

TOWN OF LUDLOW, VERMONT

HIGHWAY ACCESS ORDINANCE

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ARTICLE 1. AUTHORITY AND PURPOSE OF ORDINANCE

Pursuant to the authority of 19 V.S.A. § 1111, the Town of Ludlow hereby adopts the following Ordinance for management and regulation of any use of the Town highway right-of-way.

- 1.01 The purpose of this Ordinance is to prevent unsafe traffic conditions on highways in the Town of Ludlow.

ARTICLE 2. PERMITS REQUIRED

- 2.01 Permits must be obtained by any person, business, or institution wishing to use as described in this Ordinance any part of the highway right-of-way in the Town system.
- 2.02 Notwithstanding any other statutory requirement, a permit shall be required for any use of any highway right-of-way, consistent with the provisions of this Ordinance. The authority for issuing permits is given to the Highway Foreman/Municipal Manager.

ARTICLE 3. DRIVEWAY ENTRANCES, HIGHWAY GRADES, AND DRAINAGE

- 3.01 It shall be unlawful to develop, construct, re-grade or resurface any driveway, entrance, or approach, or build a fence or building, or deposit material of any kind within, or to in any way affect the grade of a highway right-of-way, or obstruct a ditch, culvert or drainage course that drains a highway, or fill or grade the land adjacent to a highway so as to divert the flow of water onto the highway

right-of-way, without a written permit from the Highway Foreman or his/her designee. The Board of Selectmen may make such rules, regulations, and standards to carry out the provisions of this Ordinance as will adequately protect and promote the entrance and exit to or from property abutting the highways, using safety as the test for reasonableness.

ARTICLE 4. INSTALLING PIPES AND WIRES IN THE HIGHWAY

- 4.01 It shall be unlawful to dig up or excavate a trench in a public highway for the purpose of installing pipes or wires without a written permit from the Highway Foreman or his/her designee. The permit shall include any conditions imposed by the issuing party, including, but not limited to encasement in concrete under the traveled way including ditch area. All inspection of excavation and back-filling shall be done under the supervision of an agent of the Town. Failure of any person, business, or institution to perform the work or to restore the highways in a satisfactory and timely manner to the Town may result in the Town completing the work at the expense of the permit holder; provided however, the Town shall give timely notice to the permit holder of any defects, and the permit holder upon receipt of notice shall have a reasonable time in which to repair the defects. The Selectmen may recover reasonable expenses incurred in this manner in an action of tort pursuant to Title 19, Section 1111, of the Vermont Statutes Annotated, in the name of the Town with costs.
- 4.02 These provisions shall not prevent a person, business, or institution from excavating to make emergency repairs to a break in a pipe or a short in a wire, but in all cases all work shall be completed to the satisfaction of the Town. Notices shall be given to the appropriate person(s) as expeditiously as possible after discovery of the problem.

ARTICLE 5. PROJECT INSPECTORS; HIGHWAY ACCESS PLANS

- 5.01 The Town may assign an inspector to the project during construction at the applicant's expense. Any application to the Town for a drive or access permit by reason of any development subject to the provisions of this Ordinance shall include a proposed highway access plan for the entire tract of land. The Town shall impose reasonable conditions to reduce the number of accesses that will be required for the tract of land. These conditions may include a required setback of any construction or improvements from the highway to permit the construction of frontage road or roads, acceleration and deceleration lanes, and/or other areas for off-highway control and management of vehicles, and may require reimbursement for any costs to the Town for the installation of traffic control devices or road improvements reasonably required because of the development and may permit integration of the access and on-site traffic control facilities and connection of frontage roads between contiguous tracts of land as development is occurring or may occur along the highway.

ARTICLE 6. REVOKING ACCESS

- 6.01 The Town may, as development occurs on land abutting the highway, provide as
Highway Access

a condition of any permit for the elimination of access previously permitted and require the construction of a common frontage road.

ARTICLE 7. PERMIT SUSPENSION

- 7.01 In addition to any other enforcement powers that may be provided for by law the Highway Foreman or his/her designated representative, on behalf of the Town, may suspend any permit under this Ordinance until compliance is obtained.

ARTICLE 8. RESTRAINING PROHIBITED ACTS

- 8.01 Whenever the Highway Foreman, or his/her designated representative, believes that any person, business, or institution is in violation of the provisions of this Ordinance, he/she may also bring an action in the name of the Town in a court of competent jurisdiction against the person or corporation to collect penalties, as provided for in Section 10 of this Ordinance, and to restrain by temporary or permanent injunction the continuation or repetition of the violation. The court may issue temporary or permanent injunctions without bond and any other relief as may be necessary and appropriate for abatement of any violation.

ARTICLE 9. ASSURANCE OF DISCONTINUANCE

- 9.01 The Selectmen, or designated representative, may accept an assurance of discontinuance of any violation of the terms of this Ordinance including when applicable schedules of abatement for a violation. Any assurance of discontinuance shall be in writing, and shall be filed with the court having jurisdiction over the subject matter and the Town Clerk for recording in the Town land records. Evidence of violation of an assurance shall be prima facie proof of the violation as cited in the assurance. Prior to institution of any action or proceedings under this section, the Town Road Commissioner, or his/her designated representative, whenever he/she believes any person or corporation to be or to have been in violation may issue a notice of violation setting forth the nature of the violation, the corrective action necessary to abate the violation, and notice of intention to institute an action or proceeding against the person or corporation responsible for the violation. In this event, the Town Road Commissioner, or his/her designated representative, shall within thirty (30) days provide the person, business, or institution with notice, an opportunity to be heard, and an opportunity to settle the matter before instituting an action or proceeding as provided for in this Ordinance.

ARTICLE 10. PENALTIES

- 10.01 Civil Violation: A violation of this ordinance shall be a civil matter enforced in accordance with the provision of 24 V.S.A. § 1974.
- 10.02 This Ordinance is designated as a civil ordinance pursuant to 24 V.S.A. 1974 a.
- 10.03 Any person, business, or institution determined to have violated any provision of this Ordinance may be punished by a civil fine not to exceed Five Hundred

Dollars (\$500.00) for each violation and, in the case of a continuing violation, not more than One Hundred Dollars (\$100.00) for each succeeding day for each violation.

- 10.04 Should the person, business, or institution waive the right for a hearing before a court of competent jurisdiction, the waiver fine for each offense shall be Fifty Dollars (\$50.00).

ARTICLE 11. INCONSISTENT ORDINANCES REPEALED

- 11.01 This Ordinance shall replace any provisions of any ordinance of the Town of Ludlow in effect at the time of enactment of this Ordinance governing any activity included in this Ordinance is hereby revoked. Any permits currently in effect under such revoked provisions are also hereby revoked. Any fees paid for such permits will be credited to the payment of fees for permits called for herein on a prorated basis, but in no case shall fees be refunded.

ARTICLE 12. SEVERABILITY

- 12.01 If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.
- 12.02 The Board of Selectmen hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional or ineffective.

ARTICLE 13. PUBLICATION AND EFFECTIVE DATE

- 13.01 No section of this Ordinance shall be construed to supersede or replace any Vermont statute.
- 13.02 This Ordinance shall be entered in the minutes of the Board of Selectmen's meeting, and posted in at least five (5) conspicuous places with the Town of Ludlow and published in a newspaper circulating in the Town on a day not more than fourteen (14) days following the date when the Ordinance is adopted.
- 13.03 This Ordinance will become effective on the sixth day of September, 1988, sixty (60) days after the date of its adoption by the Selectmen, unless a petition is filed with the Town Clerk by October 18, 1988, forty-four (44) days after the date of its adoption. The petition should be addressed to the Selectmen, should be signed by at least five per cent (5%) of the qualified voters of this municipality, and should ask for a special meeting to be called on the question of disapproving the Ordinance.

Questions about the Ordinance may be directed to the Municipal Offices, Ludlow, Vermont, or by calling telephone number (802) 228-2841.

The foregoing ordinance is hereby adopted by the Select Board of the Town of Ludlow, Vermont, this sixth day of July, 1988.

TOWN OF LUDLOW, VERMONT
SELECT BOARD

Keith O. Arlund, Chairman
Robert W. Tofferi, Vice-Chairman
Robert N. Cappiello, Sr., Clerk
Mark A. Gauthier
Jerry R. Tucker

ARTICLE 13 above is amended to read:

- 13.01 No section of this Ordinance shall be construed to supersede or replace any Vermont statute.
- 13.02 This Ordinance shall be entered in the minutes of the Board of Selectmen's meeting, and posted in at least five (5) conspicuous places with the Town of Ludlow and published in a newspaper circulating in the Town on a day not more than fourteen (14) days following the date when the Ordinance is adopted.
- 13.03 This Ordinance will become effective on the sixth day of April 4, 2008, sixty (60) days after the date of its adoption by the Selectmen, unless a petition is filed with the Town Clerk by March 19, 2009, forty-four (44) days after the date of its adoption. The petition should be addressed to the Selectmen, should be signed by at least five per cent (5%) of the qualified voters of this municipality, and should ask for a special meeting to be called on the question of disapproving the Ordinance.

The foregoing ordinance is hereby re-adopted by the Select Board of the Town of Ludlow, Vermont on this fourth day of February, 2008.

TOWN OF LUDLOW, VERMONT
SELECT BOARD

Howard Barton, Jr., Chair

John Neal, Vice Chair

Brett Sanderson

Bruce Schmidt

Earl Washburn