

82.405 Procedure for closing a public way.

- (1) If a legislative body of a city determines that a public way located within the city should be closed in whole or in part, and that all property owners in or abutting the public way or portion thereof agree to the closing of the public way, the legislative body may proceed to close the public way or portion thereof as provided in subsection (2) of this section. If that determination is not made, a public way or portion thereof may be closed only as provided in subsections (3) and (4) of this section.
- (2) The legislative body of a city may close a public way, in whole or in part, as provided in this subsection, if it makes the following findings of fact:
 - (a) Identification of all property owners in or abutting the public way or portion thereof to be closed;
 - (b) Written notice of the proposed closing was given to all property owners in or abutting the public way or portion thereof being closed; and
 - (c) All property owners in or abutting the public way or portion thereof being closed have given their written notarized consent to the closing, and copies of the consent shall be attached thereto.

If the legislative body makes the findings of fact in subsections (2)(a), (b), and (c) of this section, it may enact an ordinance reciting the findings of fact and declaring the public way or portion thereof closed without any further action. The ordinance shall be recorded in the office of the county clerk of the county in which the city is located.

- (3) Unless the findings of fact required in subsection (2) of this section are made, upon the adoption of an ordinance by the city legislative body closing the whole or any portion of a public way, the city shall institute an action in the Circuit Court to have it closed. All the owners of property in or abutting that public way, or the portion proposed to be closed, shall be made defendants.
- (4) If all defendants fail to object to the closing within twenty (20) days after the date of service, the court shall render a decree accordingly, but if any defendant objects within that time, the court shall award damages, if any, in the same manner as prescribed by the Eminent Domain Act of Kentucky and shall direct that the public way be closed upon payment into court of the amount awarded. The court shall give these proceedings precedence over other cases.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 322, sec. 1, effective July 15, 1994. -- Created 1980 Ky. Acts ch. 233, sec. 2, effective July 15, 1980.