



Town of Chatham

Office of the Selectmen

Town Manager

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PLEASE REPLY BY MAY 31, 2019

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Frequently Asked Questions

ATM Article 61 -Acceptance of Public Ways: Battlefield Road, Cedar Street, Champlain Road, Port Fortune Lane, Sears Road, Stage Harbor Road and Stage Neck Road

Why is the Town taking this action?

The Town must properly complete an *Acceptance of Public Ways* process on the above listed streets in order to maintain them as public roads; maintain the utilities installed above, below, and adjacent to them; enforce laws including posted speed limits; and ensure public access to businesses and municipal properties.

The Town first went through the process of accepting these streets as Public Ways decades ago but failed to record plans with the Barnstable County Registry of Deeds at that time. In 1997, this was discovered, and the Town again went through the road acceptance process. At that time the roadway layout included a 40-foot Right of Way Lay-out which provided municipal access to all utilities. Those plans were submitted and remain on file with the Barnstable County Registry of Deeds.

In 2015, nine property owners filed a lawsuit challenging the Town's ownership of the streets (the so-called 1997 Taking) because the Town was unable to produce required proof of notification to property owners of its actions in 1997. As a settlement of that lawsuit, in January 2019, revised layouts of these roads were developed and minimized to include a layout of the roadways' paved surfaces and instead of a right of way, Maintenance Easement Areas were created on either side of the roadways to provide municipal access to all utilities.

The current Acceptance of Public Ways process for these roads includes several steps. The first step was completed on April 22, 2019 when the Board of Selectmen (BOS) approved the roadways layouts confined to the existing paved surfaces. In response to concerns, on May 6, 2019, the BOS voted to entertain requests by abutters on the above roads, on or before May 31, 2019, for consideration of an adjustment to the Maintenance Easement. Requests for adjustments to the Maintenance Area Easement must be directed to the Department of Public Works (DPW) **on or before 4:00PM on May 31, 2019**. Please contact (508) 945-5155 or email DPW Director Tom Temple ttemple@chatham-ma.gov. Upon notification or soon thereafter, A team of DPW staff will be available to discuss and/or meet with abutters. Such will provide for further discussion by property owners and staff on the Maintenance Easement Area following Town Meeting but within the time period to consider/make potential adjustments to the Plans by the required 120 days statutory filing/recording deadline.

The next step requires Town Meeting approval of the layouts and the authorization for the Town to pursue acquiring the Maintenance Easements via Article 61 of the May 13, 2019 Annual Town Meeting. This article will likely be considered on the second night of Town Meeting, May 14, 2019. If approved and authorized by Town Meeting vote the Board has 120 days to acquire the Maintenance Easements Areas and approve new plans to be filed with the Registry, which will rescind the 1997 plans, removing the 40-foot Right of Way.

What is allowed in the Maintenance Easement Area?

The Street Acceptance process requires that the Town issue an "Order Of Taking For Public Way And Maintenance Purposes Of Easements" for each property. This document will specify the activities allowed in the Maintenance Easement Areas. Only activities specifically outlined will be allowed by the Town or its Utility Agents within the Maintenance Easement areas. Such activities enable and facilitate the Town's installation, connection, repair, upgrade and maintenance of the Town's infrastructure located within the Public Ways and Maintenance Easement Areas, including all appurtenances relating thereto, specifically defined to include:

- Utility pole(s), anchor and distribution lines relating to electric, telephone and cable facilities/equipment;
- Water distribution system;
- Sewer distribution system;
- Storm and surface drainage collection system;
- Existing sidewalk and curbing (repair, maintenance and replacement of existing sidewalks and curbs shown on the 2019 Taking Plans only) (NO new sidewalks);
- Guard rails;
- Signage and posts;
- Gas distribution system;
- Monumentation;
- Snow removal/deposit snow from adjacent Public Way areas, street sweeping, and maintenance, repairs, and improvements to the portion of the Public Way adjacent to the Maintenance Area

The Town will be required to take reasonable and due care not to disturb, damage, destroy, or remove any existing structures or plantings or irrigation systems or electrical equipment or facilities within the Maintenance Easement Area. The Town or its agents will provide reasonable advance notice to the property owner and (except for pruned branches) shall replace, as near as possible to prior condition, any improvements.

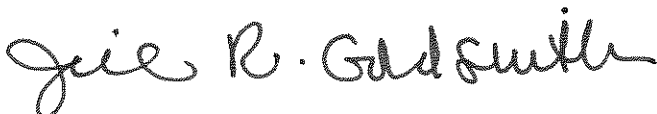
Property owners will retain underlying ownership of the Maintenance Easement Area and may continue to exercise full possession, use and control provided that such is not inconsistent with the Town's easement rights.

Why am I receiving this letter?

As an abutter to one of the seven streets listed, the Town is contacting you to make you aware of an opportunity to request a review of the size of the Maintenance Easement Area for your property. Requests must be directed to the Tom Temple, Director of Public Works, **on or before 4:00 PM on May 31, 2019**. Please contact (508)945-5155 or email DPW Director Tom Temple ttemple@chatham-ma.gov. A team of DPW staff will be available to discuss and/or meet with abutters upon request.

After reviews are concluded, the Board of Selectmen, in its sole discretion, may revise the Maintenance Easement Area boundaries within the limits presently shown on plans on file with the Town Clerk and posted to the Town's website ([https://www.chatham-ma.gov/sites/chathamma/files/uploads/taking_plans - shs 1-14 of 14.pdf](https://www.chatham-ma.gov/sites/chathamma/files/uploads/taking_plans_-_shs_1-14_of_14.pdf)).

Thank you in advance for your consideration!



Jill R. Goldsmith, Chatham Town Manager