

## **MAINTENANCE AND IMPROVEMENT OF PRIVATE ROADS IN KRAINEWOOD SHORES**

Most roads within Krainewood Shores are private roads. Under New Hampshire law, the cost of maintaining a private road is the responsibility of the residents who use that road and the law provides a mechanism for requiring all residents to share those expenses on a pro rata basis.

In Krainewood Shores, the Town of Moultonborough has designated several of our roads as Emergency Lanes. As stated in the attached April 24, 2026 letter from Chris Theriault, Moultonborough's Director of Public Works, this designation allows the Town to continue providing snow removal operations as well as the Emergency Lanes designation. In addition, the Town also provides street sweeping and sanding services. However, as the letter makes clear: *"The upkeep and maintenance of the roads themselves, however, is still the responsibility of the property owners who reside on the roadway."*

For the Town to continue providing these free services and maintaining the Emergency Lanes designation, the Town requires that the residents of private roads comply with the following requirements:

- Trees, limbs, and brush shall be cut back at least 5 feet on either side of the travelled way.
- Trees shall be trimmed so that there is at least 14 feet of overhead clearance above travelled way.
- Eliminate stumps, and rocks over 6 inches, in roadway and within the 5-foot shoulders.
- Roads shall be graded for proper drainage to ditch lines, and eliminate potholes.

Failure to comply with these requirements risks having the Town suspend these services and possibly losing the benefits the Town is providing free of charge.

Krainewood Shores Association is a voluntary organization supported by modest annual dues. The Association does not, however, own any of the roads in Krainewood and therefore has no legal obligation to maintain or improve them. Nonetheless, the KSA Board recognizes that cooperation among residents can help ensure compliance with the Town's requirements and preserve the quality of our roads.

Maintaining safe and attractive roads enhances both the quality of life for the residents and the property values within Krainewood Shores. Therefore, the KSA Board seeks to preserve the existing roads in their current condition through limited maintenance efforts, such as minor repairs, in order to ensure continued eligibility for the Town's free snow plowing, sanding, and sweeping services.

Some residents have expressed interest in improving their roads beyond basic preservation. Because the Board believes it is in the community's interest to support residents who wish to undertake such improvements, the KSA Board is prepared to:

- Assist residents in assessing the condition of their road;
- Help identify qualified contractors who can prepare improvement plans and cost estimates; and
- Facilitate communication among residents of a particular road to help determine whether there is sufficient support to undertake improvements on a shared, pro rata basis.

However, the KSA will not assume or fund the cost of improving any private road. Any improvements beyond basic preservation remain the responsibility of the residents of that road.

Following is a FAQ which seeks to address question you may have concerning maintenance and improvement of the Krainewood Shores private roads.

## **KRAINEWOOD SHORES – PRIVATE ROADS & EMERGENCY LANES FAQ**

*A practical guide for residents*

### **1. Are the roads in Krainewood Shores public or private?**

Several roads in Krainewood Shores are private roads. This means they are not owned or maintained by the Town, and the responsibility for upkeep rests with the residents who use them, including repairs, grading, drainage work, resurfacing, and general upkeep.

### **2. What does New Hampshire law say about maintaining private roads?**

Under New Hampshire law (RSA 231:59-a), residents who use a private road are responsible for sharing the cost of maintaining it on a pro rata basis. This includes routine maintenance, repairs, and any improvements needed to keep the road safe and passable.

### **3. What is an “Emergency Lane”?**

The Town of Moultonborough has designated the private roads in Krainewood as Emergency Lanes. This designation allows the Town to provide certain services - primarily snow plowing, sanding, and sweeping—to ensure emergency vehicles can access homes.

### **4. Does Emergency Lane status mean the Town maintains the road?**

No. The Town’s April 24, 2026 letter states clearly: *“The upkeep and maintenance of the roads themselves, however, is still the responsibility of the property owners who reside on the roadway.”* Emergency Lane status does not include grading, drainage work, resurfacing, pothole repair, or any structural improvements.

### **5. What maintenance is the Town responsible for?**

So long as the road is designated an Emergency Lane, the Town is responsible for the following services:

- Snow plowing
- Sanding
- Sweeping

Everything else—repairs, drainage, culverts, gravel, paving, erosion control—is the responsibility of the residents.

## **6. What is the Krainewood Shores Association's role?**

The Krainewood Shores Association is a voluntary community organization. As such, it:

- Does not own any roads.
- Is not legally obligated to maintain or improve roads.
- Is funded only by modest annual dues.

However, the Association recognizes that well-maintained roads benefit the entire community and help ensure continued Town snow-removal, sanding and sweeping services.

## **7. Will the Association pay for road repairs or improvements?**

No. The Association will not fund road improvements or major repairs. Residents of each road are responsible for the costs associated with maintaining or improving their own road.

## **8. What assistance will the Association provide?**

The Association is willing to provide limited support, including:

- Helping residents assess the condition of their road.
- Identifying contractors who can prepare improvement plans and cost estimates.
- Helping residents contact neighbors to discuss cost-sharing.
- Offering general guidance on how to organize a road-maintenance group.

This assistance is advisory only - the Association does not manage projects or collect funds.

## **9. What is the difference between "preservation" and "improvement"?**

**Preservation** means small-scale work to keep the road in its current condition, such as:

- Minor pothole patching
- Clearing brush
- Small drainage fixes
- Occasional grading

**Improvements** are larger projects that change or upgrade the road, such as:

- Repaving or resurfacing
- Widening
- Rebuilding drainage systems
- Replacing culverts
- Adding gravel or base material

The Association may assist with preservation-level coordination, but improvements are entirely resident-driven.

**10. How do residents organize cost-sharing for their road?**

Residents may:

- Informally agree to split costs.
- Use a pro rata formula (equal shares or based on frontage/usage).
- Create a Private Road Maintenance Agreement under RSA 231:59-a.
- Work with a contractor who bills each household individually.

The Association can help residents connect with one another but does not manage payments.

**11. What happens if some residents refuse to contribute?**

Under RSA 231:59-a, residents may pursue legal remedies to require cost-sharing for necessary maintenance. The Association does not participate in enforcement actions but can help residents understand the process.

**12. Why is road maintenance important?**

Well-maintained roads:

- Ensure continued Town snow-removal, sanding and sweeping services.
- Improve safety for residents and emergency responders.
- Protect property values – even for the properties not located on private roads.
- Reduce long-term repair costs.
- Enhance the overall appearance of the neighborhood.

**13. Who should I contact with questions?**

Residents may contact the Board members for guidance or to request assistance in organizing neighbors for road preservation or improvement discussions.

Following is an overview of New Hampshire law on private roads.

## OVERVIEW OF NEW HAMPSHIRE LAW ON PRIVATE ROADS

### I. BACKGROUND

New Hampshire treats private roads differently from public roads: private roads are not maintained by municipalities, and the abutters themselves bear responsibility for upkeep, safety, and cost-sharing. The governing statute is **RSA 231:59-a**, titled “*Liability of Owners of Private Roads*.” This statute establishes the baseline rule that all owners who use a private road for access share equally in the cost of maintaining it, unless a written agreement provides otherwise.

Key principles under RSA 231:59-a include:

- A private road is jointly maintained by all owners who rely on it for access.
- Each owner must contribute a “reasonable share” of maintenance and repair costs.
- If an owner’s actions cause damage, that owner is responsible for the resulting cost.
- Abutters may enforce contribution through civil action if another owner refuses to pay.

New Hampshire courts treat private roads similarly to shared driveways or easements: each party benefiting from the road has a duty not to impair it and a duty to contribute to its upkeep.

### II. MAINTENANCE, REPAIR, AND REPLACEMENT RESPONSIBILITIES

#### A. Routine Maintenance

Routine maintenance includes grading, plowing, sanding, ditch clearing, culvert upkeep, and vegetation management. Under RSA 231:59-a:

- All abutters who use the road must share the cost.
- The default rule is equal shares, but owners may agree to allocate costs differently (e.g., based on length of frontage, usage, or vehicle type).
- If no agreement exists, equal division is presumed “reasonable.”

#### B. Repairs and Capital Improvements

Repairs include fixing washouts, potholes, drainage failures, or structural damage. Replacement includes full reconstruction, repaving, or culvert replacement.

- Costs are again shared among all owners who rely on the road.
- If a repair is necessary due to ordinary wear, costs are shared equally.
- If a repair is necessary due to extraordinary damage caused by a specific owner, that owner must pay the incremental cost attributable to the damage.

### **C. Damage Caused by an Abutter**

Examples of abutter-caused damage include:

- Heavy equipment or commercial vehicles exceeding normal residential use
- Excavation, grading, or utility work that undermines the roadbed
- Drainage alterations that cause erosion or washouts
- Failure to maintain a driveway culvert that causes flooding onto the private road

Under RSA 231:59-a, the owner who caused the damage is responsible for:

- The cost of repairing the damage, and
- Their normal share of routine maintenance, if applicable.

This prevents other abutters from subsidizing negligent or excessive use.

### **III. ALLOCATION OF EXPENSES AMONG ABUTTERS**

#### **A. Default Rule: Equal Shares**

Unless a written agreement states otherwise, each abutter who uses the road must pay an equal portion of:

- Routine maintenance
- Ordinary repairs
- Snow removal
- Roadway safety improvements

This applies even if:

- One owner uses the road more frequently
- One owner's property is farther down the road
- One owner has a larger lot or frontage

#### **B. Agreements That Modify Cost Allocation**

Abutters may enter into a written agreement that allocates costs differently which may include:

- Usage-based allocation (heavier users pay more)
- Distance-based allocation (owners farther down the road pay more)
- Frontage-based allocation
- Vehicle-type allocation (commercial vehicles pay more)

Such agreements are enforceable if signed by all affected owners.

### **C. Special Allocation for Damage**

If an abutter causes damage, they must pay:

- 100% of the cost of repairing the damage they caused, plus
- Their normal share of any unrelated maintenance.

This rule applies even if a cost-sharing agreement exists, unless the agreement explicitly addresses damage responsibility.

## **IV. ENFORCEMENT RIGHTS AGAINST NON-PAYING ABUTTERS**

New Hampshire law provides abutters with several enforcement mechanisms when another owner refuses to pay their share.

### **A. Demand for Payment**

The first step is a written demand outlining:

- The work performed
- The total cost
- The abutter's share
- The statutory basis (RSA 231:59-a)

This establishes a record of notice and reasonableness.

### **B. Civil Action for Contribution**

If an abutter refuses to pay, RSA 231:59-a authorizes a civil action in the New Hampshire Superior Court to recover:

- The unpaid share of maintenance or repair costs
- Attorney's fees (if provided by agreement)
- Damages caused by negligent or excessive use

Courts routinely enforce contribution obligations for private roads, shared driveways, and easements.

### **C. Injunctive Relief**

If an abutter's conduct is causing ongoing damage or obstructing maintenance, a court may issue an injunction requiring:

- Cessation of harmful activity
- Access for repair crews
- Compliance with cost-sharing obligations

### **D. Enforcement of Written Road Agreements**

If abutters have a written road maintenance agreement, it is enforceable as a contract. Remedies include:

- Monetary damages
- Specific performance
- Attorney's fees (if included in the agreement)

### **E. Municipal Involvement (Limited)**

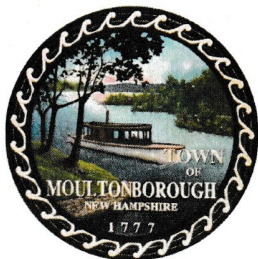
Municipalities generally do **not** intervene in private road disputes. However, they may:

- Require minimum safety standards for emergency access
- Order corrective action if the road poses a public hazard
- Decline to provide services (e.g., school bus access) until the road is repaired

These pressures often motivate compliance among reluctant abutters.

### **F. Practical Recommendations**

- Document all maintenance and repair costs with invoices and photos.
- Provide written notice to all abutters before major work is performed.
- Create a written road maintenance agreement to avoid disputes.
- Address damage responsibility explicitly in any agreement.
- Use proportional cost-sharing if usage varies significantly.
- Seek legal enforcement only after reasonable attempts at voluntary resolution.



**Town of Moultonborough  
Public Works**

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**Chris Theriault  
Director of Public Works**

April 24, 2026

Dear Private Road Representative,

As we prepare for the upcoming winter season, we would like to review the requirements for the upkeep of our privately-owned roads in town. In 2017 we completed our private road reclassification and the Town's Selectmen adopted many roads in the town as Emergency Lanes. (You can find a complete list of the roads on the Highway Department page on the Town of Moultonborough's website.) This allows us to continue snow removal operations as we have in the past.

The upkeep and maintenance of the roads themselves, however, is still the responsibility of the property owners who reside on the roadway. The town of Moultonborough plows snow from private roads only to provide emergency access. We do not plow roads that represent hazards to personnel and equipment. This applies equally to Town crews and equipment as well as contractors hired by the Town for that purpose.

As you look at your road, please consider the need to operate large equipment (fire and rescue equipment, town plows, etc.) on your road. The items that the Town of Moultonborough requires for us to continue plowing operations on private roads is as follows:

- Trees, limbs, and brush shall be cut back at least 5 feet on either side of the travelled way
- Trees shall be trimmed so that there is at least 14 feet of overhead clearance above travelled way
- Eliminate stumps, and rocks over 6 inches, in roadway and within the 5-foot shoulders
- Roads shall be graded for proper drainage to ditch lines, and eliminate potholes

All of these requirements must be met before the start of the winter maintenance season or all plowing operations on the road in question will have to be suspended until the issues have been addressed and corrected. (You can also find a copy of our Winter Maintenance Policy on the Highway Departments website.) If you have any questions or concerns or would like to meet to discuss your roads, please contact us at the Highway Garage.

Sincerely yours,

Chris Theriault  
Director of Public Works

cc. Town Administrator  
Board of Selectmen