



GUIDELINES AND FEE SCHEDULE FOR LICENCES OF OCCUPATION

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Definitions

The temporary use of road right-of-way must be authorized through the issuance of a Licence of Occupation, issued and administered by the City Operations Department. The road right-of-way can be used by the adjacent landowner or tenant (with the landowner's permission) for various purposes.

Define:

"Licence of Occupation" as an agreement to the temporary use of a specified portion of road right-of-way for a specified time and for a consideration where the Licensee is given use of the area and assumes responsibilities for activities carried out therein and thereon.

"Licencee" as the adjacent property owner, or tenant upon approval of the owner, with which the City is entering the agreement.

"Road Right-of-Way" as that portion of the highway between property lines that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, or for pedestrian use, and can include a sidewalk, boulevard, carriageway, berm, ditch, swale, bicycle facility, noise attenuation facility, transit facility (including light rail transit), and landscaping.

Purposes

The standard Licence of Occupation authorizes the temporary use of road right-of-way for various purposes. The standard uses include:

Locating and maintaining parking or storage areas: This includes hard surfaced (asphalt, gravel, paving stone, concrete) areas that are used by commercial, industrial, institutional, or residential landowners to supply parking and/or storage areas for themselves, their employees, and/or their patrons. This standard Licence of Occupation specifically excludes paid parking lots, which require a different Licence form.

Landscaping or gardening: This includes landscaping features that exceed the City Operations Department's Landscaping Guidelines, and are not owned or maintained by the Community Services Department. Flower beds, short shrubs, and small trees can be placed on the road right-of-way under these Landscaping Guidelines and are subject to Traffic Bylaw 5590. Landscaping features authorized under Licences of Occupation (and not the Landscaping Guidelines) include planters, extensive landscaping, decorative features, and/or surfacing other than grass that do not create potential hazards for pedestrian and/or vehicles using the road right-of-way. Coordination with the Citizen Services Department and/or the Parks Operations Branch, Forestry may be required for extensive landscaping that is planted for new developments and that will not be maintained by those Departments.

Erecting a wall or fence, or leaving as built (commercial): Occasionally commercial properties (including industrial, non-profit, institutional, charitable, religious, and community related locations) require fencing to enclose a road right-of-way area for various reasons. This use can be authorized on its own or in conjunction with other permitted uses.

Erecting a wall or fence, or leaving as built, and landscaping behind a noise attenuation facility (residential only): The majority of these Licences will be where a noise attenuation facility is built on road right-of-way adjacent to a residential subdivision and there is a portion of the right-of-way between the facility and the property line. In these cases, the residential property owner can extend the existing or proposed fence(s) to the noise attenuation facility. Alternatively, the adjacent land owner(s) can construct a fence along a pre-determined alignment on top of a berm where a noise attenuation wall does not exist and extend their fences to the fence built parallel with the property lines and/or the roadway.

Erecting a wall or fence, or leaving as built, and landscaping behind a uniform screen fence (residential only): Neighbourhoods developed as recently as the mid-1990's were required to have a 1.8 metre high uniform screen fence built around the perimeter of the development, usually adjacent to the existing or future arterial and/or collector roadways. Unfortunately, many of these fences were built beyond the property line.

A problem arises when the individual landowners submit a Real Property Report to the Sustainable Development Department for a Compliance Certificate. The uniform screen fence is usually shown as just a fence, yet the landowner did not build the fence and was not responsible for the alignment. The fences were inspected as part of the City's FAC process and the developer is no longer involved. The City Operations Department used to issue a Licence for a 10 year term, similar to the policy used for noise attenuation facilities, yet a change in policy / practice in the last few years has led us to resolve these situations through an Encroachment Agreement.

The latest subdivision servicing requirement is to build the USF on the property line, or within 100mm of it, with the fence becoming the adjacent landowner's once the FAC process is complete. While this is the current practice, some developers continue to build the fences into corner cuts, etc. The landowner can remove the fence if he/she wants (or is required to as directed by Transportation to deal with sightline obstructions), as the intent of the Transportation Planning Branch was to have the USF installed in the first place to limit construction traffic and to screen construction, etc. while the neighbourhood is developed. There is no need for the USF after the FAC process is complete, so the adjacent landowner can remove the encroaching fence.

Licences, therefore, will only be issued or renewed for extremely unusual situations.

Erecting a freestanding business identification sign: see Criteria for Signage Within Licence of Occupation Areas. Referred to as Off-Premises signage under the Zoning Bylaw.

Placing artwork: Artwork that will not be City-owned can be placed within the right-of-way if the Guidelines for Artwork and the CEPTD principles are met.

Placing a waste bin during construction (commercial or residential): Current building practices often force bins to be placed on road rights-of-way during construction. This can be approved through a Licence of Occupation. The fee has been set high to encourage the bin(s) to be removed as soon as possible and to further encourage construction staging that would allow the bins to stay on private property.

The standard Licence of Occupation cannot be issued for:

- paid parking lots (different form required).
- business identification signs (other than allowed through the Criteria for Signage Within Licence of Occupation Areas) or general advertising (billboard) signs.
- portable signs.
- permanent structures that are not easily removed, such as retaining walls or large fences which require considerable structural support.
- locations which, in the opinion of the City Operations Department, will obstruct sightlines or cause operational or safety problems on a public road right-of-way.
- storage of any hazardous substances.
- storage of materials objectionable to the City Operations Department.

General Guidelines

The issuance of a Licence of Occupation by the City Operations Department will be based on a number of guidelines that protect for safe passage of vehicles and/or pedestrians, or parking. These guidelines include:

1. Licence Boundaries: The Licence boundaries will be set so that adequate sight lines are provided and that safe vehicular or pedestrian circulation is possible. In neighbourhoods where pedestrian connections must be maintained, a minimum setback of 1.5 metres will be required, increasing to 2.5 metres or 3.5 metres in medium or high volume pedestrian areas.

Wherever possible, the Licence boundaries will be set to match the existing or future property lines of the adjacent lands. The standard boulevard width, as defined in the City of Edmonton's Servicing Standards Manual, will be maintained wherever possible to minimize utility conflicts and to ensure adequate setbacks.

2. Approval of civic and utility Departments and/or agencies: The approval of the affected civic and utility Departments and/or agencies may be required, as deemed necessary by the City Operations Department, for the use of the road right-of-way. Conditional approval may be obtained and the Licencee will be required to meet all the conditions and will be responsible for all costs associated with the conditions.

3. If any of the civic and utility Departments and/or agencies objects to the Licence proposal, a Licence of Occupation will not be issued and the road right-of-way cannot be used. If the road right-of-way is already in use, the City Operations Department will require the removal of all items and/or the end of the use. The adjacent landowner will be responsible for all aspects of the removal and restoration of the road right-of-way area, including cost, to the satisfaction of the City Operations Department. Failure to do so will

result in the City of Edmonton taking all legal and practical action to ensure the removal and restoration and the recovery of all associated costs.

4. **Liability insurance:** The Licencee will be required to maintain liability insurance as a condition of the Licence of Occupation at a limit acceptable to Risk Management, Financial and Corporate Services Department.

5. **Zoning Bylaw requirements:** The Licence of Occupation will apply to the portion of road right-of-way being or to be used. It does not extend onto titled property. Purposes approved under the Licence may affect the adjacent titled property and the requirements of the Zoning Bylaw (i.e. parking on the required landscaped setback). The Licencee should consult the Sustainable Development Department at 311 to ensure that the proposed or existing use of the property meets the Zoning Bylaw requirements. The City Operations Department may require the written approval of the Sustainable Development Department and/or the Subdivision and Development Appeal Board before issuing the Licence of Occupation.

6. **Public notification / approval:** The City Operations Department may contact adjacent landowners or other interested parties if it is perceived that a Licence proposal may adversely affect the neighbourhood. If a negative response is received, verbally or in writing, the City Operations Department may grant the Licence with conditions or may refuse the Licence.

7. **Refusal or termination.** The City Operations Department reserves the right to refuse the issuance of a Licence, or if a Licence is issued, the right to terminate the Licence (subject to the requirements of the Licence agreement), for the following reasons:

- the use of the road right-of-way causes, or will cause, sight obstruction of transportation facilities and/or accesses.
- the Licencee is in default in the performance of any of its obligations under the Licence agreement, and rectification of the default has not commenced to the satisfaction of the City.
- changes to federal, provincial, and/or municipal laws or regulations, which may affect the legality of the Licence.
- the road right-of-way is required for public or municipal use.

8. **Non-standard Licence:** The City Operations Department may be required to obtain the approval of the Transportation and Public Works Committee of City Council for any uses which are proposed by the applicant, supported by the City Operations Department and the affected civic and utility Departments and agencies, and which do not conform to the standard Licence of Occupation document. The City Operations Department, in conjunction with the Law Branch of the Financial and Corporate Services Department (including the Risk Management Section), will prepare the non-standard Licence and forward the document for approval. This will also be done if special clauses are required by the affected civic and utility Departments and agencies which exceed the scope and intent of the standard Licence of Occupation document.

9. **Licence fee payments:** The City Operations Department will issue an invoice for the Licence fee set out in the attached Fee Schedule. The Licencee is required to pay the fee upon receipt of the invoice. Invoices can be generated on an annual, quarterly, monthly, or

lump sum basis. The Licence fee can be discounted for large annual or lump sum payments, upon request of the Licencee. Alternative arrangements (i.e. electronic transfer of funds) may be permitted, subject to the prior approval of the City Operations Department, in conjunction with the Financial and Corporate Services Department.

10. Refund policy: The City Operations Department will refund Licence fees to the Licencee if the Licence is terminated, according to the standard Licence of Occupation agreement, as per the following:

- the Licencee will be reimbursed for the pro-rated portion of the lump sum or annual payments of the Licence fee for the period already paid for that will not be used.
- refunds will only be issued when the Licence area has been restored to a standard acceptable to the City Operations Department. Any costs incurred by the City Operations Department to restore the Licence area will be deducted from the refund.
- application fees will not be refunded, as this type of fee represents the administrative time spent initially reviewing the Licence.

Fee Schedule

The following fee schedule will apply to the following categories of use road right-of-way and the adjacent land:

Locating and maintaining a parking or storage area:	
Commercial, industrial, institutional:	Application fee of \$300.00; Licence fee of 10% of marketvalue + land tax equivalent per year.
Residential: (limited uses)	Application fee of \$150.00; Licence fee of 10% of market value + land tax equivalent per year.
Charitable, non-profit, religious, or community organizations:	Application fee of \$150.00; Licence fee of 5% of market value per year.
Landscaping or gardening	All land uses: \$75.00 per year. No application fee.
Erecting a wall or fence or leaving as built, and landscaping behind a noise attenuation facility:	
Residential only:	\$10.00 flat fee for a 10 year term.
Erecting a wall or fence or leaving as built, and landscaping behind a uniform screen fence:	
Residential only:	To be determined on a site by site basis.
Placing a sales trailer or bin during construction or renovation (term up to 2 years):	
All land uses:	Application fee of \$150.00; Licence fee of \$1,500.00 per year, \$375.00 charged quarterly or any portion thereof.
Placing a waste bin (under special circumstances):	
Commercial, industrial, institutional:	Application fee of \$300.00; Licence fee of 10%

Charitable, non-profit, religious, or community organizations:	of market value + land tax equivalent per year. Application fee of \$150.00; Licence fee of 5% of market value per year.
Erecting a free-standing business identification sign:	
Commercial, industrial, institutional:	Application fee of \$300.00; Licence fee of 10% of value + land tax equivalent per year.
Charitable, non-profit, religious, or community organizations:	Application fee of \$150.00; Licence fee of 5% of market value per year.
NOTE: Fees for signs can be added to other Licence fees if the Licence authorizes various uses.	
Placing artwork:	All land uses: \$75.00 per year. No application fee.
<u>COMBINATIONS</u>	
Commercial, industrial, institutional: The higher of the fees associated with any of the uses, at the discretion of the City Operations Department.	

NOTES:

Charitable, non-profit, religious, or community organizations may be required to provide documentation regarding their tax exemption status to be eligible for the reduced Licence fees.

Each use of the road right-of-way to be authorized through a Licence must meet a set of criteria that are used to determine if the use or combination of uses will be allowed. Safety considerations always take precedent.

The Licence fee representing market value and a land tax equivalent is set as follows:

- a market value appraisal is completed by the Corporate Properties Branch of the Asset Management & Public Works Department upon written request from the City Operations Department. This is done so that municipal property, whether it is titled City property or rights-of-way, that are administered by the City of Edmonton are treated in a fair and equitable manner within a neighbourhood or geographical area. The appraisal takes into consideration the use of the Licencee area, the importance of the use to the operation of the adjacent land, and if a discount from what the land would be sold for if it were surplus to the City’s needs should be considered based on these factors.
- upon completion of the market value appraisal, the appropriate annual return rate is determined and the market value is divided (by 5% or 10% as the case may be).
- the tax equivalent is based on the land tax assessment of the adjacent property, established at a square metre rate, and applied to the Licence area.
- the Licence fee is calculated and offered at an annual, quarterly, or monthly rate.

The application fee will be credited towards the Licence fee if the Licence is approved. If the Licence is refused, the application fee is not refunded.

Renewal Fee Schedule

The following fee schedule will apply when a Licence of Occupation requires renewal upon expiration of a previous Licence. It will not apply when new ownership or name change of the adjacent landowner requires a new Licence.

Locating and maintaining a parking or storage area:		
Commercial, industrial, institutional:	Licence fee of 10% of market value + land tax equivalent per year.	
Residential: (limited uses)	Licence fee of 10% of market value + land tax equivalent per year.	
Charitable, non-profit, religious, or community organizations:	Licence fee of 5% of market value per year.	
Landscaping or gardening	All land uses:	\$75.00 per year.
Erecting a wall or fence or leaving as built, and landscaping behind a noise attenuation facility:		
Residential only:	\$10.00 flat fee for a 10 year term.	
Erecting a wall or fence or leaving as built, and landscaping behind a uniform screen fence:		
Residential only:	To be determined on a site by site basis.	
Placing a sales trailer or bin during construction or renovation (term up to 2 years):		
All land uses:	Licence fee of \$1,500.00 per year, \$375.00 charged quarterly or any portion thereof.	
Placing a waste bin (under special circumstances):		
Commercial, industrial, institutional:	Licence fee of 10% of market value + land tax equivalent per year.	
Charitable, non-profit, religious, or community organizations:	Licence fee of 5% of market value per year.	
Erecting a free-standing business identification sign:		
Commercial, industrial, institutional:	Licence fee of 10% of market value + land tax equivalent per year.	
Charitable, non-profit, religious, or community organizations:	Licence fee of 5% of market value per year.	
NOTE: Fees for signs can be added to other Licence fees if the Licence authorizes various uses.		
Placing artwork:	All land uses:	\$75.00 per year.
<u>COMBINATIONS</u>		
Commercial, industrial, institutional:		
The higher of the fees associated with any of the uses, at the discretion of the City Operations Department.		

Prepared by: City Operations Department
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