

ALCONA COUNTY ROAD COMMISSION POLICY STATEMENT REGARDING ENCROACHMENTS WITHIN COUNTY ROAD RIGHT OF WAYS

PLEASE BE ADVISED that Michigan law provides all County Road Commissions with the legal authority to control public right-of-ways within their jurisdiction. Per MCL 221.20, the statutory width of a Michigan road right-of-way is 66 feet (33 feet on either side of the center line of the road). Road right-of-ways may be wider but are seldom narrower.

A paramount concern for the Alcona County Road Commission (“CRC”) is that the roadways within its jurisdiction are reasonably safe for public travel and suitable for public use. Accordingly, Michigan law prohibits the placement of any object within a county road right-of-way other than traffic control devices, public utilities, and authorized mailboxes that meet the standards of the CRC and the United States Postal Service. **Any non-approved objects, which can include things like fences, gates, drain tiles, landscaping, trees, crops or other vegetation, located within a road right-of-way are considered encroachments.** Therefore, consistent with Michigan law, the CRC may remove any encroachment that interferes with the CRC’s duty to keep roadways reasonably safe for public travel and suitable for public use.

The CRC acknowledges that in many instances there is no intent to jeopardize public safety or interfere with the public’s use of a road. Nevertheless, encroachments on the CRC’s right-of-ways can pose a hazard to the public because they hinder the CRC’s ability to fulfill its statutory obligation to maintain and repair the right-of-ways so that they are reasonably safe for public travel and use. Such concerns include but are not limited to: performing proper maintenance of the roadways; ensuring proper road drainage; permitting adequate space for improvements to the roadways; and, the construction and maintenance of public utilities. Furthermore, certain encroachments have the potential of causing structural damage to the roads, like tree roots, crop roots or fencing that can destabilize the roadbed. Per MCL 230.7, the CRC may recover treble damages equivalent to three times the amount of the injury caused to a public road. Although the CRC strives to resolve all encroachment issues amicably, the CRC will enforce the full effect of this statute if it becomes necessary to do so.

In accordance with the foregoing, please be advised that is the CRC’s policy to immediately remove any encroachments that pose an imminent threat to public safety. Moreover, any encroachments that interfere with the Road Commission’s day-to-day maintenance activities may be destroyed by those activities. The Road Commission assumes no liability for any such losses. Finally, the CRC may order the person responsible for any encroachment to remove the encroachment per MCL 247.171, even if in the Road Commission’s sole judgement such encroachment is not an imminent threat to public safety or is immediately interfering with CRC operations. Upon such an order, the person notified will have 30 days to remove the encroachment. If the notified party fails to remove the encroachment within 30 days, the CRC will take additional enforcement actions, which could include removing the encroachment and billing the violating party for the time and expense in the removal. By statute, any unpaid invoices for encroachment removal are assessed and levied as property taxes upon the adjacent parcel. In addition, the violating party

could be ordered to pay a monetary fine for each day the encroachment remains beyond 30 days from the date of the letter.

Please contact the CRC if you are unsure about whether you have encroached within a county highway right-of-way.

This policy, adopted by the Alcona County Road Commission Board on July 26, 2023 supersedes, replaces and cancels in its entirety any previous past practices regarding encroachments within county right of ways.