

Road Ordinance for the Town of Thorndike

(Enacted 3/17/87; amended 3/16/91, 3/18/95, 3/21/15 and 3/19/16)

I. TITLE

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

II. PURPOSE

The construction of roads can have a major effect upon safety, municipal services and the environment in Thorndike. 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 Thorndike 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 Thorndike, 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 private roads that are to be paved, widened or altered in grade or drainage and intersect with a Town road must adhere to the requirement of Section V.2. *Note: Entrances as defined in Article IV are subject to provisions contained in the Thorndike Land Use Ordinance.*

In addition, any application for either a utility pole location permit, or a road/street opening permit, under State or local law, must demonstrate, among other requirements, that any underground utilities, pipes, lines, above-ground utility poles, or the like are to be so located as to minimize, to the greatest extent reasonably practical, their interference with the Town's on-going maintenance of the road surface above them, as well as any adjacent shoulder, drainage ditch or swale within the Town's right of way, including, without limitation, the location of any above-ground utility poles outside of any portions of the Town's right of way in which the location of above-ground utility poles within the right of way would unreasonably increase the Town's road maintenance costs.

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 Thorndike. All Town roads currently designated as such and maintained by the Town are not subject to this ordinance.

IV. ROAD DEFINITIONS AND CLASSIFICATIONS

- A. **Entrance:** a vehicular accessway to a public or private road, of which there are two types: *Note: See Thorndike Land Use Ordinance for entrance construction requirements.*
 - 1. *Driveway Entrance: a vehicular accessway that connects a public or private road to 1-2 lots, at least one of which is improved with a structure*
 - 2. *Farm/logging Entrance/Road: a vehicular accessway that connects a public or private road to an undeveloped lot*
- 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 §3021 held by any governmental body.
- E. **Road:** any public or private way designed for vehicular access, other than driveway entrances, farm/logging entrances, or trails. 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 Thorndike. 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.
- G. **Undeveloped Lot:** a parcel of land without structures

V. ROAD PERMIT

A. Activities Requiring Road Permit

Prior to initiating either: (a) construction of any road, or (b) paving, widening, or altering the grade or drainage of an existing private 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 139 and 220 must also obtain an Entrance Permit from the Maine Department of Transportation in Rockland prior to construction. Culverts and sight distance on these roads 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. Except as specified in this section, the application and review procedure outlined in Section C of the *Thorndike Land Use Ordinance* shall be followed in administering road permit applications.

C. Fee

The application fee for a Road Permit shall be established by the Board of Selectmen. *Note: Roads to be offered to the Town will also be assessed inspection fees as outlined in Article VI*

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 stormwater management and drainageway 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, including any new lots to be created; all natural waterways; the location and profile of all existing and proposed drainage structures; the design and profile of the 20 feet of 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 feet) 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 V2 feet, to the top of an object at 4Y2 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 $\frac{1}{4}$ " 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) The applicant shall agree to purchase and install adequate culverts as directed by the Road Commissioner.
- d) Roads and rights-of-way over 300 feet long must have an adequate place for emergency vehicles to turn around.
- e) The angle of intersection with the public road must be as close to 90° as possible, but never less than 60°.

- f) 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 Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991.
- g) 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, although the Planning Board, at its discretion, may accept a waiver from the Fire Chief as outlined in (z) below as evidence of adequate emergency vehicle access.)*

If this is standard is not met, the applicant must either:

- (i) Obtain a waiver: Apply for an emergency vehicle access evaluation at the town office. A fee payable to the Town of Thorndike, shall be charged for an emergency vehicle access evaluation. The Selectmen shall transfer all such fees collected to the Thorndike Volunteer Fire Department Firemen's Account no less than annually. Upon receipt of an application, the Town Clerk shall notify the Fire Chief, who shall see that a Fire Department representative contacts the applicant to make a site visit appointment. The Fire Chief or designee will inspect the site and proposed road design and may approve a waiver from the travel way and/or gravel base standards if he or she feels that the proposed road design is adequate for emergency vehicle use. OR
- (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, Widening or Altering the Grade or Drainage of Existing Roads

For existing roads connecting with Town roads that are to be paved, widened, or altered in grade or drainage, 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 Route 139 or Route 220

For roads accessing Route 139 or Route 220, the Maine Department of Transportation regulates the sight distance and culvert requirements. The Town Road Permit will be granted based upon satisfying Subsections V.E.1)b, d, e, f, and g.

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 a Road Permit creates an undue hardship, the applicant may request a variance from the Board of Appeals, in accordance with the *Board of Appeals Ordinance for the Town of Thorndike*.

G. Inspection

The applicant will notify the Road Commissioner at least 23 hours prior to construction so that an inspection may be made both during and after construction to confirm adherence to permit requirements.

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 RC and PB

1

Site Visit by Road Commissioner

1

Planning Board Review of Application

1

Road Permit Granted (if applicable)

1

Road Constructed, Inspected (2-year waiting period for existing roads)

Engineer Certification (if applicable)

1

Certificate of Compliance by Road Commissioner & Planning Board

1

Town Road Acceptance Petition to Board of Selectmen

1

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 15 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 Thorndike 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 §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 IF.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 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.

C. 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.

	Minor & Dead End Roads	Through Roads
a) Width of Right-of-Way	50'	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"	2½"
h) Road Crown	¼-½"/foot	¼-½"/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 per inspection, as established by the Board of Selectmen.

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 per inspection, as established by the Board of Selectmen.

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. 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.

VIII. 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 structures, the provisions of this ordinance shall control.

IX. APPEALS

All decisions of the Road Commissioner, Fire Department and Planning Board, pursuant to this ordinance, may be appealed by any 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 Thorndike*. 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.

X. AMENDMENTS

At any time this ordinance is amended, 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 to not result in any substantive alteration in the meaning of the ordinance and further the clear intent of such amendment.