

## SECTION B

# Town of Amherst Development Regulations Land Development Control

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### Part 1 – LAND DEVELOPMENT CONTROL REGULATIONS

#### Article 1 – General Provisions

##### 101 Interpretation, Conflict, and Severability

- 101.1** These Land Development Control Regulations shall be construed broadly to promote the purposes for which they are adopted.
- 101.2** Whenever these regulations differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the greater restriction or the higher standard shall prevail.
- 101.3** If any section, clause, provision, portion or phrase of these regulations shall, for any reason, be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of these regulations.

##### 102 Word Usage and Definitions

- 102.1** “Person” means any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- 102.2** The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- 102.3** The words “shall” and “will” are mandatory; the word “may” is permissive.
- 102.4** For any term not defined in these regulations, the definition, if any, given in the Town of Amherst Zoning Ordinance, or applicable State Statutes shall prevail. Terms and Words not so specifically defined shall have their common meaning. In the event a conflict is found to exist between the meaning or definition of any word or term defined in this document, and the meaning or definition of any word or term also defined in the Amherst Zoning Ordinance or applicable State Statutes, the most restrictive meaning or definition shall prevail.
- 102.5** Term Definitions

**ABUTTER** – any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Board. For purposes of receiving testimony only, and not for purposes of notification, the term “abutter” shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For the purposes of receipt of notification in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.

**APPROVAL** - Shall mean recognition by the Planning Board, certified by written

endorsement on the plat, that the final plat submission meets the requirements of these regulations and satisfied, in the judgment of the Planning Board, all criteria of good planning and design.

**APPROVAL, CONDITIONAL** - Shall mean an expression by the Planning Board that the plat is approved but requires additional information or must meet specific conditions for the approval to be valid. Conditional approval does not constitute, nor should it be construed as, approval, either implied or granted, of the final plat, nor does it bind the Planning Board to approval of the final plat.

**APPLICANT** – means the owner and the person or persons duly authorized in writing by the Owner(s) to act on behalf of the Owner(s) in all matters concerning these regulations.

**BOARD** – means the Planning Board of the Town of Amherst, established under the provisions of RSA 673.

**BOND** - A bond filed with the Board of Selectmen whose purpose is to ensure that work specified by the Planning Board is completed satisfactorily. The amount of the bond shall be determined by the Planning Board or Department of Public Works with such assistance as deemed necessary. This amount shall be sufficient to cover all costs for completion of the work by the Town in the event that the applicant defaults. In all other respects, the action of the Board shall be governed by NH-RSA 674:36.

**CERTIFIED SOIL SCIENTIST** – A person qualified in soil classification and mapping who is certified and licensed under applicable laws of the State of New Hampshire.

**CERTIFIED WETLAND SCIENTIST** – A person qualified to identify and delineate jurisdictional wetlands that is certified and licensed under applicable laws of the State of New Hampshire.

**COMMUNITY WATER SYSTEM** – means a public water system designed and constructed to serve a specific subdivision, where the water is supplied from a community well within the subdivision.

**CUL-DE-SAC** – a street with only one outlet and having an appropriate vehicular turnaround for the safe and convenient reversal of traffic movement.

**DRIVE-THROUGH FACILITY** - A building, attached structure or portion thereof that provides products or services directly to a customer in a motor vehicle by means of a window or mechanical device.

**DRY CLEANERS** – Dry cleaners are free-standing facilities that provide laundry and tailoring services for clothing and other items.

**ENGINEER/SURVEYOR** – means a Professional Engineer or Surveyor licensed to practice

in the State of New Hampshire.

**FINAL PLAN** - The final drawing or drawings on which the sub-divider's plan of subdivision is indicated, prepared as required under the provisions of Section 211 hereof.

**FRONTAGE** – The distance along the lot line dividing a lot from either: a public highway, excepting limited access highways as defined by RSA 230:44 and Class VI highways; or a road shown on an approved, recorded and bonded subdivision plat. "Frontage" on cul-de-sacs shall be measured along a line parallel to the front lot line, at the appropriate front yard building setback, between the points of intersection with the side lot lines.

**GOVERNMENTAL LAND USES** – means those uses of land prescribed under RSA 674:54.

**INVASIVE SPECIES** – Any prohibited species of aquatic or terrestrial plant materials on the list of invasive species as published by the New Hampshire Department of Agriculture, as amended from time to time.

**LAND; REAL ESTATE** – The words "land", "lands" or "real estate" shall include lands, tenements, and all rights thereto and interests therein.

**LOT** – A parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law.

**MASTER PLAN** - Shall mean the comprehensive plan for the community.

**OFF-SITE IMPROVEMENTS** – means all grading, paving, construction of utilities, streets, walkways, landscaping or other appurtenances within or without a subdivision, but not on the individual lots and usually within the public right-of-way either existing or proposed.

**ON-SITE IMPROVEMENTS** – means all grading, paving, landscaping, walkways, utilities, structures, driveways, and other appurtenances which are placed within the boundaries of and added to a lot.

**OWNER** – means the person or persons who hold title to the land being subdivided or upon which a site plan is being proposed. Such party(s) shall be as listed in the Hillsborough County Registry of Deeds. Where ownership is as tenants in common, all of the said tenants in common shall be required to sign any document required to be signed by the owner. Where property is owned by joint tenants with rights of survivorship, all of the joint tenants shall sign any such document.

**PERFORMANCE GUARANTEE** – is a security that may be accepted in lieu of a requirement that certain improvements be made before the Planning Board approves a final subdivision or site plan, or as a condition of such approval.

**PLACE OF WORSHIP** – A place of worship is a building, such as a church, synagogue, temple or mosque, where public worship services are held. A place of worship houses an assembly hall or sanctuary, it may also house meeting rooms, classrooms and,

occasionally, dining, catering or party facilities.

**PLANNING DIRECTOR** – means a duly designated planner of the Town of Amherst or, if there is none, the person designated by the Town Administrator.

**PLAT** – means the final plan, prepared by a Licensed Land Surveyor in accordance with RSA 674:37, on which the applicant's plan of subdivision is presented to the Amherst Planning Board for approval and which, if approved, will be submitted in the form approved to the Registry of Deeds for recording.

**PRELIMINARY PLAN** - Shall mean a plan prepared as required in Section 211.0 and submitted to the Board prior to preparing the final plat

**PUBLIC WATER SUPPLY** – means a system for the provision to the general public of piped water for human consumption and street hydrant fire protection by a water utility licensed by the NH Public Utilities Commission.

**RESTAURANT** - An establishment in which food is prepared on the premises and sold to customers.

**Fast food restaurant**

A restaurant where food or beverage is sold for consumption on-site or off-premises within a short period of time, orders are made at a walk-up window, a drive through window or counter, payment is made prior to consumption, and packaging of food is done in disposable containers, or is otherwise not a "full service restaurant." A fast food restaurant may provide, as secondary activities, delivery service or related retail sales items.

**Full-service restaurant**

A restaurant where prepared food is sold for consumption on the premises, customers are provided an individual menu, and a restaurant employee serves customers at the same table or counter where the items are consumed. A full-service restaurant may also provide, as secondary activities, delivery service, take out service (except drive-up customer service) or related retail sales items.

**Take-out restaurant**

A restaurant that sells prepared food for consumption entirely off the premises.

**RETAIL USE** - A building or part of a building where merchandise, food, articles, or things are offered or kept for sale directly to the public at retail. This also includes the following: bank, credit union, savings institution, or other finance and insurance services; real estate office.

**RETAIL – SHOPPING CENTER** – An integrated group of commercial establishments that is planned, developed, owned and managed as a unit. Uses in a shopping center may be in one or more buildings and on one or more lots, provided that all buildings and lots are developed with a unified approach to access and circulation, parking, truck loading, vehicular entrances and exits, drainage, utilities, and management of landscaped and buffer areas.

**RIGHT-OF-WAY** – A strip of land which is used for the purpose of access or egress, upon which may be located a street, sidewalk, trail or undeveloped area which is separate and distinct from the lots adjoining said right-of-way and not included within the dimensions or area of such lots.

**SETBACK, MINIMUM STRUCTURE** - A line parallel to the front, side, and/or rear lot line and set back from said lot line a sufficient distance as specified in the Amherst Zoning Ordinance. The yard setback measurements establish the area in which all structures must be erected or placed. No part of a building or structure shall extend across the minimum yards specified in the Amherst Zoning Ordinance.

**SITE PLAN** – means the drawing meeting the requirements of RSA 674:43 on which the applicant's plan of development for nonresidential or multi-family development is presented to the Board for approval.

**STREET** - Listed below are the State definitions for the various types of roadways. These will be used by the Planning Board for their purposes.

Class I - Trunk Line Highways. These consist of all existing or proposed highways on the primary state highway system, excepting all portions of such highways within the compact sections of towns and cities of sixty-five hundred (6,500) inhabitants and over. The State assumes full control and pays cost of construction, reconstruction, and maintenance of its sections; the portions in compact areas are controlled by the towns and cities under Class IV highways.

Class II - State Line Highways. These consist of all existing or proposed highways on the secondary State highway system, excepting portions of such highways within the compact sections of towns and cities of sixty-five hundred (6,500) inhabitants and over, which are classified as Class IV highways. All sections improved to the satisfaction of the NHDOT Commissioner are maintained and reconstructed by the State. All unimproved sections, where no State and local funds have been expended, must be maintained by the town or city in which they are located until such are improved to the satisfaction of the NHDOT Commissioner.

Class III - Recreational Roads. These consist of all such roads leading to, and within, State reservations designated by Legislature. The State Highway Department assumes full control of reconstruction and maintenance of such roads during the recreational season.

Class IV & V - Town and City Streets. These consist of all highways within the compact sections of towns and cities of sixty-five hundred (6,500) inhabitants and over. Extensions of Class I and Class II highways through these areas are included in this classification.

Class VI - Rural Highways. These consist of all other existing public ways, including highways discontinued as open highways, highways closed subject to gates and bars, and

highways not maintained in suitable condition for travel for five (5) years or more.

Scenic Roads. These are special town designations of Class IV, V and VI highways which have been designated according to NH RSA 231:158 and to which special rules apply.

**SUBDIVIDER** - The owner of record of the land to be subdivided, including any subsequent owner of record making any subdivision of such land or any part thereof, or the agent of any such owner.

**SUBDIVISION** - Shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this chapter.

**SUBDIVISION, MAJOR** – means a proposal for a parcel of land involving either greater than four (4) home sites or greater than ten (10) acres.

**SUBDIVISION, MINOR** - The subdivision of land into three (3) or fewer lots, with no potential for re-subdivision, and requiring no new roads, utilities, or other municipal improvements.

**SURFACE WATER** - means streams, lakes, ponds, marshes, watercourses and other bodies of water, natural or artificial, including all water remaining on the surface after rainfall or melting of snow.

**TEMPORARY TURN-AROUND** – That portion of a platted street intended for future extension, constructed in order to allow vehicles to reverse direction on a temporary basis.

**WETLANDS** – are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. They include, but are not limited to: swamps, bogs, marshes, ponds, and lakes.

Methods for identifying and mapping wetlands shall utilize the publications Corps of Engineers Wetlands Delineation Manual, 1987 and Regional Field Indicators for Identifying Hydric Soils in New England, April 2004. A Certified Wetland Scientist shall perform wetland delineation.

### **103 Amendment**

The Planning Board may amend these regulations from time to time in accordance with the provisions of RSA 675:6.

**104 Effective Date**

These regulations shall take effect upon their adoption by the Planning Board.

**105 Review of Developments of Regional Impact**

**105.1 Purpose.** The purpose of this section is to:

- A. Provide timely notice to potentially affected municipalities concerning proposed developments, which are likely to have impacts beyond the boundaries of the Town of Amherst.
- B. Provide opportunities for the regional planning commission and the potentially affected municipalities to furnish timely input to the Town of Amherst.
- C. Encourage the Town of Amherst to consider the interests of other potentially affected municipalities.
- D. Fulfill the statutory requirements of RSA 36:54 through 36:58.

**105.2 Definition**

For the purpose of this section, “development of regional impact” means any proposal before a local land use board which in the determination of such local board could reasonably be expected to impact on a neighboring municipality.

**105.3 Review Required**

The Amherst Planning Board, upon receipt of an application for development or a Comprehensive Planning Application, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact. Failure of the Planning Board to vote specifically on an application to determine if a project meets the criteria of Developments of Regional Impact shall result in a determination being made that the proposal is not a Development of Regional Impact.

**105.4 Procedure**

- a. Upon determination that a proposed development has a potential regional impact, the Amherst Planning Board shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.
- b. Within 72 hours of reaching a decision regarding a development of regional impact, the Amherst Planning Board shall, by certified mail, furnish the regional planning commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made.
- c. At least 14 days prior to public hearing, the Amherst Planning Board shall notify, by certified mail, all affected municipalities and the regional planning commission of the date, time, and place of the hearing and their right to testify concerning the development.

### **105.5 Applicability**

The provisions of this section shall supersede any contrary or inconsistent provisions of local land use regulations enacted under RSA 155-E and RSA 674.

## **106 Other regulations, ordinances and statutes**

**106.1** In addition to complying with the regulations established herein, the applicant shall comply with all other applicable regulations, ordinances and statutes of the Town, the State of New Hampshire, and the United States Government.

**106.2** As the result of any development within the Town of Amherst, any areas devoted for use as a “stump dump”, shall be duly noted and outlined on plans submitted to the Planning Board.

## **107.0 Scenic Roads**

Where the Town or utility companies develop along or off of any Scenic Road, duly designated under RSA 231:157, the development shall be undertaken with the full compliance of the RSA. Required public hearings under this provision may take place simultaneously with the required public hearing for site plan or subdivision approval.

## **108.0 Access to Property**

Upon submitting an application to the Planning Board, conceptual or otherwise, the applicant shall grant site access to the Board and/or designee, provided that written or oral notice is given indicating when such site visit will occur.

## **109.0 Review of Developments Affected by Municipal Boundaries**

Any site plan or subdivision application submitted to the Amherst Planning Board for review and consideration which contains land(s) situated in more than one municipality shall be subject to the requirements and procedures contained in RSA 674:53 Land Affected by Municipal Boundaries.



# **Town of Amherst Development Regulations Subdivision Regulations**

2-1

## **Part 2 – SUBDIVISION REGULATIONS**

### **Article 1 - General requirements**

#### **201 Authority**

Pursuant to the authority vested in the Amherst Planning Board by the voters of the Town of Amherst and in accordance with the provisions of NH-RSA 674:35, the Amherst Planning Board adopts the following regulations governing the subdivision of land in the Town of Amherst, New Hampshire.

##### **201.1 Purpose**

The Subdivision Regulations are intended to facilitate housing and other construction that can be developed in such a manner to promote the most appropriate use of the land, encourage environmentally sound planning to conserve open space, retain and protect important natural and cultural features; and provide for efficient use of land and community services to advance the goals stated in the Master Plan and in accordance with RSA 674.21, Innovative Land Use Controls.

##### **201.2 Objectives**

- A. To maintain rural character, preserving farmland, forests, grasslands, wetlands, and maintaining rural views.
- B. To preserve those areas of the site that have the highest ecological value, including, for example, wildlife habitats, (areas of highest conservation value as identified by the NH Fish and Game's Wildlife Action Plan), and water resources (Drinking water supply areas and watersheds, wetlands, streams, and rivers.)
- C. To locate buildings and structures on those portions of the site that are the most appropriate for development, and avoiding development in areas ill-suited for development, including, for example, , areas with poor soil conditions, a high water table, that are subject to frequent flooding, or that have excessively steep slopes.
- D. To preserve historic, archeological, and cultural features on the site.
- E. To create a contiguous network of open spaces or "greenways" by linking the common open spaces within the subdivision to open spaces on adjoining lands wherever possible.
- F. To reduce the impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and stormwater runoff.
- G. To reduce the amount of roads, sidewalks, and stormwater management structures that must be built and maintained.
- H. To minimize the impact of residential development on the municipality, neighboring properties, and the natural environment.

#### **202 Application Procedure**

##### **202.1 Application**

All applications made to the Planning Board, whether for formal or informal

consideration, shall be submitted to the Office of Community Development at least thirty (30) days prior to the date of a Planning Board meeting at which the applicant wishes to appear.

A. Application for proposed subdivision may be presented as follows:

1. Preliminary Conceptual phase, where a map of the site is presented, showing the site and neighboring properties, which includes:
  - The relative ecological condition of the site, based on the NH Fish and Game Wildlife Action Plan.
  - Wetlands, surface waters, and aquifers at the site.
  - Open space, trails, and recreation areas in the subject and neighboring parcels.
  - Soils designated of prime or local importance as shown in USDA NRCS mapping.
2. Design Review phase at which abutters must be notified,
3. Final Review phase of the application at which abutters must be notified.

**202.2** A completed application within the meaning of RSA 676:4 I (b) shall constitute a completed application form, a complete list of abutters including the owner, applicant and any professionals whose stamp appears on the plan, three (3) sets of addressed gummed mailing labels, the payment of a fee as per approved schedule of fees, as well as all of the items specified in Section 211, Paragraphs 211.1, 211.2, and 211.4 as appropriate and shall include any specific factual material required by the Planning Board, unless waived by the Planning Board during the subdivision process, including such materials as traffic studies, water supply/hydrogeologic studies, environmental impact studies, or similar materials necessary to make informed decisions as to the impact of a proposed subdivision or development.

**202.3** The Planning Board, upon a showing of good cause by the applicant, may waive any provision of these Subdivision Regulations. It is the applicant's responsibility to submit waiver requests in writing, citing the provision requested to be waived, and the reasons for requesting the waiver.

**202.4** For Planning Board agenda purposes only, inclusion of submission documents required by Section 211 shall be considered complete. The Planning Board shall receive and vote to accept an application only at a public meeting after notification of abutters as per RSA 676:4 I (d).

**202.5** Applications and plans for Final Review phase will be reviewed by the Zoning Administrator for conformance with these subdivision requirements and applicants will

be notified by regular mail of any deficiencies which must be corrected in order to be placed on a Planning Board agenda for Planning Board Final Review of the application.

- 202.6** After such notice, the applicant may revise the plan/s. The revised plan, which must provide the information required by subdivision regulations shall be resubmitted at least fifteen (15) days prior to the Planning Board meeting at which the applicants wishes to appear. Approval of State agencies is mandatory for applications to be approved in the Final Review phase.
- 202.7** Adherence to these requirements will place applications on the next available Planning Board agenda for consideration, within constraints imposed by the number of applications received. Assignment to agenda will be in the order of receipt.
- 202.8** The Preliminary Conceptual phase is intended to address the suitability of the land for subdivision and for review of the basic concept of the proposal in general terms such as desirability of types of development for an area, and under the Master Plan. This review shall not bind either the applicant or the Planning Board.
- 202.9** The Design Review phase continues this informational exchange between the Board and the applicant, and these discussions are encouraged for major subdivisions, subdivisions proposing new roads, and subdivisions applied for under the Integrated Innovative Housing Ordinance. This review shall not bind either the applicant or the Planning Board.
- 202.10** Material presented for this discussion should include plats and information as described in Section 211. Discussions are vital to sound planning and to let both the applicant and the Board study the widest range of possible configurations. In addition, the suitability of the proposal can be determined with a minimum burden of expense on the applicant.

### **203 General Regulations**

- 203.1** The Planning Board shall, in the exercise of the authority granted pursuant to NH RSA 674:36, review all proposed subdivisions with a view toward determining the impact that the proposed subdivision will have on various Town services; and to that end, determining whether such proposed subdivision, if permitted, would create one (1) of the following conditions:
  - A. Constitute a scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire department, or other public services;
  - B. Necessitate an excessive expenditure of public funds for the supply of such services.If, after such review, the Board determines that the proposed subdivision would cause either of the aforementioned conditions, then the Board shall so inform the applicant and indicate that the applicant may modify the proposal to avoid the aforementioned conditions; and in doing so, the said Board may, considering all the circumstances,

specify the extent to which the particular proposed subdivision may be developed in any given year, as well as establish the minimum duration of time for the total development of such particular subdivision. The Board shall state in its records any modifications it will require.

If during review of an application, professional or engineering review is employed by the Planning Board, the costs of such review shall be borne by the applicant for approval. An estimated fee shall be placed in escrow with the Town prior to commencement of the third-party review. If the escrow amount has been expended prior to completion of the Planning Board's review, an additional escrow amount will be requested prior to proceeding with the review. If any escrow amount remains at the conclusion of the review, it will be returned to the applicant.

**203.3** The "Roadway and Utility Standards" and "Stormwater Regulations" of the Town of Amherst are incorporated into these Subdivision Regulations by reference.

**204 Agreement to Approvals**

Acceptance and approval by the Board of the submission shall constitute an agreement between the Town and the applicant that subdivision and development of the land in question shall be done as detailed on the final plat/s. Deviation from the approved final plat requires the consent of the Board.

**205 Action of the Board**

**205.1** After due notice as required by RSA 676:4 I (d), the Planning Board shall hold a public hearing within thirty (30) days of accepting an application for Final Review. The applicant and abutters shall be notified of said hearing in fashion consistent with RSA 676:4 (g).

**205.2** The Board must act to approve, modify, or disapprove a plat within sixty-five (65) days of the acceptance of the complete application unless the time for action has been extended an additional ninety (90) days by the Selectmen or unless the applicant has waived the requirement for action within the time periods specified herein; and consent to such extension is agreeable to both parties. If the Board fails to act and has obtained no extension from the Selectmen or waiver from the applicant, then said applicant may obtain from the Selectmen an order directing the Board to act within thirty (30) days. Failure of the Board to act upon such order of the Selectmen, shall constitute grounds for the Board of Selectmen, upon petition of the applicant, to issue an order approving the application, if the Board determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.

**205.2** The approved final design plat shall be recorded with the Registrar of Deeds, Hillsborough County, prior to any sale or transfer of land within the subdivision. The recording of such approved plats shall, without further action, modify the official map of the Town of Amherst. Such recording shall not constitute acceptance by the Town of any street, easement, or open space shown thereon.

- 205.3** No street or open space will be accepted by the Town until such time as all improvements have been carried out as shown on the final plat, or in accordance with other options as indicated in Section 213.1 of these regulations, subject to any conditions established by the Planning Board at the time of final design plat approval and compliance with all State and local regulations applicable thereto. Acceptance shall then take place only upon the acceptance by the Selectmen of the Town of a Warranty Deed to the premises so dedicated.

## **ARTICLE 2 -- PLAT REQUIREMENTS**

### **206 Compliance with Regulations**

- 206.1** No subdivision of land shall be made or land cleared for conversion purposes, and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final design plat, prepared in accordance with the requirements of the regulations, has been approved by the Board, and other required permits have been issued.
- 206.2** The subdivider shall familiarize himself with all State and Town regulations relative to the health, buildings, roads, and other pertinent data, so that he is aware of the obligations and standards expected.

### **207 Character of Land for Subdivision**

All land to be subdivided shall be, in the judgment of the Board, of such character that it can be used for building purposes without danger to public health or safety, or to the environment. Land subject to periodic flooding, poor drainage, or other hazardous conditions, shall not ordinarily be subdivided. Land with inadequate capacity for sanitary sewage disposal shall not be subdivided. Plats for the subdivision of land shall conform with all regulations of the Board, the Zoning Ordinances, and the Water Pollution Control Regulations and other applicable by-laws, ordinances, and regulations at both State and local levels.

### **208 Lot Layout**

The layout of lots shall conform to the requirements of the Zoning Ordinance when in force and shall be appropriate for the intended construction.

### **209 Preservation of Existing Features**

Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, high value ecological habitats, other natural resources, historic landmarks, stone walls, and other significant features. Originality in lot layout will be encouraged to achieve the best possible relationship between the development and existing features on the property.

## **210 Submission Documents**

### **210.1 Design Review Phase**

- A. Tentative plats for discussions should be sufficiently clear to show all site conditions. Plans should not be at a scale greater than one hundred (100) feet to the inch. Six (6) paper prints are filed with the application detailing the general concept of the proposal and indicating the form of subdivision sought.
- B. Plans for a residential development proposed under the Integrated Innovative Housing Ordinance (IIHO) should include calculations of density allowed as of right, as well as any density bonus proposed, and rationale for granting the bonus.
- C. Suitability of the soils present on a tract may be paramount to the type of development on such tract and soils testing should be directed toward establishing soils type and suitability, indicating on plans: boundaries, topography, wetlands, ledge, streams, existing roads, new roads, structures, soils, types, adjacent development.

### **210.2 Final Review Phase**

- A. Final plat/s, three (3) full size copies, ten (10) 11"X17" copies of paper prints and PDF/A copies of the full submission showing the following:
  - 1. Boundary of subdivision area, including bearings and distance on every lot line;
  - 2. Topography with sufficient detail to indicate stormwater runoff;
  - 3. Streams, seasonal runoffs, brooks, ponds, wetlands (poorly or very poorly drained soils);
  - 4. The subdivision's relation to existing roads;
  - 5. Existing structure(s);
  - 6. Adjacent structures within one hundred (100) feet of parcel boundaries;
  - 7. Site location map, showing proposed subdivision in relation to major roads;
  - 8. The subdivider or his agent(s) shall arrange to have soils investigations, including test pits and required Site Specific Soils Mapping (SSSM), witnessed by the Town Health Officer or their designee. Wetland areas, if present on the site, shall be delineated by a Certified Wetland Scientist. The results of soils investigations to be placed on plans and include, but not limited to, soils data showing results and location of test pits and perc tests, a statement that tests meet the criteria established by State and Local authorities for the design of a septic system;
  - 9. Location of four thousand (4,000) square feet per single family unit reserved for septic systems. Additional soils tests, after Final Review approval, may be required.

10. North arrow;
  11. Graphical scale;
  12. Date of layout and dates of revision.
  13. Professional stamp(s) of any Licensed Land Surveyor, Soil Scientist, Certified Wetland Scientist, Professional Engineer, and Subsurface Designer responsible for preparation of the Plat.
- B. Drainage calculations for proposed culverts or drainage structures, including driveway culvert size. These should be submitted for review in the form of a drainage report or memorandum with sufficient back up data to demonstrate compliance with the Amherst Stormwater Regulations and facilitate review by a third party;
- C. Legal Data Required
- When applicable to a specific subdivision, the following are required in form and substance approved by Town Counsel prior to approval of a subdivision plat:
1. Agreement to convey to the Town land to be used for streets and other public purposes, with transfer of title to such interests to be effective on such date as the Town accepts such land.
  2. Covenants which shall include a definitive statement of the method of ownership of the common land or open space. The intent herein is to guarantee that ownership and taxation of common land be equitably apportioned to individual owners for his/her lot/unit.
  3. Covenants permanently restricting the common land or open space from any future subdivision.
  4. Easements and right-of-way over property to remain in private ownership including a street.
  5. Rights to drain onto or across other property, whether public or private, deeds covering any land to be used for public purposes, easements, right to drain onto or across private or public property shall be submitted to, and approved by the Board of Selectmen with the approval of Town Counsel, the Department of Public Works, and/or any other appropriate agency.

All documents required hereunder shall be submitted in final, executable, recordable form satisfactory to Town Counsel as part of the Final Review Phase.

### **210.3 Final Plat(s)**

- A. All final Plats must show:
1. Name of municipality;

Town of Amherst Development Regulations  
Subdivision Regulations

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2. Name of subdivision;
  3. Name and address of subdivider;
  4. Name and address of abutters;
  5. Existing roads or driveways within two hundred (200) feet of the subdivision;
  6. Existing and proposed lot lines;
  7. Proposed names of new streets or private roads and driveways servicing three (3) or more dwelling units, shall have appropriate road names as approved by the Board of Selectmen or their designee;
  8. Street address and Lot designations compliant with Assessing Office and Fire/EMS Department requirements.
  9. Area reserved for stumps;
  10. Location of existing and proposed easements, IF NONE, SO STATE ON PLANS;
  11. Deed restrictions, IF NONE, SO STATE ON PLANS;
  12. Building setback lines;
  13. Parks;
  14. Recreation facilities;
  15. Conservation trails;
  16. Significant natural or manmade features;
  17. Water mains;
  18. Sanitary sewers;
  19. Storm water sewer or drain lines, and any water quality treatment facilities;
  20. Existing utilities, telephone, electric, gas;
  21. Proposed placement of telephone, electric, gas;
  20. Boundaries of Zoning Districts within the subdivision;
  21. Boundaries of other municipalities;
  22. Land use designation per Zoning Maps;
  23. Location of driveways accessing public road and indication of sight distances.
- B. Additional Final Plat Documents to be Submitted:
1. A statement of suitability of land for development;



2. A statement of work to be completed on existing streets to meet minimum standards;
3. Method of sanitary sewerage disposal;
4. Method of supplying water;
5. Road profiles and cross sections, including driveways for Class B reduced frontage lots;
6. Approval/s from any other Municipal, State or Federal Agency which may have jurisdiction. Applicable permit numbers shall be listed on the plan;
7. Name and seal of engineer or land surveyor licensed by the State of New Hampshire;
8. Statement that final plat is based on a boundary survey with a maximum error of closure of 1 in 10,000 certified by an Engineer or Surveyor registered with the State of New Hampshire, distances shall be to the nearest hundredth (100<sup>th</sup>) of a foot and bearings to the nearest one (1) second;
9. Stations, radii, curve data, and paving widths of streets;
10. Lot dimensions showing area in square feet and acres;
11. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Town;
12. Accurate locations of all monuments to be set at street intersections, points of curvature and tangency of curved streets, and at angles of lots;
13. Drainage calculations for proposed culverts or drainage structures, including driveway culvert size. These calculations shall be presented in a Drainage Report/Memorandum demonstrating compliance with the requirements of Amherst Stormwater Regulations, and suitable for third party review;
14. Floor plans and architectural drawings of proposed units in an IIHO residential project;
15. Indication on plan of what area is dedicated to open space, and method of dedication;
16. A statement of approval from appropriate municipal agency if subdivision is to be served by public water supply or sewer;
17. Volume and page reference sufficient to indicate the subdivider's derivation of

title in the event only one (1) parent tract is involved, and if the subdivision constitutes an assemblage of several tracts, the plat shall contain a title reference of each and indicate where each of the lots is situated with reference to the assembled tracts. All lots shall be numbered so as to coincide with the Town of Amherst tax map numbers by parent tract numbers.

- a. No subdivision shall be finally approved until the Planning Board is provided with a certificate in writing from the Tax Collector that all tax liens (other than those that apply to April 1, of the tax year in which the subdivision is being approved) have been paid and cleared.
  - b. That Section 211 of the subdivision regulations shall require that any plan presented for final approval contain a depiction on the plan by dotted lines of the lot lines of the parent tract(s) as identified in the notes.
  - c. That the identity of any lien holder or mortgages (including volume and page references where said liens are recorded) that exist at the time such approval is given are listed and certified by an attorney.
17. Statement regarding choice of building or bonding of any proposed road layout with improvements (Option 1 or 2, see Section 213.0 - New Roads and Improvements and Building Permits);
18. Approval of Town Counsel of legal data in final, executable, recordable form on:
- a. The agreement to convey to the Town, land to be used for streets and other public purpose;
  - b. Any covenants dealing with methods of ownership of common land or open space. The intent herein is to guarantee that ownership and taxation of common land be equitably apportioned to individual owners for his/her lot/unit and common land. With respect to covenants and other recordable documents, no Building Permit shall be issued until the applicant has provided photo copies of the recorded instrument to the Town identifying the recorded item to be in place;
  - c. Any covenants restricting use or future use of land within a subdivision to those permitted in the Zoning Ordinance as well as restrictions on number of bedrooms;
  - d. Any proposed easements;
  - e. Any proposal to increase drainage onto or across other property, whether public or private;
  - f. A recordable Warranty Deed for any land/road to be accepted by the Town.
19. Estimate from appropriate contractors of cost installation

- of all roads / improvements shown on plan;
- 20. Space reserved on plat for endorsement by all appropriate agencies;
- 21. Erosion & Sedimentation Control Plan prepared by a Licensed Professional Engineer. As a minimum, all Erosion & Sedimentation Control Plans shall be consistent with the requirements of the Amherst Stormwater Regulations as amended from time to time.
- 22. List all State and local permits, variances and waivers granted;
- 23. Study or review of, unless waived by the Planning Board;
  - a. Fiscal impact,
  - b. Environmental impact,
  - c. Traffic,
  - d. Water supply,
  - e. Drainage Report,
  - f. Hydrogeological,
  - g. Other, as deemed necessary by the Planning Board.
- 24. Statement regarding a phasing plan in accordance with Section 3.19 of the Amherst Zoning Ordinance.

**210.4 Submission Documents for Lot Line Change and Recording**

- A. Completed Planning Board application form with appropriate documents.
- B. Three (3) full size paper prints, ten (10) 11"X17" paper prints and original.
- C. Site location map.
- D. Site map showing:
  - 1. Name of municipality,
  - 2. Name and address of owner/s,
  - 3. Boundaries (including bearings) certified with name, address, and seal of licensed surveyor with the following statement entered on the plat and signed by the Surveyor. I hereby certify that this plan is based on an actual field survey and has a maximum error of closure of 1 in 10,000. (For lot line change only);
  - 4. Location of all monuments found or to be set (For lot line change only);
  - 5. North Point;
  - 6. Bar scale;
  - 7. Date of layout and date of any revision;

8. Names and addresses of abutters as defined in the Zoning Ordinance;
9. Location of existing or proposed easements (if none, so state on plan/s);
10. Deed restrictions (if none, so state on plan/s);
11. Name, seal, and signature of land surveyor (licensed by New Hampshire);
12. Lot dimensions, area of lot/s in square feet, area of lot/s in acres;
13. Volume and page references sufficient to indicate derivation of title/s; 4. New lot lines (shown solid) and former lot lines to be eliminated (shown dotted) with, if necessary, the following note entered on the plat; Lot/Parcel number is not to be considered a separate building lot but will henceforth be considered as part of premises known as lot number \_\_\_\_\_.

For Consolidation and Lot Line Change(s):

15. All existing buildings on lot/s (for Lot Line Change Only);
16. Soils Conservation Service soils type overlaid on plan (for Lot Line Change only);
17. Zoning district boundaries on parcel, if any.

#### **210.5 Lot Consolidation**

All lot consolidations shall be completed using the form designated by the Planning Board and must comply with the current Amherst Zoning and Subdivision Regulations. Signed copies of the form shall be recorded at the Hillsborough County Registry of Deeds and the Amherst Assessors office per RSA 674:39a.

#### **210.6 Voluntary Merger**

- A. Upon application by the owner, the Planning Board shall approve the merger of two or more contiguous preexisting approved or subdivided lots or parcels for the purpose of municipal regulation and taxation, unless the merger would create a violation of current regulations. No public hearing or notice shall be required. The owner shall complete a lot merger form which is available from the Amherst Planning Department. The Form shall be submitted to the Planning Department for endorsement by the Planning Board and recording in the HCRD, and shall be filed with or mailed to the Town Assessor.
- B. No parcel or parcels merged under these provisions shall thereafter be separately transferred without subdivision approval.

### **211 New Roads and Improvements and Building Permits**

- 211.1** Any subdivision which requires road system layout and construction will have such improvements installed in accordance with the Roads and Utility Standards as detailed in Part 3 of these regulations. The subdivider shall elect to comply with Option 1 or

Option 2 as described below and shall so note on subdivision plans submitted to the Planning Board for final approval and such notation shall become binding on his successors, heirs or assigns.

- A. **OPTION 1:** The road system or part of a road system and any other planned or required improvement is entirely completed prior to acceptance. An as-built road plan is furnished to and approved or disapproved by the Town upon installation of the base course of bituminous concrete. The road/improvements are accepted by the Board of Selectmen, deeded to the Town; and a Maintenance Bond (Irrevocable Letter of Credit) sufficient to cover a two-year guarantee period or such greater period as may be required by the Planning Board is furnished to the Planning Board. Any deeds are recorded. Building Permits and Driveway Permits may then be issued.
- B. **OPTION 2:** The road system or part of a road system and any other planned or required improvement is not entirely completed prior to acceptance. Roads and improvements are completed except for installation of final wearing course of pavement as described in the Roadway and Utility Standards. A Completion Bond or other form of surety, in a form and amount acceptable to the Planning Board, shall be furnished to the Board to assure completion of the road/improvement covered by the bond. An as-built plan shall be furnished to and approved by the Office of Community Development upon installation of the base course of bituminous concrete.

- 211.2** Along a road or portion of a road covered by a Completion Bond, building permits may be issued upon acceptance of the surety by the Planning Board.
- 211.3** Within twenty-four (24) months of the issuance of a Certificate of Occupancy for a structure on any new public road or portion of a new public road, or the occupancy of fifty percent (50%) of the homes along such road, the road shall be completed in accordance with the final approved plans, prior to the issuance of any further building permits on such road. If no Certificates of Occupancy have been issued on the road, the Completion Bond shall be extended until such time as conditions for acceptance of the road are met.
- 211.4** The road will be accepted by the Town only following the completion of the road and receipt of an acceptable maintenance bond as detailed in Option 1 above. No road will be accepted by the Town unless at least one (1) Certificate of Occupancy has been issued on the new road.
- 211.5** Until the road construction has been accepted, the subdivider, developer, or his successors shall be responsible for the maintenance of the streets, including winter maintenance of snow plowing, sanding and other protection, which obligation shall be made part of the requirements of the Completion Bond.
- 211.6** Upon satisfactory completion of the road system as judged by the Office of Community

Development and the Department of Public Works of the Town of Amherst, said road system will be accepted by the Board of Selectmen and shall be properly deeded by the applicant to the Town. The subdivider, developer, or his successors shall provide the Town with a Maintenance Bond.

**211.7** During construction, periodic inspections by a licensed Professional Engineer shall be performed at the applicant's expense to ensure the new construction is generally in conformance with the approved plans for the improvements and with Town standards and requirements.

**211.8 Bonding**

1. Option 1: The road system or other improvement is completed in accordance with Section 213.1 - Option 1, a Maintenance Bond (Irrevocable Letter of Credit) shall be filed with the Planning Board by the subdivider, developer, or his successors, in a form and amount sufficient to cover any and all costs which may arise due to deficiencies in the quality of the completed road or other improvements, as determined by the Office of Community Development and the Department of Public Works.

The Maintenance Bond shall be reviewed by Town Counsel. The surety shall be for a period of two (2) years following acceptance of the improvement/s.

2. Option 2: The road system or other improvement is completed to the extent called for in Section 213.1 - Option 2. A Completion Bond (Irrevocable Letter of Credit), in a form and amount acceptable to the Planning Board and sufficient to cover any and all costs necessary to complete the improvements, is filed with the Office of Community Development based on an estimate prepared by the Project Engineer; and shall include, but not be limited to, the cost of such items as streets, lighting, sidewalks, public improvements, extension or installation of water or sewer lines, drainage improvements, setting road bounds, public parks or recreation areas, or other such improvements as required by the Planning Board in the approval of the Final Subdivision Plat. The Completion Bond shall remain in effect until completion and acceptance of the road or other public improvements. Estimated costs for interim winter plowing and other maintenance shall be included in the amount of the bond. In the event that the completion of the road extends beyond two (2) years after base course construction, the Maintenance Bond shall be extended to cover a five (5) year period after acceptance of the road.
3. The bond or other form of surety, shall be reviewed by Town Counsel.

**211.9** After completion of a road system / improvement, a Maintenance Bond (Irrevocable Letter of Credit) as required in Option 1 shall be filed with the Office of Community Development. If more than two (2) years have elapsed from the start of construction until the completion and acceptance of the road, the maintenance period shall be

extended to five (5) years.

**211.10** In the case of a water or sewer system, the Maintenance Bond shall extend for a period of five (5) years.

**211.11** Before any work may commence on a subdivision, the subdivider, developer, or his successors shall file with the Office of Community Development a Certificate of Insurance including liability.

**211.12 Permits**

If, during the course of execution of a subdivision the subdivider, developer, or his successors shall violate the conditions of the subdivision approval, the Zoning Ordinances, or the Subdivision Regulations of the Town of Amherst, the Planning Board may notify the Zoning Administrator of such violation and request that no further building permits or certificates of Occupancy be issued until:

1. The violation(s) has been satisfactorily corrected as judged by the Zoning Administrator;
2. A bond to cover the correction of the violation(s) has been accepted by the Board of Selectmen.

**211.13 Pre-construction Meeting.**

For subdivisions which require any new road construction, a pre-construction meeting shall be required by the Planning Board. The pre-construction meeting shall be held no more than three (3) months or less than thirty (30) days prior to commencement of any activity on the site. The purpose of the pre-construction meeting is to ensure that all parties involved with the development of the project, including, but not limited to, the owner and/or developer, the contractors and builders, the Town's Engineer, the Building Inspector and the Public Works Director or Designee, are familiar with the approved design, the terms and conditions of the approval and that all performance surety is accurate and in place. In addition to the individuals listed previously, representatives from the Planning Board and the Selectmen's representative to the Planning Board may attend the meeting.

**211.14 Third Party Review and Inspection Required**

All proposed public improvements as well as other aspects of subdivision construction shall be inspected and approved by a third-party engineering consultant on behalf of the town, at the expense of the subdivider, owner, developer or their assigns, periodically during construction and prior to acceptance by the Town.

**212 Design for Open Space**

**212.1 Open Space Shown on Town Plan.** Where a proposed park, playground, or other open

space is shown on the maps of the Master Plan is located in whole or in part in a proposed subdivision, the Board shall require substantial compliance with such Master Plan. As a condition of approval of the Final Phase, the Board may require that the area shown thereon as open space be offered for dedication to the Town. The Board shall not require such dedication in excess of fifteen percent (15%) of the total area of the subdivision without reasonable compensation, and if the Town does not take steps within a period of one (1) year from the date of approval of the subdivision to acquire the portion of the open space in excess of said fifteen percent (15%), the subdivider may submit to the Board a plan for subdivision of such portion, provided such additional subdivision does not exceed the total number of family dwelling units permitted by the Zoning Ordinances for the applicable district, and meets requirements of these subdivision regulations.

**212.2 Other Open Space.** If no such open space, park, or playground is shown on the maps of the Master Plan within the boundaries of a proposed subdivision, the Board may, where it deems desirable, require that the Final Plat show one (1) or more sites of character, size, shape, and location suitable to be used as community open space or park, in area not to exceed fifteen percent (15%) of the total area of the subdivision. In the case of cluster subdivision, open space shall be not less in area than as provided in the Zoning Ordinance. Such areas of open space, whether privately or publicly owned, shall have a sufficient legal restriction recorded in the Hillsborough County Registry of Deeds land records to assure permanence of use as open space. Open space land in private ownership shall be deeded in such a way that it will assure operation or maintenance of the land in an orderly manner suitable for the purpose intended. The Planning Board, in its discretion, may require additional provisions for protection of open space and its intended use.

**212.3 Trees and Plantings.** Due regard shall be given to preservation of existing features, trees, scenic points, and other natural and historic resources within the subdivision. The Board may require additional tree planting and other landscaping appropriate to the area being developed. Removal of topsoil or surplus materials from the subdivision area shall not be permitted unless in accord with the Zoning Regulations. Existing trees on lots and open space land shall be preserved wherever feasible, unless otherwise directed by the Board. Species of street trees and other landscaping shall be in accordance with the requirements of the Non-Residential Site Plan Regulations.

**214.4 Development of Open Space.** On land to be used as active recreation open space, undesirable growth and debris may be removed. Wooded buffers and brook areas shall be left in their natural state. Active recreation open space shall be graded properly to dispose of surface water and shall be seeded with lawn grass. An area, not to exceed one (1) acre, for the purpose of burying stumps, boulders, and other natural waste may



be designated on the Final Plat in accordance with state regulation and other local requirements. This area must be filled in on an "as-you-go" basis and finally covered with at least twelve (12) inches of soil and four (4) inches of topsoil and seeded with lawn grass or other suitable ground cover such that the area is protected from erosion and is as close to its natural condition as possible two (2) years after the seeding as judged by the Community Development Director or their designee. There shall be no deposition, dumping, or storage of waste or other natural or man-made material, supplies, or equipment on any subdivision of land designated as open space excepting that specifically designated for the disposal of natural waste as described above. No work, removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from the original condition until a site plan, prepared by a surveyor or engineer licensed by the State of New Hampshire, shall have been approved by the Board.

**212.5 Invasive Species.** Applicant shall, to the greatest extent practicable, eradicate invasive plant species on the property as a condition of receiving a Certificate of Occupancy. The Director of Community Development, or their designee shall inspect the property to determine compliance with this regulation prior to issuance of a Certificate of Occupancy.

**213 Subdivisions Containing Reduced Frontage Lots.**

**213.1 General**

It shall be the purpose of this section to provide for a means whereby the Planning Board may approve subdivisions containing lots with reduced frontage as a means of access to back lots, provided minimum conditions are met by the developer concerning the extent of their utilization for said purpose.

**213.2 Conditions and Restrictions.**

- A. Reduced frontage shall be a minimum of thirty-five (35) feet on the public way.
- B. The driveway portion of reduced frontage lots shall be an integral portion of and attached to the back lot.
- C. Class A reduced frontage provides access to one (1) back lot.
- D. Class B reduced frontage provides access to two (2) back lots.
- E. No subdivision plan providing for reduced frontage lots shall be approved unless the total acreage of such plan is a minimum of ten (10) acres for each reduced frontage lot(s) sought. Twenty (20) acres could produce two (2) reduced frontages, etc.
- F. No Class B reduced frontage shall be located so as to enter onto a public road within five hundred (500) feet of any existing or proposed street intersection on the public

road (unless the frontage enters at an existing intersection), or be located within five hundred (500) feet of another existing or proposed reduced frontage lot/s on the same side of the public road.

- G. The use of reduced frontage lots shall be restricted when, in the opinion of the Planning Board, such use is in conflict with the long range plan for the Town or creates unusual traffic problems or conditions.
- H. The driveway area of Class B reduced frontage lots, approved by the Planning Board, shall be depicted on the final plat as a shaded area, being a corresponding portion of the two (2) lots to be serviced by this frontage. At the time of Submission of documents for the final phase, the applicant shall provide the Planning Board with a declaration of covenants and restrictions satisfactory to Town Counsel which shall provide for the mutual recognition of easements between the two (2) lots, a provision for the maintenance of the driveway, and a suitable dedication which shall ensure that such driveway shall never become a Town road.

**213.3 Construction Requirements.**

- A. Class A reduced frontage lot: Subject to any construction requirements in the Town of Amherst Driveway Regulations.
- B. Class B frontage lots: The driveway shall be constructed in conformance with the following requirements:
  - 1. Removal of all loam, muck, stumps, and other improper road foundation material within the limits of the right-of-way. In embankment areas, suitable foundation material shall be placed in one (1) foot layers and compacted to form a stable sub-grade.
  - 2. Ledge and boulders shall be removed to at least eight (8) inches below sub-grade and replaced with sand or bank run gravel.
  - 3. Proper drainage shall be installed as indicated on the Final Plat, in accordance with the requirements of the Stormwater Management Regulations of the Town of Amherst.
  - 4. The grade of the driveway shall not be more than eight (8) percent nor less than one (1) percent.
  - 5. Approved street signs, culvert posts, and delineators for curbing, catchbasins and guardrails shall be installed in accordance with the requirements of MUTCD and/or AASHTO Standards as directed by the Board of Selectmen and paid for by the developer.

**214 Classification of Streets**

The classifications of Town streets shall be as defined in the Official Map, and the classification of new streets and streets now shown on such plan shall be as determined by the Board. The standards of design applicable to Town roads shall be those contained in the Roadway and Utility Standards for the Town of Amherst, applicable at the time construction is undertaken.

**215 Pedestrian Walks**

Where necessary, in the judgment of the Board, rights-of-way for pedestrian travel and access may be required between subdivisions or its parts, or between a subdivision and public property.

**216 Underground Utilities.**

All utilities within the bounds of a proposed subdivision which now includes new roads shall be placed underground. Where underground utilities are to be furnished from a public source; all necessary mains, branch off-sets to each lot, and fire hydrants shall be installed by the subdivider, as approved by the corporation or municipal department having jurisdiction and to the satisfaction of the governing body and without expense to the Town. Utility assets that are required to be above ground shall be located as far from the edge of pavement as practicable.

**ARTICLE 3 -- ADMINISTRATION AND ENFORCEMENT**

**217 Modifications**

The requirements of the foregoing regulations may be modified when, in the opinion of the Board, specific circumstances surrounding a subdivision or condition of the land in such subdivision indicate that such modification will properly carry out the purpose and intent of the Master Plan and of these regulations.

**218 Acceptance of Streets**

Nothing herein intended to modify the requirements of law with reference to the acceptance of streets by the Town. Nothing herein is intended to modify or control the construction, reconstruction, or extension of roads by the Town or State.

**219 Other Regulations**

Where these regulations are in conflict with other local or State Ordinances, the more stringent shall apply.

**220 Enforcement**

These regulations shall be enforced by the Board of Selectmen or its duly authorized representative.

**221 Penalties**

Any owner, or agent of the owner of any land located within a subdivision who transfers or sells

any land before a plat of the said subdivision has been approved by the Planning Board and recorded or filed in the Office of the Registrar of Deeds shall be assessed penalties as provided in RSA 676:16.

**222 Appeals**

Any person aggrieved by an official action of the Board, may appeal there from to the Superior Court as provided by RSA 676:15.

## **Part 3 -- ROADS AND UTILITIES STANDARDS**

### **301 General Requirements**

#### **301.1 Purpose and Intent of Design Standards for Streets**

All platted streets shall be of sufficient width and construction as detailed in this section, and shall be suitably located so as to: conform to applicable provisions of the Master Plan; safely and conveniently accommodate transportation and access needs of the public; and provide reliable access for firefighting and other essential public and private services.

#### **301.2 Arrangement of Streets**

The horizontal alignment of streets shall be platted so as to: comprise a convenient transportation system; provide for the continuation of streets to adjoining neighborhoods and collector streets; provide for future right-of-way extensions to undeveloped properties if deemed appropriate by the Planning Board; and to facilitate efficient future extensions of public and private utilities. Streets shall be arranged to provide maximum separation of through and local traffic and to discourage through traffic in residential neighborhoods.

#### **301.3 Relationship of Streets to Topography**

Streets within any platted subdivision shall be designed to form a logical relationship between the vertical and horizontal alignments of such streets and the topography of adjoining land. Specifically, the horizontal and vertical alignment of platted streets shall: avoid the need for cut and fill depths, which, in the opinion of the Planning Board, are unreasonably severe; and shall afford a minimum of one location where safe and convenient driveway access can be achieved along the frontage of each platted lot without need for excessive excavation.

#### **301.4 Dedication of Supplemental Right-of-way**

In the Commercial and Industrial Zoning Districts, where land which is the subject of an application for approval under these Regulations fronts upon an existing Class V public street having a right-of-way width less than that required, based upon the classification of that street, under these Regulations, the applicant shall dedicate supplemental right-of-way if needed to create a continuous public right-of-way having a dimension equal to not less than one-half the full right-of-way width required under these Regulations, as measured from the occupied centerline of such street to the front line of the subject land.

#### **301.5 Street Names**

Proposed street names shall neither duplicate nor be phonetically similar to existing street names within the Town of Amherst. Street names shall be compliant with E-911 standards. Street names shall be subject to review and comment by the Planning Board, Amherst Police Department and Amherst Fire Department and approval by the Board of Selectmen.

#### **301.6 Adoption of Reference Specification**

All workmanship and materials incorporated into the construction of streets and related improvements shall conform to applicable requirements of Standard Specifications for Road and

Bridge Construction, latest edition, as published and amended by the New Hampshire Department of Transportation unless otherwise specified in these Regulations.

## **302 Geometric Design Standards for Streets**

### **302.1 Classification of Streets**

For the purposes of these Regulations, all streets shall be classified based upon use, as follows:

- Residential – 1: A low volume residential street which accommodates an average daily traffic volume (ADT) of not more than 400 vehicles per day (VPD);
- Residential – 2: A residential street which accommodates an ADT of 401 to 1,000 VPD;
- Non-Residential: A street whose primary function is to provide frontage and local access to non-residential properties in a business or industrial park subdivision;
- Collector: A street which accommodates an ADT of 1,001 to 6,000 VPD; and
- Arterial: A street which accommodates an ADT of more than 6,000 VPD.

### **302.2 Table of Geometric Design Standards for Streets**

The Table of Geometric Design Standards for Streets, which is a part of these Regulations, provides design values for common geometric design parameters for streets including, but not limited to: (a) right-of-way and pavement width; (b) vertical alignment; (c) horizontal alignment; and (d) road base material and pavement thickness. The values presented in this Table shall serve as design criteria for all platted streets classified as Residential -1, Residential – 2, Non-Residential, or Collector. Design criteria for Arterial Streets shall be derived from A Policy on Geometric Design of Streets and Highways, latest edition, as published by the American Association of State Highway & Transportation Officials (AASHTO).

### **302.3 Typical Cross-Section for Construction of Streets**

The Typical Cross-Section for Construction of Streets (Figure 1), which is a part of these Regulations, shall be recognized as the standard typical cross-section for Residential – 1, Residential – 2, Non-Residential and Collector Street construction. Several minimum dimensions specified on Figure 1 vary with street classification and are therefore specified in the Table of Geometric Design Standards for Streets. All street construction shall conform to the standards specified on the Typical Cross-Section for Construction of Streets unless otherwise approved by the Planning Board. As an alternative, the Planning Board may, at its option, permit Residential-1 streets to be constructed in accordance with the Alternative Typical Cross-Section for Construction of Streets (Figure 2) provided the Board determines or anticipates: (a) the average daily traffic volume to be served by the street(s) in question will not exceed 400 vehicles per day; (b) the construction will satisfy the requirements of Sections 5.1.1 through 5.1.3 of these Regulations; and (c) construction in accordance with Figure 2 will better facilitate the installation of stormwater management improvements required in order to satisfy the provisions of Section 610.2 of these Regulations.

### **302.4 Design Requirements for Cul-De-Sac Streets**

All permanent dead-end streets shall terminate in a cul-de-sac designed, laid-out and constructed

in accordance with the Typical Permanent Cul-De-Sac detail (Figure 2) contained within these Regulations. The maximum length of any cul-de-sac street, as measured from the occupied centerline of the existing or proposed street to be intersected by said cul-de-sac street to the radius point of the cul-de-sac, shall not generally exceed 1,200-feet; however, the Planning Board may permit the construction of cul-de-sac streets of greater length, providing the applicant has submitted evidence that such an approval will not be contrary to the general health, safety and welfare of residents, and that adequate provision has been made for public safety.

All temporary cul-de-sacs shall be planned, designed and constructed to the same standards as permanent cul-de-sacs unless the Planning Board determines that a subsequent extension of the street in question is imminent. In such instances, the Planning Board may permit the construction of a temporary “hammerhead” style turn-around having dimensions acceptable to the Board. Under no circumstances shall “hammerhead” turn-arounds be allowed as a permanent terminus for a public street.

#### **302.5 Design Requirements for Intersections of Streets**

All intersections of streets shall be designed and constructed in accordance with the following standards:

- A. Not more than two streets shall intersect with a third street at a single point; and those two streets must align such that their respective centerlines intersect with the centerline of the third street at a single point.
- B. Successive intersections on the same side of a single street by two or more subsequent streets shall be separated by a minimum horizontal distance of 600-feet, as measured along the centerline of the intersected street. Successive intersections on opposite sides of a single street by two or more subsequent streets shall be separated by a minimum horizontal distance of 125-feet, as measured along the centerline of the intersected street.
  - 1. The vertical alignment of any street intersecting with a through street at a stop condition shall be such that: (a) the intersecting street slopes away from the through street at a grade of not less than 2-percent and not more than 3-percent for a distance of not less than 50-feet, as measured along the centerline of the intersecting street from the edge of travelled way of the through street; and (b) the maximum grade of the intersecting street does not exceed 3-percent for a distance of 100-feet, as measured along the centerline of the intersecting street, from the edge of travelled way of the through street.
  - 2. Right-of-way lines of intersecting streets shall be joined by curves having a minimum radius of 25-feet. The edges of pavement of intersecting streets shall be joined by curves having a minimum radius of 30-feet unless a larger radius is warranted in order to accommodate vehicular turning movements without encroaching upon an opposing lane of traffic.
- C. A minimum of 335-feet of all-season safe sight distance shall be provided at all intersections of Residential – 1, Residential – 2 and Non-Residential Streets. A minimum of 400-feet of all-season safe sight distance shall be provided at an intersection involving one or more Collector or Arterial Streets.

- D. Signage and pavement markings conforming to recommendations offered in the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD), as well as street name signs conforming to local design standards, shall be furnished and installed at all intersections of streets.
- E. For reasons of proper night-time intersection recognition and public safety, the Planning Board may require the installation of street lamps at any proposed intersection of streets.

**302.6 Design Standards Governing the Horizontal and Vertical Alignments of Streets**

- A. Taken together, the horizontal and vertical alignments of Residential – 1, Residential – 2 and Non-Residential Streets shall permit maintenance of not less than 200-feet of stopping sight distance.
- B. Taken together, the horizontal and vertical alignments of a Collector Street shall permit maintenance of not less than 300-feet of stopping sight distance.
- C. All changes in the vertical alignment of streets in excess of 1-percent shall be connected by a vertical curve of a length sufficient to attain the minimum stopping sight distance value specific in the current edition of the AASHTO publication, “Geometric Design of Highways and Streets” (AASHTO Green Book), as applicable.

**303 Driveway Standards**

- 303.1** Prior to subdivision approval, the applicant shall demonstrate that each platted lot will enjoy at least one location along its frontage where a driveway for access to that lot can be safely accommodated. In order to satisfy this requirement, the plans shall: (a) specify the location, dimensions and design elevations for driveway apron construction on each lot; (b) all season safe intersection sight distance as required in Amherst Driveway Regulations; and c) demonstrate such driveway construction can occur without interfering with utility installations and/or stormwater management improvements.
- 303.2** Refer to Section 3.10, Driveway Regulations for additional requirements.
- 303.3** A Driveway Permit is required for any new permanent or temporary driveway, and for any modification to an existing driveway.

**304 Street Right-of-Way Monumentation Standards**

Final subdivision plans shall specify granite boundary monuments, measuring not less than 4-inches by 4-inches by 36-inches, shall be installed at all points defining the limits of street right-of-way by or under the supervision of a Licensed Land Surveyor.

**305 Streetscape Design Standards**

- 305.1** Street Tree Installation Requirements: At locations where subdivision streets are to pass through an open field, or at locations where existing vegetation must be removed in order to complete construction, salt tolerant deciduous street trees, having a minimum caliper diameter of 2 ½-inches at the time of planting, shall be installed along both sides of streets at intervals of not more than 100-feet. All street trees shall be planted at the outer limit of the street right-of-way.
- 305.2** Retention of Existing Stone Walls: The Planning Board may require an applicant to retain or reconstruct existing stone walls forming the limits of existing public right-of-way along the



frontage of a subdivision; and further, may require, as a condition of final subdivision approval, that any rock from existing stone walls, both interior and exterior to the subdivision, which must be removed or otherwise disturbed in order to accommodate street or other infrastructure construction, be salvaged and used in the construction of streetscapes and amenities within the subdivision.

- 305.3** Avoidance of Right-of-Way Obstructions: In all instances, street trees, stone walls, lamp posts, transformers and other utility risers, as well as all other planned above-ground utility installations and aesthetic improvements shall be constructed or installed at or adjacent to the limit right-of-way so as not to interfere with routine maintenance of streets or compromise public safety.

### **306 Plans and Data for Final Approval**

- 306.1** Roadway Design Plan & Profile Sheets (for all applications involving the construction of new streets or significant improvement of existing streets), shall contain the following information and be sealed by a Licensed Professional Engineer:

- A. A title block identifying: name and location of proposed subdivision; street name; roadway stationing for the segment of street depicted on each sheet; name & address of consultant; date of preparation & each subsequent revision; and scale (all plans shall be drawn at a scale of 1" = 40' Horiz./1" = 4' Vert., or 1" = 50' Horiz./1" = 5' Vert.);
- B. A north arrow;
- C. Limits of existing or proposed right-of-way & corresponding existing and proposed right-of-way monumentation;
- D. Adjoining lot lines with map & lot number of each platted or existing parcel;
- E. Two-foot contour interval topography & defined limits of wetland;
- F. Centerline stationing & horizontal curve geometry;
- G. Existing & proposed limits of pavement and curbing, including design radii of all curves and flares;
- H. The location and design elevations of all existing and proposed driveway aprons;
- I. Two-foot contour interval finish grade contours and finish spot grades, where applicable;
- J. Existing and proposed drainage improvements, including:
  - 1. Location, diameter, pipe material, design slope, invert elevations & end treatments for all culverts and storm drains;
  - 2. Location (by station & offset), rim & invert elevations of all catch basins, manholes and other proposed drainage structures;
  - 3. Headwalls or flared end sections specified at all culvert and storm drain inlets and outlets;
  - 4. Outlet protection accommodations where warranted;
  - 5. Existing & proposed drainage easements;
  - 6. Location & design of stormwater treatment provisions;
  - 7. Location & design of stormwater detention or retention provisions where warranted;
  - 8. Underdrain where warranted; and

- 9. The location and type of temporary and permanent erosion & sedimentation control measures where warranted.
- K. A minimum of one benchmark with elevation per plan sheet;
- L. Roadway profiles depicting:
  - 1. Stationing;
  - 2. Existing & proposed elevations at 50-foot stations, as well as at all PVI's, PVC's & PVT's;
  - 3. Existing & proposed roadway centerline profiles;
  - 4. Vertical curve design data, including station and elevation of all crest and sag points; and
  - 5. Existing & proposed drainage and utility improvements.
- M. Location, diameter & pipe material of existing & proposed water main and sanitary sewer, if any;
- N. Location & type of existing & proposed above and below ground utilities;
- O. Location (by station & offset) of proposed guardrail and end units;
- P. A note specifying: "All workmanship and materials incorporated into this work shall conform to applicable requirements of Standard Specifications for Road and Bridge Construction, as published by the New Hampshire Department of Transportation, latest edition; and the Amherst Subdivision Regulations";
- Q. Pavement markings and traffic signage per MUTCD; and
- R. Test pits, in sufficient number and location along the centerline of proposed streets, to identify the depth of bedrock and seasonal high groundwater.

**306.2 Roadway Cross-Sections** (for all applications involving the design of new or improved streets) at 50-foot intervals, culvert crossings and special points of interest; drawn at a scale of 1" = 5' or 1" = 10' Horiz. & Vert.; sealed by a Licensed Professional Engineer and showing:

- A. Existing & proposed centerline elevations;
- B. Limits of proposed pavement, curbing, crushed gravel, gravel, sand, embankment slopes, right-of-way & easements;
- C. Roadway & embankment slopes;
- D. Underdrain, drainage & utility improvements; and
- E. Guardrail where warranted.
- F. Construction Detail Drawings, sealed by a Licensed Professional Engineer, for the following elements of construction, as applicable:
  - 1. Typical roadway cross-section(s);
  - 2. Driveway apron construction;
  - 3. Curbing installation;
  - 4. Guardrail & terminal end-unit installation;
  - 5. Underdrain installation;

6. All drainage structures, as applicable (catch basins, drain manholes, outlet structures, etc.);
  7. Headwalls;
  8. Outlet protection;
  9. Treatment swale & stormwater detention/retention basin construction;
  10. Utility & drainage trench construction;
  11. Erosion & sedimentation control;
  12. Fire protection;
  13. Utility construction;
  14. Traffic control signage and pavement markings;
  15. Turf establishment; and
  16. Other project specific improvements, if any.
- G. A Stormwater Drainage Report, together with corresponding Drainage Area Plans and Hydrologic Soil Group Plans, prepared in accordance with the requirements of the Stormwater Regulations, shall be submitted together with any application for subdivision approval under these Regulations involving the construction of new streets.

**307 Street Excavation Permits**

- A. No person shall make or cause any excavation within the right-of-way of any public street without first obtaining an excavation permit from the Director of Public Works or its designee (hereinafter called the Enforcement Authority) as provided in this ordinance.
- B. Application for an excavation permit shall be made two business days (at least 48 hours) prior to the start of work on a form provided by the Enforcement Authority.
- C. Upon application the applicant shall pay a fee to the Town as indicated in the regulations.
- D. The Enforcement Authority shall not issue such excavation permit unless the applicant meets all requirements of the regulations.
- E. Any violation of this ordinance shall be punishable by a fine not to exceed \$1,000.00. Each day a violation continues shall be deemed a separate offense. Fines assessed hereunder shall be payable to the Town for the benefit of the general fund.

**308 Street Excavation Regulations**

**308.1 General**

- A. Street Excavation permits are issued by the Department of Public Works of the Town of Amherst.
- B. Anyone wishing to open or excavate any street, must obtain a permit on a form provided by the Department of Public Works.
- C. No excavation shall remain open during non-working hours, nor shall be left unprotected at any time.
- D. Directional boring of utilities to minimize street excavations is encouraged.

**308.2 Excavation Permit Fees and Requirements.** All applications for a permit to excavate in, or open a public right-of-way or public property, shall include a fee for each permit applied for. The fee for an excavation permit, payable in advance, is as follows:

- A. An administrative and inspection charge of \$200.00 per permit for all excavations within the public right-of-way or on Town property.
- B. A street damage charge of \$5.00 per square foot of excavation occurring within the paved portions of the public right-of-way or on Town property.
- C. An infrastructure damage charge of \$1.50 per square foot of excavation occurring within the greenbelt or unpaved sidewalk areas of the public right-of-way or on unpaved portions of Town Property.
- D. All street damage and infrastructure damage charges shall be based upon final measurements of patches or disturbances subject to verification of actual excavation impacts by the Town's inspection representatives.
- E. If a contractor disputes a final measurement provided by the Town he may request to meet with the inspector on site to re-measure the patch. If the Town and the Contractor still cannot agree on the patch size, the Contractor may elect to hire at his own cost, a Licensed Land Surveyor to provide the patch size measurement. The Town may elect to agree with the survey provided or conduct its own.
- F. Street excavation permit fees may be annually adjusted by Board of Selectmen resolution on July 1st (start of fiscal year).
- G. The fees for the administrative and inspection charge of the permit may be increased if the work results in additional administrative and inspection time required to complete the work. The base administrative and inspection charge includes 2 hours of onsite inspection. Additional charges will be billed and due upon presentation.
- H. The Public Works Director reserves the right to allow alternative means of repair or restoration or other roadway improvements in lieu of the required infrastructure damage charge.
- I. A Late Permit fee of Two Hundred Dollars (\$200.00), will be charged if any excavation is begun without a Street Excavation Permit (other than those approved as an Emergency Excavation) which is in effect at the time of the excavation.
- J. In the event of an emergency, excavations or closing of Town streets due to a utility leak or like situation, the Police Department, Fire Department and Department of Public Works shall be notified immediately by telephone. At the earliest opportunity available, a representative of the Permittee shall obtain a regular permit at the office of the Department of Public Works.
- K. If work is done on a street that is currently under moratorium as described in the Street Restoration and Patching Guidelines, the Permittee will be responsible for paying an additional pavement life reduction factor to be billed and due upon presentation. This factor shall be assessed as follows:
  - Street pavement less than three (3) years old: two (2) times the street damage charge.
  - Street pavement of a reconstructed street less than five (5) years old: three (3) times the street damage charge.

- L. Inspection Agreement. At the discretion of the Director of Public Works, the Contractor may be required to obtain a third party inspection agreement for inspection of the work.
- M. Work authorized by a permit shall be performed between 7:00a.m. and 6:00 p.m., Monday through Friday from April 1st through November 15th, unless the permittee obtains written consent from the Public Works Director to do the work during another time. Such permission shall be granted only in case of an emergency or in the event the work authorized by the permit is to be performed in traffic congested areas. In case of an emergency, the "Emergency Provisions" section of this regulation shall apply.
- N. The permittee shall notify the Department of Public Works the day construction has begun.
- O. If the construction ceases for more than a day, the Contractor must notify the Department of Public Works in advance, when the work will resume. Failure to do so may cause work to be redone so inspections can be performed.
- P. The location of all utility facilities shall be determined sufficiently ahead of excavation work to avoid damage to those facilities and permit their relocation if necessary. The permittee shall, as specified by New Hampshire Law, RSA 374:51 and 374:55, call DIG SAFE at (1-888-344-7233) at least 72 hours prior to any excavation. The permittee shall also notify the Amherst Police and Amherst Fire Department.
- Q. The permit shall be kept with the foreman at the place where the work is being performed and shall be produced for examination upon request of any member or officer of the Department of Public Works or any police officer of the Town of Amherst.
- R. The Public Works Director may revoke any permit issued under this regulation at any time.

### **308.3 Encumbrances and Traffic Control**

- A. No more than 200 linear feet shall be opened in any street at one time, except by special permission of the Department of Public Works. No opening or excavation in any street shall extend beyond the centerline of the street before being backfilled and the surface of the street made passable to traffic.
- B. A Street Excavation permit gives the right to encumber a roadway with proper traffic control, as long as a minimum of one lane of traffic (11 feet wide) is provided on the street at all times. Access shall be provided to all properties at night and on weekends and to all places of business at all times.
- C. Any work restricting complete traffic movement must have a "Street Closure Permit" in addition to the Street Excavation permit. This Street Closure Permit will only be issued with an approved traffic control plan. If a complete street closure is necessary, at least seven (7) working days advance notice is required with confirmation of the proposed closure three (3) working days in advance of the actual street closure. The Police Chief will review and approve any detours required.
- D. If an emergency necessitates the complete closing of a street, the closing will be governed by the "Emergency Provisions" section of this regulation.

Town of Amherst Development Regulations  
Roadway & Utility Standards

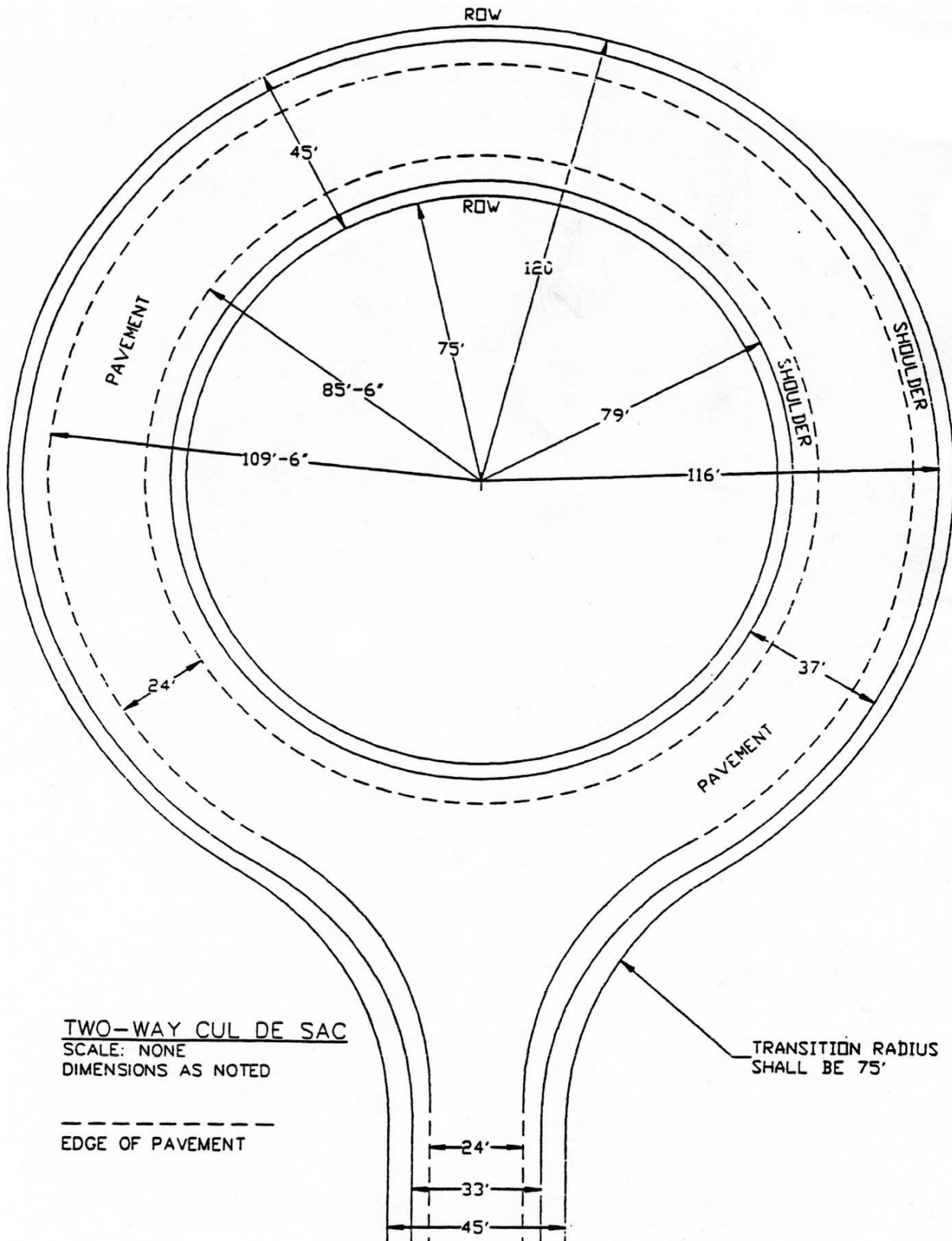
3-10

**Table 3-1**

**Table of Geometric Roadway Design Standards for Streets**

Item	Collector	Non-Residential	Residential 2	Residential 1
Average Daily Traffic (VPD)	1,001 - 5,000	--	401 - 1,000	0 - 400
Design Speed	40MPH	30 MPH	30 MPH	30 MPH
Minimum Right of Way	60'	60'	50'	50'
Minimum Pavement Width	30'	30'	26'	22'
Minimum Grade	1.00%	1.00%	1.00%	1.00%
Maximum Grade	6.00%	6.00%	8.00%	8.00%
Minimum Angle of Intersections	90 <sup>0</sup>	90 <sup>0</sup>	90 <sup>0</sup>	80 <sup>0</sup>
Minimum Centerline Radius of Curves	600'	300'	300'	150'
Minimum Tangent Length between Reverse Curves	300'	200'	200'	100'
Road Base (Minimum)				
Crushed Gravel (NHDOT 304.3) Thickness	8"	8"	8"	8"
Gravel (NHDOT 304.2) Thickness	16"	16"	16"	12"
Sand (NHDOT 304.1) Thickness	12"	12"	12"	12"
Bituminous Concrete Paving (NHDOT 403.11)				
Min. Binder Course Thickness	2 1/2"	2 1/2"	2 1/2"	2 1/2"
Min. Wearing Course Thickness	1 1/2"	1 1/2"	1 1/2"	1 1/2"
Minimum Road Crown	0.025	0.025	0.025	0.025
Cul-de-Sac Streets				
Min. R.O.W. Radius	--	75'	--	75'
Centerline Radius	--	55'	--	55'

3-10



TWO-WAY CUL DE SAC  
SCALE: NONE  
DIMENSIONS AS NOTED

-----  
EDGE OF PAVEMENT

**TYPICAL ROADWAY CROSS-SECTION**  
—NOT TO SCALE—

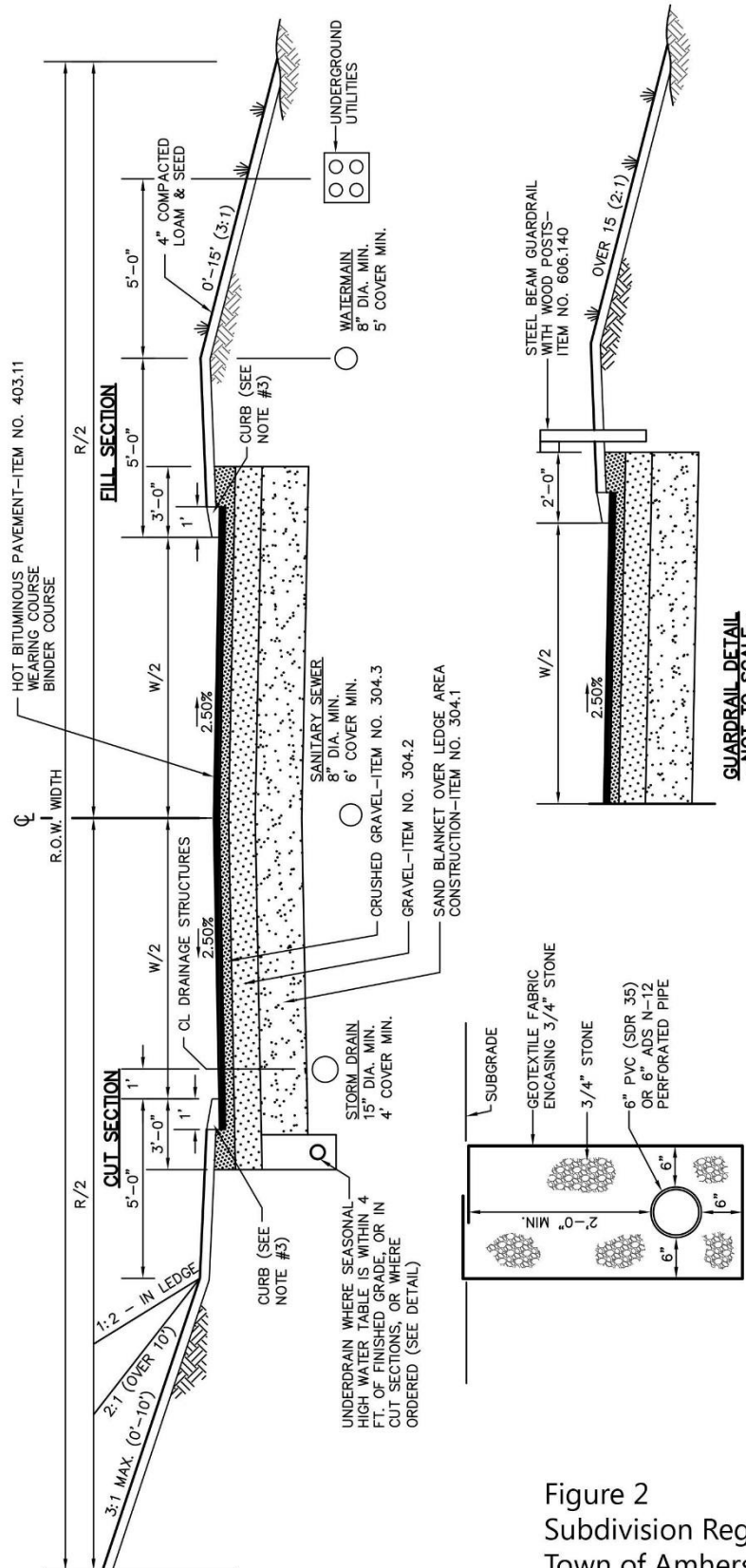


Figure 2  
Subdivision Regulations  
Town of Amherst, New Hampshire



- E. Every permittee will be required to place around openings, excavations, encumbrances or obstructions, such barriers, barricades, lights, warning flags, danger signs and traffic control personnel as may be required by the Department of Public Works or the Amherst Police Department to protect the safety of the general public. Adequate artificial lighting devices are required to call attention to and indicate the actual location of obstructions and hazards.
- F. All barricades, warning signs, lights, temporary signals and other protective devices shall conform with the current edition of the "Manual on Uniform Traffic Control Devices for Street and Highways" which is approved by the Federal Highway Administrator as the national standard for all highways open to public travel.
- G. Traffic control devices shall be set up prior to the start of construction or maintenance operations and shall remain in place only as long as needed, or required by the Department of Public Works. Advertisements, notices and signs other than for traffic control shall not be displayed on or attached to any barricade or fence in any highway.
- H. When the work area encroaches upon a sidewalk, walkway or crosswalk area, protective barriers, together with appropriate warning and guidance devices and signs must be utilized so that the passageway for pedestrians is safe and well defined.

#### **308.4 Protection of Work Area**

- A. Street line monuments, survey reference points and permanent survey bench marks, shall not be removed or disturbed, unless specifically permitted in writing by the Department of Public Works.
- B. Provisions shall be made to provide for proper drainage during construction and the permittee shall be responsible for all claims for damage or injury that may arise from the obstruction or use of any public sewer or drain in connection with the work conducted under the permit.
- C. Shade trees shall not be cut down, trimmed or otherwise injured. Where it is necessary to cut and remove pavement, curb, sidewalk and/or other surface improvement, the material shall be cut and removed by means of equipment suitable to the type of material to be removed and in a manner which results in a minimum amount of damage to adjacent improvements.
- D. As the work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work on a daily basis.
- E. Dust control shall be provided as necessary to prevent a nuisance to abutters and surrounding areas. Dust control shall be by wetting or use of calcium chloride or other approved methods.

#### **308.5 Proof of Compliance**

- A. In general, where compliance to the requirements of these Road and Utility Standards and

their intent is in question, the permittee, at his expense, shall provide any and all proof of compliance to the Department of Public Works. Acceptable proof shall be by approved independent laboratory tests, approved independent field tests, shop drawings and certificates of compliance from manufacturers. Specific tests as required by regulations and specifications shall be performed as ordered.

**308.6 Paving Policy**

- A. After a road excavation is commenced, the work shall proceed in a continuous manner with diligence and expedition and shall be completed and the street restored, as nearly as possible to its original condition, so as not to obstruct the public places of travel thereon more than is reasonably necessary. Upon completion of final pavement restoration, any pavement markings disturbed during excavation or construction activities associated with the Excavation Permit shall be replaced at no cost to the Town.
- B. Trench Projects: Permanent base pavement shall be installed within five (5) days from the date of completion of the work. The final wearing course of the street shall be permanently restored within a period of time not to exceed five (5) days from the date of completion of the project for main streets, and ten (10) days from the date of completion of the project for side streets. On large projects, all trench excavations must be based flush by the end of the work week. It will be the responsibility of the Contractor to take into consideration weather forecasts in planning the work. In the event that these timetables are not met, after notifying the utility the Department will withhold all additional permits beginning 24 hours after issuing the "late notice".
- C. The permittee shall place and maintain temporary pavement immediately upon backfilling and shall maintain the pavement on a daily basis. Department of Public Works inspectors will require temporary "hot-patch" or "cold-patch" dependent upon the location and size of the opening.
- D. The Public Works Director, as a condition of the permit, reserves the right to restore the highway or cause the same to be restored under his direction and the permittee shall reimburse the Town for any or all liability and expense suffered by reason of such work. If the final restoration is not completed in a prompt manner, Department forces will, after notice has been given to the permittee, make final restoration which may be done after their normal working hours (overtime rate). The permittee shall reimburse the Town for any liability and expense suffered by reason of such work.
- E. The permit shall be kept with the foreman at the place where the work is being performed and shall be produced for examination upon request of any member or officer of the Department of Public Works or any police officer of the Town of Amherst.

**308.7 Street Restoration and Patching Guidelines**

- A. Cuts shall be parallel or perpendicular to the line of the trench. In the case of transverse or

diagonal trenching, the pavement shall be sawn to provide a flat diamond shaped patch with a two (2) foot minimum overlap on undisturbed material. It shall be cut at a minimum 1:6 ratio to ensure that only one wheel of a vehicle at a time to strike the patch area. Within the sawn limits of the final patch, the existing pavement and any temporary material shall be removed and replaced to an equal depth with a minimum of three inches (consisting of two inches of bituminous base pavement and one inch of bituminous wearing course pavement). The pavement shall be laid and compacted in a maximum of two inch thick layers to meet the existing pavement edge exactly. The face of all joints shall be painted with asphalt emulsion. (See Figure 3, Step Patching Detail)

- B. In cases where multiple excavations are made in a street which would result in the edge of patches being closer than 20 feet, the Department of Public Works Inspectors may require a continuous patch.
- C. On surface treated gravel highways, feathering the edges of patches shall be allowed.
- D. Excavations shall be backfilled in layers not to exceed 6d inches and shall be compacted to not less than 95% maximum dry density at optimum moisture content using pneumatic tampers, vibratory compactors or other approved means. Puddling will not be allowed.
- E. Compaction of material shall be determined by the standard proctor method in accordance with standard specifications.
- F. If unsuitable for backfill, excavated material shall be replaced with granular backfill gravel as specified in the "Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Public Works and Highways", hereinafter referred to as the "New Hampshire Standard Specifications".
- G. The minimum depth to any substructure, except manholes, vault entrance tubes, valve casings and catch basins, shall be 24 inches (30 inches desirable) below the surface of the nearest edge of the traveled portion of the street and no excavation shall be less than 20 inches in width to allow for compaction.
- H. Permanent Pavement Patch. Within the paved roadway areas, the 12 inches of gravel sub-base material shall be placed and compacted in two six inch layers, to achieve 95% density. Following the gravel base, nine inches of crushed gravel base shall be placed and compacted to achieve 95% density. The 12 inch gravel layer may be substituted with a nine (9) inch crushed gravel layer. This will provide a total of 18 inches of crushed gravel road base. However, if existing road base is constructed to current Town standard (9 inches of crushed gravel and 12 inches of gravel), it shall be replaced with the same. Both crushed gravel and gravel shall conform to New Hampshire Standard Specifications.
- I. Temporary Pavement Patch. The surface of the street shall be permanently restored within a period of time not to exceed five (5) days from the date of completion of the project. In any event, the permittee shall place and maintain temporary pavement immediately upon

backfilling which shall be maintained on a daily basis. Department of Public Works inspectors will require temporary "Hot-Patch" or "Cold-Patch" dependent upon the location and size of the opening.

- J. Within areas of cement concrete or stone base overlaid with asphalt, the Department of Public Works will require the replacement of the cement concrete or stone base with class "A" Portland Cement Concrete, reinforced or non-reinforced, as specified in the New Hampshire Standard Specifications to a depth equal to that removed and then overlaid with hot bituminous pavement as specified above.
- K. In sidewalk and driveway areas, six inches of crushed gravel base shall be placed and compacted to achieve 95% density. Any asphalt or concrete sidewalk surface shall be restored to depth equal to existing with three inches minimum. In case of longitudinal trenches in a sidewalk area, full width restoration may be required.
- L. In other areas, the excavation shall be restored to the condition that existed before the excavation or as directed by the Department of Public Works inspectors. Any existing grass area shall be restored with four (4) inches of sifted loam which shall be fertilized and seeded.

**308.8 Street Excavation Moratorium**

- A. After a Town street has been resurfaced, no excavation permits will be issued for a period of three (3) years unless approval is given by the Director of Public Works or his designee.
- B. After a Town street has been accepted, newly constructed or reconstructed, no excavation permits will be issued for a period of five (5) years unless approval is given by the Director of Public Works or his designee.
- C. Protection of Streets - In an effort to protect the Town's investment in its infrastructure, excavations in areas under moratorium within the public right-of-way or on Town property, are prohibited except as follows:
  - 1. Excavations to remedy a public emergency or a situation that creates an imminent threat to the public safety, health or welfare.
  - 2. Repair or modification to prevent interruption of essential utility services where no reasonable alternatives are available to avoid excavation in new pavements.
  - 3. Relocation work that is mandated by State or Federal legislation.
  - 4. Utility services for new buildings or parcels without existing utility services where no other reasonable means of providing service exists, as determined by the Director of Public Works.
  - 5. Excavations within protected streets where the Town has scheduled the reconstruction within one year due to the failure of the original pavement.

6. Other situations deemed by the Public Works Director to be in the best interest of the general public.
- D. The Department of Public Works will notify utilities of its schedule of overlay and reconstruction activities. This notification will allow time for utilities to perform work as needed prior to the Department of Public Work's work. If the Department does not notify the utility of their intent to overlay/reconstruct prior to 60 days of work, then excavations may be granted at the discretion of the Public Works Director or his designee.
- E. When excavations are made in streets closed by moratorium due to emergency or the decision of the Department of Public Works, street restoration will be made utilizing methods dictated by the Department. The methods may include but are not limited to infra-red treatment, milling and overlay, and/or full width overlay.

#### **308.9 Insurance Requirements**

- A. The permittee agrees to furnish a continuing surety bond for a period of Thirty (30) months in the amount of five thousand dollars (\$5,000). (Except that the Public Works Director may require a differing amount depending upon the volume of the work being performed by the permittee) guaranteeing the fulfillment of the provisions, instructions and regulations prescribed above and later instructions issued by the Department of Public Works during the performance of the work and satisfactory maintenance of the disturbed areas for a period of Thirty (30) months following the completion of the work and the payment of the charges owed the Department of Public Works.
- B. Other required insurance:
  - Comprehensive general liability insurance written on occurrence form, including completed operations coverage, personal injury liability coverage, broad form property damage liability coverage and contractual liability coverage insuring the agreements contained herein. The minimum limits of liability carried on such insurance shall be \$1,000,000 each occurrence and, where applicable, in the aggregate combined single limit for bodily injury and property damage liability; \$1,000,000 annual aggregate personal injury liability.
  - Automobile Liability insurance for owned, non-owned and hired vehicles. The minimum limit of liability carried on such insurance shall be \$1,000,000 each accident, combined single limit for bodily injury and property damage.
  - Workers compensation insurance whether or not required by the New Hampshire revised statutes annotated, 1995, as amended, with statutory coverage and including employer's liability insurance with limits of liability of at least \$100,000 for each accidental injury and, with respect to bodily injury by disease, \$100,00 each employee and \$500,000 per policy year.

- C. Any and all deductibles on the above described insurance policies shall be assumed by and for the account of, and at the sole risk of the permittee.
- D. Insurance companies utilized must be admitted to do business in New Hampshire or be on the insurance commissioner's list of approved non-admitted companies and shall have a rating of "A" or better in the current edition of Best's key rating guide.
  - 1. Permittee agrees to furnish certificate(s) of the above mentioned insurance to the Town of Amherst within fourteen (14) days from the date of this agreement and, with respect to the renewals of the current insurance policies, at least thirty (30) days in advance of each renewal date. Such certificates shall name the Town of Amherst and the Amherst Department of Public Works as additional insured and shall state that in the event of cancellation or material change, written notice shall be given to the Town of Amherst, Department of Public Works, 2 Main Street, PO Box 960, Amherst, New Hampshire 03031 at least thirty (30) days in advance of such cancellation of change.

**308.10 Emergency Provisions:**

- A. Emergency excavations or closing of Town streets shall be done by obtaining an emergency permit from the Department of Public Works.
- B. If such an emergency exists, the Police Department, Fire Rescue and Department of Public Works, as a minimum, shall be notified immediately by telephone. Failure to notify the Department of Public Works immediately will result in the Contractor being required to re-excavate the excavation to allow the Town to confirm that proper construction techniques are used. **At the earliest opportunity available**, a representative of the permittee shall obtain a regular permit at the office of the Department of Public Works.
- C. The Public Works Director reserves the right to waive any of the provisions of this regulation in case of an emergency, and to impose such conditions as he may require as part of an emergency permit.
- D. After an excavation is commenced, the work shall proceed in a continuous manner with diligence and expedition and shall be completed and the street restored, as nearly as possible to its original condition so as not to obstruct the public places or travel thereon more than is reasonable necessary. The surface of the street shall be permanently restored within a period of time not to exceed five (5) days from the date of completion of the project for main streets, and ten (10) days from the date of completion of the project for side streets. In any event, the permittee shall place and maintain temporary pavement immediately upon backfilling and shall be maintain the pavement on a daily basis. Department of Public Works inspectors will require temporary "Hot-Patch" or "Cold-Patch" dependent upon the location and size of the opening.
- E. Upon completion of the pavement restoration, the Department of Public Works shall be immediately notified as to the location and time of completion.

**308.11 Street Excavation General Provisions:**

- A. An Application and Permit form, prepared in accordance with Department procedures, is required for every excavation within the Town's right of way and must be accompanied by the required permit fee.
- B. A set of plans showing the work to be performed must accompany each request for a permit.
- C. The original copy of the approved Application and Permit form and an approved set of work and plans (marked "approved") must be kept on the job at all times.
- D. If work for which any Department of Public Works permit has been issued does not commence within five (5) days from the date of the permit or the proposed construction start date if given, the Permit becomes "void". The permit may be extended by the Department of Public Works if a request for an extension is made prior to the permit becoming void. Once a permit has become void, it will be considered as if the permit was never issued, but the fee will not be refunded.
- E. Each applicant must obtain from the Department of Public Works, a copy of the Specifications and Regulations governing street excavations in Amherst streets.
- F. The Public Works Director is authorized to revoke any permit if he finds that the Town of Amherst Street Excavation Ordinance or the Regulations and Specifications are being violated.
- G. Construction plans for major and minor underground installations submitted to the Department of Public Works for permits shall contain the following:
  - 1. MAJOR UNDERGROUND INSTALLATIONS - These projects are defined as follows:
    - Those involving more than one conduit.
    - Those electric conduits four (4) inches and larger.
    - Electrical cable system of 34 KV or higher.
    - Gas main two (2) inches in diameter or larger.
    - Water mains six (6) inches in diameter or larger.
    - Sewer mains eight (8) inches in diameter or larger.

Plan and Profile Requirements: Drawing should be 24" x 36" with horizontal scale of one (1) inch = 20 feet and vertical scale of one (1) inch= four (4) feet or two (2) feet, (whichever is best) and provide the following:

- Locations of proposed construction.
- All existing facilities, right-of-ways and property lines.

- All construction details.
  - Elevations for the entire length of the profile including: Existing roadway; proposed installations; and existing facilities.
2. MINOR UNDERGROUND INSTALLATIONS - All proposed underground installations not described above as major installations.

Plan Requirements. Complete set of drawing shall be provided showing:

- Locations of proposed construction.
- All existing facilities that the proposed construction would cross or parallel in public right-of-way.
- Dimensional ties to monument lines in streets and to property lines.
- A scale of one (1) inch = 20 feet is desired.
- Depth of proposed installations by notes on the permit drawings.

309

**Winter Excavation Permits:**

**A. Application Procedure**

1. Between November 15th and April 1st - Permits will be issued on a case by case basis for any Street Excavation with the exception of emergencies.
  - a. The permit must be signed by the Public Works Director and there must be a plan with each permit request. New work must also be signed by the Public Work Director.
  - b. The request must be in a letter form, stating:
    - i) Date of request.
    - ii) Name of Contractor.
    - iii) Name of customer/homeowner, business, and/or other interested parties.
    - iv) Detailed description of project.
    - v) Reason why it has to be done now.
    - vi) Method of temporary restoration.
    - vii) Who will maintain patch until permanently restored with 24 hour contact number.
    - viii) When excavation will be permanently restored.
    - ix) Company that will effect restoration.

- B. Winter Construction Procedures.** The procedure outlined in the Section 3.08.11 Street Excavation General Provisions, shall be followed **except** for the placing of asphaltic pavement.

1. If hot bituminous concrete asphalt is available, three (3) inches of **temporary** hot



bituminous pavement (1/2" aggregate) shall be used. If hot bituminous concrete asphalt is not available, then, QPR 2,000 high performance cold patch shall be placed over a prepared crushed gravel base.

-OR-

2. Three (3) inches of class "A" (3000 PSI) concrete shall be placed over a prepared crushed gravel base.
  - a) The concrete shall have a one percent (1%) calcium chloride added to accelerate curing.
  - b) The concrete placed shall be brought even with the elevation of the existing asphalt pavement.
  - c) The surface of the pavement will have a rough broom-type finish placed perpendicular to the flow of traffic.
  - d) The concrete pavement shall be protected from freezing for a minimum of two (2) days by covering it with polyethylene plastic or hay and polyethylene plastic. The length of protection and curing, may be increased or decreased by the Department of Public Works depending on the daily temperature.
3. The following spring when hot bituminous pavement becomes available, the **temporary** patch shall be removed and replaced with pavement as required in the Department of Public Works Street Excavation General Instructions.
4. The permittee must maintain the temporary patch until permanent restorations can be made.

### **310    Driveway Regulations**

#### **A.    Authority**

The Town of Amherst Planning Board hereby adopts the following regulation pursuant to its authority as set forth at RSA 236:13.V, and establishes that hereafter no driveway or access point providing access from private property to a public way owned and maintained by the Town of Amherst shall be constructed without compliance with this regulation.

#### **B.    Purpose**

Inasmuch as driveways, entrances and access points are, in effect, intersections, and therefore require certain controls as to size, location and construction in order to provide safe and efficient access to property fronting on the public way, as well as surface drainage in and around said driveways, this regulation is enacted for the purpose of such control.

**C. Definitions**

1. Access Point: An opening for vehicles to enter from or exit to a public right-of-way.
2. DPW Director: the Director of Public Works or designated agent.
3. Driveway Approach: An area of the public right-of-way located between the roadway and property adjacent to the public right-of-way that is intended to provide access for vehicles from the roadway to the adjacent property.
4. Driveway: A permanent access point that is intended to provide access for vehicles from the roadway to the adjacent property.
5. Driveway Entrance: Portion of a driveway which immediately abuts the public right-of-way or a private street.
6. Residential Driveway: An access point that is intended to provide access for vehicles from the roadway to a residential property serving less than three dwelling units.
7. Non-residential Driveway: An access point that is intended to provide access for vehicles from the roadway to a non-residential (commercial, industrial, etc.) use or an access point that is intended to provide access to a private roadway.
8. Right of Way: The full width of the legal right of way of a public road, which width generally is understood to extend beyond the limits of the paved or traveled portion of the road.
9. Temporary Access Point: An access point to be utilized for a temporary period of time not to exceed one year.

**D. PERMIT**

Anyone desiring to construct, alter, or relocate a driveway or temporary access point in order to obtain access to an existing public way or a proposed street or public way, shall first apply for and obtain a permit from the Director of Public Works (DPW Director). This permit shall provide for the approved location, construction, alteration or relocation of such driveway in accordance with the specifications provided in the driveway permit form, which is available at the Department of Public Works, the Community Development Office and related websites. The driveway location as indicated on the approved permit (in accordance with the approved site plan or septic plan, as applicable) is the ONLY driveway to be utilized unless the DPW Director or the Planning Board authorizes a change in writing. If a permanent house or structure number is assigned by the Building Department at the time of driveway permit issuance the number shall be located so as to be clearly visible from the roadway at start of construction.

If the roadway to be accessed by a proposed driveway is maintained by the State of NH, the applicant shall apply for and receive a driveway permit from the State of NH Department of

Transportation (NHDOT) and will not be required to obtain a Driveway Permit from the Town of Amherst. Applicants can obtain a permit and information for driveway permits on State maintained roadways at [www.nh.gov/DOT](http://www.nh.gov/DOT) or by calling the Department of Transportation directly at 603.271.3734. A copy of the final, signed NHDOT Permit shall be submitted to the Town of Amherst.

**E. PERMIT PROCESS**

1. Prior to submitting an application for a driveway permit the applicant shall clearly mark and flag the location of the proposed driveway with a centerline stake at the edge of the right-of-way (ROW). The applicant shall then submit completed applications to either the Department of Public Works or Community Development Office.
2. Applications will be reviewed with a site inspection (as necessary) and approved by the Department of Public Works within ten (10) business days. The approved permit and any additional documentation will be sent to the Community Development Office.
3. Once the driveway permit has been approved by the DPW Director the driveway can be installed.
4. A construction exit/entrance shall be in place prior to the start of on-site activity (see Appendix, Figures 4 and 5).
5. Upon completion of a driveway or a minimum of fourteen (14) days prior to the issuance of a Certificate of Occupancy (CO) by the Building Department, the Department of Public Works will perform a post-construction inspection and issue a Certificate of Compliance (CC) for the driveway. A copy of the CC will be sent to the Community Development Office. A CO will not be issued unless a driveway CC has been issued by the Department of Public Works or a security is in place.
6. Failure to begin construction within one (1) year of application approval will render the driveway permit null and void.
7. A permit is required from the Department of Public Works for any temporary access point. A security in an amount to be determined by the DPW Director may be required at the discretion of the Director. If a security is required, the applicant shall submit an itemized detailed estimate of the cost to complete the driveway to the DPW Director who shall determine the required amount of the security.

**F. RESIDENTIAL ACCESS POINTS**

1. If a property is adjacent to a side road, the access to the main road should be via the side road.
2. Curb cuts shall be limited to one (1) per residential lot, except where the DPW Director has determined that a second cut is warranted and can be safely accommodated. A

scale drawing indicating the features necessitating the second access must be submitted for the DPW Director to make a determination. A second cut may be granted under the following conditions:

- a. A second curb cut is necessary for access to a secondary use or structure, or if the physical constraints of the lot, including natural features, unusual lot shape, size or elevation change necessitates the second access.
  - b. A second curb cut is necessary to allow handicapped access for an individual who is a permanent resident of the property.
3. A permit is required from the Department of Public Works for any temporary access point. A security in an amount to be determined by the DPW Director may be required at the discretion of the Director. If a security is required, the applicant shall submit an itemized detailed estimate of the cost to complete the driveway to the DPW Director who shall determine the required amount of the security.
  4. A construction exit/entrance is required for all residential driveways and temporary access points (See Appendix, Figure 4). The public right-of-way shall be cleared daily of debris such as mud, stone, earth and all construction supplies, vehicles and equipment. Said maintenance of the exit/entrance shall be the responsibility of the permit applicant.

#### **G. NON-RESIDENTIAL ACCESS POINTS**

1. Curb cuts shall be limited to one (1) per lot, unless additional curb cuts are approved through Planning Board Site Plan approval or if the DPW Director has determined additional curb cuts are warranted and can be safely accommodated. If the driveway(s) are not shown on an approved Site Plan, a scale drawing indicating the features necessitating additional access points must be submitted to the DPW Director to make a determination, who may consult with the Fire, Police, EMS and Planning Departments prior to making a determination. Additional cuts may be granted to provide access to a secondary use, structure or corner lots, to increase access safety or if the physical constraints of the lot, including natural features, unusual lot shape, size, or elevation change necessitates the additional access.
2. A permit is required from the Department of Public Works for any temporary access point. A security in an amount to be determined by the DPW Director may be required at the discretion of the Director. If a security is required, the applicant shall submit an itemized detailed estimate of the cost to complete the driveway to the DPW Director who shall determine the required amount of the security.
3. A construction exit/entrance is required for all non-residential driveways and temporary access points (See Appendix, Figure 5). The public right-of-way shall be cleared daily of debris such as mud, stone, earth and all construction supplies, vehicles and equipment.

Said maintenance of the exit/entrance shall be the responsibility of the permit applicant.

#### **H. DESIGN REQUIREMENTS**

1. Driveway design and construction shall conform to the applicable Residential or Non-Residential detail and the regulations contained herein. It is understood that the applicant shall confer with the DPW Director who shall determine specifications as to sloping, culverts, headwalls and other aspects of construction of said driveway only when it deviates from the typical profile and standards. The deviations shall be noted in writing on the Driveway Permit.
2. All driveways shall be a minimum of ten feet (10') in width. A residential entrance shall flare as it approaches the pavement to a maximum width of twenty-four feet (24') measured at the existing edge of roadway. A non-residential entrance shall flare as it approaches the pavement to a maximum width of fifty feet (50').
3. All driveways shall be designed so as to minimize disturbance to stone walls.
4. Flat driveway side-slopes (4:1 to 6:1) are required to minimize hazards to vehicles that leave the pavement for any reason.
5. The asphalt apron of paved driveways shall be paved twenty feet (20') from the edge of pavement of a public road and shall be constructed with a minimum of three inches (3") of asphalt with emulsion applied at the joint with the Town roadway surface.
6. All unpaved driveways shall require an asphalt apron. The asphalt apron shall be paved twelve feet (12') from the edge of pavement of a public road and shall be constructed with a minimum of three inches (3") of asphalt with emulsion applied at the joint with the Town roadway surface.
7. All new driveways established to serve structures intended for human occupancy shall have a maximum grade of eight percent (8%). The purpose of the maximum grade requirement is to ensure public safety and accessibility for emergency vehicles. This standard shall not apply to driveways intended to serve non-occupancy structures, such as utility service buildings, and other private ways intended for purposes such as logging, silviculture, agriculture and recreational access.
8. All driveways shall have a minimum of a one percent (1%) negative grade from the edge of the traveled way to the center of the ditch line, to insure the driveway does not drain into the street.
9. All driveways shall intersect the Town's roadway at an angle as close to perpendicular as practicable and shall not be less than sixty (60°) degrees from the Town ROW line.
10. Where required, culverts shall be at least fifteen inches (15") in diameter and shall be constructed of reinforced concrete, high density polyethylene pipe, riveted aluminum,

corrugated steel, or approved equal. The driveway will have shoulders minimum of three feet (3') shoulders on each side where it meets the culvert. Culverts shall be a minimum of thirty feet (30') long and shall have a minimum twelve inches (12") of cover above the crown, or comparable equal, alternative load bearing pipe configuration.

11. Headwalls shall be constructed of pre-cast, cast-in-place concrete, or stone and mortar. The culvert cover shall be equal to or greater than two feet (2'). Where headwalls are not applicable, pre-manufactured flares will be placed on each pipe end.
12. Safe sight distance shall be maintained and is defined as a line which encounters no visual obstruction between two points, each at a height of three feet, nine inches (3'9") above the pavement, and ten feet (10') back from the road pavement, 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 as described in Section L.4 below. Unposted roads shall be assumed to be thirty (30) mph.

13. Driveway Design Features:

- a. The following table summarizes driveway design features:

	<b>For parcels with fifty-one feet (51') or more of frontage</b>	<b>For parcels with fifty feet (50') or less of frontage</b>
Minimum tangent between drives*	100 feet	50 feet
Minimum distance between intersections*	100 feet	50 feet

\*Note: The dimensions of the minimum tangent between drives and distance from intersection shall be detailed on the driveway plan.

- b. Safe sight distance shall be compatible with the maximum speed limit posted on the road, as described in the following table:

<b>Speed Limit (MPH)</b>	<b>Sight Distance</b>
15-25 MPH	200 feet
26-35 MPH	300 feet
36-55 MPH	400et

- c. In cases of rear lots with private ways to local streets, the above requirements for minimum tangent between drives and maximum frontage drives shall not apply.
- d. Any driveway impacting a wetland or wetlands buffer shall have all permits required by the State and Town posted on-site until a CC is issued or all on-site work is completed, whichever comes last.
- e. Two-way driveways, divided driveways and alternate major entrances shall be constructed to State DOT standards and shall be approved by the Planning Board or the DPW Director.

**I. MAINTENANCE RESPONSIBILITY**

1. Temporary and permanent erosion and sedimentation control measures shall be provided before, during and after construction, in accordance with the best management practices as described in the “New Hampshire Stormwater Manual” (NH Department of Environmental Services 2008) as amended, a copy of which is available in the Community Development Office.
2. The applicant, or their grantees, successors and/or assigns served by the driveway shall be responsible for the following:
  - a. Maintenance of the driveway from the edge of the roadway pavement or paved shoulder, if existing;
  - b. Maintenance of all approved and/or required upstream and downstream drainage alterations including but not limited to: pipe extensions, open ditches, swales, drainage systems and detention ponds, with the exception of connecting catch basins, manholes or other specified structures at roadway cross culverts;
  - c. All driveway pavement markings and all traffic control signs on the drive with the exception of a stop sign or yield sign; and,
  - d. Operational costs of electric service for traffic signals and street lights that are required by the permit.
3. The Department of Public Works may also specifically maintain the following drainage structures:
  - a. Drainage systems within the roadway limits, serving existing State highways, and constructed for the purpose of controlling highway and surface water run-off; and,
  - b. Catch basins, manholes or other specified connecting drainage structures constructed at the end of cross roadway culverts or parallel culverts serving the State highway system.

**J. EASEMENT AND SECURITY**

1. The applicant may, at the discretion of the DPW Director or Planning Board, and as a condition of the granting of the Driveway Permit, be required to provide to the Town of Amherst, its successors and/or assigns, an easement for the purpose of entering upon the premises of the applicant to control or maintain surface drainage on the property and perform all necessary maintenance for, and incidental to, said drainage easement.
2. A security in an amount as detailed below shall be required to guarantee the proper construction of any culverts, piping, ditching or other efforts incidental to and necessary for the proper discharge and control of surface drainage in and around the vicinity of

the proposed driveway as well as the proper construction of the driveway entrance both on the property of the applicant or on the property of the Town of Amherst.

- a. Residential Driveway Permit: A security in the amount of \$600 is required.
  - b. Temporary Access Points: A security may be required at the discretion of the Director of Public Works in an amount to be determined as set forth below.
  - c. Non-Residential Driveway Permit: A security shall be required in an amount to be determined as set forth below
3. If a security is deemed necessary, the applicant shall submit an itemized detailed estimate of the cost to complete the driveway to the DPW Director, who shall determine the required amount of the security. The security shall be provided to the Department of Public Works to be held in an escrow account and released upon issuance of a CC.
  4. Failure to complete construction within one (1) calendar year from the date of posting of a security shall result in the automatic calling of the security, unless specifically extended by the DPW Director for a period of one (1) additional year.
  5. Funds may be withdrawn from the security by the Town of Amherst and applied to the cost of said construction which the Town of Amherst is obliged to complete. No funds shall be expended at any site in excess of the amount of the security pertaining to said site.
  6. Driveways that have not received a CC at the time of the issuance of a CO will be required to provide a security to insure completion of the approved driveway to Town of Amherst specifications. If a security is provided in lieu of obtaining a CC for the driveway, The Department of Public Works shall submit documentation to the Community Development Office notifying them of the security.

### **311    WAIVERS AND APPEALS**

1. Upon written application, the DPW Director may waive any of the design requirements for driveways, roadways and utilities when it is shown that strict compliance would cause undue or unnecessary hardship, so long as such waiver does not result in the likelihood of injury to the public health, safety or welfare.
2. Upon written application, the Planning Board may waive any of the design requirements for driveways, roadways and utilities as part of Non-Residential Site Plan approval when it is shown that strict compliance would cause undue or unnecessary hardship, so long as such a waiver does not result in in the likelihood of injury to the public health, safety or welfare.
3. Any applicant or abutter aggrieved by the regulations herein or a decision made by the Director of Public Works in regards to a waiver request shall appeal that decision to the



Planning Board within 30 days. The Planning Board shall apply the standards in appeals as outlined above.

**312 SEPARABILITY**

The invalidity of any provision of these regulations shall not affect the validity of any other provision.

**313 ENFORCEMENT**

The Amherst Board of Selectmen, Zoning Administrator, and the DPW Director are charged with the power and authority to enforce the provisions of these regulations.

**314 AMENDMENT**

These regulations may be amended by the Planning Board following a noticed public hearing on the proposed amendment. All amendments will take effect upon approval by a majority of the Planning Board and filed with the Amherst Town Clerk.

# Town of Amherst Development Regulations

## Planned Residential Development (PRD)

### Regulations

4-1

#### **1. Purpose and Goals**

Section 4.17.A of the Amherst Zoning Ordinance states: “Planned Residential Development allows an alternative pattern of land development to the pattern permitted in the Residential/Rural, Northern Rural, Northern Transitional, and Commercial Zones. It is intended to encourage the preservation of open space and, at the same time, provide for a greater variety of housing types and affordability in the Town of Amherst at somewhat greater densities than permitted elsewhere in the Zoning Ordinance, without causing a significant increase in the town-wide population density. It is envisioned that in a PRD, dwelling units will be constructed in clusters which are harmonious with neighborhood developments and housing, and with natural surroundings. These clusters shall detract neither from the ecological and visual qualities of the environment, nor from the value of the neighborhood, environment, or the Town. The PRD should contain a variety of housing types to accommodate the Master Plan purposes of encouraging a diversity of people, a variety of age groups of different interests, backgrounds, and economic levels. The overall site design and amenities should enhance the quality of living for the residents of the development and, in general, the neighborhood and the Town. The Board shall determine whether the proposed PRD, namely the site plan or layout, and number, type, and design of the proposed housing is suitable to the neighborhood within which it is to be located and is consistent with the Master Plan and its reasonable growth objectives.”

The purpose and goals of these regulations are:

- A. to provide procedures for submission and review of PRD applications;
- B. to establish reasonable limits of, and the manner of determining, the “somewhat greater densities” allowed in the ordinance;
- C. to set forth several of the factors important in maintaining the visual qualities of the environment;
- D. to require applicants to explain how the proposed PRD enhances the quality of living for the residents of the development and, in general, the neighborhood and the Town, and to ensure such enhancements are present if increased densities are permitted;
- E. to reinforce the ordinance requirement that proposed PRD developments are intended to be constructed in clusters and to preserve open space and visual qualities of the environment, by clarifying that additional traditional frontage development is disfavored.

#### **2. Authority**

The provisions of these regulations are adopted pursuant to NH RSA 147:1, Local Regulations; RSA 674:16, Grant of Power; RSA 674:17, Purposes of Zoning Ordinance; RSA 674:21 Innovative Land Use Controls; RSA 674:36, Subdivision Regulations; and, RSA 674:44, Site Plan Review Regulations.

#### **3. Requirements**

##### **A. Application**

An applicant for approval of a proposed PRD shall make application to the Planning Board as a Conditional Use Permit but otherwise in the same fashion and with the

information specified in the Subdivision Regulations and as set forth below.

1. Solely as an aid to the Board, the applicant shall present a “baseline density” plan demonstrating the dwelling unit development density supported by the subject property if applicable statute, ordinance, and regulation requirements are observed without waiver, including but not limited to zoning lot size requirements, frontage requirements, wetland and wetland buffer restrictions, septic system reserved areas, wellhead exclusion areas, avoidance of building on steep slopes and in floodplains, and provisions for stormwater management features outside of wetland buffers. The applicant shall be prepared to demonstrate that the baseline density plan is economically feasible (e.g., does not require unusually expensive or elaborate infrastructure). The baseline density plan shall have sufficient detail to aid the Board in reaching its own determination of a reasonable and feasible baseline density but need not include all the detail required of a final plan. The Board may have such plans reviewed for compliance with statutes, ordinances, regulations, and for feasibility by a third party at applicant’s expense.

2. The applicant shall submit plans and other documentation for its proposed PRD development in compliance with the following:

- a. The plan shall maintain the visual qualities of the neighborhood, in part, by maintaining the rural aesthetic and character of the town as consistently valued by its residents, including in the Master Plan. The determination of whether rural aesthetic and character is maintained necessarily involves the exercise of discretion by the Board. Factors relevant to the determination will vary from application to application based on unique site characteristics and may include, but are not limited to, the following factors:
  - (1) the density and frontage requirements of the underlying zoning district;
  - (2) the density of the clustered units;
  - (3) retention of views of natural features such as brooks and hills both from existing roads and residences and from housing units proposed for the PRD;
  - (4) retention and integration of rural heritage features such as stone walls and open fields,
  - (5) retention of mature native trees between housing units and in the development in general;
  - (6) use of setbacks in excess of minimum requirements and use of varied setbacks;
  - (7) use of densities and layouts that provide for views of space between units from numerous locations and view angles along adjacent and approaching roads;
  - (8) maintenance of views of undeveloped land and of distant locations from existing roads and from proposed PRD units;
  - (9) favoring of harmonious variation in layout and in architectural style rather than repetition;
  - (10) the avoidance of lot placement along frontage of existing public roads rather than in clusters, so as to maintain the presence and views of undeveloped land; and

- (11) use of internal central areas such as greens, ponds, gardens, and park areas that permit the sense of a natural core within the cluster.
- b. The plan shall preserve open space as required herein and shall provide the documentation the applicant proposes to record to ensure the open space is permanently protected.
- c. The plan shall include a variety of housing types to accommodate the Master Plan purposes of encouraging a diversity of people, a variety of age groups of different interests, backgrounds, and economic levels. The application shall describe and provide documentation demonstrating how any permissible and applicable restrictions on housing ownership will be administered and maintained. Any such restrictions must comply with applicable federal and state law to be approved.
- d. The plan shall favor dwelling units constructed in clusters that are harmonious with neighborhood developments and housing, and with natural surroundings. Clusters are intended to reduce the use of traditional lots with full road frontage rather than be used in addition to such lots.
- e. The plan shall describe how the overall site design and amenities enhance the quality of living for and provide benefit to the residents of the development, the neighborhood and the Town.
- f. The plan shall meet the conditions for issuance of a Conditional Use Permit set forth in section 3.18 of the Zoning Ordinance.

**B. Board Determination**

1. The Board shall determine the reasonable and feasible baseline density for the subject property, which shall not be more than the number of dwelling units that could be feasibly constructed on the subject property if applicable statute, ordinance, and regulation requirements are observed without waiver.

2. The Board shall determine whether the proposed PRD, namely the subdivision plan or layout, and number, type, and design of the proposed housing, is suitable to the neighborhood within which it is to be located and is consistent with the Master Plan and its objectives. The Board shall be guided by the objectives and standards set forth in the Purpose and Requirements sections above in making its determination.

3. In doing so, the Board in its discretion may, but is not required to, allow a dwelling unit density greater than the reasonable and feasible baseline density for the subject property, to the degree the applicant's proposal provides benefits to the residents and the Town commensurate with any such increased density. For purposes of this density determination, the Board shall count each proposed Accessory Dwelling Unit as a separate dwelling unit. Whether to award such an increase in density and, if so, the degree or amount of the increased density allowed (within the limitations established herein) are discretionary decisions of the Board and are not a right of the applicant.

4. In no case shall the Board permit a dwelling unit density increase of more than 25% above the reasonable and feasible baseline density it has determined for the subject property. There shall be no presumption that 25%, or any lesser density increase, is required to be granted, and the 25% maximum increase is an absolute cap that shall not be exceeded.

This limitation on dwelling unit density increase in a PRD is implemented for reasons including, but not limited to, the following:

- a. To provide appropriate incentive levels to applicants to propose PRDs. A PRD may reduce an applicant's costs of development by reducing per lot infrastructure and site development costs, and thereby provide an incentive to propose a PRD in lieu of a traditional subdivision. This incentive may be present even in the absence of increased dwelling density. A limitation helps to ensure the Town is not providing unnecessary or excessive incentives.
- b. To ensure the level of development allowed is at a level that is harmonious with the requirements of the underlying zoning district.
- c. To guard against potential harm to natural resources (including to wildlife habitat and water resources) from excessive development density,
- d. To provide clarity to applicants on the maximum density that can be considered in a PRD.

5. If the Board is satisfied the application conforms to the requirements of this and other applicable sections of the ordinance and regulations, the Board may grant approval, subject to such additional reasonable conditions and limitations as it shall deem appropriate.

**C. Open Space Requirements.**

Land in the PRD that is not covered by buildings, septic systems, wells, paved or gravel areas, service areas, signs, or other structures, and that is not set aside as private yards, patios, gardens, sidewalks, or other walkways for the residents, may be designated as open space. The area of the open space shall be at least the percentage of the total area of the PRD tract specified in the ordinance. To be counted toward the percentage requirement, such land shall have a shape, dimension, character, and location suitable to assure its use for park, recreation, conservation, or agricultural purposes. In evaluating the open space proposed to be provided, including for purposes of determining whether to award and the amount of any density increase to be allowed in the PRD, the Board may consider the nature of the open space including, by way of example only, whether the proposed open space would have been accessible and developable if not set aside.

Open space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation, or park. Any such conservation or agricultural uses shall have such protections memorialized in an easement to the Town or a "qualified organization" as set forth in RSA 36-A:4-a. Applicant shall provide commensurate levels of protection for recreation or park uses.

Provisions shall be made for the open space to be held in common, equally, by all the owners of the PRD. Open space readily accessible to the public is favored.

No building or construction (including but not limited to structures, wells, septic systems, or stormwater management features) shall take place in the open space except as is (1) consistent with the permitted uses of conservation, agriculture, recreation, or parks (including permitted public access); (2) in the best interest of the town; and (3) with the permission of the Planning Board. Harvesting of trees in the open space is permitted if it is done according to a forestry plan incorporating current Best Management Practices and with the expressed permission of the Planning Board.

Adopted by the Town of Amherst Planning Board  
October 6, 2021

# **Town of Amherst**

## **Development Regulations**

### **Integrated Innovative Housing Ordinance**

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#### **Part 5 – Integrated Innovative Housing Ordinance (IIHO) Regulations**

##### **501 GENERAL PROVISIONS**

###### **501.1 Purpose and Authority**

These Rules and Regulations are adopted by the Amherst Planning Board, hereinafter called the Board, for the purpose of establishing uniform rules and procedures for the granting of Conditional Use Permits pursuant to the Town of Amherst Zoning Ordinance, Sec. 4.16, Integrated Innovative Housing Ordinance (IIHO) permitted by Conditional Use Permit.

###### **501.2 Applicability**

All applications for IIHO projects under Sec. 3.18 and 4.16 of the Zoning Ordinance are subject to all applicable provisions of the Zoning Ordinance and to these Rules and Regulations.

###### **501.3 Relationship to Other Zoning Laws and Regulations**

These Rules and Regulations are promulgated under RSA 674:21(II), and accordingly, in the event of any conflict between these Rules and Regulations and the Zoning Ordinance, the applicable provisions of the Zoning Ordinance shall control.

###### **501.4 Relationship to Other Application and Submission Requirements**

Unless specifically stated otherwise herein, an application for an IIHO Conditional Use Permit is subject to (a) the Utility and Road Standards, b) the Subdivision Regulations and (c) the Non-Residential Site Review standards and submission requirements set forth in the Non-Residential Site Plan Review Regulations. Unless specifically stated otherwise herein, these Rules and Regulations are intended to supplement the above standards and requirements and are not intended to relieve the applicant or proposed project from subsequent compliance with said standards and requirements.

##### **502 PHASING**

502.1 An IIHO project may be reviewed, approved and constructed in phases. If more than one phase is proposed, the initial Application shall include a conceptual master plan for the entirety of the proposed development, not just for the initial phase. The conceptual master plan shall include information on subsequent phases that is sufficient in the Board's opinion to enable the Board to evaluate the desirability of types, scale, intensity and design of development under the master plan, and shall include analyses of the impacts of full build-out and proposed mitigation measures.

502.2 Each phase of an IIHO project must include all infrastructure components required to support that phase and all measures needed to fully mitigate the projected impacts of that phase.

502.3 An application for an IIHO Conditional Use Permit shall include the information required in Sections 5.06 and 5.07 of these Rules and Regulations for the entire site, and the more detailed information and assessment of impacts pursuant to Section 5.08 of these Rules and Regulations for the phase being proposed.

502.4 An IIHO Conditional Use Permit shall include sufficient monitoring requirements to allow the Planning Board to evaluate impacts during project build-out and up to five years following issuance of the last certificate of occupancy for improvements authorized by any IIHO Conditional Use Permit for the entire development.

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**503     DENSITY BONUS PROVISIONS**

**503.1   General**

- (a) Applicants shall calculate base density by dividing the overall net tract area by the minimum lot size required in the zoning district.
- (b) Density Bonus provisions are enumerated in Section 4.16 E of the Zoning Ordinance. Award of any density bonus provision is at the discretion of the Planning Board based on a finding of benefit to the Town.
- (c) With the exception of the bonus for redevelopment of existing structures discussed below, any density bonus being claimed shall be applied to the base density as a maximum limit.
- (d) Except in extraordinary circumstances, applicants will not be allowed to claim multiple bonuses for Open Space or Community Space.
- (e) In order to claim the bonus for redevelopment of existing structures, the applicant must show that preservation of the structure is in the public interest by serving to preserve a cultural or historic resource of significance, or preserving a character-defining feature of the neighborhood or streetscape. The bonus may be granted for multiple structures on a property if the Board deems it appropriate.
- (f) Applicants shall add all bonuses awarded, which may include fractional units, and round the total down to the nearest whole number of units. Conditional Use Permit approval may be for a range of unit count, with the final number contingent upon review of final plans for the proposed development.

**504     PRELIMINARY REVIEW**

**504.1   Preliminary Conceptual Consultation**

- (a) In accordance with RSA 676:4(II)(a), the Applicant may meet with the Planning Board for preliminary conceptual consultation. Preliminary conceptual consultation discussions may take place without the necessity of giving formal notice to abutters but may occur only at formal meetings of the Board. Any information exchanged as part of this meeting shall be considered as advisory and shall not be binding on the part of the Applicant or the Board.
- (b) Request for a preliminary conceptual consultation shall be submitted not less than 15 days prior to the regular meeting of the Board and shall be properly posted as part of the Board's agenda as required by applicable State statutes. Preliminary conceptual consultation meetings shall be separate and apart from consideration of a formal application for an IIHO Conditional Use Permit and shall not establish the time limits for acting on such formal application.
- (c) Preliminary conceptual consultation meetings shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Preliminary plans or sketches may be submitted for discussion purposes and to assist in the identification of the nature of information necessary to meet the requirements of these Rules and Regulations and the Zoning Ordinance and to address issues of concern to the Town and abutters. The Board and the Applicant may discuss the Project in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan.



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- (d) Preliminary conceptual consultation shall not bind either the Applicant or the Board, and statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken.

**504.2 Design Review**

- (a) Prior to submitting an Application for a Conditional Use Permit, the Applicant may meet with the Planning Board for design review. Design review shall include nonbinding discussions beyond conceptual and general discussion, involving more specific design and engineering details than in the preliminary conceptual consultation.
- (b) Design review meetings may proceed only after identification of and notice to abutters, holders of conservation, preservation, or agricultural preservation restrictions, and the general public as required by RSA 676:4(l)(d) and Section 210.1 of the Subdivision Regulations. Design review meetings shall be separate and apart from consideration of a formal application for an IIHO Conditional Use Permit and shall not establish the time limits for acting on such formal application.
- (c) Statements made by Planning Board members in design review meetings shall not be the basis for disqualifying said members or invalidating any action taken.

**505 APPLICATION REQUIREMENTS: GENERAL**

**505.1 Pre-Application Review by Community Development Department**

Prior to making formal application to the Planning Board for an IIHO Conditional Use Permit, the Applicant shall submit the proposed Application to the Community Development Office for review. The purpose of this pre-application review is to identify required information that may be missing or incomplete. Any information exchanged as part of this meeting shall be considered as advisory and shall not be binding on the part of the Applicant, the Board or the Town of Amherst.

**505.2 Form of Application**

An Application shall be made on an official Application Form on file at the Community Development Department office and shall be accompanied by a check or checks made payable to the Town for the Application Fee as specified in these Rules and Regulations. Any communication not on this official form shall be considered a notice of intention to apply and not an actual Application. It is the responsibility of the Applicant to ensure the accuracy and completeness of all information submitted to the Board. The Applicant is also responsible for factually supporting the Application, including references for methodologies used. Failure to meet these requirements may constitute grounds for disapproval of the application.

**505.3 Signatures**

A property owner of record and/or an agent or prospective purchaser may file an Application. Without exception, the property owner(s) of record and, if applicable, the agent(s) or prospective purchaser(s), shall be signatories on the official Application Form. An Application submitted without all the required signatures shall be considered incomplete and shall be returned for completion and re-filing. The date of such re-filing shall be the official date of Application.

#### **505.4 Request for Waivers**

Strict compliance with these Rules and Regulations may be waived if the Board finds by majority vote that the waiver is in the public interest or is consistent with the intent and purpose of these Rules and Regulations and 4.16 of the Zoning Ordinance, provided that no waiver shall be from specific provisions of the Zoning Ordinance. Any request from an Applicant for a waiver of these Rules and Regulations or any separate provisions hereof must be submitted in writing to the Board. Such requests must clearly identify the provision of these Rules and Regulations that is to be waived and the reasons why, in the Applicant's opinion, granting such a waiver would be in the public interest or consistent with the intent and purpose of these Rules and Regulations and Sec. 4.16 of the Zoning Ordinance. Failure to provide the information may constitute grounds for disapproval of the waiver request.

#### **505.5 Number of Copies**

- (a) At the time of Application, the Applicant shall file a minimum of three (3) copies of the official Application Form and all plans, exhibits, analyses and any other information and/or attachments with the Board. Unless otherwise approved by the Community Development Director, the plan sheets shall be provided at both 22" x 34" and 11" x 17". Any color exhibits shall be submitted to the Board at 11X17 size with ten (10) copies of each.
- (b) The Applicant shall also be responsible for submitting to the Community Development Department complete copies of the Application, plans and exhibits and all subsequent filings in PDF format.

#### **505.6 Abutters List**

The Applicant shall provide a list of abutters as defined in NH RSA 672:3.

#### **505.7 Other Variances, Permits and Conditional Use Permits**

The Applicant shall provide a list and copies of variances, permits, other Conditional Use Permits and approvals previously issued by Town boards or commissions or by state and federal agencies and a list of any additional variances, permits or Conditional Use Permits that will be required to complete the proposed development. This list should include all permits and approvals required under applicable local, state and federal regulations. The list should include the name of the person or entity as it appears on the permit or approval, the date of issuance, and, where applicable, the Book and Page or Document Number as evidence of recording or filing with the Registry of Deeds.

#### **505.8 Preliminary Layout**

If subdivision of the site is contemplated by the development plan, the Application shall include a preliminary subdivision layout.

### **506 APPLICATION REQUIREMENTS: PLANS AND DRAWINGS**

An application for a CUP shall comply with Section 210.0 of the Subdivision regulations, and shall include the following information:

#### **506.1 Locus Map**

An Application shall include a Locus Map showing the boundaries of the project site, adjoining properties, zoning districts, public and private streets and ways, buildings, water bodies and other landmarks within a minimum distance of one-half (1/2) mile.

#### **506.2 General Layout Map**

An Application shall include a General Layout Map on one (1) sheet, showing the project site including the existing and proposed layouts of the streets and ways, lot and zoning district boundary lines, lot numbers, and proposed structure locations. The general layout map shall be shown on the title sheet or the next sheet.

#### **506.3 Existing Conditions Plan**

An application shall include an Existing Conditions Plan showing the information listed in Section 210.2 A. of the Subdivision Regulations as applicable for the project site and, to the extent that such information is available from public records or aerial surveys, for an area extending two hundred and fifty (250) feet around the perimeter of the site, and shall include the following information:

- (a) Existing site features such as, but not limited to, flood plains, waterways, drainage courses, ponds, water supply wells, leach fields, ledge outcroppings, areas of poorly or very poorly drained soils per Natural Resources Conservation Service (NRCS) mapping, stratified-drift aquifers per the United States Geological Survey (USGS), significant trees and vegetation, and the generalized location and habitat for any endangered or threatened species, species of special concern, or exemplary natural community as listed by the New Hampshire Natural Heritage Bureau, New Hampshire Nongame and Endangered Wildlife Program, or US Fish and Wildlife Service.
- (b) All existing monuments and improvements such as, but not limited to, buildings, structures, roads and ways, stone walls, underground and above ground storage tanks, wastewater disposal systems and wells.
- (c) Designation of all existing monuments and improvements to be removed.
- (d) Existing topographic contours shown at two (2) foot intervals.
- (e) All zoning classifications and zoning district boundaries, including the boundaries of the I-2 Industrial Districts and, if applicable, the Special Flood Hazard Areas, Aquifer Conservation District, Wetlands Conservation District, and Wellhead Protection Area.

#### **506.4 Master Site Development Plan**

An application shall include a Master Site Development Plan showing the information listed below. The Master Site Development Plan is not intended to be a fully engineered site plan but is a graphic depiction of the proposed project that will be referenced in a Development Agreement and will serve as the basis for the development and review of the final site plan(s) for the IIHO project. The Master Site Development Plan shall consist of the following elements:

##### ***506.41 Preliminary Site Plan***

- (a) All building areas with a depiction of building footprints.
- (b) All proposed streets, ways, access and interior driveways, shared driveways, walkways, sidewalks, parking lots, and other impervious cover.
- (c) All open space to be preserved and any proposed improvements.

- (d) All proposed community facilities.
- (e) Any other improvements used to fulfill requirements for density bonuses in Section 4.16 E. of the Amherst Zoning Ordinance.

**506.42 IIHO Bonus Provisions**

A narrative description of the bonus provisions being applied, and the improvements and benefits to the Town justifying the award of bonus density.

**506.5 Additional Information**

The Applicant may submit additional information that the Applicant feels is relevant to properly inform the Board about the proposed development, which may include legal opinions, deeds, historical data, studies and reports. The Board is empowered to require information in addition to that specifically required by the Zoning Ordinance or these Rules and Regulations if it finds that this information is necessary to properly act upon the Application.

**507 SITE VISITS**

From time to time the Board may request a site visit to the proposed development site. The date and time for such visits shall be satisfactory to both the Board and Applicant. The Board may request that any work subject to these Rules and Regulations be clearly flagged or otherwise delineated prior to the scheduled site visit.

**508 DISPOSITION OF APPLICATION**

**508.1 Action by Planning Board**

The Board shall, within 45 days following delivery of an application for a Conditional Use Permit, determine if the application is complete according to these regulations. Upon determination that the Application is complete, the Board shall accept the application for review and begin formal consideration of the application and shall approve, approve with conditions, or disapprove the permit application within 65 days, subject to any extension of time agreeable to the Applicant and the Board.

**508.2 Approval Criteria**

The Board may approve or approve with conditions an application only upon its written determination that the proposed IIHO development fully complies with the Zoning Ordinance, including the specific provisions and standards of Section 3.18 of the Ordinance regarding Conditional Use Permits and Section 4.16 regarding IIHO projects.

**508.3 Conditions of Approval**

An IIHO Conditional Use Permit is granted at the discretion of the Planning Board in accordance with applicable law. The use, density and construction standards that may be permitted by the Planning Board under its authority as Conditional Use Permit granting authority may be more stringent than as allowed by these Rules and Regulations and shall be based on the merits of the application and the approval criteria set forth in the Zoning Ordinance and herein.

**508.4 Development Agreement**

The Planning Board shall require, as a condition of its approval of an IIHO Conditional Use Permit, the execution of a Development Agreement or other similar instrument

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specifying the phasing, timing and sequence of the improvements contained within the IIHO project; the performance guarantees relating thereto; actions to mitigate development impacts; and any other information and commitments the Board deems necessary to insure the successful completion of the project as proposed and approved, including all mitigation commitments. A copy of the signed agreement shall be recorded at the Hillsborough County Registry of Deeds.

**508.5 Modification or Amendment of Conditional Use Permit**

- (a) The Board shall have the authority to allow for the correction of an inadvertent or clerical error or omission provided such correction does not constitute a reversal of the decision on an IIHO Conditional Use Permit or conditions contained therein.
- (b) In the event that field conditions, building plan modifications or requirements of the Town of Amherst or any other governmental authority necessitate changes to the IIHO project, a detailed written description of such changes shall be submitted to the Board. The Board shall determine whether such changes warrant further review by the Board. If the Board determines that such changes require review and amendment of the Conditional Use Permit, then the petition to amend the IIHO project Conditional Use Permit shall be subject to the notice and public hearing requirements as set forth in Section 202.1 of the Subdivision Regulations and in applicable law.

**508.6 Relationship to Subdivision and Site Plan Approval**

The approval by the Planning Board of an IIHO Conditional Use Permit shall neither oblige the Planning Board to approve the related Final Subdivision Plat or Site Plan nor substitute the approval of the Application for the approval of the related Final Plat or Site Plan.

**509 LAPSE AND RENEWAL OF CONDITIONAL USE PERMIT**

**509.1 Duration and Lapse of Conditional Use Permit**

- (a) If an approved IIHO Conditional Use Permit is not acted upon within a period of two (2) years from the date of approval, then such approval shall be null and void.
- (b) Actions sufficient to vest an approval for a Conditional Use Permit include site plan approval, subdivision approval, issuance of a building permit authorized under the Conditional Use Permit. However, should any site plan or subdivision approval or building permit granted under an approved IIHO Conditional Use Permit expire unused after the conclusion of the two-year validity period provided for herein, said Conditional Use Permit shall become void as well.

**509.2 Extension of Conditional Use Permit**

Prior to the expiration of an IIHO Conditional Use Permit, the Applicant may apply for one extension of the Conditional Use Permit for a period not to exceed two (2) years. Requests for extension may be made in such form as the Planning Board shall require. The Applicant may apply for an extension if the construction or substantial use thereof has not commenced for good cause. Any application to extend the two-year validity period shall demonstrate to the satisfaction of the Planning Board that it was impossible or impractical to receive the necessary approvals to move forward in reliance on the Conditional Use Permit granted within two years. Any application for renewal or

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extension of the Conditional Use Permit shall be filed with the Planning Board no sooner than 90 days, nor later than 30 days, prior to the Conditional Use Permit expiration. The Planning Board may, in its sole discretion, grant such extension of the above validity period as it deems warranted. If granted, such extension shall be retroactive to the date of expiration.

**510    APPLICATION AND REVIEW FEES**

**510.1    Application Fees**

- (a) The application fee for an IIHO Conditional Use Permit Application shall be Two Hundred Dollars (\$200.00), plus \$7.00 per abutter, or other such fees as may be published by the Town from time to time.
- (b) Application fees shall be non-refundable.
- (c) Application fees for Non-residential Site Plan Review or subdivision approval shall be in addition to the fees for the Conditional Use Permit application.

**510.2    Project Review Fees**

The Board shall impose Project Review Fee(s) on an IIHO Application which requires, in the judgment of the Board, review by outside consultants due to the size or complexity of the proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the necessary review. In hiring outside consultants, the Board may engage engineers, planners, attorneys, designers, or other qualified professionals to assist the Board and to ensure compliance with all relevant laws, statutes, the Zoning Ordinance and these Rules and Regulations. Such assistance may include, but need not be limited to, analyzing an Application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation. The Board may receive the assignment of contracts with outside consultants from other Town boards.