

## PART VI

### ARTICLE 10 - Rules And Regulations Governing Municipal Refuse And Recycling Pick-Ups On Private Ways Open To The Public

Acting under the authority of Massachusetts General Laws, Chapter 111, Section 31 the Provincetown Board of Health accepts and approves the following regulation:

#### Section 1. AUTHORIZATION

- A. These rules and regulations are adopted by the Board of Selectmen pursuant to vote of April 6, 1992 Annual Town Meeting, under Article 29. Thereof, which vote authorizes the Board of Selectmen to adopt rules and regulations governing municipal refuse and recycling pickups on private ways open to the public.

#### Section 2. DEFINITIONS

- A. Private ways open to the public shall mean a private way on which the general public has a right of access for travel and purposes in the same manner as on a public way. Such a way may include a private statutory way laid out and accepted by the Town for use by one or more inhabitants of the Town, pursuant to MGL Chapter 82, sections 21 and 23; a way opened to the public use by a board of survey pursuant to MGL Chapter 41, section 77; and a private way opened to the public use through prescription, i.e., open uninterrupted use by the general public over a period of time without the permission of the owner.

#### Section 3. PROCEDURES

- A. The owner or owners of a private way open to the public, or the abutters to 100% of the lineal footage thereof, or a homeowners association established to maintain a private way, may petition the Board of Selectmen to have municipal refuse and recycling pickups on said private way. Such petition shall be in the form prescribed by the Board of Selectmen and shall, unless from such a homeowners association, include a fully executed release and indemnification agreement as prescribed by Town Counsel.
- B. Said petition shall be submitted to the Town Manager, who shall promptly refer it to the Director of Public Works for his finding as to whether or not said private way meets the minimum subdivision control regulations and standards for street right-of-way and travel width, as set forth in the subdivision rules and regulations adopted by the Planning Board.
  - 1. If the Director of Public Works certifies that said private way does meet said minimum standards, and then the petition shall be forwarded to the Board of Selectmen for its approval.
  - 2. If the Director of Public Works cannot so certify, then the applicant (s) shall be so informed in writing. Said applicant (s) may then appeal such determination to the Board of Selectmen.
- C. Any vote of the Board of Selectmen to provide municipal refuse and recycling pick-ups

on private ways open to the public shall specify the date on which such service shall take effect.

- D. Notwithstanding such approval, the Director of Public Works is authorized to make determinations of when a private way opens to the public is impassable to Town equipment, and to suspend pick-ups on such a way. He shall, without delay, report such conditions to the Town Manager and the Board of Selectmen.

**Section 4. EFFECTIVE DATE**

- A. These rules and regulations shall take effect upon approval of the Board of Health, pursuant to MGL Chapter 111, section 31.