
USING THE ROAD MAINTENANCE AGREEMENT TEMPLATE

The Ministry of Government Relations has created a draft Road Maintenance Agreement template for municipalities and industry to use cooperatively. The primary intent of a road maintenance agreement is to provide the signing parties with an efficient method by which haulers compensate the municipality for the additional road maintenance and loss of life resulting from their concentrated haul. Road maintenance agreements are to cover only the incremental cost that occurs above regular maintenance costs due to the increased pressures of heavy or frequent hauls.

The objective of this agreement template is to provide a flexible agreement that meets the needs of both parties and can be altered to suit a variety of situations. It clarifies the contractual responsibilities with sections detailing the responsibility of each party to maintain, and to invest in, the roads. On the one hand, the template allows the hauler, in agreement with the municipality, to use their own resources for road maintenance work. The hauler still must pay fees to compensate the municipality for capital road loss. On the other hand, the agreement template may be used if the municipality is responsible for the maintenance of the haul road; this would be under section 1.4 and 1.5, whereas sections 1.6 and 1.7 are used to outline the hauler's obligations if he maintains the roads for the municipality.

The template is subject to *The Municipalities Act* and its regulations and should be completed according to the most current regulations. Other documentation, such as maps, can be attached to the agreement to clarify both parties' expectations of the road maintenance agreement.

By including proposed dates of hauling and a timeframe for renegotiation, the agreement can be tailored to short term or long term hauls. Some sections of the template are better suited for on going or for short term hauls. If the parties agree that sections of the template agreement are not applicable to their individual situation, they can be removed.

At the 2010 Saskatchewan Association of Rural Municipalities (SARM) Annual Convention the membership passed a resolution requesting government investigate the possibility of RMs requiring a performance bond from haulers subsequent to entering into road maintenance agreements. Municipalities have the authority to request a performance bond from haulers, if it is negotiated and included in the road maintenance agreement. This requirement can be found in section 1.7.7 of the template. If this requirement is not applicable to the agreement, the clause can be removed.

This template agreement reflects the 2010 amendments giving the Saskatchewan Municipal Board the authority and responsibility of resolving disputes related to road maintenance agreements as per section 22.1 of *The Municipalities Act* and section 15 of *The Municipalities Regulations*.

ROAD MAINTENANCE AGREEMENT

Agreement No. _____

THIS AGREEMENT is made in duplicate;

BETWEEN:

The (*Name of Municipality*) _____
(hereinafter called the "municipality")

- and -

(hereinafter called the "hauler")

Note: "hauler" means a person described in clause 22(1)(b) of *The Municipalities Act* who is required to enter into an agreement with a municipality pursuant to that section. Typically, a hauler may be a shipper, hauler or receiver.

WHEREAS:

The hauler wishes to ship, haul or receive certain goods, equipment or materials over certain public roads within the municipality, the movement of which in the council's opinion is likely to result in damage.

The council of the municipality requires the hauler to enter into a Road Maintenance Agreement pursuant to Section 22 of *The Municipalities Act*.

The agreement is made pursuant to and subject to the provisions of *The Municipalities Act* and its regulations.

THE PARTIES AGREE AS FOLLOWS:

- 1 The municipality shall:
 - 1.1 permit the hauler to use the haul roads subject to the terms of this agreement;
 - 1.2 administer this Agreement by providing up to date information that would be subject to review by the parties;

- 1.3 ensure that the information identified by the parties as confidential is held in strict confidence subject to *The Local Authority Freedom of Information and Protection of Privacy Act*;
 - 1.4 ensure that municipal roads are in a reasonable state of repair;
 - 1.5 continue to apply for any available Government grants for road upgrading.
- 1.2 The hauler shall:
- 1.2.1 only haul the following goods and materials:

 within the specified timeframe of _____, 20____ to of _____, 20____:
 - (a) on or over the following MUNICIPAL ROADS: (Municipal roads are roads constructed to graded and drained standards). (*Attaching a map may assist in clarifying the road(s) described in the agreement.*)

 - and
 - (b) on or over the following UNDEVELOPED ROADS: (Undeveloped roads are roads that may not be in a reasonable state of repair and do not meet municipal road standards i.e. prairie trails, bladed trails). (*Attaching a map may assist in clarifying the road(s) described in the agreement.*)

 (roads listed in (a) and (b) are herein referred to as the "haul roads;").
 - 1.2.2 comply with the provisions of all applicable federal, provincial or municipal laws with respect to maintaining a clean environment;

- 1.2.3 notify the municipality immediately in the event of any spills and environmental contamination problems on the haul roads or any adjacent lands as a result of the use of the haul road, and the hauler shall be solely responsible for the cost of all work to be carried out to correct such problems caused by the operation;
- 1.2.4 upon expiry or termination of this agreement, leave the haul roads and any adjacent lands free of any environmental contamination resulting from the hauler's operation which may adversely affect the land or result in a breach of the duties described in clause 1.2.2. The responsibility of the hauler and municipality with respect to the environmental obligations contained herein shall continue to be enforceable by the municipality notwithstanding the termination of this agreement;
- 1.2.5 conduct the bulk hauling operation so as to minimize interference with other traffic on the haul road;
- 1.2.6 notify the municipality if any work is being done that will require temporary closure of the road or an interruption of motor vehicle traffic;
- 1.2.7 abide by the following weight restrictions: _____

- 1.2.8 subject to *The Municipalities Act* and regulations, come to an agreement with the municipality to either compensate the municipality for maintenance of the road or maintain and repair the haul roads to a mutually acceptable standard, and to compensate the municipality for capital road loss that results from the haul in either case.
- 1.3 For the purpose of this agreement _____ (*name of municipality or hauler*), is responsible for maintaining the haul roads to the standard agreed upon by both parties.
- Note: The municipality and hauler shall agree upon which party will be responsible for maintenance of the haul roads. If the municipality is responsible, use sections 1.4 and 1.5. If hauler is responsible, use sections 1.6 and 1.7.
- 1.4 If the municipality is responsible for maintenance of the haul roads, the municipality shall:

- 1.4.1 expend, or retain in order to expend in the future, all compensation paid by the Parties, on roadway maintenance work on the roads, or portions thereof, that are indicated in 1.2.1 (a) or (b);
- 1.4.2 arrange the Engineering, Tendering and Contracting of roadway maintenance work unless the municipality conducts all of the work itself. All arrangements will be available for review by the parties on request.
- 1.5 If the municipality is responsible for the maintenance of the haul roads, the hauler shall:
- 1.5.1 before commencing an on-going haul, estimate the total quantity of goods and materials to be hauled on the haul roads and pay to the municipality **as compensation for road maintenance** to the haul roads a sum equal to the estimated total quantity times a rate of _____ (*as set in regulations*), subject to a minimum fee of \$_____ per km;
- 1.5.2 pay the compensation in 1.5.1 within 60 days of the completion of the haul, based on verified quantities. For on-going hauls the compensation in 1.5.1 is to be paid quarterly and will be based on verified quantities;
- 1.5.3 make payment for compensation in 1.5.1 at one-half the rate if hauling takes place during the winter haul period, between _____ and _____, (*in the absence of an agreed period regulations define the winter period as between November 15th and March 15th*) subject to a minimum fee of \$_____ per km;
- 1.5.4 before commencing an on-going haul, estimate the total quantity of goods and materials to be hauled on the haul roads and pay to the municipality **as compensation for the capital road loss** to the haul roads a sum equal to the estimated total quantity times a rate of _____ (*as set in regulations*);
- 1.5.5 pay the compensation in 1.5.4 within 60 days of the completion of the haul, based on verified quantities. For on-going hauls the compensation in 1.5.4 is to be paid annually and will be based on verified quantities;
- 1.5.6 make payment for compensation in 1.5.3 at one-half the rate if hauling takes place during the winter haul period, between _____ and _____; (*in the absence of an agreed period, regulations define the winter period as between November 15th and March 15th*)
- 1.5.7 make payment for compensation for repairs of bridges, culverts or other structures within 60 days;

1.5.8 pay as compensation for dust control on MUNICIPAL ROADS, a sum equivalent to:

(a) for hauls of 100,000 tonne kilometres and greater, actual costs incurred by the municipality to a maximum of \$0.01 (one cent) per tonne kilometre;

(b) for hauls of less than 100,000 tonne kilometres, actual costs incurred by the municipality to a maximum of \$1,000;

at the following locations:

1.5.9 inspect the roadway every _____ days to determine if damage has been done and will give the municipality notice of necessary repairs within _____ days.

1.6 If the hauler is responsible for maintenance of the haul roads, the municipality shall:

1.6.1 not charge fees for road maintenance when the hauler is maintaining the haul roads to road maintenance standards pursuant to this agreement, but may still charge for capital road loss for the haul roads;

1.6.2 inspect the roadway every _____ days to determine if damage has been done and will give the hauler notice of necessary repairs within _____ days.

1.7 If the hauler is responsible for maintenance of the haul roads, the hauler shall:

1.7.1 ensure the haul roads are maintained in a reasonable state of repair, and permit speeds of a minimum of 65 km per hour, and for further clarity road maintenance standards may be set by agreement of the parties pursuant to this agreement;

1.7.2 upon completion of the haul, repair, gravel and restore the road to the condition in which it existed before the haul or otherwise as may be agreed with the municipality in accordance with Schedule A (attached);

1.7.3 repair bridges, culverts or other structures damaged as a result of the bulk haul within 30 days of written notification of damages or other time agreed to by the parties;

1.7.4 provide for dust control:

(a) adjacent to occupied residences or businesses which are within 100 metres of the centerline of the haul road;

- (b) at locations where road dust may be dangerous to public safety; and
- (c) at other locations deemed by the municipality to require dust control.

Locations requiring dust control include but are not limited to:

- 1.7.5 not be charged maintenance fees by the municipality, provided the municipality does not have to provide labour or capital for road maintenance as a result of the haul period;
- 1.7.6 comply with the provisions of 1.5.4, 1.5.5 and 1.5.6 respecting capital road loss to the haul roads.

(Include 1.7.7 if council requires the hauler to purchase a performance bond prior to initiating hauling)

- 1.7.7 provide the municipality with a performance bond, issued by a surety company acceptable to the municipality, obtained with respect to the hauler's obligations pursuant to section 1.7.
2. Each party shall agree to the following special provisions (i.e. road conditions, weather, other):
-
-
-
3. Each party shall appoint a representative for the purpose of this section.
- 3.1 Each party may avail themselves of the dispute resolution process established in *The Municipalities Act* at any time.
 - 3.2 The representatives shall inspect the haul roads together prior to commencement of the haul to establish the condition of the road.
 - 3.3 Within 5 days of completion of the haul, the representatives shall again inspect the road for the purpose of determining that the conditions of this agreement respecting restoration of the road have been satisfied and a release shall be issued by the municipality.

3.4 In the case of a continuous haul, the representatives shall inspect the road for the purpose of determining that the conditions of this agreement respecting restoration of the road continue to be satisfied. The parties agree on an acceptable frequency for inspection of _____.

3.5 If either party is of the opinion that the other party has not complied with any term or terms of this agreement, that party shall give notice in writing to the other party within 30 days of the final inspection completed pursuant to clause 3.3. In the absence of written notice pursuant to this clause, the agreement shall be deemed to be properly completed and no action may be maintained by either party respecting any breach of this agreement.

3.6 In the event the parties are unable to resolve any complaint with respect to which notice in writing has been given pursuant to clause 3.5, the matter or matters in dispute shall be submitted to the Saskatchewan Municipal Board in accordance with *The Municipalities Act*, section 22.1 to have the dispute dealt with through the road maintenance dispute resolution process.

3.7 In accordance to subsection 15(1) of *The Municipalities Regulations*, each party shall agree to the following dispute resolution process prior to submission of the dispute to the Saskatchewan Municipal Board pursuant to clause 22.1(2)(b) of the Act (i.e. mediation, council appointed committee, other):

4. Any notices or communications required or permitted to be given pursuant to this Agreement shall be in writing and may be delivered to, or sent by prepaid registered or certified mail addressed to:

In the case of a notice or communication to the municipality:

(Name and Address)

In the case of a notice or communication to the hauler:

(Name and Address)

or to such other address as either party may notify the other in accordance with this section, and if so delivered shall be deemed to have been given when delivered, and if so mailed shall be deemed to have been given on the fifth business day after the date of mailing except in the case of a mail strike or other disruption of postal service, in which case it shall be deemed to have been given on the third business day after such strike or disruption ceases.

5. The agreement shall be in effect from _____ to _____ and may be extended by the agreement of the parties.

Agreed this _____ day of _____, 20 _____.

For *(Name of Municipality)* _____

Reeve/Mayor

Administrator

For *(Name of Hauler)* _____

President or Name

Secretary/Treasurer or Witness

SCHEDULE A

HAUL ROAD INSPECTION FORM

R.M. of	No.	Pre / Post Haul Inspection (circle one)
Contract No.		Date:
Contractor:		
R.M. Reps: (print)		
Contractor Reps: (print)		

Sketch of Haul Road:

Show Significant Points (km) referred to in Descriptions including major culverts and bridges. Show farmyards, villages, pastures, intersections, etc. where dust control may be required. Note other special conditions.

Dust Control: Not Required: _____ Required: _____ Type: _____

Road Bans: No: _____ Yes: _____ % _____ Axle: _____

Current Local Conditions (i.e. Wet/Frozen): _____

Description of Road: (Note: 1 yard³ / mile = 0.475 m³ / km) & (1.0 m³ / km = 2.1 yard³ / mile)

From km	To km	Type Grid, Farm Access, Trail, etc.	Approx. Gravel Coverage yd ³ /mile or m ³ /km	Were CL Profile or X-Sec's Done?	Photo No.	Comments (if required, use additional sheets)

--	--	--	--	--	--	--

Description of Cross Section:

From km	To km	Gradeline Hi / Med / Low / Nil	Crown ~ % X-Slope	Ride Smooth, Rough, etc.	Conditions /Comments

Drainage Structures:

km	Approx. Cover	Culvert Size & Type	General Condition	Photo No.	Associated Drainage, Other Comments

Pre-Haul Preparations: Note any dust control, special gravel or grading, etc. that may be required

From km	To km	Treatment	Comments (Reason for Treatment)

Post-Haul Remedial Work: Note any Restoration of Road Required

From km	To km	Type of Work	Comments

--	--	--	--

Follow-Up To Remedial Work (R.M. Approval & Clearance)

Pre-Haul Inspection		Post-Haul Inspection	
R.M. Rep. Signature	Date:	R.M. Rep. Signature	Date:
R.M. Rep. Signature	Date:	R.M. Rep. Signature	Date:
Contractor Rep. Signature	Date:	Contractor Rep. Signature	Date:
Additional Signature	Date:	Additional Signature	Date: