

Van Buren County Road Commission

Policy 2021-02

ENCROACHMENTS WITHIN THE COUNTY HIGHWAY RIGHT-OF-WAYS

The Van Buren County Road Commission (VBCRC) has identified numerous encroachments originating from private properties onto county highway right-of-ways. The VBCRC has legal authority to control public right-of-ways within its jurisdiction. Per MCL 221.20, the statutory width of a Michigan highway right-of-way is 66 feet (33 feet on either side of the center line of the road). Highway right-of-ways may be wider but are seldom narrower.

A paramount concern for the VBCRC is that its roadways 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 VBCRC and the United States Postal Service. **Any non-approved objects, which can include things like fences, landscaping, and crops or other vegetation, located within a highway right-of-way are considered encroachments.** Therefore, the VBCRC will remove any encroachment that interferes with the VBCRC's duty to keep roadways reasonably safe for public travel and suitable for public use.

The VBCRC acknowledges that in many instances there is no intent to jeopardize public safety or interfere with the public's use of a highway. Nevertheless, encroachments on VBCRC right-of-ways can pose a hazard to the public because they hinder the VBCRC'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; and permitting adequate space for the construction and maintenance of utilities located within the right-of-way. Furthermore, certain encroachments have the potential of causing structural damage to the roads, like crop roots or fencing that destabilize the roadbed. Per MCL 230.7, the VBCRC may recover treble damages equivalent to three times the amount of the injury caused to a public road. Although the VBCRC strives to resolve all encroachment issues amicably, the VBCRC 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 VBCRC 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 VBCRC may order the person responsible for any encroachment to remove the encroachment per MCL 247.171, even if such encroachment is not immediately interfering with VBCRC 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 VBCRC will take additional enforcement actions, which could include removing the encroachment and billing the violating party for the time and expense in the removal. Any unpaid invoices for encroachment removal are assessed by the township 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.

POLICY ADOPTED: 05-19-21

POLICY AMENDED: 12-12-2024