

MUNICIPALITY OF THE COUNTY OF KINGS



For By-Law information contact the Municipal Clerk

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BY-LAW # 93

PRIVATE ROAD MAINTENANCE CHARGE BY-LAW

Policy Statement

Private road maintenance will ensure the safety and long-term serviceability of roads shared by private land-owners. Road maintenance includes all work required to maintain the road in a serviceable condition year round. The Municipality will consider entering into an agreement with a community organization to provide a means for collecting charges for the maintenance of private roads.

1.0 Definitions

Administration Fee: means an administration fee of 4% which shall be charged by the Municipality to offset the costs involved in billing, collecting and administering the private road maintenance charge.

Applicant: means a community organization incorporated pursuant to the Societies Act, R.S.N.S., c.435, which submits an application for a private road maintenance charge.

Municipality: means Municipality of the County of Kings

Owner: means an owner of land as defined in the Municipal Government Act.

Private road: means a road that is not public and requires maintenance to ensure continuing safe access for residents and emergency vehicles.

Resident Owner: means an Owner who is not a Seasonal Owner.

Seasonal Owner: means an Owner who lives in a secondary residence not intended for year round occupancy nor occupied for greater than six months per year.

2.0 Authority

2.0 Pursuant to section 81 of the *Municipal Government Act*, the Municipality has the authority to impose, fix and provide methods for the enforcement of charges for the purpose of maintaining private roads, curbs, sidewalks, gutters, bridges, culverts, and retaining walls that are associated with private roads, where the cost is incurred under an agreement between the Municipality and an Applicant.

3.0 Private Road Maintenance Charge Application

3.1 An Application for the establishment or continuation of a private road maintenance charge shall be submitted to the Municipal Director of Corporate Services by an Applicant.

3.2 The Application for the establishment of a charge shall:

- I. Provide evidence of the Applicant's good standing under the *Societies Act*.
- II. Define the area to which the charge is to apply with sufficient clarity to allow for proper implementation of the charge for billing purposes.
- III. Include a budget in support of the charge, including the Administration Fee, and also include the Applicant's financial statements for its preceding fiscal year.
- IV. The method of calculating the charge, which may include different charges for seasonal use of lots as opposed to year-round use of lots, and different charges for lots with and without a residence located on them, and different charges for different types of uses of lots.
- V. Be submitted prior to May 1st of the fiscal year to which the charge applies.
- VI. Be accompanied by an agreement to perform the maintenance, in the form approved by the Municipality, and executed by the Applicant.

3.3 Public Meeting

- 3.3.1 Prior to the submission of an Application, an Applicant shall call a public meeting of all Owners of land which may be subject to the private road maintenance charge. This meeting must be held prior to March 1st in each year.
- 3.3.2 Notice of said meeting shall be posted in no fewer than 5 conspicuous places in the area to which the charge is to be applied, no less than 14 days prior to the meeting. Notice of the meeting will also be made through direct mail to all Owners of land which may be subject to the private road maintenance charge.

The notice shall contain:

- I. The date, time and location of the public meeting
 - II. The name of the Applicant
 - III. The charge requested in the Application
 - IV. The area to which the charge applies
 - V. That the Owners are entitled to a vote (limited to one vote per lot)
 - VI. The methods of voting
- 3.3.3 Notice to an Owner who does not live year-round on a lot, or to multiple Owners of one lot, shall be sent by post to the address used for the Property Tax Bill.
- 3.3.4 The public meeting will be conducted by the Applicant. The Applicant will keep a register of Owners, recording Owners' names and addresses and lots owned by the Owners within the area to which the charge will apply.

- 3.3.5 The Applicant will make a presentation to the meeting, which will outline the reasons for and purposes of a private road maintenance charge and the amount of and the method of calculating the suggested charge, and present a budget.
- 3.3.6 Following the Applicant's presentation to the meeting, support for the charge shall be determined by majority vote of the Owners present at the meeting. Proxy voting, telephone voting, and electronic voting or other reasonable means of voting as determined by the meeting will be allowed for those Owners unable to attend the meeting in person. Each Owner shall have one vote for each lot they own, limited to one vote per lot if there are multiple Owners of one lot.

4.0 Annual Application

- 4.1 Applications must be submitted annually if an Applicant wants a charge to continue into the next fiscal year of the Municipality. Charges are not automatically renewed.

5.0 Responsibility of the Municipality

- 5.1 The Municipality limits its involvement in the private road maintenance to the administration of the charge. The Municipality will not provide engineering advice or technical assistance for the private road maintenance. The Director of Corporate Services is authorized to execute an agreement entered into with an Applicant for the maintenance of private roads.

6.0 Private Road Maintenance Charges

- 6.1 Every Owner of land which is located within a private road maintenance area described in Schedule "A" attached to and forming part of this Bylaw shall pay the private road maintenance charge applicable to said area as set out in Schedule "A".
- 6.2 All charges under this By-law shall be due and payable from the date they are assessed.
- 6.3 The Director of Corporate Services shall notify Owners liable for the charge of the charge and the account payable by either mailing notice by regular post to the last known address of such Owners or by posting it on the property in respect of which the charge is levied.
- 6.4 All charges remaining unpaid for more than thirty days subsequent to being due and payable shall bear interest at the same rate as charged by the Municipality for unpaid rates and taxes.
- 6.5 All charges and interest thereon shall be a first lien on the property in respect of which such is payable.

7.0 Effect

This Bylaw shall take effect upon publication.

SCHEDULE ASchedule of Charges

- a) The Tupper Lake Road Maintenance Area is defined as all properties located on Tupper Lake Road, Lakeside Drive, Point Drive, Lake Drive and Welton Court. The Municipality will:
 - a) Transfer to the Tupper Lake Property Owners Association and charges to the area defined as Tupper Lake District the amount requested by the residents at a public meeting held on August 16, 2015.
 - b) Approve the levying of a uniform charge for the year ended March 31, 2017 on each dwelling unit as follows:
 - a. Seasonal residents \$ 232.00
 - b. Permanent residents \$ 660.00
- b) That the Murphy Lake Road Maintenance Area is defined as all properties on Murphy Lake Road. The Municipality will:
 - a) Transfer to the Murphy Lake Road Owners Association and charges to the area defined as Murphy Lake Road District the amount requested by the residents at a public meeting held on March 23, 2016.
 - b) Approve the levying of a uniform charge for the year ended March 31, 2017 on each dwelling unit as follows:
 - a. Seasonal residents \$ 350.00
 - b. Permanent residents \$ 495.00
- c) The Aylescott Village Road Maintenance Area is defined as all properties located at Aylesford Lake on Yacht Club Road, Maple Drive, Sunrise Trail, Village Road, Loon Lane, Hilltop Lane, Aspen Drive, plus properties identified as PIDs 55177414 and 5519406. The Municipality will:
 - a) Transfer to the Aylescott Village Lot Owners Association and charges to the area defined as Aylescott Village Lot Owners District the amount requested by the residents at a public meeting held on August 1, 2015
 - b) Approve the levying of a uniform charge for the year ended March 31, 2017 as follows:
 - a. Lot with Dwelling \$ 100.00
 - b. Vacant Lot \$ 40.00
- d) The North Lake Paul Road Maintenance Area is defined as all properties on North Lake Paul Road, Serenity Lane and Raven Crest Road. The Municipality will:
 - a) Transfers to the North Lake Paul Lot Owners Association and charges to the area defined as North Lake Paul Road District the amount requested by the residents at a public meeting held on June 5, 2015
 - b) Approve the levying of a uniform charge for the year ended March 31, 2017 as follows:
 - \$ 100.00 per property

- e) The Armstrong Lake Road Maintenance Area is defined as being lots numbered 2 thru 68 situated on Lakecrest Drive and Birth Point Road in Armstrong Village at Armstrong Lake, plus five additional properties whose boundaries border on or in Armstrong Lake and whose owners use the common right of way connecting Lakecrest Drive to the public road known as Lakeview Road. The Municipality will:
- a) Transfer to the Armstrong Lake Road Owners Association and charges to the area defined as Armstrong Lake District the amount requested by the residents at a public meeting held on August 15, 2015.
 - b) Approve the levying of a uniform charge for the year ended March 31, 2017 as follows:
 - a. Lot with Dwelling \$ 224.00
 - b. Vacant Lot \$ 75.00
- f) The Gooseneck Road Maintenance Area is defined as being the private portions of Black River Road, Cove Road and Oak Hill Road at Black River Lake. The Municipality will:
- a) Transfer to the Gooseneck Road Association and charges to the area defined as the private portion of Black River Road, Cove Road, and Oak Hill Road at Black River Lake the amount requested by the residents at a public meeting held on February 20, 2016.
 - b) Approve the levying of a uniform charge for the year ended March 31, 2017 as follows:
\$200.00 per Lot
- g) The West Lake Torment Property Owners Association Area is defined as being all properties on Lakeside Drive, Torment Spur, Hillcrest Road and Forest Drive excluding PID 55132716 & PID 55132724. The Municipality will:
- a) Transfer to the West Lake Torment Property Owners Association and charges to the area defined as West Lake Torment District the amount requested by the residents at a public meeting held on June 28 2015.
 - b) Approve the levying of a uniform charge for the year ended March 31, 2017 as follows:
 - a. Developed Lots \$ 150.00
 - b. Undeveloped Lots \$ 75.00
- h) The Nature Haven Road Association is defined as being properties on Natures Haven Road beginning with PID 55126866 and extending to PID 55126767 and PID 55126510 located on Nature Haven Road. The Municipality will:
- a) Transfer to the Nature Haven Road Association and charges to the area defined as Nature Haven Road Association District the amount requested by the residents at a public meeting held on September 30, 2015.
 - b) Approve the levying of a uniform charge for the year ended March 31, 2017 as follows:
 - a) Permanent Residents \$ 500.00
 - b) Seasonal Residents \$ 250.00
 - c) Vacant Lot \$ 50.00

- i) The Loon Lake Drive Property Owners Association is defined as all properties on Loon Lake Drive excluding PID 55338081. The Municipality will:
 - a) Transfer to the Loon Lake Drive Property Owners Association and charges to the area defined as Loon Lake Drive District the amount requested by the residents at a public meeting held on April 23, 2016.
 - b) Approve the levying of a uniform charge for the year ended March 31, 2017 as follows:
 - a) \$200.00 per property

- j) The Sunrise Ridge Property Owners Association is defined as all properties on Sunrise Ridge, Spruce Drive, and Birch Lane in the Sunrise Ridge Development excluding PID 55336564. PID 55336374, PID 55336366, PID 55336572 and PID 55336630. The Municipality will:
 - c) Transfer to the Sunrise Ridge Property Owners Association and charges to the area defined as Sunrise Ridge District the amount requested by the residents at a public meeting held on January 30, 2016
 - d) Approve the levying of a uniform charge for the year ended March 31, 2017 as follows:
 - Permanent Dwelling \$ 600.00
 - Seasonal Dwelling \$450.00
 - Seasonal Lot \$300.00
 - Vacant Lot \$150.00

History of this By-law

- Enacted - February 4, 2009
- Amended - August 3, 2010
- August 2, 2011
- July 3, 2012
- July 30, 2013
- September 2, 2014
- September 1, 2015
- July 5, 2016

PRIVATE ROAD MAINTENANCE AGREEMENT

THIS AGREEMENT is made as of _____

BETWEEN:

MUNICIPALITY OF THE COUNTY OF KINGS, as a body corporate pursuant to the Municipal Government Act ("the Municipality")

AND _____ **ASSOCIATION**,
an association incorporated under the Societies Act of Nova Scotia ("the Association")

WHEREAS the Municipality is committed to facilitating safe access for municipal residents use of private roads which do not form a part of the Municipal street system;

AND WHEREAS the Municipality is authorized by Section 81 of the Municipal Government Act and By-Law #93 to provide a mechanism to establish area rates for private road maintenance.

THEREFORE the parties hereto agree as follows:

Section 1.0: Definitions

Area rate includes charges levied by area rate for private road maintenance

Section 2.0 Appointment of Association

The Municipality hereby appoints the Association for the Term of this Agreement to maintain the Private Road as an independent not-for-profit association, on the terms and conditions set out in this Agreement, and the association hereby accepts such appointment.

Section 3.0 Private Road Maintenance Policy

The Association agrees to adhere to all terms and conditions of the Private Road Maintenance Bylaw. Failure to comply may result in the immediate termination of this agreement.

Section 4.0 Term/Termination

- 4.1 This Agreement shall automatically renew subject to the Association meeting the Annual Renewal Requirements.
- 4.2 This Agreement may be terminated at the discretion of the Municipality upon giving the Association three months written notice. If the Association breaches or fails to meet the requirements of this agreement it is within the Municipality's discretion to withhold, or terminate the collection of an area rate.
- 4.3 The Agreement may be terminated by the Association upon giving the Municipality three Months written notice.

Section 5.0 Duties and responsibilities of the Association

- 5.1 It is the responsibility of the Association to ensure all terms and conditions of the Private Road Maintenance Bylaw #93 has been met

Section 6.0 Duties and Responsibilities of the Municipality

- 6.1 The Municipality's responsibilities will be limited to the billing and collection of the charge or area rate, and administering this agreement.
- 6.2 The Municipality will not provide engineering, technical or legal services or advice with respect to the private road that is maintained through this agreement.
- 6.3 The Municipality reserves the right to review the financial statements and corporate records (including by-laws) of the Association from time to time and the Association shall furnish these documents to the Municipality if and when requested.

Section 7.0 Limitations of Authority

- 7.1 The Association is not an agent of the Municipality and shall not pass off or represent that it is an agent of the Municipality unless expressly authorized by prior written direction.

The undersigned have read and understand the obligations and responsibilities as outlined in the Municipal Private Road By-Law.

Signature (Road Association)

Date

Signature

Date