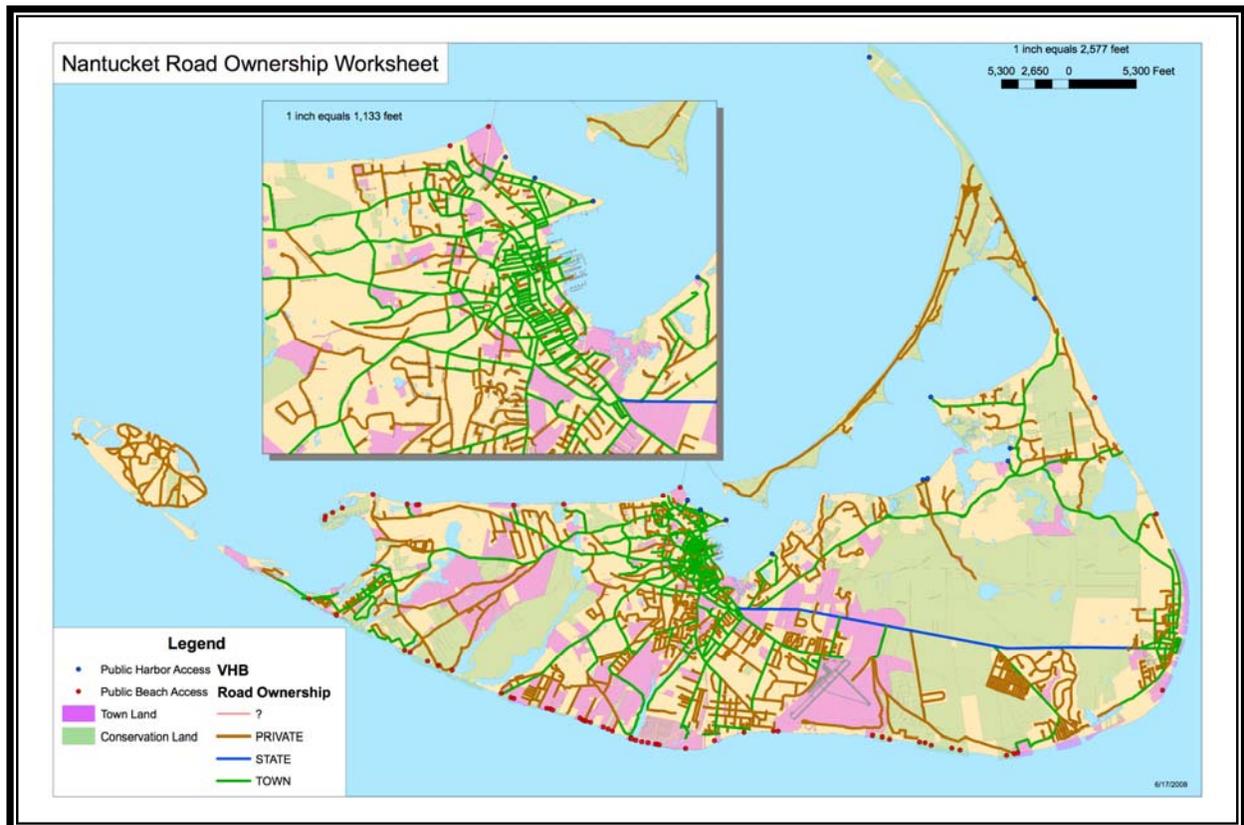


REPORT OF THE STREETS AND SIDEWALKS ADVISORY COMMITTEE



Town and County of Nantucket GIS Map Depicting Public, Private and State Roads

PREPARED
FOR THE
NANTUCKET BOARD OF SELECTMEN

MAY 15, 2009

INTRODUCTION

The Board of Selectmen (“BOS”) established the Streets and Sidewalks Advisory Committee (“Committee”) on July 16, 2008 and charged it with studying and making recommendations on the following issues, with a report to be submitted within one hundred days:

Road surfacing - *What types of roads and road surfaces are most appropriate in specific areas of the island, including the core district, downtown, town overlay, village, country, industrial, and new subdivisions? Factors to be considered include installation costs, maintenance costs, lifecycle costs, aesthetic qualities, historic attributes, environmental impacts, public safety and any other factors that the committee deems important.*

Sidewalks - *What types of sidewalks are most appropriate in specific areas of the island, including the core district, downtown, town overlay, village, country, industrial, and new subdivisions? Factors to be considered include installation costs, maintenance costs, lifecycle costs, aesthetic qualities, historic attributes, public safety and any other factors that the committee deems important.*

Parking - *How can the design and/or redesign of streets and sidewalks contribute to the availability of parking on public and private streets? How can design and/or redesign reduce or eliminate parking and safe pedestrian passage on sidewalks?*

The committee will consider any information available from the Department of Public Works, the Planning Department and Traffic Planner, such as studies and reports, in making its recommendation.

A number of specific road-surfacing matters had come to the attention of the BOS, and it seemed clear to the Selectmen that the policies and procedures related to the construction and maintenance of roads and sidewalks required clarification and review.

Over the course of 10 months, the Committee, comprised of 11 citizens appointed by the BOS, has met fourteen times. It became clear to the Committee almost immediately that the work needed to meet the Charge would take longer than originally anticipated and this was communicated to the Board.

This Report contains the Committee’s findings and recommendations, unanimously agreed to by vote of a quorum of attending members on May 13, 2009.

I have participated on several committees over the years and must say this one was engaged. Imagine the mix of Gardner, Lowell, Roggeveen, Kopko, Rowland, Oktay, Coffin, Bissinger, Young, Willett and Atherton. These are strong personalities. They are all refreshingly

knowledgeable on the subject. History, personal experience, practical application of expectations for safety, and yes, even differing takes on aesthetic and community expectations were all part of the discussions. But it is out of the give and take that we hope future choices will best serve Nantucket. For once a street or sidewalk is redone, it will be in that condition for many years and therefore should be done correctly.

Rick Atherton, Chairman

THE STREETS AND SIDEWALKS ADVISORY COMMITTEE

Rick Atherton	Board of Selectman Designee, Chairman
Michael Kopko	Board of Selectman Designee, Vice Chairman
Dirk Roggeveen	HDC Designee, Secretary
Ann Bissinger	Roads and Rights of Way Committee Designee
Bernie Coffin	Chamber of Commerce Designee
Jack Gardner	Community At-Large Member
Nat Lowell	Planning Board Designee
Sarah Oktay	Conservation Commission Designee
Mickey Rowland	Commission on Disabilities Designee
Jeff Willett	Department of Public Works Designee
Harvey Young	Community At-Large Member

SUMMARY RECOMMENDATIONS

■ **RECOMMENDATION RELATIVE TO STREETS AND ROAD SURFACING:** The Committee recommends that an **Advisory Committee be established jointly by the BOS and the Planning Board** (“PB”). The charge to the Advisory Committee shall be to review proposals and site conditions in order to help facilitate the selection of appropriate surfacing materials for proposed road construction, resurfacing and maintenance projects.

A check-off list should be developed, similar to the new dewatering list, in which different departments and agencies (Conservation Commission, Department of Public Works (“DPW”), Historic District Commission (“HDC”), PB) must sign-off on new road-surfacing projects or projects that might affect drainage or public access. The purpose of this process is to ensure that various agencies are given the opportunity to comment on proposed changes. The check-off list should be completed **before** final approval of a road-surfacing project by the BOS.

■ **RECOMMENDATION RELATIVE TO SIDEWALKS:** The establishment, repair and maintenance of sidewalks and curbs should **reflect the character of the neighborhood**. In areas where brick is predominating, it should be maintained. This is generally the case in the Old Historic District. Asphalt or other surfaces may continue to be used in outlying country areas only as appropriate. ADA access should be improved. Encroachments that limit the travel of the public should be reduced or eliminated.

Subject to HDC approval, existing sidewalks must be brought up to specifications whenever any work is done on that sidewalk or adjacent street, including repaving or other resurfacing of the street or sidewalk.

■ **RECOMMENDATION RELATIVE TO PARKING:** Due to varying characteristics and circumstances, especially in the Old Historic District, a **street-by-street analysis needs to be done** in order to increase parking availability. Some of the items to be considered in such an analysis are:

- Street width
- Curb construction
- Driveway cuts
- Existing off-street parking availability
- ADA accessibility

■ **ADDITIONAL RECOMMENDATION:** While not specified in the charge to the Committee, the Committee believes that further consideration should be given to the matters of **traffic signs** and **encroachments**, including updating existing policy statements and the development of regulations governing each.

BACKGROUND

The Town and County of Nantucket have several different types of roads, from private, rural ways, on one hand, to the Milestone Road, our only State road, on the other. The historical development and structure of Nantucket's roads and right-of-ways have been researched and explained by Dr. Frances Ruley Karttunen in a document titled "History of Roads and Ways," under the aegis of the Roads and Right of Way Committee. (This document is available on the Town web site at http://www.nantucket-ma.gov/Pages/NantucketMA_BComm/rowcom.)

In addition to legal-ownership issues, the Town must also deal with the type of material that should be used for road and sidewalk surfacing. This question applies to new roads, as well as to existing roads that are in need of maintenance and/or a change in their type of surfacing. Who within TON government is responsible for making these decisions? What criteria are, or should be, used to make such decisions? What statutes, by laws and regulations relating to these matters now exist? Should new policy be developed? If yes, by whom?

The comments below were developed to set a framework for understanding the complexity of the subject for the Committee's review. They are not to be considered exhaustive or in anyway accepted as a definitive legal statement.

GENERAL OVERVIEW

The BOS is responsible for all Town-owned roads and sidewalks. Chapter 127 of the Code of the Town of Nantucket By Laws contains the text that governs the Town's rights and responsibilities over streets and sidewalks. [Link provided in Exhibit IV.] The BOS must approve any change in the surface material of Nantucket's streets and sidewalks. (One recent example is a section of West Chester Street.) In addition, the BOS is responsible for their maintenance and repair. The BOS retains its approving authority over public ways even if the Planning Board requires a change in a public road as a condition for approval of the development of a lot or sub division. (One recent example is Burnell Street.) If a private road is to be conveyed or dedicated to the Town, it must be accepted by the BOS under its gift policy (Chapter 38, Article IV). If private money is to be spent on public roads or sidewalks, it must also be approved by the BOS. If a road is to be taken by some other means, such as eminent domain, under State law, the action must be approved by Town Meeting (MGL Chapters 79 and 82).

Generally, the BOS has no ongoing, direct authority over private roads and sidewalks. One exception is under Chapter 127: For public safety purposes, the BOS may exert limited authority over private roads.

The regulation of private roads is a complex and legal issue. Even in those cases where the PB may require improvement of an existing private road as a condition of approval and access to a new subdivision, there may be legal obstacles to the development and improvement of those

access roads. It is also unclear as to who may have responsibility to maintain the improved private roads after such improvements are made. Generally, until a road becomes public, it is under control and ownership by private owners, or entities, such as Neighborhood or Homeowners' Associations.

Private roads which are newly proposed and created for a subdivision are subject to PB rules and regulations which govern their design and construction. The PB is also likely to require that the developers impose formal declarations of restrictions, that is road maintenance endowment agreements providing for upkeep and maintenance of these roads under jurisdiction of a Homeowners' Association, with rights of enforcement granted to the Town through the Planning Board.

How are private roads regulated, if at all? The primary control is exercised when an abutting property requires the approval of the PB for any change in its use. If a lot is to be subdivided or developed and requires approval, the PB may impose conditions that often require changes in the status of the accessing right-of-way to the property. In its By laws and Rules and Regulations, the PB has extensive and specific requirements affecting the characteristics of a road, such as its width, surface, curbing and sidewalks. [See link in Exhibit VI.] If such conditions are on private roads, the Town, through the BOS, has no jurisdiction and no responsibility to maintain them.

From a community point of view, the responsibility for and oversight of the private and public roads can cause confusion and, sometimes, conflicts. The reality is that there may be no formal process in place for the maintenance of certain long-existing, private roads. As development occurs on such roads, differences may arise regarding which parties are responsible for maintenance. (Two examples: the Boulevard and Friendship Lane.) After October 1987, the PB in significant subdivisions required that new roads would be approved only if a formal agreement existed covering maintenance, such as a homeowners or similar association accepting responsibility. The Town has been reluctant to take over private roads primarily due the cost of maintaining them.

RECOMMENDATIONS

The specific charges to the Committee and its comments and recommendations on each are presented in the following sections.

CHARGE: Road surfacing – *What types of roads and road surfaces are most appropriate in specific areas of the island, including the core district, downtown, town overlay, village, country, industrial, and new subdivisions? Factors to be considered include installation costs, maintenance costs, lifecycle costs, aesthetic qualities, historic attributes, environmental impacts, public safety and any other factors that the committee deems important.*

COMMENT: Generally, hard surfaces are considered appropriate in the Town overlay area and on existing access and feeder roads carrying traffic to the core of the Island. Alternatively, certain local neighborhood ways, both private and public, should maintain their rural character.

The Rural Road Alternative Guidelines contained in the PB's Rules & Regulations provide standards for unpaved roads. [Exhibit VI.]

The Commonwealth of Massachusetts has also issued a manual entitled "the Massachusetts Unpaved Roads BMP (Best Management Practices) Manual" which sets forth guidelines and specifications with respect to such roads.

<http://archives.lib.state.ma.us:8080/dspace/bitstream/2452/35810/1/ocm74277753.pdf> and the following site gives access to all approved US resources for environmentally sensitive road maintenance, design, silt and erosion control, and construction:
<http://www.epa.gov/nps/roadshwys.html>.

In any event, none of the following may be done to any road without a prior Town Meeting vote of approval:

- (1) The installation of automated traffic signals;
- (2) Road widenings for the purpose of increasing motor vehicle travel capacity;
- (3) The construction of travel lanes dedicated as turning lanes for motor vehicles;
- (4) The construction of new public streets; and
- (5) Paving of any unimproved publicly owned streets, ways, or roads.

Attached as Exhibit II is a Schedule that has guided the Department of Public Works (DPW) in the past. It shows the road and sidewalk surface type as used in a historic context on Nantucket. The Committee recommends that this Schedule be reviewed and updated in consultation with the newly constituted Advisory Committee (see below) if the BOS and PB proceed to implement it.

In 2005 the Department of Public Works issued a publication entitled "Pavement Condition Evaluation and Maintenance Needs Assessment 2005 Final Report" in which it provided an inventory of the Island's public roads, their current condition and recommendations for priority of their resurfacing and repair. The report was prepared by an outside consulting firm.

http://www.nantucket-ma.gov/Pages/NantucketMA_DPW/2005pavementmanagementstudy.pdf

The PB also has extensive design standards for roads, drainage and related improvements. [See Exhibit VI.]

Chapter 127 of the Town Code addresses the Town policy with respect to paving and maintenance of streets and sidewalks. Article VII of Chapter 127 addresses Town policy with respect to private road repairs and betterments.

<http://ecode360.com/?custId=NA0948&guid=11471202&j=13>

The Town has adopted a By law governing the paving of certain roads. It remains in effect and is attached as Exhibit V. The Town also has a By law covering maintenance and repairs of private

roads attached at Exhibit IV paragraph 127-24.

■ **RECOMMENDATION:** This Committee recommends that the BOS and the PB jointly establish an **Advisory Committee**. It is recommended that the BOS, PB, HDC, ConCom, and the Commission on Disability each have representation and that the DPW, the PB staff and the Projects Administrator participate in an ex officio capacity. The Charge to the Advisory Committee shall be to review proposals and site conditions in order to help facilitate the selection of appropriate surfacing materials for proposed road construction, resurfacing and maintenance projects. More specific guidelines will have to be developed to assist the work of the Advisory Committee. The guidelines shall be consistent with the jurisdictions of the BOS and the PB. Specifications for construction and drainage of roads shall be professionally engineered to ensure that when a private road becomes public it meets all appropriate standards. A check-off list should be developed, similar to the new dewatering list, in which different departments and agencies (ConCom, DPW, HDC) must sign-off on new road-surfacing projects or projects that might affect drainage or public access to ensure that various agencies are given the opportunity to comment on proposed changes. Compliance with a check-off list might be accomplished by having each department represented on the Advisory Committee. **This check-off list should be completed before final approval of a road surfacing change or improvement by the BOS.** And, of course, the Town, primarily the PB and the DPW, will have to establish procedures that ensure road and sidewalk projects are referred to the Advisory Committee and it must get its recommendations back the to the BOS and PB.

The establishment of an Advisory Committee will not supplant existing requirements that the Town must apply for, and receive, any permits that are required before construction or maintenance is begun.

The Committee discussed the feasibility of recommending specific surfacing material (such as asphalt, cobbles, paver bricks and others) by street. It recognizes there are differing opinions and financial constraints that all bear on such decisions. Longer-term goals, for example, might include replacing asphalt with cobbles or paver bricks. Such changes need to consider the financial cost and the impact on bike routes and ADA compliance as well as historic and aesthetic impacts. **The intent of establishing an Advisory Committee is to ensure that future decisions are the result of positive deliberations and not just a default policy of maintaining the current surface of a street.**

NOTE: The Committee has agreed that there are additional items closely related to roads and road surfacing that warrant review and, when necessary, recommendations for remedy by the appropriate Town entities. These include: road shoulders; slope retainment; curbing; berming; and drainage issues. Any new or replaced curbing should not have sharp edges.

The reuse of existing curbing is encouraged for aesthetic as well as financial reasons. Whenever old curbing or cobbles or other reusable material are removed, they should be saved by the DPW. This is an existing DPW policy. Generally the curb height policy is 4-to-6 inches. However, on

some streets, for example where sidewalk parking is accepted, a 2-inch curb is appropriate. Examples exist across the island that illustrate the need to address these matters in order to improve the maintenance and longevity of our road infrastructure, be it public or private.

CHARGE: Sidewalks - *What types of sidewalks are most appropriate in specific areas of the island, including the core district, downtown, town overlay, village, country, industrial, and new subdivisions? Factors to be considered include installation costs, maintenance costs, lifecycle costs, aesthetic qualities, historic attributes, ADA access, public safety and any other factors that the committee deems important.*

■ **RECOMMENDATION: The establishment, repair and maintenance of sidewalks and curbs should reflect the character of the neighborhood.** In areas where brick is predominating, it should be maintained. This is generally the case in the Old Historic District. Asphalt or other surfaces may continue to be used in outlying country areas only as appropriate. ADA access should be improved as needed. Encroachments that limit the travel of the public should be reduced or eliminated.

To assist in developing community consensus on sidewalk development, the Committee recommends that the Advisory Committee recommended to be established for roads be tasked with also reviewing and recommending sidewalk materials to the BOS and PB. All parties must keep in mind that all such projects will require HDC approval and, depending upon location, ConCom permits.

Sidewalk paving material should be brick, flat stone or other smooth, non-slippery material with no holes or openings greater than ½ inch in width. Sidewalk width should be at least 48 inches with a 36-inch clear path around obstacles such as trees, sign posts, utility poles, benches or other fixed objects. Metal grating in the sidewalk surface should run perpendicular to the path of travel instead of parallel.

Curb cuts to crosswalks are required at every intersection with other streets, and smooth crosswalks are required across cobblestoned streets. Where existing trees, tree roots, utility poles or other immovable obstacles block or restrict access along a sidewalk, and where the obstacle is greater than 50 feet from an existing curb cut or driveway cut, a curb cut should be provided to street level on either side of the obstacle.

Parking on the sidewalk is only allowed on properly marked streets. Such streets must be less than 15-feet wide and have a fully accessible sidewalk on the opposite side. Parked vehicles should not block access to buildings or public spaces.

Existing sidewalks must be brought up to specifications whenever any work is done on that sidewalk or adjacent street, including repaving or other resurfacing of the street or sidewalk.

A listing of these recommendations is included as Exhibit III.

CHARGE: Parking - *How can the design and/or redesign of streets and sidewalks contribute to the availability of parking on public and private streets? How can design and/or redesign reduce or eliminate parking and safe pedestrian passage on sidewalks?*

COMMENT: While parking should be generally available on both sides of a street, the historic width of the streets on Nantucket makes it often difficult to accommodate two-way automobile and truck traffic and parking on one side, let alone parking on two sides of the street. To deal with this situation, many streets must be one way and have limited parking. When combined with homes designed without off-street parking before cars became the norm, parking is an issue that must be managed. The Town has decided to permit parking to intrude on sidewalks in situations where the width of the street cannot accommodate any alternative other than no parking.

■ **RECOMMENDATION:** Due to varying characteristics and circumstances, especially in the Old Historic District, a **street-by-street analysis needs to be done** in order to increase parking availability. Some of the items to be considered in such an analysis are:

- Street width
- Curb construction
- Driveway cuts
- Existing off-street parking availability
- ADA accessibility
- Some streets may benefit from painting which designates the proper location of parking locations. This may be most helpful on streets such as India where parking on the sidewalk could be avoided.

ADDITIONAL CONSIDERATIONS

■ **RECOMMENDATION:** While not specified in the charge to the Committee, the Committee believes that further consideration should be given to the matters of **signs** and **encroachments**, including the development of regulations governing each.

In regard to **signs**, the following questions were developed for further study:

- Signs, posts blocking sidewalks and/or other safe passage?
- Are they effective in parking, traffic safety, way-finding?
- Are there alternative methods for sign placement? Signs on buildings? Private property?
- Telephone poles?
- Multiple signs on single posts?
- Alternatives to signs? Striping, color coding?
- Can signage be reduced?
- Public-safety, traffic-safety, aesthetic considerations?

- What are the legal implications?

In regard to **encroachments** into streets and sidewalks, the following questions were developed for further study:

- Town has policy on encroachment. [See Exhibit VII.] Is it effective? Working?
- Are there alternatives to the policy?
- Where are the priorities? In Town? Out of Town?
- Public-safety, traffic-safety, aesthetic considerations?
- Who is responsible for enforcement?

EXHIBIT I

BOS CHARGE TO THE COMMITTEE

The BOS established a Streets and Sidewalks Advisory Committee in order to study and make recommendations on the following issues:

Road surfacing – What types of roads and road surfaces are most appropriate in specific areas of the island, including the core district, downtown, town overlay, village, country, industrial, and new subdivisions? Factors to be considered include installation costs, maintenance costs, lifecycle costs, aesthetic qualities, historic attributes, public safety and any other factors that the committee deems important.

Sidewalks- What types of sidewalks are most appropriate in specific areas of the island, including the core district, downtown, town overlay, village, country, industrial, and new subdivisions? Factors to be considered include installation costs, maintenance costs, lifecycle costs, aesthetic qualities, historic attributes, public safety and any other factors that the committee deems important.

Parking- How can the design and/or redesign of streets and sidewalks contribute to the availability of parking on public and private streets? How can design and/or redesign reduce or eliminate parking and safe pedestrian passage on sidewalks?

The committee will consider any information available from the Department of Public Works, the Planning Department and Traffic Planner, such as studies and reports, in making its recommendation.

The committee consists of 11 people appointed by the BOS. The members are:

Rick Atherton	Board of Selectman Designee, Chairman
Michael Kopko	Board of Selectman Designee, Vice Chairman
Dirk Roggeveen	HDC Designee, Secretary
Ann Bissinger	Roads and Rights of Way Committee Designee
Bernie Coffin	Chamber of Commerce Designee
Jack Gardner	At-Large
Nat Lowell	Planning Board Designee
Sarah Oktay	Conservation Commission Designee
Mickey Rowland	Commission on Disabilities Designee
Jeff Willett	Department of Public Works Designee
Harvey Young	At-Large

The committee will operate under protocols established by the BOS. A written report will be presented at a regularly scheduled BOS meeting within 100 days of the official appointment of the committee

EXHIBIT II

ROAD AND SIDEWALK SURFACE TYPES CHART

ROAD SURFACE TYPE	HISTORIC CORE AREAS	URBAN AREAS	RURAL AREAS
Cobblestone	Yes	No	No
Belgium Block/Brick	Yes	No	No
Shells	Yes (traditional only)	Yes (traditional area)	No
Dirt/Gravel Roads	No	No	Yes
Asphalt	Yes	Yes	Yes
Aesthetic Chip Seal Surface	Yes	No	No
Cape Cod Berm	Only where required by slope and or drainage requirements		
Granite Curb	Yes	Yes	No

SIDEWALK SURFACE TYPE	HISTORIC CORE AREAS	URBAN AREAS	RURAL AREAS
Brick	Yes	Yes	No
Asphalt	No	Yes	Yes
Grass/Dirt Track	No	No	Yes

EXHIBIT III

DOWNTOWN SIDEWALK RECOMMENDATIONS

1. **Material:** brick, smooth stone or other smooth, non-slippery material. No holes or openings greater than ½ inch in width. Grates should run perpendicular to path of travel.
2. **Width:** 48 inches minimum width with 36-inch clear path around obstacles such as trees, sign posts, utility poles, benches.
3. **Access:** curb cuts are required at every intersection. Brick crosswalks are required at cobblestoned streets.
4. **Parking** on sidewalks: Permitted on one side only, provided that other side meets all other criteria and vehicles do not block access to publicly accessible buildings or spaces.
5. **Existing sidewalks must be brought up to specifications** whenever work is done on that sidewalk or adjacent street, including repaving or other resurfacing of street or sidewalk.
6. **Existing obstacles:** Where existing trees, tree roots, utility poles or other immovable obstacles block access along sidewalk, and where obstacle is greater than 50 feet from an existing curb cut or driveway cut, a curb cut should be provided to street level on either side of obstacle.

EXHIBIT IV

Chapter 127 Streets and Sidewalks

For the full text of Chapter 127 of the Town of Nantucket By-laws, open the page on the Town of Nantucket web site at: <http://ecode360.com/?custId=NA0948> .

EXHIBIT V**TOWN ROAD SURFACING BY-LAW**

ARTICLE VII Road Construction [Adopted 4-14-1997 ATM by Art. 75, approved 8-5-1997
Editor's Note: This article further provided as a comment the following: "This article is intended as an interim control on the construction of public roads pending the completion and implementation of the Nantucket Comprehensive Plan. It reflects a policy that Nantucket's road system should not be expanded to accommodate traffic growth on the island until a plan is adopted to deal with such growth. Work already under contract and roads required by the Planning Board for subdivisions are not affected by the article."]

§ 127-19. Limitations on road improvements and construction. [Amended 4-12-2004 ATM by Art. 61, approved 9-3-2004]

- A. The Town will preserve the historic character of its road system by prohibiting the following improvements or construction for any publicly owned way or street on Nantucket unless an exception of any of the following standards is expressly authorized by a vote of Town Meeting:
- (1) The installation of automated traffic signals;
- B.
- (2) Road widenings for the purpose of increasing motor vehicle travel capacity;
 - (3) The construction of travel lanes dedicated as turning lanes for motor vehicles;
 - (4) The construction of new public streets; and
 - (5) **Paving** of any unimproved publicly owned streets, ways, or roads.

Exceptions to the above prohibitions are:

- A. Areas located within the Town Overlay District (not including traffic signals or road widenings for vehicle capacity) as depicted on the map entitled "Town and County Overlay District," dated January 2, 2002, Nantucket Planning and Economic Development Commission (Article 37, 2002 ATM) as duly amended and on file at the Town Clerk's office. [Amended 4-12-2004 ATM by Art. 61, approved 9-3-2004]
- B. Reconstruction of road beds and resurfacing of paved roads in existence prior to the effective date of this article.
- C. Road improvements (not including traffic signal systems) as required by the Planning Board in conjunction with the approval of subdivision plans.
- D. Reconstruction of existing road drainage systems or construction of new drainage systems, provided that such systems are equipped with petroleum separation and capture per

Massachusetts Department of Environmental Protection standards.

- E. Bike paths and bike lanes. [Amended 4-12-2004 ATM by Art. 61, approved 9-3-2004]
- F. (Reserved) Editor's Note: Former Subsection F, excepting works pursuant to Town or county road construction under state grant, as amended, was repealed 4-12-2004 ATM by Art. 61, approved 9-3-2004.
- G. Road improvements on First Way required by the Planning Board or the Board or Selectmen to support affordable housing, such housing defined herein as that housing intended primarily for year-round residents earning up to 150% of median family income, as determined by the U.S. Department of Housing and Urban Development, and sponsored by a municipal entity, the Housing Authority or its designated nonprofit; housing required in connection with § 139-11J (MCD); or housing on lots subject to a Nantucket Housing Needs Covenant. [Added 4-15-2003 ATM by Art. 71]

§ 127-21. Enforcement.

These prohibitions shall be enforced by the Board of Selectmen acting in any of its capacities, including Public Works Commissioners.

§ 127-22. (Reserved) Editor's Note: Former § 127-22, Time limit; expiration, as amended, was repealed 4-12-2004 ATM by Art. 61, approved 9-3-2004.

EXHIBIT VI

SECTION IV

DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

For the full text of Section IV, open the “Rules and Regulations Governing the Subdivision of Land” on the Town of Nantucket web site:

http://www.nantucket-ma.gov/Pages/NantucketMA_Planning/regs

EXHIBIT VII

ENCROACHMENT POLICY

Town of Nantucket

ENCROACHMENT POLICY Effective Date: July 13, 1994; Date Adopted: July 13, 1994; Date Revised: November 1, 2000

Applicability: Town of Nantucket property owners

I. Purpose

To keep the Town-owned rights of ways open to the public and free from safety hazards due to encroachments. Encroachments into town-owned rights of ways are, for the most part, the result of significant plantings, landscape efforts and other improvements by property owners to maximize and expand the appearance of their property, which can cause a potential safety hazard to pedestrians and others.

II. Policy

Encroachments, some of which may have been existence for many years, fall within three categories and shall be handled in the following manner:

- . Encroachments on town property causing an immediate public safety hazard, or that are blocking a public right-of-way so as to impede public access, shall be removed immediately.
- . Encroachments on town property that do not cause an immediate threat to public safety shall be removed following a notification process.
- . Encroachments that have a historical precedent, as determined by Town Administrator with advice of pertinent town officials, may be permitted to remain.

III. Procedure

Encroachments causing an immediate public safety issue shall be removed by the Public Works Department following a determination by the Fire Chief, Police Chief, Public Works Director and/or Traffic Safety Advisory Committee.

Encroachments which have been identified as non-immediate public safety issues by the Traffic Safety Advisory Committee, Public Works Department and/or Town Administration shall be handled as follows the Public Works Department will send a, certified/return receipt letter to the property owner requiring removal of the encroachment within fifteen (15) days. If the

encroachment has not been removed by the property owner by the end of that period, the Town will remove the encroachment and charge the property owner for the work.

Upon receipt of such. Notification, property owners are encouraged to promptly remove the subject encroachment. *If the property owner does not take action, the Town takes no responsibility for the appearance of the work following removal.*

EXHIBIT VIII

ROAD DEFINITIONS

Information provided to the Roads and Right of Way Committee by Town Counsel via email communication from Deutsch Williams Attorney Lou Ross to Allen Reinhard, ROW Chairman.

Paul [Town Counsel, Mr. DeRensis] has asked me to provide the Roads and Rights of Way Committee with a few definitions for the Committees use. A brief summary and some basic definitions are below.

Under Massachusetts law, there are only two categories of roads – public ways and private ways.

Public ways are open to the public and the Town is obligated by law to maintain public ways. Private ways are for private use and are the responsibility of private parties.

Public Ways

Public ways not including federal and state highways are roads that are created (i.e., a lay out) by the County and the Town pursuant to a very formal public process set forth under G.L. c. 82, § 1 for County ways and G.L. c. 82, § 21 for Town ways. It is the adoption by the County or the Town of an Order of Layout pursuant to those two statutes that makes a street a public way. Upon the lay out by statute: (1) the road becomes open to the public for travel and other use and is accorded special legal and protected status; and (2) the County and/or Town assumes the duty of maintaining that road for public use.

Please note that although the statutory process highlighted above is the most typical way roads today become public ways, in rare cases a road will also be deemed a public way if a private party dedicated the road to public use before 1846, or through prescription, which is a continuous unauthorized use of the way (similar to adverse possession). It may be that some of the unique classifications that Nantucket has for roads fall into one of these categories.

Private Ways

Private ways may include any roads, driveways, easements, alleyways, paper streets, abutters ways, proprietors ways, subdivision ways or any other right of way that has been created by a title instrument or plan but that has not been made into a public way pursuant to the public process required by G.L. c. 82 (or dedication or prescription). As you can see there is much variance as to what private ways are sometimes labeled, with the one common denominator being that each of these types of ways are private for private use. Although private ways are not open to public use, they may be open for use by more than the owners of the properties that abut

them.

Proprietors Roads

In Nantucket, "proprietors roads" are typically private ways four rods (66 feet) wide, located around ponds and swamps and certain strips of land along the shore, reserved by and for the Proprietors of the Common and Undivided Land of the Island of Nantucket primarily to preserve access to certain common lands and resources.

In Nantucket, like other communities, the Proprietors began as a discrete corporation formed by the legislature, whose rights and functions included ownership and administration of land. This proprietor entity still endures, and the Town owns the majority of that entity.

Proprietors roads are not technically "public ways" in the sense that that term is normally used, unless it can be determined that a particular proprietor road in question was specifically laid out by statute, or became a public way by dedication before 1846 or by prescription. (The proprietors' reservation of certain ways for use by proprietors is not necessarily a dedication of those ways for public use, and we cannot unequivocally state that all proprietors roads are public ways by prescription.)

Although most proprietors roads likely remain private roads reserved for the use of the Proprietors, proprietors roads are somewhat public ways in the sense that the Town, as the majority shareholder of the proprietor entity, can ultimately control the use of the proprietors roads.

As the majority shareholder, the Town – and therefore the general public – should have the right to use the proprietors roads without having to go through the formal statutory layout process or determining whether these roads are public ways by dedication or prescription (and without having any maintenance obligations under G.L. c. 82 for these roads). In other words, the public will never be prevented by the Proprietors from using proprietors roads as long as the Town continues to be the majority shareholder.

Paper Streets

A paper street is a type of private way that has been created on paper by a deed, easement, plan or other instrument or by a subdivision plan or ANR plan under the Subdivision Control Act, but has not yet been paved, improved or otherwise constructed on the ground. Normally, a paper street implies that certain persons have the right to use the paper street for access and other purposes, including the rights, at that the cost of that person(s), to clear, pave and improve the way and to install utilities under it.

EXHIBIT IX

**PROPOSED CHART FOR ROAD CHARACTERISTICS
FOR THE ROADS AND RIGHT OF WAY COMMITTEE
FOR CONSIDERATION WITH RESPECT TO ROAD TAKINGS**

MAIN ROAD & FEEDER ROADS NOTE: FEEDER ROADS ARE THOSE ROADS AND WAYS WHICH ARE DEPENDENT ON ACCESS TO OTHER PUBLIC ROADS OVER THE TAKING ROADS	ROAD	MAIN “M” OR FEEDER “F”	
GENERAL COMMENTS & CONCERNS	GROUP		COMMENTS & CONCERNS
	PUBLIC BENEFIT		
	ABUTTERS’ CONCERNS & COMMENTS		
	MISC		

APPROX # OF ABUTTERS PER GIS WITH ADDRESSES ON ROADS	ROAD	#	MAIN OR FEEDER												
<p><u>NOTE:</u> IT MAY BE NECESSARY TO DETERMINE AND NOTIFY OWNERS ABUTTING FEEDER ROADS/ WAYS</p>															
OTHER BOARD REVIEWS	BOARD	SUBMISSION DATE	RESPONSE DATE	RECOMMENDATIONS											
	PLANNING BD														
	DPW														
	CON COMM														
	FIRE DEPT.														
	POLICE DEPT.														
	LEGAL DEPT.														
CURRENT CONDITION & IMPROVEMENTS	CURRENT IMPROVEMENT		Y/N	DESCRIPTION											
	SURFACE														
	WIDTH			<table border="1" style="width: 100%;"> <tr> <td style="background-color: #e0e0e0;">ROAD</td> <td style="background-color: #e0e0e0;">WIDTH</td> </tr> <tr> <td> </td> <td> </td> </tr> </table>		ROAD	WIDTH								
	ROAD	WIDTH													
	UTILITIES														
	DRAINAGE STRUCTURES														
REPAIR/MAINTENANCE OF EXISTING SURFACE															
BIKE PATH															
SIDEWALKS															

PROPOSED FINAL IMPROVEMENTS ASSOCIATED WITH TAKING	PROPOSED IMPROVEMENT	Y/N	DESCRIPTION	
	<i>SURFACE</i>			
	<i>WIDTH</i>		ROAD	WIDTH
	<i>UTILITIES</i>			
	<i>DRAINAGE STRUCTURES</i>			
<i>REPAIR/MAINTENANCE OF EXISTING SURFACE</i>				
<i>BIKE PATH</i>				
<i>SIDEWALKS</i>				
ESTIMATED TAKING COSTS	TYPE	AMOUNT		
	<i>TITLES</i>			
	<i>DOCUMENT PREPARATION</i>			
	<i>NOTIFICATION & MAILINGS</i>			
	<i>LAYOUT PLANS</i>			
	<i>FINAL SURVEY</i>			
	<i>ENGINEERING</i>			
	<i>IMPROVEMENTS</i>			
	<i>ASSESSMENT FOR PROPERTY OWNERS DAMAGES/LOSSES</i>			
	<i>MISC</i>			
TOTAL				
ESTIMATED ANNUAL MAINTENANCE COSTS				

<i>TIMEFRAMES</i>	<i>TYPE</i>	<i>DAYS/MONTHS</i>	<i>COMPLETION DATE</i>
	<i>SELECTMEN APPROVAL</i>		
	<i>FINCOM APPROVAL</i>		
	<i>PUBLIC HEARINGS</i>		
	<i>TOWN MEETING ACCEPTANCE</i>		
	<i>2 ½ OVERRIDE</i>		
	<i>RFP RESPONSE/BID ACCEPTANCE FOR SURVEY, TITLE, IMPROVEMENTS</i>		
	<i>TITLE COMPLETION</i>		
	<i>SURVEY COMPLETION</i>		
	<i>ABUTTERS & PARTIES IN INTEREST NOTIFICATION</i>		
	<i>DOCUMENT PREPARATION & RECORDING</i>		
	<i>COMPLETION OF IMPROVEMENTS</i>		
	<i>INSPECTION/APPROVAL</i>		

COMMITTEE COMMENTS: