



Frequently Asked Questions for Seasonal and Summer Roads

What is the definition of a Seasonal/Summer Road?

- There is no definition of a “Seasonal/Summer Road” in the *Municipal Act*. Many municipalities have roads that are considered seasonal/summer and no winter maintenance is performed. Traditionally they are a Class 6 category with AADT less than 49 vehicles per day.

What happens when they are closed for the winter season?

- Most municipalities pass a by-law declaring which roads are seasonal/summer roads. Here is a sample of a clause we have seen: “*All Municipal maintenance that applies to seasonal/summer roads will cease November 1 to April 30.*”
- We often see a remedial action clause: “*Remedial action by the Municipality on a seasonal/summer road from November 1 to April 30 will only be performed when there is an immediate danger or hazard that may cause personal injury, loss or damage to public or private property.*”

Can the municipality be sued if someone is injured during the time the road is closed?

- Yes, the municipality can be brought into a law suit if someone is injured during the time when the road is

closed. Our defence is to look at the risk management steps the municipality took to make sure everyone is aware that the roads are not maintained during the specified time frame.

What should the municipality do to protect themselves?

- Have a by-law declaring and naming your seasonal/summer road policy.
- In the by-law outline the affected roads.
- The level of service policy should outline what roads are not maintained.
- All seasonal /summer roads need to be signed by the municipality indicating the status of the road and the duration of the closure. Without signage you could have visitors to your community and they would not be aware of the closures.
- Regular inspections, at least annually should be performed to make sure these signs are visible. Document all inspections that have been performed.
- A notice should go out to all affected landowners before the winter season begins, publish the information in the local newspaper and your website. This needs to be done every year because landowners can change.

What should the municipality do to protect themselves if the individuals wish to provide their own winter maintenance on these roads?

- Landowners should make written application to the corporation for permission.
- Once permission is granted landowners will be made aware that they will be held responsible for any damages that occur on municipal property because of the actions of private snow removal equipment.
- A waiver should be signed by the landowners. Have your legal counsel draft the appropriate waiver.
- A contract should be in place between the landowner and the snow plough contractor and if possible have the municipality's name added as an additional insured.