

COUNTY OF ST. PAUL #19

Policy Number
DEV-103

Title
Undeveloped Road
Allowance Management
Policy

Page 1 of 14

Date Approved

Policy Statement: The Council of the County of St. Paul No. 19 has the direction, control and management of all roads within its boundaries and recognizes that the primary purpose of roads and rights-of-way is to provide public access. Council acknowledges that there are some circumstances where property owners may wish to make an arrangement with respect to an undeveloped road allowance to be used for agricultural purposes. Section 13(1)(o) of the *Traffic Safety Act* authorizes a municipality to issue a license for the temporary use and occupation of a road allowance.

Definitions:

“**Applicant**” shall mean the person or persons applying for the license.

“**Adjacent Landowner**” shall mean the owners of all properties which abut a portion of the road allowance the applicant is applying to license.

“**Chief Administrative Officer**” means the Chief Administrative Officer of the County of St. Paul No. 19.

“**Council**” shall mean the Council of the County of St. Paul No.19

“**County**” shall mean the County of St. Paul No. 19.

“**License Area**” shall mean that portion of an undeveloped road allowance the applicant is proposing to use or occupy.”

“**Licensee**” shall mean the person or persons the license has been granted to.

“**Use or Occupation**” of an undeveloped road allowance shall mean solely for the purposes of grazing livestock, cultivation, privacy and security, or another purpose specified by the proposed licensee and approved by Council. No other activity, whatsoever, will be permitted within the License Area without the written permission of the County of St. Paul and all adjacent landowners.

Guidelines and Procedures:

Licensing:

The use or occupation of an undeveloped road allowance, within the boundaries of the County of St. Paul No.19, requires the acquisition of a license.

In order to apply for a license the applicant must own land adjacent to the portion of the road allowance to be licensed and provide written approval/consent from all adjacent landowners affected by issuance of the proposed license. Additionally, an application form will be required.

The application will be vetted by the Chief Administrative Officer or their designate. The administration will prepare a proposed bylaw allowing the County of St. Paul to license the applicant to use the undeveloped road allowance provided that the applicant owns an adjacent parcel of land, is in good standing with the County, and the road is not required for public vehicle passage.

Council will consider first reading of the bylaw and if in support, will advertise the bylaw for public notice. After consideration of the bylaw, Council may proceed or withdraw the bylaw in accordance with the Municipal Government Act.

The applicant must pay a one-time fee as per the County's Fee Schedule Bylaw to process the application which covers the expense of placing an ad in the local newspaper indicating the applicant's intent to license the road allowance. The applicant will also be responsible for an annual fee to licence the road allowance.

The applicant must demonstrate to Council a willingness to comply with the terms and conditions set out in this Policy, (Schedule A) and have the required consent forms from adjacent landowners completed before the License application will be considered.

The County of St. Paul aims to work cooperatively with ratepayers to limit regulation whenever possible. If an applicant is prepared to enter into an Agreement with the County and abides by all the provisions in this policy and the Agreement, Council will generally grant a license. However, Council does reserve the right to deny a license.

Upon approval, the County of St. Paul will charge the licensee an annual fee based on the calendar year for occupation of the Road Allowance according to the County's Fee Schedule Bylaw, which is reviewed annually in December. Additionally, the licensee must sign an *Undeveloped Road Right-of-Way License Agreement* attached in Schedule B and abide by all the provisions therein. The Agreement, amended periodically, forms part of the contract between the County and the licensee.

The Agreement grants a non-exclusive right of occupation. Any restriction on the public's common law right to access will provide grounds for terminating the License.

Any license to be issued is subject to termination upon thirty (30) days notice as required by Section 13(1)(o) of the *Traffic Safety Act*.

The enclosed **Adjacent Landowner Consent to License an Undeveloped Road**

Allowance, (refer to Schedule A) should be completed by all affected landowners and must accompany application for the license.

Generally, undeveloped road allowances are to be left in their natural state. Council will consider improvements, additions, or alterations on a case-by-case basis.

The licensee shall be responsible for weed control on the road allowance to the satisfaction of the County.

Where the owners or occupiers of the adjacent property to an undeveloped road allowance enter into an arrangement with neighbouring property owners for the location, construction, and maintenance of fences to accommodate the grazing of livestock or other farming practices, the County of St. Paul No. 19 will not require the construction of fences on both sides of the undeveloped road allowance.

Public access must be preserved at all times. A Texas gate or a gate providing continued public access through the licensed area is a mandatory condition of the License. Any gates may not be locked and no signs indicating “private property” or “no trespassing” are permitted to be displayed.

A fencing arrangement between adjacent property owners will only be considered in situations where public access will not be adversely affected.

If the adjacent property owners are unable to come to an agreement on fencing or if there is an objection to the fencing arrangement by the general public, the adjacent property owners who wish to control livestock will be required to remove any fencing located on the road allowance and erect a fence on the property line.

The County of St. Paul No.19 will not become involved in disputes between the neighbours over the location, construction, or maintenance of fences. Residents should contact the Office of the Farmers’ Advocate of Alberta or refer to the *Line Fence Act* and *Stray Animals Act* for guidance in solving disputes.

The County of St. Paul reserves the right to require adjacent property owners to remove any fences that may have been placed within the road rights-of-way. Moreover, the County will not assume responsibility for any costs or losses related to the construction, maintenance, or removal of fences on the rights-of-way.

The County assumes no responsibility or liability for damages to agricultural products (crops, hay or livestock), caused by the public who access the undeveloped road allowance. The adjacent landowner understands that damages may occur to their hay, crops and livestock that may be located upon the road allowance.

Leasing and Disposal of Undeveloped Road Allowances:

The County values the future potential of road allowances and will not sell or lease an undeveloped road allowance under any circumstances.

Schedule A - Adjacent Landowner Consent to License an Undeveloped Road Allowance
(Each adjacent landowner must complete a copy of this form)

I/We _____ am (are) applying to obtain a license to
Full name(s) of applicant(s)

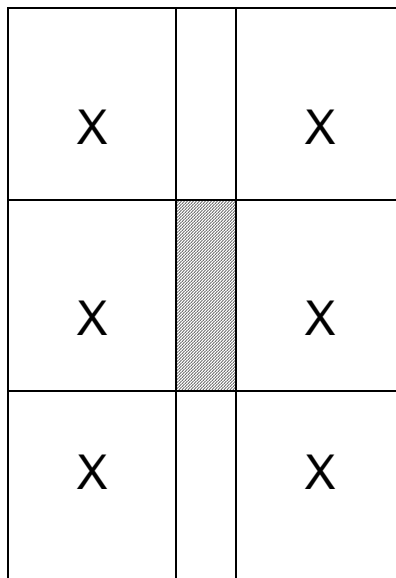
occupy the undeveloped road allowance situated _____
provide legal location

for the sole purpose of _____
Describe in detail the intended use

In order to undertake the above stated activity, I/We intend to make the following
 improvements to the undeveloped road allowance described herein: _____
Detail the improvements

The application for a license to occupy an undeveloped road allowance requires that I obtain consent from all adjacent landowners abutting the proposed license area.

“Abutting” means any property (indicated by “X”) touching the road allowance which is to be occupied, unless it is separated by another road allowance.



CONSENT:

Having been informed of the proposed license application, I _____
Name of landowner

Owner of _____ have no objection to _____
Provide legal location *Name of applicant(s)*

applying to license the road allowance abutting my property for the purpose described above.

Signed *Date*

Witness *Date*

CONSENT:

Having been informed of the proposed license application, I _____
Name of landowner

Owner of _____ have no objection to _____
Provide legal location *Name of applicant(s)*

applying to license the road allowance abutting my property for the purpose described above.

Signed *Date*

Witness *Date*

CONSENT:

Having been informed of the proposed license application, I _____
Name of landowner

Owner of _____ have no objection to _____
Provide legal location *Name of applicant(s)*

applying to license the road allowance abutting my property for the purpose described above.

Signed *Date*

Witness *Date*

CONSENT:

Having been informed of the proposed license application, I _____
Name of landowner

Owner of _____ have no objection to _____
Provide legal location *Name of applicant(s)*

applying to license the road allowance abutting my property for the purpose described above.

Signed *Date*

Witness *Date*

CONSENT:

Having been informed of the proposed license application, I _____
Name of landowner

Owner of _____ have no objection to _____
Provide legal location *Name of applicant(s)*

applying to license the road allowance abutting my property for the purpose described above.

Signed *Date*

Witness *Date*

CONSENT:

Having been informed of the proposed license application, I _____
Name of landowner

Owner of _____ have no objection to _____
Provide legal location *Name of applicant(s)*

applying to license the road allowance abutting my property for the purpose described above.

Signed *Date*

Witness *Date*

**SCHEDULE B
UNDEVELOPED ROAD RIGHT-OF-WAY LICENSE AGREEMENT**

THIS AGREEMENT made this _____ day of _____, 20__.

BETWEEN:

THE COUNTY OF ST. PAUL NO. 19,
a municipal corporation pursuant to
the laws of the Province of Alberta
(Hereinafter referred to as the "County")

OF THE FIRST PART

- and -

of the County of St. Paul No. 19,
in the Province of Alberta
(Hereinafter referred to as the "Licensee")

OF THE SECOND PART

WHEREAS the County has the control and management of roads within the municipality;

AND WHEREAS, the Licensee desires to license a portion of Road Right-of-Way from the County under the terms and conditions contained herein such Road Right-of-Way described as that portion of road allowance located between

(Hereinafter referred to as the "Road Right-of-Way");

AND WHEREAS that portion of the Road Right-of-Way is not developed and the County is prepared to grant the Licensee a license for the temporary occupation or use of that portion of the Road Right-of-Way under the terms and conditions contained herein;

NOW THEREFORE this Agreement witnesses that in consideration of the premises, covenants, conditions and terms contained herein, the parties hereto agree as follows:

- 1) That the County does hereby, in consideration of the payments hereinafter specified, and in consideration of the covenants and conditions herein contained, grant permission to the Licensee, its agents, employees and contractors to use, enter upon and occupy, for the purposes hereinafter specified, that portion of the Road Right-of-Way shown outlined in red on Schedule "A" attached (hereinafter referred to as the "License Area").

- 2) The Licensee must clearly state the intended use of the road allowance and any improvements, additions, or alterations, which may be required to accommodate this use such as brushing or the construction of a fence. The licensee agrees to utilize the land for one of the following purposes as approved by County Council and the Licensee shall not cause or permit any other activity whatsoever within the License Area.

 Grazing
 Cultivation
 Other (Please Specify) _____

- 3) All improvements, additions, and alterations must be constructed according to specifications determined by the County. The maintenance of these improvements, additions and alterations is the sole responsibility of the licensee.

- 4) The term of the license granted herein shall commence on the 1st day of _____, 20____, and shall continue until terminated as hereinafter provided.

- 5) In consideration of the rights herein conferred upon the Licensee, the Licensee shall pay to the County the following amount at the following times:

- 6) An annual fee as per the Fee Schedule Bylaw is payable on January 1st of each year during the life of this Agreement.

- 7) The rights conferred upon the Licensee by this Agreement are only personal in nature and shall not be construed as covenants running with the land and, as nothing in this Agreement confers upon the Licensee any legal or equitable estate whatsoever in the lands within the License Area, the Licensee shall not register in the Land Titles Office any instrument whatsoever which claims any interest, legal or equitable, in the lands within the License Area.

- 8) The Licensee must permit public access at all time. Failure to permit public access of a municipal road will result in termination of the license.

- 9) The road allowance must be maintained to the satisfaction of the County of St. Paul No. 19. All debris created during the occupation of the road allowance must

be removed within a reasonable period of time to be determined by the Chief Administrative Officer or their designate.

- 10) Public access must be preserved at all times. The Licensee is not permitted to restrict access for any reason. In the event that Council approves a gate or Texas gate, public access must be preserved and no signs discouraging access such as "private property" or "no trespassing" will be permitted.
- 11) The Licensee shall not install or erect any trees, shrubs, landscaping, buildings, improvements or structures on the License Area, without approval of the County. If the County permits the Licensee to install or erect any trees, shrubs, landscaping, buildings, improvements or structures, the same are to be constructed in a workmanlike manner so as to minimize damage to the License Area, and the Licensee shall, after any such work, restore the License area to a level and condition equivalent to that which existed prior to the commencement of any such construction and the existing grading running north to south, on the length of the Road Right-of-Way shall not be altered or obstructed by any such construction.
- 12) The licensee shall abide by all laws, by-laws, legislative, and regulatory requirements of any government relating to the use and occupation of the license area.
- 13) During the term of this license, the Licensee shall at his own expense maintain and keep the License Area in good, safe and reasonable repair and condition.
- 14) The County of St. Paul reserves the right to occupy and use the License Area in any manner whatsoever, provided that the County shall not unreasonably interfere with the activities permitted to a Licensee. These include, but are not limited to, access of third parties for the installation of underground or above ground utility lines, pipeline facilities, transmission lines, and drainage swells.
- 15) In the event that the County deems it necessary or appropriate to cause or allow third parties to construct or install permanent underground or above-ground utility lines, pipelines facilities, transmission lines and drainage wells which will cross the License Area, or to perform such other work upon the License Area as may be deemed necessary in the sole discretion of the County, the Licensee shall in no way interfere or hinder the construction, installation, repair or maintenance undertaken by the County or any person to whom the County has granted such permission, and further, the Licensee shall forthwith, upon the request of the County, execute such further documentation as deemed appropriate in the sole discretion of the County for the purposes of expediting or permitting the construction or installation of permanent underground or above ground utility lines, pipeline facilities, transmission lines and drainage swells or other such work within the License Area by the County or the nominee of the County.

- 16) The Licensee shall carry liability insurance as follows:
 - comprehensive general liability insurance with insurable limits of no less than TWO MILLION (\$2,000,000.00) DOLLARS for each occurrence or incident;
 - such insurance shall name the County as an insured party, and shall contain a waiver of subrogation against the County;
- 17) The Licensee shall provide proof of such insurance to the satisfaction of the Chief Administrative Officer or their designate upon request.
- 18) The Licensee is responsible for any claims, demands, suits, proceedings, or actions whatsoever that may be brought against the County due to the actions of the Licensee.
- 19) The Licensee, by performing and observing the covenants and conditions contained herein, shall be entitled to peaceably exercise the rights herein granted to the Licensee without any reasonable hindrance, molestation or interruption from the County.
- 20) The Licensee shall not, without the prior written consent of the County, assign either in whole or in part any of the rights herein conferred upon the Licensee.
- 21) If, in the opinion of the County, the Licensee undertakes or permits any activity whatsoever within the License Area which may be a nuisance or cause damage, or in the event that the County is of the opinion that the Licensee has undertaken or permitted any activity whatsoever which is inconsistent with the terms hereof, then the County, in its absolute discretion may:
 - (a) Give the Licensee fourteen (14) days to rectify or remedy any such nuisance or improper activity, and failing the Licensee remedying or rectifying such nuisance or improper activity, the license and the rights herein conferred upon the Licensee shall terminate and the Licensee shall forthwith vacate the License Area;
 - or
 - (b) Give the Licensee notice of immediate termination of the license and the rights herein conferred upon the Licensee and the Licensee shall forthwith vacate the License Area.
- 22) Notwithstanding anything to the contrary contained herein, the County shall have the absolute right and privilege to terminate the license herein granted (together with all rights contained herein or ancillary thereto) upon the County providing to the Licensee thirty (30) days written notice of such termination.

- 23) Upon termination of the License, the Licensee is required to restore the Road Allowance to its former condition, to the satisfaction of the Chief Administrative Officer or their designate. All improvements, additions, or alterations must be removed.
- 24) Similarly, the Licensee shall have the right to terminate this license upon providing to the County thirty (30) days written notice of such termination.
- 25) Any notice to be given by one party to the other shall be in writing and shall be delivered personally or mailed by prepaid registered mail to the other party at the address shown below. Notice given in any such manner shall be deemed to have been received by the party on the day of delivery or upon the seventh (7th) day after the day of mailing, providing that normal postal services are in existence at the time of mailing and for seven (7) days thereafter.

Notice shall be given:

To the County at: 5015 - 49 Avenue
St. Paul, AB T0A 3A4

To the Licensee at: _____

Any party to this Agreement may change its address for service from time to time upon notice to that effect. In the event of disruption of normal postal service, any party giving notice hereunder shall be required to have such notice personally delivered.

- 26) If the Licensee fails or neglects to restore the License Area or fails to remove any and all property of the Licensee from the License Area within thirty days of the termination of this license, the County shall have the right, but not the obligation, to take such action as is reasonably necessary in the sole discretion of the County to remove all property of the Licensee from the License Area and to restore the License Area to a level and condition equivalent to that which existed prior to the commencement of this license. The County shall not be responsible for any loss or damage, however caused, to any property of the Licensee hereby removed from the License Area and the Licensee shall compensate the County its servants, contractors or agents pursuant to this clause. Any cost incurred by the County pursuant to this clause shall be a debt due and owing by the Licensee.
- 27) The Licensee shall not construct any fencing on the License Area unless prior approval of the County is first obtained and if the County permits the Licensee to construct any fencing on the License area, such fencing shall be constructed according to the specifications determined by the County including any specifications requiring of providing for the construction of gates. If the Licensee is

permitted to erect any fencing on the License Area, the fencing is to be considered the sole property of the Licensee and is to be repaired and maintained solely by the Licensee.

- 28) The Licensee shall provide the County prompt written notice of any accident, damage or injury occurring on the License Area however caused.
- 29) The Licensee shall at all times hereafter indemnify and hold harmless the County against all actions, claims, demand, suits or proceedings whatsoever that may be lawfully brought or made against the County by reason of anything done by the Licensee, its agents, employees, invitees or contractors, whether or not such things are done in the exercise or purported exercise of the rights herein conferred upon the Licensee.
- 30) The Licensee shall compensate the County for all damage to County property arising out of the activities of the Licensee on or adjacent to the License Area, whether or not such activities are in the pursuance of the rights herein granted to the Licensee.
- 31) All property of the Licensee which may hereafter be located on, under, over or adjacent to the License Area shall be at the sole risk of the Licensee and the County shall not be liable for any loss or damage thereto howsoever occurring and the licensee hereby releases the County from all action, claims, demands, suits or proceedings whatsoever in respect of any such loss or damage except and to the extent of which such loss or damage is caused by the negligence of the County its servants or agents.
- 32) The total rights secured by the license are only such rights as are specified herein and the Licensee hereby acknowledges and agrees that the County has made no representations, warranties, promises or agreements, either express or implied, beyond those contained herein.
- 33) This license shall be binding upon the parties hereto, their executors, administrators and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

SIGNED, SEALED AND DELIVERED

In the presence of:

Witness

COUNTY OF ST. PAUL NO. 19

Per: _____
Reeve

Per: _____
Chief Administrative Office

AFFIDAVIT OF EXECUTION

CANADA)	I, _____
)	
PROVINCE OF ALBERTA)	OF THE _____ OF _____,
)	
TO WIT:)	IN THE PROVINCE OF ALBERTA,
)	
)	MAKE OATH AND SAY:

1. That I was personally present and did see _____ named in the annexed instrument who is/are personally known to me to be the person(s) named therein, duly sign and execute the same for the purpose named therein.
2. That the same was executed at the _____ of _____, in the Province of Alberta, and that I am the subscribing witness thereto.
3. That I know the said _____ and he/she/they is/are in my belief of the full age of 18 years.

SWORN BEFORE ME at the _____)	
)	
of _____, in the Province of)	
)	
Alberta, this ___ day of _____, 20__)	_____
)	
)	
_____)	
A COMMISSIONER FOR OATHS IN AND)	
FOR THE PROVINCE OF ALBERTA)	