

Adopted 8/23/2021

**TOWN OF MONKTON  
HIGHWAY ACCESS POLICY  
CURB CUTS AND DRIVEWAYS**

**Section 1 -- Authority.**

This Highway Access Policy (hereafter "Policy") is enacted pursuant to the authority granted to the Town under 19 V.S.A. §§ 303 and 1111.

**Section 2 -- Purpose.**

This Policy regulates access to the Town highway system. It is the purpose of this Policy to protect and preserve the safety and convenience of the inhabitants of the Town and the traveling public and to protect the public investment in the Town highway system through the regulation of highway access.

**Section 3 -- Definitions.**

For the purpose of this Policy the terms defined in this Policy shall have the following meanings:

"Road Curb Cut and Accessibility Permit" means the permit issued by the Selectboard to access the town highway system after following the procedural requirements of this Policy.

"Highway" means the highway system for the Town of Monkton, which includes the public rights-of-way, bridges, drainage structures, signs, guardrails, 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 structures.

"Person" means an individual corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or other legal entity.

"Selectboard" means the Selectboard of the Town of Monkton.

"Town" means the Town of Monkton.

"Vermont Agency of Transportation Standards B-71 and A-76" shall mean the most recent versions of the Vermont Agency of Transportation standard sheets B-71, Standards for Residential and Commercial Drives and A-76, Standards for Town and Development Roads.

**Section 4 -- Permit required.**

No person shall install, develop, construct 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, within the Town unless an Road Curb Cut and Accessibility Permit has been obtained from

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the Selectboard in accordance with this Policy.

## **Section 5 -- Process.**

### **a. Application.**

A person may apply for a Road Curb Cut and Accessibility Permit from the Town using the Road Curb Cut and Accessibility Permit Application form provided online on the website or at the Town Offices. The application shall be in writing and shall be signed by the applicant or an individual authorized to act for the applicant. A fee of \$50 shall be paid at the time the application is submitted. A completed application must be submitted to the Town Clerk or Zoning Administrator at least 28 days before work is scheduled to begin. The Selectboard may modify the time requirements of this Policy for good cause shown provided the public health and safety will not be jeopardized by such action.

### **b. Consideration.**

At the next available Selectboard meeting, the Selectboard will assign a member of the Selectboard to make an inspection of the curb cut location accompanied by the Road Foreman. The Road Curb Cut and Accessibility Permit MUST include a detailed map showing where the curb cut is being requested and the curb cut location MUST be clearly marked with surveyors tape or the like.

The Selectboard will consider a completed application and the report of both the assigned Selectboard member and Road Foreman at a regular or special Selectboard meeting and may recess the meeting on the application as necessary to receive additional information. The Selectboard may approve, approve with conditions/modifications, or deny an application upon consideration of the approval standards set forth in Section 7 of this Policy.

**c. Notice of Permission to Proceed.** If an application is approved, the Selectboard will sign the Road Curb Cut and Accessibility Permit. The signed Permit will list the specifications, requirements, and restrictions for the work. The Permit may require supervision and/or inspection by the Town. The Permit will state the date on which construction / development of the Access may proceed.

**d. Notification of completion.** The applicant shall notify the Road Foreman within 14 of days after construction is completed.

**e. Final inspection.** The Selectboard or its designee shall conduct a final inspection to determine if the work has been completed according to the requirements listed in the signed Road Curb Cut and Accessibility Permit.

**f. Issuance of Permit.** If, after inspection, it is determined that the Access has NOT been constructed / developed in compliance with the signed Road Curb Cut and Accessibility



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Permit, the Curb cut is deemed null and void. For new building projects, a Certificate of Occupancy will not be issued until such a fully compliant Curb Cut is in place.

### **Section 6 -- Contents of Application.**

An application for an Road Curb Cut and Accessibility Permit shall be on the form provided by the Town and shall be deemed to be complete if it includes the following:

- (1) The name, address, and telephone number of the applicant, the principal officers of the applicant, the individual making the application, and any other individual authorized to represent the person applying for the Permit;
- (2) If the applicant is not the owner of the premises where the access is to be constructed, the name and contact information of the owner or other person that has the authority to consent to the use and development of the premises, and a signed statement from that person stating that consent is given to the applicant;
- (3) The location of the access, including street address (if any), and parcel ID # of the property;
- (4) The date on which construction is proposed to begin;
- (5) A visual depiction of the premises indicating location, layout, adjacent state and local highways, entrances and exits, traffic flow patterns, parking and land uses of the surrounding area;
- (6) Any additional information the applicant wishes to furnish that assists the Selectboard or its designee in determining that the proposed access will comply with the applicable standards; and
- (7) The signature of the applicant or an individual authorized to act for the applicant.
- (8) Location of the proposed curb cut must be clearly marked with surveyors tape or the like.

### **Section 7 -- Approval conditions.**

When issuing a Road Curb Cut and Accessibility Permit under this Policy, the Selectboard shall require that the proposed access will be constructed or developed according to the standards in Vermont Agency of Transportation Standards B-71 and A-76."

In addition, the Selectboard shall require conditions to avoid: (1) undue adverse traffic congestion and unsafe conditions regarding the use of public roads, sidewalks and other public rights-of-ways; (2) unhealthy conditions regarding water supply, sewage disposal or solid waste disposal; and (3) adverse effects on drainage ditches, culverts or other drainage facilities.

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As a general rule, the Selectboard allows only a single curb cut per parcel.

In addition, the Selectboard may require the posting of a security bond or the establishment of an escrow account to ensure compliance with the conditions of the Permit and protection of the town highway system. In addition, the Selectboard may attach any such reasonable conditions as they may deem appropriate to mitigate or eliminate any impacts reviewable under the approval standards set forth above.

#### **Section 8 -- Expiration of Notice of Permit.**

The authorization conveyed by a signed Permit shall expire 2 years after the issuance of that Permit unless the work authorized by such Permit has been substantially commenced.

#### **Section 9 --Damage to Town highways.**

In the event that damage to a town highway is caused by improper construction, maintenance, or grading of a driveway or other highway access point, it shall be the responsibility of the property owner to compensate the Town for any expenses involved in restoring that highway to its original condition.

#### **Section 10 -- Revocation of Permit; Frontage road.**

As per 19 V.S.A § 111(f), the Selectboard may, as development occurs on land abutting a Town Highway, require the elimination of an access previously permitted and require the construction of a common frontage road or other access improvements which may serve more than one property or lot.

#### **Section 11 -- Responsibility for culverts and headwalls**

Culverts and headwalls installed on private property, even when located within the municipal right of way, are the responsibility of the property owner. Property owner retains exclusive legal and financial responsibility to repair, replace, and maintain those culverts and headwalls. Nevertheless, property owner must obtain approval for proposed repair or replacement from the Road Foreman before any work may take place.

#### **Section 12 -- Applicability of other laws and ordinances.**

The Permit required under this Policy shall not replace or eliminate any requirement to obtain approval under any other applicable State laws or municipal land use ordinances. Applicants and Permittees are solely responsible for ensuring that their access is in compliance with applicable State laws and municipal land use ordinances.

#### **Section 13 -- Enforcement and Penalties.**

In the event that a person fails to obtain a Permit as required by this Policy, fails to abide by the terms and/or conditions of a Permit, or misrepresents any information contained within or in support of a Permit application, the Selectboard may resort to any or all of the following enforcement options:



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**a. Optional Notice of Violation**

Prior to instituting any legal action or proceeding to enforce this Policy, the Selectboard or its designee 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 responsible for the violation. 19 V.S.A. § 1111(i).

**b. Assurance of Discontinuance**

The Selectboard or its designee may accept an "assurance of discontinuance" of any violation of this Policy, including a schedule for abatement of a violation. 19 V.S.A. § 1111(i). When such assurances are allowed, they must be in writing and must be filed not only with the town, but also with the attorney general, the Superior Court, and the town clerk's land records.

**c. Permit Suspension**

The Selectboard or its designee may suspend a Permit until compliance with State statute and this Policy is obtained. 19 V.S.A. § 1111(g). The Selectboard or its designee may physically close the driveway or access point, if there is continued use or activity after suspension of a Permit, and in the opinion of the Selectboard, or its designee, the safety of highway users is or may be affected. 19 V.S.A. § 1111(g).

**d. Injunction**

If the Selectboard believes that any person is in violation of the provisions of Title 19 V.S.A. §§ 1111 *et seq.*, it may bring an action in the name of the town against the person to collect civil penalties as provided in 19 V.S.A. § 1111(j) and to restrain by temporary or permanent injunction the continuation or repetition of the violation. 19 V.S.A. § 1111(h).

**e. Civil Penalties**

Persons who violate the requirements of this Policy or fail to adhere to Permit conditions, or the terms of an order issued by a court of law may be subject to civil penalties of not less than \$100.00 and not more than \$10,000.00 for each violation. When the violation of an order is of a continuing nature, each day during which the violation continues after the date fixed by the court for correction or termination of the violation constitutes an additional separate and distinct offense except during the time an appeal from the order may be taken or is pending.

**Section 14 -- Severability.**

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

**Section 15 -- Effective Date.**

This Policy shall become effective upon adoption by the Selectboard.

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Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

<i>Stephen Pilcher</i>	dotloop verified 08/24/21 1:49 PM EDT EKCD-7W2R-YCWX-7GY8
<i>John P McNerney</i>	dotloop verified 08/24/21 11:24 AM EDT 8LAP-XXYD-QJTW-CZQA
<i>Marikate Kelley</i>	dotloop verified 08/24/21 4:34 PM EDT SLUM-L6YP-HWMK-ESZX
<i>Bill Martin</i>	dotloop verified 08/24/21 10:44 AM EDT 05UR-35NT-86S4-QQNY