



# Driveway Regulations

## Town of Warner, NH

**January 22, 2018**

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## **ARTICLE I GENERAL PROVISIONS**

**1.1 AUTHORITY** These regulations are adopted pursuant to the authority invested in the Warner Planning Board by Chapter 236, Sections 13-14, New Hampshire Revised Statutes Annotated, as amended. The Warner Planning Board hereby adopts the following regulations governing driveways in the Town of Warner, New Hampshire on \_\_\_\_\_ January 22, 2018 \_\_\_\_\_.

**1.2 TITLE** This chapter shall hereafter be known, cited and referred to as the “Driveway Regulations of the Town of Warner”, hereinafter referred to as “these regulations”.

**1.3 PURPOSE AND APPLICABILITY** The purpose of these regulations is to establish the criteria, standards, application forms and fees charged for the location and design of driveways within the Town of Warner. These regulations shall apply only to that portion of a driveway within the town RIGHT OF WAY.

**1.4 ADOPTION OF RSA 236:13** In addition to the standards contained herein all driveways shall also conform to the standards found within RSA 236:13, as amended.

**1.5 JURISDICTION** These regulations shall apply to the installation of all temporary and permanent access points onto the Town of Warner roads, including any changes to existing driveways beyond normal maintenance. All developments located on a state road must obtain a driveway permit from the New Hampshire Department of Transportation prior to the issuance of a certificate of occupancy for new construction or final acceptance for existing construction. Please contact: NHDOT, Bureau of Highway Maintenance, District #5 Office, Tel. (603)666-3336.

**1.6 SEVERABILITY** The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

## ARTICLE II

### WORD USAGE AND DEFINITIONS

**2.1 WORD USAGE** For purposes of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.

- (a) Unless the context clearly indicates to the contrary, words used in the present tense shall include the future tense; words used in the plural number shall include the singular; words used the singular shall include the plural; the word “herein” shall mean “in these regulations”; the word “regulations” shall mean “these regulations”; the word “shall” or “will” is mandatory; the word “may” is permissive.
- (b) A “person” shall include natural persons as well as a corporation, a partnership and/or an incorporated association of persons such as a club; “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.” A person may have an agent act on his/her behalf.
- (c) The terms “drive”, “driveway” or “access point” mean a driveway and the terms shall be used interchangeably.
- (d) Words not specifically defined herein shall have their common meaning.

**2.2 TERMS DEFINED** The following definitions, in addition to the definitions found within the Town of Warner’s Zoning Ordinance, Subdivision Regulations, and Site Plan Review Regulations, are hereby adopted for the purpose of these regulations:

**2.2.1 Application** An application for a Driveway Permit.

**2.2.2 Board** The Planning Board for the Town of Warner.

**2.2.3 Driveway** A private roadway providing access to a street or highway.

**2.2.4 Point of Tangency** The point at which the curb radius ends and the ramp begins.

**2.2.5 Ramp** That portion of a driveway located between the point of tangency and the property line.

**2.2.6 Resurfaced** The installation of a new layer of asphalt. The definition of “resurfacing” shall not include the addition of seal coating to a driveway.

**2.2.7 Right-of-Way (Row)** Town-owned property, easements or other interests therein, dedicated for municipal highway purposes.

**2.2.8 Public Works Director** The Public Works Director for the Town of Warner.

**2.2.9 Temporary Driveway** A driveway which is only to be used for a period of six (6) months or less.

### ARTICLE III

#### GENERAL REQUIREMENTS AND DESIGN STANDARDS

**3.1 PERMITS** No driveway shall be constructed, modified, resurfaced or moved without obtaining a driveway permit from the Public Works Director or his/her authorized agent. Ordinary maintenance of a driveway (such as patching and sealing) does not require a permit.

**3.2 DRIVEWAY PERMIT APPLICATION** The application for a driveway permit shall be made on the application form as shown in Appendix A. The Public Works Director may require additional information or plans depending on the location and design of the driveway. A fee of twenty-five dollars (\$25.00) shall be paid at the time of application. Checks shall be made payable to "Town of Warner". The application shall not be considered complete until the fee has been paid.

**3.3 DRIVEWAYS** All driveways shall conform to the following requirements:

(a) Driveways shall be placed no closer than fifty (50) feet to a street intersection.

(b) For driveways with a grade in excess of ten percent (10%), a twenty-foot-long flat area is required extending from the edge of the right-of-way toward the travelled way.

(c) The driveway must be graded so that water from the lot does not flow onto the street;

(1) Commercial lots located above the street may require a grate across the driveway entrance in order to divert the water and prevent it from adversely affecting the road or ROW.

(2) Any driveway located over a culvert shall slope to drain into the culvert.

(d) Any culvert within the road right-of-way-must be minimum of fifteen (15) inches in diameter and have at least twelve (12) inches of cover. The

Public Works Director may vary these requirements based on site conditions.

- (e) The driveway pavement shall match the grade at edge of pavement, shall not block street drainage and must have a dip before meeting the street so that the driveway does not drain onto the street – minimum of 3 inch pitch away in 4 feet.
- (f) The maximum width of a ramp shall be twenty-five (25) feet.
- (g) The number of driveways per lot shall be governed by RSA 236:13, as amended. Permits will not be issued for more than 2 driveways, entrances, exits or approaches from any one highway to any one parcel of land unless the frontage along that highway exceeds 500 feet. The Director of Public Works will issue permits only for driveways that provide safe access to Town highways.
- (h) The driveway shall connect to the street at a right angle, if possible. However in no case shall the driveway intersect the street at less than a sixty (60) degree angle.
- (i) Site distances shall be determined in accordance with safety and best construction practices by the Director of Public Works.
- (j) Driveways shall be placed a minimum of ten (10) feet from any property line.
- (k) Driveways shall be a minimum of fifteen (15) feet wide within the right-of-way.
- (l) Driveways that abut paved streets shall be constructed with paved aprons that shall be as wide as the driveway. The paved apron shall be constructed to extend a minimum of four (4) feet away from edge of existing pavement.

**3.4 TEMPORARY DRIVEWAYS** In addition to the standards in Section 3.3 all temporary driveways shall conform to the following requirements:

- (a) Temporary driveways shall require a permit from the Public Works Director.
- (b) No more than one (1) temporary driveway shall be permitted per lot.
- (c) Temporary driveway permits are valid for a period of six (6) months. The Public Works Director may extend that permit for one additional period of six (6) months if warranted.
- (d) Temporary driveways used in conjunction with construction, logging or other activities on Class V and VI roads may be required to post a bond or other surety in order to ensure that any damage done to public streets is covered. The Board of Selectmen has the authority to determine the amount of the

financial guarantee required and the form of the surety.

### **3.5 Recommended Standards outside of the Right of Way**

Driveways should be of a grade in order to allow reasonable access by emergency vehicles. The Town of Warner Driveway Regulations adopted by the Planning Board addresses the standards and specifications for the intersection of a driveway and a road within the limits of a road right of way. The Driveway Regulations do not apply to that part of the driveway extending beyond the road right of way. However, the Town hereby places all property owners on notice that in designing and constructing a driveway beyond the limits of the road right-of-way, care and consideration should be given to the fact that emergency vehicles generally are not able to access driveways that exceed a grade of 15% and /or that have curves with an inside radius less than 22.5 feet . Property owners who are considering driveways of such steepness are strongly encouraged to consult with the Warner Fire Chief, who has authority under the State Fire Code (RSA 153:1, VI-a) to deny building permits or occupancy of new structures under such circumstances. (See, for example, Town of Atkinson v. Malborn Realty Trust, 164 N.H. 62 (2012)).

It is solely the property owner's responsibility and liability if emergency vehicles are not able to access the site because of driveway conditions.



## ARTICLE IV ADMINISTRATIVE PROCEDURES

**4.1 ENFORCEMENT** The Public Works Director is charged with enforcing the provisions of these Regulations.

**4.2 CIVIL ENFORCEMENT** Appropriate actions and proceedings may be taken by law or in equity to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties as set forth below.

**4.3 VIOLATIONS AND PENALTIES** The town adopts the provisions of RSA 236:14, as amended, in the enforcement of any violations of these regulations. Any person, corporation or other entity who fails to comply with or violates any of these regulations shall be subject to prosecution as a misdemeanor. In addition, the cost of restoring the road to its preexisting condition shall be borne by the violator.

**4.4 Waivers** The Public Works Director has the authority to waive or modify the provisions of this chapter except for those required by RSA 236:13, as amended. The Public Works Director shall provide written justification and documentation for all waivers granted.

### **4.5 Appeals**

- (a) All appeals of any action of the Public Works Director pertaining to driveways and these regulations shall be made in writing to the Planning Board.
- (b) Any person aggrieved by an official action of the Planning Board may appeal to the Superior Court as provided by New Hampshire RSA 677:15, as amended.