

CHAPTER 198

Town of Pembroke

DRIVEWAYS – Other References:

Amended: 6/24/14, 08/26/08

HISTORY: Adopted by the Planning Board of the Town of Pembroke 7-26-1994.

Amendments noted where applicable.

GENERAL REFERENCES

Planning Board — See Ch. 30.

Zoning — See Ch. 143.

Subdivision of land — See Ch. 205.

ARTICLE I General Provisions

§ 198-1. Authority.

These regulations are adopted pursuant to the authority invested in the Pembroke Planning Board by Chapter 236, Sections 13-14, New Hampshire Revised Statutes Annotated, as amended. The Pembroke Planning Board hereby adopts the following regulations governing driveways in the Town of Pembroke, New Hampshire on July 26, 1994.

§ 198-2. Title.

This chapter shall hereafter be known, cited and referred to as the “Driveway Regulations of the Town of Pembroke,” hereinafter referred to as “these regulations.”

§ 198-3. Purpose.

The purpose of these regulations is to establish the criteria, standards, application forms and fees charged for the location and design of driveways within the Town of Pembroke.

§ 198-4. Adoption of RSA 236:13.

In addition to the standards contained herein all driveways shall also conform to the standards found within RSA 236:13, as amended.

§ 198-5. Jurisdiction.

These regulations shall apply to the installation of all temporary and permanent access points onto the Town of Pembroke roads, including any changes to existing driveways beyond normal maintenance. All developments located on a state road must obtain a driveway permit from the New Hampshire Department of Transportation prior to the issuance of a certificate of occupancy for new construction or final acceptance for existing construction.

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§ 198-6. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

ARTICLE II Word Usage and Definitions

§ 198-7. Word usage.

For purposes of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.

- A. Unless the context clearly indicates to the contrary, words used in the present tense shall include the future tense; words used in the plural number shall include the singular; words used the singular shall include the plural; the word “herein” shall mean “in these regulations”; the word “regulations” shall mean “these regulations”; the word “shall” or “will” is mandatory; the word “may” is permissive.
- B. A “person” shall include natural persons as well as a corporation, a partnership and/or an incorporated association of persons such as a club; “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.”
- C. The terms “drive”, “driveway” or “access point” mean a driveway and the terms shall be used interchangeably.
- D. Words not specifically defined herein shall have their common meaning.

§ 198-8. Terms defined.

The following definitions, in addition to the definitions found within the Town of Pembroke’s Zoning Ordinance, Subdivision Regulations, and Site Plan Review Regulations, Editor’s Note: See Chs. 143, 205 and 203, respectively. are hereby adopted for the purpose of these regulations:

APPLICATION — An application for a driveway permit.

BOARD — The Planning Board for the Town of Pembroke.

DRIVEWAY — A private roadway providing access to a street or highway.

POINT OF TANGENCY — The point at which the curb radius ends and the ramp begins. (See Appendix B.) Editor’s Note: Appendix B is included at the end of the chapter.

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RAMP — That portion of a driveway located between the point of tangency and the property line.

RESURFACED — The installation of a new layer of asphalt. The definition of “resurfacing” shall not include the addition of seal coating to a driveway.

RIGHT-OF-WAY (ROW) — Town-owned property, easements or other interests therein, dedicated for municipal highway purposes.

SINGLE DRIVEWAY — A driveway serving one (1) lot or use.

TEMPORARY DRIVEWAY — A driveway which is only to be used for a period of six (6) months or less.

ARTICLE III General Requirements and Design Standards

§ 198-9. Permits.

No driveway shall be constructed, modified, resurfaced or moved without obtaining a driveway permit from the Public Works Director, or his/her authorized agent. Driveway permits shall expire if not completed within 60 months of approval and issuance of permit. **Amended 6-24-14.**

§ 198-10. Driveway permit application.

The application for a driveway permit shall be made on the application form as shown in Appendix A. Editor’s Note: Appendix A is included at the end of the chapter. The Public Works Director may require additional information or plans depending on the location and design of the driveway.

§ 198-11. Driveways.

All driveways shall conform to the following requirements:

- A. Driveways shall be placed no closer than forty (40) feet to a street intersection.
- B. For driveways with a grade in excess of ten percent (10%), a twenty-foot-long flat area approaching the street is required.
- C. Driveway construction shall be approved by the Public Works Director with sign-off by the Fire and Police Departments.
- D. The driveway must be graded so that runoff from storm water or any drainage systems from the lot does not flow onto the street. **Amended 6-24-14.**
 - (1) Commercial lots located above the street may require a grate across the driveway entrance in order to divert the water and prevent it from adversely affecting abutting properties, the road or ROW. **Amended 6-24-14.**

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- (2) Any driveway located over a culvert shall slope to drain into the culvert.
 - (3) All curbed driveways must have catch basins at the back of the sidewalk.
 - (4) Abutting private and public properties shall not be negatively impacted from the construction of any driveway. **Added 6-24-14.**
- E. Any culvert within the road right-of-way must be a minimum of fifteen (15) inches in diameter and have at least twelve (12) inches of cover. The bottom of the ditch must be at least twenty seven (27) inches deep.
- F. The driveway pavement shall match the grade at edge of pavement, shall not block street drainage and must have a dip before meeting the street so that the driveway does not drain onto the street.
- G. On corner lots, driveways should be at least twenty (20) feet from the corner.
- H. Any permanent driveway shall be paved from the edge of the town roadway with a maximum width of twenty (20) feet and a minimum length of twenty five (25) feet from the edge of the roadway before issuance of a Certificate of Occupancy.
- I. The number of driveways per lot shall be governed by RSA 236:13, as amended, and the Public Works Director. Only drives which provide safe access to the streets shall be permitted.
- J. The driveway shall connect to the street at a right angle, if possible. However in no case shall the driveway intersect the street at less than a sixty (60) degree angle.
- K. An all season safe sight distance of two hundred (200) feet in each direction must be present.
- L. Driveways shall be placed a minimum of five (5) feet from any property line.
- M. Driveways shall be a minimum of ten (10) feet in width with a desirable width of fifteen (15) feet.
- N. The radius of a driveway meeting a street shall not extend beyond the applicant's frontage without notarized permission from the abutter. Driveways shall not interrupt the natural flow and paths for storm water or drainage ways. Where such interruption is likely the driveway shall include the installation of adequate swales and/or culverts. Such swales and culverts shall be maintained by the property owner to the requirements of the Director of Public Works and/or Town Engineer. **Amended 6-24-14.**
- O The Town reserves the right to utilize the Town Engineer for design review and inspection services at the property owner's expense. **Added 6-24-14.**

§ 198-12. Temporary driveways.

In addition to the standards in § 198-11 all temporary driveways shall conform to the following requirements:

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- A. Temporary driveways shall require a permit from the Public Works Director.
 - B. No more than one (1) temporary driveway shall be permitted per lot.
 - C. Temporary driveway permits are valid for a period of six (6) months. The Public Works Director may, at his discretion, extend that permit for a six (6) month period and require a five (5) foot paved apron to protect the town roadway.
 - D. Temporary driveways used in conjunction with construction or other activities on Class V and VI roads, or better, shall be required to post a bond, letter of credit, or other surety in the amount no less than \$5,000.00 in order to ensure that any damage done to public streets is covered. The Public Works Director has the final authority to determine the amount of the financial guarantee required and the form of the surety. **Amended 6-24-14.**
 - E. Access points and ways created from the installation and use of a temporary driveway shall be closed and the land area restored to a natural state according to the requirements set forth by the Public Works Director. **Added 6-24-14.**
 - F. The Town reserves the right to use the Town Engineer to review and approve any restoration plans as well as perform inspection services for the restoration at the expense to the property owner. **Added 6-24-14.**
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ARTICLE IV Administrative Procedures

§ 198-13. Establishment of fees.

It shall be the responsibility of the Board of Selectmen to establish a fee for a driveway permit pursuant to these regulations. Once adopted that fee schedule shall be considered part of these regulations.

§ 198-14. Collection of fees.

It shall be the responsibility of the Public Works Director to collect the appropriate fee for all driveways within the Town of Pembroke. In the absence of the Public Works Director it shall be the responsibility of the individual issuing the driveway permit to collect the fee.

§ 198-15. Driveway approval.

A completed driveway must be approved by the Public Works Director prior to the issuance of a certificate of occupancy for new construction or final acceptance for existing construction.

§ 198-16. Enforcement.

The Public Works Director is charged with enforcing the provisions of this chapter.

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§ 198-17. Civil enforcement.

Appropriate actions and proceedings may be taken by law or in equity to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties as set forth below.

§ 198-18. Violations and penalties.

The town adopts the provisions of RSA 236:14, as amended, in the enforcement of any violations of these regulations. Any person, corporation or other entity that fails to comply with or violates any of these regulations shall be subject to prosecution as a misdemeanor. In addition the cost of restoring the road to its preexisting condition shall be borne by the violator.

§ 198-19. Waivers.

The Public Works Director has the authority to waive or modify the provisions of this chapter except for those required by RSA 236:13, as amended. The Public Works Director shall provide written justification and documentation for all waivers granted. **Amended 6-24-14.**

§ 198-20. Appeals. Amended in its entirety 6-24-14.

All appeals of any action of the Public Works Director pertaining to driveways and/or these regulations shall be made in writing to the Planning Board. The appellant shall follow the application notification process according to RSA 676:4.I.as amended. The appellant shall be responsible for the administrative costs of notification according to the Town of Pembroke Planning Board Application Fee Schedule, as amended.

The application for an appeal shall be submitted according the Planning Board Meeting Schedule for new applications and shall be heard and decided at a scheduled Public Hearing.

The application for an appeal shall include the following information:

1. Copy of the permit application and denial
2. Town Assessing Card and Tax Map for the property
3. Drawing of the lot and proposed location of the driveway. Accurate distances, when applicable, shall be verified by the appellant. If distances cannot be verified by the appellant a surveyed plan may be required by the Planning Board.
4. Narrative explaining why the appeal is being submitted and describe to the Planning Board why the appeal should be granted.

Any person aggrieved by an official action of the Planning Board may appeal to the Superior Court as provided by New Hampshire RSA 677:15, as amended.