

**TOWN OF NEWBURY
PLANNING BOARD**

DRIVEWAY ACCESS REGULATIONS

INSTRUCTIONS TO APPLICANTS FOR THE
CONSTRUCTION OR ALTERATION OF DRIVEWAYS

IMPORTANT: READ CAREFULLY BEFORE
FILLING OUT ATTACHED APPLICATION

Adopted by the Newbury Planning Board on November 17, 2020

TOWN OF NEWBURY DRIVEWAY ACCESS REGULATIONS

SECTION I – PURPOSES AND AUTHORITY

A. PURPOSES

The purposes of these Driveway Access Regulations are to:

1. Promote the orderly and planned growth of undeveloped areas of Newbury;
2. Protect the public health, safety and welfare;
3. Ensure safe access to and from the Town street or state highway to the building site for the owner, guests, and emergency response personnel and vehicles;
4. Ensure driveway designs and construction complies with steep slopes, wetlands, shorelands, streams and floodplain regulations in the Zoning Ordinance;
5. Ensure driveway designs and construction provide safe access for fire and other emergency response vehicles;
6. Ensure driveway designs and construction provide adequate temporary and permanent erosion control measures;
7. Ensure driveway designs and construction provide safe sight distance at the intersection with the Town street or state highway; and
8. Ensure driveway designs and construction prevent adverse stormwater drainage impacts on the street providing access.

B. AUTHORITY

The following regulations governing the construction and alteration of driveways, entrances, exits and approaches to and from a Town street or a state highway the entire length of the driveway to a building site or to the end of the driveway are adopted by the Planning Board.

The authority for these driveway regulations is provided by:

1. RSA 236:13 & 14 – Access to state highways and Town streets;
2. RSA 236:19 & 20 – Relative to causing water, snow or other materials to be placed upon the highway;
3. RSA 674:16 & 17 – Zoning;
4. RSA 674:35 & 36 – Subdivision Regulations;
5. RSA 674:43 & 44 – Site Plan Review Regulations;
6. RSA 41:11 – Authorizing the Selectboard to adopt highway regulations; and
7. NFPA 1 – Life Safety Code, Chapter 18 Fire Department Access & Water Supply.

It shall be unlawful to construct or alter in any way that substantially affects the size, layout or grade of any driveway, driveway exit, or approach within the limits of the right-of-way to and from a Town street

or a state highway in the Town of Newbury, public or private, that does not conform to the standards of these regulations and to the terms and specifications of a written permit issued by the Highway Administrator. Appeal of a decision of the Highway Administrator to deny a driveway permit may be made as provided in Section VI, A. These driveway regulations shall apply to any driveway extending into property from the edge of the right-of-way of any state highway in the Town of Newbury.

SECTION II – APPLICATION PROCEDURE

A. APPLICATION:

As determined by the Highway Administrator, or Acting Highway Administrator, any person wishing to construct or alter in any way, that substantially affects the size, layout or grade of any driveway, driveway exit, or approach to any highway in the Town of Newbury, public or private, shall obtain a driveway permit application from the Highway Administrator, or Acting Highway Administrator, and shall file that application, with a map of the proposed construction, with the Highway Administrator, or Acting Highway Administrator.

Any person wishing to construct or alter in any way that substantially affects the size, layout or grade of any driveway extending into property from the edge of the right-of-way of any state highway in the Town of Newbury shall obtain a driveway permit application from the NH State Department of Transportation.

The following information shall be provided with the application:

1. The name, tax map & lot number, and mailing address of the owner of the property the driveway serves;
2. A description of any proposed changes in a proposed alteration of a driveway.

B. APPLICATION MAP: The following information shall be provided on the map accompanying the driveway permit application:

1. The tax map & lot number and boundaries of the property to be served by the driveway;
2. Length(s) of the street frontage(s) of the property served by the driveway;
3. The location and dimensions of the proposed driveway;
4. The location of any existing driveways serving the property;
5. Any Wetlands or Wetland buffers as defined by the Zoning Ordinance located in the path of the driveway;
6. Any Shoreland or Shoreland buffers as defined by the Zoning Ordinance located in the path of the driveway;
7. Any Streams or Stream buffers as defined by the Zoning Ordinance located in the path of the driveway;
8. Any Flood Plains as defined by the Zoning Ordinance located in the path of the driveway; and
9. The temporary and permanent erosion control measures to be implemented.

Failure of the applicants to supply the information and the map requested shall be sufficient grounds for denial of the application.

The Planning Board or Highway Administrator may require the preparation of plans by an engineer or a surveyor when he/she deems such plans necessary.

C. HIGHWAY ADMINISTRATOR REVIEW, INSPECTIONS AND APPROVAL

The Highway Administrator or Acting Highway Administrator shall review the application for compliance with the Standards outlined in Section III below and inspect the site. The Planning Board authorizes the Highway Administrator, or Acting Highway Administrator, to approve the application if they determine the application complies with the Standards outlined in Section III below.

If the application is approved, a written driveway permit shall be issued to the applicant stating the terms and specifications for the construction or alteration of the driveway.

If the application is denied, written notification shall be sent to the applicant stating the reason for denial. Appeal of the Highway Administrator's decision to deny a driveway permit may be made as provided in Section VI, A.

SECTION III – STANDARDS

- A. NUMBER: No more than two driveway entrances shall be constructed from any one street to any one property, unless frontage along that street exceeds 500 feet. When the frontage exceeds 500 feet, no more than three driveways shall be constructed.
- B. LOCATION: The location shall be selected to protect the most adequate degree the safety of the traveling public. The driveway shall be at least 50 feet from the nearest street intersection.
- C. SITE DISTANCES: AASHTO standards for site distances.
- D. WIDTH: The driveway shall have a minimum traveled surface width of twenty feet (20 ft.) at the driveway's intersection with the street serving the lot at a distance of twenty feet (20 ft.) back from the edge of the traveled surface of the street serving the lot.
- E. GRADE: The grade of the driveway shall be level to Town street for 20 ft. The grade of the entrances and exits shall be constructed to slope down and away from the Town street surface for a distance equivalent to the existing Town street ditch line. When the entrances and exits are concrete or paved with asphalt or

tar, the minimum rate of slope shall be 3/8" per foot -- for all other surfacing, the slope shall be a minimum of 1/2" per foot. Any future maintenance to the driveway access shall meet the minimum rate of slope described above.

- F. PAVED APRON: Driveways that abut paved streets shall be constructed with paved aprons that shall be as wide as the driveway and at least five feet in depth as measured perpendicularly from the edge of the street pavement (and deeper, if deemed necessary by the Highway Administrator) and the thickness of the paved apron shall be minimally 3 inches. The paved apron shall be constructed in such a way as to protect the edge of the street pavement from deterioration.
- G. DRAINAGE: The driveway shall not interfere with the street's drainage. Drainage from the driveway shall not interfere with the street providing access or with abutting properties. Where necessary, culverts, water bars, ditches, and other drainage structures shall be installed to ensure adequate drainage of the street and to prevent excessive drainage from the driveway onto the street providing access or onto abutting properties. Culverts shall be HP Storm-Dual Wall-PP Pipe and at least 15 inches in diameter, and larger if considered necessary by the Highway Administrator, or Acting Highway Administrator. A minimum of 12 inches of fill shall be placed over culverts.
- H. STEEP SLOPES: The driveway design and construction shall comply with the provisions of Article 9 Steep Slopes Conservation Overlay District in the Zoning Ordinance. Driveways shall not be located in areas of slopes 25% or greater with a minimum elevation change of 20 feet.
- I. WETLANDS: The driveway design and construction shall comply with the provisions of Article 8 Wetlands Conservation Overlay District in the Zoning Ordinance. Driveways shall not be located in Wetlands or Wetland buffers.
- J. SHORELAND of LAKES, PONDS and STREAMS: The driveway design and construction shall comply with the provisions of Article 7 Shoreland Overlay District in the Zoning Ordinance. Driveways shall not be located within the 50-foot waterfront buffer.
- K. FLOOD PLAIN: The driveway design and construction shall comply with the provisions of Article 10 Flood Plain Overlay District in the Zoning Ordinance.
- L. DRIVEWAY SETBACK: For purposes of snow removal, general maintenance, and protection of abutters, no driveway shall be constructed closer than 10 feet from abutting property lines.
- M. EROSION CONTROL: Erosion control measures to manage stormwater drainage shall be designed and constructed to protect the Town street or state highway providing access and as well as abutting properties. Stormwater drainage control systems shall be designed and constructed to ensure adequate

drainage of stormwater away from and off the streets. Erosion control measures shall be designed and constructed to control sediment and retain it within the lot being developed for the driveway.

- N. DRIVEWAYS for NON-RESIDENTIAL or MULTI-FAMILY RESIDENTIAL PROJECTS: Driveways providing access for multi-family residential or non-residential projects shall be designed to conform with good engineering practice using the NHDOT Manual, Administrative Rules for the permitting of Driveways and Other Accesses to the state highway System as a guide. Driveways for non-residential or multi-family residential uses shall be reviewed as part of the Site Plan Review process for establishment of those uses.

SECTION IV – SECURITY

The applicant may be required by the Highway Administrator to file an Irrevocable Letter of Credit in favor of the Town of Newbury, or Cash in an amount sufficient to cover the cost of the construction of that portion of the driveway within the right-of-way of the street, 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 Irrevocable Letter of Credit or Cash 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 Highway Administrator prior to obtaining the Irrevocable Letter of Credit or Cash. All Irrevocable Letters of Credit or Cash shall be for 100% of the estimated cost. The Irrevocable Letter of Credit or Cash shall not be released until the Highway Administrator has certified completion of the secured construction and repairs in accordance with standards stated in these regulations and in accordance with the plan approved by the Highway Administrator or Planning Board.

SECTION V – E-911 ADDRESS

The applicant shall request the Fire Chief to assign an E-911 address before the driveway has been constructed.

SECTION VI – ADMINISTRATION

- A. PLANNING BOARD APPEAL: Driveway permit applications denied by the Highway Administrator, or Acting Highway Administrator, may be revised to comply with the Standards outlined in Section III and resubmitted to the Highway Administrator, or Acting Highway Administrator for review and approval or the applicant may appeal the decision of disapproval by the Highway Administrator to the Planning Board. To appeal the decision to the Planning Board, the applicant shall submit an Application for Appeal

and a statement in writing to the Planning Board outlining why the standards cannot be met. For an appeal to be considered, the applicant must include the following information in the statement submitted and must prove to the Planning Board that:

1. The purpose of the driveway regulations will be served by the proposed design;
2. Unique circumstances exist which require deviation from the driveway regulations;
3. No reasonable alternatives to the proposed design exist; and
4. No increase in the risk to public safety will result from the proposed design.

The Planning Board shall conduct a public hearing on the appeal after giving abutters 10 clear days' notice (not including the days of mailing and hearing) and posting the notice in two public places.

The Planning Board shall approve, approve with conditions or disapprove the driveway permit application, after considering:

1. The original application and any supplemental materials provided in connection with the appeal;
2. The recommendations of the Highway Administrator, or Acting Highway Administrator, Fire Chief and Police Chief;
3. Comments from the applicant; and
4. Comments from abutters or other interested parties.

If disapproved, written notification outlining the reasons for disapproval shall be sent to the applicant.

- B. VARIANCE from the ZONING BOARD of ADJUSTMENT: Any proposed driveway not complying with the standards and requirements of the Newbury Zoning Ordinance must be revised to comply or a variance approved by the Zoning Board of Adjustment must be obtained before a driveway permit can be issued.
- C. ENFORCEMENT: The Selectboard or their designee is hereby given the power and authority to enforce these regulations. It shall be the duty of the Selectboard, or other official designated by the Selectboard as an enforcement authority, to enforce the provisions of these Driveway Regulations. Alternative approaches to enforcing these regulations include the following. All of these approaches to enforcement need not be pursued.
1. RSA 676:15 Injunctive Relief;
 2. RSA 676:17 Fines and Penalties;
 3. RSA 676:17-a Cease and Desist Orders; and
 4. RSA 676:17-b Local Land Use citations; Pleas by Mail.
- D. PENALTY:
1. A violation of these regulations shall be punishable by a fine of \$275.00 for the first offense and \$550.00 for subsequent offenses for each day that such violation is found to have continued after the date on which the violator receives written notice from the Town that the violator is in violation of these regulations.
 2. Any person violating these regulations shall be liable for the cost of restoration of the highway to a condition satisfactory to the Highway Administrator or Acting Highway Administrator.

- E. SEPARABILITY: If any section, clause, provision, portion, or phrase of these regulations shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of these regulations.
- F. INTERPRETATION: In matters of judgment or interpretation of the above general requirements, the opinion of the Planning Board shall prevail.
- G. AMENDMENTS: These regulations may be amended or rescinded by the Planning Board but only following a public hearing on the proposed change. The Chair of the Board shall record any changes so authorized at the Registry of Deeds of Merrimack County. Certified copies signed by a majority of the Board members shall be filed with the Town Clerk.
- H. NUMBERING: After amendments are adopted, the Board shall have the authority to renumber the sections consecutively.
- I. EFFECTIVE DATE: These Driveway Regulations were adopted by the Newbury Planning Board on November 17, 2020 at the conclusion of a duly noticed public hearing.

**NEWBURY PLANNING BOARD
CERTIFICATION**

Certified to be a true copy, attest:

Bart Healey

Chair

Russell Z...

M. Q. ...

Charles J. ...

Richard J. ...

Adopted:

November 17, 2020

Amendments: