

*adopted  
March 2001*

## **Town of New Portland Road Ordinance**

### **I. TITLE**

Under the authority of MRSA Title 30-A, Sec. 4401 and 3001, and MRSA Title 23, Sec. 3025, this Road Ordinance for the Town of New Portland is hereby adopted.

### **II. PURPOSE**

The construction of roads can have a major effect upon safety, municipal services and the environment in New Portland. The design and construction of such roads may also affect erosion and water quality; the severity of periodic flooding; fire protection; safety conditions and traffic congestion; the visual character of the Town; the future use of surrounding land; and maintenance costs and requirements. It is the purpose of this ordinance to promote the health, safety and general welfare of New Portland residents by setting standards for the design, layout and construction of all new roads.

### **III. APPLICABILITY**

The provisions of this ordinance apply to the construction of any new road in New Portland, public or private, except as exempted below. Roads to remain privately owned are subject to the requirements of Article V of this ordinance. Roads to be offered to the Town for acceptance must comply with the requirements of Article VI as well as of Article V. Existing gravel roads that are to be paved and intersect with a Town road must adhere to the requirement of Section V.2. Note: Driveways as defined in Article IV are subject to provisions contained in Article VII.

No provision of this ordinance shall apply to any State, county or municipal body or authority, which may lay out, widen or improve any public way, except for the Construction Standards, which will serve as a minimum requirement for all road construction in New Portland. All Town roads currently designated as such and maintained by the Town are not subject to this ordinance, except as provided for in Article VII. Entrance Permits and Article VIII. Road Contracts.

### **IV. ROAD DEFINITIONS AND CLASSIFICATIONS**

- A. Driveway: a vehicular access way serving one or two lots.
- B. Private Road: a privately owned road serving more than two lots over which neither the municipality nor the public has a right to travel by vehicle or on foot.
- C. Public Easement: an easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way, which confers the right of unobstructed public access by motor vehicle or foot but does not obligate the municipality to repair or maintain the easement.
- D. Public Road: a way or public easement for highway purposes as defined in 23 MRSA Sec. 3021 held by any governmental body.

- E. Road: any public or private way designed for vehicular access, other than driveways, farm roads, trails or logging roads. The term “road” includes the normal meaning conveyed by synonymous words including street, avenue, highway, lane and way.
- F. Town Road (or Way): a public road owned and maintained by the Town of New Portland. There are three classifications for Town Roads:
  - 1) Through Roads: These are roads that serve as feeders to major traffic ways and as collectors of traffic from minor roads, providing circulation and access to commercial areas and in residential developments. Through roads must accommodate both a regular flow of passenger vehicles and commercial traffic including trucks hauling wood, milk and animal feed.
  - 2) Minor Roads: While these roads connect other ways, they are primarily used by passenger vehicles for access to residential dwellings and commercial properties.
  - 3) Dead End Roads: These are roads of at least 800 feet in length that end in a cul-de-sac, connecting two or more residential and/or commercial buildings, and used primarily by passenger vehicles.

## V. ROAD PERMIT

### A. Activities Requiring Road Permit

Prior to initiating either: (a) construction of any road, or (b) paving of an existing gravel surfaced road that intersects a Town road, a person must obtain a Road Permit from the Road Commissioner.

Note 1: Applicants for proposed roads that will provide access to Routes 16, 27, 146, Long Falls Dam Road, or Katie’s Crotch Road must also obtain an Entrance Permit from the Maine Department of Transportation in Kingfield prior to construction. Culverts and sight distance are governed by the State, rather than the Town.

Note 2: Roads that will be offered to the Town for acceptance must also comply with the provisions of Article VI below.

Note 3: A person wishing to build a road involving a stream crossing must obtain a Natural Resources Protection Act permit from the Maine Department of Environmental Protection.

### B. Application and Review Procedure

Road permits shall be administered by the Road Commissioner.

### C. Fee

The fee for a road permit is \$35.00.

#### D. Application Requirements

The following information shall be submitted to the Road Commissioner as part of the application for a Road Permit:

- 1) Name of applicant(s)
- 2) Names of the owners of record of the land
- 3) Any legal encumbrances on the land upon which the proposed road is located.
- 4) Statement of who will own the road following construction, by what legal instrument, and who will be responsible for road maintenance.
- 5) The estimated volume and type of traffic to use the road.
- 6) The anticipated starting and completion dates of each phase of road construction.
- 7) A description of erosion and sedimentation control measures to be employed during and following construction.
- 8) A description of storm water management and drainage way provisions, together with supporting assumptions and calculations.
- 9) An illustrated plan showing: the scale; the direction of magnetic north; the starting and ending point of the proposed road with relation to established roads and any planned or anticipated future extensions; the boundary lines of all properties abutting the proposed road closest to any Town road intersection; if proposed to be over 300 feet in length, the design of the emergency vehicle turnaround; and the location of all existing and proposed overhead and underground utilities.
- 10) Description of proposed road base and surface material.

#### E. Conditions for Road Permit Approval

##### 1) New Roads

For new roads, the Road Commissioner shall conduct a site visit of the property and issue a road permit if he or she finds that the following conditions are met:

- a) Adequate sight distance of 10 times speed limit in feet (e.g., 45 mph zone requires 450 ft) of visibility in each direction. This shall be measured from where the driver's seat of a vehicle would be situated twenty feet from the edge of the shoulder, with the height of eye at 3-1/2 feet, to the top of an object at 4-1/2 feet above the pavement.
- b) The applicant shall agree that the 20 feet of the proposed road closest to the public road shall be constructed with at least 12" of gravel base and 12 feet of traveled way to support emergency vehicles. The same 20 feet of the proposed road shall also have a graded road crown of 1/4" per foot such that drainage will neither erode the proposed road nor wash directly onto the public road. If possible, the proposed road should be constructed so that at least the 2 feet closest to the intersection continues the slope created by the crown of the public road being entered to keep drainage from damaging the public road.
- c) Roads and rights of way over 300 feet long must have an adequate place for emergency vehicles to turn around.

d) The angle of intersection with the public road must be as close to 90 as possible, but never less than 60.

e) Erosion and sedimentation must be effectively prevented during and following construction. The acceptability of proposed and employed methods will be judged utilizing the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Somerset County Soil and Water Conservation District and the Maine Department of Environmental Protection.

f) For roads servicing any permanent, year round structure, it is recommended that roads and rights of way that are over 300 feet long have a 12 foot traveled way and 12" of gravel base to facilitate emergency vehicle access. (Note: This standard will generally be required as a condition of subdivision approval.)

If this standard is not met, the applicant must:

(ii) Acknowledge added risk: Sign a statement acknowledging that emergency vehicle access may be impossible, involving above average risk to life and property.

## 2) Paving Existing Roads

For existing roads connecting with Town roads that are to be paved, the Road Commissioner shall conduct a site visit of the property and issue a Road Permit if he or she finds that the provisions of Subsection V.E.1) b above are met.

## 3) Roads Accessing Routes 146, 27, 16, Long Falls Dam Road, and Katie's Crotch Road

For roads accessing Routes 146, 27, 16, Long Falls Dam Road and Katie's Crotch Road, the Maine Department of Transportation regulates the sight distance and culvert requirements.

## F. Road Permit Denial; Right to Appeal

If any of the applicable conditions are not met, the Road Commissioner shall deny the Road Permit application. If the applicant feels that the Road Commissioner has erred in his or her interpretation of this ordinance, the applicant may file an administrative appeal with the Board of Appeals within 30 days of the denial. If the applicant feels that the denial of the Road Permit creates an undue hardship, the applicant may request a variance from the Board of Appeals.

# VI. PETITIONS FOR TOWN ACCEPTANCE OF ROADS

## A. Petition Procedure

### 1) Petition Procedure Outline

- Submittal of Road Permit Application (if applicable) & Town Road Acceptance Petition to Road Commissioner and Planning Board.
- Site Visit by Road Commissioner
- Planning Board Review of Application
- Road Permit Granted (if Applicable)
- Road Constructed, Inspected (2-year waiting period for existing roads)
- Engineer Certification (if applicable)
- Certificate of Compliance by Road Commissioner and Planning Board
- Town Road Acceptance Petition to Board of Selectmen
- Town Meeting Vote on Petition

## 2) Review by Road Commissioner and Planning Board

- The petitioner begins by submitting both a Road Permit Application and Town Road Acceptance Petition to the Road Commissioner and Planning Board. The Town Road Acceptance Petition must describe, in a form acceptable to the Town Attorney, the property that the owner intends to dedicate to the Town for highway purposes, and state that the owner waives any claim for damages. If within a subdivision, the dedication must be recorded on the filed plan with the Registry of Deeds. The letter must indicate whether the dedication is for a full title or a public easement.
- In order to be considered at the next meeting of the Planning Board, both the Road Permit Application and Town Road Acceptance Petition must be filed at least 10 days prior to the meeting. The Road Commissioner will conduct the site visit as per a private Road Permit application, but shall not issue a Road Permit until the Planning Board has had an opportunity to review the Road Permit Application and Town Road Acceptance Petition. The petitioner and the Road Commissioner shall attend the Planning Board Meeting at which the application and petition shall be considered.
- The Road Commissioner shall make a recommendation as to whether the proposed road plans appear to satisfy the requirements of this ordinance for a road to be accepted by the Town. The Planning Board shall review the application for completeness. When the application is considered complete, the Road Commissioner and Planning Board shall jointly issue a Road Permit for the construction of a new road or alteration of an existing way to meet the designated standards. If either party refuses to sign the Road Permit, the permit shall be considered denied; the applicant may appeal the decision to the New Portland Board of Appeals.

## 3) Town Road Acceptance Petition Delivered to Board of Selectmen

- After obtaining the Certificate of Compliance, the petitioner shall file a Town Road Acceptance Petition with the Board of Selectmen. The procedure is otherwise as directed in Title 23 MRSA Sec. 3025. The requirements for the Petition, which must originally be filed with the Road Commissioner and Planning Board, are outlined in Subsection B below.
- After receiving a public dedication for a road that has been issued a Certificate of Compliance, the Selectmen shall prepare an appropriate warrant article for a town

meeting asking whether the Town wishes to accept the dedication. The article will specify whether the dedication is for a public easement or for a town way.

- The Selectmen may also initiate purchase and acceptance of a road they wish to lay out as a town way, requiring the authorization of funds in addition to acceptance at a town meeting.

**B. Town Road Acceptance Petition Application Requirements**

The following information shall be submitted to the Road Commissioner and Planning Board as part of a Town Road Acceptance Petition:

- 1) All information required for a Road Permit application as outlined in Section V.D of this ordinance, plus:
- 2) Classification of the proposed Town road (through road, minor road, dead-end road, see Section IV.D);
- 3) Description and location of all road safety and identification signs to be provided; and
- 4) Description of how the road will be maintained until Town acceptance and following maintenance if the Town does not accept the dedication.

All road plans, profiles and cross-sections shall be prepared by a Professional Engineer, registered in the State of Maine.

**B. Conditions for Certificate of Compliance**

- 1) All Road Permit requirements of Section V.E plus the following:
- 2) Construction Standards (minimum requirements)

The following standards are minimum requirements. The applicant may request that the amount of road base gravel be reduced if the land under the road is stable. The Road Commissioner may authorize a reduction in gravel depth standard if he or she feels that it is unnecessary to adequately support the proposed road.

	<b>Minor &amp; Dead End Roads</b>	<b>Through Roads</b>
a) Width of Right-of-Way	60'	66'
b) Width of Traveled Way	18'	20'
c) Width of Each Shoulder	2'	3'
d) Sub-base Gravel (unscreened bank run)	12"	12"
e) Road base Gravel (maximum 6" stones)	18"	18"
f) Surface Gravel (maximum 2" stones)	6"	6"
g) Bituminous Paving (or equivalent)	2"	2-1/2"
h) Road Crown	1/4" to 1/2"/foot	1/4" to 1/2"/foot

- i) Cuts: Eighteen inches of gravel plus a six inch surface shall be used in all cut sections of earth and ledge except that where existing material is a clean, well draining sand or gravel, the base may be lessened to twelve inches. The bottom of ditch shall be a minimum of 38" below the centerline grade of the road.

j) Drainage:

- (i) Adequate provision shall be made for disposal of all surface water and underground water through ditches, culverts, underdrain and/or storm water drainage systems. Complete underground storm sewer systems shall be installed when required by the Planning Board and Road Commissioner. Culverts shall be not less than 15" in diameter. Catch basins shall be no less than 30" in diameter. All culverts shall be galvanized corrugated metal pipe or made of materials approved by the inspector. All culverts shall be designed to accommodate, at a minimum, the anticipated 25-year flood level.
- (ii) Where bridge structures or reinforced concrete box culverts are required to cross major streams, detailed design plans provided by a certified Professional Engineer, registered in the State of Maine, shall be submitted with the application. All bridges and reinforced concrete box culverts shall be designed to accommodate, at a minimum, the anticipated 50-year flood level.
- (iii) A corrugated metal perforated underdrain pipe, or one made of other materials approved by the inspector, of at least 6 inches in diameter, shall be installed to properly drain all springs or areas where the ground water level is too high and could constitute a hazard to the stability of the roadway base,

- k) Signage: All safety and identification signs shall be supplied by the petitioner.

3) Inspection During Construction

It is the responsibility of the petitioner to provide the Road Commissioner and Planning Board with a construction schedule. The Road Commissioner shall serve as the inspector and may call upon one or more members of the Board of Selectmen, Planning Board or other knowledgeable persons to serve on an inspection team. Each layer of road base, including the sub-base, base and surface gravel, as well as the surface pavement, must be inspected before the road can be considered acceptable according to the terms in this ordinance. There will be a fee assessed of \$25 per inspection.

4) Engineer Certification

Once a road to be offered to the Town is completed, the petitioner shall submit a written certification signed by a Professional Engineer registered in the State of Maine stating that the road as built meets or exceeds the design and construction requirements of this ordinance.

5) Waiting Period for Roads Already Constructed

There will be a two-year waiting period following a request to designate a road that was not inspected at the time of construction as a Town road. If the road appears to meet all the criteria of this ordinance following an inspection, the waiting period will then begin. The road will be inspected at various intervals during and at the conclusion of the waiting period. There will be a fee of \$25 per inspection.

#### 6) Two Year Guarantee Following Acceptance

The petitioner agrees to guarantee for two years following acceptance that the road was built in accordance with the construction standards of this ordinance and, after receiving written notice from the Planning Board, agrees to reimburse the Town for repairs resulting from any design or construction defects beyond the normal wear and tear from ordinary use. If any legal action is brought against the petitioner in the name of the Town in order to collect the costs for repairing the road, and the Town prevails, then the applicant shall be liable and responsible for the Town's legal fees and court costs and any other costs involved in bringing such suit or action.

#### 7) Issuance of Certificate of Compliance

The Road Commissioner and Planning Board must rule within 60 days of either (a) the receipt of an engineer's certification for a new road, or (b) the end of the two-year waiting period for an existing road, on whether or not the road meets the physical requirements of this ordinance. The Road Commissioner shall make his or her determination of compliance and sign the Certificate of Compliance if the requirements of this ordinance have been met. The Planning Board shall also vote on whether the road appears to meet the requirements of this ordinance. If a majority vote in favor, the Chairman or Secretary shall also sign the Certificate of Compliance on behalf of the Board. If either party rejects the petition, the road may not be presented for acceptance at Town Meeting. The petitioner may appeal the decision to the Board of Appeals.

### **VII. ENTRANCE PERMITS AND ROAD CROSSINGS**

An entrance permit must be obtained whenever an entrance onto a town road is to be made, whether temporary or permanent. This permit is obtained by filing an application and inspection of the proposed entrance by the Road Commissioner. If the Road Commissioner determines that a culvert will be required, then the owner will purchase the culvert from the Town. The diameter of the culvert will be determined by the Road Commissioner. The length of culvert shall be minimum 24 foot long and maximum of 40 foot long. A variance can be obtained from the Road Commissioner for temporary entrances. The Town will install the culvert, and the Town will assume all future maintenance of the culvert.

In the event that it is necessary to dig up a portion of a town road (ie. installing underground utilities) the road commissioner must be notified in advance. The road commissioner will use his discretion in determining if an amount of money should be held in escrow to insure the road is properly restored. The road shall be restored at the



direction of the road commissioner with regard to such things as gravel to be replaced, compaction etc.

### **VIII. ROAD CONTRACTS**

This Article applies to new roads, as well as town roads already designated as such. All major construction projects, i.e. those costing \$8,000.00 or more, will be put up for public bidding. The Road Commissioner will inform the Board of Selectmen, in writing, of the extent of anticipated work, materials, equipment and labor needed, and an estimate of the time needed for completion, to determine estimated cost. This bidding requirement will not apply to emergency situations, caused by natural disaster, such as flooding, high winds etc., as interpreted by the Board of Selectmen.

### **IX. SEVERABILITY**

If any portion of this ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

### **X. CONFLICTS WITH OTHER REQUIREMENTS**

This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other regulation, permit ordinance or statute. Where this ordinance imposes a greater restriction upon the use of land or structure, the provisions of the ordinance shall control.

### **XI. APPEALS**

All decisions of the Road Commissioner, Fire Department, and Planning Board, pursuant to this ordinance, may be appealed by an aggrieved party to the Board of Appeals within 30 days in accordance with the provisions of the Board of Appeals Ordinance for the Town of New Portland. The Board of Appeals shall have the authority to grant a variance from the terms of this ordinance, where necessary to avoid undue hardship, provided there is no substantial departure from the intent of this ordinance.

### **XII. AMENDMENTS**

At any time this ordinance is amended, by the legislative body, the Town Clerk, upon advice from the Planning Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes do not result in any substantive alteration in the meaning of the ordinance and further the clear intent of such amendment.

*A true copy attest  
10/25/12  
Shirley Willes, Town Clerk*