

PUBLIC EASEMENT ROAD POLICY TOWN OF GRAY MAINE

Adopted September 1, 1998

Enacted October 1, 1998

Amended October 6, 1998

Amended April 17, 2001

Amended June 4, 2002

Amended July 1, 2003

PURPOSE

The Gray Town Council 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 the Public Easement Policy, October 1, 1998.

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 of access or to pass over by vehicle or foot.
- D. **Road Maintenance /Basic Road Services** - 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 Town Council shall be effective October 1, 1998.

ROAD ADOPTION REQUIREMENTS AND PROCEDURE

In order to provide basic road services the Town Council, at its discretion, may “accept” in a recorded public easement road. Upon acceptance the Town Council, at its discretion, may expend public funds on public easements road on the road being considered under this policy. Roads built prior to October 1, 1998 only, may be considered under this policy.

The Town Council has established the following road adoption criteria. The criteria 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.

- B. Each respective public road association shall be incorporated, unless all property owners in which the respective public easement crosses over sign and individual public road easement and a hold harmless release.
- C. Each respective road association and each individual property owner if required shall grant a recorded public easement.
- D. Each respective road association and each individual property owner if required shall sign a general release to the Town granting permission to enter upon road to perform maintenance and release for liability.
- E. Each respective road association and each individual property owner if required shall agree and sign to hold the Town harmless for any damages that may be caused in the process of providing maintenance services.
- F. The exists and identified easement of at least twenty (20) feet in width.
- G. The traveled portion of the road is at least ten (10) feet in which with an overall clearance width of eighteen (18) feet.
- H. The traveled portion of the road has an adequate gravel base with a minimum gravel base of six (6) inches.
- I. The traveled portion of the road's overhead clearance shall be a minimum of thirteen and half (13 ½) feet.
- J. The traveled portion of the road shall be adequately maintained in good repair by the respective road association as determined by the Town's Public Works Director.
- K. There is/are adequate vehicle & plow turnaround(s).
- L. There are at least four (4) year around dwellings served on the road under consideration.
- M. 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 fee, published notices and others costs deemed by the Town Council.
- N. Upon written application to the Town Council and demonstration of extraordinary circumstances the Town council has sole authority to waive or modify requirement of the road adoption criteria.
- O. Accompanying each road association request for acceptance shall be separate, written recommendations by the Public Works Director and Town Engineer either supporting or not supporting public easement acceptance and their reasoning for the recommendation. A copy of the request and recommendations shall be forwarded tot the Town Planner for notification purpose prior to public easement acceptance.

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 September 1st of each respective year.

CONTRACTORS ISSUES AND CONCERNS

All initial questions, problems or issues concerning the actual work being performed by a private contractor shall be directed to the respective road association president or designee and private contractor.

If the issues(s) or concern(s) still persist after initial inquiry to the contractor, the road association president may then contact the Town's Public Works Director.

If the issue or concern is not resolved after consultation with the Public Works Director, then the Public Works Director or the association president may contact the Town manager. The Town Manager may resolve the issue by any means he deems appropriate, including terminating the contractor's agreement.

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 Gray 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 way 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 he reasonably deems 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 Council 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 Gray 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 by not limited to: drive ways, mail boxes, lawns, trees, curbing, shrubs or property markers. Each road association or individual benefiting for this policy agrees to hold the Town of Gray, its officers, agents and employees harmless. This clause does not mean or intend to hold harmless private contractors for their negligent acts. This clause means and intends to hold harmless the contractors, its agents or employees.