

Policy

Title: CLOSURES, LEASING and LICENSING OF SURPLUS MUNICIPAL ROADS
Policy Number: PD-61-05
Effective Date: June 12, 2024
Resolution: 301-24
Department Responsible: Planning & Development
Supersedes Policy No: H9
Next Review Date: June 12, 2027

POLICY STATEMENT:

Under the authority of the Municipal Government Act, RSA 2000, c M-26, the Municipal District of Lesser Slave River No. 124 has the jurisdiction to direct, control, and manage all roads within the municipality. Council strives to ensure that these roads are maintained through effective transportation networks for its residents, businesses, and industries. The MDLSR understands that there can be advantages to using the land located within non-essential Road Allowances or road plans through road closures if it does not cause significant negative effects to neighboring landowners or MDLSR infrastructure needs. The benefits that may arise from these requests can aid in the generation of revenue to increase fiscal sustainability, aid in creating a safe and prosperous community as well as promote effective land use management.

DEFINITIONS:

“Adjacent Land” means land that is next to or adjoining to the Undeveloped Road Allowance.

“Adjacent Landowner” means the registered landowner(s) of the parcels directly adjacent to the road or undeveloped road allowance.

“Assessor” means a registered land appraiser and or the MDLSR’s Tax Assessor, as defined in the Municipal Government Act, who will determine what Fair Market Value shall be. A realtor may also be used to determine the rate.

“Council” means the duly elected members of the Municipal Council of the Municipal District of Lesser Slave River.

“Consolidation” means the process of combining more than one Certificate of Title(s) into a single Certificate of Title.

“Disposal” means the process of reutilizing, transferring, donating, selling, or other dispositions of MDLSR-owned Assets.

“Fair Market Value (FMV)” means a purchase rate based on a professionally prepared market value assessment to determine a fair market rate for the subject lands.

“**Lessee**” means a person(s) to whom an exclusive lease agreement is granted for a determined use.

“**Licence of Occupation Agreement**” means a temporary agreement whereby a person(s) or business(s) is granted the right to use land owned by or under the direction, control, and management of the MDLSR for certain purposes without becoming entitled to exclusive possession of them.

“**Licence of Occupation**” means a Licence of Occupation Agreement for the use of land for an access road, pasturing, grazing, watering of livestock, encroachment of fences, and any other similar uses approved by Council.

“**Licensee**” means the person(s), business, or corporation to whom the non-exclusive Licence of Occupation Agreement has been granted or issued for a determined use.

“**MGA**” means the Municipal Government Act, RSA 2000, c M-26.

“**MDLSR**” means the Municipal District of Lesser Slave River No. 124 having jurisdiction under the Municipal Government Act and other applicable legislation.

“**MDLSR Owned Land**” means all land registered in the name of the Municipal District of Lesser Slave River No. 124 and land that is under the direction, control and/or management of the MDLSR. This may include parcels of land designed as Municipal Reserve (MR), Environmental Reserve (ER), Reserve (R), School Reserve (SR), Public Utility lots, and Road Allowances, as well as easements and rights-of-way registered in the MDLSR's name across privately owned land.

“**Natural Vegetation**” means vegetation existing on-site prior to the issuance of the licence.

“**Public Hearing**” means a hearing held in accordance with section 30 of the MGA and advertised in accordance with section 606 of the Municipal Government Act.

“**Public Lands**” means a parcel of land not privately owned, held by the federal, provincial, or municipal government Land, and including Road Allowances.

“**Public Travel**” means any travel on the Road Allowance by the general public, excluding the Lessee, Licensee, or owner, and includes all modes of travel with the exception of foot access. Examples of modes of Public Travel may include but are not limited to horseback, bicycle, vehicle, machinery, or equipment.

“**Road**” as defined in the Municipal Government Act, RSA 2000, c M-26.

“**Surplus Roads**” means roads within the MDLSR that are not required for Public Travel and are considered non-essential in the overall context of the MDLSR. Surplus Roads largely consist of undeveloped Road Allowances, road rights-of-way, and/or service roads but may also be surveyed roads that are not required due to the existence of an alternate route.



“Undeveloped Road Allowance” means any land dedicated as a road right-of-way that has not been fully developed. The right-of-way may or may not be shown as a road on a plan of survey that has been filed or registered in a land titles office.

PRINCIPLE:

The following general uses are acceptable to occur within a road allowance, in this priority order:

A) Permanent Road or Temporary Road/Trail

The primary purpose of a road allowance is to allow for the movement of goods and people and provide access to property. If expansion of the MDLSR’s Road network is required and serves this municipal purpose, permission will be granted to undertake the required work (subject to additional conditions within this, and other MDLSR policies and bylaws).

B) Treed Shelterbelt

If a road allowance is not required to form part of the municipal road network, the intent is for road allowances to remain treed in order to create windbreaks and regulate drainage flow rates. If the existing trees on a road allowance are older and likely to create an ongoing safety and maintenance challenge, it is acceptable to clear the offending trees. No stumping or other disturbance of the topsoil is permitted.

C) Animal Grazing

The road allowance may be utilized for grazing purposes if adjacent to existing pasture lands, but the road allowance shall remain primarily treed.

D) Sale of Road Allowance

The sale of road allowances will be considered on a case-by-case basis but is a practice that will generally be discouraged.

CLOSURE OF ROADS

The Municipal District of Lesser Slave River No. 124 strives to maintain and utilize its land interest to its highest and best use. This includes Road Allowances within its jurisdiction. Roads within the MDLSR may be considered surplus if they are non-essential (not required for Public Travel) or undeveloped due to changes to existing operational requirements or no anticipated future MDLSR expansions. If an undeveloped road allowance is not needed for road(s) or other municipal purposes it may be licenced to an adjacent landowner.

1. **MDLSR does not promote the sale of undeveloped road allowances or road plans**, however, will consider it in extenuating circumstances.



2. Considering roads as surplus will be reviewed in the context of all regulatory documents, including but not limited to the Municipal Development Plan, Area Structure Plan(s), Intermunicipal Development Plans, and the Municipal Rural Roads Study.
3. Roads may not be considered Surplus if a road closure or exclusivity agreement would restrict the public's reasonable access to Public Lands or would cause a parcel of land to become landlocked, removing legal access. (This would include access to lands that are identified as intended for agricultural sale in provincial plans.)
4. Council may consider the following requests on Surplus Roads:
 - a) Road Closure for the purpose of Disposal.
 - b) Road Closure for the purpose of Leasing.
 - c) Licensing of an undeveloped Road Allowance/Right-of-Way.
5. All proposals are required to outline the reasoning for the request and will be evaluated based on current municipal objectives, bylaws, and procedures as well as applicable Provincial legislation.
6. Fair Market Value (FMV) shall be determined by the Assessor on the purchase rates for the area of the land. This amount is based on similar and comparable uses and land in the area. The rate shall be agreed upon prior to the bylaw (for road closure) receiving first reading. The applicant may apply to purchase a road or undeveloped road allowance, or a portion thereof at FMV if the road or undeveloped road allowance sever the applicant's property and where the applicant has land on both sides of the road and/or undeveloped road allowance, only that landowner will have the ability to apply to purchase the lands. If the landowner does not wish to purchase the area at FMV, the land will not be sold, and the MDLRS will keep the land in its name and may lease it to the applicant. When an applicant wishes to purchase a road or undeveloped road allowance, or a portion thereof that adjoins property owned by two or more landowners, the municipality will offer the lands to the highest bidder, but not less than the current FMV, if there is only one bidder, the land will be sold at FMV.
7. If the intent of a road closure is for Disposal purposes, it must be consolidated into an adjacent property with the landowner bearing all costs of the consolidation and the purchase of the lands.

DISPUTES

If the applicant(s) do not agree with the FMV rate as determined by the Assessor, the applicant may wish to hire their own professional to provide an alternate FMV rate. If both assessments are different, Council will decide on which rate to apply.

If two or more bidders offer the same purchase price, Council may choose to split the area and sell a portion to each bidder or may choose not to sell the lands and re-tender the sale.

The road closure process shall be in accordance with the requirements set out in the MGA.



The purchaser will be required to pay all costs associated with the road closure. This may include but is not limited to the cost of obtaining a land appraisal, surveying costs, registration costs, and legal fees.

LEASING OF UNDEVELOPED ROAD ALLOWANCES

The Municipal District of Lesser Slave River No. 125 acknowledges that leasing an undeveloped road allowance may be necessary. However, such leasing can only be considered if it meets policy criteria or is needed temporarily due to an emergency or special circumstance.

1. An application for leasing an undeveloped road allowance does not qualify as a special circumstance if the reason for the lease includes, but is not limited to:
 - Addressing an encroachment upon a road allowance where an application for an encroachment agreement would be required;
 - A situation where an adjacent landowner does not want to fence both sides of the road allowance because it is less expensive to fence off the right-of-way;
 - Addressing privacy issues.
2. The road allowance shall not be an integral part of the MDLSR road network, as deemed by the CAO and/or designate and the Municipal Rural Roads Studies.
3. The road allowance must not prevent current public access for any purpose including recreational pursuits such as walking, skiing, hunting, and/or recreational vehicle use. **Any gated lease areas must be unlocked at all times.** Should a lock be placed, this may be cause for an immediate cancellation of the Lease.
4. The road allowance shall maintain access to Crown leases or licenses of occupation, or privately held lands without road access.
5. An applicant must own, lease, or rent the land on both sides of the road allowance being applied for.
6. A lease for an undeveloped road allowance will have a maximum duration of six (6) months. Should there be a need for a longer period, a Licence of Occupation will be granted.
7. Despite the arguments for a special case, the Administration can choose to provide a short-term lease, up to a maximum of three (3) months, to handle an emergency situation (for example, to secure lands during a pipeline break restoration) or agricultural emergencies (such as severe drought conditions where usual water sources have dried up and livestock can be watered using the road allowance).



7. For such a temporary emergency or agricultural emergency circumstance, Administration will advertise its decision in two successive newspapers that service the MDLSR, and the lease fee shall be waived. Administration may use its discretion to renew such a lease should the emergency conditions persist.

LICENCE OF OCCUPATION

The Municipal District of Lesser Slave River No. 124 recognizes that under certain circumstances, it can be advantageous to allow ratepayers the opportunity to utilize undeveloped road allowances for agricultural purposes.

1. A Licence of Occupation is required for the use of the road allowance for agricultural purposes. The licence holder will be required to enter into an agreement with the MDLSR.
2. Requests for Licences of Occupation beyond the scope of agricultural purposes may be approved at the discretion of the Council and must not be for a use that would conflict with surrounding properties.
3. A Licence of Occupation grants the holder non-exclusive access to the road allowance. Reasonable access, generally providing for foot access, shall be provided at all times. If there are existing quad trails, access shall remain when the road allowance leads to Crown Land. **Any gated Licence of Occupation areas must be unlocked at all times.** Should a lock be placed, this may be cause for an immediate cancellation of the Licence of Occupation.
4. A licence applies to a continuous piece of undeveloped road allowance abutting the licence holder's property or properties, or until the road allowance meets developed infrastructure.
5. The licence holder shall own property, hold a long-term lease or legal agreement on both sides of the portion of the road allowance for which the licence is being sought, with the signed consent of landowners on those properties. The licence will apply to the portion of the undeveloped road allowance abutting the licence holder's property.
6. All applications for licencing of the undeveloped road allowance shall be made on the form as determined by the MDLSR and shall be accompanied by the applicable fee, as per the MDLSR's Schedule of Fees Bylaw.
7. All Licence of Occupation approvals will be advertised according to the Advertising policy/bylaw.
8. The Licence of Occupation does not supersede the Alberta Traffic Safety Act.



9. The licence does not grant the holder the right to clear natural vegetation, including timber, on the road allowance. Any request to clear natural vegetation on the road allowance shall be submitted to and approved by Alberta Environment & Parks (AEP). Confirmation of AEP approval for the clearing of natural vegetation shall be submitted to the MDLSR prior to any work commencing.
10. The unapproved removal of natural vegetation shall result in the cancellation of all road allowance licences with the MDLSR.
11. No work, development, improvement, or change to the condition of the Undeveloped Road Allowance is permitted without prior written authorization from the MDLSR. No buildings or structures shall be constructed on the Road Allowance. Fencing will be permitted with prior approval from the MDLSR. The Undeveloped Road Allowance may only be used for purposes listed in the licence holder's licence, and for no other use. The licence holder may not use the Undeveloped Road Allowance in any other manner without the prior written consent of the MDLSR, which consent may be unreasonably withheld.
12. The MDLSR 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.
13. In issuing a licence, the MDLSR will impose such terms and conditions determined to be necessary or beneficial, including but not limited to:
 - A) The term of the licence shall be up to a maximum of five (5) years;
 - B) Insurance requirements;
 - C) Signage Requirements;
 - D) Whether obstructions such as fences and gates are permissible;
 - E) Weed control; and
 - F) The limitation of the licence holder's access or use.
14. The MDLSR may terminate the licence holder's licence for any reason, including convenience, with thirty (30) days written notice to the licence holder. Refunds will be granted and prorated on a monthly basis.

RESPONSIBILITIES:

RESPONSIBILITIES FOR ROAD CLOSURE

1. Planning & Development will manage the road closure process.
2. As per Section 22 of the MGA, Road Allowance closures will be closed through Bylaw after the completion of a Public Hearing. This Bylaw must receive approval from the Minister of Transportation after First Reading and the Public Hearing.



3. As per Section 24 of the MGA, Council may, by resolution, with the approval of the Minister of Transportation, close the whole or any part of a road described in a surveyed road plan.
4. Upon receipt of the application and payment, administration will proceed with the request in accordance with Alberta Transportation requirements.
5. Fees are as outlined in the Schedule of Fees Bylaw.

RESPONSIBILITIES OF THE LEASEHOLDER

1. Fees for the duration of the lease term will be invoiced on a lump sum basis at the beginning of the applicable term. The fee shall be paid prior to the licence being issued.
2. The leaseholder shall, at its sole expense, obtain and maintain comprehensive general liability insurance of no less than \$2,000,000 throughout the term of the lease. A copy of the current insurance policy shall be submitted to the MDLSR within thirty (30) days of the issuance of the Lease. A copy of the insurance coverage is to be supplied annually to the MDLSR, failure to comply will result in a cancellation of the agreement.
3. The leaseholder shall be responsible for weed control on the undeveloped road allowance to the MDLSR's satisfaction.
4. In consideration of the MDLSR's granting of the lease, the leaseholder agrees to indemnify and save harmless the Municipal District of Lesser Slave River No. 124 of and from any claims or demands arising from the operations on the undeveloped road allowance.
5. The leaseholder shall not have the right to sublet any portion of the lease.
6. The leaseholder will be required to leave any gates that are installed to be **unlocked** to maintain public access along the leased portion of the undeveloped road allowance.
7. The leaseholder shall not use the leased area in such a way as to adversely affect groundwater resources or disturb natural drainage patterns or watercourses unless such measures are necessary to serve a proposed development and receive approval from Alberta Environment and Parks. The MDLSR shall be notified of the approval prior to any work commencing. Additionally, the leaseholder shall not cause stormwater to drain onto adjoining property.
8. Upon termination, the lessee shall, upon the MDLSR's request, remove all equipment, structures, and installations on the road allowance placed for the lessee's purposes. If they are not removed within thirty (30) days of such a request, the MDLSR shall have the right to remove equipment, structures, and installations and the MDLSR shall invoice the licence holder the actual cost relating thereto.

RESPONSIBILITIES OF THE LICENCE HOLDER

1. Fees for the duration of the licence term will be invoiced on a lump sum basis at the beginning of the applicable term. The fee shall be paid prior to the licence being issued.
2. The licence holder shall, at its sole expense, obtain and maintain comprehensive general liability insurance of no less than \$2,000,000 throughout the term of the licence. A copy of the current insurance



- policy shall be submitted to the MDLSR within thirty (30) days of the issuance of the Licence of Occupation. A copy of the insurance coverage is to be supplied annually to the MDLSR, failure to comply will result in a cancellation of the agreement.
3. The licence holder shall be responsible for weed control on the undeveloped road allowance to the MDLSR's satisfaction.
 4. In consideration of the MDLSR's granting of the licence, the licence holder agrees to indemnify and save harmless the Municipal District of Lesser Slave River No. 124 of and from any claims or demands arising from the operations on the undeveloped road allowance.
 5. The licence holder shall not have the right to sublet any portion of the licence.
 6. Licence of Occupation Agreements cannot be passed on to another Licence of Occupation Holder
 9. The licence holder will be required to provide Texas Gate(s), at the licence holder's expense and constructed to Alberta Transportations specifications, in order to maintain public access along the leased portion of the undeveloped road allowance. The leaseholder will be required to leave any gates that are installed to be **unlocked** to maintain public access along the leased portion of the undeveloped road allowance.
 7. The licence holder shall not use the licenced area in such a way as to adversely affect groundwater resources or disturb natural drainage patterns or watercourses unless such measures are necessary to serve a proposed development and receive approval from Alberta Environment and Parks. The MDLSR shall be notified of the approval prior to any work commencing. Additionally, the licence holder shall not cause stormwater to drain onto adjoining property.
 8. Upon termination, the licence holder shall, upon the MDLSR's request, remove all equipment, structures, and installations on the road allowance placed for the licence holder's purposes. If they are not removed within thirty (30) days of such a request, the MDLSR shall have the right to remove equipment, structures, and installations and the MDLSR shall invoice the licence holder the actual cost relating thereto.
 9. Subsequent terms will be subject to application as renewals will not be automatic.
 10. The MDLSR shall provide the initial sign and the licence holder is required to install and maintain the sign in a reasonable condition for the duration of the term.
 11. Replacement signs due to damage or removal will be ordered by the MDLSR upon the licence holder's request and at their expense in accordance with the Schedule of Fees.
 12. Signs shall measure 30cm by 45cm.
 13. Signs shall note the licence number.
 14. Signs shall be located as close to the center as possible of the undeveloped road allowance at the boundary.

The MDLSR will not consider entering into a Licence of Occupation Agreement respecting any use or any activity that **will** negatively MDLSR 's operations or public safety.



Suspensions Of Licence of Occupation Agreements:

- Should the applicant fail to pay the applicable Licence of Occupation fees or if any additional monies owing as a result of an Agreement are in arrears, the Agreement shall be suspended until the monies owed are paid and current.

This policy aligns with all other MDLSR Bylaws, Policies & Procedures

____ Original Signed _____
Chief Administrative Officer
Barry Kolenosky

Date

____ Original Signed _____
Reeve
Murray Kerik

Date

SPECIAL NOTES/CROSS REFERENCE: ADM-12-25 Policy & Procedure Development
PD-61-05.01 Closure, Leasing and Licencing of Municipal Roads
Procedure
Schedule A – Application, Road Closure
Schedule B – Application, Leasing of Undeveloped Road Allowance
Schedule C – Application, Licence of Occupation
Schedule D – Signage
Fees for the Provision of Services Bylaw (As amended from time to time)

AMENDMENT DATE: June 12, 2024

