

The Rural Municipality of Mountain

BY-LAW NO. 15/2020

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF MOUNTAIN TO GOVERN THE USE OF MUNICIPAL ROAD ALLOWANCES.

WHEREAS Section 232(1)(h) of The Municipal Act states as follows:

232(1) A Council may pass by-laws for municipal purposes respecting the following matters:

(b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;

(e) private works on, over, along or under municipal roads;

AND WHEREAS the Council of the Rural Municipality of Mountain deems it expedient and in the best interests of the Municipality to pass a by-law to regulate and control certain aspects of municipal road allowances, whether developed or undeveloped, within the municipality.

THEREFORE BE IT RESOLVED THAT the Council of The Rural Municipality of Mountain, in open meeting assembled, enacts as follows:

1.0 DEFINITIONS

Where used in this By-Law, the following terms shall have the following meaning:

- a) **“Act”** means The Municipal Act;
- b) **“Municipal Road”** means land that has been opened under Section 289 of The Municipal Act, or opened, dedicated or reserved under any other Act, as a road for public use and has not been closed under Section 290 or any other Act, and shall include any street, lane, thoroughfare, walkway, bridge and underpass, but does not include roads defined under the Transportation Infrastructure Act.
- c) **“Municipality”** means the Rural Municipality of Mountain;
- d) **“Person”** means and includes any individual, corporation, partnership, firm, joint venture, syndicate, association or trust, and any other form of entity or organization, and includes both plural and the singular.

2.0 MUNICIPAL ROAD CLASSIFICATIONS AND CONSTRUCTION STANDARDS

The Municipality herein establish the following road classifications. New construction of each classification shall be built to the appropriate construction standards, as follows:

- a) **A Class Roads = Arterial Roads**
An arterial road will be defined as a roadway which experiences significant numbers of heavy trucks and/or passenger vehicle movements per day. The primary function of an arterial road is to deliver traffic from collector roads to main highways.

Standards for construction will include the following:
 - 8 meter (26 feet) Road Surface
 - 3:1 Side Slopes
 - 100 feet (30 meter) Right of Way (whenever possible)
 - Some approach conditions may be applied to minimize the number of approaches on the roadway.
 - Approach culverts shall be a minimum size of 450 mm (18 inch).
 - Center line culverts shall be a minimum size of 600 mm (24 inch).
 - Approaches shall be a minimum of 10 m (32 feet) wide or 15 m (50 feet) wide for joint approaches.

b) B Class Roads = Collector Roads

A collector road will be defined as a roadway which experiences light to moderate traffic loads. Collector roads may provide access to properties for residential, commercial or agricultural purposes, and are usually designed to move traffic to arterial roads.

Standards for construction will include the following:

- 8 meter (26 feet) Road Surface
- 3:1 Side Slopes
- 66 feet (20 meter) Right of Way (whenever possible)
- Road Grade constructed of good quality fill material
- Some approach conditions may be applied to minimize the number of approaches on the roadway.
- Approach culverts shall be a minimum size of 450 mm (18 inch).
- Center line culverts shall be a minimum size of 600 mm (24 inch).
- Approaches shall be a minimum of 10 m (32 feet) wide or 15 m (50 feet) wide for joint approaches.

c) C Class = Agriculture Access Road

An agriculture access road is a dirt, grass or gravel road allowance used to access agriculture land only.

Standards for construction shall include the following:

- 6 meter (20 feet) Road Surface
- Road Grade must be constructed of good quality fill material.
- 3:1 Side Slopes, as conditions permit.
- 66 feet (20 meter) Right-of-Way

d) D Class = Residential Road

A Residential Road shall be defined as a roadway that is within a multi-lot residential subdivision or exists only to provide access to residential sites, such as within the Local Urban areas.

Standards for construction shall include the following:

- 7 meter (23 feet) Road Surface
- 3:1 Side Slopes
- Road grade constructed of good quality fill material
- Right-of-Way width shall be as established during the subdivision approval process.
(66 feet or 20 meters recommended)

3.0 MAINTENANCE OF MUNICIPAL ROAD ALLOWANCES

- a) The Municipality may maintain, clean, or repair any municipal road allowance, and shall enter upon, acquire, take or use any land in or adjacent to the Municipality for carrying out thereon any such purpose.

4.0 REGISTER WITH LAND TITLES OFFICE

- a) Where additional land is required for constructing, opening or making a new road allowance or for widening, altering, diverting or straightening an existing road allowance and a by-law is passed by the Council of the Municipality therefore, the Council shall approve a plan certified by a Manitoba Land Surveyor showing the location and site of the land affected by the By-Law, and such By-Law shall be registered with the appropriate Land Titles office accompanied by a certified copy of the plan.
- b) All road opening shall be in accordance with the provisions and requirements as set forth in The Act.

5.0 AGREEMENTS FOR LANDOWNERS

- a) Any agreement undertaken under this by-law shall indemnify and save harmless the Municipality from and against any and all claims, demands, actions, suits, proceedings and costs of every kind whatsoever for any loss or damage to property or injury to persons arising out of the occupancy or use, or by any person for whom the accessor is responsible for in law, of the Lands and any buildings, structures or improvements located thereon.

- b) Any agreement under this by-law shall be subject to a non-refundable application fee, set in place by way of the current Road Maintenance Policy. Those persons who have executed road construction, access or gate agreements prior to the enactment of this by-law shall be exempt from the application fee. Such agreements will need to be updated within a reasonable time period to the current standard as per the current Municipal Road Allowance By-Law.
- c) Any agreement under this by-law does not provide the applicant exclusive rights over such a right of way. Council of the Rural Municipality of Mountain retains all rights to the municipal road allowance for public use.

5.1 UNDEVELOPED ROAD ALLOWANCE AGREEMENTS FOR ROAD CONSTRUCTION

- a) The Council of the Rural Municipality of Mountain may enter into development agreements to allow clearing and disposal of brush and subsequent road construction within the Municipality, subject to the following conditions:
- b) A request form, as attached to this by-law, must be submitted in writing to the municipal office. Road construction or other road improvement designs shall accompany such application along with any applicable Water Rights Licenses for culverts or crossings. If such road construction requires a Water Rights License, the applicant shall be responsible for submitting the applicable forms and license fee at the time of application.
- c) Prior to granting any development agreements, the local Councillor and Reeve shall determine if any local concerns would affect the decision and shall prepare a report along with pictures and concerns, if any, for Council review.
- d) The party requesting such an agreement shall be responsible for all costs including appropriate signage in accordance with applicable workplace, safety and health regulations, costs incurred to upgrade the road allowance to the appropriate municipal standard, and any other conditions as imposed by Council Resolution.
- e) All surface disturbances must be kept to a minimum with appropriate measures taken to control wind and water erosion. Trees shall be salvaged or removed and disposed of by burning and/or other methods approved by Council.
- f) Development Agreements shall last for twelve (12) months from date of issue. Where severe weather or other factors prevent completion of the terms of the development agreement the applicant may apply for an extension of the agreement.
- h) Once the clearing and development of such a road is completed to a standard acceptable to the municipality, as reviewed by the local Councillor and Reeve, Council shall again review this development to analyze if such a development would now be included in the regular maintenance schedule. Council is under no obligation to maintain any new development unless it has been determined by Council as a whole, that this road is beneficial to the municipality and should be added to the regular maintenance program.

5.2 ACCESS AGREEMENTS

- a) The Council of the Rural Municipality of Mountain may enter into access agreements to allow any Person to make use of any portion of a developed or undeveloped road allowance, removal of timber, access to adjacent property etc., subject to the following conditions:
- b) A request form must be submitted in writing to the municipal office.
- c) Prior to granting any access agreements, the local Councillor and Reeve shall determine if any local concerns would affect the decision and shall prepare a report along with pictures and concerns, if any, for Council review.
- d) The party requesting such an agreement will be responsible for all costs incurred and any other conditions as imposed by Council resolution.

- e) Access agreements shall remain in effect until such a time as the municipality determines that the use of this road allowance is no longer to the benefit of the municipality and will require the cancellation of such an agreement, or any other time period as determined by Council.
- f) Access agreements do not excuse any Person from obtaining any other provincial or federal licenses or permits.

5.3 GATE AGREEMENTS

- a) The Council of the Rural Municipality of Mountain may enter into an agreement for the use of Gates provided that public access is not adversely impacted and installed under the following guidelines:
- b) A request for, as attached to this by-law, must be submitted in writing to the municipal office along with the applicable application fee as set forth in the current Applications Under the Road Maintenance By-Law Policy.
- c) Prior to approving any agreements, a public hearing will be held by Council in order to ensure that surrounding landowners have an opportunity to express their concerns with the proposed gate. The Public Hearing process shall allow for a minimum of 14 days' notice, shall be posted locally, on the municipal website and be mailed directly to all those within a 2-mile radius of the proposed gate. The local Councillor and Reeve shall attend the site and determine if any local concerns would affect the decisions and shall prepare a report along with pictures and concerns, if any, for Council review.
- d) The installation of a Gate will only be considered on dead end roads where the main use of the road is for access, either to farm land or a single residence.
- e) The applicant shall take all responsibility for the maintenance of the road allowance beyond the gate. The Municipality is under no obligation to provide any road maintenance services such as gravelling, grading or mowing beyond the gate.
- f) Gate Construction Specifications:

Texas Gates shall be constructed in accordance with the following specifications:

- i) Minimum clear width of twenty-four (24) feet by six (6) feet;
- ii) Constructed with bars of pipe or railroad steel and a base of steel or treated timbers;
- iii) Bars shall not allow an open space of more than four and one half (4.5) inches;
- iv) Designed for a minimum gross vehicle weight of 80,000 pounds;
- v) Pipe shall be a minimum of 2 and 7/8 diameter heavy wall steel;
- vi) Reflective markers shall be installed on each end of the Texas Gates and from both traffic directions. Such markers will be erected by the RM of Mountain and be charged to the applicant, the applicant will then be responsible for the maintenance of these markers.

Gates across municipal roads shall be constructed in accordance with the following specifications:

- i) Two – Ten Feet Wide gates, anchored by hinges on either side of the road allowance;
- ii) Minimum of 14" from road surface to allow ease of access;
- iii) Gate posts must be made of material strong enough to fully support the gate;
- iv) Shall not hinder, or inhibit any persons, vehicles or equipment from opening the gate and making use of the Road Allowance, or provision of road maintenance by the Municipality or Municipal Contractor;
- v) Reflective markers shall be installed on each end of the Gates and from both traffic directions. Such markers will be erected by the RM of Mountain and be charged to the applicant, and the applicant will therefore be responsible for the maintenance of these markers.

- g) If the applicant requesting to install the Gate is not the landowner of the properties adjacent to the roadway beyond the Gate, then written approval from all property owners/lease holders who use the road as access to their property must be obtained by the applicant and submitted with the application.
- h) The applicant is required to keep the Gate and warning markers in a proper state of repair. If in the opinion of the RM of Mountain the gate and/or signs are not properly maintained, the RM of Mountain, upon giving reasonable notice, may take whatever action considered necessary to either repair or close and remove the Gate, all at the expense of the applicant.
- i) The applicant shall be responsible for the entire construction, installation and maintenance costs of the Gate(s) and shall save harmless and indemnified at all time the RM of Mountain, against all claims for damages and other claims, which may arise attributable to the existence and use of the Gate on the municipal road.
- j) The applicant will be required to remove the Gate at their expense if the RM of Mountain determines that safety, maintenance, or public convenience is compromised or if the applicant does not adhere to all stipulations of the approval. In such instances, the Municipality will give reasonable notice and specify a date which compliance must be achieved before RM involvement.
- k) The applicant will be responsible to ensure that drainage is not impeded by placement of the Gate.
- l) Those who may have gates prior to this by-law being enacted will be served reasonable notice of the requirement to enter into an agreement with the Municipality for the continuation of such gate. The gate owner will be required to make any necessary alterations to the existing gate in order to comply with the gate specification requirements in Section f). Application fees and the requirement of a public hearing will be waived for existing gates prior to the enactment of this by-law.
- m) Those persons who do not comply with the requirements, including the execution of an agreement, shall be subject to enforcement through this by-law.

6.0 MOWING OF ROAD ALLOWANCES

- a) Those rate payers wishing to mow the edges of the road allowances shall be given until July 15th annually to mow the edges directly bordering their properties. After such date any persons wishing to utilize the road allowances for farming purposes are may do so with approval of the local Councillor.

7.0 DUST CONTROL

- a) Only Magnesium Chloride or Calcium Chloride will be approved forms of Dust Control on municipal road allowances.
- b) The Municipality may choose to offer dust control to any residents within the municipality at a cost recovery basis, determined annually.
- c) If residents choose to apply their own private form of dust control it shall be in accordance with section a) and the municipality makes no warranties regarding the maintenance of such sites. Should residents apply a form of dust control that is not an approved form [see section a)], this shall be contrary to this by-law and subject to enforcement through this by-law.

8.0 INTERFERENCE WITH ROAD ALLOWANCES

- a) Every person who, without previously having written authority from the Municipality, in the form attached hereto, and any other applicable departments, deposits or removes any soil, stones, brush, trees, gates or other matters whatsoever on a municipal road allowance, the Municipality, at the expense of the person in default, may remove or return the soil, stones, gate or other matters and, if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under The Act.

- b) Every person, who, without previously having written authority from the Municipality, in the form attached hereto, and any other applicable departments, erects, places or causes to be placed a gate or obstruction across a road allowance, the Municipality, at the expense of the person in default, may remove such an obstruction and, if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under The Act.
- c) Every person, who, without previously having written authority from the Municipality, in the form attached hereto, and any other applicable departments, shall constitute an offence under this by-law and punishable under section 10.0.

9.0 DISPUTES AGAINST THIS BY-LAW

- a) In the case of a dispute or complaint against this by-law, the Reeve of the RM of Mountain may appoint a two or three-member committee to determine what action, if any, may be taken under this by-law. All appointed persons shall personally inspect the affected right of way, along with any affected land owners, and prepare a summary report which shall be presented to Council for a final decision under this policy.
- b) In all cases the decision of Council is final and shall not be subject to appeal.

10.0 OFFENSES AND PENALTIES

- a) Any person who contravenes any provision of this By-Law is guilty of an offence and liable to a fine not exceeding \$500.00, in addition to any costs associated with, or resulting from enforcing this By-Law.
- b) Any expenses or fines may be collected and enforced by The Municipality in the same manner as a tax may be collected or enforced under The Municipal Act, including:
 - i) A fine or penalty imposed on conviction; and
 - ii) The cost of an action taken by the Municipality under The Municipal Act.
- c) Any expenses or fines imposed under this By-Law shall be invoiced by the RM of Mountain, and payable within 30 days. All invoices not paid after 30 days are subject to interest as per outstanding accounts receivable policy. Any outstanding invoices, fines or penalties are an amount owing to the Municipality and may be collected by the Municipality in the same manner as a tax may be collected or enforced under *The Municipal Act*.

AND THAT By-Law No. 10/2020, 04/2013 [Mining & Transportation By-Law] and any other by-laws or policies inconsistent herewith be hereby repealed.

DONE AND PASSED as a by-law of The Rural Municipality of Mountain at the L.U.D. of Birch River in the Province of Manitoba this 13th, day of January, A.D. 2021.

The Rural Municipality of Mountain

“Paige Larocque”
Chief Administrative Officer

“Robert Hanson”
Reeve

Schedule A to By-Law No. 15/2020

**UNDEVELOPED ROAD ALLOWANCE AGREEMENT FOR ROAD
CONSTRUCTION**

BETWEEN

The Rural Municipality of Mountain

-and-

(hereinafter referred to as the "Applicant")

This Agreement allows _____ to clear and provide for road construction on the undeveloped road allowance between:

_____ and _____

LEASE TERM:

1. THAT _____ shall have access to proceed with clearing and construction of Undeveloped Road Allowance No. _____ not exceeding _____ mile(s) on Road No. _____ from existing Road No. _____ to begin _____, 2019 and shall be completed within twelve months of the approval of this agreement.

USE OF LANDS:

2. THAT the user of the land and any applicable buildings shall conform to the Development Plan and Zoning By-Law, along with any other applicable by-laws or legislature.
3. THAT the applicant agrees to be solely responsible for all costs involved in the development of the above-mentioned road allowance, and will provide plans for road construction prior to approval.
4. THAT the municipality shall not be responsible for ongoing maintenance until such road allowance is constructed to applicable municipal standards in accordance with the current road allowance by-law or the construction standards at the time of approval.
5. THAT those allowed to access such said lands under this agreement shall not:
 - a. Assign this Agreement without the prior written consent of the Municipality; or
 - b. Make use of such lands for any other purpose than as stated in this agreement.
6. THAT those allowed to access such lands under this agreement, acknowledge and agree that all mines and minerals on the said Lands, including sand and gravel, and the right to enter, locate, prospect, mine for and remove such are reserved to the Municipality; and the Municipality retains the absolute right to, at any time, immediately withdraw, by notice in writing, any part of the agreement.
7. THAT those allowed to access such lands under this agreement, shall:
 - a. Permit access to, in, over or upon the Lands to any designated officer of the Rural Municipality of Mountain or under any Act of the Legislature of the Province of Manitoba; and
 - b. Not interfere in any way with the public right of passage over any portage, road or trail existing on the Lands.
8. THAT those allowed to access such lands under this agreement shall indemnify and save harmless the Municipality from and against any and all claims, demands, actions, suits, proceedings and costs of every kind whatsoever for any loss or damage to property or injury to persons arising out of the occupancy or use, or by any person for whom the accessor is responsible for in law, of the Lands and any buildings, structures or improvements located thereon.

9. Other terms applicable to this agreement only, as determined by Council:

CANCELLATION OR TERMINATION

10. Should the Municipality require these lands at any time during the duration of this agreement, notice shall be provided in writing, giving reasonable notice.

NOTICES

11. Any notice or other communication required to be given under this Agreement shall be in writing and shall be sent to:

Rural Municipality of Mountain
P.O. Box 155
Birch River, MB R0L 0E0
Fax: (204) 236-4773
Email: rmmountn@mymts.net

AGREEMENT

I hereby agree all terms and conditions contained within this Agreement.

Date

Reeve

Date

Chief Administrative Officer

Date

Schedule B to By-Law No. 15/20

**ACCESS AGREEMENT
BETWEEN**

The Rural Municipality of Mountain

-and-

This Access Agreement allows _____ to access the
_____ [as per the attached map] from the Rural Municipality of
Mountain for the purpose of _____

LEASE TERM:

1. THAT _____ shall have access to the above-mentioned lands beginning _____ for a duration of twelve months unless terminated in accordance with the termination provisions hereinafter set out in this Agreement.

USE OF LANDS:

2. Those allowed to access such said lands under this agreement shall not:
 - a. Remove or permit the removal of any mines, minerals, timber, soil, peat, or sod from the said Lands, unless specified by resolution of Council;
 - b. Nor assign this Agreement without the prior written consent of the Municipality;
 - c. Make use of such lands for any other purpose than as stated in this agreement;
 - d. Interfere in any way with the public right of passage.
3. Those allowed to access such lands under this agreement, acknowledge and agree that all mines and minerals on the said Lands, including sand and gravel, and the right to enter, locate, prospect, mine for and remove such are reserved to the Municipality; and the Municipality retains the absolute right to, at any time, immediately withdraw, by notice in writing, any part of the agreement.
4. Those allowed to access such lands under this agreement, shall:
 - c. Permit access to, in, over or upon the Lands to any designated officer of the Rural Municipality of Mountain or under any Act of the Legislature of the Province of Manitoba; and
 - d. Not interfere in any way with the public right of passage over any portage, road or trail existing on the Lands as at the date of this Agreement.
5. Those allowed to access such lands under this agreement shall indemnify and save harmless the Municipality from and against any and all claims, demands, actions, suits, proceedings and costs of every kind whatsoever for any loss or damage to property or injury to persons arising out of the occupancy or use, or by any person for whom the accessor is responsible for in law, of the Lands and any buildings, structures or improvements located thereon.
6. Other terms applicable to this agreement only, as determined by Council:

CANCELLATION OR TERMINATION

7. Should the Municipality require these lands at any time during the duration of this agreement, notice shall be provided in writing, giving reasonable notice.

NOTICES

8. Any notice or other communication required to be given under this Agreement shall be in writing and shall be sent to:

Rural Municipality of Mountain
P.O. Box 155
Birch River, MB R0L 0E0
Fax: (204) 236-4773
Email: rmmountn@mymts.net

AGREEMENT

I hereby agree all terms and conditions contained within this Access Agreement.

Date

Reeve

Date

Chief Administrative Officer

Date

Schedule C to By-Law No. 15/20

GATE AGREEMENT

An agreement made in duplicate and effective this _____ day of _____, 20 as approved by Council Resolution Number _____.

Between

The Rural Municipality of Mountain

AND

Council has approved the installation or allowance of _____ gate[s] at the following locations:

The approval is subject to the following conditions:

1. The gate must be inspected and approved by the Ward Councillor or his designate prior to and after installation.
2. The gate is to be built of durable and suitable materials and structured in accordance with construction standards of the current municipal road allowance by-law.
3. The applicant shall be responsible for all costs of constructing, installing and future maintenance of the gate[s]. Gates must be maintained as per Municipal Standards.
4. Such gates shall not provide the applicant with exclusive rights over the road allowance and shall not interfere with the public right of passage.
5. Council reserves the right to terminate such an agreement or order the removal of such gates at their discretion
6. . The removal of such gate shall be at the expense of the applicant. Should the Rural Municipality of Mountain require the removal to facilitate road construction, sufficient notice shall be given to allow the applicant to remove the gate, which shall be at the expense of the applicant.
7. The applicant agrees to indemnify and save harmless the Rural Municipality of Mountain from, and against all losses, costs, charges, liabilities, damages and expenses, including without limitation to third parties which the Rural Municipality of Mountain may sustain by reason of the applicant, his agents, employees or contractors, arising out of, or in any related to, the installation and this agreement unless such loss arises from the negligence of the Rural Municipality of Mountain, its employees, contractors or agents.
8. Other terms applicable to this agreement only, as determined by Council:

NOTICES

7. Any notice or other communication required to be given under this Agreement shall be in writing and shall be sent to:

Rural Municipality of Mountain
P.O. Box 155
Birch River, MB R0L 0E0
Fax: (204) 236-4773
Email: rmmountn@mymts.net

AGREEMENT

I hereby agree all terms and conditions contained within this Agreement.

Date

Reeve

Date

Chief Administrative Officer

Date