

 <p style="text-align: center;"><b>STATE OF ALASKA</b> <b>DEPARTMENT OF TRANSPORTATION</b> <b>AND PUBLIC FACILITIES</b></p> <p style="text-align: center;"><b>Policy and Procedure</b></p>	POLICY AND PROCEDURE NUMBER <b>05.06.020</b>	PAGE  1 of 3
	EFFECTIVE DATE December 28, 2007	
SUBJECT <b>Encroachment Control</b>	SUPERSEDES <b>10-0020</b>	DATED April 1, 1984
CHAPTER <b>Design and Construction</b>	SECTION <b>ROW Acquisition, Management, and Relocation</b>	APPROVED BY  <b>Signature on file</b>

## PURPOSE

This formalizes the policy and procedure (P&P) of the department on the control of unpermitted encroachments in rights of way.

## POLICY

The department will control unpermitted encroachments in rights of way in a manner that maintains a safe environment for the user and protects the interests of the public with regard to uses of rights of way. On discovery, unpermitted encroachments in rights of way will be either removed or placed under permit

## PROCEDURE

### Discovery

Maintenance and operations and the regional property manager are jointly responsible for performing encroachment surveillance. The regional property manager is the right of way agent who has been assigned property management responsibility for the region.

During routine maintenance patrol, road and weather condition inspection, and at regular intervals deemed necessary, maintenance employees will inspect the rights of way for unpermitted encroachments. Regional property management employees will also perform periodic inspections of rights of way for unpermitted encroachments.

### Summary removal of an encroachment that is a safety concern

An encroachment is a safety concern when it physically or visually obstructs or prevents the use of the rights of way.

When maintenance employees discover an encroachment that is a safety concern, they will remove it immediately (summarily) and report the removal to regional property

management employees. When regional property management employees discover an encroachment that is a safety concern, they will remove it summarily or request that maintenance employees remove it summarily.

Before summary removal of an encroachment, department employees will attempt to make personal contact with the owner to explain the removal. If practicable, the owner will be given an opportunity to remove the encroachment immediately, but only if it causes no significant delay in removal.

After summary removal of an encroachment by a department employee, regional property management employees will determine the owner or presumed owner of the encroachment and promptly contact the owner or presumed owner by certified letter. The letter will describe the encroachment, its location in the right of way, the reason for its removal, the location and hours the encroachment can be recovered, any associated cost for removal, and the deadline of thirty days from the date the letter is sent to recover the encroachment.

Encroachments will be stored in the nearest maintenance yard for thirty days from the date the letter is sent.

Maintenance employees will dispose of an unclaimed encroachment not earlier than thirty-one days after regional property management employees send the letter to the owner.

### **Encroachment that is not a safety concern – reporting and notice to owner**

When feasible regional property management employees will send a letter to the owner or presumed owner of the encroachment. The letter will request that the owner remove the encroachment or apply for an encroachment permit. The letter will describe the encroachment, its location in the right of way, the dates during which the owner must remove the encroachment, the location and hours the encroachment can be recovered if the department removes it, how long it will be available for recovery after removal, the removal costs if the department removes it, and the application process for an encroachment permit. (Exception: The letter sent to owners of an advertising sign present in the right-of-way on January 1, 2005 will differ per AS 19.25.105(d)(2).)

### **Encroachment that is not a safety concern – advertising sign located in the right of way - removal**

If the encroachment is an advertising sign, department employees may remove it immediately. (Exception: If the advertising sign was present on January 1, 2005, it will remain, but the regional property manager must follow up and make a determination on subsequent action per AS 19.25.105(d)(2).)

### **Encroachment that is not a safety concern - removal**

After the date for owner removal of an unpermitted encroachment has passed, and if no permit application has been received from the owner, then the regional property management employees will request maintenance employees to remove the encroachment.

The encroachment will be stored in the nearest maintenance yard for thirty days. For encroachments such as major structures that are impractical to haul and store, regional property management employees and maintenance employees will agree on other means of removal. Care will be taken not to trespass on private property.

During the thirty-day storage period, the owner may recover the encroachment by paying the removal cost. The owner should contact the regional property manager for the removal cost amount. Payment is due at the time of recovery.

Maintenance employees will dispose of an unrecovered encroachment not earlier than thirty-one days after removal of the encroachment.

### **Permitting of an unpermitted encroachment**

The owner of an unpermitted encroachment may apply for a permit for the encroachment. The department will, in its discretion, issue a permit for an existing encroachment in accordance with statutory and regulatory language, with the approval of the Federal Highway Administration.

## **AUTHORITY**

19.25.080-250  
17 AAC AS 10.010-10.012  
17 AAC 20.012

## **IMPLEMENTATION RESPONSIBILITY**

Regional directors of maintenance and operations, maintenance and operations employees, regional property managers, regional property management employees.

## **DISTRIBUTION**

All department employees via the DOT&PF website.