



TOWN OF CASCO

635 MEADOW ROAD
CASCO, MAINE 04015

April 29, 2020

LETTER ABOUT WINTER MAINTENANCE OF PRIVATE ROADS

Dear Casco Resident,

This letter is meant to provide some background on why we are proposing the Winter Maintenance of Private Roads policy at our annual Town Meeting this year. As you likely know, Casco has a long history of providing winter maintenance for a number of private roads in Town.

Approval from Town Meeting is required in order for the Town to continue to plow private roads because it involves expending public funds on private property. The Maine Supreme Court has ruled municipalities cannot expend public funds on private property without a public interest. This is why the service is a privilege, not an entitlement.

On a public road, the Town is responsible for the maintenance of the road and has a right-of-way with protections through state law should damage occur within that area. Easements give us the public interest necessary to plow a private road and also protect the Town should anything be damaged. The maintenance of the road is left up to the private owners, which is why standards are necessary.

Over the last several years, we have provided notice to, and worked with, the private roads receiving the service to bring them up to the standards from 1972. Unfortunately, there was some confusion about those standards, the newer 2015 standards, and potential waivers from the Selectboard, among other things. The policy was created to clarify this confusion and create a clear expectation and understanding of how winter maintenance of private roads will be handled moving forward. It also gives us that authority to continue to plow certain private roads while addressing easements, standards, waivers, and timelines.

This policy also sets the expectation that taxpayers will not be burdened with additional private roads (unless it is accepted by Town Meeting as a Town road). The Town has plenty of Town road maintenance to manage with limited funding as it is, we would not want additional private roads to add to the taxpayer burden.

Right now, we plow approximately 17 miles of private road in the winter which is nearly a third of our total mileage. To give you an idea, in the upcoming winter season we will pay \$6,424.80 per mile for plowing or more than a \$100,000 a year just on private roads. This does not include the cost of the materials spread over the roads nor the time and resources spent throughout the year in inspecting, sending notices, and more.

This policy would be put in place until revoked by Town Meeting. Given the delay COVID-19 has created this year, it is not expected to be fully enforced until the winter season of 2021-22 with the exception of requiring sufficient easements, or unless failure to enforce may cause damage to plow equipment. This is so the roads have time to do what is necessary to come into compliance with the policy or find other accommodations. Regardless, we strongly encourage private roads to continue to maintain their roads.

The Selectboard welcomes feedback on this policy. Comments will be accepted until close of business on Friday, May 29, 2020. Comments can be made by emailing manager@cascomaine.org, mailing or dropping off written comment at the Town Office, or by participating in public comment at a Selectboard meeting.

Municipal elections will be Tuesday, July 14, 2020 at the Casco Community Center and absentee ballot requests are being accepted. Town Meeting will be Wednesday, July 15, 2020 @ 7 PM at Fire Central. Further details on how Town Meeting will be managed during this time will be released as soon as possible.

Respectfully,



Courtney O'Donnell
Road Commissioner & Town Manager



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This policy requires annual Town Meeting Authorization. Approval grants the Town the right to provide winter maintenance of certain private roads but does not obligate the Town to, as laid out in the provisions of this policy.

Section 1. Purpose: The purpose of this policy is to clarify past practices related to winter road maintenance of private roads including but not limited to standards, waivers, and easements necessary to establish a public interest in the private property and protect the Town against unnecessary costs. This policy in no way guarantees the winter maintenance of private roads.

Section 2. Applicability: This policy applies to all private roads currently receiving winter road maintenance, listed below, except in the case any private road fails to comply with all sections of this policy, and all other private roads that may wish to obtain Town winter maintenance services.

Acadia Road	Alice Road	Bear Pine Drive	Boothby Lane
Cedar Street	Cliffside Road	George Hannon Rd	Grant Drive
Coffee Pond Road	Cold Springs Road	Condo Ridge Road	Cone Street
Fairfield Road	Garland Road	Hancock Road	Higgins Hill Rd
Highland Shores Road	Hollow Point Road	Jamesport Road	Kathryn Blvd
Lakeshore Drive	Leander Lane	Letitia Lane	Lower Coffee Pond Rd
Maple Street	Mondor White Rd	Mountain View Rd	Oak Street
Parker Pond Pines	Sebago Haven Road	Stage Coach Hill Rd	Thomas Pond Shores Rd
Waterview Drive	Watkins Shores Rd	Welch Drive	O'Connor Road

Section 3. Easements

The Town cannot expend public funds on private property in which it has no legal interest.

Sufficient easements by either the majority of individual land owners or a legal road association must be provided to the Town and recorded with the Cumberland County Registry of Deeds, at the expense of private road owners or road association. This policy authorizes the Selectboard, on behalf of the Town, to accept easements on behalf of the Town.

Section 4. General Provisions

- A. Provision of services is not guaranteed for each road. At the discretion of the Town, private roads receiving winter road maintenance are subject to periodic review of the standards. It is the responsibility of the private road owners receiving the Town winter maintenance services to ensure

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their property meets the standards and that all other requirements of this policy are met in order to ensure Town winter road maintenance services continue.

- B. The deadline for all roads to be in compliance with this policy shall be October 1 of every year for the upcoming winter season. Final determination of compliance with this policy shall be determined by the Town.
- C. The Town may inspect any private road at any time for any reason.
- D. In the event access to a private road is limited or prevented due to conditions of the road (i.e. washout, tree blocking road, etc.), so that the standards are no longer met, the Town shall automatically discontinue winter road maintenance unless and until the road is fixed within a timely manner and is compliance with all other portions of this policy.
- E. A private road that requires the Town to access it through another private road inherently risks losing Town winter maintenance services in the event the private road that provides the access fails to comply with any provisions of this policy.
- F. Private road owners are encouraged to have backup plans for winter road maintenance in the event Town winter road maintenance services are discontinued in accordance with this policy.
- G. Private roads that are in compliance with this policy and receive the Town services are prevented from posting their road as private or otherwise attempting to restrict the public from accessing the private road. Failure to comply with this provision may result in a loss of services.

Section 5. 1972 Road Standards

Road standards dated 1972 have been long standing. The Town has taken steps in recent years to bring private roads receiving Town winter maintenance services into compliance with those standards and to ensure sufficient public easements exist.

- A. Roads listed under Section 2 have continuously received Town winter maintenance and therefore remain subject to the 1972 road standards. In the event a private road fails to meet any requirements of this policy, the private road shall then be subject to the 2015 road standards in Section 6.
- B. The final decision as to whether or not a road meets these standards rests with the Road Commissioner.
- C. This policy seeks to clarify language of the 1972 Standards; additions are added in italics and deletions are reflected with a strikethrough.

1972 Road Standards for Town Winter Maintenance Services: Plowing/Sanding

1. Roadways must have a width of 18' with ~~3' shoulders~~ *1.5' shoulders on each side* and an area for winging back snow banks. The Town or its contractors *shall* not be held responsible for property in the roadway or adjacent to the roadway in the area required for pushing back snow banks.
2. Roadway must be free of obstructions with a properly maintained surface. (i.e. smoothly graded or paved)

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3. Road surface must be adequate to support heavy plowing vehicles. Muddy or soft roads cannot be plowed. *Erosion and stormwater control must be maintained and developed when determined necessary to ensure proper drainage of the private road and to limit potential environmental impacts (i.e. ditches, culverts, turnouts, sediment basins, and more).*
4. A turning area adequate for large plow vehicles must be provided. This area must allow for snow storage and turning and maneuvering area. This area ~~cannot~~ *must not* include driveways.
5. Roadways must have a minimum of two properties and have year-round residents.
6. Roadway must be free of trees, shrubs, and branches that may damage or impede plowing vehicles.
7. ~~Property owners and or Road Assoc. must grant an acknowledgment of public easement. (added 1990 on advice of counsel)~~

Section 6. 2015 Road Standards

Private roads listed in Section 2 that fail to comply with 1972 standards shall then be subject to the 2015 Road Standards, hereby incorporated into this policy as Exhibit A. No additional private roads will be added to the Town winter road maintenance service list.

Section 7. Waivers

This policy authorizes the Selectboard, on behalf of the Town, to grant waivers to private roads that fail to meet the applicable road standards for certain reasons. The Town reserves the right to periodically review all decisions related to waivers and to redetermine as needed, if the Selectboard deems it is in the best interest of the Town.

Waivers do not apply to property characteristics such as buildings, rock walls, or other man-made structures unless there is sufficient documentation proving it necessary due to a specific environmental or utility reason, as determined by the Selectboard.

A. Utility

1. Private roads that are unable to meet the applicable standards set forth in this policy due to utility restrictions must submit a written waiver request to the Selectboard on or before August 31st.
2. The request must include documentation from utility company stating that they are unwilling or unable to relocate a pole, or any other utility related structure, on the road for which the request has been submitted.
3. Utility waivers only apply to the immediate area surrounding the structure, not to exceed 10 feet on either side.
4. The Selectboard shall make a determination on or before October 15. After the initial request for utility restrictions are documented and approved by the Selectboard, the waiver shall remain in place for three years provided nothing related to the request has changed and Town Meeting continues to authorize the Town winter maintenance services for private roads.

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B. Environmental

1. Private roads that are unable to meet the applicable standards set forth in this policy due to environmental restrictions must submit a written waiver request with all required documentation by August 31st.
2. For the purposes of this policy, a waiver request for environmental reasons must adequately demonstrate that compliance with the requirements set forth in the policy would negatively impact or put an undue burden on the environment. Sufficient documentation from Maine Department of Environmental Protection and other entities may be required.
3. The Town may seek or request that additional recommendation(s) from Cumber County Soil and Water, LEA or another entity be provided.
4. Support from MDEP or some other entity should not be viewed as blanket approval and in no way excludes the private road from meeting other provisions of this policy when possible.
5. Due to the nature of environmental restrictions, waivers granted shall be at the discretion of the Selectboard based on what they feel is in the best interest of the Town.
6. The Selectboard shall make a determination on or before October 15. Environmental waivers granted by the Selectboard shall remain in place for two years provided nothing related to the request has changed and Town Meeting continues to authorize the Town winter maintenance services for private roads.

C. Timeline/Extension for Compliance

It is the responsibility of the private road to ensure all provisions of this policy are met to ensure continued services.

At the discretion of the Selectboard, a private road may be given an extension, not to exceed two years, in order to come into compliance with the standards provided there is adequate Town Meeting approval.

Recommended on this _____ day of May, 2020.

Casco Selectboard:

Thomas Peaslee

Holly Hancock

Mary Fernandes

Calvin Nutting

Grant Plummer

THIS POLICY MUST BE VOTED ON YEARLY AT TOWN MEETING AND APPROVED IN ORDER FOR THE TOWN TO CONTINUE WINTER ROAD MAINTANENCE TO PRIVATE ROADS.