



Policy # 6304

1408 Twp. Rd. 320 / Postal Bag 100, Didsbury, AB Canada TOM 0W0
T 403.335.3311 F 403.335.9207 Toll Free 1.877.264.9754
www.mountainviewcounty.com

Policy Title: Undeveloped Road Allowance Management

Policy No.: 6304

Approval: County Council

Effective Date: April 23, 2014

Approval Date: April 23, 2014

Amended Date: November 28, 2018

Amended Date: June 3, 2020

Supersedes Policy No.: Section F(8)

Policy Statement: Mountain View County may licence the use, or permit the restriction of use, of an undeveloped road allowance.

Purpose: Mountain View County supports the agricultural use of undeveloped road allowances where there is a mutual benefit to the County and adjacent landowners. Further, Mountain View County supports restricting access of an undeveloped road allowance in instances that would minimize illegal activity, minimize environmental impact or eliminate a nuisance at the discretion of the Chief Administrative Officer.

- Principles:**
1. Under the *Alberta Traffic Safety Act*, the municipality may issue a licence for the temporary occupation or use of an undeveloped road allowance.
 2. Under the *Municipal Government Act*, a municipality has the direction, control and management of all roads within the municipality.
 3. Under the *Forests Act*, the Minister will administer and manage standing timber and removal of timber in undeveloped road allowances.
 4. Undeveloped Road Allowance Licenses must not have a negative impact on adjacent landowners requiring access to affected Property.
 5. In the interest of the public for the general benefit of the area Council may approve undeveloped road allowance improvements.



Procedure Title: Undeveloped Road Allowance Management

Procedure No.: 6304-01

Approval: CAO

Effective Date: April 23, 2014
Approval Date: April 23, 2014
Amended Date: November 28, 2018
Amended Date: April 24, 2019
Amended Date: June 3, 2020

Supersedes Procedure No.: Section F (8)

1. Undeveloped Road Allowances

- 1.1 Undeveloped road allowances are surveyed road allowances that were not developed or were previously used but no longer maintained to municipal road standards.
- 1.2 Undeveloped road allowances will be left in a natural state.

2. Undeveloped Road Allowance Licence

- 2.1 An Undeveloped Road Allowance Licence is required for use of the road allowance for agricultural purpose.
- 2.2 The Undeveloped Road Allowance Licence does not supersede the *Alberta Traffic Safety Act* or the *Mountain View County General Traffic Bylaw*.
- 2.3 Licences are issued subject to continued use of the road allowance by such agencies as may be permitted by present and future legislation.
- 2.4 Licences are subject to cancellation upon thirty (30) days written notice by the County or the Minister of Transportation and Utilities, or the Licensee.
- 2.5 Licences are issued for a period not exceeding three years. A licence entered into part way through a year will be considered as a full year and will be charged the full year fee.
- 2.6 Licences may be renewed by Administration for a further three-year period at the expiry of a licence period.
- 2.7 Mountain View County retains the right of entry and control including the right and privilege of cutting or spraying any portion of the road allowance for the purpose of weed control, or for any other purpose at any time in the areas for which this Licence has been issued.
- 2.8 The placement of buildings or storage of equipment is strictly prohibited.
- 2.9 The Undeveloped Road Allowance Licence does not permit tree clearing.

3. Undeveloped Road Allowance Licensee

- 3.1 Only landowners adjacent to the undeveloped road allowance may be licenced to use the road allowance.
- 3.2 In consideration of the County's granting the licence the Licensee agrees to indemnify and save harmless Mountain View County of and from any claims or demands arising from the operations on the right of way.
- 3.3 The Licensee shall, at its sole expense, obtain and maintain comprehensive general liability insurance throughout the term of the Licence.
- 3.4 The Licensee shall be responsible for weed control on the right-of-way to the satisfaction of the County.
- 3.5 The Licensee shall not have the right to sublet any portion of the Licence.

4. Application for an Undeveloped Road Allowance Licence

- 4.1 An application must be filled out for the request to use an undeveloped road allowance, jointly signed by both adjoining landowners. The application must identify the following.
 - 4.1.1 Which landowner will be the holder of the Licence, clearly outlining the use of the road allowance, and the other adjoining landowner's consent;
 - 4.1.2 Agreement to conditions of the Undeveloped Road Allowance Policy, Procedure and Licence;
 - 4.1.3 Identifying any gates or cattle guards that will be erected across the Undeveloped Road Allowance;
 - 4.1.4 Mutual agreement with adjoining landowner for shared use, repair and costs of the perimeter fence as per the Line Fence Act.
- 4.2 A copy of the application will be forwarded to the local Councillor for comment.
- 4.3 If the application is acceptable, an Undeveloped Road Allowance Licence Agreement will be entered into by the County and the applicant/landowner.
- 4.4 Payment of the Licence fee must be received prior to granting a Licence agreement.
- 4.5 Licence fees will be charged at a rate in the Mountain View County Fee Schedule Bylaw.

5. Multiple Requests for an Undeveloped Road Allowance Licence

- 5.1 When both adjacent landowners are requesting use of the undeveloped road allowance, the road allowance may be divided between the two adjacent landowners, the following procedures shall apply:
 - 5.1.1 The application form will be forwarded to the County and jointly signed by both adjoining landowners advising the County as to which landowner will be responsible for placing the fence and how the costs will be shared;
 - 5.1.2 One of the adjacent landowners shall notify the County when a mutually accepted fence has been constructed;
 - 5.1.3 All costs associated with the fence, including any survey costs, will be paid for by the adjacent landowners;

5.1.4 In the event that the fence needs to be replaced at some future point due to road construction, the fence will be removed by the County and will be replaced as per County policy on both sides of the road.

5.2 When adjacent landowners cannot agree as to who should receive or the sharing of the Licence, the road allowance will not be Licenced and neither party will be granted Licenced use.

6. Restricting Access of a Licenced Undeveloped Road Allowance

6.1 With the written consent of all affected adjacent landowners to an Undeveloped Road Allowance, Licenced road allowances may be gated and locked so as to prevent vehicle access, provided there are no valid public complaints or safety concerns.

6.2 If renewing an Undeveloped Road Allowance Licence with restricted access, the Licensee must provide written consent from all affected adjacent landowners.

7. Restricting Access of an Undeveloped Road Allowance for Other Purposes

7.1 A request to restrict the use of the undeveloped road allowance, in instances that would minimize illegal activity, minimize environmental impact or eliminate a nuisance, may be made when the road allowance is not required for access and is not being utilized for agricultural use.

7.2 The request must be made in writing to the Chief Administrative Officer identifying the necessity for restricting access and include written consent from all affected adjacent landowners. The Chief Administrative Officer shall have final authority as to the decision to restrict access to the Undeveloped Road Allowance.

7.3 The County shall maintain the final authority to revoke any approvals at anytime including the removal of any locks or barricades without notice to the landowner(s).

8. Permanently Closing an Undeveloped Road Allowance

8.1 A request to permanently close an undeveloped road allowance or road in accordance with Section 22 of the *Municipal Government Act* shall be submitted to the Chief Administrative Officer, including the applicable fee as outlined in Mountain View County's Rates and Fees Bylaw, identifying the need and justification for the closure.

8.1.1 The Chief Administrative Officer will have the final authority as to the decision to proceed with a Road Closure under Section 22 of the *Municipal Government Act* which requires the preparation of a Bylaw for Council consideration and notification of affected persons and Alberta Transportation.

8.2 A request to permanently close an undeveloped road allowance or road described in a surveyed road plan in accordance with Section 24 of the *Municipal Government Act* shall be submitted to the Chief Administrative Officer identifying the need and justification for the closure.

8.2.1 This process shall be used for roads that are no longer required for use by the travelling public due to the existence of an alternate route.

8.3 The Chief Administrative Officer will have the full authority as to the decision to proceed with a Road Closure under Section 24 of the *Municipal Government Act* which requires the passing of a resolution by Council and final approval by the Minister of Transportation.

9.0 Undeveloped Road Allowance Maintenance / Improvements

- 9.1 It is the intent of the County to leave Undeveloped Road Allowances in a natural state with the same access potential as historically provided to preserve and support the existing agricultural operations of the adjacent land. In the event that the Undeveloped Road Allowance requires minor maintenance including the placement of gravel to restore the access back to its historical access capability, an application can be made to the County for consideration.
- 9.1.1 The Director of Operations, in consultation with the local area Councillor, may provide maintenance to restore the access back to its historical natural state up to a maximum of \$1,000.00 per Undeveloped Road Allowance.
- 9.2 In the event that the landowner requires increased access to adjacent lands that would increase the service level of the Undeveloped Road Allowance and improve the natural state, the landowner shall be required to upgrade the road allowance in accordance with Mountain View County's Construction on Undeveloped Road Allowance Policy.
- 9.3 Mountain View County may develop or improve an Undeveloped Road Allowance, when it is identified to support the public need, with Council approval.

10.0 Undeveloped Road Allowance Tree Clearing Requests

- 10.1 All tree and brush clearing requests will be addressed through the Alberta *Forest Act*.
- 10.2 If a permit is granted through the Government of Alberta, the permittee is responsible for all liability and expense for the clearing process.
- 10.3 No liability or expense will be assumed by Mountain View County.
- 10.4 All trees and brush cleared cannot be piled or stored on the Undeveloped Road Allowance.
- 10.5 No grading, cutting or filling of the Undeveloped Road Allowance surface is permitted.
- 10.6 If equipment is required for the tree and brush removal, a written request for equipment entry permission is required from Mountain View County.
- 10.7 A copy of the request will be forwarded to the local Councillor for information.

11. Complaints

- 11.1 Complaints received regarding access to affected properties along an undeveloped road allowance where a Licence has been issued will be resolved through the Licensee, if an agreement with adjacent affected landowners cannot be reached the Undeveloped Road Allowance Licence may be revoked.
- 11.2 If the licensee does not adhere to the terms of the Undeveloped Road Allowance Licence the Licence may be revoked and could be subject to fines under the General Traffic Bylaw.