

1. Authority

These regulations are adopted by the Planning Board of Acworth under the authority of RSA 236:13-236:14.

2. Purpose

The purpose of these regulations is to ensure that driveways in the Town of Acworth (as defined in these regulations) are constructed and installed in a way which protects and enhances the continued function and safety of Town highways, and the driveways themselves, and further, to assure that existing driveways are maintained in a way which does not adversely affect such highways.

3. Permit Required

No person shall construct or establish a new driveway, or shall modify, reconfigure or relocate an existing driveway in any manner which affects the area within the public highway right-of-way with respect to location, width, grade, entrance, exit, approach, drainage or associated structures, without first obtaining a driveway permit from the Acworth Planning Board or authorized agent (PB). The PB shall adopt an application form, and may require additional information or plans, depending on the location and design of the driveway.

4. Permit Contents, and Standards for New Driveways

The contents of all driveway permits, and the location, dimension, and construction standards required for all new driveways, shall, unless a waiver is granted under "Waivers" (section 8), conform to RSA 236:13 and to the "Policy for the Permitting of Driveways and Other Accesses to the State Highway System" as adopted by the NH Dept. Of Transportation Declaratory Ruling No. 2000-01 (DR 2000-01) and any amendments thereto, except to the extent that the above laws are inconsistent with these Town regulations or with any other ordinance or regulation of the Town of Acworth. All references to the "District Engineer" in RSA 236:13 and DR 2000-01 shall be deemed to refer to the Acworth Planning Board or designated agent.

5. Additional Standards

The following standards shall also apply to new driveways, and shall supersede RSA 236:13 and DR 2000-01, to the extent of any inconsistency:

A. For a driveway serving no more than two residential dwelling units, or one commercial unit, the width of pavement or other improved driveway surface shall be 10 (ten) feet minimum and shall not exceed the width of the public traveled way which it intersects, except where flared at its junction with the traveled way.

B. No part of a driveway shall be sited within 10 (ten) feet of the side property line of an adjoining property, unless waived under Section 8. No part of a driveway shall extend beyond such a property line without a recorded easement executed by the adjoining owner, or, in the case of a temporary driveway, written permission of the adjoining owner.

C. No driveway may access any public road within 100 (one hundred) feet of another public road intersection.

6. Uses Requiring Nonresidential (NR) Site Plan Review

For driveways giving access to any construction which requires NR site plan review, driveway permits shall be subject to the standards and procedures in these regulations, but in addition shall be reviewed by the PB as part of NR Site Plan Review. For all properties subject to an existing NR Site Plan Review approval, no new driveway or driveway modification requiring a permit under these regulations shall be constructed without a new or amended NR Site Plan approval, unless waived by the Planning Board.

7. Stone Walls

In accordance with RSA 472:6, no stone wall or other boundary marker which is located along the boundary of a public highway shall be breached by the construction or establishment of a driveway unless specifically authorized by a permit issued under these Regulations. The permit shall specify the width of any authorized breach.

8. Waivers

The PB may waive or modify, as part of a written permit, any of the substantive provisions of these Regulations, including the granting of extensions of time, for good cause shown, upon a finding that the interests of public safety and welfare will not be adversely affected. For driveways serving uses requiring Nonresidential Site Plan Review, no waiver shall be valid unless approved by the PB as part of a Site Plan decision.

9. Fees

Driveway permit fees shall be collected in accord with the fee schedule established by the Town of Acworth.

10. Highway Files

A copy of every permit issued under these regulations shall be placed in the Town's file pertaining to the public highway involved.

11. Continuing Owner Responsibility

All owners of property served by a driveway, whether pre-existing or subject to permit, shall have a continuing duty, including a financial responsibility, for maintaining that driveway on an ongoing basis, including any grades, ditches, culverts, or other structures appurtenant to it, in such condition that the adequate and safe function of the public highways and the driveway itself, does not become adversely affected.

12. Corrective Order

A. The PB may issue an order to the owner or owners of property served, or to other persons with control over the property, to repair or remove threat or hazard to the integrity of the public highway or its surfaces, ditches, embankments, bridges, or other structures, or a potential hazard to the safety of highway or driveway users by reason of siltation, flooding, erosion, icing, frost action, vegetative growth, or the failure of any culvert, drainage structure, or any other feature.

B. The order shall describe the threat or hazard, shall describe what corrective action is required, set forth a time within which the owner or owner's agent must submit for approval a plan for the repair, alteration, or other work, and shall set forth a time within which the corrective action shall be completed. The order shall be sent by certified mail.

C. If the order is not complied with within the time prescribed, the PB may cause the repair, alteration or other corrective action to be completed by the Town. As set forth in RSA 236:13, VI, the owner or owner's agent shall be liable for the Town's full costs in taking such action.

D. If the PB determines that the issuance of an order under this section would create unacceptable delay in correcting an imminent danger or hazard, or would otherwise be contrary to the public interest, the Town may take corrective action at the owner's expense without issuing a corrective order.

E. Nothing in these Regulations shall prevent the Town from making agreements with owners concerning particular driveways, including, but not limited to, an agreement for the Town to perform repairs at an owner's expense. No such agreement, however, shall release an owner from future compliance with the duty set forth in section 11.

13. "Dig Safe"

It shall be the responsibility of the owner or owner's agent to give notice under RSA 374:51 to the Underground Utility Damage Prevention System, commonly referred to as "Dig Safe," prior to performing any work under these regulations.

14. Appeals

Any person aggrieved by the decision of the PB regarding compliance with these Regulations may appeal to the Superior Court under RSA 677:15.

15. Enforcement and Penalties

In accord with RSA 236:14, any person who violates these regulations, or any condition or specification of a permit or order issued under these regulations, shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person, and in addition shall be liable for the cost of restoration of the highway to a condition satisfactory to the PB and \ or agent. The Town may take any appropriate action to prevent unlawful construction, to recover damages, or to restrain, correct or abate a violation.

16. "Safe Sight Distance"

Any driveway construction or alteration which affords access to any public highway shall allow "all-season safe sight distance" (see Definitions) of 400 (four hundred) feet in both directions along said highway.

17. Driveway Location on Noncompliant ("Grandfathered") Lots

Any lot of record for which ANY driveway construction or alteration would be noncompliant with these regulations, will have safest driveway location determined by the PB or authorized agent, if said location is not an unreasonable hazard to the traveling public in the PB's sole discretion. The PB shall not permit more than one driveway access to such a lot of record.

18. Culverts

Culverts shall conform to specifications set forth in Figure I.

19. No Water Discharge

Intersection of any driveway permitted by these Regulations, with any public highway, shall be configured in such a manner that there is no water discharge from said driveway to said public highway.

20. Driveway Grades

Driveway grades shall be determined by DR 200-01 10 (f).

21. Driveway Use Contingent on Final Inspection

Owner use of driveway access to any public highway shall be authorized by the PB only after final inspection by the PB or designated agent thereof verifies satisfactory completion of the driveway project in compliance with these Regulations. Said inspection shall take place no more than 14 (fourteen) days after PB receipt of written notice by owner.

22. Angle of Intersection

The intersection of the centerline of a driveway with the travel lane of a Town highway should form an angle as close as is practicable to 90 (ninety) degrees but in no case shall be less than 60 (sixty) degrees. Right turn only one way drives may be less than 60 (sixty) degrees.

23. Temporary Driveways

A temporary driveway must be restored to the site's pre-driveway appearance by one year after permit approval date. Said appearance is documented by the photograph required in the Application Procedure for Driveway Permit - Town of Acworth, NH, paragraph 4. Restoration may be secured at the Planning Board's option by Corrective Order as outlined in Section 12, if restoration has not been completed by 30 days after permit expiration.

24. Planning Board Action Timeframe

The Planning Board shall evaluate an application within a reasonable period, not to exceed 30 (thirty) days after submission date, and shall approve or deny the application within a reasonable time, not to exceed 60 (sixty) days after submission date. PB may request the Acworth Road Agent and the Conservation Commission to make site visits and provide recommendations as the Board deems appropriate.

25. Temporary Driveway Restoration

Within 30 (thirty) days after expiration of any temporary driveway permit, the PB shall assess any on-site damage to the public right-of-way caused by said driveway. If such damage has occurred in the PB's sole discretion, the PB may issue a Corrective Order (see Section 12).

26. Additional Driveways for Lots of Record

The PB shall not approve any driveway access noncompliant with these regulations for any lot of record already possessing a legal driveway.

27. - 30. RESERVED

30. Definitions

"All-season safe sight distance" means a line that encounters no visual obstruction between 2 points, each at a height of 3 feet 9 inches (three feet nine inches) above the public highway surface, allowing for a snow windrow and \ or seasonal changes. The line represents the line of sight between the operator of a vehicle using the driveway (point 1) and the operator of a vehicle approaching from either direction on the public highway (point 2). Point 1 is the midline of the driveway 5 (five) feet from the edge of the travelled way. Point 2 is 2 (two) feet to the right of the public highway midline.

“Alteration” means any work, other than routine maintenance and repair that does not change existing dimensions, configuration or drainage on a pre-existing driveway including, but not limited to:

- (1) Paving
- (2) Widening
- (3) Changing its use
- (4) Changes in existing drainage affecting the highway
- (5) Reconstruction.

“Applicant” means landowner, agent, or other person or entity with bona fide legal authority to apply for a driveway permit under these Regulations.

“DR 2000-01” means Declaratory Ruling No. 2000-01 - Driveway Permits, as issued by the NH Department of Transportation, Bureau of Highway Maintenance on March 10, 2000, and subsequently amended.

“Driveway” means an area used, or modified for use, as a site for vehicular access onto a public highway from any land which is not a public highway. It includes any entrance, exit or approach, all areas or structures within the limits of the highway right-of-way which are used or modified for the driveway purposes, and any portions of the abutting non-highway land whose use for driveway purposes may affect the function or safety of the public highway or of the driveway area within the highway right-of-way. The term includes all driveways, whether or not established under a permit issued by the Town, whether established before or after the adoption of these regulations, and whether established before or after the highway became a public highway.

“Grade” means the inclination of a driveway, which is determined as set forth in DR 2000-01 3.(n).

“Lot of Record” means a parcel of land that was separately described and delineated by deed or on a locally approved subdivision plan recorded in the applicable registry of deeds.

“Permanent driveway” means a driveway intended as a means of public highway access for a period greater than 1 (one) year.

“Planning Board” or “PB” means the Planning Board of the Town of Acworth.

“Public highway” means highway as defined by RSA 229:1, and as further set forth by the common law of the State of New Hampshire, and includes the entire right-of-way in addition to the traveled way.

“Right-of-way” means Town-owned property, easements or other interests therein, dedicated to public highway purposes.

“Site” means the actual physical location of the driveway or driveway alteration being applied for.

“Temporary driveway” means a driveway intended as a means of public highway access for a period of 1 (one) year or less.

“Town” means Town of Acworth, New Hampshire.

“Traveled way” means that portion of the public highway which is used for vehicular travel, or which has been improved with a surface suitable for travel, not including shoulders or ditches. For paved highways, the edge of the traveled way shall be considered the edge of the pavement; for unpaved highways, the edge is defined by the best estimated junction between where most tire marks or tracks end and where untraveled shoulder or drainage ditch begins.

END OF DEFINITIONS

The undersigned, being a majority of the members of the Planning Board, Town of Acworth, NH, hereby certify that they have adopted on _____, the new DRIVEWAY REGULATIONS, TOWN OF ACWORTH, after notice and public hearing as required by RSA 675:7, and in accordance with NH RSA 236:13-14.

PLANNING BOARD, TOWN OF ACWORTH

Received and recorded as required by RSA 675:6, III, this ____ Day of _____, 2005

Signature

Printed name

_____, Chairman

Revised 4-27-05