

Rural Municipality of Gilbert Plains
By-Law #2007-07

Being a By-Law of the Rural Municipality to promote the protection and maintenance of undeveloped Government road allowances within the municipality.

WHEREAS

- A. Section 287 of the Municipal Act (“Act”) gives a municipality the direction, control and management of municipal roads within its boundaries, including lands identified in the Dominion Government Survey as a road allowance (“Government road allowance”);
- B. Government road allowances that are not developed as a municipal road or as an access road are a valuable resource for the:
- i. preservation of natural vegetation and the environment,
 - ii. preservation of natural corridors for the movement of wildlife,
 - iii. establishment and protection of shelterbelts,
 - iv. enhancement of soil erosion protection (“conservation purposes”);
- C. An increasing number of undeveloped Government road allowances are being used for activities that are inconsistent with conservation purposes such as being cleared of natural vegetation or used for agricultural purposes or for the dumping of material;
- D. Council of the Municipality has determined that it is advisable and in the public interest to promote the protection and maintenance of undeveloped Government road allowances in a natural state, and to ensure that any activity that takes place on a Government road allowance requires prior municipal approval and is consistent with conservation purposes;
- E. Subsections 232(1)(b), (d) & (e) of the Act authorize a council to pass by-laws for municipal purposes respecting municipal roads, people, activities and things in, on or near a municipal road, and private works on, over, along or under municipal roads;
- F. Subsection 232(1)(o) authorizes a council to pass enforcement by-laws and subsection 232(2) provides that a council may in a by-law
- (a) provide for a system of permits or approvals, including any of the following:
 - establishing fees, and terms for payment of fees, for permits and approvals, including fees related to recovering the costs of regulation,
 - providing that terms and conditions may be imposed on any permit and providing for the nature of the terms and conditions and who may impose them,
 - providing for the duration of a permit, and its suspension or cancellation or any other remedy, including remedial action, and charging the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law;

NOW THEREFORE, Council of the Rural Municipality of Gilbert Plains enacts as a by-law the following:

Purpose

1. The purpose of this By-law is to:
 - a. promote the protection and maintenance of undeveloped Government road allowances in a natural state, and permit only such activities or uses of them as are consistent with conservation purposes,
 - b. prohibit the use of a Government road allowance except in accordance with this By-law and a permit issued under this By-law,

- c. provide for a permit system giving permission to use a Government road allowance for limited agricultural activity,
- d. establish a designated officer position for the purpose of administering and enforcing this By-law, making orders for the remedying of contraventions of this By-law and taking remedial action where required.

Interpretation

2. In this By-law:

“agricultural activity” means an activity associated with the production of farm products such as grains, vegetables, grasses and other crops, and an activity associated with the raising or keeping of livestock.

“Officer” means the designated officer position established in section 12.

“owner” means the registered owner of land and a lessee of crown land.

Prohibition

3. No person shall do the following actions:

- a. disturb, remove, or damage vegetation or trees on,
- b. place any type of material or garbage on,
- c. place a fence on,
- d. block public access to, or
- e. carry out an agricultural activity on an undeveloped Government road allowance identified by the Municipality in Schedule A (“Undeveloped Road Allowance”).

4. No owner of land that is adjacent to an Undeveloped Road Allowance may permit a person to do anything set out in section 3 in connection with an agricultural activity carried out on the land of the owner.

Permit for agricultural use

5. An owner of land adjacent to an Undeveloped Road Allowance may use the Undeveloped Road Allowance for limited agricultural activity if the owner has applied for and has been issued a permit under this By-law.

6. An application to the Municipality for a permit may be made by the owner or a person authorized in writing by the owner. The application must include

- a. a completed and signed application form,
- b. information as to the location of the Undeveloped Road Allowance and the proposed agricultural activity,
- c. a description of how the proposed agricultural activity will be consistent with the conservation purposes, and
- d. the fee set out in Schedule B.

7. The Officer may require the applicant to supply any additional information the Officer feels is necessary to process and consider the application. The application is not complete until the requested information has been submitted.

8. Upon the application being complete to the Officer’s satisfaction, the Officer shall refer the application to Council. Council shall consider the application taking into account the nature of the proposed agricultural activity, the impact or effect of the proposed agricultural activity, the nature of the surrounding area and other agricultural activity in the area, the conservation purposes, and any other relevant factor.

9. Council may issue a permit if on the basis of the application and information supplied with it, in Council's opinion the proposed agricultural activity will not negatively impact the conservation purposes.
10. The permit shall be issued in the name of the owner, and where the applicant is not the owner, to the owner and applicant jointly.
11. The permit may be issued for a limited period of time, for a limited agricultural activity, and subject to any conditions in Council's opinion are necessary to promote the conservation purposes and the administration of this By-law.

Officer

12. The position of Officer is established as a designated officer for the purposes of this By-law. The Officer shall be the Chief Administrative Officer of the Municipality.
13. The Officer has all the powers, duties, discretions and functions of a designated officer set out in the Act, and is authorized to administer and enforce this By-law and the Act and to act as a designated officer for the purposes of this By-law and the Act.

Enforcement

14. The Officer may carry out inspections of land adjacent to an Undeveloped Road Allowance and any Road Allowance to determine whether this By-law or a permit is being complied with, what actions or measures a person needs to take in connection with this By-law or a permit, and whether the actions or measures set out in an order have been taken. The Officer may enter land to remedy a contravention of this By-law or a permit, and to prevent the re-occurrence of a contravention.
15. An order of the Officer will be given in writing, and may provide that if the person does not comply with the order within the specified time, the Municipality will take the actions or measures at the expense of that person.
16. A person served with an order may request Council to review the order, by written notice to Council within 14 days after the date of receipt of the order.
17. Upon receiving a request for review, the Chief Administrative Officer of the Municipality shall set a date and time for the review of the order and notify the person of the date of the review.
18. At the time and place set out in the notice, Council shall consider the request for review, and the person may appear in person or by counsel. After reviewing the order, Council may confirm, vary, substitute or cancel the order.
19. The time specified in an order made under section 15 is suspended from the date of receipt of a request for review to the date upon which Council makes its decision.
20. The Municipality may take whatever actions or measures are necessary to remedy a contravention of this By-law, the Act or a permit, including performing any work required, if the person to whom an order was directed did not comply with the order within the time specified, and the time for requesting a review of the order has passed or the person requested that Council review the order and Council did so and confirmed that the Municipality can take the ordered actions or measures. If the order of the Officer so provided, the actions or measures will be taken at the person's expense. The costs of the actions or measures taken will be an amount owing by the person to the Municipality and may be collected in any manner in which a tax may be collected or enforced under the Act, including adding to taxes of the owner's land.

Offence and costs

21. A person who contravenes this By-law or a permit is guilty of an offence and is liable on summary conviction to a fine of not more than \$1000.00. Any costs associated with or resulting from enforcing this By-law, the Act or a permit are in addition to any such fine, and are an amount owing to the Municipality and may be collected in any manner in which a tax may be collected or enforced under the Act, including adding to taxes of the owner's land.

Transitional

22. Any person carrying out an agricultural activity on an undeveloped Road Allowance on the coming into force of this By-law must apply for a permit within 25 days of the coming into force of this By-law. If Council denies the application, the person must, within 10 days of Council's decision, stop carrying out the agricultural activity on the Undeveloped Road Allowance and remove any fencing and material used on the Undeveloped Road Allowance in carrying out the agricultural activity.

Coming into Force

23. That this By-law shall come into force and become effective on January 1, 2008.

DONE AND PASSED BY THE COUNCIL OF THE RURAL MUNICIPALITY OF GILBERT PLAINS THIS 11TH DAY OF SEPTMBER, 2007, AD.

THE RURAL MUNICIPALITY OF GILBERT PLAINS

Larry Malowski, Head of Council

Susan Boyachek, CAO

Read this first time this 21st day of August, 2007, A.D.

Read this second time this 21st day of August, 2007, A.D.

Read this third time this 11th day of September, 2007, A.D.

SCHEDULE A

ROAD ALLOWANCE LIST

The Dominion Government Survey road allowances set out in this Schedule are designated as Undeveloped Road Allowances for the purposes of this By-law:

Ward 1

	S	TWP	R	&	S	TWP	R	
	NW	1	23	21	NE	2	23	21
	NW	1	23	21	SW	1	23	21
	NE	1	23	21	SE	1	23	21
	NE	1	23	21	NW	6	23	21
	SE	23	23	21	NE	14	23	21
	SE	23	23	21	NE	14	23	21
	NW	23	14	21	NW	14	23	21
	NE	22	23	21	NW	22	23	21
	NE	22	23	21	SW	23	23	21
	SE	28	23	21	NE	21	23	21
	SW	28	23	21	NW	21	23	21
	SW	29	23	21	SE	28	23	21 ¼ m
	SW	29	23	21	NE	20	23	21
	SE	29	23	21	NW	20	23	21
	SE	30	23	21	SW	29	23	21 ¼ m
	SE	30	23	21	NE	19	23	21
	SW	30	23	21	NW	19	23	21
	SE	25	23	22	NE	24	23	22
	SE	25	23	22	SW	30	23	21 ½ m
	SW	25	23	22	NW	24	23	22
WARD 1 & 2	SW	25	23	22	NW	26	23	22 ¼ m
WARD 1& 2	SW	1	24	22	SE	2	24	22
WARD 1& 2	NW	1	24	22	NE	2	24	22
	NW	12	24	22	SW	13	24	22
	NE	12	24	22	SW	13	24	22
	SW	17	24	22	NW	8	24	22
	SW	17	24	22	NE	8	24	22
	SW	36	24	22	NW	25	24	22
	NW	25	24	21	SW	36	24	21
	NE	25	24	21	SW	36	24	21
	SE	36	24	21	SE	30	24	21
	NE	25	24	21	NW	30	24	21
	SE	36	24	21	SW	36	24	21
	NE	36	24	21	NW	36	24	21
WARD 2	SE	26	23	22	NE	23	23	22
	SW	26	23	22	NW	23	23	22
	SE	27	23	22	NE	22	23	22
	SW	27	23	22	NW	22	23	22
	SE	28	23	22	NE	21	23	22
	SW	28	23	22	NW	21	23	22
	SE	28	23	22	SW	27	23	22
	SW	28	23	22	SE	29	23	22
	SE	29	23	22	NE	20	23	22
	SW	29	23	22	NW	20	23	22
	SW	29	23	22	SE	30	23	22
	NW	28	23	22	NE	29	23	22
	NE	29	23	22	SE	32	23	22
	SE	30	23	22	NE	19	23	22

	SW	30	23	22	NW	19	23	22	
	SW	30	23	22	SE	25	23	23	
	SE	25	23	23	NE	24	23	23	
	SE	25	23	23	NE	24	23	23	
	SW	25	23	23	NW	24	23	23	
	SW	25	23	23	NW	24	23	23	
	SW	25	23	23	NE	26	23	23	
	NW	25	23	23	NE	26	23	23	
	NE	25	23	23	SE	36	23	23	
	SE	35	23	23	NE	26	23	23	
	SW	35	23	23	NW	26	23	23	
	SW	31	23	23	NW	30	23	23	
	SE	31	23	23	NE	30	23	23	
	SE	32	23	22	SW	33	23	22	
	SE	8	24	22	SW	9	24	22	
	NW	8	24	22	NW	9	24	22	
	NW	8	24	22	SW	16	24	22	
	NE	9	24	22	SE	16	24	22	
	NW	10	24	22	SW	15	24	22	
	NE	10	24	22	SE	15	24	22	
	NW	26	24	22	SW	35	24	22	
	NE	26	24	22	SE	35	24	22	
	NW	27	24	22	SW	34	24	22	
	NE	27	24	22	SE	34	24	22	
	SE	29	24	22	SW	28	24	22	
	NE	29	24	22	NW	28	24	22	
	SE	25	24	23	SW	30	24	23	
	NE	25	24	23	NW	30	24	23	
	NW	30	24	23	SW	31	24	23	
	NE	30	24	23	NW	31	24	23	
	NE	25	24	23	SE	36	24	23	
	NW	25	24	23	SW	36	24	23	
	NW	26	24	23	NE	27	24	23	
	SE	36	24	23	SW	31	24	23	
	NW	28	24	22	SW	33	24	22	¼ m
	NW	36	24	23	SW	1	24	23	
	NE	36	24	23	NE	1	24	23	
WARD2 & 3	NW	31	24	23	SW	6	24	22	
WARD2 & 3	NW	31	24	23	SW	6	24	22	
WARD2 & 3	NE	31	24	23	SE	6	24	22	
WARD 3									
	SW	12	25	23	NW	1	25	23	
	SE	12	25	23	NE	1	25	23	
	SW	8	25	22	NW	5	25	22	
	SE	8	25	22	NE	5	25	22	
	SW	11	25	22	NW	2	25	22	
	SE	11	25	22	NE	2	25	22	
	NW	10	25	22	SW	15	25	22	
	NE	10	25	22	SE	15	25	22	
	NW	9	25	22	SW	16	25	22	
	SE	9	25	22	NE	16	25	22	
	SE	17	25	22	NE	8	25	22	
	SW	17	25	22	NW	8	25	22	
	SW	18	25	23	NW	7	25	22	
	SE	18	25	23	NE	7	25	22	
	SE	18	25	23	NW	8	25	22	
	NE	7	25	22	NW	8	25	22	
	NE	12	25	23	SE	13	25	23	
	NW	12	25	23	SW	12	25	23	

	NE	23	25	23	NW	24	25	23	
	SW	24	25	23	NW	12	25	23	
	SE	24	25	23	NE	12	25	23	¼ m
	SE	20	25	22	SW	21	25	22	
	NE	20	25	22	NW	21	25	22	
	SW	23	25	22	NW	14	25	22	
	SE	23	25	22	NE	14	25	22	
WARD 3& 4	NE	23	25	22	NW	23	25	22	
WARD 3& 4	SE	26	25	22	SW	25	25	22	
WARD 3& 4	NE	26	25	22	NW	25	25	22	
	SE	26	25	23	SW	25	25	23	
	SE	6	26	23	SW	5	26	22	
	NE	6	26	23	NW	5	26	22	
	NW	1	26	23	SW	12	26	23	
	NE	1	26	23	SE	12	26	23	
	NW	2	26	23	SW	11	26	23	
	NE	2	26	23	SE	11	26	23	

WARD 4

	SE	5	25	21	SW	4	25	21	
	NW	1	25	22	SW	12	25	22	
	NE	1	25	22	SE	12	25	22	
	NW	5	25	21	SW	8	25	21	
	NE	5	25	21	SE	8	25	21	
	NW	7	25	21	SW	9	25	21	
	NE	7	25	21	SE	9	25	21	
	NW	3	25	21	SW	10	25	21	
	NE	3	25	21	SE	10	25	21	
	NE	1	25	21	SE	12	25	21	
	SE	7	25	22	SW	8	25	22	
	SE	9	25	21	SW	10	25	21	
	NE	9	25	21	NW	10	25	21	
	SE	17	25	21	SW	16	25	21	¼ m
	NE	17	25	21	NW	16	25	21	
	SE	13	25	21	SW	18	25	21	
	NE	13	25	21	NW	18	25	21	
	NW	16	25	21	SW	21	25	21	
	NW	13	25	21	SW	24	25	21	
	NE	13	25	21	SE	24	25	21	
	SE	20	25	21	SW	21	25	21	
	NE	20	25	21	NW	21	25	21	
	SE	22	25	21	SW	23	25	21	
	NE	22	25	21	NW	23	25	21	
	NW	19	25	21	SW	30	25	21	
	NE	19	25	21	SE	30	25	21	
	NE	25	25	21	SE	30	25	21	
	SE	27	25	21	SW	26	25	21	
	NE	27	25	21	NW	26	25	21	
	SE	25	25	21	SW	30	25	21	
	NE	25	25	21	NW	30	25	21	
	SE	36	25	21	SW	31	25	21	
	NW	29	25	21	SW	32	25	21	
	NE	29	25	21	SE	32	25	21	
	NW	25	25	21	SW	26	25	21	
	NE	25	25	21	SE	26	25	21	
	NW	2	26	21	SW	11	26	21	
	NW	2	26	21	SW	11	26	21	
	SE	1	26	21	SW	6	26	21	
	NE	1	26	21	NW	6	26	21	
	SE	9	26	21	SW	10	26	21	

NE	9	26	21	NW	10	26	21
NE	11	26	21	NW	12	26	21
SE	12	26	21	SW	7	26	21
NE	12	26	21	NW	7	26	21

WARD 5

SE	17	26	21	SW	16	26	21
NE	17	26	21	NW	16	26	21
SE	16	26	21	SW	15	26	21
SE	13	26	21	SW	18	26	21
NE	13	26	21	NW	18	26	21
SE	20	26	21	SW	21	26	21
SE	24	26	21	SW	19	26	21
NE	24	26	21	NW	19	26	21
NW	20	26	21	SW	29	26	21
NW	21	26	21	SW	28	26	21
NW	21	26	21	SW	28	26	21
NE	21	26	21	NW	28	26	21
SE	29	26	21	SW	28	26	21
NE	29	26	21	NW	28	26	21
NW	29	26	21	SW	32	26	21
NE	29	26	21	SE	32	26	21 ¼ m
SE	32	26	21	SW	33	36	21
NE	32	26	21	NW	33	36	21
NW	36	26	21	SW	10	27	21
NE	36	26	21	SE	10	27	21
NW	31	26	21	SW	7	27	21
NE	31	26	21	SE	7	27	21 ¼ m
NE	31	26	21	SE	7	27	21 ¼ m
NW	32	26	21	SW	8	27	21
NE	32	26	21	SE	8	27	21
NE	32	26	21	SE	8	27	21
NW	33	26	21	SW	9	27	21
NE	33	26	21	SE	9	27	21
NW	34	26	21	SW	10	27	21
NE	34	26	21	SE	10	27	21
NW	35	26	21	SW	11	27	21
NE	35	26	21	SE	11	27	21
NW	36	26	21	SW	12	27	21
NE	36	26	21	SE	12	27	21
SE	17	27	21	SW	16	27	21
NE	17	27	21	NW	16	27	21
NW	17	27	21	SW	21	27	21 ¼ m
NE	17	27	21	SE	21	27	21
SE	20	27	21	SW	21	27	21
NE	20	27	21	NW	21	27	21
SE	29	27	21	SW	28	27	21 ¼ m
SE	29	27	21	SW	28	27	21 ¼ m
NE	29	27	21	NW	28	27	21
NW	30	27	21	SW	31	27	21
NE	30	27	21	SE	31	27	21 ¼ m
NE	30	27	21	SE	31	27	21 ¼ m
SE	32	27	21	SW	33	27	21
NE	32	27	21	NW	33	27	21

WARD 5
& 6
WARD 5
& 6
WARD 5
& 6

NE	25	27	22	NW	26	27	22
SE	35	27	22	SW	36	27	22
NE	35	27	22	NW	36	27	22

WARD 6

SW	14	26	23	SE	15	26	23
NW	14	26	23	NE	15	26	23
SE	17	26	22	SW	16	26	22
NE	17	26	22	NW	16	26	22
SE	15	26	22	SW	14	26	22
NE	15	26	22	NW	14	26	22
SW	23	26	23	SE	22	26	23
NW	23	26	23	NE	22	26	23
SE	19	26	23	SW	20	26	22
NE	19	26	23	NW	20	26	22
SW	26	26	23	SE	27	26	23
NW	26	26	23	NE	27	26	23
NW	23	26	23	SW	26	26	23
NE	23	26	23	SE	26	26	23
NW	35	27	23	SW	11	27	23
NE	35	27	23	SE	11	27	23
NW	36	27	23	SW	12	27	23
NE	36	27	23	SE	12	27	23
NW	31	27	23	SW	6	27	23
NE	31	27	23	SE	6	27	23
NW	32	27	22	SW	7	27	22
NE	32	27	22	SE	7	27	22
NW	33	27	22	SW	8	27	22
NE	33	27	22	SE	8	27	22
NW	34	27	22	SW	9	27	22
NE	34	27	22	SE	9	27	22
NE	35	27	22	SE	10	27	22
SE	15	27	22	SW	14	27	22
NE	15	27	22	NW	14	27	22
NW	17	27	22	SW	20	27	22
NE	17	27	22	SW	20	27	22
NW	16	27	22	SW	21	27	22
NE	16	27	22	SE	21	27	22
SE	19	27	23	SW	20	27	22
NE	19	27	23	NW	20	27	22
SE	20	27	22	SW	21	27	22
NE	20	27	22	NW	21	27	22
NW	30	27	23	SW	31	27	23
NE	30	27	23	SE	31	27	23
NW	28	27	22	SW	33	27	22
NE	28	27	22	SW	33	27	22
NW	27	27	22	SW	34	27	22
NE	27	27	22	SE	34	27	22
NW	26	27	22	SW	35	27	22
NE	26	27	22	SE	35	27	22
SE	35	27	23	SW	36	27	23
NE	35	27	23	NW	36	27	23

¼ m

SCHEDULE B
PERMIT FEES

1. Permit application fee \$20.00