



# TOWN OF WASHINGTON, MAINE

## TRAIL ORDINANCE

Adopted: \_\_\_\_\_

Effective: \_\_\_\_\_

### ARTICLE I. Purpose and Authority

This Ordinance is enacted pursuant to authority granted under 30-A M.R.S. § 3001. The purpose of this Ordinance is to set forth procedures and standards for the use of Town Designated Public Trails on Private or Town Owned Property in the Town of Washington Maine.

### ARTICLE II. Definitions

Private Property: Real Estate titled to a party other than the Town or Inhabitants of Washington as recorded in the Registry of Deeds.

Town Designated Trail: A trail or system of trails designated by the Washington Select Board as a "Public Trail".

Town Owned Property: Real Estate titled to the Town or Inhabitants of Washington as recorded in the Registry of Deeds or foreclosed through the statutory tax foreclosure process.

### ARTICLE III. Select Board Authority

The Select Board may designate Public Trails on any Town Owned Property in the Town of Washington. The Select Board may also enter into an agreement with the owner of Private

Property in Washington for the use of that property to include a Public Trail pursuant to this ordinance.

After the mapping and marking of the Public Trail, the Select Board shall take a second vote opening the trail to Public Use. If this second vote fails, the Public Trail shall not be opened to Public Use unless and until another majority vote of the Select Board opening the Public Trail.

#### **ARTICLE IV. Public Trails on Public Property**

Public Trails on Public Property shall be designated by a vote of the Select Board after a hearing with notice posted for at least 14 days in the Town Office. The Select Board may also discontinue the same said Public Trails by a vote with notice posted for at least 14 days in the Town Office. The Town shall retain an easement over any Public Trail over which the Town acquired an easement appurtenant.

#### **ARTICLE V. Agreements for Public Trails on Private Property**

When a majority of the Select Board wishes to obtain a Trail Agreement with the Private Land Owner, the Board shall vote to open discussions with a Private Land Owner to attempt to establish a Public Trail by easement or license across the said private property.

The Agreement must set out the following minimum terms:

1. The Public Trail shall be marked at least every 100' or closer as necessary so that each marker shall be in clear view of a marker or flag further down the trail and further up the trail indicating the path that the public is to follow while on the Private Property.
2. Any Public Trail shall specify a license or easement to the public to pass and repass on all land within a minimum of 25' wide strip of land as agreed by the Private Landowner and the Town.
3. That the Town shall indemnify the Private Land Owner from any claims or damages and shall defend the Private Land Owner from suits by members of the Public traversing the Public Trail.
4. The Town shall notify its liability insurance carrier in advance of opening the new Public Trail to use to determine the insurance cost to the Town by providing a Public Trail across private land. The Town shall place this ordinance with the insurance carrier to notify the carrier of the indemnification provisions required by the ordinance to accurately calculate the insurance cost for the new Public Trail.
5. The Town and Private Landowner must agree on the signage and trail marking method to be used on the private property.
6. The Town and the Private Landowner shall agree on a permanent easement, an easement for

years, or on a license for the new Public Trail.

7. In the event that the Private Landowner wishes to grant only a license, the Private Landowner shall record a “Notice to Prevent Acquisition of Easement” by the public at the Knox County Registry of Deeds.
8. In the case where an easement is given to the Town, the Town and Private Landowner shall map all public trails through the use of a Licensed Maine Surveyor who shall be commissioned to mark the trail and the boundaries of the trails with stakes or pins or on a GPS survey so that common applications used by hikers can locate the trail course. The cost of this service shall be agreed to in writing and must be authorized and approved at a properly noticed Town Meeting.
9. Any costs associated with trail development and maintenance shall be negotiated between the Town and the Landowners and agreed to in writing, and must be authorized and approved at a properly noticed Town Meeting.
10. The Select Board shall reserve the right to close any Public Trail on Private Property for any reason at any time.

#### **ARTICLE VI. Review Procedures**

Every five years, the Select Board shall review the Public Trails and determine if each trail shall remain open and to determine if a trail needs to be remarked.

#### **ARTICLE VII. Grants or Gifts**

The Select Board is empowered to accept any gifts of land or rights in land for the use of public trails.