

PUBLIC EASEMENT ROAD POLICY TOWN OF OGUNQUIT, MAINE

Adopted April 5, 2016

Effective July 1, 2016

PURPOSE

The Ogunquit Town Select Board has adopted this policy to legally aid various public easement road associations maintain publicly deeded easements in a reasonable condition. The Town has adopted this policy in accordance with state law as of the policy's adoption date. This Public Easement Policy shall only apply to those roads in existence prior to the adoption date of this Public Easement Policy, April 5, 2016.

DEFINITIONS

- A. TOWN WAY – 23 MRSA Section 3021.** An area or strip of land designated and held by the Town for the passage and use for the general public by motor vehicle or foot. The Town is under a duty to maintain said roads in repair for safe and convenient passage or motorized vehicles.
- B. PUBLIC EASEMENT – 23 MRSA Section 3021.** An easement held by the Town for the purpose of public access on designated land and includes all rights enjoyed by the public with respect to unobstructed access by motor vehicle or foot. The town may at its discretion provide limited maintenance services to the public easement.
- C. PRIVATE ROAD –** A road over which neither the Town nor general public has the right to pass over by vehicle or foot.
- D. ROAD MAINTENANCE / BASIC ROAD SERVICESD –** Shall mean only snow plowing and road sanding.
- E. ADEQUATE / ADEQUACY –** The Public Works Director shall determine any standard or requirement based on adequacy.
- F. ROAD –** Refers to a duly recorded (deeded) public road easement.
- G. ROAD ASSOCIATION –** A public easement road association.

POLICY EFFECTIVE DATE

The Public Easement Road Policy as passed by the Select Board shall be effective July 1, 2016.

ROAD ADOPTION REQUIREMENTS AND PROCEDURE

In order to provide basic road services the Select Board, at its discretion, may “accept” a recorded public easement road. Upon acceptance the Town Select Board, at its discretion, may expend public funds on a public easement road considered under this policy.

The Town Select Board has established the following road adoption criteria. The criterion has been established to ensure a standard level of service can be provided and to ensure that road conditions are kept at a certain level sufficient to allow services to be provided.

All public easement roads shall meet the following criteria:

- A. Requests for public easement road acceptance under this policy shall be made in writing to the Town Manager by the road association president or designee on a Town form obtained from the Land Use offices located in Town Hall.
- B. Each respective road association shall be incorporated unless all property owners of which the respective public easement crosses over sign an individual road easement and a hold harmless clause. Each Deed shall be filed and recorded with the York County Registry of Deeds and a certified copy of such presented to the Town with their application.
- C. Each respective road association and each individual property owner if required shall sign a general release to the Town granting permission to enter upon the road and a hold harmless/release of liability agreement for any damages incurred while performing winter maintenance to the road.
- D. Only roads that outlet onto Public or State Roads shall be eligible for winter maintenance.
- E. At least three (3) full time year round residents are residing on the road.
- F. The traveled portion of the road is at least fifteen feet (15) in width with an overall clearance width of twenty three feet (23).
- G. The traveled portion of the roadway must have a minimum of fifteen feet (15') from edge to edge.
- H. Four feet (4') of unobstructed shoulder on each side of the fifteen foot roadway must be maintained at all times for a minimum road clearance of twenty-three feet. The twenty-three foot outer boundaries of the roadway must be clearly marked with survey pins and recorded in the York County Registry of Deeds.
- I. A paved or smooth gravel surface and adequate drainage to the traveled portion of the roadway must be maintained at all times. The respective Road Association or Designee

will be responsible for keeping the roadway, drainage, and clearance issues maintained and in good repair as determined by the Town Public Works Director.

- J. A clear unobstructed minimum overhead road clearance of thirteen feet six inches (13'-6") shall be maintained at all times.
- K. There is/are adequate emergency vehicle & plow truck turnaround(s).
- L. Suitability of turn-around will be determined by the Road Commissioner, Fire Chief, and Public works Director. Compliance with all other minimum standards will be determined by the Public Works Director and Road Commissioner or their Designees.
- M. By September 1st of each year, the Public Works Director shall visit all roads accepted for Winter Maintenance to identify necessary road maintenance needed to bring that road up to standards and notify appropriate personnel of the Towns findings within seven days of that visit.
- N. All required maintenance must be completed by the end of the first full week in November on an annual basis to be eligible for winter maintenance.
- O. Upon written application to the Town Select Board and demonstration of extraordinary circumstances the Town Select Board has sole authority to waive or modify requirements of the road adoption criteria.
- P. Accompanying each road association request for acceptance shall be separate, written recommendations by the Road Commissioner and Public Works Director either supporting or not supporting public easement acceptance and their reasoning for their recommendation. A copy of the recommendation shall be forwarded to the Town Planning Office for notification purpose prior to public easement acceptance.
- Q. All costs associated with each public easement road acceptance shall be borne by the respective road association and property owners. Said costs may include public easement recording fees, public notices, and other costs deemed relevant by the Town Select Board.
- R. After all criteria have been met and Select Board approval has been granted, a town vote will be necessary to bring the road into Public Easement Status. After the road has been certified by Town vote, the Select Board will have sole authority to suspend winter maintenance operations at its discretion for any reasons the Select Board may deem prudent. Annual Town votes will not be necessary after a road has been accepted as a public easement road and winter maintenance will be performed at the pleasure of the Select Board.
- T. The Town Select Board reserves the right to suspend winter maintenance to any Public Easement Road that does not comply with all required standards.

ROAD ASSOCIATION REPRESENTATION

In order to provide an efficient and workable relationship between the Town and the road associations, each respective road association president or designee shall be the liaison between the Town and road association. Each road association is responsible to inform the Town Manager, in writing, identifying their respective association president or designee, address and telephone number by August 1st of each respective year.

MAINTENANCE POLICY

Maintenance services covered under this policy shall consist only of snowplowing and road sanding. The provision of required materials: road sand and road salt is implied by this policy. All other maintenance aspects, materials and requirements of public easement roads accepted under this policy are the responsibility of the road association and its members. The Town does not assume or accept liability for any defects in or lack of repair to public easements.

The Town makes no presumption in any form or manner that any road accepted under this policy by the Town of Ogunquit is to be accepted as a Town Way, as defined above.

If a public easement's traveled portion is paved, the public easement road association and abutting property owners agree the Town assumes no responsibility for damages or injury to the paved surface.

GRADING

The Town shall not provide grading services for public easements.

SNOW EMERGENCY

If the Public Works Director determines that an emergency exists on any public easement road due to heavy snowfall and/or narrowing of the travel ways due to snow banks, the Public Works Director and the Town Manager may take such additional snow plowing and/or removal action as is deemed reasonably fit to abate the emergency. The Public Works Director shall keep accurate financial records of any such emergency work and report the same to the Town manager at least monthly.

POLICY MODIFICATION

The Town Select Board may modify this policy at any time after proper notice and public hearing as required by 1 MRSA 401 et seq.

HOLD HARMLESS

As a condition of this policy, for public easement road acceptance and road maintenance, each road association hereby recognizes the Town of Ogunquit responsibilities shall be limited to the

scope of this policy and to hold the Town harmless regarding any liability for any negligent damage to property: including but not limited to: driveways, mail boxes, lawns, trees, curbing, shrubs or property markers. Each road association or individual benefiting from this policy agrees to hold the Town of Ogunquit, its officers, agents and employees harmless. This clause does not mean to hold harmless private contractors for their negligent acts.