

<p style="text-align: center;"><b>OTTAWA COUNTY ROAD COMMISSION</b></p> <p style="text-align: center;"><b>OPERATIONAL POLICY</b> TRAFFIC &amp; SAFETY</p>	<p style="text-align: center;"><b>NUMBER: 10</b></p> <p style="text-align: center;"><b>EFFECTIVE DATE: 08/19/14</b></p> <p style="text-align: center;"><b>REVISION NUMBER:</b></p>
<p><b>SUBJECT: ENCROACHMENTS WITHIN THE RIGHT-OF-WAY</b></p>	

The Ottawa County Road Commission (“Road Commission”) is charged with ensuring that all roadways within its jurisdiction are reasonably safe for public travel. This policy has been developed to effectuate that obligation by providing a uniform procedure that governs the removal of encroachments and obstructions from within a county road right-of-way. The Road Commission is given the authority to administer this policy by Public Act No. 368 of 1925, as amended (MCL 247.171 *et. seq.*).

It is well-established that an encroachment within the county road right-of-way severely impacts the convenience and safety of the motoring public. The removal of any such encroachment promotes public safety, improves the aesthetics of the roadway, and eliminates interference with public and private utilities. For these reasons, it shall heretofore be the policy of the Road Commission to prohibit and, when necessary, remove any and all encroachments from within the county road right-of-way.

For the purposes of this policy, an encroachment is the unauthorized use of the highway right-of-way or easement. An encroachment can consist of any unauthorized object, including, but not limited to, the following: fences, rocks or boulders, trees or shrubs, other vegetation or landscaping, earth work, signs, fences or buildings, recreational equipment, underground sprinkler systems, utilities, and unauthorized mailboxes or posts. Unauthorized mailboxes or posts are those that do not conform to the standards set forth in the Road Commission’s Policy for Installation of Mailboxes.

The Road Commission shall ensure that this encroachment policy is uniformly and fairly administered. However, the Road Commission does not have limitless resources that can be devoted to identifying, assessing, and following up on every encroachment within the county road right-of-way. Therefore, the Road Commission will process only those encroachments that it identifies or are otherwise brought to its attention. Any such encroachments may be subject to removal according to the procedures set forth below.

If the encroachment is loose obstruction such as saw logs, cordwood, dirt or gravel, the procedure outlined in MCL 247.180 and MCL 247.181 shall be followed with adequate notification given to the owner of the material.

In all instances, when removal is necessary, it will be performed at the relevant landowner’s expense.

## REMOVAL PROCEDURE:

Step 1: When an object or obstruction is identified and reported to the Road Commission as an encroachment, information concerning the object and the name, address and phone number of the person reporting the encroachment will be forwarded to the designated staff in the Engineering, Traffic, or Operations Department for action.

Step 2: For routine encroachments, an investigation will be performed within 45 days from the date the encroachment is reported to the designated Road Commission Department to determine if the encroachment can be permitted or if it has to be removed from the road right-of-way. Field measurements and pictures may be taken as part of the investigation. The investigator may obtain the following information:

- Address, including property description, township, and location to crossroads;
- Width of right-of-way;
- Width of the traveled lanes;
- Width and type of shoulder or curb;
- Distance from road centerline to the encroachment;
- Distance from edge of pavement to encroachment;
- Distance from shoulder point or face of curb to encroachment;
- Distance from encroachment to right-of-way line; and,
- Description and measurements of the encroachment.

If the Road Commission determines that an encroachment poses an imminent danger to the motoring public, then the same may be removed by the Road Commission as soon as possible; otherwise the following steps in the procedure will be utilized.

Step 3: Upon completion of the investigation, a certified letter outlining the problem(s) and concern(s) will be mailed to the property owner(s), contractor, or both, giving them 14 days to remove the encroachment or to submit to the Road Commission, in writing, their objection to the removal. A copy of the Road Commission's 14-day letter will be sent by regular mail to the complainant so he/she is informed of the action being taken.

Step 4: If the encroachment is not removed or permitted within the 14 days, the Board of Road Commissioners will consider the issuance of an Encroachment Removal Order requiring the property owner(s) to remove the encroachment within 30 days. If approved, the Order will be sent to the property owner(s) by certified mail.

Step 5: If the encroachment has not been removed from the road right-of-way within the 30 days allowed, the Road Commission will remove the encroachment at the owner's expense. However, if, within the 30-day period, the property owner(s) denies the existence of the encroachment in writing, the Board of Road Commissioners may commence an action of trespass in a Court of appropriate jurisdiction to resolve the

dispute in accordance with the relevant provisions of Michigan law.

Adopted by the Board of County Road Commissioners: August 19, 2014

This policy supersedes and rescinds the previous Encroachments Within the Right-of-Way Policy of January 24, 2013.