



A Guide to Street and Road Closures

Under *The Municipalities Act*

April 2008

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Preamble

The procedures in this guide are intended to assist municipalities in the process of closing, closing and leasing or closing and selling streets or roads within the municipality.

This guide is based on the legislation contained in Sections 13 and 14 of *The Municipalities Act* which must be referred to for interpretation. Included in this guide are links to:

- additional information and assistance;
- a checklist; and
- sample bylaws.

Assistance

Ministry of Municipal Affairs

Advisory Services Unit

Regina Office

410 -1855 Victoria Avenue

REGINA SK S4P 3V7

Phone: (306) 787-2680

Fax: (306) 787-3641

Website: www.municipal.gov.sk.ca

Permanent Closures

Section 13 of *The Municipalities Act* (the Act) enables a municipal council to pass a bylaw to permanently close, to close and sell or to close and lease any street or road within the municipality's control.

Definitions

1. Streets and roads – include all or any part of a culvert or drain or a public highway, road, lane, bridge, place alley, square, thoroughfare or way intended for or used by the general public for the passage of vehicles or pedestrians.
2. Public highways – are a road allowance or a road, street or lane vested in the Crown and includes anything erected on or in connection with the public.
3. Road allowance – is the road allowance laid out pursuant to the authority of an Act and established as part of the original quadrilateral township system of survey.

Ownership

Streets or roads may be on land owned by the municipality or may be vested (owned) by the Crown. Any street or road that is on vested land cannot be closed until consent is first obtained from the Minister of Highways and Infrastructure and must meet any conditions imposed by that department.

Consents

The municipality or its agent must obtain written consents to the closure from:

- a) Each utility, pipeline or cable television company that may have lines in, on or over the road; and
- b) Any authority responsible for any road that abuts or connects to the road being closed such as: a public highway in another municipality, an Indian reserve or another jurisdiction.

In addition, the municipality may require written consent to the closure from the Minister of Highways and Infrastructure.

Written consent from the Minister of Highways and Infrastructure is **not** required if council wishes to either:

- close (without leasing or selling) or
- close and lease

a street or road that has:

- a) never been constructed;
 - b) if constructed, is not being maintained for use or is no longer being used by the general public;
 - c) if constructed and maintained, consists only of those parts of the street or road that are not part of the roadway itself.
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If the municipality intends to close and sell the closed road, or if any of the above conditions are not met, the municipality **must obtain** the written consent of the Minister of Highways and Infrastructure. The following conditions also apply:

- a) compensation must be provided to the Crown for land that was originally purchased by the Crown as a provincial highway;
- b) the sale must not eliminate access to land ;*
- c) if the Crown, a Crown utility or the municipality requests the return of land (provided the land has not become part of a plan of subdivision) for a public utility it shall be returned without compensation. An interest pertaining to this will be registered against the title.

* With respect to eliminating access to land, the Community Planning Branch may waive this requirement if the affected land is owned by the same party. This may create issues in the future in those instances where land without access is sold by that party to some other person.

A request for consent must include:

- a copy of council's resolution to close the street or road,
- an explanatory sketch or plan,
- reason(s) for the closure.
- copies of the replies from the utility and pipeline companies, and
- verification that the proposed closure will not affect public access

Easement agreements or relocation costs may have to be negotiated for utility or pipelines' existing on, in or over the road that council intends to close.

Some utility addresses are:

- SaskPower Land, 2025 Victoria Avenue, REGINA SKS4P 0S1
- SaskEnergy/TransGas, 1777 Victoria Avenue, REGINA SK S4P 4K5
- SaskTel Lands and Easements (South), 2121 Saskatchewan Drive, REGINA SK S4P 3Y2
or
- SaskTel Lands and Easements (North), 140 1st Avenue North., SASKATOON SK
S7K 1W8

Apply to Saskatchewan Ministry of Highways and Infrastructure, Land Branch, at 900-1855 Victoria Avenue, REGINA, SK. S4P 3T2 for ministerial consent and a notice of road closure.

Public Notice

Councils must give public notice in accordance to its public notice policy before initially considering any report on a propose bylaw to close a road or street.

The Act does not require written notice to affected or adjacent land owners however the municipality may choose to provide such notice to minimize potential negative implications. Before council may pass the bylaw, any person who feels they are adversely affected by the road closure has the right to have their objection heard by council.

When making the decision to close a road, council has a duty to consider the effects of the closure on the entire municipality in addition to the impact on all affected parties. Part of Council's responsibility includes hearing the concerns of individuals as it prepares to approve, deny or alter the draft bylaw.

Compensation

Legislation provides that persons with land or an interest in land adversely affected by a municipal road closure are entitled to compensation for damages.

If the amount of compensation cannot be agreed upon, either party may apply to a judge of the Court of Queen's Bench to have the amount determined. The judge may determine the amount of compensation according to the provisions of Subsections 7(2) and 7(3) of *The Municipal Expropriation Act*.

Registration

The proposal to close the road must be registered in the Information Services Corporation (ISC) Land Registry.

This is a two step process.

1. The first step involves applying to have the existing survey plans changed or transformed which will require either a plan of survey prepared by a Saskatchewan Land Surveyor or a TYPE II Descriptive Plan.
2. The second step involves applying to have a new title raised to the closed street.

In order to register a closure with the ISC and change the land ownership, ISC requires either:

- a Type II Descriptive Plan, which may be prepared by any party, or
- a new plan of survey prepared by a Saskatchewan Land Surveyor.

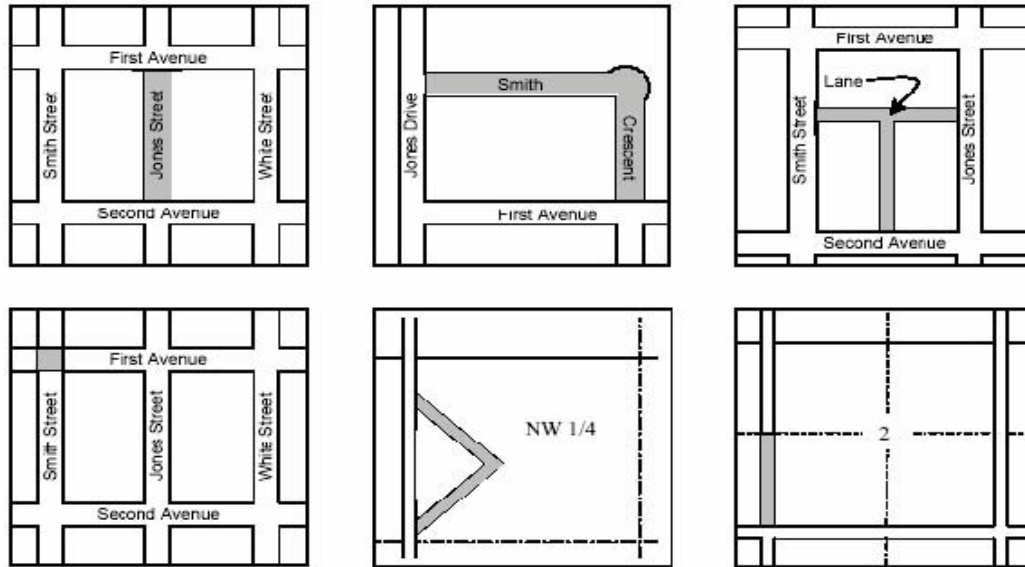
To determine which is required, contact a Land Surveyor or the Plan Processing staff at the ISC Customer Support Centre (1-866-275-4721).

A Type II Descriptive Plan may take one of three forms depending on the circumstances involved. For details, refer to the road closure rules contained in the ISC Controller of Surveys Policy Manual entitled Descriptive Plan Type II. The ISC manual indicates a Type II plan can be used to close the types of roads shown Figure 1. The ISC manual can be accessed by clicking [here](#).

Figure 1: Possible Road Closures by Descriptive Plan Type II Source: Page 11, ISC Controller of Surveys Policy Manual: Descriptive Plan Type II

Examples of possible closures:

(Shaded areas represent examples of full road segments)



If only part of a road is to be closed, or the closed road is to be further subdivided as shown in Figure 2, the municipality must engage a qualified Land Surveyor to prepare a plan of proposed subdivision for an Application to Subdivide Land. Once this application is approved by the Community Planning Branch, the Surveyor must prepare a plan of survey and other documents for registering the proposal with the ISC.

Figure 2: Example showing resurvey of street and lots



Council passes a resolution proposing the closure and authorizes preparation of documentation. A resolution may refer to a plan or sketch, or use a general description if it clearly describes the affected land. A binding agreement for the land cannot be entered into until after all consents are received.

The Ministry of Highways and Infrastructure require that a closed road be consolidated under one title with adjoining land unless the Community Planning Branch confirms that the closed road can exist as a separate parcel or lot under the municipality’s planning or zoning bylaws.

If only part of a road is being closed or if the land is part of a larger subdivision application, the municipality must obtain approval from the Community Planning Branch. Click here for information on [subdivision applications](#) or contact the Community Planning Branch.

If council decides to pass the bylaw it can then authorize formalizing a transfer or agreement and having the administrator or land surveyor complete and submit the required documents for registration.

Registration involves submitting completed applications in “packet” through the Information Services Corporation (ISC). Click here to access an instruction sheet for [plan processing](#)

Lease Agreements

Under Section 13 council has the option to close and lease a municipal road as opposed to closing and selling.

When council passes a bylaw to close and lease a municipal road the lease agreement must contain at least one of the following provisions:

- a) that council may terminate the lease by giving 6 months written notice to the lessee; or
- b) that the lessee shall grant public access to the street or road that has been closed if council provides the lessee with 30 days written notice

Within 30 days after issuing, renewing or terminating any lease or after the passing of a bylaw pursuant to this section, the administrator must send a copy of the bylaw and lease to the Minister of Highways and Infrastructure for filing whether or not Ministerial consent is required.

Walkways

Walkways are considered “dedicated lands” and fall under the provisions of *The Planning and Development Act 2007*. Dedicated lands are held in trust for the area as they are taken without compensation at the time of the subdivision. Walkways are created for specific pedestrian access between parts of a subdivision. Title is in the name of the municipality or the crown in parts of northern Saskatchewan.

Council may sell a walkway if it is deemed no longer necessary but in doing so must not eliminate access to any parcel of land. The closing walkways are done by passing a bylaw under *The Planning and Development Act 2007*. A bylaw to close a walkway requires Ministerial approval unless the municipality has been designated an approving authority.

Walkways cannot be leased or exchanged; however an exchange may be permitted to relocate a walkway within a redesigned subdivision.

“Boulevards” are deemed to be that part of a street immediately adjacent to private land and can be leased to the adjoining landowners under the same provisions as closing for closing and leasing a street or road contained in section 13 of *The Municipalities Act*.

Signage

All road closures pursuant to sections 13 and 14 of the Act must be clearly marked by a sign indicating its closure. The legislation does not contain specifics for placement of signs; a municipality may wish to use the provisions contained in sections 20 & 21 of *The Municipalities Regulations* regarding the issuance of orders by a road committee. Any person using a closed street or road does so at his or her own risk and has no right to recover damages for accident or injury and may be held liable for damage or injury cause by using the closed road.

Temporary Closures

Section 14 of the Act enables a municipal council by resolution or a designated officer to temporarily close all or part of a street or road within the municipality's control.

Subsection 14(2) provides authority for a municipality to temporarily close all or part of a provincial highway by notifying and receiving consent from the Minister of Highways and Infrastructure at least 20 days before the date of the closure or a shorter notice period if allowed by the Minister.

In emergency situations the provisions of notice to the Minister of Highways and Infrastructure before closing a street or road are waived.

Resources

More details can be found from the following links:

- [Checklist for Road and Street Closures](#)
 - [Sample Bylaw - Closing and Leasing - Municipal Road or Street](#)
(Both PDF and Word versions are available)
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