

HALIFAX

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Item No. 14.1.7
Halifax Regional Council
June 20, 2017

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: May 08, 2017

SUBJECT: Road Maintenance Fee for South West Grand Lake Property Owners Association
– Housekeeping Amendment

ORIGIN

On March 21, 2017, Regional Council approved amending Administrative Order 45, by replacing Schedule 4 with Schedule 4A, thereby increasing the annual budget and amending the private road maintenance fee structure for all properties which must be accessed by Kings Road in Wellington.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter clause 104 (1) (g) as follows:

- (1) “The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for
 - (g) laying out, opening, constructing, repairing, improving and maintaining private roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with private roads, where the cost is incurred
 - (i) by the Municipality, or
 - (ii) under an agreement between the Municipality and a person,”

By-Law P-1100, Private Road Maintenance By-Law, Subsection 2(6)

(6) Area Rates or Uniform Charges imposed pursuant to the provisions of this by-law may be adjusted by Council upon application from the Property Owner’s Association.

Administrative Order 45, Respecting Private Road Maintenance.

RECOMMENDATION

It is recommended that Halifax Regional Council adopt the amendment to Schedule 4A of Administrative Order 45, Respecting Private Road Maintenance, as set out in Appendix B of this report.

BACKGROUND

On January 16, 2007, Regional Council approved the Private Road Maintenance Costs Recovery Policy. The purpose of this Policy is to provide owners of property accessed by private roads with the use of area rates or uniform charges to collect the funds required to maintain private roads.

Kings Road is located just off of Hwy #2 in the community of Wellington in District 1. Kings Road and other private roads which branch off from Kings Road are maintained by the South West Grand Lake Property Owners Association (Association). The private roads maintained by the Association are: Kings Road, Alben Lane, Twilight Lane, Sleepy Cove Road, and Turtle Cove Road. Canal Cays Drive and Keegan Lane also branch off of Kings Road but are not maintained by the Association. However, the owners of property on Canal Cays Drive and Keegan Lane are required to pay a fee for the maintenance of Kings Road as they must travel over it to access their properties.

The Association funds road maintenance expenses through annual fees collected from the owners of each of the 110 properties which must be accessed via Kings Road. The current fees vary from \$0 to \$600 depending on which road the property is located, whether the property is vacant or has a dwelling on it, and whether the property is occupied on a seasonal or year-round basis. The schedule of fees was developed as the result of discussions between the property owners. HRM staff were not involved in the development of the fee schedule. A Schedule of Annual Uniform Charges with criteria to determine which fee amount applies to a property is included in Table 1.

On January 26, 2010, Regional Council approved amending Administrative Order 45 by adding Schedule 4 to permit implementation of the Schedule of Annual Uniform Charges to collect private road maintenance fees on the tax billings of all properties which must be accessed via Kings Road in Wellington.

On February 12, 2013, Regional Council approved amending Schedule 4 of Administrative Order 45 for nine properties for which the criteria had changed and therefore a different fee within the existing fee schedule was applicable.

On June 16, 2015, Regional Council approved amending Schedule 4 of Administrative Order 45 for ten other properties for which the criteria had changed and therefore a different fee within the existing fee schedule was applicable.

On March 21, 2017, Regional Council approved repealing Schedule 4 of Administrative Order 45, and adding Schedule 4A, which replaced the previous fee schedule, reducing the fee criteria from 12 different fees to the current 5 fees, effective April 1, 2017.

DISCUSSION

The Association Chair notified staff that there was an error in the original property listing in Schedule 4A, which was approved by Regional Council on March 21, 2017. The original listing had PID #40068389, which is located on Turtle Cove Road, in Area 3 and therefore paying the fee of \$450 which is for “homes and commercial properties on Alben Lane and Kings Road from civic number 112 to 429.” However, “Homes and commercial properties beyond 429 Kings Road” which includes Turtle Cove Road, are in Area 4 and therefore would pay an annual fee of \$600. The property owners have been notified by the Association in writing of the error and pending increase to their annual private road maintenance fee.

This adjustment will also increase the 2017-18 annual budget for the private road maintenance by \$150, to a total of \$41,600 (rounded) from \$41,400. This error will require a change to paragraph 1 of Schedule 4A in both Area 3 and Area 4. The paragraph currently reads as follows: (underlining indicates changes)

Area 3. A Flat Area Rate Charge of no more than \$450.00 annually shall be applied to the following properties in Area 4 which must be accessed by Kings Road, Wellington: PID numbers 503565, 503599, 503722, 503607, 503615, 503698, 503797, 503805, 503847, 503870, 568790, 568865, 568931, 569087, 40301434, 40800625, 40304321, 40784787, 40304271, 40885337, 40742785, 41211491, 40304305, 40304313, 40151334, 40301251, 40695553, 40455115, 40455156, 40455149, 40533275, 40576001, 40608523, 40620296, 40688285, 40705089, 40761421, 40800088, 40885345, 41037052, 40068389, 40607277, 41078205, 40872046, 41078213, 40695132, 40669798 and 41211509.

Area 4. A Flat Area Rate Charge of no more than \$600.00 annually shall be applied to the following properties in Area 5 which must be accessed by Kings Road, Wellington: PID numbers 569251, 40480055, 40574386, 40364028, 40068363, 40068413, 40068405, 40068397, 568410, 40480071, and 41294000.

To correct this error, paragraph 1(Area 3 and Area 4) should read as follows:

Area 3. A Flat Area Rate Charge of no more than \$450.00 annually shall be applied to the following properties in Area 4 which must be accessed by Kings Road, Wellington: PID numbers 503565, 503599, 503722, 503607, 503615, 503698, 503797, 503805, 503847, 503870, 568790, 568865, 568931, 569087, 40301434, 40800625, 40304321, 40784787, 40304271, 40885337, 40742785, 41211491, 40304305, 40304313, 40151334, 40301251, 40695553, 40455115, 40455156, 40455149, 40533275, 40576001, 40608523, 40620296, 40688285, 40705089, 40761421, 40800088, 40885345, 41037052, 40607277, 41078205, 40872046, 41078213, 40695132, 40669798 and 41211509.

Area 4. A Flat Area Rate Charge of no more than \$600.00 annually shall be applied to the following properties in Area 5 which must be accessed by Kings Road, Wellington: PID numbers 569251, 40480055, 40574386, 40364028, 40068363, 40068389, 40068413, 40068405, 40068397, 568410, 40480071, and 41294000.

Also, under the old Fee Schedule which was in place prior to April 1, 2017, if a property was vacant and the owner owned another property which was being charged a fee under Schedule 4, then the vacant property was exempt from being charged a fee. The intent of the Association was to remove this exemption under the revised Fee Schedule which was approved by Council on March 21, 2017. Property owners would then be required to pay the fee on each property they owned. In error, staff did not remove this exemption from the revised Fee Schedule. To correct this error, the exemption needs to be removed from paragraph 2(a) of Schedule 4A. This paragraph currently reads as follows:

2. The Area and therefore the Flat Area Rate Charge applicable to a property will be determined in accordance with the following criteria:

(a) if the property is vacant and the owner owns another property in any of the other Areas, or if the property is otherwise legally exempt from a Flat Area Rate Charge, then the property will not be subject to a Flat Area Rate Charge;

To correct the error, paragraph 2(a) should read as follows:

2. The Area and therefore the Flat Area Rate Charge applicable to a property will be determined in accordance with the following criteria:

(a) if the property is otherwise legally exempt from a Flat Area Rate Charge, then the property will not be subject to a Flat Area Rate Charge;

Table 1 below shows the Fee Schedule approved March 21, 2017 with the error. Table 2 is the corrected Fee Schedule with the error removed.

Table 1 - Current Schedule of Annual Uniform Charges (with error)

Annual Fee	Criteria
Not Applicable	Vacant land where the owner is paying a fee on another property under this fee schedule, or has a legal exemption.
\$200.00	Vacant land where the owner is not paying a fee on another property under this fee schedule.
\$300.00	Homes and commercial properties on Kings Road from civic number 54 up to and including 104 & 106, and Canal Cays Drive; and all properties with Summer cottages.
\$450.00	Homes and commercial properties on Alben Lane and Kings Road from civic number 112 to 429
\$600.00	Homes and commercial properties beyond 429 Kings Road

Table 2 - Amended Schedule of Annual Uniform Charges (with error removed)

Annual Fee	Criteria
Not Applicable	Land which has a legal exemption.
\$200.00	Vacant land.
\$300.00	Homes and commercial properties on Kings Road from civic number 54 up to and including 104 & 106, and Canal Cays Drive; and all properties with Summer cottages.
\$450.00	Homes and commercial properties on Alben Lane and Kings Road from civic number 112 to 429
\$600.00	Homes and commercial properties beyond 429 Kings Road

FINANCIAL IMPLICATIONS

As a result of correcting the error with respect to PID# 40068389, the Associations budget will increase by \$150, which will be offset by the increased revenue from the uniform charge. As all funding is from the uniform charges (i.e. no transfers from the general tax rate), there would be no impact on the HRM General Operating Budget at any time in the future.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this report. The risks considered rate is Low.

COMMUNITY ENGAGEMENT

Not required for these corrections. As outlined in the staff recommendation report dated February 10, 2017, public consultations were held with regards to the original fee schedule in Schedule 4A. Also, the property owners impacted by this correction were notified by the Association.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with the recommendations in this report.

ALTERNATIVES

Council could decide not to approve the requested changes to Schedule 4A of Administrative Order 45. This is not recommended because it would alter what was intended by the Association.

ATTACHMENTS

Appendix A: Showing Proposed Changes
Appendix B: Amending Administrative Order 45
Appendix C: Incorporating Proposed Changes

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Barb Wilson, Senior Financial Consultant 902.490.4280

**Appendix A
(showing proposed changes)**

**Halifax Regional Municipality
ADMINISTRATIVE ORDER NUMBER 45
Respecting Private Road Maintenance**

Schedule 4A

1. Area Rate charges for properties located on Kings Road, Wellington, or located on private roads in Wellington accessed from Kings Road, shall be as identified in the following areas:

Area 1. A Flat Area Rate Charge of no more than \$200.00 annually shall be applied to the following properties in Area 2 which must be accessed by Kings Road, Wellington: PID numbers 00503680, 40551178, 40377228, 40455123, 503755, 40621807, 41266974, 41293994, 40480063, 568766, 40766347, 41026956, 41026964, 40813438, 41266966, 569103, 40621815, 40574394, 41435967, 41394347, and 41397696.

Area 2. A Flat Area Rate Charge of no more than \$300.00 annually shall be applied to the following properties in Area 3 which must be accessed by Kings Road, Wellington: PID numbers 503524, 503664, 503631, 503573, 503771, 40383630, 40383648, 40392656, 40392649, 40392631, 40392623, 40852089, 40695603, 40607269, 569194, 503581, 40784795, 40304289, 40766370, 40304297, 40852071, 503656, 503706, 40589178, 40068348, 40068355, 40068371, 40255150, 40704165, and 40585523.

Area 3. A Flat Area Rate Charge of no more than \$450.00 annually shall be applied to the following properties in Area 4 which must be accessed by Kings Road, Wellington: PID numbers 503565, 503599, 503722, 503607, 503615, 503698, 503797, 503805, 503847, 503870, 568790, 568865, 568931, 569087, 40301434, 40800625, 40304321, 40784787, 40304271, 40885337, 40742785, 41211491, 40304305, 40304313, 40151334, 40301251, 40695553, 40455115, 40455156, 40455149, 40533275, 40576001, 40608523, 40620296, 40688285, 40705089, 40761421, 40800088, 40885345, 41037052, ~~40068389~~, 40607277, 41078205, 40872046, 41078213, 40695132, 40669798 and 41211509.

Area 4. A Flat Area Rate Charge of no more than \$600.00 annually shall be applied to the following properties in Area 5 which must be accessed by Kings Road, Wellington: PID numbers 569251, 40480055, 40574386, 40364028, 40068363, **40068389**, 40068413, 40068405, 40068397, 568410, 40480071, and 41294000.

2. The Area and therefore the Flat Area Rate Charge applicable to a property will be determined in accordance with the following criteria:

(a) if the property ~~is vacant and the owner owns another property in any of the other Areas, or if the property~~ is otherwise legally exempt from a Flat Area Rate Charge, then the property will not be subject to a Flat Area Rate Charge; or

(b) if the property does not contain a dwelling unit, then it will be included in Area 1 and the applicable Flat Area Rate Charge will be no more than \$200.00 annually; or

(c) if the property is located on Kings Road, and

- (i) the property is used year round and has civic number 54 or has a civic number between 54 and up to and including civic number 106, then it will be included in Area 2 and the applicable Flat Area Rate Charge will be no more than \$300.00 annually, or
 - (ii) the property has civic number 112 or a civic number between 112 and up to and including civic number 429, then it will be included in Area 3 and the applicable Flat Area Rate Charge will be no more than \$450.00 annually, or
 - (iii) the property has a civic number greater than 429, then it will be included in Area 4 and the applicable Flat Area Rate Charge will be no more than \$600.00 annually; or
 - (d) if the property is located on Canal Cays Drive, it will be included in Area 2 and the applicable Flat Area Rate Charge will be no more than \$300.00 annually; or
 - (e) if the property is located on Alben Lane, then it will be included in Area 3 and the applicable Flat Area Rate Charge will be no more than \$450.00 annually; or
 - (f) if the property is used on a seasonal basis, it will be included in Area 2 and the applicable Flat Area Rate Charge will be no more than \$300.00 annually.
3. (1) The criteria pursuant to section 2 of this Schedule, will apply to any existing and new properties which become subject to a Flat Area Rate Charge under this Schedule.
- (2) If the criteria applicable to a property changes such that another Area is indicated for the property other than the Area it is included in, then that property will become part of the Area for which it meets the criteria, and the appropriate Flat Area Rate Charge will apply.
4. The Charges collected under this By-Law shall be used by the South West Grand Lake Property Owners Association for the maintenance of the following private roads located within Wellington: Kings Road, Alben Lane, Twilight Lane, Sleepy Cove Road, and Turtle Cove Road, and shall include culverts, retaining walls, sidewalks, curbs and gutters that are associated with the roads. Road maintenance includes all work required to maintain the road in a serviceable condition year round and may include snow removal, grading, ditch and culvert and bridge repair and brush clearing.

**Appendix B
(Amending Administrative Order)**

**HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER 45
RESPECTING PRIVATE ROAD MAINTENANCE**

BE IT ENACTED by the Council of the Halifax Regional Municipality that Administrative Order 45, Respecting Private Road Maintenance, is further amended as follows:

1. Section 1 of Schedule 4A is amended by:
 - (a) striking out the PID# “40068389” before the PID# “40607277 and after the PID# “41037052” in Area 3; and
 - (b) adding the PID# “40068389”, before the PID# “40068413” and after the PID# “40068363”, in Area 4.

2. Clause a of section 2 is amended by
 - (a) striking out the words “is vacant and the owner owns another property in any of the other Areas, or if the property” after the words, “if the property”, and before the words, “is otherwise legally exempt from a Flat Area Rate Charge, then the property will not be subject to a Flat Area Rate Charge; or”.

Done and passed this day of , 2017

Mayor

Municipal Clerk

Appendix C
(incorporating proposed changes)

Halifax Regional Municipality
ADMINISTRATIVE ORDER NUMBER 45
Respecting Private Road Maintenance

Schedule 4A

1. Area Rate charges for properties located on Kings Road, Wellington, or located on private roads in Wellington accessed from Kings Road, shall be as identified in the following areas:

Area 1. A Flat Area Rate Charge of no more than \$200.00 annually shall be applied to the following properties in Area 2 which must be accessed by Kings Road, Wellington: PID numbers 00503680, 40551178, 40377228, 40455123, 503755, 40621807, 41266974, 41293994, 40480063, 568766, 40766347, 41026956, 41026964, 40813438, 41266966, 569103, 40621815, 40574394, 41435967, 41394347, and 41397696.

Area 2. A Flat Area Rate Charge of no more than \$300.00 annually shall be applied to the following properties in Area 3 which must be accessed by Kings Road, Wellington: PID numbers 503524, 503664, 503631, 503573, 503771, 40383630, 40383648, 40392656, 40392649, 40392631, 40392623, 40852089, 40695603, 40607269, 569194, 503581, 40784795, 40304289, 40766370, 40304297, 40852071, 503656, 503706, 40589178, 40068348, 40068355, 40068371, 40255150, 40704165, and 40585523.

Area 3. A Flat Area Rate Charge of no more than \$450.00 annually shall be applied to the following properties in Area 4 which must be accessed by Kings Road, Wellington: PID numbers 503565, 503599, 503722, 503607, 503615, 503698, 503797, 503805, 503847, 503870, 568790, 568865, 568931, 569087, 40301434, 40800625, 40304321, 40784787, 40304271, 40885337, 40742785, 41211491, 40304305, 40304313, 40151334, 40301251, 40695553, 40455115, 40455156, 40455149, 40533275, 40576001, 40608523, 40620296, 40688285, 40705089, 40761421, 40800088, 40885345, 41037052, 40607277, 41078205, 40872046, 41078213, 40695132, 40669798 and 41211509.

Area 4. A Flat Area Rate Charge of no more than \$600.00 annually shall be applied to the following properties in Area 5 which must be accessed by Kings Road, Wellington: PID numbers 569251, 40480055, 40574386, 40364028, 40068363, 40068389, 40068413, 40068405, 40068397, 568410, 40480071, and 41294000.

2. The Area and therefore the Flat Area Rate Charge applicable to a property will be determined in accordance with the following criteria:

- (a) if the property is otherwise legally exempt from a Flat Area Rate Charge, then the property will not be subject to a Flat Area Rate Charge; or
- (b) if the property does not contain a dwelling unit, then it will be included in Area 1 and the applicable Flat Area Rate Charge will be no more than \$200.00 annually; or
- (c) if the property is located on Kings Road, and
 - (i) the property is used year round and has civic number 54 or has a civic number between 54 and up to and including civic number 106, then it will be included in Area 2 and the applicable Flat Area Rate Charge will be no more than \$300.00 annually, or

- (ii) the property has civic number 112 or a civic number between 112 and up to and including civic number 429, then it will be included in Area 3 and the applicable Flat Area Rate Charge will be no more than \$450.00 annually, or
- (iii) the property has a civic number greater than 429, then it will be included in Area 4 and the applicable Flat Area Rate Charge will be no more than \$600.00 annually; or
- (d) if the property is located on Canal Cays Drive, it will be included in Area 2 and the applicable Flat Area Rate Charge will be no more than \$300.00 annually; or
- (e) if the property is located on Alben Lane, then it will be included in Area 3 and the applicable Flat Area Rate Charge will be no more than \$450.00 annually; or
- (f) if the property is used on a seasonal basis, it will be included in Area 2 and the applicable Flat Area Rate Charge will be no more than \$300.00 annually.
3. (1) The criteria pursuant to section 2 of this Schedule, will apply to any existing and new properties which become subject to a Flat Area Rate Charge under this Schedule.
- (2) If the criteria applicable to a property changes such that another Area is indicated for the property other than the Area it is included in, then that property will become part of the Area for which it meets the criteria, and the appropriate Flat Area Rate Charge will apply.
4. The Charges collected under this By-Law shall be used by the South West Grand Lake Property Owners Association for the maintenance of the following private roads located within Wellington: Kings Road, Alben Lane, Twilight Lane, Sleepy Cove Road, and Turtle Cove Road, and shall include culverts, retaining walls, sidewalks, curbs and gutters that are associated with the roads. Road maintenance includes all work required to maintain the road in a serviceable condition year round and may include snow removal, grading, ditch and culvert and bridge repair and brush clearing.