

**Town of Orange, New Hampshire**

**RESOLUTION  
CLASS VI & PRIVATE ROAD POLICY**

WHEREAS, Per RSA 674:41 no building can be erected on any lot within any part of the Town, nor can a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is to be placed (i) has the legal status of a Class V or better roadway, (ii) has received certain approvals by the Planning Board, or (iii) is a Class VI highway or private road, provided that, in the latter case:

1. The Board of Selectmen after review and comment by the Planning Board has voted to authorize the issuance of building permits for the erection of buildings on said Class VI highway, or private road, or a specific portion of it; and
2. The Town neither assumes responsibility for maintenance of said Class VI highway, or private road, nor liability for any damages resulting from the use of it; and
3. Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of the Town's responsibility and liability has been recorded in the Registry of Deeds.

WHEREAS, the State Supreme Court has said that the purpose of 674:41, I (c) is to prevent scattered and premature development; the decision whether to allow building on Class VI roadways or private roads is a major policy decision; unrestricted building can have a major impact on the Town's budget if the Town is forced to subsequently upgrade substandard / unmaintained roads.

THEREFORE, the Orange Board of Selectmen will evaluate applications for building permits upon Class VI roadways or private roads, in consultation with the Orange Planning Board, vis-à-vis the following criteria:

- Conditions of the road – does the road have adequate width, drainage, and grade to handle increased development?
- Conditions of connecting roads – are the roads leading to the Class VI road or private road adequate to handle increased traffic?
- Effects on municipal services – will the contemplated development result in a need for increased police, fire, water, sewer, and electric services?
- Is issuance of the permit likely to result in an “occasion” to lay out the road as a Class V road?
- How will the proposed development affect neighboring properties and how well does the proposed development “fit” in to the general growth / development patterns in the Town?
- Will the issuance of said building permit tend to distort the Town's street map or Master Plan?

- Will denial of the permit result in undue suppression of an owner’s right to use, enjoy, and/or occupy his/her property?
- In the instance of a private road, has it been demonstrated that sufficient rights exist to allow for the intended use?

RESOLVED, that building permits will be issued upon Class VI or private roads with the approval of the Board of Selectmen only when it is demonstrated by an applicant, and determined by the Board of Selectmen, using the above criteria, that issuance of said permit will not have a negative impact upon the Town, i.e. the planned development is not deemed “scattered and premature.”

Approved and recommended by the Orange Planning Board on May 25, 2005.

Accepted and approved by the Orange Board of Selectmen on June 13, 2005.

#### BOARD OF SELECTMEN

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William Fulton

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Charles Sova

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Scott Sanborn

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Date Signed

#### Definitions

Class VI Roads are defined by New Hampshire Statute 229:5 VII as “ all other existing public ways, and...include all highways discontinued as open highways and made subject to gates and bars...and all highways which have not been maintained and repaired by the town in suitable condition thereon for 5 successive years or more.” Class VI roads are full public roads in every sense except maintenance. Even though they may be “subject to gates and bars”, that does not mean they are closed to the public. The public is entitled to use the roads, and the roads are subject to the municipality’s authority to regulate.

A Private Road shall be defined as a route of travel located upon privately owned property over which the general public has no easement or right of passage.