



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Standard Operating Procedure

Closing of Pedestrian and/or Cycle Lanes and the lease/sale of that land to abutting property owners.

This SOP does not cover the temporary and/or permanent closure of a public street or road, which is dealt with under separate SOPs.

Property Management Department
Economic Opportunities and Asset
Management Directorate

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1. Problem Statement

Legislation, by-laws and policies are often not assimilated into processes used by the implementation level. This can be attributed to many factors including inefficient communication that does not answer the question: how does this affect me and the work I must do?

The result is that standard processes are not developed and/or they exist but becomes institutional knowledge. This renders new employees and Council vulnerable to reputational and legal risks.

One such instance is the permanent or partial closure of pedestrian and/or cycle lanes for safety and security reasons. This Standard Operating Procedure (SOP) aims to document the process and ensure that the same process is followed by all officials across the City.

2. Guiding Principles

The Lane Closure SOP gives effect to the following legislation and by-law: -

- **Constitution of the Republic of South Africa, 1996 – dealing with the objects of local government under clause 152(1)**
 - (d) to promote a safe and healthy environment; and
 - (e) to encourage the involvement of communities and community organisations in the matters of local government.
- **Local Government: Municipal Systems Act, 2000** stipulates that a municipality must: -
 - 6.(2)(a) be responsive to the needs of the local community; and
 - 16(1)(a) encourage, and create conditions for, the local community to participate in the affairs of the municipality.
- **Local Government: Municipal Systems Act, 2000** stipulates that a municipality must: -
 - 6.(2)(a) be responsive to the needs of the local community; and
 - 16(1)(a) encourage, and create conditions for, the local community to participate in the affairs of the municipality.
- **City of Cape Town: Immovable Property By-Law, 2015**

3. Definitions

The definitions for the purpose of this SOP are as follows: -

“bulk applications” means where members of the community and/or the Subcouncil approach the department with a request to close public access at several locations within a ward, Subcouncil or geographical area.

“City” means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Local Government: Municipal Structures Act, 1998, or any structure or employee of the City acting in terms of delegated authority.

“close” means to permanently close the public access enjoyed by non-motorised transport users.

“Council” the full council consisting of the Mayor, Mayoral Committee Members and all councillors.

“delegated authority” means the Immovable Property Adjudication Committee who has been given the power to recommend to Council to approve or not approve the granting of rights to use, control or manage non-exempted immovable capital assets after a public participation

process has been followed and provided that section 14 of the Municipal Finance Management Act has been complied with, where applicable.

“lane” means a public thoroughfare as mentioned under “public access”.

“municipal area” means the area under the jurisdiction and control of the City.

“non-motorised transport” means pedestrians, cyclists, skateboarders, wheelchair users, etc.

“Ownership of immovable property” means all immovable property registered in the name of the City and all public places, including public access routes.

“partial closure” means to allow public access enjoyed by non-motorised transport users during specified times only.

“public access” includes any open or enclosed place, park, thoroughfare or other similar area of land shown on a general plan or diagram that is for use by the general public and is owned by, or vests in the ownership of the City, and includes a public open space and a servitude for any similar purpose in favour of the general public.

4. Lead Department

The Property Management Department is the custodian of the City's Immoveable Property By-Laws. Their Property Holding branch is responsible for the processing of applications to grant rights to or transfer non-viable non-exempted property e.g. a portion of road reserve for gardening purposes to the adjacent land owner and manages the City's existing lease portfolio.

5. Initiating request to change current public access

The proposal to close a lane may come from a member of the public, a group of people, a councillor, a Subcouncil or a staff member in one of the service departments after receiving an official request from a member of the public.

In order to ensure that such a request is expedited, it must be lodged with the Property Holding branch who will engage the various services for their comment and the registering of the public engagement with the Public Participation Unit.

6. Roles and Responsibilities

6.1. Public Participation Unit

This unit must prepare the public participation plan and oversee the roll-out thereof. They also collect all the comments from the public and may be asked to assist with engagement with specific property owners, in cases where bulk applications are received.

6.2. Service Departments

Service Departments must be contacted to establish whether or not the proposed closure can be supported in principle and/or whether the property can be disposed of or leased and under which conditions.

The service departments must also advise whether there are any long term infrastructure plans that may require and/or affect any of the public access lanes.

The promotion of non-motorised transport together with easy access to public transport services and facilities remains a priority of the City and therefore the Transport Forward Planning branch must be consulted before recommendations are made to close public access lanes.

6.3. Emergency Services

Access is always a concern for the Emergency Services as the restriction could impact on both the safety of the community and/or their ability to reach the people in need of their services. They too must be consulted prior to the recommendation to close public access lanes.

7. Lease vs Sell

7.1. Lease

Public access lanes may be closed and the property leased to abutting property owners or their successors-in-title at tariff rentals for a period of ten years with an option to renew for a further 10 years for security purposes, when:

- Municipal services are located underneath the lanes; but
- It is not a critical link between residents and public transport services;
- It does not pose a risk or constraint to the movement of Emergency services; and
- The majority of the residents are in favour of the closure.

The lessee may not build on the property they are leasing but may erect a fence and create a garden in that space.

7.2. Sell

Public access lanes may be closed and the property sold in line with the relevant policy provided that:

- No municipal services are located underneath the lanes, however, a servitude could also be considered to protect the services;
- It is not a critical link between residents and public transport services;
- It does not pose a risk or constraint to the movement of Emergency services; and
- The majority of the residents are in favour of the closure.

The purchaser may use the property in accordance with the Municipal Spatial Development Framework and related policies and procedures.

8. Public Participation Process

8.1. Advertisement

Below is the draft text to be used in the public participation notice to be placed in the relevant community newspaper(s), on the City's website and at the Subcouncil offices: -

PROPOSED CLOSURE AND LEASE OF VARIOUS LANES IN WOODLANDS, MITCHELLS PLAIN

Notice is hereby given that the City of Cape Town is, in terms of section 4 of the City's Immovable Property By-law, 2015 (promulgated on 11 December 2015) and the Policy on the Management of certain of the City of Cape Town's Immovable Property, as approved by Council on 26 August 2010, considering to close 25 lanes in Woodlands, Mitchells Plain for security purposes and to lease the land to the abutting property owners or their successors-in-title at a tariff rental for a period of ten years with an option to renew for a further 10 years.

The public is hereby invited to show their support for or objection to the proposed closures by submitting their reasons in writing, by no later than **23 May 2016**, to **(email address)** or at the offices of Subcouncil X at **Mitchells Plain Municipal Offices, xxxxxx street, Mitchells Plain**.

Ward	Lane No	Location	Adjoining Properties
75	1	Selene Way, Woodlands	114 & 116 Selene Way (Erven 2577 & 2578 Mitchells Plain)

Please contact **Xxxx Xxxxx** at 021 400 xxxx between 09:00 and 16:00 on weekdays for more information.

CITY MANAGER

8.2. Public Open Days

In some instances, it might be prudent to hold public open days where the public can speak directly to officials and obtain first-hand information. In that case, the date, time and venue must also be included in the advertisement.

8.3. Targeted Engagement

During the public participation process, the public participation unit will engage with the owners of the adjoining properties to establish whether they would be interested in leasing the property from the City should the public support the closure.

Copies of the advertisement placed in the newspaper, must be served on the owners of the adjoining properties not less than **30 days before** the objection closure date.

It must be made very clear to these property owners that Council will have to decide on the matter and that such an engagement is purely an effort to speed up the process once Council makes a decision.

8.4. Obtaining a Resolution

Once all the comments have been evaluated, the Property Management branch prepares a report to the relevant Subcouncil who has to make a recommendation to Council. This report must serve at the Immoveable Property Adjudication Committee who has to consider the recommendation by the Subcouncil and then submit the final recommendation to Council.

8.5. Publishing the Closure of Access Lanes

If Council approves the closure of access lanes, the Immoveable Property By-Law states that this must be published in the Provincial Gazette.

9. Flow Chart

