

DRIVEWAY AND ACCESS WAY REGULATIONS



TOWN OF NEW DURHAM

APPLICATION FEE: \$10.00

ADOPTED: NOVEMBER 7, 2006

AMENDED SEPTEMBER 3, 2008 AND MAY 19, 2010

Town of New Durham

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Town of New Durham

DRIVEWAY AND ACCESS WAY¹ REGULATIONS

ARTICLE I: GENERAL PROVISIONS

A. AUTHORITY

The New Hampshire Revised Statutes Annotated (as amended) gives the New Durham Planning Board² the authority to regulate driveways and access ways. Chapter 236, Section 13-14 gives the Board the authority to regulate access to public roadways. Chapter 672, Section 1 gives the Board the authority to enhance the public health, safety, and general welfare of the Town.

B. TITLE

This document is known, cited, and referred to as the "Driveway and Access Way Regulations of the Town of New Durham, NH."

C. PURPOSE

The purpose of these regulations is to:

1. Ensure safe access on to and off of public roads,
2. Ensure emergency access to and egress from property,
3. Protect the public investment in public roads,
4. Decrease the incidence of flooding and storm water damage; and
5. Protect the quality of New Durham water resources.

The regulations establish the criteria, standards, application forms, and fees needed to accomplish these purposes.

D. ADOPTION OF RSA 236:13

All driveways shall conform to the standards found in RSA 236:13, as amended in addition to these regulations.

¹ Wording throughout the document has been changed to reflect the new definitions of Access Way and Driveway. Showing every place where it has been changed would clutter up this document and obscure other important changes. Therefore, the change is not highlighted past this page.

² Wherever this document says "the Board", it means the New Durham Planning Board.

E. JURISDICTION

The New Durham Planning Board delegates authority over administrative duties, including issuance of permits, to the Town of New Durham Road Agent.³ The Board delegates approval of access ways⁴ outside of the public road right of way to the Code Enforcement Officer.

These regulations shall apply to all temporary or permanent access ways that connect a structure, a lot, or any part of a lot to a public or private road.

They shall apply to the laying out, the design, and the installation of new driveways or access ways, and to any changes to existing driveways or access ways.

An access way or driveway that connects to a "State Road" must obtain a driveway permit from the New Hampshire Department of Transportation. This must be done before the Town will issue a certificate of occupancy for new construction, or final acceptance for existing construction.

Please contact:

NHDOT, Bureau of Highway Maintenance, District # 3
2 Sawmill Road, Gilford, NH 03246
Tel 524-6667 Fax 524-8027

F. SEVERABILITY

The invalidity of any section or provision of these regulations shall not invalidate any other section or provision of the regulations.

ARTICLE II: WORD USAGE AND DEFINITIONS

A. WORD USAGE

The following general rules apply to word usage in these regulations:

1. Unless the context clearly indicates to the contrary
 - a. Words that are used in the present tense shall include the future tense;
 - b. Words that are used in the plural shall include the singular;
 - c. Words that are used in the singular shall include the plural;
 - d. The word "herein" shall mean "in these regulations";
 - e. The word "regulations" shall mean "these driveway regulations";
 - f. The word "shall" or "will" is mandatory;
 - g. The word "may" is permissive.

³ RSA 236:19 authorizes the Planning Board to make this delegation.

⁴ The term "access ways" as used in this document always includes "driveways" unless otherwise stated.

2. A "person" shall include natural persons as well as a corporation, a partnership and/or an incorporated association of persons such as a club;
3. "Used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
4. The terms "drive," and "driveway" mean a driveway and the terms shall be used interchangeably.
5. The terms "Road Agent" and "Code Enforcement Officer" include any representative designated by those persons.
6. The words "road" and "street" and "highway" are used interchangeably
7. Words not specifically defined in this Article II shall have their common meaning.

B. TERMS DEFINED

The following definitions are used in these regulations. The definitions found in the Town of New Durham's Zoning Ordinance, Subdivision Regulations and Site Plan Review Regulations also apply.

1. Access Way - A corridor used as a means for a motorized road vehicle to approach, enter, exit, or make use of a lot or any part of a lot
2. Application - An application for a driveway and access way permit.
3. Board - The Planning Board of the Town of New Durham
4. Code Enforcement Officer - The Code Enforcement Officer of the Town of New Durham.
5. Driveway - A private access way providing either primary or emergency access to and from a dwelling unit or structure to a street or highway.
6. Point of Tangency - The point at which the curb radius ends and the ramp begins.
7. Ramp - That portion of an access way located between the point of tangency and property line.
8. Resurfaced - The installation of a new layer of asphalt, gravel or any other wearing material on a driveway or access way. Addition of seal coating to a driveway is not "resurfacing."
9. Right-of-Way (ROW) - Land that is dedicated for Municipal highway purposes by an easement, town ownership, or some other means.
10. Road Agent - The Road Agent of the Town of New Durham
11. Slope - The amount the land rises over 10 feet of horizontal distance. Also known as the "grade". E.g., if the driveway rises 1½feet over a 10 foot length of driveway the slope or grade is $1.5/10 = 15\%$.
12. Slope-, Change in - The difference between the slope of one 10-foot section of driveway and the slope of the next 10-foot section. Also known as the "change in grade". E.g., if the first section has a 25% slope and the second section has a 15% slope, the "change in slope" is $25\% - 15\% = 10\%$.
13. Temporary Access - An access way, which will be used for six (6) months or less.

ARTICLE III: GENERAL REQUIREMENTS AND DESIGN STANDARDS

A. PERMITS

A driveway and access way permit must be issued by the Road Agent before starting any excavation, construction, modification, resurfacing, or moving of an access way. The Code Enforcement Officer shall approve the plans for the part of any driveway or access way that lays outside of the public right of way before the Road Agent issues a permit.

B. PERMIT APPLICATION

The application for a permit shall be made on the form shown in Appendix A. The Road Agent or Code Enforcement Officer may require additional information or plans depending on the location and design of the access way. The attached "Application Form" is an administrative form and may be amended by the Planning Board without notice or public hearing. If there is any conflict between these regulations and the "Application Form", these Regulations shall take precedence.

C. DRIVEWAYS AND ACCESS WAYS

All driveways and access ways shall conform to the following requirements:

1. Driveways and access ways shall be placed no closer than forty (40) feet to a street intersection.
2. The driveway or access way must be graded so that water from the lot does not flow onto the street or the right-of-way
3. Any driveway or access way located over a culvert shall slope to drain into the culvert.
4. Any culvert within the driveway or access way must be a minimum of fifteen (15) inches in diameter and have at least twelve (12) inches of cover.
5. The Road agent may require a driveway or access way that will be used by heavy vehicles, or used frequently by any vehicles, to have a paved apron. The paved apron shall be:
 - a. As wide as the access way;
 - b. Constructed in such a way as to protect the edge of the road from deterioration, and
 - c. A minimum of six (6) feet in length back from connection to the edge of pavement.
6. The pavement or cover shall match the grade at the edge of the road pavement or cover. It must have a dip before meeting the street so that the driveway or access way does not drain onto the street and shall not be constructed in way that blocks

street drainage. If there is no culvert, the dip shall match the grade at the bottom of the ditch line.

7. The maximum width of a ramp shall be thirty (30) feet.
8. The driveway or access way shall connect to the street at a right angle, if possible. In no case shall the access way intersect the street at less than a sixty (60) degree angle.
9. A driver entering the road must be able to see 200 feet in each direction, or a distance ten times the posted speed limit, whichever is greater.
10. Driveways and access ways shall be placed a minimum of five (5) feet from any property line except that a shared driveway may be placed on the joint property line.
11. Each lot shall have only one driveway or accessway entrance, unless the lot has more than 499 feet of road frontage. If the lot has 500' or more of road frontage, it may have one driveway or accessway entrance for each 500' (or fraction) of frontage. Circular or horseshoe access ways or driveways are not permitted.
12. Driveways and access ways shall not be too steep to allow reasonable access by emergency vehicles, or so steep as to cause erosion during heavy storms.
 - a. In no case shall the slope⁵ of the driveway be steeper than 15%. A 15% slope means the driveway rises 1 ½ feet in any 10 foot horizontal section: (see Figure 1)

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Figure 1: 15% Slope

- b. In no case shall the change in slope exceed 10%. (see Figure 2) A 10% change in slope means there is an abrupt change in the slope from one section to the next, and the slope in one section is 10% more than the slope in the next section: (see Figure 2)

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Figure 2: 10% Change in Slope

13. An access way that goes up or across land with a slope of 15% or more must comply with the requirements of Article XII: Steep Slopes Conservation District:
 - a. Access ways on slopes of 15-24.99% must implement stormwater management best management practices consistent with standards in *"Stormwater Management and Erosion and Sediment Control Handbook for urban and Developing Areas in New Hampshire"* (1992, as amended)
 - b. Access ways on slopes greater than 25% require a Conditional Use Permit from the Planning Board.
14. A driveway or access way may go sideways across a slope exceeding 15% if the slope of the driveway itself is less than 15%. If more than 25' of the driveway

⁵ Or "grade"

- crosses such a steep slope, the applicant shall submit a driveway design for that section that is prepared and stamped by a New Hampshire licensed engineer.
15. Any driveway or access way that slopes toward a public road in the twenty-foot-long section approaching the road (check whole document re street/road) shall be constructed so as not to discharge runoff onto the road. road.
 16. No curve on the access way shall have an inside radius less than 30 feet.
 17. Commercial lots located above the street level may require a grate across the driveway entrance that can divert water and prevent it from adversely affecting the road or Right Of Way.
 18. All curbed driveways must have catch basins at the back of the sidewalk.
 19. Driveways shall be a minimum of fourteen (14) feet in width within the right-of-way and a minimum of ten (10) feet in width beyond the right of way
 20. Unless waived by the Planning Board or Road Agent, driveways and access ways that abut paved streets shall be constructed with paved aprons that shall be as wide as the driveway. The paved apron shall be constructed in such a way as to protect the edge of the road from deterioration, and shall be a minimum of six (6) feet in length back from connection to the edge of pavement.
 21. Driveways longer than 500' shall have a turnout space every 500' that is at least 50' long and that creates a total driveway width of 18'. Driveways with a width of at least 14' for the entire length of the driveway are exempt from this requirement.

B. MAILBOXES

Mailboxes must be in conformance with the enclosed standards at the time that a new driveway is constructed. Mailboxes should be on site at the time of the final inspection. However, incorrect installation will not delay the issuance of a Certificate of Occupancy.

ARTICLE II. ADMINISTRATIVE PROCEDURES

A. APPLICATION:

Applications for a permit shall be filed with the Code Enforcement Officer.

1. The Code Enforcement Officer shall determine compliance outside the public road right of way. The Road Agent shall determine compliance within the public road right of way.
2. The application form shall provide space for the applicant to certify compliance outside of the public road right of way.
3. If the driveway or access way is longer than 50' beyond the public road right of way, or if the any part of the lot accessed by the driveway is located in the Shoreland Protection Zone or the Steep Slope Overlay Zone, the Code Enforcement Officer may require a site inspection at the applicant's expense.

B. ENFORCEMENT

The Road Agent is charged with enforcing the provisions of these Regulations within the public right of way. The Code Enforcement Officer is charged with enforcing the provisions of these Regulations outside the public right of way. Enforcement may not unreasonably limit the practice of agriculture or forestry. No Certificate of Occupancy or other permit shall be issued for a structure served by a driveway unless Road Agent has certified that the driveway is constructed according to the design and standards of the Permit.

C. CIVIL ENFORCEMENT

The Town of New Durham may take appropriate actions by law or in equity to prevent illegal occupancy or use of a building, structure, or premises, and these remedies shall be in addition to the penalties as set forth below.

D. VIOLATIONS AND PENALTIES

The Town adopts the provision of RSA 236:14, as amended, in enforcement of any violation of these regulations.

E. WAIVERS-PUBLIC RIGHT OF WAY.

The Road Agent has the authority to waive or modify the provisions of this chapter within the public road right of way except for those required by RSA 236:13, as amended. The Road Agent shall explain on the Permit the reasons for all waivers.

F. WAIVERS-BEYOND THE RIGHT OF WAY.

The Code Enforcement Officer may allow a slope in the driveway or access way greater than 15% on a lot existing on the date of adoption of these regulations if all the following are true:

1. There is no alternative location that is less steep;
2. The applicant provides a design for the entire driveway or access way that is prepared and stamped by a licensed New Hampshire Engineer;
3. The town engineer reviews and approves the design at the applicant's expense;
4. The design includes storm water best management practices that meet the guidelines and standards in *"Stormwater Management and Erosion and Sediment Control Handbook for urban and Developing Areas in New Hampshire"*⁶. The Code Enforcement Officer may also consider guidelines in the documents *"Innovative Storm water Treatment Technologies:*

⁶ (1992, as amended) by the NH Department of Environmental Services.

*Best Management Practices Manual*⁷ and *Nonpoint Source Pollution: A Guide for Citizens and Town Officials*⁸.

5. The applicant provides additional fire safety measures on the lot as designated by the Town Fire Chief. Such measures could include installation of fire alarm systems, fire sprinklers in the house, a fire cistern, a fire hydrant connected to a natural water source, or any other reasonable steps to ensure fire safety to people and structures on the site; and
6. The Town Engineer certifies the completed work as complete to specifications at the applicant's expense.

G. FEES:

The Planning Board shall establish fees for application, site inspection, and Engineering Review, approval and inspection. Such fees may be changed from time to time to reflect the actual cost of providing the service.

H. APPEALS

Decisions of the Road Agent or Code Enforcement Officer regarding Permits may be appealed to the Planning Board.

I. AMENDMENTS

These regulations may be amended by the Planning Board following a public hearing on the proposed change. Such changes shall not take effect until a copy of said change, certified by a majority of the Board, is filed with the Town Clerk

Driveway Regulations Adopted: November 7, 2006

Revised and Amended September 2, 2008

Public Hearing September 2, 2008

Certified September 3, 2008

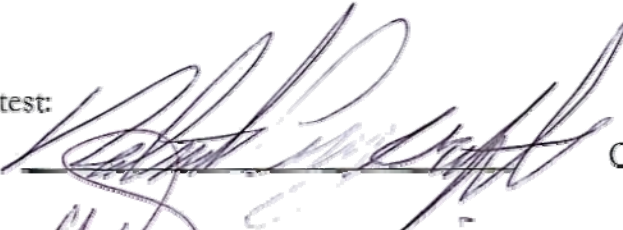
Filed with Town Clerk September 4, 2008

Effective September 4, 2008

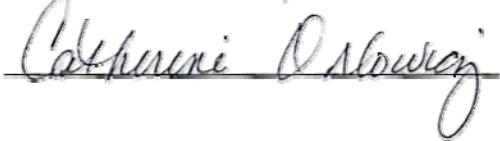
7 (2002, as amended) by the NH Department of Environmental Services and New Hampshire Estuaries Project

8 (January 2004, as amended) by the NH Department of Environmental Services

Attest:



Chairman, New Durham Planning Board



Red'carol Ingham 9/4/08

Town of New Durham

APPENDIX A. DRIVEWAY APPLICATION FORM

<i>For Office Use Only</i>	Permit # _____
Date Approved by Highway Dept. _____	
Name of Permitting Agent _____	

Application Fee is \$10.00. Please make checks payable to the Town of New Durham

BE SURE TO FILL IN BOTH SIDES FRONT AND BACK

Applicant: _____ Tel: _____

Property Address: _____

Map _____ Lot _____ Block _____

Check One: New Construction _____ Existing Construction _____
Commercial _____ Resurface/Modify _____

As the land owner(s), We/I hereby agree to the following conditions:

1. To bear all cost of construction and materials (including required drainage structures) necessary to complete the driveway to the Town of New Durham's satisfaction. I understand that incorrect construction of the driveway per the original approved permit will not enable the issuance of a Certificate of Occupancy, if applicable
2. To hold harmless the Town of New Durham and its duly appointed agent and employees against any action to personal injury and/or property damage sustained by reason of exercise of this permit and
3. To abide by the provisions of the Driveway Regulations and the specifications below:
 - a. That the driveway be constructed in the location and with the dimensions as diagrammed on the back of the application.
 - b. That any change or exceptions to the specifications have written approval of the Road Agent and;
 - c. Private Driveway connections, including structures such as culverts, remain the continuing responsibility of the landowner, even those located within the town's Right-of-Way.

- d. If proposed driveway crosses a stream or a wetland, applicants should note the need for a Wetlands Permit, and Special Exception from the New Durham Zoning Board of Adjustment. Please refer to State of NH Wetlands Rules, and the New Durham Zoning Ordinance.
- e. Other than approved mailboxes, there shall be no placement of any structures, signals, lights, fencing, rock walls, or landscaping within the Town's Right-of-Way. Applicant will check with Road Agent prior to contemplating work, which may be in the town's Right-of-Way.
- f. Driveway Approval permit is valid for one (1) year from date of approval.

Applicant(s) Signature _____

Date of Application _____

Printed Name of Applicants _____

PLEASE DIAGRAM THE PROPOSED DRIVEWAY BELOW, OR ATTACH AN APPROVED SEPTIC DESIGN SHOWING THE LOCATION AND DIMENSIONS OF THE DRIVEWAY. ALL DIMENSIONS AS REQUIRED IN ARTICLE III: SECTION 3 (PAGE 8) MUST BE INCLUDED

APPENDIX B. MAILBOXES

GENERAL

- Remember that the Boxes are generally in the town's right of way, and may be subject to plow accidents and snow accumulations from plowing. Therefore, the town is not responsible for your box.
- Whenever possible, boxes must be located so that carrier's vehicle is off pavement when serving them.
- House numbers must be clearly visible from the road on the boxes and should be at least 3 inches high.
- Post should be of adequate strength and size
- Approach to the box should be on a hard level surface such as gravel, cinders, stone etc.

BOX STANDARDS

Boxes should conform to the following standards to provide safety for the carrier, and reduction of damage by Highway Department. Contact Road Agent TEL: 859-8000 if you have questions.

