

Town of Allenstown, New Hampshire Driveway Excavation Regulation

Authority.

The Allenstown Planning Board by the power granted to them pursuant to RSA 236:13, enact the following regulations governing the excavation, filling, paving on private ways and the installation of driveways connecting to ways in Allenstown.

Purpose.

The objective of these regulations is to ensure consistent and uniform treatment of individuals and private contractors who conduct operations on driveways ways in Allenstown involving excavation, filling, paving or installing driveways. The Planning Board seeks to protect the public health and safety by ensuring work is performed that meets certain minimum standards and the public shall not have to bear the burden of unsafe or inadequate workmanship.

Definitions & Interpretation.

The following definitions shall apply to the regulations set forth herein.

- (A) **“Applicant”** a person or business entity seeking a permit under this regulation that submits an application to the Town for approval.
- (B) **“Town”** shall mean the Town of Allenstown.
- (C) **“Permit Holder”** a person whether an individual or business entity who obtains a permit pursuant to this regulation to conduct work in the Town.
- (D) **“Permitted Work”** the tasks allowed to be performed under the terms of the permit issued by the Town in accordance with this regulation and the standards specified herein.
- (E) **“Planning Board”** shall mean the Planning Board acting in the official capacity or there lawfully appointed designee. The Planning Board has designated the Road Agent as their lawful designee under this regulation to issue permits, determine compliance with the standards and regulations promulgated herein.
- (F) **“Way”** shall mean the entire width between the boundary lines of any public highway, street, avenue, road alley, park or park way or any private way laid out under authority of statute or any such way provided and maintained by a public institution to which state funds are appropriated for public uses, or any such way which has been used for public travel thereon other than to form a toll bridge or ferry, for 20 years, or any public or private parking lot which is maintained primarily for the benefit of paying customers as defined by RSA 259:125, I.

- (G) **“Standard Specifications”** shall mean Standard Specifications for Road and Bridge construction promulgated by the State of New Hampshire Department of Transportation.
- (H) Any word or term not defined herein or otherwise defined in an applicable Town regulation or statute shall be construed according to its plain and ordinary meaning.
- (I) Where there is an ambiguity or conflict between this regulation and another statute or regulation the more specific or restrictive statute, regulation or regulation shall apply unless the regulation has been pre-empted by State law.

Permits.

- (A) Anyone connecting a driveway or roadway to a way shall be required to obtain and pay for a Driveway Excavation permit from the Town in advance of the work.
- (B) Driveway permits shall be \$40.00; permit renewals shall be \$20.00 and must be requested prior to the expiration of the original permit. Anyone applying for a permit after excavation, filling or paving has begun in a private way shall be charged \$100.00.
- (C) No permits shall be issued for a period longer than 90 days unless the applicant requests and the Town finds the excavation, filling or paving cannot be reasonably completed within 90 days. The fee for permits longer than 90 days shall be the price for a regular permit plus an additional \$20.00 for every ninety days requested thereafter. Driveway permits issued for new construction shall run concurrently with the building permit.
- (D) In the event the Town requires review of the permit application or review of the applicants work by an outside consultant the fees required for the consultant shall be paid by the applicant. Prior to engaging the outside consultant the applicant shall be informed of this and be required to deposit with Town a sum reasonably estimated to cover the expense of the consultants. No permit shall be processed or work permitted until this estimated payment is received. Any amounts remaining after completion of the work shall be returned to the applicant. If the Town in its reasonable discretion determines the amount deposited will be insufficient to cover the cost of the consultant’s services, the applicant shall deposit such additional sums with the Town which the Town requests within 5 business days of the request. The failure to deposit the requested sums within the time frame specified herein shall be grounds for immediately suspending the permit.
- (E) All applicants for a permit shall provide the Town with the permit application a plan drawn to an approved scale with sufficient detail to enable easy field location

of the work. As a condition of the permit the Town may require a permit holder to submit an as built plan of there work.

- (F) By applying for a permit, the permit holder is agreeing to hold harmless and indemnify the Town from any and all claims for damage or injury arising from the encumbrance, obstruction or use of the way and any claims for injury or damage arising out of impeding the flow of traffic, blocking access, loss or interruption of business or actions or omissions of the permit holder, there contractors, agents, employees or servants.
- (G) Anyone with a way located on private property which is not open to the public, and no public funds are used in its care, construction and maintenance and for the foreseeable future the way will not be open to the public and the Town, State and Federal government will not be acquiring, maintaining or utilizing the way may request an exemption from the permit requirement.

General Provisions.

- (A) No permitted work shall be performed before 7:00 a.m. or after 6:00 p.m. unless specified in the permit. No permitted work shall be performed on Sundays or legal holidays, as observed at the Allenstown Town Hall, unless specified in the permit.
- (B) The permit holder must notify DIG SAFE of the intended work and receive confirmation of utility locations prior to commencing work.
- (C) Every permit holder shall place barriers, barricades, lights, warning flags and signage around openings and excavations as required by the Town and/or New Hampshire Department of Transportation. All barricades, warning signs, lights, temporary signals and other protective devices shall conform to the most recent edition of the “Manual on Uniform Traffic Control Devices” for Street and Highway Administrators.
- (D) Every traffic control device shall be set up and operational prior to the start of work and shall remain in place only so long as required by the Town. No advertisements, notices and signs other than for traffic control shall be displayed or attached to any barricade or highway fencing.
- (E) All permit holders shall also comply with all Towns traffic detail regulations. See Town regulation 405.
- (F) Permitted work areas that encroach upon a sidewalk, walkway or cross walk passage for pedestrians must safely ensure pedestrian passage and use through the use of protective barriers, warning signs and guidance devices.

- (G) All utility facilities shall be located and marked prior to any cutting or excavation work. All markings must be in a manner and location such that they are clearly visible to equipment operators, inspectors and the Town.
- (H) No monuments, boundary markers, survey reference points or permanent survey bench markers shall be moved, altered or disturbed unless the property owner affected is first notified in writing and the Town approves the disturbance or movement of the monument or marker. Any monuments or markers, which are moved, destroyed or disturbed, shall be replaced by a New Hampshire licensed land surveyor and a plot plan of the affected boundary prepared all at the permit holders expense. A copy of the plot plan showing the affected boundary shall be provided to the Town and the affected property owners.
- (I) The permit holder shall be responsible for ensuring proper drainage during all permitted work. The permit holder shall be responsible for all claims of damage or injury that may arise from the obstruction or impairment of any sewer, drain, culvert or the like in connection with the permitted work.
- (J) The permit holder shall repair or replace any disturbed grassland, area of plantings or areas of natural growth with similar vegetation upon completion of the excavation or other permitted work. All grass, which is replaced, shall be seeded and watered by the permit holder.
- (K) The permit holder shall replace any sidewalk, walkway or path disturbed by the excavation or other permitted work with the same kind of material with equal width, depth, kind and quality as specified by the Town.
- (L) The permit holder on a daily basis shall remove all rubbish, excess earth, rock and other debris resulting from the permitted work. The permit holder shall be responsible for ensuring the work area is cleaned and maintained as necessary but no less than daily.
- (M) After the permitted work is commenced it shall be performed with diligence and expedition and the road shall be maintained in a safe, well-marked manner with required signage in a well-graded condition to permit public travel and not obstruct access to public or private properties.
- (N) The permit holder shall be responsible for all excavation and permitted work for 30 months following completion of the permitted work. Any deficiencies or deterioration in the permitted work during the 30-month period following completion shall be the responsibility of the permit holder. The permit holder shall perform such improvements or repairs as the Town may require to the permitted work during the aforementioned 30month period. The failure of the

permit holder to perform subsequent repair or replacement work within a reasonable period of time following the Town's request but in case more than thirty days later shall entitle but not obligate the Town to take such corrective action as may be reasonable and to obtain reimbursement from the permit holder including but not limited to any surety bond or cash security held by the Town.

- (O) The permit holder shall notify the Town immediately upon completion of the permitted work.

Surety Requirements.

- (A) All permit holders prior to commencing work shall post a surety bond in a form acceptable to the Town or provide cash security which will be held by the Town in a passbook account in an amount equal to 110% of the cost of the work being performed at the connection area to a way. That connection area is defined as the work in the way area as well as the last twenty feet of construction connecting to the way.
- (B) Within five business days of completion of the permitted work it shall be inspected by the Town and if satisfactory 90% of the surety bond amount or cash security shall be released and the remaining 10% shall be held for 30 months thereafter to ensure any repair work to the permitted work is completed by the applicant. To the extent the work is unsatisfactory to the Town the permit holder will be so notified and the surety bond or cash security shall not be released until the deficiencies are corrected.
- (C) The Town may waive the surety bond or cash security requirements for good cause shown.

Technical Standards.

All permit holders and anyone conducting permitted work shall comply with the following standards.

- (A) **Excavation.**
 - 1. Excavated material shall be replaced or backfilled in layers or courses not to exceed twelve inches in compacted thickness; and shall be compacted at or near optimum moisture content using pneumatic tampers, vibratory compactors or other methods approved in advance by the Town.

2. The material shall be compacted to not less than 98% maximum dry density as determined by the Standard Proctor Method in accordance with the Standard Specifications.
3. Excavated material, which is unsuitable for backfill, shall be replaced with granular backfill in accordance with the Standard Specifications.
4. Water shall be uniformly applied during compaction in the amount necessary for proper consolidation. Under no circumstances shall puddling be permitted.
5. The minimum depth to any sub surface structure except manholes, vault entrance tubes, valve casing and catch basins shall be twenty-four inches below the surface of the nearest edge of the traveled portion of the public way.
6. Within the asphalt paved areas, crushed gravel as described in the Standard Specifications equal to the existing gravel course shall be placed in layers not exceeding six inches loose depth and thoroughly compacted. In no case shall the compacted depth of crushed gravel be less than twelve inches in contiguous depth.
7. In unpaved surface areas, the present surface area shall be restored by placing similar material on top of the trench to a depth equal to that existing in the disturbed area immediately prior to the excavation.

Emergency Provisions.

- (A) In the event of an emergency requiring excavation in a way, it shall be performed pursuant to an emergency permit issued by the Town through the Road Agent or his designee.
- (B) In the event such an emergency exists, the person seeking to perform the emergency excavation shall notify the Police Department, Fire Department, Water Department and Sewer Department prior to commencing work by telephone and obtain an emergency permit from the Town.
- (C) The Town may waive the requirements of this section for good cause shown in the case of emergency and impose such additional requirements as circumstances warrant.
- (D) On the next business day following an emergency requiring excavation in a public way the person conducting an excavation shall obtain an excavation permit.

Driveway Standards.

Any person installing a driveway, which connects to a way or any person installing a private way for passage, which connects, to a way shall comply with the following standards and regulations

- (A) All connections to an existing way or to a proposed way shall be made in accordance with the Subdivision Plan or Site Plan creating a particular lot of record. Any lawful lot of record seeking to connect to a way or proposed way whose driveway opening is not specified in their Subdivision Plan or Site Plan shall at a minimum comply with the following:
 - 1. The connection shall provide for adequate drainage both for the new connection and the existing way.
 - 2. Connections to a State or Federal highway shall require separate approval from the appropriate State or Federal agency.
 - 3. No connection shall be made to a c way or proposed way in a Town without a permit in advance from the Town prior to the construction being commenced.
 - 4. No driveway or other connection to a way or proposed way shall be constructed so that it has a grade which is greater than that permitted in the zoning regulation.
- (B) No driveway or other connection to a way shall be constructed in any manner that would hinder access or travel by emergency response vehicles.
- (C) A suitable transition is required between the driveway and the way as determined by the planning board or its designee.
- (D) The surface of the driveway connecting to a paved way shall be paved in order to maintain its shape and to keep gravel off of the traveled way.
- (E) Adequate sight distance shall be provided so that a motor vehicle in the driveway, at the suitable transition, is able to see the street in each direction prior to entering the traffic flow. The Planning Board or its designee will determine adequate sight distance
 - 1. This sight distance must be present year round. Consideration shall be given to seasonal vegetation, snow banks and other factors such as curbs in the road, embankments and other permanent features which limit sight distance.
 - 2. The required minimum sight distance shall depend on the posted speed

permitted on the way.

3. Each commercial driveway shall be located at the safest position on the frontage and shall provide 400 feet of sight distance year round. Each private drive shall be at the discretion of the planning Board or its designee.
4. Only one driveway per lot shall be permitted. A second driveway may be permitted if the full sight distance can be met for each driveway and the second driveway shall not cause any safety hazard or impediment to traffic.
5. All driveways shall be at a 90-degree angle to the way unless otherwise specified on the Subdivision Plan or Site Plan for the property.
6. The centerline of any driveway shall be located at a minimum of 125 feet from the centerline of the nearest street intersection. The Town may require a greater distance from intersections on collector or arterial streets or for driveways with high volumes of motor vehicles or heavy truck traffic.
7. Driveways shall not contribute to any additional water runoff to the way or any sidewalk.
8. No driveway shall be permitted to block runoff in roadside ditches, swales or gutters along the face of curbing.
9. Driveway culverts shall be required by the Town to address this concern if the street is not curbed and in certain instances may be required on curbed streets.

(F) The requirements for culverts are as follows:

1. All culverts shall be constructed out of new smoothbore corrugated polyethylene pipe, new galvanized corrugated steel pipe, new reinforced concrete pipe or ductile iron pipe meeting the New Hampshire Department of Transportation specifications.
2. All culvert installation shall conform to the manufactures recommended practice and the New Hampshire Department of Transportation specifications.
3. All culverts shall be installed with adequate cover for highway loading (a minimum of 12 inches of cover from the top of the pipe to the closest point on the driveway surface, except for ductile iron pipe where a minimum of 4 inches of cover is possible).
4. No driveway culvert shall be less than 12 inches in diameter and the Town

may require a greater size for areas of larger watersheds and flows.

5. Culverts shall be installed with compatible flared end sections firmly attached to the pipe barrel or if located outside of the Town right of way the permit holder shall utilize the New Hampshire Department of Transportation standard end wall of concrete or mortar rubble masonry.
 6. Ditches containing culverts shall be stone lined covered in riprap or take other appropriate control measures approved in advance by the Town.
 7. Culverts shall be a specific length so that no driveway side slope within the public way shall be greater than a ratio of 3 to 1.
 8. In cases where the driveway slope, size and cover requirements of the culvert require a deeper roadside ditch, the ditch must have a continuous slope with no sags and must be shifted away from the roadside so that the slope into the ditch from the edge of the road does not exceed a ratio of 4 to 1.
 9. On curbed streets, the driveway shall slope upwards so that the runoff along the curb does not flow into the driveway.
 10. On streets with roadside ditches, the driveway shall be shaped so that any runoff flows toward the ditches and not onto the traveled way or shoulder of the street.
 11. In order to facilitate plowing of the way, the driveway shall follow the slope of the shoulder for the entire width of the shoulder.
 12. All culverts and driveways, even the portion installed on the c way is the responsibility of the abutting property owner to maintain. Failure to maintain the driveway or culvert in the way may require but shall not obligate the Town to take corrective action to protect the way, and the cost of such restoration by the Town shall be reimbursed by the property owner.
- (G) On curbed streets, granite or concrete curbing must be installed, replaced or modified with tip downs where driveways are installed. On streets with bituminous curbing, the ends must be neatly trimmed or replaced so that a partial height smooth curb or equivalent shaped driveway pavement forms a smooth flow line at the edge of the pavement with a rolled edge or other smooth transition approximately 2 inches in height above the finished way pavement. Any tip down stones must be beveled or trimmed so that the joint to the next full height curb is an even width.

- (H) In the course of driveway or other site construction the property owner must take appropriate siltation protection to prevent and avoid erosion to the way, ditches or adjoining properties. The public way must be kept clean of mud or dust created by construction on the owner's site or property.

Penalty.

Anyone found violating this regulation shall be subject to a penalty of \$1,000.00 for each violation under this regulation. Each day that a violation remains uncured shall be considered a separate offence.

Adoption

The Allenstown Planning Board, having held a duly noticed public hearing on December 17th, 2008 hereby adopts these Driveway Regulations. Effective date shall be February 15th, 2009.

Enforcement.

Enforcement and administration of this regulation shall be the responsibility of the Planning Board or their designee. Administration of the regulation including the issuance of all permits shall be the responsibility of the Road Agent.

The regulation shall be enforced by either the Road Agent or the Code Enforcement Officer in conjunction with their ordinary duties as prescribed by statute or otherwise assigned to them by the Board of Selectmen. For purposes of this regulation the Road Agent and Code Enforcement Officer are designees of the Planning Board.

Chairman Jeffrey J. Gryval

Vise Chairman Robert Lee

Secretary John Anderson

Member James A. Rodger

Selectman Ex-Officio Roger LaFleur