

Road Closures

8.4.1 Introduction

New procedures for road closures have been developed and they are outlined in this section, including those for **Section 4 Roads**. Also included are procedures for drafting and publishing **B.C. Gazette** notices.

To transfer surplus road closures to Crown Lands, see Chapter 8.5.

8.4.2 Overview

Road closure procedures apply to:

- the closing of highways that are requested by members of the public to be consolidated with their property
- roads that have been established under S.6 of the *Highway Act* or were dedicated by Subdivision Plan and are closed pursuant to S.9 of the *Highway Act*

The land involved in highway closures is usually a small portion that could not be a separate lot and is surplus to highway requirements.

8.4.3 Legislative Authority

There are two parts to a road closure, pursuant to S.9 of the *Highway Act*:

- discontinuance of highway use for the land by publishing a notice in the B.C. Gazette — S.9(1)
- transferring the land to the applicant — S.9(2)(a)

Section 109 of the *Land Title Act* states that the deposit of a Subdivision or Reference Plan by the registrar:

- extinguishes a highway in the plan that adjoins on both sides to land owned by the subdivider — S.109(2)(a)
- vests title to the extinguished highway in the owner of the land — S.109(s)(b)
- where the land's title is subject to a registered charge, extends the charge to include the extinguished highway — S.109(2)(c)

8.4.4
Road Closure
Procedure

*District Development
Technician*

Road closures are initiated by an individual making an application to the applicable District office.

A road closure application package must be prepared as part of the process. See heading 8.4.5 for a complete listing of what needs to be included.

1. Advise the applicant of the procedure, costs, and necessary information that must be submitted with the application, as follows:
 - a brief letter requesting the road closure and reasons for the request. The letter should be dated and signed by the owners of the property with which the closure will be consolidated.
 - written authorization from the above-mentioned owners, if an agent is acting on their behalf
 - a current *State of Title Certificate* of the applicant's property and all other properties adjacent to the road closure. This information is available from the applicable Land Titles Office. If the District or Region has land titles access, they may provide the applicant with a copy.
 - a Sketch Plan of the road closure indicating the applicant's property, adjacent lots, the road closure, roads, and the approximate hectarage of the applicant's property and road closure. The plan may be hand drawn by the applicant but it should be to scale and have a north arrow. This Sketch Plan is to be used for initial inquiry only.
2. Once the application and all necessary information have been received by the District Office, prepare a report with the following information:
 - referrals of the proposed road closure to applicable agencies such as Regional Districts, Ministry of Health, Ministry of Environment, Lands and Parks, Heritage Conservation Branch, utility companies, water and irrigation Districts, and others as necessary

- the results of a field inspection noting land uses, highway encroachments, utilities, and relationship of the proposed road closure to highway operations
 - how the closure will affect access to lands beyond, access to water, and if the road closure will affect public use of the road
 - the status of utilities such as water, sewer, telephone, electrical power, structures, and natural gas lines, in relation to the road closure
3. In addition to this report, complete either an H-222, *Closing Road Allowance by Gazette Notice*, or an H-357, *Approval to Sell/Lease Land & Buildings*, and obtain the District Highway Manager's signature. Recommend whether or not advertising of the closure is necessary (Notice of Intent).
 - Use an H-222 for closure and transfer of an existing or dedicated road which may or may not have been built.
 - Use an H-357 for closure and transfer of a surplus parcel or a parcel gazetted as road but never built. In these cases, approval is also required from the Regional Manager and Regional Director.
 4. Send the road closure application and all attached information to the Regional Approving Officer.
 5. Recommend on the road closure application if the road closure should be approved, or approved with conditions from the *Land Title Act* or from a road network perspective. Forward application to the Regional Property Agent.
 6. Administer the application at the Region. This involves Properties Branch participation, fair market value for the road closure, advertising requirements, and any conditions appropriate to the closure.
 7. Obtain the Regional Manager's signature on the H-222 or H-357.
 8. Send the application back to the District Development Technician indicating the decision, conditions, fair market value, and transfer mechanism, with a copy to the Regional Approving Officer.

**Regional Approving
Officer**

Regional Property Agent

14 May, 1993

**District Development
Technician**

9. Issue preliminary approval to the applicant which is valid for 180 days and indicates the information in step 8. Extensions to the 180-day approval may be considered; however, it should be realized that the fair market value may change over time.

Also notify the applicant if the road closure requires advertising and notification of adjacent property owners, and advise the costs involved.

Send a copy of this preliminary approval to the Regional Property Agent and Regional Approving Officer.

10. Upon receipt of the preliminary approval, the applicant will provide written acceptance and a cheque for the advertising costs, if necessary. Deposit the cheque in a suspense account.
11. If the results of the advertising are negative or mixed, send the results to the Regional Property Agent for a decision.

If the results of the advertising and notification are favourable, advise the applicant and request the following information:

- sepia plans and six paper prints prepared by a B.C. Land Surveyor for gazetting and transfer purposes
- a current *State of Title Certificate* for the applicant's property
- a cheque for the fair market value of the road closure *

* Instead of a cheque, you may request a deposit of 10% of the fair market value and a letter of undertaking from the applicant's solicitor stating that the monies are being held in trust and will be released upon final registration of the closure/consolidation.

12. Prepare other material required for the road closure application package (see heading 8.4.5).
13. Send the package of information to the Regional Property Agent.

Regional Property Agent

14. Forward the signed gazette notice directly to the Queen's Printer (fax # 380-0388). The Gazette is published on Thursday so the notice must be sent on the preceding Tuesday by 1:00 pm. A signed

Queen's Printer *Printing Requisition* form must accompany the notice.

15. If the road closure is transferred by Ministerial Order, obtain the Regional Director's signature on the Ministerial Order.
16. Send the Ministerial Order to the Land Title Office, with a copy to the District Development Technician and Regional Approving Officer.

Note: The New Westminster and Vancouver Land Title Offices also require an *LTA Form A, Freehold Transfer*, for registration, in order to complete transfer to the purchaser (pursuant to S.181 of the *Land Titles Act*).

**District Development
Technician**

17. Forward the final Consolidation Plan to the Regional Approving Officer for signature, and return it to the applicant, who can then forward it to the Land Title Office for registration.
18. If a road survey occurred from the road closure, forward a sepia print to the Systems Planning Branch Research Clerk at the Highway Planning Branch in Headquarters, so the survey can be added to MoTH's inventory of road surveys.

**8.4.5
Package
Requirements**

The following items must be included in the road closure application package sent to the Regional Property Agent:

- H-222 or H-357 form with necessary signatures
- current *Certificate of Title*
- *Certificates of Title* for surrounding properties
- one reproducible, (mylar, sepia, etc.) and five paper prints of:
 - Print of Plan with closure outlined in green and exchange in red, with appropriate area measurements, if applicable
 - Survey Plan defining closed road outlined in green (acceptable to Land Title Office). Plan can be District (S.4), Traffic and Design, Reference, Explanatory, or Consolidation/Subdivision type. If

latter type is used to close road, you do not require a Ministerial Order).

- composite plan showing road in relation to surrounding properties
- notice of intent, if applicable
- covering memo showing:
 - road name
 - road status: S.4 or 6, dedicated or gazetted (give dates)
 - location
 - whether any right-of-way is included in exchange, and if so, whether by agreement or gazette. Show on composite map.
 - whether Ministerial Order/Order-in-Council is required and section of act to use for transfer
 - name of transferee
 - whether money is involved, and if so, the amount
 - reason for closure
 - other relevant information, e.g., covenant for utilities, etc.
- draft Gazette notice (as per sample in Appendix of this chapter)
- cheque for the fair market value of the road closure
- newspaper cuts and letters to adjacent land owners
- District recommendations and comments

8.4.6 Section 4 Road Closures

Section 4 Roads can be established as public roads if public money was expended on them. These may also be closed and the land transferred.

The following procedure applies to road closures for **Section 4 Roads** under the *Highway Act*. These are roads that were never established by notice published in the Gazette or by a plan deposited in a Land Title Office. They are often roads in rural areas that may still exist or may be overgrown.

If a Section 4 Road is notated on a plan deposited in a Land Title Office, its closure will have to be done by first establishing the road as a S.6 road (*Highway Act*), then closed by the previous procedure. If the Section 4 Road is not notated on a plan deposited in a Land Title Office, its closure can proceed by the following procedure administered by the Regional Property Agent.

1. Gazette the road closure by plan, or metes and bounds description (see heading 8.4.7 and 8.4.8).
2. Transfer the land to the applicant by completing a vesting letter under the Regional Director's signature and sending to the applicant.

8.4.7 Drafting Gazette Notices

MoTH performs many highway functions by publishing public notices in the B.C. Gazette. This notice legally completes actions implemented by the approval of an Order-in-Council or by the authorized signature of a Ministerial Order.

Drafting a notice for the B.C. Gazette to close a portion of road or highway consists simply of informing the public of:

- what is being closed
- the closing authority
- where the closure is occurring

It is important that Gazette notices be published correctly, otherwise, they could be challenged in court.

Follow these guidelines for drafting Gazette notices:

1. The title of the Gazette notice should read "*Discontinuing and Closing Highway*," followed by the name of the road to be closed, and the Electoral District it is located in. Ensure that you have the correct Electoral District from the new map that was produced from the recent electoral redistribution.
2. In the body of the Gazette notice, indicate the legislative authority that is being used. For road closures, this is S.9 of the *Highway Act*.
3. In the remainder of the notice, describe what is being closed. This may be done by legal description; by referencing an area hatched, shaded, outlined, or otherwise notated on a plan (i.e., Reference Plan, Subdivision Plan, or other) or any other method that accurately describes the portion of the highway right-of-way to be closed.

4. Often Gazette notices reference a Road Surveys number. This is a sequential numbering system in the Highway Planning Branch that references plan maps stored at Headquarters. However, since maps are also usually stored in Districts or Regions, referencing the Region or District file number may be more appropriate. You may reference the Land Title Office the plan will be stored in; however, at this point, the Land Title Office will not have assigned a plan number and occasionally, a road closure application may not proceed after closing.
5. Conclude the body of the Gazette notice by stating that the portion of road you have just described *"is hereby discontinued and closed."*
6. At the bottom of the notice, there should be a signature block titled Minister of Transportation and Highways. Your Regional Director may sign for the Minister. Ensure that the date and Region file number are also entered at the bottom.

A standard Gazette notice and the page of the British Columbia Gazette in which it appeared is provided in the Appendix of this chapter.

8.4.8

Publishing Gazette Notices

The following steps describe the process for publishing Gazette notices.

1. Both Gazette notices and Ministerial Orders must be signed by the Regional Director.
2. A *Customer Order Form*, QP 4018 90/1, must be completed (copies available from the Office Products Centre). All financial coding on the form must be completed and a contact person listed. The description must indicate what must be done and the required date of publication.
3. The Gazette notice and *Customer Order Form* are forwarded to the Queen's Printer. They may be faxed (387-0388).
4. To meet the Thursday publication date of the B.C. Gazette, notices that require immediate publication must reach the Queen's Printer no later than 1:30 pm Tuesday.

However, a draft prepared by B.C. Gazette should be proofread before publication. A recent survey showed that 21% of published notices that were not proofread contained errors. To allow time for proofreading, the notice must reach the Queen's Printer by 3:00 pm Friday, six days before publication.

5. The Queen's Printer prepares a draft Gazette notice and returns it to the originator by Monday (by fax, if requested).
6. The originator proofreads the notice and notifies the Queen's Printer by phone or fax no later than 1:30 pm on Tuesday that the notice is correct, or requires changes.
7. Once published, a copy of the B.C. Gazette should arrive by the following Monday or Tuesday.
8. If a Gazette notice is published incorrectly, an Erratum can be published by following this procedure again. An example of a draft Erratum is attached in the Appendix.

Any questions regarding publication of notices in the B.C. Gazette can be directed to Stephanie Johnson at 387-4191.

Road Closure Procedure

Applicant applies to District for road closure

District advises applicant of fee and procedure

District advertises and contacts adjacent landowners (if necessary) of intent to close road; collects comments; prepares H-222; forwards all information to RAO

RAO reviews with RTPE for recommendation on closure

RPA reviews and determines FMV; finalizes method of disposition; forwards to RD who reviews and signs H-222

CLOSURE

RD reviews and signs H-222

RD advises District of decision and FMV, with copies to RAO and RPA

District advises applicant of tentative decision and conditions

Applicant appeals to DHM, RMP, and RD

Applicant accepts, prepares initial plans, and sends plans and cheque for FMV deposit to District

District forwards deposit to DFS

District forwards package to SPRO

SPC prepares gazette and forwards to ADM and DM

District informs applicant

DM signs gazette and returns to SPC who arranges publication and informs District

Applicant supplies copies of subdivision/consolidation plan and balance of FMV to District

District forwards balance of FMV to DFS

Land transferred by S.109, LTA

Land transferred by S.9(2), HA

RAO approves and signs subdiv/consol. plans

District forwards plans and info to SPC

SPC prepares MO for DM signature

DM returns signed MO to SPC who returns to District

Applicant given signed plans and/or documents for registration at Land Titles Office

Abbreviations

ADM - Assistant Deputy Minister, Planning and Major Projects
DFS - Director of Financial Services
DHM - District Highways Manager
DM - Deputy Minister
FMV - Fair Market Value
LTA - Land Titles Act
MO - Ministerial Order

RAO - Regional Approving Officer
RD - Regional Director
RMP - Regional Manager of Planning
RTPE - Regional Transportation Planning Engineer
SPC - Systems Planning Clerk
SPRO - Systems Planning Research Officer

Drafting and Publishing Gazette Notices

