



BYLAW 1

Private Roads Maintenance

RESPECTING THE MAINTENANCE AND IMPROVEMENT OF PRIVATE ROADS

BE IT ENACTED by the Council of the Municipality of the District of Shelburne, under authority of the *Municipal Government Act*, Chapter 18 of the Statutes of Nova Scotia 1998, as follows:

1. SHORT TITLE

This bylaw shall be known as Bylaw 1 and may be cited as the "Private Roads Maintenance Bylaw".

2. DEFINITIONS

- a. "Act" means the *Municipal Government Act* of Nova Scotia.
- b. "Association" means a body corporate in good standing under the *Societies Act* of Nova Scotia, which represents the Owners within a Charge Area and in which all Owners in a Charge Area are entitled to be a voting member.
- c. "Charge" means a charge imposed upon the Owners within a Charge Area pursuant to Section 81 of the *Act*, in an amount determined under this bylaw and payable in respect of Road Maintenance and Improvement for a Private Road.
- d. "Charge Area" means an area to which a Charge is imposed.
- e. "Council" means the Council of the Municipality.
- f. "Dwelling" means a residential unit as identified by the Property Services Valuation Corporation (PVSC) on its filed roll.
- g. "Fiscal Year" means the period from April 1st in one year to March 31st in the next year.
- h. "Municipality" means Municipality of the District of Shelburne.
- i. "Owner" means, in the absence of proof to the contrary, the person or persons assessed for the taxes on a Parcel in a Charge Area.
- j. "Parcel" means a parcel of land identified by an assessment number.
- k. "Petition" means a written request to the Municipality, in the form set out in Appendix A to this bylaw, requesting that a Charge be levied against the Owners within a Charge Area.
- l. "Private Road" means any private street, road, travelled way, or portion thereof, situated within the Municipality.

- m. "Road Maintenance and Improvement" means repairing, improving and maintaining Private Roads, as well as curbs, sidewalks, gutters, bridges, culverts and retaining walls associated with Private Roads.
- n. "Seasonal Resident" is an Owner that occupies their Dwelling less than 183 days in a calendar year.
- o. "Special Resolution" means a special resolution as defined in the *Societies Act* of Nova Scotia and passed by not less than three fourths of such members entitled to vote.

3. CHARGE IMPOSED

- a. An Association may request that the Municipality levy a Charge against the Owners in a Charge Area by submitting a Petition.
- b. The Petition must include or be accompanied by the following information:
 - i. A clear articulation of the proposed Charge and Charge Area, including the proposed method for calculating the Charge;
 - ii. The estimated budget for Road Maintenance and Improvement for the Private Roads in the Charge Area;
 - iii. A copy of a Special Resolution by the Association requesting the Municipality to levy a Charge against the Owners in the Charge Area, and approving the above-mentioned budget;
 - iv. Proof that the Association is in good standing with the Nova Scotia Registry of Joint Stock Companies;
 - v. A copy of the Association's Memorandum of Incorporation and Bylaws, which must provide that the purpose of the Association is to manage the maintenance of Private Roads;
 - vi. A plan showing the Charge Area, including all Parcels and Private Roads within the Charge Area;
 - vii. A complete list of Owners and assessment account numbers for all Parcels within the Charge Area; and
 - viii. Any additional information deemed necessary by the Municipality to allow for a complete review of the Association's request, and to allow it to determine if the request satisfies the terms and conditions of this bylaw.
- c. The Association must submit the Petition to the Municipality no later than the 31st day of January for the ensuing Fiscal Year.
- d. Upon receiving a Petition which satisfies the above requirements, the Municipality may enter into an agreement with the Association, under which the Association agrees to:
 - i. accept full responsibility for the implementation and administration of Road Maintenance and Improvement for the Private Roads in the Charge Area; and
 - ii. indemnify and save harmless the Municipality from any and all liability or responsibility with respect to Road Maintenance and Improvement for the Private Roads in the Charge Area.
- e. Upon entering into the above agreement, the Municipality shall levy a Charge against the Owners in the Charge Area.

- f. Payment of the Charge collected by the Municipality will be made only to the Association.
- g. All Road Maintenance and Improvement for the Private Roads in the Charge Area shall be performed under the control and direction of the Association, and the Association shall be solely accountable for the proper expenditure of the funds collected by the Municipality and forwarded to the Association.

4. METHOD OF CHARGE

- a. A Charge levied against the Owners within a Charge Area shall be calculated based on one, or a combination of two, of the following methods:
 - i. A percentage of the total assessment of each Parcel within the Charge Area;
 - ii. A flat rate per Parcel within the Charge Area; or
 - iii. A flat rate per Dwelling within the Charge Area.
- b. Where a Charge is based upon the method in sub-clause 4(a)(ii), the amount of the Charge may be different for Seasonal Residents.
- c. A Charge imposed pursuant to the provisions of this bylaw may be adjusted by Council following receipt of an application by the Association.
- d. An application to adjust a Charge must include or be accompanied by the following information:
 - i. A budget for Road Maintenance and Improvement for the Private Roads in the Charge Area;
 - ii. A copy of a Special Resolution by the Association approving the above budget and the request for an adjustment; and
 - iii. Proof that the Association is in good standing with the Registry of Joint Stock Companies.
- e. An application to adjust a Charge must be submitted to the Municipality no later than the 31st of January for the ensuing Fiscal Year.
- f. In situations where the Municipality bills Owners for rates and taxes more than once annually, a Charge may be billed during first billing of the Fiscal Year for which it is levied.
- g. Interest shall accrue on Charges outstanding from the date of billing at a rate equal to the rate set by the Municipality by policy for outstanding taxes.

5. ADMINISTRATION CHARGE

Any Association requesting that a Charge be levied in a Charge Area shall be assessed an annual administration charge for billing and collecting such Charges at a rate of five percent (5%) of the total billed amount annually plus Harmonized Sales Tax (HST). The administrative charge shall be deducted from the amount paid to the Association.

6. EXEMPTION FROM CHARGE

- a. Notwithstanding the provisions of this bylaw, the Municipality may exempt any Parcel from a Charge if the Owner or occupant of the Parcel does not use the Private Road or Roads for which the Charge is being levied, and if the Parcel abuts and has access to a Private Road or a public road that is not located within the Charge Area.
- b. If at any time, it is determined that the Owner or occupant of a Parcel receiving the above exemption is using the Private Road or Roads for which the Charge is being levied, the Association may request that the exemption be removed and the Charge be applied against the parcel for the next Fiscal Year.
- c. All Parcels owned by the Municipality, Her Majesty the Queen in Right of the Province of Nova Scotia, and her Majesty the Queen in Right of Canada, shall be exempt from a Charge, unless such Parcels are being leased to non-governmental entities in which case the Charge will be levied against the Lessee.

7. LIEN

- a. A Charge imposed pursuant to this bylaw constitutes a lien upon the Parcel in the same manner and with the same effect as rates and taxes under the Act.
- b. The lien provided for in this bylaw shall become effective on the date when the Charge becomes due and payable.
- c. The lien provided for in this bylaw shall remain in effect until the Charge and any applicable interest has been paid in full.
- d. Where a Parcel subject to a lien is subdivided, the amount of the lien plus interest shall stay with the parent Parcel.

8. NOTICE OF CHARGE

- a. Upon imposition of the Charge by the Municipality, the Association shall notify each Owner within the Charge Area of the Charge to be imposed and the method of calculation.
- b. The Association shall provide a copy of the above notice to the Municipality.

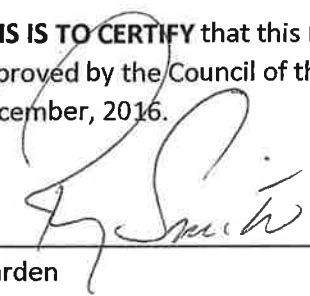
9. PAYMENT OF CHARGES

A Charge payable pursuant to this bylaw shall be due at the same time as taxes and rates are due in each year.

10. TERMINATION OF CHARGES

- a. An Association may request that a Charge be terminated by filing a Special Resolution approving the request with the Municipality.
- b. Council may terminate a Charge upon receipt of a request by an Association, or at any time at its own discretion.

THIS IS TO CERTIFY that this Bylaw Respecting Private Road Maintenance has been duly approved by the Council of the Municipality of the District of Shelburne on the 19th day of December, 2016.



Warden



Chief Administrative Officer

First Reading:	November 28, 2016
Notice of Intent:	December 5, 2016
Second Reading:	December 19, 2016
Notice of Passing:	December 26, 2016
Filed with Minister of Municipal Affairs:	January 17, 2017

APPENDIX "A"

PETITION FOR PRIVATE ROAD MAINTENANCE AND IMPROVEMENT CHARGE
to Municipality of the District of Shelburne

From: _____

representing the "Owners" for the Private Roads Maintenance Bylaw, in the "Charge Area" as shown on the attached plan.

The Association hereby requests that the Municipality collect road maintenance and improvement charges on behalf of the Association in accordance with the provisions of the Private Roads Maintenance Bylaw.

The Association further requests that this charge be made based on:

- a. Total assessment of each parcel within the Charge Area _____
- b. Flat rate charge per parcel (Year-Round) within the Charge Area _____
Flat rate charge per parcel (Seasonal) within the Charge Area _____
- c. A charge per dwelling unit within the Charge Area _____

The purpose of this charge is understood to enable the Association to undertake maintenance and improvements on the road(s) located within the Charge Area.

Therefore, the Association wishes to enter into an agreement with the Municipality as outlined in the Private Roads Maintenance Bylaw and affix the signatures of their Association's Officers to this effect.

_____	_____	_____
Name	Position	Signature
_____	_____	_____
Name	Position	Signature
_____	_____	_____
Name	Position	Signature

This petition must be accompanied by all the information required under sub-clause 3(b) of the Private Roads Maintenance Bylaw.

IN WITNESS WHEREOF, I confirm that I am the official agent of the Association, and have been authorized to file this petition on behalf of the Association, this _____ day of _____, 201____.

Signature Position