

## What is the Municipal Services Act (MSA)

The Municipal Service Act, also referred to as The Kelly Bill, was enacted in 1993, requires municipalities to reimburse private communities within or adjacent to the townships that pay for certain services. These services include snow and ice removal and street collection of recyclables and garbage. Before 1993, there was no reimbursement to communities for these services. It is legislation that was enacted to provide private communities with the same types of services that townships and municipalities provide to [single family] homeowners. In summary, the municipality must provide Smoke Rise, with the following services on its roads and streets, or reimburse the community for its costs to obtain them elsewhere or in house; removal of snow, ice and other obstructions, but not including street sweeping or cleaning; and collection of recyclable materials and garbage. The Act is intended to help eliminate double payment for these services by residents of the community who pay for them through both their property taxes and association (club) common expenses.

The vast majority of community associations in northern New Jersey are “qualified private communities” under the Act’s definition: residential condominiums, cooperatives, or fee simple communities in which the cost of maintaining the roads and providing essential services is paid for by a not-for profit entity, such as a community association, consisting exclusively of homeowners who do not receive any tax abatement or exemption from the municipality and pay maintenance or club dues as well as property taxes.

If a municipality chooses to perform the designated services, it must do so “in the same fashion” as it does on public streets. A municipality that selects the payment option must enter into a written agreement with the association to reimburse it annually for its actual costs to obtain the covered services, not exceeding the amount that the municipality would have spent to provide the services directly itself. The association must use the reimbursed funds to pay for the services and must provide an accounting for them to the municipality.

The proposed amount and method of calculating the reimbursement can vary among different municipalities. As per the MSA agreement with the Borough, they will reimburse Smoke Rise for all costs associated with the direct and indirect costs that in any way attributable to snow removal, such as supervisory and administrative personnel costs, salt or de-icing agents, depreciated costs on all vehicles and equipment and fuel costs for snow plows, dump trucks, and salt spreaders; truck and plow equipment maintenance and preventative maintenance. There is also allowances for tree removal when trees block any of the roads, and other clean ups involving the roads during summer or non-snow removal storms.

A MSA agreement has been in place with Kinnelon since 1994 and in 2003 the Board of Governors and the Association Attorney negotiated a new agreement with Kinnelon, this was to maximize the reimbursements amounts with the Borough. Both parties have worked well in this partnership.