

Approved by Council – December 12, 2016

USE OF AND WORK IN ROAD RIGHT-OF-WAYS IN THE TOWN

BACKGROUND:

The primary purpose of road Right-of-Ways (ROWs) is to provide access to titled properties.

In Alberta, road right-of-ways are not titled, and in the case of the Town, title is vested in the Crown in Right of Alberta. MGA Division 2, 16(1).

Title to roads

16(1) The title to all roads in a municipality, other than a city, is vested in the Crown in right of Alberta.

The practical effect of this is that there is no land title for a road ROW and encumbrances cannot be registered against them or have registrations to them.

The Town is responsible for what is done in road ROW inside the boundaries of the Town. MGA Division 2, 18(1)

Control of roads

18(1) Subject to this or any other Act, a municipality has the direction, control and management of all roads within the municipality.

(2) Subject to this or any other Act, a municipal district also has the direction, control and management of roads and road diversions surveyed for the purpose of opening a road allowance as a diversion from the road allowance on the south or west boundary of the district although the roads or road diversions are outside the boundaries of the municipal district.

(3) Nothing in this section gives a municipality the direction, control and management of mines and minerals.

1994 cM-26.1 s18

The Town regularly receives requests for use and work in the road ROW. Currently the use and work in the road ROWs is dealt with in multiple policies and bylaws. Creation of one policy covering the use and work in road ROWs is intended to streamline the process, remove holes in the current processes, create a uniform set of definitions and rules for dealing with requests for use and work in road ROWs.

The requests for use of road ROWs are primarily, utilities, roads, sidewalks, drainage, parking, landscaping, signage and fences. Occasionally there are requests to temporarily use the road ROW for other purposes such as public gatherings.

The request for work in road ROWs are primarily for the installation of utilities, roads, sidewalks, drainage, parking, landscaping, signage and fences.

The primary difference is that use is typically of an ongoing nature and work is of a temporary nature and as such, the rules governing them must be different.

DEFINITIONS:

Road right-of-way is any land in the Town that does not have a title. These lands could be identified in Town as roads, lanes, walkways, etc.

Boulevard is the land between the edge of the driving surface of a road and the edge of the road right-of-way.

Road Developed with a Cross Rural Section is a road that is constructed with ditches and swales for drainage purposes at the edge of the road driving surface. Typically the road driving surface of a road developed with a rural cross section is above the adjacent properties. Roads developed with a rural cross section may or may not have sidewalks and storm sewer systems in the Road ROW.

(The primary distinguishing feature of a rural cross section road from an urban cross section road is that a rural cross section road has ditches or swales at the edge of the road driving surface whereas an urban cross section road has a curb at the edge of the road driving surface.)

Road Developed with an Urban Cross Section is a road that is constructed with curbs and gutters for drainage purposes at the edge of the road driving surface. Typically the road driving surface of a road developed with an urban cross section is below the adjacent properties. The difference in the elevation of the road driving surface between roads with a rural and urban cross section typically create drainage issues when a rural road cross section is converted to an urban cross section.

Road Developed with a Hybrid Cross section is a road that on one side is an urban cross section and on the other side is a rural cross section.

Road driving surface is the area inside a road ROW intended for motorized vehicle movements and parking.

Work is defined as anything meeting the definition of Development in the MGA Part 17.616.b

- (b) “development” means
 - (i) an excavation or stockpile and the creation of either of them,
 - (ii) a building or an addition to or replacement or repair of a building and the construction or placing of any of them on, in, over or under land,
 - (iii) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building, or
 - (iv) a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building;

Use is defined as anything that uses the Road ROW which could be construed as development.

Purpose of this Policy

Under the definition of development anything that requires excavation or the placing of anything is deemed to be development. Approval of all works done in a road ROW or uses of the road ROW is impractical as every time anything coming close to meeting the definition of work or use would have to be approved.

The purpose of this policy is to:

- lay out what kind of works and uses are allowed in a road ROW without the Town having to approve them,
- the process for approval of works in a road ROW,
- the process for approval of uses of a road ROW,

Policy

1. The following uses of a Road ROW require approval of the Town:
 - Any utility, and utility installation,
 - Any drainage works (ditches, swales, curb & gutter storm sewers, etc.),
 - Any landscaping that is not exempted in the Boulevard Development section,
 - Any temporary use.
2. All work performed in a road ROW is required to receive Town approval for the work unless specifically exempted from requiring an approval by this policy.
3. Property owners may request construction or modification to concrete structures on a Road ROW including curb and gutters, sidewalks and driveways by submitting a "Boulevard Development Application prior to work commencing.
4. All road driving surfaces, sidewalks, curbs and gutters in a Road ROW must be constructed by the Town or a Town approved contractor in accordance to the Town of Redcliff Construction Standards. Driveways (excepting the crossing of sidewalks, curbs and gutters) do not have to be constructed by the Town or a Town approved contractor in accordance with the Town of Redcliff Construction Standards as the Town does not take any repair, replacement or maintenance responsibility for driveways.
5. Construction to be completed by the Town of Redcliff will require the applicant to complete the Public Services Construction Agreement in the format included herein. All costs will be established by the Public Services Department and must be paid in full by the applicant prior to commencement of any work.
6. In the event that the Town of Redcliff has approved an alternate contractor to perform the work on behalf of the property owner, the property owner will be responsible to ensure that all construction is performed in accordance to the Town of Redcliff Construction Standards. The Town will require the property owner to post security deposit in the amount as established in the Fees, Rates and Charges Bylaw which will be returned to the property owner upon application in the form provided herein at the completion of construction and inspection of the work and supporting documentation.
7. The installation of new utilities or the repair of existing utilities will be carried out in a manner to minimize the disruption of the area and damage to the municipal property.
8. All municipal sidewalks, curbs, street surfaces, lanes and drainage structures will be replaced or repaired to their original condition or better by the entity causing removal or damage.
9. Any construction deemed unacceptable by the Town of Redcliff will be directed to be removed and replaced at the expense of the property owner.

10. The following work is exempt from requiring Town approval:

- Work performed in the road ROW by the Town or by a contractor employed by the Town. This work is deemed to have been approved by the Town,
- Work that is identified in the Boulevard Development section as not requiring an approval,
- Work of an emergency nature required to protect the public,
- Work to remove unauthorized work or uses in the road ROW,
- Work that has been approved by the Town in a Development Permit, Subdivision approval or Development or Service agreement.

Process for approval

The process for approval of work and use of road ROWs shall be similar to the process outlined for Development Applications in the Land Use Bylaw.

BOULEVARD DEVELOPMENT

BACKGROUND:

Every property in the Town abuts a road and road right-of-way. The Town maintains the road and repairs or replaces as needed and in accordance with available resources, the road driving surfaces, sidewalks, curbs and gutters in a Road ROW. The Town requires adjacent properties to maintain the sidewalks (keep them free of snow, ice, debris and vegetation) and area of the boulevard not occupied by a sidewalk. The development of boulevards:

1. Plays an essential role in defining the character and appearance of a community,
2. Can impact the public use and enjoyment of the road ROW,
3. Create hazards for traffic on the roads,
4. Negatively impact the life of the Town's infrastructure in the road right-of-way,
5. Increase the costs for the Town to maintain roads,
6. Increase the peak stormwater runoff from the area which may cause capacity of the Town's stormwater management system to be exceeded.

As such it is in the Towns interest to specify how boulevards can be developed.

POLICY:

1. Boulevard Development shall mean: the placement on a boulevard of any landscaping material, improvement, excavation, fence, driveway or the placement of any other object whatsoever for any amount of time.
2. As per the general section of this policy application for Boulevard Development is to be made to the Office of the Development Officer for the Town
3. Boulevards shall be developed and maintained by the adjacent property owner to at least the minimum standard listed in the Boulevard Development Standards.
4. Any Boulevard Development shall be considered approved on a temporary basis only, and shall only be permitted to remain on any boulevard area at the pleasure of the Town
5. The Town and other private utility companies utilize boulevards for the installation of both shallow and deep utilities for repair or maintenance work. In order to clearly establish the limits in respect to the Town's responsibility for the repair and maintenance of the boulevards the following rules are to be followed:
 - a. The Town may at any time require any Boulevard Development to be removed

forthwith. Whenever possible the Town shall provide 5 calendar days' notice for any such removal; however in the event of any emergent situation the Town may require removal forthwith. The Town shall not be responsible for any costs of removal of material and will not incur any additional costs to protect any Boulevard Development that is not removed by the adjacent property owner responsible for or who takes an interest in any Boulevard Development.

- b. When a developed boulevard is disturbed by construction activities it is the responsibility of the entity (Town, Utility Company, etc.) having the work undertaken to restore the boulevard to a developed standard. This responsibility may be transferred back to the property owner by way of contract by the entity undertaking the construction work with the property owner. (i.e. If the Town is contracted by a property owner to install a new curb crossing to provide access to their property the Town in that contract can state that the property owner is responsible for restoration of the boulevard to its developed state. If the contract does not state this then the Town or other entity) would be responsible for restoration of the boulevard to a developed standard.
 - c. Where private driveways, walkways and or pads made of concrete or asphalt are removed they will be saw cut at the edges of removal. Replacement of removed driveways and walkways shall be as follows:
 - i. Approved asphalt walkways or asphalt driveways will be replaced with hot mix asphalt with a smooth rolled finish. No pattern or painting will be applied.
 - ii. Approved concrete driveways and concrete walkways will be replaced with concrete finished with standard wood float and broom finish. No special finishing treatment, pattern, color or paint will be provided.
 - iii. Non-approved asphalt or concrete driveways, walkways or pads which were removed from the boulevard will not be replaced.
 - d. The disturbed area of a boulevard not restored with asphalt or concrete will be top soiled, fine graded and seeded with a manicured turf grass seed mix. The adjacent property owner to the boulevard has the option of requesting the boulevard not be restored with topsoil or manicured grass seed and takes on full approval and financial responsibility for developing the boulevard.
6. The Town receives many requests for top soil for boulevards, especially in new constructed areas, and the Town considers it appropriate to have boulevards in the best condition as possible. Therefore, the Town will supply the necessary amount of top soil from topsoil stripping stockpile when available for the boulevard at the discretion of the Public Services Director. (Note: This topsoil is not screened or organically modified.)

BOULEVARD DEVELOPMENT STANDARDS

Approved Boulevard Development (does not require a Boulevard Development Permit)

- Manicured grass,
- Underground sprinklers,
- Decorative gardens (maximum vegetation height less than 0.4 metres),
- Monuments (where concept has been endorsed by Council).

(Note: Signs located in boulevards are dealt with in the Land Use Bylaw.)

Discretionary Boulevard Development (requires a Boulevard Development Permit)

- Shale, decorative gravel, brick or paving stone,
- Driveways (See Driveways accessing properties),
- Native grass,
- Portable wishing wells, decorative objects,
- Acceptable trees (see tree section for further information)

Prohibited Boulevard Development

The following items are prohibited under any conditions:

- Any permanent fixture or structure
- Private rain gardens, cisterns, or other stormwater management infrastructure,
- Fencing,
- Shrubbery and hedges over 0.4 metres in height,
- Crushed gravel, dirt, pit run gravel, etc.
- Rocks or Boulders exceeding D₁₀ size, excepting monuments as outlined under approved uses. (D₁₀ size means that the average diameter of the largest material will be less than 10 centimeters (4 inches). Generally any material passing a 10 centimeter sieve will meet this requirement.)

If prohibited items exist at the time of this policies adoption, they shall be permitted to remain as long as they are not creating any ongoing problems or creating a safety issue. If at any time any prohibited items are required to be removed as a result of any Boulevard Development, they shall not be replaced or returned to the boulevard area.

DRIVEWAYS TO ACCESS PROPERTIES**BACKGROUND:**

The purpose of this policy is to provide for the installation of driveways from the road driving surface to properties in the Town.

Policy

1. All requests to install driveways to connect a property to a road driving surface shall be directed to the office of the Development Officer for the Town, which will discuss the purpose of the access, design standards and requirements and provide an application package to be filled out prior to formal review of the request.

The Town will consider an application for driveway access upon receipt of:

1. A completed application
2. Receipt of the application fee as outlined in the Fees, Rates and Charges Bylaw.

The Planning & Engineering Department will review the application and provide the following information to the Applicant:

1. The minimum specifications for a driveway at the location requested. This may include:
 - a. Dropped curb specifications including reinforcing,
 - b. Sidewalk specifications including reinforcing,
 - c. Driveway maximum and minimum throat width, and minimum length,
 - d. Minimum driveway spacing,

- e. Minimum and maximum driveway flares or curb returns,
 - f. Hard surfaced swale (concrete or asphalt) designed to maintain the drainage functions of the existing swale,
 - g. A culvert sized to maintain the drainage functions of the existing ditch or swale, with a driveway over the culvert,
 - h. A regraded ditch and or swale with a culvert sized to maintain with the drainage functions of the existing ditch or swale, with a driveway over the culvert,
 - i. An extension of the storm sewer system to accommodate the flows that would be blocked by a driveway crossing,
 - j. Installation of an urban road section complete with concrete curb & gutter and extensions to the storm sewer system.
2. The standard construction specifications to be met (i.e. compaction requirements, minimum culvert, etc.)
 3. If the drainage design requires detailed design drawings Authenticated (means stamped, signed and dated) by a Professional Engineer licensed to practice in the Province of Alberta.
 4. If the driveway will be installed by the Town of Redcliff at a cost established by the Director of Public Services or by a contractor approved by the Town of Redcliff.
 5. The construction deposit that must be posted by the applicant if the driveway is to be installed by anyone other than the Public Services Department.

The Applicant may review the information provided by the Planning & Engineering Department and decide to:

1. Pay the Town to install the driveway for the cost established by the Director of Public Services, or
2. Apply for permission to have a contractor install the driveway. This application shall be accompanied by:
 - a. Name of the contractor for the Town's approval,
 - b. Construction deposit,
 - c. Design sketches or drawings as may be required by the Director of Planning & Engineering, or
3. Request for a change in the access design, (i.e. from a hard surfaced swale to culvert with a driveway over it, etc.) which will result in a new review by the Planning & Engineering Department.

All costs associated with the construction of the driveway and/or culvert will be the responsibility of the applicant.

The responsibility of keeping this driveway and culvert clear of all obstructions, and repair costs of any damage to the culvert will be the responsibility of the owner of the property or properties that use the driveway to access their property.

PROVISION TO WIDENING A ROAD DEVELOPED WITH A RURAL CROSS SECTION

Background

From time to time the Town of Redcliff is requested to widen the driving portion of a rural road section, generally for the purpose of adding a parking lane. The purpose of this policy is to provide an avenue for a ratepayer to apply for the establishment of a widened rural section roadway.

The Town will consider an application for widening a road developed with a rural section upon receipt of:

1. A letter requesting the road widening, and
2. Receipt of the application fee as outlined in the Fees Rates and Charges Bylaw.

The Planning & Engineering Department will review the application in consultation with the Public Services Department examining the impacts on:

- a. Adjacent properties,
- b. Stormwater Management System,
- c. Accesses to the road,
- d. Road capacity (traffic movement), and
- e. Road Safety.

The Planning & Engineering Department will provide the following information to the Applicant:

1. The minimum specifications for a road widening at the location requested. This may be:
 - a. Width of the widening,
 - b. The road surface (paved or gravel),
 - c. Re-grading of ditches and swales to meet current standards,
 - d. Installation of an urban road section complete with concrete curb & gutter and extensions to the storm sewer system.
2. The standard construction specifications to be met (i.e. compaction requirements, road structure, etc.)
3. If the design requires detailed design drawings Authenticated (means stamped, signed and dated) by a Professional Engineer licensed to practice in the Province of Alberta.
4. If the road widening will be installed by the Town of Redcliff at a cost established by the Director of Public Services or by a contractor approved by the Town of Redcliff.
5. The construction deposit that must be posted by the applicant if the road widening is to be installed by anyone other than the Public Services Department.

The Applicant may review the information provided by the Planning & Engineering Department and decide to:

1. Pay the Town to design and install the road widening for the cost established by the Director of Public Services and the Director of Planning & Engineering, or
2. Apply for permission to have an engineer design and contractor install the road widening. This application shall be accompanied by:
 - a. Name of the engineer for the Town's approval,
 - b. Name of the contractor for the Town's approval,
 - c. Construction deposit,
 - d. Design sketches or drawings as may be required by the Director of Planning & Engineering, or designate.
3. Request for a change in the widening design, (i.e. from a paved surfaced to gravel, etc.) which will result in a new review by the Planning & Engineering Department.

All costs associated with the construction of the road widening will be the responsibility of the applicant.

Ongoing maintenance of the widened roadway area shall be conducted by the Town of Redcliff.