

BY-LAW # 34

MUNICIPALITY OF THE DISTRICT OF CLARE A By-Law Respecting Private Road Maintenance Charges

SECTION 1: TITLE

This By-Law may be cited as the Municipal Private Road Maintenance Charges By-Law of Clare.

SECTION 2: 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.

SECTION 3: DEFINITIONS

In this By-Law:

- “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.
- “Forest Resource Land” means land assessed as Provincial Forest Resource Land and as described by the Municipal Assessment Act.
- “Municipality” means Municipality of the District of Clare.
- “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 (6) months per year.
- “Society” means a society duly formed pursuant to the provisions of the *Societies Act* of Nova Scotia, R.S. c. 435, s. 1.

SECTION 4: AUTHORITY

- 4.0 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.

SECTION 5: PRIVATE ROAD MAINTENANCE CHARGE APPLICATION

- 5.1.1 A Society may be formed consisting of a minimum of two thirds (2/3) of residents owning property fronting on a private road, and shall, hereinafter be referred to as the "Applicant".
 - 5.1.2. An Application for the establishment or continuation of a private road maintenance charge shall be submitted to the Chief Administrative Officer.
- 5.2 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 31st** 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.

5.3 Public Meeting

- 5.3.1 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.
- 5.3.2 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 each Owner is entitled to one vote unless the Owner is exempt under Section 8.1 herein.
- VI. The methods of voting

- 5.3.3 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.
- 5.3.4 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.
- 5.3.5 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.
- 5.3.6 Following the Applicant's presentation to the meeting, support for the charge shall be deemed to exist if a minimum of two thirds (2/3) of the owners of land fronting on a private road vote in favour of the charge. 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 (unless exempted in Section 8.1) shall have one (1) vote for each lot they own, limited to one (1) vote per lot if there are multiple Owners of one lot.

SECTION 6: ANNUAL APPLICATION

- 6.1 Applications must be submitted annually if the Applicant wishes the charges to change. If an Applicant wants the charges to remain the same for more than one (1) year, the Applicant shall submit a two (2) year application. Charges are not automatically renewed.

SECTION 7: RESPONSIBILITY OF THE MUNICIPALITY

- 7.1 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.

SECTION 8: PRIVATE ROAD MAINTENANCE CHARGES

- 8.1 Each Owner of land which is located within a private road maintenance area described in Schedule "A" attached to and forming part of this By-Law shall pay the private road maintenance charge applicable to said area as set out in Schedule "A". The charges contained in Schedule "A" shall be established by Policy of Council. Forest Resource Land Owners may be exempt from this By-Law.
- 8.2 All charges under this By-Law shall be due and payable from the date they are assessed.
- 8.3 The Tax Collector, or designate, 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.

- 8.4 All charges remaining unpaid for more than thirty (30) days subsequent to being due and payable shall bear interest at the same rate as charged by the Municipality for unpaid rates and taxes.
- 8.5 All charges and interest thereon shall be a first lien on the property in respect of which such is payable.

SECTION 9: EFFECT

This By-Law shall take effect upon publication.

THIS IS TO CERTIFY that the foregoing is a true and correct copy of Subdivision By-Law adopted and in full force in the Municipality of Clare.

DATED at Little Brook, Nova Scotia this ____ day of _____, 2014.

 Connie Saulnier
 Municipal Clerk and Chief Administrative Officer

Date of First Reading	<u>February 19, 2014</u>
Date of Publication	<u>March 27, 2014</u>
Date of Hearing of Public Objections	<u>April 23, 2014</u>
Date of Second Reading and Enactment	<u>September 17, 2014</u>
Date Sent to SNS	_____

SCHEDULE A

SCHEDULE A of this By-Law shall be established by Policy of Council and can be amended by Motion of Council.

Schedule of Charges

- 1) The _____ Maintenance Area is defined as all properties with dwellings on the _____ Road, in _____, Digby County, NS.
 - a) Transfer to the _____ Property Owners Association and charges to the area defined as _____ the amount requested by the residents at a public meeting held on _____, 20____ .
 - b) Approve the levying of a uniform charge for a _____ year period, ending March 31, 20____ , as follows:
 - (a) Lot with Permanent Dwelling: \$ _____
 - (b) Lot with Seasonal Dwelling: \$ _____
 - (c) Vacant Building Lot: \$ _____
 - c) Approve the levying of a charge for a _____ year period, ending March 31, 20____ , as follows:
 - (a) calculated based on the frontage of each lot on any road, being the ratio that the foot frontage of each lot bears to the total frontage of the road(s) or portion thereof to be maintained and/or improved. \$ _____ per linear foot.

Note: Forest Resource Land may be exempt from maintenance charges.

History of this Policy

Approved by Council -
Amended -

PRIVATE ROAD MAINTENANCE AGREEMENT

THIS AGREEMENT is made as OF _____

BETWEEN:

MUNICIPALITY OF THE DISTRICT OF CLARE, 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 #34 to provide a mechanism to establish area rates for private road maintenance.

THEREFORE the parties hereto agree as follows:

SECTION 1: DEFINITIONS

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

SECTION 2: 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: PRIVATE ROAD MAINTENANCE POLICY

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

SECTION 4: TERM/TERMINATION

- 4.1 This Agreement shall automatically renew subject to the Association meeting and the annual Renewal Requirements.
- 4.2 This Agreement may be terminated at the discretion of the Municipality upon giving the Association three (3) 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 (3) months written notice.

SECTION 5: 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 By-Law #34 have been met.

SECTION 6: DUTIES AND RESPONSIBILITIES OF THE MUNICIPALITY

6.1 The Municipalities 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: LIMITATIONS OF AUTHORITY

7.1 The Association is not an agent of the Municipality and shall not pass of 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 Municipality of Clare's Private Road Maintenance Charges By-Law #34.

Signature (Road Association)

Date

Signature (Municipality of the District of Clare)
Warden

Date

Signature (Municipality of the District of Clare)
CAO

Date