

Originally
Adopted: June
21, 2011

BOARD OF COMMISSIONERS - POLICY NO. 15
PRIVATE ROADS AND ASSOCIATED FACILITIES
ACCEPTANCE OF DEDICATION AND MAINTENANCE

A. Purpose

The purpose of this policy is to set forth the procedures, criteria, and conditions under which the Town will consider accepting dedication and maintenance of private streets or roads and associated facilities, such as drainage, sidewalks, street lighting, traffic signs, and street markers.

B. Statement of Intent

1. Future Private Streets and Roads. In order to insure (1) that street facilities are properly designed, constructed, and maintained from the beginning, (2) that the Town and its citizens are not asked to assume ownership and maintenance of facilities that have not been properly and continuously maintained, and (3) that the Town is not asked to assume maintenance of infrastructure as it is entering periods of higher maintenance costs, it is the intention of the Town to avoid, in the future, acceptance and maintenance of streets ~~initially designated as private streets or roads, not meeting the Town's standards.~~
2. Dedication at Outset. From and after the adoption of this policy, it shall be the policy of the Town that any road or street facility for which dedication and maintenance by the Town is to be considered should be offered for dedication *at the time of initial construction*. The Town will decline to consider the acceptance or maintenance of streets or roads *constructed* after the date of this policy, unless such streets or roads and any associated facilities are offered for dedication and maintenance by the Town immediately after construction.
3. Limited Scope of Policy. The procedures, criteria, and conditions set forth in this policy for the acceptance and maintenance of private streets and roads shall apply only to such private roads and streets *constructed prior to the adoption of this policy*.
4. Acceptance of Facilities. For those facilities (only) that are eligible for acceptance under this policy and which comply with the requirements of this policy, it shall be general intention of the Town to accept such facilities for ownership and maintenance.

Commented [FR1]: The original language arguably limits the scope of the Policy to streets originally intended to be private . As noted previously, the recorded plat for Charleston Park contains an unequivocal "offer of dedication" of the streets, to the Town, **as public streets**. To keep things simple, I recommend the amended language.

C. Request for Consideration

1. Authority. All requests for municipal acceptance of private streets or roads and any associated facilities shall be made by a person or persons with complete and

verifiable legal authority to offer dedication and to request municipal maintenance of such facilities, such as the owner(s) or the owner(s)' legal agent.

2. Application. All requests shall be in writing and shall specifically identify all of the facilities for which dedication is being offered and maintenance is being requested, including any land, rights-of-way, easements, and/or improvements to be conveyed. If a specific form of application is provided by the Town, the request shall be submitted in that form and shall be complete with regard to any associated informational requirements.
3. Fees. All requests for consideration shall be accompanied by an application fee, deposits, and/or promissory commitments that may be established from time to time by the Town in association with this process.

D. Standards and principles of Acceptance

In order to be eligible for municipal acceptance and maintenance, the private facilities must meet the following standards and conditions:

1. Subdivision Standards Compliance. The private facilities must be constructed to a level equal to or better than the infrastructure design standards of the Town's subdivision regulations. Any facilities that are not designed in a manner, have not been constructed in a manner, have not maintained at a level, or are not found to be in a condition substantially equal to the Town's standards must be improved to those standards prior to acceptance; provided, however, in unusual or exceptional circumstances where equitable or other considerations are present, the Town may accept streets and associated infrastructure, including easements and rights of way accommodating the infrastructure, which do not meet the Town's construction or maintenance standards. The Town may require, at the applicant's expense, any appropriate tests, investigations, or engineering inspections necessary to evaluate the condition of the facilities. The Town will not ordinarily accept for maintenance any facilities that are designed or configured in a manner inconsistent with Town standards.
2. Plans and Certifications. The Town may require submission of facilities design and construction plans for review and evaluation. The Town may require the applicant to provide certifications, from an engineer or engineers licensed to practice in North Carolina, regarding the design and construction of the facilities.
3. Deeds of Dedication. The Town shall require deeds and/or plats of dedication for any facilities proposed to be transferred to Town ownership and maintenance. Such deeds and/or plats shall be in a form acceptable to the Town, shall be suitable for recording, and shall be executed by a person or persons with suitable legal authorization. The applicant shall be responsible for any survey costs associated with preparation of needed maps or plats and for any legal costs incurred by the Town or the applicant for research of the title and/or verification of ownership and authority.
4. Equitable Cost Consideration. Except in unusual circumstances as referenced above, the private facilities may not present anticipated maintenance- costs that exceed- the normal- costs of similar facilities and -services

Commented [FR2]: A provision along these lines would allow for exceptions in unusual circumstances, with considerations such as the passage of time, relative level of street deficiencies, failure of the Town to pursue performance warranties or remedies, etc. justifying exceptions from the general policy. I recommend having this expressed in general terms, rather than attempting to list criteria.

provided by the Town to other residents or property owners. *[For example, if street lighting has been installed at a level or in a form that would exceed the average cost of similar developments in the town, the Town may decline to accept acceptance or operation of those facilities that would exceed normal levels.]*

5. Improvement Responsibilities. Unless special provisions to the contrary are included in any action or agreement to accept dedication or maintenance of previously private facilities, the Town will not be responsible for any improvements necessary to bring private facilities up to a level equivalent to prevailing municipal standards. Any such improvements - required by the Town or desired by the property owner(s) - will be the responsibility of the property owner(s).

Application for acceptance and maintenance of private streets or roads and associated facilities shall constitute a specific acknowledgement of this condition. The Town may, at its option, require additional, specific acknowledgements of this condition.

6. Special Improvements or Features. If the Town elects to accept dedication and maintenance of formerly-private streets or roads and associated facilities under this policy, such acceptance shall not include responsibility to maintain any special improvements, features, or amenities that would not customarily be included in its program of municipal maintenance.] Such special improvements or features might include. For example, entrance signs, street marker logos, decorative features, special landscaping areas, special signage, off-street parking, or other amenities.]

E. Evaluation of Facilities

1. Process. The private streets or roads and associated facilities proposed to be dedicated to and maintained by the Town shall be thoroughly inspected and evaluated by the Town public works department and by a consulting engineer employed by the Town. The inspection and evaluation process shall include field inspection, plan review, and any tests or surveys and engineering evaluations. The Town may require that the costs of such tests, surveys, or evaluations shall be borne by the applicant, and the applicant ~~may~~ shall be required to deposit funds sufficient to pay the expenses of same or to otherwise guarantee payment of such costs.
2. Tests and Surveys. The Public works Director ~~may~~ require any such tests, surveys, or engineering evaluations required for the facilities evaluation, including but not limited to soil borings, core sampling and evaluation, dynamic core penetrometer tests, proof rolling, drainage elevation surveys, and camera surveys of drainage facilities. The ~~P~~ublic ~~W~~orks ~~D~~irector may require that any such tests be conducted by a properly qualified geo-technical firm or under the supervision of persons that hold QMS Roadway certifications from the North Carolina Department of Transportation (NCDOT). The ~~P~~ublic ~~W~~orks ~~D~~irector may

also require that testing or survey information be submitted under the seal of a supervisory professional engineer and/or on standard forms utilized by NCDOT. The acceptable standards of acceptance for such tests shall be determined by the **P**ublic **W**orks **D**irector, in consultation (as needed) with the Town's consulting engineer.

3. **Report.** Following completion of the facilities evaluation, the **P**ublic **W**orks **D**irector will submit a report of the evaluation and any needed repairs or improvements to the applicant and to the Town Manager, together with any recommendations regarding corrective actions. The Town Manager shall provide a report or a summary of the report to the Board of Commissioners. If repairs or improvements are needed, the "Corrections and Improvements" provisions below shall apply.

F. Corrections and Improvements

1. **Application Response.** Following receipt of the facilities evaluation report, the applicant shall advise the **T**own **M**anager within 90 days whether the applicant intends to make the needed repairs and/or improvements that are required or desires to withdraw the application. If the applicant intends to make the needed repairs, the applicant shall provide a timetable for completion of the work and shall diligently pursue such repairs and/or improvements. If the applicant does not indicate an intention within 90 days (or the response deadline is not extended with the approval of the **T**own **M**anager), the application shall be considered withdrawn and any further consideration must take place under a new application.
2. **Reinspection.** Following the completion of any repairs or improvements undertaken in response to the facilities evaluation report, the facilities shall be re-evaluated under the same requirements set forth under "evaluation of Facilities" above and a new evaluation report shall be issued by the public works director. Such inspections and reports shall continue until the facilities are suitable for recommendation for acceptance.
3. **Satisfactory Completion.** When the report finds that the facilities are in compliance with Town standards, the application shall be eligible for submission to the Board of Commissioners for acceptance of dedication (ownership) and maintenance under the "Eligibility for Acceptance" provisions above.

G. Acceptance Procedure

1. **Recommendation.** Upon a finding that the private street or road and/or associated facilities meet the requirements of this policy and that necessary transfer of ownership documentation associated with the offer of dedication has been provided and approved by the **T**own **A**ttorney, the application shall be calendared for consideration by the Board of Commissioners. The Board shall be provided with the final facilities evaluation report, any other information related to the issue of acceptance, and the recommendation of the town staff.

2. Board Action. If the Board finds that any or all the facilities included in the application meet the requirements of the policy, those facilities shall be accepted for ownership and maintenance, under any appropriate conditions deemed prudent by the Board. Any action of acceptance may include some but not all of the facilities in the application, if the Board finds that not all facilities comply with requirements for acceptance. The Board shall, at its discretion, determine the effective date of any acceptance of maintenance.
3. Guarantee for Minor Corrections. The Board, in its sole discretion, may elect to accept ownership and prospective maintenance of certain facilities that may need *minor* corrections, provided that an adequate financial guarantee, in the form of a cashier's check or letter of credit equal to 125% of the cost of improvements, is submitted to guarantee their completion. If a facility is accepted under such a guarantee, the acceptance shall not become effective until the corrections are satisfactorily ~~completed~~.
4. Warranties and Bonds. All streets, roads, or associated facilities accepted for ownership and maintenance shall remain under warranty by the applicant for a period of at least one year (or a greater period if specified for acceptance of similar facilities in the Town's subdivision ordinance) following acceptance by the Town. The Board of Commissioners may, for good reason and at its sole discretion, require a bond to ensure such warranty- if it so desires.