



Town of Wareham Road Commissioners

By-Law Language

Article 20 - Unaccepted Way By-Law

DIVISION II, ARTICLE I, SECTION 18

Proposed Bylaw:

Section 18. For the purposes of this section of the bylaws all streets, roads and ways will be referred to collectively as streets.

The Town Clerk's Office keeps the official listing of the Town Accepted Streets. Any street that is not on the official list is considered an unaccepted street.

This section of the bylaws is intended to provide a means for the Town to make temporary repairs on private streets which have been opened to public use. Additionally, this bylaw is intended to guide the Board of Selectmen in determining which unaccepted streets meet a minimum standard for that Board to allow for snow plowing of unaccepted streets which are open for public use. For the purposes of Section 18, unaccepted streets will be identified in the following way: Unaccepted Streets opened to public use; Unaccepted Streets which are marked private by means of signage, gates, detail police officers or any other obstruction or restrictions to the public; unaccepted streets which have an agreement with the Town Zoning or Planning Boards which govern how the streets will be maintained.

For a qualified unaccepted street to be eligible for the program five (5) percent of the abutters must petition for such repairs on a form available on the Municipal Maintenance website.

Unaccepted Streets Opened to Public Use:

Unaccepted Streets opened to public use are either paved or unpaved and unobstructed for use by the public. These streets may be temporarily repaired and snow plowed as lawful and appropriate. The Director of Municipal Maintenance (hereinafter Director) or his/her designee shall have the sole

authority to develop a plan for any repairs. Such repairs are limited to those that are traditionally performed by the Municipal Maintenance Department and may include but not be limited to the filling of holes in the subsurface of such streets and repairs to the surface materials thereof as well as the grading of streets (including street crowning), scrub, brush and tree trimming and snow plowing. Materials for such repairs, where practical, may be the same as, or similar to, those used for the existing surfaces of such streets, and may include surfacing the streets with bituminous materials, including but not limited to bituminous concrete. Drainage work as determined by the Director to be required by public necessity as a result of the repairs may also be done.

The Director shall have the authority to make any repairs necessary to insure emergency vehicles and maintenance vehicles have unobstructed access on the streets. This authority includes the repair of the street, cutting back of trees, brush or shrubs and removing any obstacle placed in the road.

If the Director determines the estimated billable cost of any repairs to be in excess of a maximum of \$400 per dwelling per individual project adjusted annually by the RS Means Construction Cost Indices, per Dwelling, the Director shall not proceed. If the required work is significant enough, the Director shall with the permission of the Board of Selectmen place the name of the street on the Selectmen approved Do Not Plow List section of the Town's website. Subject to Board of Selectmen approval, the street will remain on the Do Not Plow List until the repairs are made either by the Town or a contractor hired by the abutters. If the Town is expected to do the work, it is the responsibility of those on the street to supply the Director with the form signed by 51% of Dwelling owners on the street, instructing the Director to proceed with the work, at which time the work will be placed in line on the work schedule.

The cost of materials and/or outside contractors, only for such repairs shall be paid by the abutters by way of a bill sent to each of the abutters of the street or betterment assessment as hereinafter provided. The bill will be assessed by taking the total cost of materials and/or outside contractors involved in making such repairs on any such unaccepted street a sum equal, in the aggregate, to the total cost thereof, in the case of each such dwelling, in proportion equal to their representative share. This representative share will be determined by dividing each individual dwelling on the street by the total number of dwellings on the street. Except as herein otherwise provided, the provisions of Chapter 80 relating to public improvements and assessments therefore shall apply to repairs to private streets made under the authority of this section.

Each abutter shall remit to the Town Collector the full amount of their bill within the time allotted. All bills that remain unpaid after the allotted time will accrue interest at the maximum interest rate allowed by law. The Town does have the right to place a lien on the property to recoup all unpaid amounts.

The Board of Selectmen, acting with the recommendation of the Board of Road Commissioners, shall determine if a project should be billed as a betterment. If the Board of Selectmen determines that betterments will be assessed they shall make such assessments upon the owners of the dwellings which derive particular benefit or advantage from the making of such repairs on any such unaccepted street a sum equal, in the aggregate, to the total cost thereof, in the case of each such dwelling, in proportion equal to their representative share. This representative share will be determined by dividing each individual dwelling on the street by the total number of dwellings on the street. Except as herein otherwise provided, the provisions of Chapter 80 relating to public improvements and assessments therefore shall apply to repairs to private streets made under the authority of this section.

The Town shall not be liable on account of any damage whatsoever caused by such repairs and Section 25 of Chapter 84 shall not apply. The Board of Selectmen may require an indemnity agreement executed by the said abutters indemnifying the Town for all claims and damages which may result from making such repairs.

Unaccepted Streets which are marked private by means of signage, gates, detail police officers or any other obstruction or restriction to the public:

Unaccepted Streets which are marked private by means of signage, gates, detail police officers or any other obstruction or restriction to the public are deemed not to be open for public use and are presumed to be not eligible for any temporary repair or snow plowing service by the Town under this bylaw.

In order for an Unaccepted Street which is marked private by means of signage, gates, detail police officers or any other obstruction or restriction to the public to become eligible for Town temporary repair and snow plowing services the obstruction must not have been present for the previous twelve months.

Unaccepted streets which have an agreement with the Town Zoning or Planning Boards which govern how the streets will be maintained

Unaccepted streets which have an agreement with the Town Zoning and/or Planning Boards which governs how those streets will be maintained are not impacted by this bylaw. Those agreements supersede this bylaw.

Municipal Maintenance Policies:

From time to time the Municipal Maintenance Department may develop Policies and Procedures to aid in the implementation of this Bylaw. Those Policies and Procedures shall be found on the Municipal Maintenance web page

Revolving fund:

The Town may establish a temporary repair revolving fund upon which the Director shall draw funds to enable work to proceed regarding this bylaw. All funds received from billings under this bylaw are to be deposited in this revolving fund.

Opt Out:

At any time, the property owners and abutters on any unaccepted street may choose to Opt Out of the temporary repair program provided by the Town under this bylaw. Such Opt Out shall not derogate from the Selectmen's authority to make temporary repairs out of public necessity. This Opt Out feature requires a form, which is available on the Municipal Maintenance Department web page, signed by at least 51% in favor of opting out of the dwelling owners and abutters on the unaccepted street and be presented to the Municipal Maintenance Department. Once the form is received, all services including but not be limited to the filling of holes in the subsurface of such streets and repairs to the surface materials thereof as well as the grading of streets and tree trimming will be stopped immediately.

Once an unaccepted street opts out of this service, it cannot reapply for service for a period of twelve months.

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