

# DRIVEWAY AND ACCESS WAY REGULATIONS



**Town of Middleton**  
**Middleton, New Hampshire**

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# DRIVEWAY AND ACCESS WAY REGULATIONS

## ARTICLE I: GENERAL PROVISIONS

### A. AUTHORITY

The New Hampshire Revised Statutes Annotated (as amended) gives the Town of Middleton Planning Board 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 and protect 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 Middleton, 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 Middleton 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.

### E. JURISDICTION

The Middleton Planning Board delegates authority over administrative duties, including issuance of permits, to the Town of Middleton Road Agent. The Board

delegates approval of access ways outside of the public road right of way to the Code Enforcement Officer. These regulations shall apply to all temporary or permanent access ways and logging best management that connects a structure, a lot, or any part of a lot to a public 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 #6

271 Main Street, Durham, NH 03824

Phone: 603-868-1133 FAX: 603-868-5397

## **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.

2. A "person" shall include 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 Middleton'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. Applicant-Property owner.
3. Application-An application for a driveway and access way permit.
4. Board-The Planning Board of the Town of Middleton.
5. Designee-Person authorized by owner to act on their behalf.
6. Driveway-A private access way providing either primary or emergency access to and from a dwelling unit or structure to a street or highway.
7. Point of Tangency-The point at which the curb radius ends and the ramp begins.
8. Ramp-That portion of an access way located between the point of tangency and property line.
9. 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".

10. Right-of-Way (ROW)-Land that is dedicated for Municipal highway purposes by an easement, town ownership, or some other means.
11. Road Agent-The Road Agent of the Town of Middleton.
12. Town-The Town of Middleton.
13. Planning Board-The Town of Middleton Planning Board.
14. Slope-The amount the land rises over ten (10) feet of horizontal distance. Also known as the "grade" E.g., if the driveway rises 1 ½ feet over a ten (10) foot length of driveway the slope or grade is  $1.5/10=15\%$ .
15. Slope Change In- The difference between the slope of one 10 foot section of driveway and the slope of the next ten (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  $25\%-15%=10\%$ .
16. Temporary Access- An access way is a temporary entrance or exit from a highway or street to a property for with a specific time limit.

## **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 logging, excavation, construction, modification, resurfacing, or moving of an access way. The Planning Board shall continue to regulate new Subdivision road and lot driveways.

### **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 shall meet specifications as determined by the Road Agent or designee. In the absence of Road Agent approval of the culvert must be a minimum of twelve (12) 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 a way that blocks street drainage. If there is no culvert, the dip shall match the grade at the bottom of the ditch line.
  7. No construction shall allow:
    - a. A driveway, entrance, exit or approach to be constructed more than fifty (50) feet in width, except that a driveway, entrance, exit, or approach may be flared beyond a width of fifty (50) feet at its junction with the highway to accommodate the turning radius of vehicles expected to use the particular driveway, entrance, exit or approach.
    - b. More than two (2) driveways, entrances, exits or approaches from any one highway to any one parcel of land unless the frontage along the

highway exceeds five hundred(500) 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 two hundred(200) feet in each direction, or a distance ten times the posted speed limit, or whichever is greater, at the determination of Road Agent.
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 access way entrance, unless the lot has more than five hundred (500) feet of road frontage. If the lot has eight hundred(800) feet or more of road frontage, it may have one driveway or access way entrance for four hundred (400) feet or fraction of frontage. Circular or horseshoe access ways or driveway 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 slope of the driveway be steeper than 15%. A 15% slope means the driveway rises one and one half (1.5) feet in any ten (10) foot horizontal section.
  - b. In no case shall the change in slope exceed 10%. 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.
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 storm water management best management practices consistent with standards in

"Storm Water 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 twenty-five (25) feet of the driveway 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 (20) foot long section approaching the road shall be constructed so as not to discharge runoff onto the road.
16. No curve on the access way shall have an inside radius less than thirty(30) feet.
17. Commercial lots located above the street level may require a gate 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 thirty (30) feet in width within the right-of-way and a minimum of fourteen (14) 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 five hundred (500) feet shall have a turnout space every five hundred (500) feet that is at least fifty (50) feet long and that creates a total driveway width of eighteen (18) feet.

#### D. MAILBOXES

1. Mailboxes are generally allowed in the Town's right of way, and may be subject to damage during weather related activities or road construction or maintenance.

Therefore, the Town is not responsible for damage to the mail box located in the Town's right of way as a result of the Town's road construction, maintenance, and/or other similar weather related activities.

2. Mailboxes are subject to state and federal USPS regulations. They should be on site at time of final inspection. Incorrect installation will not delay the issuance of a Certificate of Occupancy.

#### E. TEMPORARY ACCESS WAYS

1. A driveway permit is required for a temporary access way, such as might be required if heavy equipment is needed for a construction project and no existing driveway provides adequate access. Temporary permits shall have a stipulated time limit. If time limit is exceeded the Road Agent can extend at his discretion.
2. Any Driveway Construction Permit issued for a temporary access way shall state the condition that it is temporary.
3. If such access requires site changes (ditch modification, grade changes, wall breaching, etc.), the property owner must restore the site to its original condition within sixty (60) days of the completion of the activity for which the access was required.
4. Temporary access for activities on a parcel within the Town must have all necessary State and Town permits for the activity before a permit is issued.
5. Logging activity will conform to the current "Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire" as it pertains to access to the logging site.
6. The property owner retains responsibility for assuring that use of the temporary access way does not endanger the travelling public.
7. Logging Operations - A permit and a bond shall be required. Exceptions to the permitting and bonding specifications may be granted if the access is through

an existing permitted drive that can safely handle the trucking (this would include lot clearing where the access is the same as the permanent driveway and the permit has been approved by the Road Agent). Bonding may be waived if the applicant has consistently responded in an acceptable manner to the requirements of previous permits. In no case shall the actual logging operations be conducted within the Town right-of-way.

8. Construction/Heavy Vehicles - These operations shall be treated in the same manner as logging operations whenever the driveway is temporary in nature.
9. Signage – A black on orange “Trucks Entering” sign, of thirty-six(36) inches by thirty-six (36) inches dimension, with side road indicators, shall be erected by the permittee if the drive sight distance is less than two hundred(200) feet, or special circumstances, such as owngrades, are present. Specification sheets and typicals are to be provided with the drive application. If the operation is suspended for thirty (30) or more days, the signs are to be removed and reinstalled by the permittee when operations begin again. When erected, the signs are to be maintained by the permittee for quality and effectiveness, as determined by the district engineer.

## **F. PERFORMANCE BOND**

In accordance with NH RSA 236:10, the applicant may be required by the Road Agent or Board of Selectmen to file a bond or letter of credit in an amount sufficient to cover the cost of the construction of that portion of the driveway within the right-of-way of the road, including the required culverts, ditches, other drainage structures and the paved apron, and to cover the cost of repairing public sidewalks and streets disturbed by the construction. The bond or letter of credit shall be approved as to form and sureties by the Road Agent. The amount of the bond or letter of credit shall be based on a contractor's or an engineer's cost estimate of the necessary construction and repair. The estimate shall be approved by the Road Agent prior to obtaining the bond or letter of credit. All bonds or letters of credit shall be for 100% of the estimated cost. The performance bond or letter of credit shall not be released until the Road Agent has certified completion of the bonded construction and repairs in accordance with the Standards stated in these

regulations and in accordance with the plan approved by the Road Agent or Planning Board.

## **ARTICLE IV. 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 fifty (50) feet beyond the public road right of way, or if the any part of the lot accessed by the driveway is located within the Shoreland Water Quality Protection Act 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 Middleton 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 Planning Board 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 Planning Board 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 provided all the following are satisfied:

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 "Storm water Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire." The Code Enforcement Officer may also consider guidelines in the documents "Innovative Storm Water Treatment Technologies Best Management Practices Manual" and "Nonpoint Source Pollution: A Guide for Citizens and Town Officials."

#### **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 Zoning Board.

## **I. AMENDMENTS**

These regulations may be amended by the Planning Board following a public hearing on the proposed change per RSA 236:13, V and RSA 675:6. Such changes shall not take effect until a copy of said change, certified by a majority of the Board and is filed with the Town Clerk.

## **J. REGULATION HISTORY**

Driveway Regulations Adopted: December 15, 1997

Amended: May 17, 1999

Revised: January 10, 2002

Revised: September 17, 2015

## **THESE REGULATIONS FULLY SUSPERCEDE THE FOLLOWING REGULATION, AMENDMENTS AND REVISIONS:**

Driveway Regulations Adopted: December 15, 1997

Amended: May 17, 1999

Revised: January 10, 2002