

**IMPROVEMENT AND TAKEOVER
OF PRIVATE ROADS**

BY-LAW AMENDMENT

NO. 29-01- 2014

Municipality of the District of Clare





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TABLE OF CONTENTS

SECTION 1: TITLE

SECTION 2: INTERPRETATION

SECTION 3: APPLICATION

SECTION 4: SCOPE

SECTION 5: IMPROVEMENTS PRIOR TO TAKEOVER

SECTION 6: MUNICIPAL ACCOUNTS FOR TAX



SECTION 1: TITLE

- 1.1 This By-Law may be cited as the *Improvement and Takeover of Private Roads By-Law of Clare*.

SECTION 2: INTERPRETATION

Definitions:

In this By-Law unless otherwise indicated:

- "Assessed Value" (a) "Assessed Value" means the assessment valuation of a property as established in the assessment roll prepared pursuant to the *Assessment Act of Nova Scotia* or any successor legislation.
- "Cost" (b) "Cost" means the amount of money paid or payable in respect of the "improvement" of a Private Road.
- "Improvement" (c) "Improvement" means the upgrading, laying out, opening and constructing of "Private Roads".
- "Lot" (d) "Lot" means a parcel of land described in a deed or shown on a registered plan of subdivision.
- "Municipal Road" (e) "Municipal Road" means all roads which are vested in and maintained as public roads by the Municipality.
- "Municipality" (f) "Municipality" means the Municipality of the District of Clare.
- "Owner" (g) "Owner" includes part owner, joint owner, tenant-in-common, or joint tenant of the whole or part of any real property fronting on a Private Road or situate in a Subdivision and also includes any trustee, executor, guardian, agent or other person having the care or control of such real property in the case of absence or disability of the person having title thereto.
- "Private Road" (h) "Private Road" means any road, street, roadway, highway or travelled way, or portion thereof, situated in the Municipality or in any Subdivision therein not owned and maintained by the Municipality or the Nova Scotia Department of Transportation and Infrastructure Renewal and in the case of a Subdivision includes any road or street leading to a subdivision from an existing public highway or Municipal Road.



- "Special Tax" (i) "Special Tax" means a tax in respect of the Private Road improvement based on a per lot or foot frontage basis, as the case may be and as requested in the Petition.
- "Subdivision" (j) "Subdivision" means the area as shown in the plan attached to Form "A" of the Petition of the Owners and in the absence of a Petition as in Form "A", in the plan presented to the Municipality.

SECTION 3: APPLICATION

- 3.1 Applications for all improvements and takeover of private roads shall be considered as per the Municipality's authority under Section 65 (aaa) of the *Municipal Government Act*.

SECTION 4: SCOPE

- 4.1 The purpose of this By-Law is to regulate the improvement and takeover of private roads by the Municipality within the Municipality.

SECTION 5: IMPROVEMENTS PRIOR TO TAKEOVER

- 5.1 Municipal Council may consider requests to take over private roads and convert them to public roads where the road meets the following requirements:
- (a) The public road is constructed in compliance with the Nova Scotia Department of Transportation and Infrastructure Renewal specification standard for subdivision roads in urban and rural areas, or;
 - (b) The private road has been improved and documented by a Professional Engineer as being in compliance with existing Nova Scotia Department of Transportation and Infrastructure Renewal's specification standard for subdivision roads in urban and rural areas, and;

The assessed value of the properties abutting the entire length of the road average an amount set by policy of Council, and;

Two-thirds (2/3) of the owners of land fronting on a private road have participated in a petition to convert the private road to a public road.



- 5.2 The Municipality may make such improvement in its sole discretion and shall be entitled to recover all of the cost of such improvement by levying a special tax upon the owners of real property fronting on the said private road or situate in the said subdivision as herein provided by this By-Law and such tax shall be recoverable from each owner by the Municipality on a foot frontage basis.
- 5.3 Every petition for the improvement and takeover of a private road shall be in Form "A" and shall clearly state the area for which the improvement and takeover is requested together with a plan of survey authored by a land surveyor duly licensed by the Province of Nova Scotia showing the private roads outlined in red for the requested improvements, the length and width of the Private Roads and the frontage of each property owner thereon.

SECTION 6: MUNICIPAL ACCOUNTS FOR TAX

- 6.1 The Clerk of the Municipality shall keep a separate account of all monies due for the improvement of private roads which shall contain:
- (a) The names of the owners of property liable for the special tax and the name of the improvement with respect to which the tax arose;
 - (b) The amount of foot frontage of each property owner or the number of properties as the case may require; and
 - (c) The amount of the special tax levied on each owner with particulars of the amounts due or owing.

Notice of Tax

- 6.2 The Clerk of the Municipality shall notify the owner of each property referred to in paragraph 6.1(a) and such notice shall state:
- (a) The basis upon which the special tax is calculated; and
 - (b) The tax payable by the owner in respect of the special tax.

Tax Payable in Installments

- 6.3 The amount payable in respect of the special tax by each owner shall be paid in equal annual installments together with interest over a period not exceeding ten (10) years.



Due Dates of Tax

- 6.4 The first installment and each succeeding installment in respect of the tax imposed by this By-law shall be due on the 31st day of July of each year and in the event of default of payment of any installment the whole balance with interest becomes due and payable.

Lien on Property

- 6.5 The special tax provided for herein shall act as a lien on the property of each owner subject to the tax with the same effect as rates and taxes issued under the *Assessment Act* and shall be collectable in the same manner as rates and taxes thereunder.

Interest

- 6.6 The tax imposed by this By-Law shall bear interest at the rate and installment schedule set by policy of Council.

Lump Sum

- 6.7 The amount payable in respect of the tax by each owner of real property fronting on the private road or situate in the subdivision, may, at the option of the owner, be paid in one (1) lump sum on or before the 31st day of March of the year in which the cost has been incurred.

THIS IS TO CERTIFY that the foregoing is a true and correct copy of the Improvements and Takeover of Private Roads By-Law Amendment adopted by the Municipality of Clare.

DATED at Little Brook, Nova Scotia this 28th day of July, 2014.

A handwritten signature in blue ink, reading "Connie Saulnier", is written over a horizontal line.

Connie Saulnier,
Municipal Clerk and Chief Administrative Officer



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