

Notice: This regulation may be amended from time to time. Applicants and others should not rely on this internet version of the ordinance (12/11/2023) without confirming through the Bennington Planning Board that it is current and unamended.

DRIVEWAY REGULATIONS
For the
TOWN OF BENNINGTON
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Amended ...December 11, 2023...

ARTICLE I—*Authority and Purpose; Amendments*

(A) Pursuant to the authority vested in the Bennington Planning Board by the legislative body of Bennington, and in accordance with the provisions of Chapters 236:13 and 674:35 of the New Hampshire Revised Statutes Annotated as amended, the Bennington Planning Board adopts the following regulations governing all driveway construction in the Town of Bennington to:

- (1) ensure that emergency services can be reasonably and safely provided to all dwelling units in the Town, including those constructed on or accessed by steep slopes;
- (2) ensure that driveways entering onto roads do not represent a safety hazard;
- (3) ensure that adequate off-road space exists for parking vehicles so as to avoid on-street safety hazards and to allow for snow clearance and emergency access;
- (4) ensure that driveways do not disrupt drainage systems or culverts, damage the surface of right of-ways, or cause erosion or siltation of traveled ways or surface waters; and
- (5) avoid unreasonable public expenditures.

(B) These regulations may be amended by the Planning Board following a public hearing on the proposed change.

ARTICLE II—*Definitions*

The definitions contained in the Bennington Zoning Ordinance and Subdivision Regulations shall apply, in addition to the following:

ACCESS—A way or means of approach to provide physical entrance to a property.

ALL-SEASON SAFE SIGHT DISTANCE—A line that encounters no visual obstruction between two points, each at a height of 3 feet 9 inches above the pavement, allowing for a snow window 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 (point 2). For the purpose of these regulations, the length of the All-Season Sight Distance between point 1 and point 2 is based upon elements of design outlines in Chapter 3 of the American Association of State Highways and Transportation Officials (AASHTO) *Policy on Geometric Design of Highways and Streets* (2001 and 2011 Editions; commonly called 'The Green Book').

CONSTRUCTION—For the purpose of this regulation, means not only the construction of a new driveway, but also any substantial alterations to an existing driveway and therefore includes paving, repaving, excavation, installation or replacement of culverts,

and other major alterations but does not include regrading of graveled surfaces, seal coating, repairs or improvements of a similar minor nature.

DRIVEWAY—A public or private roadway providing primary access from either a public or private road for vehicles to a dwelling, business, parking area, or other structure or facility that is currently used on a regular basis, but does not include an access that is primarily used for service or maintenance (such as fuel oil delivery) or for agricultural purposes.

FIRE CHIEF—Fire Chief

ROAD AGENT—Road Agent

TRAVELED WAY—The portion of the roadway for the movement of vehicles, exclusive of the shoulders, berms, sidewalks and parking lanes, (U.S. Dept. Trans.2003. Manual on Uniform Traffic Control Devices for Streets and Highways.)

TURNOUT—An area perpendicular to the driveway that allows a vehicle to back in and drive out.

TURNAROUND—An area large enough to allow a vehicle to turn fully around on the property without having to back up.

ARTICLE III—*General Provisions*

- (A) Prior to the construction or change in use and/or intensity of any driveway entrance, exit, or approach to any private, town or state road, and prior to obtaining any applicable building permits for the property, the landowner or authorized agent shall secure approval of such proposal in accordance with these regulations.
- (B) The Town can and will offer assistance whenever possible, but it shall be the responsibility of property owners to comply with these regulations.
- (C) Driveways should follow the natural terrain to the extent possible. Cuts and fills should be minimized.
- (D) All driveways must be designed, constructed, and maintained so as to ensure that emergency vehicles, including ambulances and fire trucks, can ingress and egress easily during emergency events.

Owner Responsibility

The owner of the property accessed by a driveway shall have continuing responsibility for the adequacy and maintenance of the driveway and any grades, culverts, retention basins and bridges pertaining to such access, whether or not the driveway is located within the right-of-way.

ARTICLE IV—Driveway Standards

The following town standards shall apply as minimum standards to all driveways in the Town of Bennington which intersects a state-maintained road, except:

- (i) Where the driveway intersects a state-maintained road, and NH DOT places other restrictions on the drive entry. When applicable or appropriate, the NH DOT Typical Design Standards shall be followed (“Declaratory Ruling No. 2000-01: Policy Relating to Driveways and Access to the State Highway System”), or
- (ii) Where the driveway intersects a private road which is not required to be constructed and maintained to Town standards or
- (iii) Where the driveway (a) does not provide access to a habitable Dwelling or commercial building and (b) is used exclusively for agricultural, forest or recreational purposes, provided, however, that these regulations shall apply to those portions of any such driveway which are within the public right-of-way or within 25 feet from the edge of the traveled way, whichever distance shall be greater.

A. Drive Entrance.

- (1) All drive entries shall be located as shown on the approved plans or as directed by the Road Agent.
- (2) Driveway entrances on streets or private roads within the Residential and Commercial Districts and within major subdivisions shall be:
 - (a) If serving one- or two-family dwellings, a minimum of twenty-two (22) feet and a maximum of twenty-eight (28) feet wide at the curb line; or
 - (b) If serving multi-family dwellings or commercial structures, such minimum and maximum widths as may be approved by the Road Agent based upon an assessment of traffic types and volumes.
- (3) If the driveway is within a vertical curbed section, the curbs on each side of the drive opening shall be tipped down with a six (6) foot tip down.

B. Paving

In order to protect the physical integrity of roads, except as hereinafter provided, the street-side edge of all driveways must be paved.

- (1) All driveways for commercial or non-residential use shall be paved for at least the first twenty-five (25) feet, commencing at the edge of pavement of the intersecting road.
- (2) All residential driveways for residential use shall be paved for at least the first ten (10) feet, commencing at the edge of pavement of the intersecting road.
- (3) *Material:* Except as hereinafter provided, the pavement shall consist of bitumen or other solid, durable material approved by the Road Agent. Within the Historic District, the pavement shall consist of such solid, durable material as may be approved by the Historic District Commission and the Road Agent.
- (4) *Depth of Material:* In the case of bituminous pavement serving one- and two-family residences, the pavement shall consist of a single, two (2) inch course of hot bituminous pavement. For multi-family, commercial and other uses, the pavement shall consist of a one (1) inch wearing course. For materials other than bituminous pavement, the depth of material shall be as approved by the Road Agent.

If the street or private road with which the driveway intersects is not, itself, paved, no paving shall be required on the driveway.

C. Travel Width.

Driveways must be designed, constructed, and maintained so as to have at least a twelve (12) foot travel width. Outside of the traveled way there must be enough width to accommodate snow areas, drainage, parking areas, clearance for emergency vehicles, etc.

D. Vertical Clearance.

Driveways must be designed, constructed, and maintained so as to have at least fourteen (14) feet of vertical clearance.

E. Gates.

If gated, the following standards apply:

- (1) Gate openings must be at least fourteen (14) feet wide, except where there are existing stone walls between which the gate will be placed.
- (2) Gates must not open towards the public right-of-way.

F. Passing Lanes, Vehicle Turnouts, and Vehicle Turnarounds

- (1) Driveways longer than 300 feet must include a turnout no farther than fifty (50) feet from the primary residence or building. The turnout must be perpendicular to the driveway and be at least twelve (12) feet in width and twenty (20) feet in length as measured from the edge of the driveway. The area of the turnout may not be steeper than five (5) percent, and must have an inside radius of fifteen (15) feet. Other dimensions may be approved, provided the applicant can demonstrate that vehicles can safely back in and drive out.
- (2) Driveways longer than one thousand (1,000) feet must include a passing area at least every eight hundred (800) feet, exclusive of the required turnout in (1) above or turnaround in (3) below. This passing area shall be at least eighteen (18) feet wide for a length of at least fifty (50) feet, tapered back to the twelve (12) foot width on both ends. The grade along the entire length of the passing area must not exceed five (5) percent.
- (3) Driveways longer than two thousand (2,000) feet must have a turnaround which has been approved by the Road Agent and Fire Chief as sufficient for turnaround of emergency vehicles, no closer than fifty (50) feet and no farther than three hundred (300) feet of the primary residence or building.

G. Construction Requirements.

All driveways shall be constructed of a minimum of twelve (12) inches of acceptable material (e.g., gravel, but may also include fabric).

H. Curves.

- (1) Horizontal curves with a direction change of more than thirty (30) degrees shall not contain slopes of more than twelve (12) percent.
- (2) Horizontal curves shall have an inside radius of not less than twenty-five (25) feet.

I. Bridges.

- (1) All bridges must be designed, installed, and maintained in accordance with the designs of the State RSA and must be able to support the heaviest vehicle likely to operate on the driveway. For purposes of these regulations, the load capacity shall be at least sixty thousand (60,000) pounds, GVW (Gross Vehicle Weight).
- (2) All bridges must be designed, installed, and maintained so as to convey at least a one hundred (100) year storm event and must be reviewed by the Road Agent.

J. Culverts.

- (1) All culverts shall be a minimum of twelve (12) inches in diameter and must be designed, installed, and maintained so as to support the heaviest vehicle likely to operate on the driveway. For purposes of these regulations, the load capacity shall be at least 60,000 pounds, GVW.
- (2) All culverts must be designed so as to convey the full flow of water of existing drainage swales as well as any additional water that may be transmitted by the driveway. The Road Agent must approve all driveway culvert installations.

K. Numbering.

All driveways providing access to a primary residence or building shall be marked with numbers visible from both directions, with a letter, number, and symbol height of at least three (3) inches, contrasting with the background of the sign and installed and maintained so as to be easily readable from public ways at night. When a house is within thirty (30) feet of the right-of-way, the number may be placed only on the house, with approval of the Code Enforcement Officer.

L. Naming.

Any driveway or road serving three (3) or more addressable structures will be named using road naming rules outlined by the National Emergency Number Association and recommendations of New Hampshire 911. Said name will require written approval of the Road Agent and the Fire Chief. Names will be posted on a sign or signs conforming to guidelines and standards of the manual for uniform traffic control devices, latest edition, as directed by the Road Agent. Road Naming rules may be obtained from the Road Agent.

M. Slopes.

- (1) Driveways with a slope of greater than fifteen (15%) percent will not be permitted.
- (2) Driveways shall normally not exceed slopes of ten (10%) percent.
- (3) The Road Agent shall not normally not approve slopes greater than twelve (12%) percent unless the design has been approved in designs prepared by a New Hampshire licensed engineer.
- (4) Where driveways intersect with a road or other driveway, whether public or private, the slope shall not exceed five (5%) percent within twenty (20) feet of the intersection, so as to ensure that vehicles will have adequate distance to stop during icy conditions prior to reaching the intersection, but slopes between

five (5%) percent and ten (10%) percent may be allowed if the driveway is shorter than two hundred (200) feet and the first twenty-five (25) feet from the intersection is paved.

- (5) At the house-side terminus of a driveway, the grade shall not exceed twelve (12%) percent for the last thirty (30) feet.
- (6) No more than twenty-five (25%) percent of the total length of a driveway may contain slopes of twelve (12%) percent or more.
- (7) Slopes of twelve (12%) percent or more may not exist within one hundred (100) feet of an intersection or within one hundred (100) feet of the house-side terminus.
- (8) Slopes of twelve (12%) percent or more may not extend in any section of driveway for a distance of more than one hundred fifty (150) feet, and there must be at least one hundred (100) feet of separation between segments containing grades of twelve (12%) percent or more.
- (9) For purposes of these regulations, the degree of slope shall be measured over a distance of twenty (20) feet.
- (10) These regulations apply to both downward and upward slopes.

N. Drainage & Erosion Control.

- (1) Driveways which slope down from a road must be designed so as to avoid the conveyance of stormwater runoff from the road in a way that can cause flooding, erosion, or provide other hazard to the driveway itself or and structures on the property.
- (2) No drainage can be discharged onto a public road and must be tied into roadside drainage in a manner satisfactory to the Road Agent. Any drainage structure, swale, or pipe that empties into the town drainage system is done so at the owners own risk.
- (3) The Town of Bennington will not be held responsible for any drainage that protrudes into the right of way. The Town of Bennington will not be held responsible for any water damage or flooding that is a result of the town drainage system.
- (4) During and after construction, the driveway must not cause erosion or sedimentation of drainage systems or surface waters.
- (5) Cuts or fills greater than four (4) feet in depth shall be compacted to ninety-five (95) percent of standard proctor, as reviewed and approved by the Road Agent.
- (6) For driveways one thousand (1,000) feet or more in length, or containing slopes of twelve (12%) percent or more, the issuance of a driveway permit will require a drainage plan by a New Hampshire licensed engineer, or other source acceptable

to the Road Agent, to ensure that stormwater and spring meltwater will not result in erosion, endanger the integrity of the driveway surface, or cause siltation of drainage systems or surface waters.

O. Proximity to lot lines.

Driveways shall be located a minimum of ten (10) feet from side or rear property lines.

P. Proximity to other driveways.

When two (2) driveway entrances on the same side of the road are within fifty (50) feet of each other, a common access may be required, for reasons of safety and topographical considerations.

Q. Wetland Crossings.

Any driveway crossing a wetland or body of water shall have all permits required by the Planning Board, the Zoning Board of Adjustment and the NH Wetlands Board, prior to commencement of construction. Ordinarily, applicants will save time by applying for permits in the following order but may consult the Road Agent for assistance in a particular case: (i) Conditional Use Permit from Bennington Planning Board, (ii) any required Special Exception or Variance from Bennington ZBA, (iii) wetlands permits from NH Wetlands Board and (vi) Driveway Permit from Bennington Road Agent.

R. Only One Primary Access.

There shall be no more than one primary access to a single parcel of land unless a need for multiple accesses can be demonstrated.

S. Angle of Intersection.

Driveways shall intersect roadways at an angle of ninety (90) degrees, and must have a 25-foot radius.

T. Multi-Unit, Commercial or Industrial.

Driveways providing access to multi-unit residential, commercial, or industrial uses shall be designed to conform to good engineering practice using the most recent version of the NHDOT manual, *Administrative Rules for the Permitting of Driveways and Other Access to the State Highway System* as a guide.

U. Shared Driveways.

- (1) If approved by the Planning Board and the Road Agent, one driveway may serve up to two (2) dwelling units. [For this purpose, a single structure containing up to three units of Affordable Housing for the Elderly shall be deemed to be two dwellings]. In such a case, the driveway must maintain a 50-foot right-of-way.
- (2) Before any application for a shared driveway is approved, the landowner(s) must submit a maintenance agreement and provide a deeded easement that clearly defines each property owner's rights and responsibilities.
- (3) The house numbers for all residences are to be placed at the end of the shared driveway, and the individual house number is to be placed at the entrance to each private driveway.

V. Parking.

- (1) Each dwelling shall have not less than two (2) parking spaces per dwelling unit.
- (2) Parking spaces for one-and two-family dwellings need not be paved.
- (3) Each structure housing not more than (3) units of Affordable Housing for the Elderly shall have four (4) parking spaces.

ARTICLE V—Temporary Driveway Permits

To the extent that such driveways are within the scope of these regulations (see Article IV, Preamble), permission for temporary driveways for such activities as logging, utility maintenance and construction will be required from the Road Agent. Temporary permits shall have a stipulated time limit. Temporary driveways will utilize a temporary driveway permit. Temporary driveway permits will follow permanent driveway standards, but may be required to be removed at the completion of the activity.

ARTICLE VI—Procedures

Application

Applicants are encouraged to consult informally with the Road Agent prior to filing a formal application.

Prior to commencing work, the applicant will file an application with the Road Agent, on a form provided by that office. A copy of the completed application will then be forwarded to the Selectboard, the Conservation Commission and Planning Board (if the access crosses a wetland) and the Code Enforcement Officer.

- A. Driveway Permit applications shall be reviewed initially by the Road Agent who shall assign conditions for construction prior to submitting the application to the Selectboard for final approval. No such permit shall be issued unless signed by the Road Agent and the Chairman of the Selectboard.
- B. The Road agent shall be responsible for the inspections of the driveway entrance (from the traveled way through the right-of-way to the property line); the Code Enforcement Officer shall be responsible for the inspection of the driveway from the property line to its end point. The Fire Department is responsible for ensuring that the numbering of driveways providing access to a primary residence or building, and names of any shared driveways are compliant with these regulations.
- C. Before the Road Agent acts on the application, there will be an inspection of the site with the applicant or the applicant's representative to determine conditions for construction including any mitigation measures, and to address any issue identified by others in section B above. For any paved driveways or entrances, there shall be an inspection following the laying of the gravel base and prior to the final paving.
- D. A final inspection will be made to determine that all work has been satisfactorily completed in conformance with these regulations prior to the issuance of a Certificate of Occupancy and/or release of the bond.

Notice

The contractor shall give 24-hour notice to the Road Agent before starting construction.

ARTICLE VII—Administration and Enforcement

- A. These regulations shall be administered by the Bennington Planning Board. The Planning Board, through the authority granted to it under RSA 236:13 (V) hereby delegates administrative duties regarding this regulation to the Road Agent and others identified in these Regulations. The enforcement of those regulations is by the Code Enforcement Officer.
- B. In reviewing an application to construct a driveway, the Road Agent shall apply accepted principles of traffic safety engineering. In addition, the Road Agent may, in the exercise of sound discretion, consider the factors including, but not limited to the availability of town water, the existence of a sprinkler system, the quantity and quality of traffic, the existence of on-street parking, sight distance, adjacent land use, development of access away from arterial streets and onto side streets, anticipated development in the area, and speed limits. If after such review the Road Agent approves the construction of a driveway, the Code Enforcement Officer may issue a building permit upon approval of the driveway permit.

bring the driveway into compliance with these regulations so as to eliminate such risk and may further issue an order to the responsible party to repair or remove such hazardous conditions or take other actions as specified in RSA 236:13. If remedial action is not completed within a reasonable time, the Town may take appropriate remedial action; the costs of which will be charged to the property owner.

Effective Date

These Driveway Regulations shall take effect as follows:

New Construction.

Construction authorized by any Driveway Permit granted from and after the date of adoption shall comply with these regulations. Construction authorized by any Driveway Permit granted prior to the date of adoption may be completed as so authorized.

Substantial Improvements: If an owner replaces any component of an existing driveway, the replacement of the component and any underlying components shall be in compliance with these Regulations. Thus, for example, if a section of a driveway is repaved, that section shall be brought into compliance as to paving, underlying gravel or base, travel width, etc., but it shall not be necessary to bring other sections of the same driveway into full compliance.

Changes in Intensity of Use: If an owner changes the use of a Lot to one of greater intensity, the driveway shall be brought into compliance with these regulations. Thus, for example, (a) if a vacant lot is developed with a residence or (b) if a single family lot is converted to two family use or multiple use or (c) if an owner adds as Accessory Apartment or Accessory Dwelling on a Lot or (d) if a residential use is converted to business or commercial use which anticipates increased road traffic, the driveway shall be brought into compliance.