

THE CORPORATION OF THE
TOWNSHIP OF SOUTH GLENGARRY
BY-LAW 07-2021
FOR THE YEAR 2021

**BEING A BY-LAW TO ADOPT AN ASSUMPTION OF PRIVATE ROADS POLICY
AND MINIMUM ROAD CONSTRUCTION STANDARDS**

WHEREAS the *Municipal Act 2001*, c.25 S 5 (1) provides that the powers of a municipal corporation are to be exercised by its council;

AND WHEREAS the *Municipal Act 2001*, c. 25 S 5 (3) provides that the powers of every council are to be exercised by by-law;

AND WHEREAS Section 400 (d) of the *Municipal Act*, S.O. 2001, Chapter 25, as amended, provides the Minister to make regulations providing for matters with respect to fees or charges relating to a local improvement;

AND WHEREAS Ontario Regulation 586/06 entitled "Local Improvement Charges - Priority Lien Status" outlines the requirements for Local Improvement Charges;

AND WHEREAS Section 31(1) of the *Municipal Act*, S.O. 2001, Chapter 25, as amended, provides after January 1, 2003, land can only become a highway by virtue of a by-law establishing the highway;

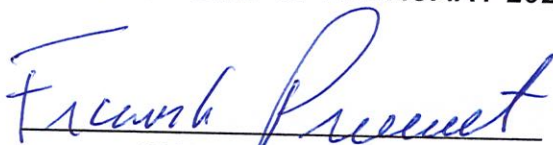
AND WHEREAS the Township of South Glengarry deems it advisable to adopt a Private Roads Policy and Minimum Construction Standards in order to establish the process to be followed and the minimum construction standards required for any private road, prior to Council's consideration of possibly assuming the road for public use and providing maintenance by Township resources;

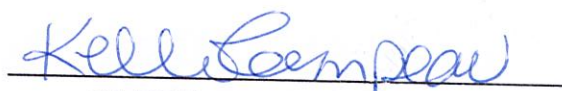
**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE
TOWNSHIP OF SOUTH GLENGARRY ENACTS AS FOLLOWS:**


1. **THAT** the Council of the Township of South Glengarry does hereby adopt Policy 01-2021 for the "Assumption of Private Roads Policy and Minimum Road Construction Standards" attached hereto as Schedule "A"
2. **THAT** this By-law shall come into force and take effect on the date of its final passing.

READ A FIRST & SECOND TIME THIS 18TH DAY OF JANUARY 2021.

**READ A THIRD TIME, PASSED, SIGNED AND SEALED IN OPEN COUNCIL
THIS 16TH DAY OF FEBRUARY 2021.**


MAYOR:


CLERK:

South Glengarry				POLICY
Policy Number:	01-2021	Review Frequency:	5 Years	
Approved By:	Council of the Township of South Glengarry	Date Approved:	February 16, 2021	
		Revision Date:		
Subject:	Assumption of Private Roads Policy and Minimum Road Construction Standards, Schedule "A" to By-law 03-2021			

1. RATIONALE

The Township of South Glengarry is a rural municipality with many private roads accessing waterfront properties. There is an increasing demand for waterfront and water view development. Many of the current roads are seasonal and/or private roads, and as development continues and land transfers occur, there will be a demand for the municipality to upgrade and/or assume some of these roads.

Private roads are the principal means of access for many waterfront property owners. Aside from setting the width of rights-of-ways and suggesting construction and maintenance standards, the Township has no jurisdiction over private roads.

The Assumption of Private Roads Policy and Minimum Road Construction Standards will establish how the Township will control road construction standards as well as determine who will be responsible for the costs associated with achieving these standards.

It is the intent of the Council of the Township of South Glengarry to protect the municipality and its residents from incurring tax increases to finance road construction and upgrades that are the responsibility of developers, and in some cases residents whose properties are abutting and/or accessed by seasonal and/or private roads

Unless it is clearly in the public interest and for the general benefit of the Township as determined by Council, it is not intended that private roads will be assumed by the Township and no responsibility for access, snow clearance, maintenance, repair, liability or other obligation is acknowledged for such unassumed road.

Council shall review each proposal on a case by case basis to determine if the assumption of that road would best serve the Township and the residents therein.

2. POLICY STATEMENT

The purpose of this policy is to establish the process to be followed and the minimum construction standards required for any private road, prior to Council's consideration of possibly assuming the road for public use and providing maintenance by Township resources.

It is in the public's interest that all roadways assumed by the municipality meet a minimum standard. To this end, the Township Council will, upon request only and as budget allows, consider assuming private roads which meets the Township's minimum road construction standards as specified in Appendix 'A' attached hereto. The costs associated with the works necessary to meet the minimum construction standards and administrative and legal costs associated with the assumption of the road shall be borne by the Proponents.

3. OFFICIAL PLAN (SDG)

The County Official Plan is an upper tier plan with detailed policies that reflect provincial, County and local interests. Local municipalities rely on the County Official Plan as a single tier Official Plan. The County Official Plan also contains guidance for more detailed policies for community development.

Section 4.3.6.4 of the Official Plan states the following:

Private roads are under private ownership serving multiple properties. New private road construction will be limited to minor extensions to existing private roads where public road frontage cannot be provided, or as part of a condominium or in a park, campground, mobile

home park or on the lands of a public authority. Where private roads are permitted, effective legal mechanisms should be used to achieve minimum road standards, permanent access, and long-term maintenance. This may include Plan of Condominium or private easements.

Local Municipalities are not obliged to assume a private road but may do so where the road is constructed or improved to municipal standards without an amendment to this Plan. Roads constructed as part of a condominium shall be constructed to municipal standards. No new lot creation will be permitted on a private road other than for a condominium development or mobile home park.

Local Municipalities or school boards are not obliged to provide services (e.g. emergency services, garbage collection, school bussing) on private roads which are impassable or sub-standard

4. ASSUMPTION OF PRIVATE ROADS

Council may assume a private road where the standards meet the design and construction requirements for township roads or are constructed to an alternative standard acceptable to Council, and where the road allowance is dedicated (transfer of title) to the municipality and is surveyed.

If it is physically impossible to widen an existing substandard private road, Council may, at its discretion, accept a lesser width.

Prior to deciding on the assumption of a private road, Council may require a cost-benefit analysis to determine if the operational costs of assuming and maintaining the road will be offset by property tax revenues. The costs for upgrading a private road to a Township standard will typically be borne by the adjacent property owners (e.g. survey, legal and construction costs).

5. POLICY PURPOSE

This policy establishes guidelines and minimum standards for the upgrading of existing private roads. The goal of this policy is:

- to ensure consistency in the upgrading of existing and construction of new municipal roads;
- to ensure adherence to the Official Plan;
- to ensure that Proponents build new municipal roads to a minimum municipal standard;
- to avoid passing any new development costs to ratepayers of the municipality; and
- to control the means by which the Township may assume private roads to provide fairness and consistency

6. DEFINITIONS

These definitions are included solely for the purpose of understanding this policy.

"Council" shall mean the municipal Council of The Corporation of the Township of South Glengarry

"Manager" shall mean the Director of Roads and Waste Management or his/her designates.

"Municipal Roads" - Roads and highways that have been assumed by the municipality and are maintained year-round by the municipality.

"Private Roads" - Roads and roads that have not been assumed by the municipality, which provide access by means of a registered right-of-way to private property; the use and maintenance of which is the responsibility of the abutting landowners.

"Proponents" - Developers, residents, or ratepayer or other associations who are building a new road or are upgrading or requesting the municipality to upgrade an existing private road to a municipal road for assumption and maintenance.

"Township" shall mean the Corporation of the Township of South Glengarry.

7. POLICY INTENT

It is the intent of the Township of South Glengarry:

- to provide minimum construction standards private roads within the Township.
- to provide standard guidelines for all private roads within the Township.
- to apply consistently the minimum standard to ensure the quality of new road construction and the upgrading of existing roads to municipal roads.
- to ensure that all Proponents are held to the same standard of quality.
- to not assume responsibility for or maintenance of any private road except as outlined below. Should Council ever deem it necessary to assume such a road, it must first be brought up to municipal standards as detailed in Appendix 'A'.
- to provide an equitable and fair process for undertaking any road improvements and collecting the cost of such improvements from the benefiting property owners through the provisions of the Municipal Act, 2001, Local Improvement Charges (O. Reg. 586/06) - Priority Lien Status regulations.

8. POLICY PROCEDURE, IMPLEMENTATION AND ROAD STANDARDS

When submitting a proposal to the Township, all documentation and information must satisfy Council that the assumption of the private road is in the public interest, and that the Proponent acknowledges and accepts that any and all costs associated with such assumption are to be borne by the Proponent, and the following procedures applied.

9. CRITERIA FOR COUNCIL

Without being necessarily limited to the following, Council should consider the following criteria in determining if it is in the public interest to assume a private road:

- Does the road serve, or will it serve, five (5) or more separate and distinct private parcels of land which are being used, or are capable of being used for the purposes permitted within that zone, on a year-round basis?
- Would the assumption of the road over-extend existing municipal roads maintenance programs, operations, and resources?
- Are there bridges or Culverts on the Private Road that will need to be inspected and evaluated for Structural Adequacy as per the Ontario Structures Inspection Manual.
- Was the road constructed to the standards as stated herein, thus avoiding costly future repairs?
- Will the assumption of the road promote further desired development?
- Would further development require the road to be extended?
- Would further development on this road over-extend existing municipal services?
- Would the road facilitate the safe and efficient movement of goods and people?
- Council must be satisfied that not less than two-thirds of all property owners who will receive direct benefit from the assumption of the road agree to the undertaking of the study and the assumption of the private road by the Township.
- Council must be satisfied that the Conservation Authority has been notified and regulations are followed where there could be any interference with wetlands or any alterations to shorelines and watercourses.
- Is there a reference plan prepared by an Ontario Land Surveyor documenting the lands affected by the proposed assumption?
- Has the Proponent provided original deeds and certification of title for the lands in question prepared by the Proponent's Solicitor?
- Has the Township received a legal opinion on the ownership status of the subject road and a risk assessment of assuming or not assuming the road?

10. IMPLEMENTATION

The Township shall only consider the assumption and maintenance private roads following receipt of a petition to Council in accordance with the Local Improvement Charges - Priority Lien Status regulations, and if the road is brought up to the standards of the Township as detailed in Appendix "A" to this policy.

The petition must contain the signatures of two-thirds (2/3) of the property owners having frontage on the road to be assumed and representing at least one-half (1/2) of the assessed value of the lots liable to be specially charged for the work.

Acknowledgement from the petitioners that if the Township undertakes a Local Improvement to bring the road up to Township standards the cost of the work shall be borne by the Proponents and the Township will impose special frontage charges on the lots that abut the work and other lots that will immediately benefit from the work.

Included in the special frontage charges under the Local Improvement regulations will be; property acquisition costs (if any), capital construction costs, engineering and legal expenses, surveying costs, reasonable administrative costs and interest on short and long-term borrowing.

Upon receipt of a petition requesting assumption of a roadway, Township staff will verify the sufficiency of the petition, i.e., petitions not supported by two-thirds of the property owners will not be considered, or assumption of portions of a road less than 500 meters will not be considered unless the road links existing maintained Township roads.

Township staff will prepare an Administrative Staff Report and if Council agrees "in principle" with the possible assumption of the road then the work will proceed following the Local Improvement Charges - Priority Lien Status regulations.

Prior to assuming the road section, the Township shall request an independent review of the subject road, including bridges and culverts, at the Proponent's expense. This review will include a report on the as-built condition of the existing infrastructure by a professional engineer and a cost-benefit analysis to determine the life cycle asset management costs, the operational costs of maintaining the infrastructure and the impact on Township resources. In addition, the consultant will prepare, as part of the engineering report, an estimate of all costs relating to the construction or reconstruction of the non-assumed road to the standards as stated herein. The cost of the independent engineering review and cost-benefit analysis will be borne by the Proponents.

Prior to the commencement of an engineering study the Proponent shall submit to the Township a refundable deposit of five thousand dollars (\$5,000.00) to provide Proponent with Engineer's estimate and additional deposit may be required prior to proceeding). This deposit will be used to cover the engineering review costs and the amount may be increased as needed if the review is more complex.

Any amount of the deposit not needed to cover the independent review will be returned to the Proponent.

Any formal requests and petitions for road assumption received after August 31st will not be considered until the following year to avoid unreasonable demands on the Township's winter control operations.

11. DEVELOPMENT AGREEMENT

Prior to the commencement of any construction or reconstruction the Township and the Proponent shall enter into a Development Agreement, which will address all matters pertaining to the road assumption, financial, and otherwise, and shall be registered on title for all applicable properties.

The Development Agreement in addition to addressing the technical and financial aspects of the road assumption shall require:

- The Proponent shall provide proof to the Township that the Contractor is qualified, experienced and has the equipment and personnel to successfully complete the work and provided WSIB Clearance Certificates and adequate liability insurance in accordance with the Township's Procurement By-law.
- The Proponent shall obtain all necessary permits and approvals as required. Construction or installation of services shall not take place until the Proponent has obtained all necessary permits and approvals and has complied with all requirements as outlined by the Director Roads and Waste Management.
- The Proponent to survey and convey to the Township, if non-municipally owned property, free and clear of all encumbrances, title to the land on which the road to be assumed is located, and the said lands shall be not less than 20 meters (66 feet) in width, together with any easements necessary for drainage and utilities.
- In the event the Proponent fails to proceed with the required construction or reconstruction as identified herein, there shall exist no obligation on the part of the Township: to continue with any construction or reconstruction as required, to reimburse the Proponent for any costs that he or she has incurred with the proposal, or to assume the road or any part thereof into the municipal road system, until such time as all construction or reconstruction as required is completed to the standards as identified herein.

12. TOWNSHIP ROAD STANDARDS

The Geometric Design of roads, including horizontal and vertical alignment, will be based upon the Geometric Design Standards for Canadian Roads, as published by the Transportation Association of Canada (TAC).

The Road Standards are to be consistent with the Road Standards and Typical Sections from the Townships Subdivision Development and Site Plan Design Guidelines.

Appendix 'A' to this policy provides specifics for the Minimum Road Construction Standards that must be met prior to the assumption of any private road.

Road improvements and work necessary to bring a road up to the standards listed in Appendix 'A' may include; property acquisition for road allowance widening, tree removal, utilities installation or relocation, road base and/or surface improvements, drainage improvements, horizontal and vertical alignment improvements, removal of encroachments and signage installation.

APPENDIX 'A'

TOWNSHIP OF SOUTH GLENGARRY MINIMUM ROAD CONSTRUCTION STANDARDS

Road Construction Standards	Private Roads Guidelines
Right-of-Way	20 m (66')
Minimum Clearing Width	10 m (33')
Design Speed	40 km/hr.
Maximum Grade	8 %
Surface Width	7 m (23')
Shoulder Width	0.3 m Each Side
Turnarounds OPSD 500.01 Min. Type 'B'	10 m (33') Radius Including Shoulder
Asphalt Surface HL3 50 mm (2")	6m (20')
Surface Material Granular "A" Compacted Depth	150 mm (6")
Base Material or Cover over Bedrock Granular "B" Compacted Depth	300 mm (12") (Depending on Sub-Grade Material)
Ditches	0.5 m (1.5')
Culverts	300 mm (12") CSP or Approved Equivalent