

M.D. of Opportunity No. 17
TRANSPORTATION POLICY

TITLE: PRIVATE LANEWAY MAINTENANCE POLICY

EFFECTIVE DATE: DECEMBER 14, 2011

POLICY NUMBER: T.29

Purpose of Policy:

To authorize the MD to enter into Service Agreements with local landowners for the MD to provide snow-plowing and/or road grading services on private property on a cost-recovery basis. Services provided in accordance with this policy are discretionary, subordinate to the obligations of the MD to maintain roads under its direction, management and control, and subject to the availability of the necessary equipment and personnel.

Policy Statements

1. The Transportation Services Department ("Transportation Services") of the Municipal District of Opportunity No. 17 (the "MD") is authorized to undertake snow plowing and road grading on roads, laneways, driveways and parking lots located on private property (collectively "Private Laneway Maintenance") in accordance with this policy.
2. Notwithstanding anything contained with this Policy or the Service Agreement, the level, timing and condition of any services offered or provided at any time is subject to:
 - (a) the limitations inherent to municipal budget, and the fees charged and collected;
 - (b) the limitations inherent to the limited availability of human resources and equipment;
 - (c) the limitations inherent to the constant changing nature of weather and road condition, including the condition of the Private Laneway;
 - (d) the general limitations inherent to the provision of services on an economically practical and feasible basis;

all of which factors are taken into account in the establishment of this policy, the allocation of resources to provide the services contemplated within this policy, and the directions to Transportation Services in carrying out the services and implementing this policy.

A. CONDITIONS FOR SERVICE

3. Subject to Paragraph 9 of this policy, Transportation Services shall not conduct Private Laneway Maintenance on a Private Laneway, unless:
 - (a) The Owner of the Private Laneway has submitted, and the MD has accepted, a signed copy of the Service Agreement, or such other agreement approved by the Chief Administrative Officer as providing equal or greater protection to the MD;
 - (b) The MD has conducted an Occupational Health and Safety Inspection of the Private Laneway to identify any hazards and determine its suitability for Private Laneway Maintenance (an "Inspection"); and
 - (c) Upon conducting such an Inspection, Transportation Services determines that the Private Laneway is in a condition that is suitable for Private Laneway Maintenance to be conducted.

B. PRIVATE LANEWAY MAINTENANCE PRIORITY

4. Private Laneway Maintenance will be conducted in an order determined by Transportation Services, with consideration given to the following factors (in no particular order):
 - (a) The availability of maintenance equipment and personnel;
 - (b) The existence of Transportation Services maintenance equipment and personnel in the vicinity of the Private Laneway;
 - (c) Consistency with a regular schedule for Private Laneway Maintenance;
 - (d) The current condition(s) of roads under the direction, management and control of the MD, and the necessity of providing road inspection or road maintenance services thereto;
 - (e) The length of time since the Private Laneway last received Private Laneway Maintenance from the MD;
 - (f) The frequency of travel on the Private Laneway, and whether the Private Laneway serves multiple residences, properties, businesses or the general public;

- (g) The receipt of a complaint or request for Private Laneway Maintenance from a landowner or occupant responsible for, or reliant upon, the use of a Private Laneway;
- (h) Any further factors considered appropriate by the person responsible for conducting the Private Laneway Maintenance or by Transportation Services.

C. INSPECTION AND MAINTENANCE REPORTS

- 5. Upon conducting an Inspection pursuant to Paragraph 3(b) of this policy, the inspector shall document:
 - (a) The date that the Inspection was conducted;
 - (b) The location where the Inspection was conducted;
 - (c) Whether, in the opinion of the inspector, the Private Laneway is in a condition that is suitable for Private Laneway Maintenance;
 - (d) Whether, in the opinion of the inspector, any actions or upgrades are recommended before the Private Laneway is to receive Private Laneway Maintenance;
 - (e) Any hazards on or adjacent to the Private Laneway that do not preclude the provision of Private Laneway Maintenance, but should be identified for the information of personnel responsible for conducting Private Laneway Maintenance;
 - (f) Any other information considered relevant by the person responsible for conducting the Inspection.
- 6. Upon completion of any Private Laneway Maintenance, personnel from Transportation Services shall make note of any such Private Laneway Maintenance conducted, and shall document:
 - (a) The date that the Private Laneway Maintenance was conducted;
 - (b) The location where the Private Laneway Maintenance was conducted;
 - (c) The nature of the Private Laneway Maintenance, specifically whether the Private Laneway Maintenance involved snow clearing or grading;
 - (d) Any concerns or damage that arose in the course of the Private Laneway Maintenance;

- (e) Any hazards on or adjacent to the Private Laneway observed by the person conducting the Private Laneway Maintenance;
- (f) Any other information considered relevant by the person responsible for conducting the Private Laneway Maintenance.

D. DISCRETION OF MD

- 7. The provision of Private Laneway Maintenance is offered at the sole discretion of Transportation Services, and Transportation Services may, at any time, discontinue providing this service without notice.
- 8. Where the Owner of a Private Laneway is in arrears with respect to the payment of maintenance fees, Transportation Services may, without notice, discontinue the provision of Private Laneway Maintenance until such arrears are paid in full.
- 9. Notwithstanding the requirements and considerations of Paragraphs 3 and 4 of this policy, the MD is authorized to conduct Private Laneway Maintenance at any time where:
 - (a) An Emergency, as defined in Section 541 of the *Municipal Government Act*, is occurring or has occurred, and the Private Laneway Maintenance is deemed necessary by Transportation Services, a Peace Officer, a Firefighter, or other MD or government personnel; or
 - (b) The condition of a Private Laneway interferes with, or otherwise poses a hazard to members of the public, or to users of a highway under the direction, management and control of the MD.

E. HAZARDS ON PRIVATE LANEWAYS

- 10. In the course of conducting the Inspection or Private Laneway Maintenance, should the employee or contractor conducting the Private Laneway Maintenance determine that the condition of the Private Laneway poses an undue hazard to equipment or the safety of the employee or contractor, the employee or contractor may:
 - (a) discontinue the Private Laneway Maintenance;
 - (b) make note of the hazardous condition in the Maintenance Report for the Private Laneway;
 - (c) report the hazardous condition to the Manager of Transportation Services for the MD.

11. Upon receipt of a report of a hazardous condition existing on a Private Laneway, the Manager of Transportation Services is authorized to discontinue the provision of Private Laneway Maintenance services on the Private Laneway until such time as an Inspection or repair to the Private Laneway occurs.

F. OTHER

12. Unless explicitly noted, the provisions of this policy shall apply only to the maintenance of roads, laneways, driveways and parking lots located on private property within the MD.

APPROVED ON DECEMBER 14, 2011 – MOTION # 0687-2011-17MDC

SCHEDULE "A"

PRIVATE LANEWAY SERVICE AGREEMENT

THIS AGREEMENT made effective the _____ day of _____, 20__

BETWEEN:

Municipal District of Opportunity No. 17
(the "MD")

-AND-

(the "Owner")

IN CONSIDERATION OF the provision of services contemplated herein, as well as the mutual agreements made by the parties, the parties hereby covenant and agree as follows:

1. The Owner desires for the MD to perform [**INSERT SERVICE: i.e.** "snow plowing in the winter months" **OR** "grading in the summer months" **OR** "snow plowing in the winter months and grading in the summer months"] on the Owner's [**INSERT DESCRIPTION OF PROPERTY: i.e.** "driveway" or "parking lot" or "residential laneway and other areas of the private roads" located on property municipally described as _____ and legally described as follows:

[INSERT FULL LEGAL DESCRIPTION OF THE PROPERTY]
(the "Lands")

2. The MD agrees to provide such snow plow and grading services (the "Services"), so far as is commercially reasonable for the MD to do so, as determined by the MD in its sole discretion and in accordance with MD Policy No. __ the *Private Laneway Maintenance Policy*, as amended from time to time (the "Policy"), the terms of which form a part of this Agreement.
3. The Owner agrees to pay for the Services at rates set by the MD from time to time. The rates for the Services are set by Council and may be amended from time to time.
4. The term of this Agreement shall be from the date of this Agreement until such time as either party provides written notice to the other party of termination of this Agreement.

5. A copy of the Policy has been provided to the Owner and may be viewed at the MD's office.
6. Charges for the Services will be billed by the MD monthly and payment is due to the MD within 30 days of the date of the invoice, unless the charges relate to the purchase of Snow Flags, in which case payment is due at the time of purchase of the Snow Flags.
7. The Owner agrees that Snow flags at all times remain the property of the MD and will be collected by MD after conducting the Services, where applicable.
8. The Owner is 18 years of age or older, and is aware that the provision of the Services involves inherent risks, dangers and hazards, involving all manner of injury or loss, including potentially serious or life-threatening injury and death, including, but not limited to:
 - (a) the use of equipment or materials related to the performance of the Services;
 - (b) the actions or negligence of the Owner or others on the Lands;
 - (c) the actions or negligence of the MD or its council, officers, employees, volunteers, agents, invitees, or representatives of any kind; or
 - (d) additional risks arising out of the Services and related events and activities.
9. The Owner freely accepts and assumes all such risks, dangers and hazards and the possibility of injury, death, property damage, property loss or any other loss or expense resulting to the Owner.
10. The Owner hereby agrees as follows:
 - (a) **TO WAIVE ANY AND ALL CLAIMS** of every nature and kind at law or equity or under any statute that the Owner has or may have in the future against the MD or its council, officers, employees, volunteers, agents, invitees, or representatives of any kind;
 - (b) **TO RELEASE THE MD** and its council, officers, employees, volunteers, agents, invitees, and representatives of any kind, from any and all liability for injury, death, property damage, property loss or any other loss or expense that the Owner may suffer or that the Owner's next of kin or legal representatives may suffer as a result of the Services due to any cause whatsoever, including negligence on the part of the MD or its council, officers, employees, volunteers, agents, invitees, or representatives of any kind;

(c) **TO HOLD HARMLESS AND INDEMNIFY THE MD** and its council, officers, employees, volunteers, agents, invitees, or representatives of any kind from any and all liability for injury, death, property damage, property loss or any other loss or expense to any party, including the Owner or a third party, as a result of the Services, or other financial loss or expense including, without restriction, legal expenses and costs on a solicitor-and-his-own-client full indemnity basis in defending against such claims or enforcing the terms contained within this document; and

(d) **THAT THIS AGREEMENT WILL BE EFFECTIVE AND BINDING UPON** the Owner, and his heirs, next of kin, executors, administrators and assigns.

11. The Owner hereby acknowledges that the Owner has read and understood the foregoing and the Policy, and has had the opportunity to ask questions and clarifications before signing. The Owner acknowledges that the Owner understands the content, import and meaning of this Agreement and the Policy, and hereby agrees, approves and consents to the terms thereof.

12. The addresses of the parties to which all communications, notices or bills shall be addressed or served and to which all payments shall be made as follows:

To the MD at: _____, **Alberta** _____
Telephone: 780 - 891-3778

To the Owner at: _____, **Alberta** _____
Telephone: 780 - ____-____.

13. The information on this form is collected and received pursuant to the terms and provisions of the MD's privacy and/or confidentiality policies or bylaws established or amended and replaced from time to time, and may be held and utilized in accordance with such policies/bylaws, the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act*.

Witness

Owner's Name

Chief Administrative Officer or Designate