

HIGHWAY ORDINANCE TOWN OF MARLBORO

The Selectboard of the town of Marlboro, County of Windham, State of Vermont, in accordance with the authority invested in it by virtue of Title 24, Section 1972 through 1976 of the Vermont Statutes Annotated, hereby adopts the following Marlboro Highway Ordinance.

This ordinance is in furtherance and support of the proper accomplishment of responsibilities and the discharge of authority prescribed by 19 V.S.A. Chapter 7, Laying Out and Discontinuing Highways by Local Authorities.

1.01 GENERAL

The Selectboard may, at its discretion, modify the requirements contained herein if its strict enforcement would cause undue hardship due to unusual conditions, provided the general objectives of these requirements are satisfied.

1.02 ROAD CLASSIFICATION

Town roads are classified as Class 1, Class 2, Class 3 or Class 4 highways in accordance with 19 V.S.A. § 302. An official town highway map supplied by the State Agency of Transportation shall be available for inspection in the Marlboro Town Office.

1.03 ROAD RECLASSIFICATION

The Selectboard shall periodically review the town highway classifications, taking into consideration increasing highway need, changing traffic patterns and growing populations, including identifications of key roads that link towns and major arteries. Selectboard may also discontinue certain highways, either classifying them as trails while retaining a right-of-way or abandoning any claim to a right-of-way.

1.04 HIGHWAY CONSTRUCTION AND MAINTENANCE

Road and related improvements shall be constructed or installed in accordance with sound engineering practice and this highway ordinance.

The Selectboard may institute and periodically review and update a town road management system in making decisions about preventative maintenance and road improvements. The plan may include but not be limited to considerations of scenic areas and places of local historical significance, signs, bridges, etc.

1.05 CLASS 4 ROADS

A. Definition. Class 4 highways are all other highways not falling under definitions of class 1, 2 and 3 highways. Class 1, 2, and 3 are defined for the purpose of receiving state aid and are passable with a pleasure vehicle on a year-round basis.

Trail means a public right-of-way which is not a highway and which:

1. previously was a designated highway having the same width as the designated town highway, or a lesser width if so designated, or
2. a new public right-of-way laid out as a trail by the Selectboard for the purpose of providing access to abutting properties or for recreational use.

- B. Existing Use.** Existing rights-of-way of class 4 highways and trails as of the date of adoption of this policy shall be retained by the Town for purposes of recreational multi-use activities, access to private property, and agricultural and forest management.
- C. Maintenance.** The Town shall not provide any maintenance or upkeep on trails.
1. Permission for repair, maintenance, improvement, or restoration shall not be unreasonably withheld by the Selectboard. The road shall be left in as good or better condition as when permission is granted.
 2. The Town shall not provide any summer maintenance of class 4 highways except for the maintenance of bridges, culverts and ditches and to control erosion of highways or runoff to adjacent property, and removal of obstructions as required by necessity, and the public good and convenience of the inhabitants of the town.
 3. The Town shall not provide any winter maintenance on class 4 highways and trails. Plowing by private parties shall be only with the permission of the Selectboard.
 4. Any winter plowing of a class 4 road allowed by Selectboard to parties other than a municipality shall not nullify the privileges under 23 V.S.A. § 3206 (b)(2).
- D. Control.** The Selectboard shall exercise control of class 4 highways and trails to ensure their integrity as a public right-of-way by means which may include, but are not limited to, the following:
1. establishment of vehicle weight limits;
 2. prohibition or restriction of wheeled vehicle use during mud and snow season; signs and barriers may be utilized to accomplish this purpose;
 3. requirements for temporary permit for heavy equipment access may be imposed and the stipulation included that any highway damaged will be repaired by or at the expense of the user; posting of bond or other security to guarantee that repairs are made may be required as a condition of any permits;
 4. speed limits may be established.
- E. Change in classification.** Class 4 highways may be reclassified to trail status, discontinued, or upgraded to class 3 or higher status. Trails may be discontinued or upgraded to class 4 or higher status. Reclassification will be done in accordance with 19 V.S.A. §§ 708-716 and upon findings by the Selectboard that the public interests will be substantially advanced by such change in status and that reasonable measures are taken to replace, substitute, or avoid the loss of public and commercial travel, intrinsic aesthetic and recreational value, or other public interests afforded by the existing class 4 highway or trail.

At a minimum, no class 4 highway or trail may be upgraded in status or discontinued without the permission of the selectboard. Selectboard may provide for an alternative travel easement or right-of-way replacing the travel route upgraded or discontinued to insure that users and landowners have uninterrupted access.

The Selectboard may require that the cost of upgrading a trail to a class 4 highway or a class 4 highway to a class 3 highway be assigned to the petitioner(s).

- F. New Structures.** New structures on lots fronting on a class 4 highway are subject to the requirements of applicable town ordinances.

1.06 RIGHT-OF-WAY ACCESS

Selectboard shall control access into the road right-of-way for the installation or repair of utilities and for access of driveways, entrances and approaches.

1.07 OVERWEIGHT VEHICLES

Selectboard, in accordance with 23 V.S.A. Chapter 13, shall issue permits for vehicles exceeding posted load limits.

Operators of vehicles exceeding posted load limits shall apply to the Selectboard for overweight vehicle permits in accordance with 23 VSA § 1434. Operators found in violation with this ordinance shall be subject to traffic violations and fines in accordance with 23 VSA § 2302.

In some cases, the Selectboard will negotiate with the applicant for compensation of estimated road damages. Only after both parties agree to the terms will a permit be issued. The Selectboard, or their agent, will inspect the proposed route both before and after the trucking operations. Probable damages to culverts, bridges, road surfaces and bases will be considered in the estimate.

Before issuing an overload permit, the Selectboard shall also consider weather conditions and seasons of the year.

All damages to the highway, bridges, culverts and related structures caused by overload by applicant or by his negligence are the responsibility of the applicant and shall be repaired under the supervision of the Selectboard or their agent and at the expense of the applicant. Failure to repair said damage will result in the town completing the work and billing the applicant.

1.08 POSTING

No town road or any class may be intentionally closed by a gate or other obstruction by anyone other than the Selectboard

Selectboard may post a road in accordance with 19 V.S.A. § 1110.

1.09 COMPLIANCE WITH OTHER REGULATIONS

This policy is written to establish and clarify standards of construction and the authority of the Selectboard and its agents.

All other ordinances and regulations adopted by the Town of Marlboro shall remain in full force and effect, including without limitation.

2.00 ROAD ACCEPTANCE POLICY

2.01 GENERAL

It is the policy of the Selectboard of the Town of Marlboro to entertain application for the acceptance of public highways and roadways and to adopt and adhere to an orderly procedure for acting upon such applications. The decision of an application for acceptance of a highway is reserved to the sole and absolute discretion of the Selectboard who will consider the grant or denial of an application on the basis of the best interest of the inhabitants of the Town.

An applicant shall secure all other necessary governmental permits for a land subdivision or for road construction as a condition precedent to the acceptance of a highway.

All questions arising during road construction relative to construction methods, materials or specifications shall be answered by reference to this ordinance and to the Vermont Standard Specifications for Construction.

The Selectboard shall make final decisions over all questions arising during construction of new roads and shall approve all field changes.

Any new road, whether or not that road is proposed to be conveyed to the town shall be constructed according to the minimum standards and other terms of this ordinance.

Any existing road shall be brought up to the minimum road specification standards in effect at the time of application before consideration by the Selectboard.

2.02 APPLICATION, PLANS AND PLATS

A plan of proposed streets shall be submitted to the town for review. The plan shall be in harmony with existing or proposed streets. As far as practicable, streets shall follow natural contours. All streets shall have free access to or shall be a continuation of one or more accepted Town streets or highways.

A written application for the acceptance of a highway shall be submitted to the town at least eight (8) weeks before road construction is started. The application shall be accompanied by a survey in a form acceptable by the Selectboard for accuracy, thoroughness and legibility and a proposed warranty deed of the land to be conveyed for highway purposes. The grade line and minimum radii of all curves must be shown.

All monuments shall be of a reasonable permanent nature and where feasible shall be “tied” by survey to other objects of a permanent nature and the “ties” shall be shown on said map. The map shall show approximate location of any property line within 200 feet of the proposed right-of-way.

Applicant may, in initial application, propose a name for the road, but the Selectboard will determine the road name. The State Agency of Transportation will assign a number to the road.

2.03 FEES

A fee of \$150.00 shall accompany each application to cover the cost of bookkeeping and recording.

A fee of \$50.00 per sign will be charged to cover the cost of installation of each sign. Signs as approved by the Selectboard will be billed to the owner at cost and payment must be received before final acceptance.

2.04 COMPENSATION FOR DAMAGES

Compensation for damages to town highways caused by acts of noncompliance with this highway ordinance may be assessed against violators by the Selectboard.

2.05 PERFORMANCE BOND

A 100% performance bond for the estimated cost of the proposed road shall be provided to the town prior to the stumping of the right-of-way. The Selectboard shall determine the amount of the bond. Permits may be withheld pending tender of proper performance bonds or highway acceptance.

2.06 INSPECTION

All highway designs, including cut and fill plans, gravel pit plans, surveys, layouts, right-of-way, utility locations, road construction site, preparation and construction shall be inspected by the Selectboard or its representative.

The Selectboard or its representative shall inspect the road site as follows:

1. Before clearing
2. Before stumping
3. After rough grading
4. Upon completion of sub-grading
5. During graveling
6. Before paved surface treatment
7. Final inspection

The developer shall have stakes set on centerline with finish grades marked on them at least every 100 feet for the entire length of the street or the street side staked with distance and grades marked before each inspection.

Before final inspection, the developer shall remove all trash from the right-of-way and the center of the turn around and shall repair any damage done to the roadway, shoulders, drainage structures and related road items. All slopes will be seeded and mulched.

Inspections, samples and core test may be taken by the town before final acceptance and all costs incurred shall be reimbursed by developer.

2.07 COMPLETION DEADLINE

No roads will be inspected or accepted after October 15th.

Road specifications in effect at the time of the initial inspection will be applicable for a period of two years from that date after which time any new road specifications will apply. The only exception will be if the road in question at the end of the two year period in Section 3.08 is under the 12-month maintenance period.

2.08 ACCEPTANCE

When the road has been completed, inspected, and one house has been completed, the Town will, upon request, begin normal maintenance for 12 months.

After 12 months of maintenance, if no serious defects have been observed, the deed will be recorded and the road will become a Town highway. During the 12 months initial acceptance period, any flaws or defects which are pointed out to the road builder will be his responsibility to correct. During this period, the Town will order and erect the necessary signs.

2.09 CONVEYANCE

All rights-of-way and slope rights shall be conveyed to the Town of Marlboro by warranty deed in fee simple and free of all encumbrances.

3.00 MINIMUM STANDARDS

Requests for waiver or any portion of these standards shall be made in writing to the Selectboard.

Vermont Agency of Transportation Standards A76 and B71 are hereby adopted and enforced as supplemental criteria under this ordinance.

3.01 DRIVEWAYS, ENTRANCES AND APPROACHES

Applicants must obtain a Driveway Permit Application (Permit to Approach Town Highway) from the Town Clerk's Office prior to driveway construction.

Applicants must agree to comply with Town standards in the construction of the approach, in accordance with 19 VSA § 1111(b). Failure to comply with Town standards will result in revocation of the permit.

4.00 EFFECTIVE DATE

This ordinance shall become effective 60 days after its adoption by the Marlboro Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

MARLBORO SELECTBOARD

Lucy Gratwick, Chair
Craig Hammond
Gail MacArthur

Adopted: May 8, 2008
Effective: July 7, 2008

ADOPTION HISTORY:

1. Agenda item at regular Selectboard meeting held on 02/14/2008, 03/10/2008, 03/27/08, 04/10/2008, 04/24/2008, 05/08/2008.
2. Read and approved at regular Selectboard meeting on 05/08/2008 and entered in the minutes of that meeting which were approved on 05/22/2008.
3. Posted in public places on 05/12/2008.
4. Notice of adoption published in the *Brattleboro Reformer* 05/17/2008 with a notice of the right to petition.
5. No voters petitioned for a vote to disapprove the ordinance.