



Application Information and Guidelines for Proposal for Construction or Maintenance of Trails or Recreation Facilities on Crown Land

The purpose of this information package is to assist proponents of trail and recreation facility applications in meeting the requirements for authorization according to *Section 57, of the Forest and Range Practices Act (FRPA) and Part 3 of the Forest Recreation Regulation*.

These Guidelines:

- Outline and clarify which activities do or do not or require authorization;
- Provide direction on how a proponent should prepare a proposal (for activities that do require consent);
- Explain the process for review and adjudication of a proposal;
- Identify the criteria for a decision and how it will be communicated to applicants;
- Outline enforcement of unauthorized activities (i.e., non-compliance with Section 57); and
- Provide additional resources and information for trail or recreation facility proponents.

1. GENERAL INFORMATION

Authorization for constructing, maintaining, rehabilitating trails or recreation facilities on Crown land under the Forest and Range Practices Act.

Section 57 of the *Forest and Range Practices Act (FRPA)* prohibits construction, maintenance or rehabilitation of a trail or recreation facility unless authorized in writing by the Minister or under another enactment. Section 57 of FRPA applies to all provincial Crown land outside of parks. If you are in doubt as to the status of an area and whether or not section 57 applies, please contact the nearest District Recreation Officer (DRO).

Some activities **DO NOT** require authorization under section 57:

Section 57 does not apply to basic public access or basic recreational use of Crown land. The following activities do not require authorization:

- Basic access or travel through the forest or across the land, by individuals or groups, whether on a one-time basis or repetitive use of the same route.
For example: hiking on Crown land and the normal ground disturbance associated with this activity.
- Route finding or route marking using ribbons, cairns or other directional indicators.
For example: marking one's way with cairns in an alpine area or with ribbons in a forest.

Note: the standard practice of nailing route markers to trees is an allowable practice and is not considered tree spiking under Section 55 of the *Act* (Tree Spiking Prohibited).

- Minor, piecemeal or incidental clearing of brush or downed trees either on or off established trails.
For example: bushwhacking, or clearing branches or deadfall that has fallen across an existing path or trail.
- Emergency repairs to a trail or recreation facility that is necessary to prevent imminent damage to the environment, the trail or the facility.
For example: repairing a water bar on a section of trail where flooding is occurring and immediate repair is needed.

- Emergency construction or maintenance of a trail when this is the only reasonable way of minimizing risk to personal safety.
For example: placing a log over a stream that is necessary to cross to get out of the woods by dark.
- Basic recreational use of a localized area, by individuals or groups.
For example: camping on Crown land and the normal ground disturbance associated with this activity.
- Construction of small, rustic structures of a temporary nature.
For example: construction of rock fire rings, latrines, etc.

If you are uncertain whether or not your intended activity requires consent, please contact the nearest District Recreation Officer

Activities that **DO** require authorization under section 57:

The following activities are considered trail or recreation facility construction, rehabilitation or maintenance and do require authorization before the activity may begin:

- Ground disturbance
 - significant, continuous grubbing of the soil or rocks along a linear route to establish a visible, long lasting treadway
 - significant ground excavation for the purpose of parking vehicles, launching boats, etc.
 - significant ground or root disturbance associated with corralling horses.
- Clearing or cutting of vegetation
 - significant, continuous uprooting of shrubs or understory plants along a linear route or over an extended area
 - cutting of standing trees.
- Construction of structures:
 - water bars, stairs, bridges, signs, corrals, etc.
 - other significant structures of a long-term or permanent nature.

2. PREPARING A PROPOSAL

Individuals or groups planning to construct, rehabilitate or maintain a trail or recreation facility must prepare and submit a proposal and all required accompanying information to the appropriate Front Counter BC Office location. A list of Front Counter BC Office locations is provided at the end of this document.

Incomplete applications or applications that do not meet the requirements as specified by these Guidelines will be returned to the applicant without review.

Before you begin a proposal please consider if the intended activity or facility is of a “commercial” or “exclusive” nature.

- “commercial” means there is locally recognized business entities using the area for commercial or ‘for-profit’ purposes.
- “exclusive” means there is a membership requirement for use or a facility is locked with no key available to the public”.

In these cases, please contact Front Counter BC about their requirements under various authorities, including their commercial recreation policy.

<http://www.frontcounterbc.gov.bc.ca/>

Proposal Requirements

- Completed Proposal Form
- Overview Map (recommended scale 1:50,000 to 1:250,000)
- *General location map (recommended scale 1:20,000 to 1:30,000)
- *Specific location map (recommended scale 1:2,000 to 1:10,000)
- *Digital geo-spatial information of proposed trail or facility (.gpx, .kml or shape file)

**for proposals to construct, rehabilitate or maintain un-managed or new trails.*

To assist personnel in processing of applications, please complete and submit the proposal in a digital format.

Part 1. Proponent Name and Contact Information

Please provide the full legal name and contact information for the proponent. If the proponent is not an individual, please provide the name and contact information for the most appropriate representative of the organization.

Part 2. General Proposal Description

1. Purpose of proposed trail or recreation facility

Briefly describe the overall purpose of the proposed trail or recreation facility including its relation to existing trails or other recreation features. Is the proposed trail part of an existing network of trails? Does the proposed trail provide access to a particular recreation feature or connect to other trails?

For example: The purpose of the proposed trail is to provide scenic hiking and cycling access to Pine Lake and an alternate linkage to the Fir Mountain Trail Network. The trails and/or facilities established will be of a non-commercial, non-exclusive nature.

2. Brief description of the proposed trail or recreation facility.

Briefly describe the type of trail or facility being constructed or maintained including length, type of terrain, type of trail etc.

For example: Work will consist of constructing 15 km of naturally surfaced single track hiking and cycling trails through second growth forest and into the alpine. An existing, abandoned road will be used for the first 3 km, and new trails will be constructed for the remaining 12 km.

3. Location of the proposed trail or recreation facility

Describe the general location of the proposed trail or recreation facility using commonly referred to landmark names such as valley or watershed names, mountain peaks, proximity and orientation to local communities or other descriptors.

For example: The proposed 5 km trail is located on the north slope of Deer Lake, approximately 3 kilometers southwest of Maryville.

4. *Managed trail or recreation facility*

If known, please identify if the trail is recognized and currently managed by Recreation Sites and Trails BC (i.e. is the trail or recreation facility being proposed currently established under section 56 of FRPA).

Managed trail or recreation facility

A managed trail or recreation facility has been designated as a recreation trail or site under section 56 of FRPA and is being actively managed by the Province. Normally, mapping information will not be required for an application to maintain or rehabilitate a managed trail or recreation facility. If known, please reference the REC number in the application. The recreation district office may be contacted for information about the current status of a recreation trail or facility.

Un-managed trail or recreation facility

An un-managed trail or recreation facility has not previously been designated as a recreation trail or site under section 56 of FRPA and is not being actively managed by the Province. If an existing trail or recreation facility is not formally managed and not in the Ministry records, a general location map, specific location map and submission of digital geo-spatial information identifying the proposed trail track or facility as described in this document will be required. The recreation district office may be contacted for information about the current status of a recreation trail or facility.

New trail or recreation facility

If a trail or recreation facility does not exist, a general location map, specific location map and submission of digital geo-spatial information as described in this document will be required.

Heritage Trail

A heritage trail is a trail having cultural significance by reason of established aboriginal use or use by early immigrants. Many heritage trails have received official status as designated heritage trails, having been designated under the Heritage Conservation Act.

Please specify if the proposal is for construction, rehabilitation or maintenance (or all that apply).

Part 3. Detailed Trail Description

1. Specify the approximate length of the proposed works. If the proposal includes new construction and maintenance of existing trails, please specify.
2. Specify the proposed width of new or rehabilitated trail. Refer to trail construction guidelines and standards identified in this document for guidance on appropriate trail construction widths.
3. Specify proposed work initiation and completion dates.

4. Please identify the intended primary users of the trail (i.e. hikers, cyclists, snowmobiles, equestrians etc.). The primary intended users will guide appropriate trail or facility construction standards. Note: specifying intended primary users on this proposal will not guarantee use restrictions as determined by district recreation officers. Also specify anticipated season of use and estimate of annual number of users.
5. If known, specify if the proposed works fall within a designated community watershed.
6. Describe any trail construction guidelines or standards that will be followed when conducting works. Guidelines may include specific user type construction guidelines such as *IMBA's Guide to Building Sweet Singletrack* for mountain bike trails, general construction guidelines or could include best management practices for protecting specific resource values. For a more detailed list of standards, guidelines and other documents, see the References section of this document.
7. Describe any significant water features including creeks, streams, rivers or wetlands the proposed trail might cross or potentially impact. Include water features that will require any crossing infrastructure such as bridges, boardwalks or culverts. Identify any water courses where the trail may impact the associated riparian area. For further information on regulations and guidelines related to water features refer to B.C. Ministry of Water, Land and Air Protection's [Standards and Best Practices for Instream Works \(2004\)](#), and other documents listed in the References section of this document.

Part 4. Mapping Requirements

Applications for construction of new trails or maintenance/rehabilitation of previously unmanaged trails must include three (3) maps as described below. Maps are to be provided on paper at 8 ½" x 11" or 8 ½" x 14" or 11" by 17". In addition, applicants are required to submit digital GPS data for trails as described below. Maps can be created using the public imap mapping function ([iMapBC](#)) or the FrontCounterBC "Discovery Tool" (<http://www.frontcounterbc.gov.bc.ca/mapping/index.html>).

Applications with incomplete mapping or incomplete GPS data will be returned.

1. Overview Map (1:50,000 to 1:250,000)

The purpose of this map is to indicate the relationship of the site to the overall area. An overview map should indicate the relationship of the proposed area to nearby communities, major watercourses, public highways, etc.

2. General Location Map (1:20,000 to 1:30,000)

The purpose of this map is to indicate the general location of the site. Information on this map may include topography, water courses, existing access including primary resource roads, any known private lands and/or forest tenures and any known cultural or historic sites.

3. Specific Location Map (1:2000 to 1:10,000)

A Site Specific map is a detailed version of the proposed site or trail showing the boundary of recreation sites or location of linear trails, including points of commencement and termination, and connections to existing trails or recreation resources. Multiple separate trails should be individually named and identified. If the application site or trail crosses a stream provide an indication of proposed culvert or bridge locations.

Maps should be provided at the best appropriate scale depending on the area and scope of the application.

4. GPS Data

Applicants for proposals to construct, rehabilitate, or maintain un-managed trails must provide digital GPS data for each proposed trail.

GPX files or equivalent, depending on GPS device manufacturer, are preferred. KML/KMZ files may be accepted, but must be derived from field collected GPS data.

Shape (.shp) files will be accepted but are not required.

Part 5. Additional Requirements

1. *Describe any discussions or communications with potentially impacted stakeholders, interest holders or First Nations regarding this proposal.*

This information will assist the district recreation officer in completing the referral and consultation process. Specifying indications of support or opposition from other interest groups will ensure the district recreation officer completes the referral and any required consultations in an efficient manner.

2. *Describe your or your organization's capacity and commitment for ongoing maintenance of the proposed trail or recreation facility.*

This information will assist the district recreation officer in assessing the capacity for long term management or maintenance of the proposed trail or facility, and the Ministry's requirements for the management of a trail or recreation facility, in the event that an applicant is unable to follow through. Include information about the current membership, current trail or facility maintenance commitments, past maintenance experience and commitments and any other relevant information. Attach additional pages as necessary.

3. PROCESSING A PROPOSAL

Upon receiving a proposal to construct, rehabilitate, or maintain a trail or recreation facility, Recreation Sites and Trails BC will respond to a proposal as follows:

Step 1. FrontCounter BC will receive Trail or Recreation Facility Proposals

Proposals must be submitted in the format described in this document to the appropriate FrontCounter BC Office location. When a proposal is received, a *cursory review will be undertaken to determine* if:

- All necessary information required to accompany an application has been provided.
- The proposal contains all the information necessary to evaluate and adjudicate the proposal.

Incomplete applications or applications that do not meet the requirements as specified in these guidelines will not be processed and the applicant will be informed.

Step 2. Assess the Proposal

To obtain information needed to adequately assess proposals, the DRO or FrontCounter BC staff will, as appropriate, review existing plans/objectives; conduct a status check; refer the proposal, notify or consult with First Nations; conduct a site visit; meet with the proponent and meet with other interests, agencies or stakeholders.

Complete Section 57 proposals will be assessed to determine if the proposal will:

- Present obvious conflicts or issues that make the proposal unsuitable,
- Conflict with existing management direction,
- Present a risk to public safety,
- Result in unacceptable damage to the environment,
- Result in unacceptable conflicts with other resource values or users,

In addition, the DRO may also assess the proposal to determine if it will:

- Include the proponent entering into a long-term trail management agreement with Recreation Sites and Trails BC,
- Be supported by a proponent that has the capacity (e.g., knowledge, experience and resources) to undertake the required trail works and maintenance,
- Require the recreation district to undertake the required level of trail management when the proponent may not have the capacity to do so.

If an approved plan (e.g., Trail Management Plan or Strategy) exists which confirms the general acceptability of the proposed trail use, the assessment process may be simplified. In these cases, DROs may, at their discretion, limit the amount of information collection and consultation that goes into assessing the proposal. A current status check should be conducted in all cases, and First Nations consultation must occur unless the First Nations have previously agreed that their involvement in the planning process may substitute for proposal-by-proposal consultation.

If the proposal cannot proceed due to irreconcilable issues, FCBC will notify the applicant and provide reasons for not proceeding with the application.

Step 3. Adjudicate the Proposal

Following an assessment of the Proposal, a decision will be made to:

- Approve the proposal, as proposed;
- Approve the proposal subject to some modifications to prevent or mitigate an issue, as negotiated with the proponent;
- Refuse the proposal where it would result in an unacceptable level of risk to public safety, environmental damage, resource value or user conflict, or in cases where a Trail Management Agreement is required and the proponent cannot demonstrate sufficient capacity.
- Defer a decision pending the resolution of an issue or the provision of additional information needed to adjudicate the proposal.

The timeline for completing the assessment and adjudication of an application may vary depending on the nature and complexity of the proposal. Where conflict, competing interests, environmental issues or First Nation concerns exist, proposal adjudication may be significantly delayed.

Step 4: Notify Proponent of Decision

The DRO will communicate with the proponent to discuss the adjudication result, as follows:

- If the proposal is *approved*, discuss next steps and timing.
- If the proposal is *approved with modifications*, discuss and agree upon the modifications.
- If the proposal is *refused*, specify the reasons and discuss potential alternatives that may satisfy the interests of the proponent.
- If a decision on the proposal is *deferred* because further information is required, indicate what additional information is required and identify timeframes.

Adjudication decisions, actions and any follow-up agreed upon with the proponent are documented in writing and a copy is provided to the proponent. If a proponent is dissatisfied with a decision on a FRPA Section 57 trail or recreation facility proposal, they may request a decision review. The general process is for the proponent to contact the DRO to first try to address the issue informally at the local level. The issue may be referred to the Regional Manager or the Recreation Sites and Trails BC Director, if necessary.

4. ENFORCEMENT OF UNAUTHORIZED ACTIVITIES

Note: This section only summarizes and sketches, for reference purposes, the enforcement provisions regarding Section 57 that are provided for under the *Act*. This section is neither a complete or official presentation of this broad and complex subject. For more information on enforcement, please contact the nearest district recreation office.

Experience has shown that information, education, and voluntary compliance is the most effective means of managing recreation activities and enforcing recreation management rules and objectives. This can be expected to be the case with Section 57 and its intent to bring about a more planned approach to trail and recreation facility management in British Columbia.

This section deals with regulatory, as opposed to voluntary, enforcement of Section 57 as set out in the *Act* and regulations. It outlines the actions an official may take if he/she believes a person is illegally constructing, rehabilitating, or maintaining a trail or recreation facility on Crown land.

In summary, the actions that may be carried out, either individually or in various combinations, are as follows:

Written warning

If an official believes that a person(s) is contravening Section 57, he/she may inform them through a written notice of the apparent contravention. The notice should contain information pertaining to the alleged contravention, including the name and phone number of the official. Failure to heed the warning may lead to penalties.

Stop work order

If an official believes that a person(s) is contravening Section 57, he/she may order the contravention to stop, or to stop to the extent required for the person(s) to get the required consent. Such a stop work order may or may not name, or apply to, specified persons. The minister may apply to the courts for an order for compliance if the minister considers that a person(s) is not complying with a stop work order.

Violation ticket (specified penalty ticket)

If an official believes that a person(s) is contravening Section 57, a ticket may be issued under the authority of the *Offence Act*. A person may appeal a ticket issued under the *Offence Act*.

Remediation order

A senior official may order a person(s) to remedy a contravention of Section 57 by requiring them to repair any damage caused by the contravention. Such a remediation order must set out all information required by the *Act* and regulations, including:

- the nature of the contravention
- the nature of the work to be done to remedy the contravention
- the date by which the work must be completed
- the person's right to a review or an appeal
- the right of the government to carry out the work and levy a penalty if the person fails to comply with the order

Prosecution

If an official believes that a person(s) is contravening Section 57, he/she may prosecute. A person(s) prosecuted by the Crown for contravening Section 57 is subject to a maximum penalty of \$5,000 in fines and six months in jail.

6. REFERENCES

Legislation Regulations and Policy

Forest and Range Practices Act

<http://www.for.gov.bc.ca/code/legislation.htm>

Forest Recreation Regulation, Forest and Range Practices Act

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/14_16_2004

B.C. Ministry of Environment. A Users Guide to Working In and Around Water - Understanding the Regulation under British Columbia's *Water Act*. 2005.

http://www.env.gov.bc.ca/wsd/water_rights/cabinet/working_around_water.pdf

BC Ministry of Tourism, Culture and the Arts Authorizing Public Recreation Trail on Crown land: Policy Statement.

Guidelines and Standards

International Mountain Bike Association. Trails Solutions: IMBA's Guide to Building Sweet Singletrack. 2004.

Resort Municipality of Whistler. Whistler Trail Standards: Environmental and Technical Trail Features. 2003.

BC Ministry of Forests. Recreation Manual Chapter 10

BC Ministry of Environment. Wildlife Guidelines for Backcountry Tourism/Commercial Recreation in British Columbia. 2006.

Best Management Practices

B.C. Ministry of Water, Land and Air Protection's Standards and Best Practices for Instream Works. 2004.

<http://www.env.gov.bc.ca/wld/documents/bmp/iswstdsbpsmarch2004.pdf>

B.C. Ministry of Agriculture and Lands. A guide to using and developing trails in farm and ranch areas. 2002.

http://www.agf.gov.bc.ca/resmgmt/sf/trails/TrailGuide_CompleteBook.pdf

B.C. Ministry of Water, Land and Air Protection. Best Management Practices for Recreational Activities on Grasslands in the Thompson and Okanagan Basins. 2004

7. GLOSSARY

“**determination**” means an act, decision, procedure, levy, order, or other determination made under the *Act*, or the regulations by an official or a senior official.

“**establishment**” means the legal declaration by order of the minister of an area covered by a recreation map notation as a recreation site or trail and the public notification of that declaration via a notice in the *British Columbia Gazette*.

“**facility**” means any area or portion of a recreation site, recreation trail, or interpretive forest site that serves as or provides for a day use area, boat launch area, trail head, or other similar functions.

“**minister**” means the Minister of Forests, Lands and Natural Resource Operations. The Minister may delegate his authority under the *Act* and the *Recreation Regulation*.

“**official**” means a designated forest official.

“**Recreation site**” or **Recreation trail**, means a recreation site or recreation trail:

- designated under the *Forest Act*, or,
- established under Section 6 of the *Forest Practices Code of BC Act* or,
- established under Section 56 of the *Forest and Range Practices Act*.

“**standards**” are recommended design and construction specifications for recreation structures.

“**status**” **check**” means the process of determining rights, titles, or interests in a particular area or parcel of land by searching records, maps, and other documents for jurisdictions, tenures, or expressed interests by other agencies or parties in the area in question. Status checking means “checking the status of” an area with respect to existing reports, titles, or interests.

“**structure**” means any improvement of a long-term or permanent nature that is fixed to the ground or permanently secured in a fixed location and includes cabins, bridges, litter barrels, shelters, signs, corrals, etc.