TOWN OF NEW DURHAM

NEW HAMPSHIRE

GUIDELINES OF THE BOARD OF SELECTMEN REGARDING CONSTRUCTION ON CLASS VI ROADS

Under RSA 674:41, the Board of Selectmen has the discretion to authorize the issuance of building permits on Class VI town roads, after review and comment by the Planning Board.

The Board of Selectmen has adopted these 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.

1. Statement of Purpose. The Board is mindful that development along a Class VI road may well 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 as Class V. It is therefore the purpose of these guidelines to minimize development along Class VI town 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 town 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 town 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 and the Class V or better road which gives access to the Class VI road;

   b) the specific location of all proposed structure;

   c) the location and length of the driveway giving access to the structures from the Class VI road;

   d) wetlands on or adjacent to the property that could be impacted, and indicate if a State Wetlands Permit application has been submitted;

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 begins more than six hundred (600) feet from the intersection of the Class VI road and the Class V or better road which gives access to the Class VI 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 (12% or less) of the Class VI road;

   b) The nature, condition and length of the driveway from the Class VI 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 deviation from the six hundred (600) foot requirement where the Board finds that 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 to Class V standards; and

      i) The Board finds that there is a strong likelihood that the applicant will properly maintain the improved portion of the Class VI 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.

   a) Before beginning any work within the limits of the 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) The standards for existing multiple lots or dwelling units (two or more lots and/ or two or more dwelling units) to which the Class VI road must be brought are those set out in the ROADWAY RELATED SUBDIVISION REGULATIONS initially adopted by the New Durham Planning Board on November 15, 1988 and amendments thereto. However, in a proper case the Board of Selectmen may apply the applicable road construction standards in the NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION SUGGESTED MINIMUM DESIGN STANDARDS FOR RURAL SUBDIVISION STREETS.

   c) 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. Sixteen-foot (16') travel surface
2. Two-foot (2') shoulders on each side
3. Four-inches (4") crushed 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

d) Beyond the physical standards of the Class VI road, 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) May address the need for a potential turnaround for emergency vehicles in order to avoid or eliminate a dead end road.

   3) Require the applicant to provide a deed or easement to secure a full 50-foot right-of-way for the Class VI road if something less than a 50-foot right-of-way exists.

e) 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.

6. Public Hearing. Prior to the issuance of its decision on the application, the Board of Selectmen shall hold a public hearing with at least five (5) days prior notice sent certified mail, return receipt requested, to the applicant and to each owner of property abutting the portion of the Class VI road in question. The notice shall also be posted in at least two (2) public places within the Town. The applicant shall pay the costs of such notice, in advance. The Board of Selectmen will also endeavor to ensure that timely notice of the public hearing is given to the Chairmen of the Planning Board, Zoning Board of Adjustment, and Conservation Commission, as well as to the Road Agent, Chief of Police, Fire Chief and Code Enforcement Officer. All applications under these guidelines are forwarded to the Planning Board for its review and recommendation to the Board of Selectmen before any final decision is reached.

7. 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 Strafford County Registry of Deeds to the effect that the Town of New Durham neither assumes responsibility for maintenance of the Class VI highway nor liability for damages resulting from the use thereof, pursuant to RSA 674:41, I (c) (3). Such notice shall be recorded at the expense of the applicant.

8. Time Limitations.

   a) Applicants receiving approval from the Board of Selectmen under these guidelines must apply for and be issued a building permit within the first six (6) months of the Board of Selectmen's Condition of Approval, and construction must begin within six (6) months from the date of issuance of the building permit or the approved Application to build on a Class VI road will be void.

   b) Required road improvements associated with the Board of Selectmen's approval of applications under these guidelines must commence within six (6) months of the issuance of the building permit.

9. Occupancy Certificate. No Certificate of Occupancy will be issued by the Town of New Durham Building Inspector / Code Enforcement Officer until the requirements of said road improvements have been met and signed off by the Board of Selectmen or their designee. If the building is occupied without a Certificate of Occupancy, the occupants will be found in violation of local ordinance and state statute, and will be subject to penalty as set forth in RSA 676:17.

10. Other Permits. 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 law or regulations. The Board of Selectmen's approval does not supercede any other requirements by other entities.

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

IN WITNESS WHEREOF, the undersigned members of the New Durham Board of Selectmen have set their hands this sixth day of March, 2002.

Carleton W. Woods, Chairman

M. Dean Stimpson

Paul R. Gelinas, Jr.
NEW DURHAM BOARD OF SELECTMEN