

TOWN OF LYMAN, NH **ROAD POLICY GUIDELINES**

ISSUANCE OF BUILDING PERMITS ON CLASS VI ROADS, **PRIVATE ROADS AND RIGHTS OF WAY** **EXISTING AS OF JUNE 21, 2010**

1. STATEMENT OF PURPOSE

Under RSA 674:41, the Board of Selectmen has the discretion to authorize the issuance of building permits on Class VI town roads, Private roads, and Rights of Way.

The Board of Selectmen has adopted these general guidelines to help guide the decision-making process when it is presented with such an application. It is emphasized that the Board of Selectmen will consider any factor relevant to the authorization of a building permit in a particular case. Therefore, this statement of guidelines is not intended to describe an exhaustive list of considerations, but to be a guide for both the Board of Selectmen and applicants for such building permits. Specific requirements for building on Class VI roads, Private roads and Rights of Way will still be determined on a road-by-road basis.

The Board is mindful that development along a Class VI or Private road may lead to the receipt of a petition to lay out the road as a Class V, town-maintained road, or a petitioned warrant article requesting the Town Meeting to re-classify the Class VI road or Private road as Class V. It is therefore the purpose of these guidelines to minimize development along Class VI roads and Private roads which might tend to drain existing town services and force increased costs on the Town to provide additional services. Further, it is also the purpose of these guidelines to ensure that any structures built on Class VI roads and Private roads are reasonably accessible to emergency vehicles twelve months each year. In that way, the safety and property of people occupying or using those structures will not be unreasonably placed at risk, nor will the safety of emergency response personnel or their vehicles and equipment be unreasonably endangered.

2. APPLICATION

Every application to the Board of Selectmen requesting that the Board authorize the issuance of a building permit on a Class VI road or Private road shall be made in writing and be accompanied by a map drawn to scale showing:

- a) The location and size of the lot and its relation to the Class VI road or Private road and the Class V or better road which gives access to the Class VI or Private road;
- b) The specific location of all proposed structure(s);

- c) The location and length of the driveway giving access to the structures from the Class VI or Private road;
- d) Wetlands on or adjacent to the property that could be impacted, and indicate if a State Wetlands Permit application has been submitted, if applicable;
- e) Any other information which the Board of Selectmen may reasonably require.

3. DISTANCE TO CLASS V ROAD

It is the guideline of the Board of Selectmen that in the usual case, no building permit will be authorized if the driveway access to the principal structure from the Class VI road or Private road begins more than six hundred (600) feet from the intersection of the Class VI road or Private road and the Class V or better road which gives access to the Class VI road or Private road. Applications that meet the six hundred (600) foot distance will not be automatically approved, however. In addition to any other relevant factors, the Board of Selectmen will consider the following even where the six hundred (600) foot distance is met:

- a) The nature, condition and grade (10% or less) of the Class VI road or Private road;
- b) The nature, condition and length of the driveway from the Class VI road or Private road to the proposed structure(s).

4. WAIVER OF DISTANCE LIMITATIONS

The Board of Selectmen may consider waiving the six hundred (600) foot limitation set out in paragraph 3:

- a) Where the Board finds that the deviation from the six hundred (600) foot requirement and the issuance of the building permit is not contrary to the spirit and intent of these guidelines; or
- b) Where the applicant proposes to physically bring the relevant portion of the Class VI road or Private road to Class V standards; and
 - i) The Board is assured that the applicant will properly maintain the improved portion of the Class VI road or Private road; and
 - ii) The Board finds that the issuance of the building permit is not contrary to the spirit and intent of this policy.

5. IMPROVEMENTS TO CLASS VI ROADS, PRIVATE ROADS AND RIGHTS OF WAY

- a) Before beginning any work within the limits of a Class VI road, the applicant must receive a written permit from the Board of Selectmen pursuant to RSA 236:9 – 11, and shall be subject to the penalties provided by RSA 236:14 for failure to secure or comply with the terms of said permit.

- b) For a single lot and/or a single dwelling unit, the Board of Selectmen, at a minimum, shall adhere to emergency travel lane standards. Each application and case is looked at on a case-by-case basis, with the specific conditions of the road in question and its ability to support the passage of emergency vehicles being the primary consideration. In general terms, the “Emergency Lane” includes the following:
 - 1. Twelve foot (12’) travel surface
 - 2. Two-foot (2’) shoulders on each side
 - 3. Six inch (6”) gravel surface
 - 4. Installation of drainage culverts as may be required
 - 5. Potential of pavement, depending on conditions or steepness of slope
 - 6. Easement for Drainage and Maintenance
- c) Beyond the physical standards of the Class VI road, Private road, or Right of Way, the Board of Selectmen may:
 - 1) Seek a written road maintenance agreement if there is more than one party who will be residing on the road in question, or the applicant agrees in writing to assume 100% of the road maintenance costs for the portion of Class VI road affected.
 - 2) Require a turnaround for emergency vehicles in order to avoid or eliminate a dead end road.
- d) The Board of Selectmen will require that the proper completion of the improvements to the Class VI road be secured to the Town by the giving of security in a form and amount to be determined by the Board or their designee.

6. NOTICE TO BE RECORDED

Prior to the actual issuance of any building permit authorized by the Board of Selectmen, the applicant shall provide the Town with an executed notice to be recorded at the Grafton County Registry of Deeds to the effect that the Town of Lyman neither assumes responsibility for maintenance of the Class VI highway or Private road or Right of Way, nor liability for damages resulting from the use thereof, pursuant to RSA 674:41, I (c) (3) and RSA 674:41, I (d) (3). Such notice shall be recorded at the expense of the applicant.

7. TIME LIMITATIONS

- a) Required road improvements must be completed and approved prior to the issuance of the building permit.
- b) Applicants receiving approval from the Board of Selectmen under the current road policy guidelines will be issued a building permit, providing all other zoning requirements are met, and must begin construction within one year from the date of

issuance of the building permit or the approved application to build on a Class VI road or Private road or Right of Way will be void.

8. OTHER PERMITS AND APPROVALS

Should the Board of Selectmen grant approval for applications under these guidelines, applicants are still required to secure any other permits required under local, state or federal laws or regulations. The Board of Selectmen's approval does not supersede any other requirements by other entities.

9. REPEAL

The adoption of these guidelines shall operate as a repeal of any other statement of policy adopted by previous Boards of Selectmen.

10. STATUS OF ROAD

These guidelines shall apply only after the legal status of the road in question has been established to the satisfaction of the Board of Selectmen.

Appendix 1

AGREEMENT AND RELEASE REGARDING BUILDING PERMIT FOR CLASS VI HIGHWAYS AND RIGHTS OF WAY

NOW COMES _____ thereafter referred to as _____
of _____ Road, Town of _____,

State of New Hampshire and the Town of Lyman hereinafter referred to as "TOWN"), a municipal corporation existing under the laws of the State of New Hampshire, and agree as follows:

WHEREAS _____ is the owner of certain real property on
_____ Road as stated in Deed recorded at Book _____, Page _____ at the
_____ County Registry of Deeds;

WHEREAS the relevant portion of said _____ Road upon which the _____ 's real property fronts is a Class VI Highway as classified by New Hampshire Revised Statutes Annotated 229:5;

WHEREAS the TOWN has agreed to issue a building permit for the construction of a single family residence on said real property upon the filing of the within notice pursuant to New Hampshire Revised Statutes Annotated 674:41;

NOW THEREFORE the TOWN and _____ on behalf of himself, his heirs, legal representatives, successors and assigns, covenant and agree as follows;

1. The TOWN shall allow _____ to construct a residence pursuant to a building permit issued by the TOWN on the _____ property on _____ Road;
2. The TOWN neither assumes responsibility for maintenance, including snow plowing, nor liability for any damages resulting from the use of _____ Road;
3. _____ shall be responsible for maintaining access to the subject property and does hereby forever release and discharge the TOWN, it's officers, agents and employees from the obligation of maintaining _____ Road and from any claim of any nature, whether in tort or otherwise, which _____ might have against the TOWN for any loss or damage, including those incurred through failure to provide a municipal services, including police, fire, and ambulance services, arising out of the condition of the roadway from the point wherein the _____ Road is a class VI highway;
4. That _____ assumes responsibility for transporting any children to the nearest regular school bus stop;

5. That _____ assumes responsibility for maintenance and repair _____ Road, and agrees that at his expense or at the expense of himself and other owners of property similarly located on _____ Road, to clear and maintain the said _____ Road to a width of not less than sixteen (16) feet, and to repair and maintain the traveled portion of _____ Road in a good and passable condition.

Witness

Witness

TOWN OF LYMAN, NEW HAMPSHIRE

By Its Selectmen, Duly Authorized

Witness

Witness

Witness

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Appendix 2

AGREEMENT AND RELEASE REGARDING BUILDING PERMIT FOR PRIVATE HIGHWAY

NOW COMES _____ THEREINAFTER REFERRED TO AS
_____ OF _____ ROAD, TOWN OF _____,

STATE OF New Hampshire and the Town of Lyman (hereinafter referred to as "TOWN"), a municipal corporation existing under the laws of the State of New Hampshire, and agree as follows:

WHEREAS _____ is the owner of certain real property on
_____ Road as stated in Deed recorded at Book _____, Page _____ at the
_____ County Registry of Deeds;

WHEREAS the relevant portion of said _____ Road upon which the _____ 's real property fronts is a private road;

WHEREAS the TOWN has agreed to issue a building permit for the construction of a single family residence on said real property upon the filing of the within notice pursuant to New Hampshire Revised Statutes Annotated 674:41;

NOW THEREFORE the TOWN and _____ on behalf of himself, his heirs, legal representatives, successors and assigns, covenant and agree as follows;

1. The TOWN shall allow _____ to construct a residence pursuant to a building permit issued by the TOWN on the _____ property on _____ Road;
2. The TOWN neither assumes responsibility for maintenance, including snow plowing, nor liability for any damages resulting from the use of _____ Road;
3. _____ shall be responsible for maintaining access to the subject property and does hereby forever release and discharge the TOWN, it's officers, agents and employees from the obligation of maintaining _____ Road and from any claim of any nature, whether in tort or otherwise, which _____ might have against the TOWN for any loss or damage, including those incurred through failure to provide a municipal services, including police, fire, and ambulance services, arising out of the condition of the roadway from the point wherein the _____ Road is a private highway;
4. That _____ assumes responsibility for transporting any children to the nearest regular school bus stop;
5. That _____ assumes responsibility for maintenance and repair _____ Road, and agrees that at his expense or at the expense of himself and other owners of property similarly located on _____ Road, to clear and maintain the said

_____ Road to a width of not less than sixteen (16) feet, and to repair and maintain
the traveled portion of _____ Road in a good and passable condition.

Witness

Witness

TOWN OF LYMAN, NEW HAMPSHIRE
By Its Selectmen, Duly Authorized

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