

Town of Washington, NH

Private Access, Drainage, Maintenance & Installation Policy

Adopted August 2014

Section I Purpose:

The purpose for this policy is to provide the Town of Washington and its landowners the necessary information needed to maintain, upgrade and or repair all driveway and private access points to a public right of way.

Section II Permit required:

Pursuant to RSA 236:9, It shall be unlawful to excavate or disturb the shoulders, ditches, embankments or the surface improved for travel of any highway without written permission from the selectmen or highway agent of the town, provided that in cases of emergency where the public health or safety is endangered such immediate action as may be necessary may be taken without such permission, but in such cases the person directing or taking such action shall at once notify the official empowered to give written permission. A Driveway Permit application must be filed with the Planning Board and approved and a signed Permission to Excavate document must be obtained from the Director of Public Works before any work is initiated.

Existing structure regardless of type, size or condition shall fall under the same statutory requirements of RSA 236:13.

Section III Jurisdiction:

The Planning Board shall enforce and update this policy as needed pursuant to RSA 236:13 and 236:9 and amendments as adopted.

Regulatory authority:

Pursuant to State Statute RSA 236:13;

I. It shall be unlawful to construct, or alter in any way that substantially affects the size or grade of, any driveway, entrance, exit, or approach within the limits of the right-of-way of any class I or class III highway or the state-maintained portion of a class II highway that does not conform to the terms and specifications of a written permit issued by the commissioner of transportation.

II. Pursuant to this section, a written construction permit application must be obtained from and filed with the department of transportation by any abutter affected by the provisions of paragraph I. Before any construction or alteration work is commenced, said permit application shall have been reviewed, and a construction permit issued by said

department. Said permit shall:

(a) Describe the location of the driveway, entrance, exit, or approach. The location shall be selected to most adequately protect the safety of the traveling public.

(b) Describe any drainage structures, traffic control devices, and channelization islands to be installed by the abutter.

(c) Establish grades that adequately protect and promote highway drainage and permit a safe and controlled approach to the highway in all seasons of the year.

(d) Include any other terms and specifications necessary for the safety of the traveling public.

III. For access to a proposed commercial or industrial enterprise, or to a subdivision, all of which for the purposes of this section shall be considered a single parcel of land, even though acquired by more than one conveyance or held nominally by more than one owner:

(a) Said permit application shall be accompanied by engineering drawings showing information as set forth in paragraph II.

(b) Unless all season safe sight distance of 400 feet in both directions along the highway can be obtained, the commissioner shall not permit more than one access to a single parcel of land, and this access shall be at that location which the commissioner determines to be safest. The commissioner shall not give final approval for use of any additional access until it has been proven to him that the 400-foot all season safe sight distance has been provided.

(c) For the purposes of this section, all season safe sight distance is defined as a line which encounters no visual obstruction between 2 points, each at a height of 3 feet 9 inches above the pavement, and so located as to represent the critical line of sight between the operator of a vehicle using the access and the operator of a vehicle approaching from either direction.

IV. No construction permit shall allow:

(a) A driveway, entrance, exit, or approach to be constructed more than 50 feet in width, except that a driveway, entrance, exit, or approach may be flared beyond a width of 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 2 driveways, entrances, exits or approaches from any one highway to any one parcel of land unless the frontage along that highway exceeds 500 feet.

V. The same powers concerning highways under their jurisdiction as are conferred upon the commissioner of transportation by paragraphs I, II, III and IV shall be conferred upon the planning board in cities and towns in which the planning board has been granted the power to regulate the subdivision of land as provided in RSA 674:35, and they shall adopt such regulations as are necessary to carry out the provisions of this section. Such regulations may delegate administrative duties, including actual issuance of permits, to a highway agent, board of selectmen, or other qualified official or body. Such regulations, or any permit issued under them, may contain provisions governing the breach, removal, and reconstruction of stone walls or fences within, or at the boundary of, the public right of way, and any landowner or landowner's agent altering a boundary in accordance with such provisions shall be deemed to be acting under a mutual agreement with the city or town pursuant to RSA 472:6, II(a).

VI. The commissioner of transportation or planning board shall retain continuing

jurisdiction over the adequacy and safety of every existing driveway, entrance, exit, and approach to a highway, whether or not such access was constructed or installed pursuant to a permit under this section, and, unless the access is a public highway, the owners of property to which the access is appurtenant shall have continuing responsibility for the adequacy of the access and any grades, culverts, or other structures pertaining to such access, whether or not located within the public right of way. If any such access is or becomes a potential threat to the integrity of the highway or its surface, ditches, embankments, bridges, or other structures, or a hazard to the safety of the traveling public, by reason of siltation, flooding, erosion, frost action, vegetative growth, improper grade, or the failure of any culvert, traffic control device, drainage structure, or any other feature, the commissioner of transportation or planning board or their designee may issue an order to the landowner or other party responsible for such access to repair or remove such hazardous condition and to obtain any and all permits required therefor. The order shall describe the hazard, prescribe what corrective action or alteration in the location or configuration of such access shall be required, and set a reasonable time within which the action shall be completed. Such an order shall be sent by certified mail, and shall be enforceable to the same extent as a permit issued under this section. If the order is not complied with within the time prescribed, the commissioner or planning board or their designee may cause to be taken whatever action is necessary to protect the highway and the traveling public, and the owner or other responsible party shall be civilly liable to the state or municipality for its costs in taking such action.

Source. 1939, 109:1. RL 107:4. 1945, 188:1, part 19:12. 1950, 5:1, part 9:1, par. 2. RSA 249:17. 1969, 254:1. 1971, 302:1. 1981, 87:1. 1985, 103:4; 402:6, I(a)(7), (b)(7). 1997, 52:1, 2, eff. July 18, 1997.

Section IV Management:

The Public Works Director or his designee shall assess requests for service and to see if they qualify for municipal maintenance on a case-by-case basis. The final decision shall be made by the Planning Board or their designee.

The Selectmen have regulatory authority over the Public Works Department and will enforce the decisions made by the Public Works Director and the Planning Board.

Section V Drainage Easements:

Drainage easements may be requested by the Planning Board at the time an access is installed or maintained and would be in effect in perpetuity.

Section VI Bonding:

Pursuant to RSA 236:10, A bond in the form of cash or letter of credit from a NH bank may be required by the town to cover costs associated with restoration or repair of a town road where the excavation will occur. The Town of Washington shall not arbitrarily

withhold funds from any cash bond or letter of credit, but shall first make a good faith effort to resolve any differences with the contractor doing the excavation or restoration.

Section VII Appeals:

Any person who is aggrieved by this policy may within 10 days of a decision by the Public Works Director and not after that, may appeal a decision to the Planning Board. Upon receipt of such appeal, the planning board shall schedule a public meeting, at which all interested parties may present any relevant evidence in writing; and, at the conclusion of the public meeting, affirm, modify or set aside the decision of the public works director.

Section VIII Severability:

If any section, subsection, sentence, clause, phrase or part of this policy should be held invalid for any reason whatsoever, such decision shall not affect the remaining portions, which shall remain in full force and effect; and, to this end, the provisions of this policy are severable.

Section IX Effective Date:

This policy shall become effective upon passage by the planning board after a legal public hearing.

Public Hearing Date: August 5, 2014

Effective: August 5, 2014

Town of Washington
Planning Board



Jim Crandall, Chairperson