, or may interfere, with any future plans, initiatives or works of the City.

Approval for the following encroachments will not be considered:

1. New encroachments onto the T'Railway or other City pathways or lanes;
2. New encroachments onto park property;
3. New buildings and permanent accessory buildings;
4. Additions to existing buildings or other structures;
5. Where construction has commenced prior to the issuance of a required permit.

#### **6.0 Encroachments Requiring a Letter of Consent**

1. Any encroachment(s) existing prior to the year 2000, which can be shown on a land survey or Real Property Report.
2. Driveways or sidewalks which provide access to a residential dwelling or commercial business, excluding retaining walls or landscape structures that are considered to be features not directly benefiting the access or which may adversely affect access to or use of Municipal Land.
3. Fence sections that encroach less than 0.3048 meters (1 foot) onto Municipal Land.
4. Stairways and steps which do not interfere with public sidewalks or trails and do not decrease the usability of Municipal Land.
5. Retaining walls less than 0.1524 meters (6 inches) in height, encroaching less than 0.3048 meters (1 foot) onto Municipal Land.
6. Non-permanent surface improvements, including landscaping features, ground cover, removable planters, and similar objects which extend beyond a property line onto City Land.
7. Commercial signs, awnings or canopies projecting over City Land providing any portion thereof does not project more than 0.3048 meters (1 foot) measured horizontally.
8. Portable accessory buildings under 10 square meters that are not constructed on a permanent foundation nor connected to utility services.
9. Eaves encroaching less than 0.1524 meters (6 inches).

## **7.0 Encroachment(s) Requiring an Encroachment Agreement**

1. An encroachment(s) that cannot be shown to exist prior to 2000, on a land survey or Real Property Report.
2. Fence sections that encroach more than 0.3048 meters (1 foot) onto Municipal Land.
3. Retaining walls greater than 0.1524 meters (6 inches) in height, encroaching more than 0.3048 meters (1 foot) onto Municipal Land. Any retaining wall with a height exceeding 0.6 metres (2 feet) will require a guardrail.
4. Commercial signs, awnings or canopies projecting over Municipal Land that projects more than 0.3048 meters (1 foot) measured horizontally.
5. Portable accessory buildings over 10 square meters that are not constructed on a permanent foundation nor connected to utility services.
6. Eaves encroaching more than 0.1524 meters (6 inches).
7. Driveways that encroach more than 0.3048 meters (1 foot) onto Municipal Land.

## **8.0 Minor Encroachments**

An encroachment which, in the opinion of the delegated authority, is determined to be a "Minor Encroachment" and does not create a risk to the public or the City, does not interfere with public sidewalks or trails, does not adversely affect access to or use of Municipal Land, and does not classify as an encroachment requiring a Letter of Consent, Encroachment Agreement or removal. A "Minor Encroachment" may remain temporarily at the City's sole and absolute discretion. The property owner is fully responsible for the encroachment and the City shall not be responsible for any damage caused to the encroachment or the complete loss of the encroachment no matter how it is caused. Examples of a "Minor Encroachment" includes small hedges, shrubbery, and simple landscaping at grade.

## **9.0 Insurance Requirement**

The property owner is required to indemnify and hold harmless the City of Mount Pearl against any and all liability in respect to all claims which may result from the encroachment. The property owner is required to carry personal liability insurance, with a minimum coverage of \$100,000, and a certificate of insurance covering the encroachment must be submitted to the City along with the Encroachment Agreement or Letter of Consent. The onus is on the property owner to carry the insurance in perpetuity and to provide the City with proof of insurance.

## **10.0 Delegated Authority for Approving Encroachments**

The Director of Planning, Engineering and Development, or other designated employee



within the Department of Planning, Engineering and Development, shall have delegated authority to approve or reject applications, authorize encroachments, and execute or terminate existing Encroachment Agreements or Letters of Consent on behalf of the City.

### **11.0 Appeal**

Where an application has been denied or terminated by a delegated authority, the property owner may request a report explaining the application and reasons for denial or termination be submitted to the Planning, Engineering and Development Committee for review.

### **12.0 Pre-Existing Encroachments**

Any approved Letters of Consent or Encroachment Agreements as of the date of this policy is adopted will be accepted as-is and included in the property's civic file under the provisions of this policy provided that such encroachments continue to comply with the terms of their original approvals and agreements.

### **13.0 Form of Agreement**

Applications for a Letter of Consent or Encroachment Agreement are to be made in writing to the Planning, Engineering and Development Department and include the following:

1. A plan drawn to scale deemed acceptable by the department that adequately depicts the extent of the encroachment onto City Land;
2. A copy of the land survey;
3. Completed application form;
4. Application fee of \$250 (subject to change), paid in full prior to the release of a Letter of Consent or an execution of an Encroachment Agreement.
5. One application is required per subject property.

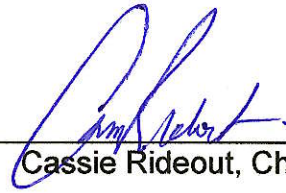
A template for a Letter of Consent is attached as **Schedule A**. A template for an Encroachment Agreement is attached as **Schedule B**. Minor changes not affecting the purpose and intent of the agreement shall be permitted on a case-by-case basis at the discretion of the City's delegated authority.

### **14.0 Encroachment Removal**

Where an encroachment does not comply with this policy or interferes with City operations now or in the future, the encroachment will not be permitted and must be removed by the property owner without delay.

If the property owner fails to remove the encroachment within a reasonable period of time as communicated to the property owner by the delegated authority, then the City may remove the encroachment and charge the expense to the property owner.

**15.0 Approvals**



Cassie Rideout, Chief Administrative Officer

Sept 10<sup>th</sup>, 2025

Date



## LETTER OF CONSENT

THIS AGREEMENT, made at the City of Mount Pearl in the Province of Newfoundland and Labrador this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BETWEEN The City of Mount Pearl

AND [Property Owner(s), Address] in the City of Mount Pearl

The City and Property Owner(s) acknowledge an encroachment exists and agree to the following conditions.

1. The encroachment falls under one of the following categories (initial all that apply):

- \_\_\_\_\_ Any encroachment(s) existing prior to 2000, which can be shown on a land survey or Real Property Report.
- \_\_\_\_\_ Driveways or sidewalks which provide access to a residential dwelling or commercial business, excluding retaining walls or landscape structures that are considered to be features not directly benefiting the access or which may adversely affect access to or use of Municipal Land.
- \_\_\_\_\_ Fence sections that encroach less than 0.3048 meters (1 foot) onto Municipal Land.
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- \_\_\_\_\_ Retaining walls less than 0.1524 meters (6 inches) in height, encroaching less than 0.3048 meters (1 foot) onto Municipal Land.
- \_\_\_\_\_ Non-permanent surface improvements, including landscaping features, ground cover, removable planters, and similar objects which extend beyond a property line onto Municipal Land.
- \_\_\_\_\_ Commercial signs, awnings or canopies projecting over Municipal Land



providing any portion thereof does not project more than 0.3048 meters (1 foot) measured horizontally.

\_\_\_\_\_ Portable accessory buildings under 10 square meters that are not constructed on a permanent foundation nor connected to utility services.

\_\_\_\_\_ Eaves encroaching less than 0.1524 meters (6 inches).

2. There is no requirement to correct the encroachment unless the structure, which is encroaching, is in a condition that needs to be demolished or replaced. At that point, if the property owner chooses to rebuild the structure, it must meet City regulations and not encroach on Municipal Land.
3. This Agreement is transferable upon the sale of the property.
4. The Property Owner is required to indemnify and hold harmless the City of Mount Pearl against any and all liability in respect to all claims which may result from the encroachment. Liability insurance is required, and the onus is on the Property Owner to carry the insurance in perpetuity and to provide the City with proof of insurance at each renewal of coverage.
5. Where an encroachment does not comply with the City's Encroachment Policy or, in the opinion of a utility company, interferes with the utility operations now or in the future, the encroachment must be removed by the Property Owner without delay.

\_\_\_\_\_  
Chief Administrative Officer  
City of Mount Pearl

\_\_\_\_\_  
\_\_\_\_\_  
Property Owner(s)





## ENCROACHMENT AGREEMENT

THIS AGREEMENT, made at the City of Mount Pearl in the Province of Newfoundland and Labrador this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BETWEEN The City of Mount Pearl

AND [Property Owner(s), Address] in the City of Mount Pearl

The City and Property Owner(s) acknowledge an encroachment exists and agree to the following conditions.

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5. Where an encroachment does not comply with the City's Encroachment Policy or, in the opinion of a utility company, interferes with the utility operations now or in the future, the encroachment must be removed by the Property Owner without delay.

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Chief Administrative Officer  
City of Mount Pearl

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Property Owner(s)