

# *RM of Pleasantdale #398*

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May 24, 2022

Ratepayers;

Concerns have been expressed respecting the many road allowances throughout the RM which have been fenced off and are being used by adjacent landowners, without the permission of council.

In the interest of treating all ratepayers fairly, Council has concluded that it would be helpful to come up with a process to deal with these road allowances.

By way of background, the following points should be noted:

1. All road allowances within the RM are under the management, direction and control of the RM, by virtue of Section 12 of The Municipalities Act, S.S. 2005,c.M-36.1 (“the Act)”
2. Road allowances are basically land set aside for the purpose of constructing roads, if and when required.
3. Regardless of whether or not a road allowance has been developed, it is a way over which the public has a right to pass.
4. An adjacent landowner cannot, therefore, fence off or otherwise obstruct a road allowance, without the permission of council, given in the manner provided in the Act.
5. Council does have the authority to close and lease road allowances pursuant to Section 13 of the Act, however a number of requirements must be met before this can be done.

As was noted at the outset, there are many road allowances throughout the RM which have been fenced off and are being used by adjacent landowners, without permission of Council. For the most part, no one has expressed concerns and Council has therefore taken no steps to deal with the same. Suggestions have been made recently that Council has not treated all ratepayers equally in this respect. While Council denies this, nonetheless the decision has been made that Council must deal with the road allowances in a manner that precludes any suggestion of unequal treatment.

In circumstances, Council has resolved that it will require anyone who has fenced off and/or is making use of a road allowance to either

- (i) request permission to close and lease the road allowance under Section 13 (MA) or

(ii) remove the fence or other obstructions which they have placed on the road allowance and discontinue using the same.

An exception will be made for situation where adjacent landowners have cultivated up to the edge of the road surface, provided the public's right to make use of a road is not in any way hindered. Generally speaking, this can be of benefit to the RM as it eliminates the need to control weeds along the road allowance.

The process to be followed in requesting to close and lease a road allowance, the overriding consideration is whether or not the proposed closure will affect public access. As a matter of law, this is the criteria which Council must use in making its decision on whether or not to approve the request.

The process to be followed in requesting that a road allowance be closed and leased to you is set out in Section 13 (MA) and in the RM's Public Notice Policy Bylaw, copies of which are available from the RM office. Council will approve/disapprove the request based on terms of the applicant's interests and those of the public.

If a particular road allowance is not required for public access, and the applicant and Council can agree on the terms of the lease, then Council could approve the request.

In recognition of the fact that some road allowances have been fenced off for many years, Council at this time is asking ratepayers who have done such to contact the Municipal Office and speak to Administrator.

On Behalf of Council

Donna Goertzen

Administrator