

TITLE 11 - Highway Standards Ordinance

The selectboard of the Town of Windsor, Windsor County, Vermont, in accordance with the authority invested in them by the State of Vermont, hereby adopts the following Town of Windsor Highway Standards Ordinance.

Adopted: 7/14/09

Signed:

Bill Harkness

John Tansey

Andy Tufts

Jeff White

Justin Ciccarelli

Effective: 9/15/09 1

¹ Unless a petition to vote on the question of disapproving the ordinance, signed by not less than five (5) percent of the qualified voters of the Town of Windsor, is presented to the selectboard or town clerk within forty-four (44) days following the date of adoption above.

The clerk of the Town of Windsor, Windsor County, Vermont, in accordance with the provisions of 24 V.S.A. §1975, hereby certifies that the adoption of this ordinance has been conducted in accordance with the procedures established in 24 V.S.A. §§1972 – 1973 including:

1. The adoption of the ordinance appeared as an agenda item at the regular selectboard meeting held on 7/14/09.
2. The ordinance was approved at the above regular selectboard meeting and a copy has been entered into the minutes.
3. The ordinance was posted in at least five conspicuous locations in town within fourteen (14) days.
4. A concise summary of the ordinance was published in the Windsor Observer newspaper on July 17, 2009, accompanied by information as to where the full text may be examined, the right of voters to petition for a vote, and the name, address and telephone number of a person who is available to answer questions.
5. Notice to petition: None filed: _____ Date filed: _____

Signed:

Sandy Micka, Town Clerk

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ARTICLE 1. GENERAL PROVISIONS

1.01 AUTHORITY

This ordinance is adopted under the authority granted by 24 V.S.A. §1971 and 19 V.S.A. §304.

1.02 PURPOSE

This ordinance² has been adopted in order to:

A. Establish standards for construction, improvement, and use of public highways in order to ensure the safety of the traveling public, to minimize the long-term costs to taxpayers, and to mitigate negative impacts on water quality through design.

B. Establish a process by which highways are to be laid out, altered, classified, reclassified, discontinued, or accepted by the Town of Windsor.

C. Establish a process by which town rights-of-way are managed and maintained.

D. Establish standards and a process by which access to the town highways may be granted.

E. Establishes standards and a process by which the town may permit excavation within or under a town highway right-of-way.

This ordinance is intended to establish procedures and standards for regular functions related to the town highways in the Town of Windsor. Not all circumstances and requests relating to town highways are covered under this ordinance. The selectboard will address special circumstances after review of professional standards, legal council, or other appropriate source as necessary to determine the appropriate course of action to follow.³

1.03 SCOPE OF ORDINANCE

This ordinance shall apply to all existing and proposed town highways within the Town of Windsor.

Town highways are only such as are (1) laid out in manner as prescribed in state statute; (2) conveyed to and accepted by the Town of Windsor for public use; (3) dedicated to public use and accepted by the Town of Windsor; or (4) laid out by the Town of Windsor for public use. [19 V.S.A. §1(12)]

² The general purpose of this ordinance is to address the basic construction of town highways. Other ordinances may be required for managing the safety and efficient functioning of town highways. This ordinance does not address regulating weight limits, establishing speed limits or naming roads. Zoning and subdivision bylaws/regulations address construction standards for roads outside of town rights-of-way, including private roads; and accesses from private roads.

³ Special circumstances, such as the process or provisions of eminent domain and taking of property for creation of new public highways are not discussed in this ordinance. These are considered rare and special circumstances and will proceed on a case by case basis following a thorough legal review. Certain standards, such as those for the village street system, may have additional engineering to accommodate other objectives including traffic calming, sidewalks and on-street parking.

Included in the definition of highway are “rights-of-way, bridges, drainage structures, signs, guard rails, areas to accommodate utilities authorized by law to locate within highway limits, areas used to mitigate the environmental impacts of highway construction, vegetation, scenic enhancements and other structures.” [19 V.S.A. §1(12)]

This ordinance does not address private roads and driveways, recreation paths, bicycle paths, and trails which are outside of the typical highway right-of-way.⁴ This ordinance also does not address routine maintenance policy such as snow and ice removal; regulating weight limits, establishing speed limits, naming roads, repaving schedules, road inventories or capital budgets.

1.04 DESIGNATION OF EFFECT

This ordinance shall be designated as a civil ordinance in accordance with 24 V.S.A. §1971(b).

1.05 SEVERABILITY

If any portion of this ordinance is held to be invalid by a court of competent jurisdiction, such finding shall not invalidate any other part of this ordinance.

1.06 CONFORMANCE WITH OTHER REGULATIONS

The adoption of this ordinance shall not repeal any permit previously issued. All other applicable local, state and federal regulations shall apply. Where there are inconsistencies between regulations, the more stringent regulations shall apply.

1.07 AMENDMENTS

The selectboard may vote to amend this ordinance from time to time, in accordance with the procedures established in 24 V.S.A. §1972 and §1973 or as most recently amended in state law.

ARTICLE 2. DEFINITIONS

Acceptance: Means receipt of the right-of-way needed for a new highway. In some cases this may include a completed roadway. [19 V.S.A. §701(1)]

Access: For the purposes of this ordinance, an access shall be limited to the portions within town rights-of-way and shall include residential driveways, non-residential driveways, access roads and private roads.

Altered: Means a major physical change in the highway such as a change in width from single lane to two lanes. [19 V.S.A. §701(2)]

Bicycle lane: A portion of a roadway that has been designated by signs and pavement markings for preferential or exclusive use by bicyclists.

Bridges. Defined as all structure with spans greater than six (6) feet in length.

⁴ Portions of roads outside of the town rights-of-way, private roads and driveways are addressed through the zoning and/or subdivision bylaws/regulations.

Classification: Means the categorization of all town highways pursuant to section 302 of Title 19. [19 V.S.A. §701(3)]

Class 1 town highways: Are those town highways which form the extension of a state highway route and which carry a state highway route number. [19 V.S.A. §302(a)(1)]

Class 2 town highways: Are those town highways selected as the most important highways in each town. As far as practicable, they shall be selected with the purposes of securing trunk lines of improving highways from town to town and to places which by their nature have more than a normal amount of traffic. [19 V.S.A. §302(a)(2)]

Class 3 town highways: Class 3 town highways are all traveled town highways other than class 1 or 2 highways. The minimum standards for class 3 highways are a highway negotiable under normal conditions all seasons of the year by a standard manufactured pleasure car. [19 V.S.A. §302(a)(3)]

Class 4 town highways: Are all town highways that are not class 1, 2 or 3 town highways or unidentified corridors. The selectboard shall determine which highways are class 4 town highways. [19 V.S.A. §302(a)(4)]

Dedication: Means the process of selecting a right-of-way or an alignment for a highway. [19 V.S.A. §701(5)]

Discontinued: Means a previously designated town highway which through the process of discontinuance all public rights are reconveyed to the adjoining landowners. [19 V.S.A. §701(4)]

Driveway: An access that serves no more than two (2) lots or uses.

Lay out: Means the legal procedures establishing the alignment or right-of-way of a highway. [19 V.S.A. §701(8)]

Paved shoulder: The paved portion of the highway contiguous with the outside travel lane of the roadway that can be used by bicyclists as well as for the accommodation of pedestrians, stopped vehicles, emergency use and the lateral support of sub-base, base and surface courses.

Pent road: A pent road is any town highway or trail which, by written allowance of the selectboard, is enclosed and occupied by the adjoining landowner with unlocked stiles, gates and bars in such places as the selectboard designates (19 V.S.A. § 301(4)). Pent roads were originally created to keep in farm animals where a landowner owned both sides of the road and let the animals graze freely.

Reclassify: Means to change the classification of a highway using the legal process described in Chapter 7 of Title 19. [19 V.S.A. §701(9)]

Roads: Roads [or highways] are travel ways serving three (3) or more lots or uses.

Shared lanes: Travel lanes with no additional width provided for bicyclists.

Survey: The word survey means: (1) A survey of the existing highway where no previous survey has been properly recorded or the record of a previous survey has not been preserved, or the terminations and boundaries of a previous survey cannot be determined; or (2) A re-survey to reproduce a previous survey or surveys. [19 V.S.A. §33(a)]

Trail: Means a public right-of-way which is not a highway and which: (1) previously was a designated highway having the same width as the designated town highway, or a lesser width if so designated, or (2) a new public right-of-way laid out as a trail by the selectboard for the purposes of providing access to abutting properties or for recreational use. Trails established under this statute are often referred to as “legal town trails” or “legal trails.” [19 V.S.A. §301(8)]

Unidentified corridors: Are town highways that: (1) have been laid out as highways by proper authority through the process provided by law at the time they were created or by dedication and acceptance; (2) do not, as of July 1, 2009, appear on the town highway map prepared pursuant to section 305 of this title; (3) are not otherwise clearly observable by physical evidence of their use as a highway or trail; and (4) are not legal trails. [19 VSA Sec. 302(a)(6)] See statute for conditions.

Wide curb lane: A wider than normal travel lane that better accommodates bicycle and motor vehicles in the same lane while providing enough space for motorists to overtake and pass bicyclists without changing lanes.

ARTICLE 3. ADMINISTRATION, APPEALS, AND ENFORCEMENT

3.01 TOWN MANAGER

The town manager is, pursuant to Town Charter amendments adopted in 2008, Chapter IV. Administrative, Section 19 (c) (5) to perform all duties now conferred upon the road commissioner of the town, including the signing of orders; For the purposes of this ordinance, it shall be the duty and responsibility of the Selectboard⁵ to:

- A. Appoint a tree warden.
- B. Promulgate and adopt after public hearing(s) road specifications for town highways to be built or rebuilt within the town in compliance with applicable statutes. [See Article 6.]
- C. Determine, after public hearing, whether to accept a private street or right-of-way as a public highway. [See Article 7].
- D. Lay out, alter, classify, and discontinue town highways. [See Article 8.]
- E. Establish and adopt after public hearing(s) driveway and highway access

⁵ More duties can be added as appropriate based on the scope of this Ordinance.

standards. [See Article 9.]

- F. Regulate excavation activities within town rights-of-way. [See Article 10.]
- G. Establish policies for Class 4 town highways and trails. [See Article 11.]

3.02 ROAD COMMISSIONER

The Windsor selectboard has granted authority to the town manager or his designee to:

- A. Issue driveway and highway access permits. [See Article 9.]
- B. Issue permits for work in highway right-of-way. [See Article 10.]
- C. Designate a highway foreman

3.03 TREE WARDEN

A tree warden is appointed by the select board. The tree warden has control over all “shade and ornamental trees within the limits of public ways and places” [24 V.S.A. §2501]. The warden is empowered and encouraged to establish and to implement a town shade tree preservation program. This includes planting, maintenance, and removal of diseased, dying, or dead trees. The tree warden may not, however, remove from the right-of-way trees and plants upon which noxious insects naturally breed if the adjoining landowner annually controls insect pests to the satisfaction of the tree warden.

3.04 APPEALS OF DECISIONS OF THE TOWN MANAGER

Where an effected property owner or voter in the Town of Windsor disagrees with a decision relative to a matter under this ordinance, the person may appeal to the selectboard for further consideration.

3.05 APPEALS OF DECISIONS OF THE SELECTBOARD

In limited circumstances, or as otherwise provided herein, a property owner aggrieved by a decision of the selectboard may appeal to the transportation board pursuant to 19 V.S.A. §5(d)(8).

3.06 VIOLATIONS AND ENFORCEMENT

The complaint in any violation of this ordinance shall be signed by the issuing municipal official. The original copy shall be filed with the judicial bureau, a copy shall be retained by the issuing municipal official, and two copies shall be given to the defendant. [24 V.S.A. §1977]

A civil penalty of not more than \$500 or the cost of enforcement, whichever is greater may be imposed for a violation of this Ordinance. Each day the violation continues shall constitute a separate offence. [24 V.S.A. §1974a]

3.07 APPLICATIONS

An application for any proposed work within town rights-of-way or of proposed roads shall be submitted to the town for review consistent with this ordinance.

3.08 FEES

The selectboard shall adopt a fee schedule to cover the costs of administering applications and filing requirements associated with this ordinance.

3.09 PERFORMANCE BOND

A performance bond may be required as a condition of any permit issued pursuant to this Ordinance. The bond may be in the amount of one hundred (100) percent of the estimated cost of the permitted road work. Such surety shall be issued either by a bonding or surety company approved by the Selectboard. No work may commence before the bond is provided to the town by the applicant. Permits may be withheld pending tender of the proper performance bond or acceptance of the permitted work. This bond or other security shall provide for, and secure to the public, the completion of any improvements that may be required within the period fixed for that completion and for the maintenance of those improvements for a period of two years after completion.

3.10 INSPECTIONS

All work permitted pursuant to this ordinance shall be inspected by the town manager or designee throughout the permitting, construction and/or maintenance process, including at the following stages:

1. Before clearing;
2. Before stumping;
3. After rough grading;
4. Upon completion of subgrading;
5. During graveling;
6. Before paved surface treatment; and
7. Final inspection.

The developer shall have stakes set on centerline with finish grades marked on them at least every 100 feet for the entire length of the street or the street side staked with distance and grades marked before each inspection.

Before final inspection, the developer shall remove all trash from the right-of-way and the center of the turn around and shall repair any damage done to the roadway, shoulders, drainage structures and related road items. All slopes will be seeded and mulched.

Inspections, samples and core test may be taken by the town before final acceptance and all costs incurred shall be reimbursed by the applicant/developer.

ARTICLE 4. SURVEY PROCEDURES AND REQUIREMENTS

4.01 SURVEYING OF EXISTING AND PROPOSED HIGHWAYS AND RIGHTS-OF-WAY

The town may authorize the survey of existing highways and the rights-of-way, easements or fee title associated with those highways.

- A. **Purpose.** The purpose of the survey shall be to verify the location and width of the existing right-of-way, easement, or fee title and to determine the extent of the interest of the public in the title.
- B. **Notice of intent.** A notice of the intent to survey an existing highway shall be sent to all known abutting landowners by certified mail.
- C. **Factual basis of the survey.** The survey shall be carried out in accordance with the provisions of Chapter 45 of Title 26, Vermont State Statutes.

In performance of the survey, the town shall attempt to determine from all available evidence, the type of highway, its location on the ground, its width, and the record title holder. The survey shall be based on all available evidence including, but not limited to, survey descriptions, original survey bills, plats, plans, maps, photographs, discontinuances, court documents, public service board orders, actions by the Selectboard, existing monumentation, present road location, nearby intersections, topography, vegetation, past and current use patterns and other additional information generally relied on by land surveyors. [19 V.S.A. §33(b)]

If during the performance of the survey process under this section, the location, or limits, or both of the right-of-way, easement, or fee title cannot be determined on the ground from the available evidence, the town may instead cause a survey to be made of the centerline of the existing traveled way and a width of one and one-half rods on each side of the centerline shall be assumed and controlled for highway purposes. [19 V.S.A. §33(c)]

- D. **Required monumentation.** Where a survey or re-survey has been ordered by the selectboard, the limits of said right-of-way shall be monumented in accordance with the survey plat and in a manner that will allow its limits to be readily apparent to all adjacent property owners. Monumentation shall be permanent and shall include not less than two intervisible monuments located on, within, or adjacent to the highway limits. Intervisible monuments shall be at intervals of not more than 200 meters. All monuments shall be referenced to the Vermont state plane coordinate system in accordance with applicable statutes and standards in effect. [19 V.S.A. §33(d)]

- E. **Notice of Completion.** Notice of the completion of the survey shall be sent to all known abutting landowners by certified mail, not less than 30 days before the survey results are filed with the appropriate town clerk, together with notice of statutory rights of appeal and damages. [19 V.S.A. §33(f)]

- F. **Recording survey plats.** The town shall have the survey placed on record in the town clerk's office in each town in which the survey is performed. The record shall include, but not be limited to, survey plats prepared and filed in accordance with 27 V.S.A. §§1401-1406, a written description of the survey and an opinion naming the record title holder. The description and plat shall include coordinates referenced to the Vermont state plane coordinate system. All recorded or filed material shall be indexed. [19 V.S.A. §33(e)]

Upon recordation of the survey and upon final disposition of statutory appeals, all abutting and surrounding lands outside the limits of the survey shall be deemed discontinued, unless any rights deemed necessary are expressly reserved and clearly shown on the recorded survey plat. Title to the discontinued property shall belong to the owners of the abutting lands. If it is located between the lands of two different owners, it shall be returned to the lots to which it originally belonged, if they can be determined; if not, it shall be equally divided between the owners of the lands on each side. [19 V.S.A. §33(g)]

- G. **Damages.** A property owner aggrieved by a survey may seek damages for the loss of property or for the loss of interest in property through provisions established in 19 V.S.A. §34 within 120 days from the date the results of the survey are recorded in the town clerks office. [19 V.S.A. §33(h)]

ARTICLE 5. HIGHWAY STANDARDS

Highways vary in their functional use. The standards by which a highway is constructed are important to its proper functioning. As the quantity of traffic on a highway changes the standards must therefore change. Consequently, the standards that follow are considered minimum standards and are subject to modification by the selectboard after a study of local conditions requiring changes.

The selectboard reserves the right to modify the standards for a particular project, where, because of unique physical circumstances or conditions, there is no possibility that the project can be completed in strict conformance with these provisions. The selectboard may, at their discretion, vary or waive these standards to meet special circumstances or where the standard is not essential to the health, safety and welfare of the traveling public.

A number of resources were used to develop these standards. Where questions arise, these manuals and specifications should be consulted. Other sources for specification standards include the Vermont Agency of Transportation (VTrans) Highway Standards with specific reference to A-76 and B-71, the *Vermont State Standards for the Design of Transportation*

Construction, Reconstruction and Rehabilitation on Freeways, Roads and Streets, the AASHTO *Policy on Geometric Design of Highways and Streets*, the *Vermont Better Backroads Manual*, and the Vermont Local Roads Program *Road Design and Maintenance Handbook* and other sources as referenced. The A-76 and B-71 standards have been reproduced in Appendix B of this ordinance.

5.01 RIGHT-OF-WAY

- A. **Width.** The minimum width of the right-of-way for trails and highways shall be a minimum of 50-feet. Additional widths as deemed by the town may be necessary based on site conditions. Rights-of-way may also be wider in village areas to accommodate on-street parking, sidewalks or bike lanes.

Where the width of an existing right-of-way is not known, a roadway width of one and one half rods [24'9"] on each side of the center of the existing traveled way can be assumed and controlled for highway or trail purposes. [19 V.S.A. §§32, 702]

- B. **Ownership.** All newly accepted rights-of-way shall be transferred to the town in fee simple and without encumbrances. Existing rights-of-way may be either owned in fee or controlled by easement. Where status is not known the town manager may order a survey to determine the extent of interest the town has in the right-of-way.
- C. **Survey of right-of-way limits.** Surveys of existing and proposed rights-of-way are performed in accordance with the procedures laid out by state law.
- D. **Required monumentation.** Monuments demarking the right-of-way limits shall meet the standards established in state law.
- E. **Trees and Shrubs.** The town tree warden (see 3.03) is empowered to provide for the location, protection, maintenance and removal of shade trees, plants and shrubs, and buildings or other structures on or above public highways, sidewalks or other property of the municipality (24 V.S.A. §2291(3)). The town may enter into agreements with individuals or organizations that wish to plant grasses, shrubs, vines, trees or flowers within highway limits (19 V.S.A. §903). At no point shall invasive species be planted along roadsides within the municipality. The town may remove invasive species from within the road rights-of-way.

The highway department may remove all other trees or brush within the limits of the highway which obstruct the view of the highway ahead or that cause material damage to the highway or that are objectionable from a material or scenic standpoint (19 V.S.A. §904). However, this power is subject to the following limitations:

1. Shade or fruit trees set out by the adjoining landowners shall be

preserved if the usefulness or safety of the highway is not impaired. [19 V.S.A. §904]

2. Young trees standing at a proper distance from the road bed and from each other, and banks and hedges of brushes that serve as protection to the highway or add beauty to the roadside shall be preserved. [19 V.S.A. §904]
3. Unless otherwise provided a public shade tree may not be cut or removed, in whole or in part, except by a tree warden or deputy tree warden, or with the written permission of the tree warden [24 V.S.A. §2508]

No person, other than the abutting landowner, may cut, trim, remove or otherwise damage any grasses, shrubs, vines or non shade trees growing in the right-of-way of a town highway without permission of the town manager or town manager's designee. [19 V.S.A. §901] Shade trees are protected as stated above.

- F. Following any disturbance of the soil along the roadsides, suitable revegetation of the exposed soil shall take place to prevent erosion. Ditching should be done in late summer.

5.02 ROAD FOUNDATION

For all new town highways the following minimum standards should be met:

- A. The dimensions below are intended for low traffic volume conditions (<250 ADT) and where heavy truck traffic is infrequent. Where heavy trucks are common or increased traffic is expected, an engineering assessment should be performed to determine appropriate thickness of subbase and surface treatment.
- B. **Subgrade.** Ledge and boulders shall be removed to at least 18 inches below subgrade and replaced with sand or bank run gravel.

All loam, muck, stumps and other improper foundation material shall be removed from within the limits of the fully extended road shoulders. In embankment areas, suitable foundation material shall be placed in one-foot layers and compacted to form a stable subgrade.

The subgrade surface shall conform exactly in cross section to the finished road surface. Crowning and banking of curves shall be required. Compaction is required on any portion of the subgrade which has been disturbed by excavation or which has been filled during the construction of the subgrade. All ditches and drains will be constructed so that they effectively drain the subgrade prior to the placement of any base material. An additional 6 inches of sand cushion shall be placed over any clay subgrade.

- C. **Wet areas.** If the proposed roadway is in an unprotected wet area, the town may

require additional gravel plus sand cushion and underdrains or other methods to insure a stable road.

- D. **Subbase.** The subbase shall be composed of 12 inches of compacted crushed gravel installed in two 6-inch lifts with maximum stone size of 4 inches. The cross section of the subbase shall conform to those of the finished surface.
- E. **Upper base.** All highways shall be constructed with a 6-inch upper base of course compacted crushed gravel as defined by the Vermont Standard Specifications for Construction.

5.03 ROADWAY CROWN

- A. **Paved.** The travel lane shall have a cross slope, from centerline to edge of the traveled lane, of $\frac{1}{4}$ inch per foot (48:1, 2.1% slope). The road shoulder, if present, shall have a cross slope of $\frac{3}{4}$ inch per foot (16:1, 6.3% slope). Paved roads generally will be constructed with a parabolic (rounded) shape to the crown.
- B. **Gravel.** The road shall have a cross slope from centerline to edge of shoulder of $\frac{1}{2}$ inch per foot (24:1, 4.2% slope). Gravel roads generally will be constructed with an “A” shaped crown.
- C. Super-elevation slopes for either paved or gravel roadways shall be a maximum of $\frac{3}{4}$ inch per foot for class 3 highways (16:1, 6.3% slope). Super elevation slopes must be specifically designed for roadways based on geometry and expected speeds. A qualified professional engineer should verify the amount of super-elevation on any proposed highway.

5.04 PAVING

- A. **Town policy on paving roadways.**⁶ The following standards shall be considered by the Selectboard in determining what road finishing and surfacing will be required as a condition of road acceptance or upgrade.
 - 1. Arterial and collector highways will normally require pavement. Non-arterial and non-collector highways will not normally require paving, although may require paving based on certain factors, including steep grades, traffic volumes or truck traffic.
 - 2. Paving generally is required for highways expected to handle greater than 400 vehicles per day.⁷

⁶ It is not always beneficial to the town to pave roadways that are proposed for acceptance. Paved highways may be more expensive to maintain in the future than gravel roadways. The Selectboard may choose some, all, or none of these possible policies or may decide other standards. See also Vermont Local Roads Program Fact Sheet *When to Pave a Gravel Road* and VLCT’s *Vermont Local Roads Model Highway Ordinance*.

⁷ The Selectboard may elect to use a lower or higher threshold for paving. Vermont Local Roads Program mentions figures from as low as 50 vehicles per day to 400-500 vehicles per day as a point where traffic starts to degrade roads to a point where paving should

3. The rural or urban characteristics of the neighborhood in which the highway is located shall be considered. The Selectboard will be guided by prevailing characteristics of the surrounding area and public comment as well as the proposed development in deciding whether to require paving a roadway.⁸
4. Safety to the traveling public and inhabitants along the highway shall be considered in deciding whether to require paving a proposed road and the extent and form of pavement to be required. Roads proposed to have grades of 7 percent or more should be paved.
5. Future foreseeable connection or intensification of a proposed road shall be considered in determining whether and when to require pavement and what form or location of pavement, or finishing requirements.
6. Costs of construction and maintenance, and whether the paved roadway is more economical than gravel.⁹

B. **Paving process.** Roadways to be paved shall be operated as a gravel road for a period of at least one year prior to paving. The highway to be paved shall be inspected periodically during the year to determine the quality of the base and drainage. Once all weak spots have been identified and repaired, the road can be prepared for paving. Prior to paving, a new layer of gravel base is required that meets paving standards established by the State Department of Transportation.¹⁰

C. **Paving standards.** Paving shall be hot bituminous concrete mix meeting all of Vermont State Highway specifications. The bituminous concrete is to be laid and rolled by experienced crews in two layers. The first, the binder course, to a depth compacted to 2 inches and the second application compacted to a depth of 1 ½ inches of hot bituminous concrete, surface mix. All work shall be done in a professional manner.

1. Where heavy trucks are common or increased traffic expected a pavement design should be performed to determine appropriate thickness of subbase and pavement.

5.05 TRAVEL LANE WIDTH (See section 3.6 Town of Windsor Subdivision Regulations.)

be considered. If gravel roads are maintained in ideal roadway conditions some research suggests gravel roads can support up to 900-1000 vehicles per day (Zoning Practice, Issue 2, February 2004).

⁸ The Selectboard may elect to insert a district or area to define paving limits such as 'All roads within the village shall be paved.'

⁹ Formulas have been produced for estimating costs (see Vermont Local Roads Program Fact Sheet *When to Pave a Gravel Road*) or a detailed estimate can be calculated based on specific site considerations.

¹⁰ There is a substantial difference in the type of gravel used for a gravel road surface versus that used for base under pavement (see Vermont Local Roads Program Fact Sheet *When to Pave a Gravel Road* and *Soils for Road Work* for details).

5.06 SLOPES AND BANKS

- A. Vertical or sharp cut faces, excepting ledge, shall not be permitted. Vermont Agency of Transportation Highway Standards A-60, A-61, and A62 should be referred to for ledge and slopes in rock excavations.
- B. Side slopes and banks shall strive to be no greater than 1 vertical to 3 horizontal (4 inches/foot, 33% slope) but may be allowed as steep as 1 vertical to 1 ½ horizontal if necessary. Soil stability of banks shall be a design consideration. Slopes and banks shall be designed and constructed to prevent instability, slides, washes or other disturbance to the slope or bank surface or subsurface. Banks shall not interfere with snow removal. After construction and final grading of banks, banks will be seeded and mulched to minimize surface erosion. Geotextiles, cribbing, riprap or other techniques shall be provided where necessary.
- C. **Guard rails.** Guard rails of treated wood or steel shall be provided in accordance with Vermont Agency of Transportation specifications and standards. An additional 3-foot widening is recommended for proper support of guard rail posts at the outside of shoulders. Guard rails should not encroach upon shoulders where bicycling use is common. Where slopes are 2:1 or steeper (6 inches/foot, 50% slope) and the height of drop-off at the edge of shoulder exceeds 5 feet, guard rail should be installed. Where slopes are 3:1 (4 inches/foot, 33% slope), guard rail may not be needed if the area at the bottom of the slope is free of hazards. Where slopes are 4:1 (3 inches/foot, 25% slope) or flatter, guard rail is not normally required.

5.07 DITCHES

- A. **Drainage ditches.** Drainage ditches shall be provided where necessary and shall be constructed to prevent infiltration of water into the gravel sub-base and to conduct storm drainage to absorption areas. Underdrains will be required where soil and water conditions make it desirable.
- B. **Ditch lining.** Treatments vary depending on the slope of the ditch:
 - 1. 0-2.5% slopes - grass lining (seeded and mulched)
 - 2. 2.5-5% slopes – fabric liner, seeded and mulched. See figures IV-14 and 15.
 - 3. 5-10% slopes - R#3 (2-6 inch) diameter rock, 7.5 inches thick. See figures IV-16 and 17.
 - 4. >10% slopes- R#4 (3-12 inch) diameter rock, 12 inches thick.
- C. **Ditch shape.** Ditch walls and side slopes shall be a maximum of 2 horizontal to 1 vertical ratio. The ditch bottom should be flat (parabolic-shaped preferred) and at least 2 feet wide.

- D. **Depth of ditch.** Drainage ditches next to roadways are normally to be at least 6 inches below the gravel sub-base or 18 inches below finished grade.
- E. **Outlet requirements.** All ditches require an outlet away from the road preferably an overland area where runoff can be absorbed into the soil.¹¹
- F. **Other requirements.** The town may require other velocity control devices such as stone dikes, hay bale dikes, silt fence dikes and log and brush check dams as necessary to protect the road and neighboring waterways.

Best management practices shall be followed at all times. The following references should be used as guidance: Road Design and Maintenance Handbook (VT Local Roads, 1999) and Vermont Better Backroads Manual (George D. Aiken & Northern Vermont Resource Conservation and Development Councils, 2002).

Where a drop inlet is needed for a ditch drain, the Vermont Agency of Transportation Highway Standards D-3 should be consulted for specifications.

- G. **Storm sewers.** Where curbed and paved streets are proposed the Selectboard may require installation of storm sewers. Storm sewers shall be constructed in accordance with Vermont Agency of Transportation Highway Standards including, but not limited to, D-1 – D-17.

5.08 CULVERTS AND HEADERS

- A. Culverts are closed conduits used to convey water from one area to another usually from one side of a road to the other. (Culverts greater than 6 feet in diameter are considered bridges by VTrans.)
- B. Culverts shall be installed during the construction of the highway and prior to highway sub-base and surface preparation and placement. Backfill in excavations for culverts shall be compacted to prevent or minimize settling in surface, shoulders or slopes. Culverts should be covered with a minimum of 12 inches of material except for plastic culverts which require a minimum of 18 inches of cover.

Driveway culverts are addressed under Article 9 Driveway and Highway Access Standards.

- C. **Culvert locations.** Culverts shall be installed no more than 300 feet apart in one continuous ditch line, where there are existing water channels crossing the road, and wherever needed to control the volume and velocity of water. Where ditch

¹¹ State storm water permits may require specific technologies including the creation of settling ponds.

slopes are between 3 and 10%, culverts should be installed every 150 feet. Where slopes exceed 10%, culverts should be installed every 100 feet.

When crossing a stream, select a culvert site so that there is no sudden increase or decrease gradient and there is a 50 foot straight alignment of the stream channel directly above the crossing.

- D. **Culvert alignment.** Ditch relief culverts should be installed at an angle of 60 degrees or less relative to the road centerline.

Stream crossing culverts should not be less than 45 degrees from centerline and is preferred to cross at 90 degrees. Wherever possible align culvert with stream channel.

- E. **Culvert slopes.** Culverts shall have a minimum slope of 0.5% to allow for a positive drainage flow.
- F. **Culvert material and shape.** Culverts may be steel, aluminum, plastic or concrete depending on the situation. Plastic is the most common material used for smaller culverts. Larger pipe culverts are typically steel, and may be circular, pipe arc, elliptical or multi-plate. Box-culverts are generally concrete. Where questions arise, a qualified professional should be consulted to determine the appropriate material and shape.
- G. **Sizing culverts.** All culverts shall be a minimum of 18 inches in diameter (assuming a corrugated plastic pipe culvert), or of similar flow capacity if using a different material. Culverts for small watersheds (less than 20 acres) may be sized by adding the acreage of the watershed to “8” then rounded up to the next culvert size (example: a 15 acre watershed would use a 24 inch culvert: $15 + 8 = 23$ inches, then rounded to 24 – the next culvert size).

For watersheds greater than 20 acres, the Town should request a hydraulics study from the VT Agency of Transportation or consult with a qualified hydrology professional for adequate sizing and design of the culvert. All culverts should be sized to pass a 25-year design storm without over topping the road.

- H. **Headwalls and end sections.** Headers shall be installed at the inlet of all culverts and may be either reinforced concrete eight inches thick, large flat rock tightly placed, or large cemented rock. The inside edge of headers shall be at least eight feet from the edge of the shoulder. The outside of the header should be flush with the end of the culvert. Marker posts four to six inches in diameter shall be installed at both ends of the culvert.

End sections shall not be used in any year round stream. Where end sections are required, an appropriately designed end section to prevent piping shall be installed.

- I. **Fish friendly design.** When crossing a stream, a culvert installation should not change the conditions of the stream that existed prior to the installation. Contact the state fisheries biologist for assistance with all stream crossings.
- J. **Outlets.** All culvert outlets should be protected from erosion and undermining by use of rock aprons, plunge pools or slope drain sediment basins. Culverts should outlet to a vegetated area – never directly into a stream.
- K. **Splash pads, check dams, beaver fences and trash racks.** The Town of Windsor may require splash pads, check dams, beaver fences or trash racks as necessary to protect the road and neighboring waterways.

5.09 **BRIDGES**

- A. New bridge crossings shall be discouraged. However, if no other feasible option exists to access lands or development, new bridges or culverts greater than 6 feet in diameter may be allowed.
- B. Plans for bridges must be submitted for review prior to construction. Construction will be authorized only after a review by VTrans which indicates that the bridge will meet all applicable VTrans Specifications.
- C. Before any new bridges are constructed, the town or developer shall investigate options to access a site from an existing bridge. In order to reduce future maintenance costs, the Town’s policy is to minimize the number of bridges in town.
- D. At a minimum, all bridges should be sized for a 25-year design storm.
- E. When accepting a new right of way or portion of a right of way the town may decline to accept bridges or require surety bond for their maintenance, upkeep or replacement.

5.10 **TRAFFIC CONTROL DEVICES**

- A. All newly accepted highways shall have traffic control devices in accordance with the Manual on Uniformed Traffic Control Devices (MUTCD). Surety bond for maintenance, upkeep or replacement may be required.

5.11 **UTILITIES**

- A. Telegraph and telephone lines, electric wires and two way wireless telecommunication facilities may be constructed and maintained in the highway

right-of-way as long as the activity does not interfere with the use and maintenance of the highway or interfere with the protection or preservation of shade trees or scenic values. [30 V.S.A. §2502]

Other utilities that may be permitted within the right-of-way include, but are not limited to: water, sewer and stormwater infrastructure, and cable television facilities.

- B. In order to ensure that the activity does not interfere with the use and maintenance of the highway, including the protection of and preservation of shade trees and scenic values, the Selectboard may require some or all of these utilities to be buried within the right-of-way. The developer shall coordinate with the appropriate utility companies to insure adequate and suitable area and standards for underground installations. The developer shall be responsible for providing for water mains, manholes, sanitary sewers, and all other infrastructure necessary for the proper management of the facilities.
- C. As-built locations of all buried utilities are required on all final surveys prior to recording.

5.12 **PEDESTRIAN FACILITIES** (See section 3.6 Town of Windsor Subdivision Regulations.)

5.13 **HIGHWAY LOCATION AND GEOMETRY** (See section 3.6 Town of Windsor Subdivision Regulations.)

ARTICLE 6. ACCEPTING A PRIVATE ROAD AS A TOWN HIGHWAY

6.01 ACCEPTING A PRIVATE ROAD (OR PRIVATE RIGHT-OF-WAY) AS A TOWN HIGHWAY

- A. **Applicability.** The acceptance of a highway by the municipality means the receipt of the right-of-way needed for a new highway. In most cases this includes the acceptance of the completed roadway as well.
- B. **Town objectives.** Considering the effort and cost to maintain the existing town highway network, it is the policy of the Town of Windsor not to accept new town highways. However, in some cases it may be appropriate to do so. Therefore, the selectboard will entertain any applications for the acceptance of public highways and rights-of-way, and to adopt and adhere to an orderly procedure for the receipt of and process to act upon such an application. The decision of an application for acceptance of a highway or right-of-way is reserved to the sole and absolute discretion of the selectboard who will consider the grant or denial of an application on the basis of whether the public good, necessity, convenience and the best interest of all inhabitants of the town require it.

The Town of Windsor will consider applications to accept highways in one of two conditions: 1) Only the right-of-way is transferred to the town and it is classified as a trail, or 2) A completed roadway is built to town standards. (see Section 8.01- *Application to Lay Out or Alter Highways*).

- C. **Initiating proceedings.** The acceptance of a highway is initiated through one of two means: 1) By a motion of the Selectboard; or 2) By petition filed by persons who are either voters or landowners and whose number is at least five percent of the voters in the Town of Windsor (19 V.S.A. §708(a)).

The petition or motion shall state clearly the extent and intended classification of the highway to be accepted (e.g. "...to accept, as a class 3 highway, Lonely Lane from the intersection with town highway #10 for a distance of 0.32 miles west").

- D. **Application process.** Applications for final consideration must include a proposed plat and documentation as described below. In the case of accepting a roadway, final consideration will only occur after the road has been fully constructed and in use as a private street for a period of not less than 12 months.

1. A survey to be made in accordance with the provisions of Article 4 of this Ordinance and 19 V.S.A. §33 shall mark the termination of the survey by a permanent monument or boundary or refer the termination or survey by course and distance, to some permanent monument. This survey shall describe the highway and the right-of-way by courses, distances and width, and shall describe the monuments and boundaries [19 V.S.A. §704].
2. Documentation includes copies of all local and state permits regarding the creation of the road and/or right-of-way. As built drawings shall be submitted identifying all above and belowground utilities, signs, etc.

- E. **Notice and hearing.** The Selectboard shall promptly appoint a time and date both for examining the premises and a hearing of interested persons. Notice shall be sent by certified mail, at least 30-days in advance, to all persons owning land through which the highway may pass or abut. At least 10 days before the set time for the hearing, notice shall be provided to the Municipal Planning Commission in which the road is being proposed, notice shall be posted in the Town Clerks Office, and shall be posted in a newspaper of general circulation. (19 V.S.A. §709)

- F. **Review standards.** All roadways proposed for acceptance by the Town of Windsor must meet the minimum standards established in Article 6 and any *Highway Acceptance Policies* adopted by the municipality. The Selectboard retains the right to deny acceptance of any proposed roadway for any reason, contained or not contained within this Ordinance.

- G. **Decisions.** Within sixty days of examining the premises and hearing any interested parties, the Selectmen shall return the petition with a report of their findings and a decision to either deny the application or formally accept the highway, or portions thereof, by resolution of the Selectboard.
- H. **Recording requirements.** The clerk shall record the order accepting the road and the plat describing the new highway. The final plat shall also be attested by signature of the chair of the Selectboard and recorded in the Town Clerk's Office.

ARTICLE 7. LAY OUT, ALTER, RECLASSIFY, OR DISCONTINUE A TOWN HIGHWAY

7.01 APPLICATION TO LAY OUT, ALTER , RECLASSIFY OR DISCONTINUE HIGHWAY

- A. **Town objectives.** The Town of Windsor shall entertain applications to layout, alter, reclassify or discontinue highways and trails when the proposed changes are in the public good, necessity and convenience of the inhabitants of the municipality. The decision of an application to lay out, alter, reclassify or discontinue a highway or trail is reserved to the sole and absolute discretion of the selectboard who will consider the grant or denial of an application on the basis of whether the public good, necessity, convenience and the best interest of the inhabitants of the town require it.
- B. **Initiating proceedings.** The laying out, alteration, reclassification or discontinuance of a highway or trail is initiated through one of two means: 1) By a motion of the selectboard; or 2) By a petition filed by persons who are either voters or landowners and whose number is at least five percent of the voters in the Town of Windsor (19 V.S.A. §708(a)).
- C. **Preliminary meeting.** In an effort to minimize costs to the applicant and municipality, a preliminary review of the application shall take place. The purpose of the preliminary meeting is to clarify issues in controversy, identify documents, plans, detailed information that should be submitted as evidence at a hearing, and to circumvent untimely and unnecessary delays that would interfere with the public hearing process.

Where the selectboard is not inclined to lay out or alter a highway, the board may reject the application prior to investment in surveys and other costs. Decisions by the Selectboard to proceed in the application process does not guarantee acceptance and the applicant does not gain any vested interest. Approval of a subdivision road by the Planning Commission also does not guarantee acceptance of that road as a town highway.

- D. **Application process.** When the selectboard lays out or alters a highway, as provided herein, they shall cause a survey to be made in accordance with the

provisions of Article 4 of this Ordinance and shall mark the termination of the survey by a permanent monument or boundary or refer the termination or survey by course and distance, to some permanent monument. This survey shall describe the highway and the right-of-way by courses, distances and width, and shall describe the monuments and boundaries. [10 V.S.A. §704]

- E. **Notice and hearings.** The selectboard shall promptly appoint a time and date both for examining the premises and a hearing of interested persons. Notice shall be sent by certified mail, at least 30-days in advance, to all persons owning land through which the highway may pass or abut. At least 10 days before the set time for the hearing, notice shall be provided to the Municipal Planning Commission. Notice shall be posted in the town clerks office, and shall be posted in a newspaper of general circulation. (19 V.S.A. §709)
- F. **Review standards.** The selectboard shall judge whether the public good, necessity and convenience of the inhabitants of the town require it. 19 VSA 701 and 501.
All highways to be laid out or altered by the Town of Windsor must meet the minimum standards established in Article 5. Where an existing highway does not meet minimum standards established in Article 5 and altering it to meet full compliance is not reasonable, the proposed altered highway must at least be as compliant as the original highway.
- G. **Decisions.** Within 60 days of the hearing, the selectboard must return the original petition with a report on its findings and, if necessary, a completed survey (19 V.S.A. §711(a)).
- H. **Recording requirements.** The selectboard's order laying out, altering, reclassifying or discontinuing with the survey shall be recorded by the town clerk 19 V.S.A. §711(a)).

ARTICLE 8. DRIVEWAY & HIGHWAY ACCESS STANDARDS

8.01 HIGHWAY ACCESS PERMIT PROCEDURES

- A. **Applicability.** Under 19 V.S.A. 1111(b), the Selectboard has the authority to regulate the construction standards of accesses onto public roads within Town rights-of-way, and drainage into the Town rights-of-way. Any new access or change in an existing access onto a town highway must receive an access permit from the town manager or designee. Access permits regulate the location, design and construction of the access as it affects the Town right-of-way.

A state permit is required for any new access onto a state highway or any work within state rights-of-way.

The Development Review Board has the authority to regulate the location and

design of those portions of accesses outside of the Town rights-of-way. Any new access or change in access must also receive approval from the Development Review Board pursuant to the Town of Windsor Subdivision Regulations. The Development Review Board also has the authority to regulate accesses from private roads pursuant to the subdivision regulations.

- B. **Town objectives.** The purpose of these standards is to ensure safe and efficient entrances and exits from public highways, provide adequate emergency vehicle access to properties, to reduce damage from flood events, to mitigate erosion and storm water runoff impacts, and to ensure quality construction of driveway and road accesses.
- C. **Initiating proceedings.** An application for a highway access permit shall be submitted to the road commissioner at least seven days prior to the anticipated construction. No construction shall take place until the town has issued a highway access permit.
- D. **Review standards.** All accesses shall meet standards established in Section 8.02 of these regulations.
- E. **Decisions.** The town manager shall review and issue access permits in instances where the application meets all applicable standards below. The town manager may seek input from town department heads before issuing an access permit. Where an application is denied the applicant can appeal the decision to the select board.
- F. **Recording requirements.** To become effective all access permits shall be recorded in the town clerk's office where other land use permits are filed.

8.02 HIGHWAY ACCESS STANDARDS

These highway access standards establish minimum standards for location, design, construction, and maintenance of driveway accesses and highway intersections. These standards apply to the portions of these accesses and intersections that fall within the town rights-of-way and those other portions of accesses that may drain storm waters into the town rights-of-way.

- A. **Reasonable Access.**
 - 1. The Selectboard cannot deny reasonable access to an abutting public highway. This is a judgment the Selectboard has to make balancing the individual's right for access with the safety of the traveling public. Among other things, reasonable access includes considering alternate driveway locations, sharing of a right-of-way with others, limiting the use of the property (in conjunction with zoning), and requiring additional engineering and construction.

2. Certain conditions may make reasonable access impossible (e.g. a landlocked parcel or where all road frontage is a class 2 wetland). It is not the responsibility of the Selectboard to obtain or remedy a lack of frontage or access for a property owner.

B. **Design Standards. (See section 3.6 Town of Windsor Subdivision Regulations.)**

C. **Access Construction Standards.**

1. **Foundation.** Portions of driveways within the limits of the right-of-way shall have a minimum of 12 inches of sub-base material. Non-residential driveways shall have 18 inches of sub-base materials, or greater depths required to carry the expected vehicle and truck traffic.
2. **Upper Base.** Gravel accesses should have a minimum aggregate surface course of four inches. Paved accesses should have a minimum of three and one-half inches of bituminous concrete pavement (two inch base, and one and one-half inch wearing surface).
3. **Roadway Crown and Side Slope.**
 - a. Paved accesses shall have a cross slope from centerline to edge of travel lane, of $\frac{1}{4}$ inch per foot.
 - b. Gravel accesses shall have across slope from centerline to edge of shoulder of $\frac{1}{2}$ inch per foot.
 - c. The cross slope of the shoulder, if present, shall be $\frac{3}{4}$ inch per foot.
 - d. No runoff shall flow to right-of-way.

What about down slope runoff to highway?

4. **Paved Apron.** Where a gravel drive or highway is accessing a paved highway, a paved apron at least 10 feet in length is required.
5. **Culverts and Headers.**
 - a. Driveway culverts shall be a minimum of 18 inches in diameter, or be of sufficient diameter/flow capacity to handle 25-year flood events.
 - b. See Section 6.09 Minimum Highway Standards – Culverts and Headers for additional construction details.
 - c. Culverts under driveways and access roads should be placed away from the road as far as practical while maintaining good drainage.
6. **Drainage Ditches.** Drainage ditches shall be provided where necessary

and shall be constructed to prevent infiltration of water into the gravel sub-base and to conduct storm drainage to water retention or absorption areas. See Section 5.08 Minimum Highway Standards – Ditches for additional construction details.

8.03 MAINTENANCE

All roads, driveways and driveway aprons shall be maintained in a safe and passable condition, and drainage ditches, culvert and bridges shall be maintained in a functional and structurally sound condition. Such maintenance is the sole responsibility of the applicant or other individual or entity as legally established pursuant to the access permit. A recorded maintenance agreement or neighborhood association agreement shall be established for all lots with shared access driveways or roads.

Regular maintenance of drainage ditches within town rights-of-way shall be the responsibility of the town highway department. However, damage to the town drainage ditches or structures resulting from poorly constructed or maintained accesses, shall be the responsibility of the owner.

ARTICLE 9. RIGHT-OF-WAY EXCAVATION PERMIT

9.01 Right-of-way Excavation Permit

- A. **Applicability.** No one shall disturb the ground or pavement in any town highway or access without first obtaining a written permit from the town manager or his/her designee. Where an excavation is limited to construction of a driveway access, the rules and regulations for access permits shall apply.
- B. **Town objectives.** The Town of Windsor shall protect its investment and ownership of the highway system through regulation of any development within the highway right-of-way.
- C. **Application process.** Applications for an excavation permit or for improvements to unimproved portions of the public right-of-way shall be made on forms furnished by the Town of Windsor.
- D. **Emergencies.** Nothing in this article shall be construed to prevent the making of excavation as may be necessary for the preservation of life or property, provided that the person making such excavation shall apply for a permit on the first working day after such excavation is commenced. Even in emergency situations, notice shall be given by phone to the highway department and police department. All provisions of the article shall apply to such emergency.
- E. **General conditions of permit approval.**
 - 1. All work shall be conducted by a professional contractor. The contractor

shall supply a current certificate of insurance before work commences. The contractor shall have proof of general liability coverage in a minimum amount of \$500,000.00. This insurance shall include coverage for owned, non-owned and hired vehicles. The town manager or their designee will accept satisfactory evidence of self insurance in lieu of the above coverage. During work in the right-of-way the above referenced insurance shall not be canceled without thirty (30) days written notice to the town manager or manager's designee.

2. Proof of a proper permit or license to do the work shall be provided, if such license is required under the laws of the state or ordinances of the town.
3. The contractor shall provide proof of a dig safe number.
4. The contractor shall provide a plan for the protection of shade and ornamental trees and the restoration of turf.
5. Final inspection shall be conducted by the town manger or designee one year from completion of the project construction.
6. Where an excavation is to plant a tree within the public right-of-way, town manager or town manager's designee may waive any of the above requirements.

F. **Decisions.** The town manager or their designee reserves the right to withhold the issuance of permits when:

1. Paving materials are unavailable; or
2. A satisfactory traffic, pedestrian, or utility diversion plan cannot be implemented; or,
3. Unsatisfactory compliance with the general conditions above.

G. **Recording requirements.** All right-of-way permits shall be recorded with associated zoning parcel files.

ARTICLE 10. POLICY REGARDING CLASS 4 TOWN HIGHWAYS AND TRAILS

10.01 Purpose. There are many class 4 town highways and trails in the Town of Windsor. This ordinance is adopted to address maintenance practices for these rights-of-way and to provide guidance to those seeking these rights-of-way for access, recreation, development or improvements.

The town manager shall ensure the integrity of class 4 town highways and trails by means which may include, but are no limited to, the following:

- A. Establishment of vehicle weight limits;
- B. Prohibitions or restrictions of wheeled vehicle use during mud or snow season or anytime;
- C. Requirements for temporary permits for heavy equipment access may be imposed with stipulations that any highway damaged will be repaired by or at the expense

- of the user; and the posting of a bond or other surety may be required as a condition of such permits to guarantee that repairs are made;
- D. Establishment of speed limits;
- E. Limitations on plowing and maintenance.

10.02 Use of Class 4 Town Highways and Trails

- A. **Trails.** A trail, or so-called “legal town trail,” is a public right-of-way that is not a highway, and that is established under 19 V.S.A. Chapter 7. Trails are used for recreational purposes and to provide access to abutting landowners. Recreational access to trails shall be limited to all non-motorized modes, except with written authorization from the Selectboard.

A trail may be part of the “Vermont trails system” pursuant to 10 V.S.A. § 441-449.

- B. **Class 4 Town Highways.** In the summer, when not snow covered or not otherwise posted, class 4 town highways may be used, at the users discretion, as any other town highway in Windsor is used. The town shall not be responsible for damage that may occur to vehicles or the operators on class 4 town highways.

10.03 Reclassification

- A. All reclassifications shall be done in accordance with Article 7 of this Ordinance and 19 V.S.A. Chapter 7.
- B. **Trails.** Trails shall be kept as they serve as valuable recreational resources for the town. Trails will not be upgraded to town highway unless doing so is determined by the Selectboard to be in the public good pursuant to state law.
- C. **Class 4 Town Highways.** Class 4 town highways that only serve recreational or similar functions shall be reclassified as trails. All other class 4 town highways shall be kept unless the Selectboard decides the right-of-way is no longer in the public good.

Class 4 town highways shall not be reclassified as class 3 town highways unless it is done in accordance with state law.
- D. The Selectboard will seek the advice of the Planning Commission and Development Review Board on determining which class 4 town highways shall be reclassified as trails or which class 4 town highways should be discontinued.

- 10.04 **Development.** In no case shall any development be permitted which is accessible only by a Class 4 town highway or trail.

10.05 Maintenance.

- A. **Trails.** The Town of Windsor shall not provide any regular maintenance of trails, including but not limited to grading and snow plowing.

The town may perform periodic, minimal maintenance on or make repairs to a trail when a lack of maintenance may injure other town highways or reduce recreational access to resources. Such work shall in no way obligate the town to perform any future maintenance or repairs.

- B. **Class 4 Town Highways.** In accordance with 19 V.S.A. § 310(b), the town shall not provide any regular maintenance on class 4 town highways. The town is not obligated to perform winter maintenance on any class 4 town highway.

The town may perform periodic, minimal maintenance on or make minor repairs to a class 4 town highway as time and funding permits, and when determined by the Selectboard that a lack of maintenance may injure other town highways, or when necessary to avoid permanent or irreversible damage to public property. Such work shall in no way obligate the town to perform any future maintenance or repairs.

- C. **Maintenance Work by Others.**

1. No work or maintenance on any class 4 town highway or trail is permitted without the written authorization of the town. The Selectboard authorizes the town manager to review and approve of such maintenance requests.
2. Any person wishing to perform or arrange for the performance of maintenance work, including winter plowing, on a class 4 town highway or trail must submit a written request to the town manager. The request shall contain drawings and descriptions of the work sufficient to review the request and make an informed decision. Written authorization from the town manger shall be required before prior to commencing any work.

Any such work shall retain the pre-existing dimensions, physical character and use of the right-of-way unless otherwise approved by the town manger.

3. Stone walls within the right-of-way shall not be damaged, altered or removed except as permitted by the town manager or upon issuance of a town access permit by the town manager
4. Trees within town rights-of-way shall not be damaged or removed without written permission of the town manager.

5. The applicant, by successful submission of a request to perform maintenance on such rights-of-way, agrees that:
 - a. All the requirements for signage, work safety and public safety required by law or reasonable prudence will be adhered to in connection with the work;
 - b. The work shall be done in strict accordance with specifications established by the town manager and in conformance with this ordinance;
 - c. That the applicant and the applicant's agents shall not hold the town responsible for any claims or injuries which may arise out of the work agreed to within the right-of-way, and agrees to indemnify and save the town and its agents harmless against legal responsibility for any and all damage, loss or claim associated with this work;
 - d. The applicant shall bear all costs associated with the agreed upon scope of work;
 - e. A surety bond may be required for alterations and repairs, as well as for potential damage resulting from the use of rights-of-way by equipment of other means, including logging, horses, bike tours or other potentially damaging uses. The amount of surety shall reflect the anticipated costs for road repairs which may be necessary in the event of damage resulting from the use of rights-of-way and/or from noncompliance with the provisions of this policy and maintenance agreement. The surety will be returned within thirty days after the applicant notified the town of activity completion, the town is satisfied that all conditions of the agreement have been met, and that the right-of-way is left in proper condition.
 - f. Town shall be named insured on general liability policy of a minimum of \$1,000,000.00.
6. **Inspection.** Upon completion of the work, the town manager or their designee shall be notified in writing to arrange for inspection and approval of the work.
7. **Permission.** Permission for plowing, repair, maintenance, improvement or restoration, which will not adversely affect the highway or trail, will not be unreasonably withheld by the town manager. The right-of-way shall be left in as good or better condition as existed prior to starting work.

APPENDICES

**TOWN OF WINDSOR
ACCESS PERMIT APPLICATION**

To request a permit to construct, reconstruct or change the use of an access within any Town of Windsor right-of-way, please submit a completed, signed form to the Highway Superintendent.

Applicant Name: _____

Mailing Address: _____

Day Phone: _____; Evening Phone: _____; Email: _____

Landowner (If Different): _____ Parcel # _____; Map # _____;

Lot # _____ .

Town Road: _____

Location of access: Distance _____ (feet, miles) From: _____ (known landmark/road)

(Please attach a map or sketch of the access location and any technical plans required per this permit.)

The private road/driveway will access:

A single residential lot Two or more residential lots: How many? _____

Commercial or Industrial Logging

Agriculture Gravel extraction

Width of proposed access: _____ (feet); length: _____ (feet, miles); Surface type: (paved, unpaved)

Diameter of culvert: _____ (feet); culvert length: _____ (feet)

The applicant agrees to build and maintain said access in conformance with the access standards in the Windsor Highway Ordinance, and adhere to the directions, restrictions and conditions forming as part of this permit.

Signature of Applicant: _____ **Date:** _____

Signature of Landowner: _____ **Date:** _____

For Windsor Highway Department Use Only:

Directions, Restrictions or Conditions:

Inspection dates – Preconstruction: _____; Mid-construction: _____;

Final: _____

Highway Superintendent: _____ **Date:** _____

This permit is issued in accordance with Title 19, Section 303 and Section 1111, V.S.A. relative to all highways within the control and jurisdiction of the Town of Windsor. This issuance of this permit DOES NOT release the applicant from any requirements of the statutes, ordinances, rules, and regulations administered by other governmental agencies. The permit will be effective upon compliance with such of these requirements as are applicable and continue in effect for as long as the present land use continues. Violations are subject to the penalties set forth in Title 19, Section 1111, V.S.A.