



TOWN OF WAITSFIELD

HIGHWAY ACCESS (CURB CUT) POLICY

SECTION 1 – AUTHORITY.

This policy is enacted by the Selectboard of the Town of Waitsfield, pursuant to authority granted under 19 V.S.A. §§ 303 and 1111.

SECTION 2 – PURPOSE.

The policy is designed to regulate access to Waitsfield’s highway network through the review and issuance of access permits, known colloquially as, “curb cut permits.” Regulating access is necessary to protect, advance, and balance the safety and convenience of the Town’s residents and traveling public, to improve and maintain water quality standards, and to ensure that public investments in the Town’s highway network are protected.

SECTION 3 – DEFINITIONS.

The following definitions apply:

Access Permit – means the permit issued by the Town granting access to the Town’s highway network. This may also be known as the, “curb cut permit.”

Access Point – means the physical location at which a driveway or property access intersects with a public highway.

Applicant – means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or other legal entity seeking an access permit from the Town of Waitsfield.

Approval letter – means the written notice, issued electronically (as an email or attachment to, for example) or physically, to an applicant regarding approval and any conditions attached.

Public Highway – means a highway or road (for the purposes of this policy, the terms are interchangeable) that is part of the highway network of the Town of Waitsfield. The highway network includes, but may not necessarily be limited to public rights-of-way, bridges, drainage structures and facilities (such as culverts), 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.

Selectboard – means the Town of Waitsfield Selectboard.

Town – means the Town of Waitsfield.

Vermont Agency of Transportation Standards – means 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, or any successor or replacement documents.

SECTION 4 – PERMIT REQUIRED.

An access permit is required for any of the following:

- a. Installation, development, or construction of a driveway that accesses a public highway.
- b. Regrading or resurfacing any driveway, entrance, or approach that affects the grade of a public highway. This includes depositing materials of any kind within, or affecting, the highway right-of-way.
- c. Obstructing a ditch, culvert, or drainage course that drains a public highway.
- d. Filling or grading the land adjacent to a public highway so as to divert the flow of water onto or into the public right-of-way.

Work shall not commence until the applicant has received a letter of approval, which may also state conditions of approval, as described in Sections 5.d.v, 5.d.vi, and 8.

The approval letter may be conveyed via digital or physical means, at the discretion of Town staff and/or the preference of the applicant.

SECTION 5 – APPLICATION AND REVIEW PROCESS.

- a. *Application and application form* – Applications shall be made using the most recent version of the Town’s Access Permit Application Form, provided electronically or at the Waitsfield Town Offices. The Town may reject an application if the form used is a dated or obsolete version. A completed application form is submitted to the Planning and Zoning Administrator.
- b. *Timing* – An application form should be submitted 45 days prior to the planned commencement of work, but no less than 30 days prior.
- c. *Fees* – The Town may require an application fee, due at the time of submittal. An application will not be considered until the fee is paid in full. The fee amount shall be set by the Town; the current fee will be listed on the application form.
- d. *Review* – The following review process is in place:
 - i. The Planning and Zoning Administrator reviews the materials submitted and deems the application complete or incomplete. An applicant will be given the opportunity to fix any issues with an incomplete application.
 - ii. A complete application is referred to the Road Foreman for review. The Foreman may impose conditions as reasonable and necessary.
 - iii. The application is then referred to the Fire Department, to ensure access by emergency vehicles. The Fire Department may impose conditions as reasonable and necessary.
 - iv. The application, following Road Department and Fire Department review, is referred to the Town Administrator for approval (with or without conditions) or denial. Any denial shall include a summary of the reasons for.
 - v. The Planning and Zoning Administrator receives the reviewed application and issues a written notice to the applicant stating the outcome (approval or denial), conditions, and appeal procedures.

- vi. The applicant may commence construction once an approval letter from the Town is received.
- vii. The applicant shall notify the Town, through the Planning and Zoning Administrator, of completion of work. Notification shall occur within 14 days of completion. Failure to notify jeopardizes the issuance of an access permit, and may invalidate the Town's approval.
- viii. An access permit is not formally issued until a final inspection is completed and the work is considered to have been done in accordance with the Town's approval.
- ix. Approved applications and issued permits are recorded in the land records. Any fees for recording are paid by the applicant when the application is submitted.

SECTION 6 – CONTENTS OF APPLICATION.

As stated in Section 5.a, applications for an access permit shall be on the most recent version of the form provided by the Town.

The form includes the necessary items for an applicant to include. Failure to include the requisite information may result in an application being deemed incomplete.

SECTION 7 – NUMBER OF ACCESS POINTS PERMITTED.

The total number of access points permitted on one side of a continuous length of road frontage of a property shall not exceed the number shown in the table.

Continuous Length of Road Frontage	Maximum Number of Access Points
0 to 800 feet	2
801 to 1,600 feet	3
1,601 to 2,400 feet	4
2,401 to 3,200 feet	5
3,200 feet +	6

The limits shown in the table do not apply to access points used solely for farming purposes, such as access to a field.

SECTION 8 – APPROVAL CONDITIONS.

All approvals for access permits shall require any proposed access point to be constructed or developed in accordance with Vermont Agency of Transportation Standards.

Conditions imposed by the Town may include, but not necessarily be limited to:

- a. Conditions designed to avoid undue adverse traffic congestion.
- b. Conditions designed to avoid unsafe conditions regarding the use of public roads, sidewalks, and other public rights-of-way.
- c. Conditions designed to avoid undue adverse impacts on stormwater runoff, drainage ditches, culverts, or other drainage facilities.
- d. Conditions designed to avoid undue adverse impacts on water supply, sewage disposal, or solid waste disposal.
- e. Conditions designed to ensure or enhance emergency vehicle access.

SECTION 9 – APPEAL.

An applicant may appeal the denial of an application to the Selectboard.

The Selectboard will hold a hearing, in open session, at a duly warned meeting within 21 days of the receipt of an appeal.

All appeals shall be filed in writing.

SECTION 10 – EXPIRATION OF APPROVAL.

The approval letter (as described in Sections 5.d.v. and 5.d.vi.) expires within two years of issuance unless work has been substantially (at least 50% complete) commenced.

In the event of an expiration, an applicant is required to file a new application and begin the process anew. Changes in local or State regulations may impact the Town's ability or willingness to issue a second approval for an access permit application previously approved but not constructed.

SECTION 11 – DAMAGE TO TOWN HIGHWAYS.

In the event improper access point construction, maintenance, or grading damages a public highway or any other public infrastructure, the individual or property owner shall be responsible for compensating the Town at a level commensurate to ensure that expenses related to correction or repair are covered, and the public highway and/or infrastructure restored to its original condition.

SECTION 12 – CULVERTS AND HEADWALLS.

Property owners are responsible for any culverts or headwalls installed, regardless of whether or not the culverts or headwalls are within the Town's right-of-way. This responsibility includes repair, replacement, and/or maintenance of culverts and headwalls, along with any other feature required as a condition of State or local approval.

Prior to commencing with any repair or replacement work the property owner must first obtain permission from the Town.

SECTION 13 – APPLICABILITY OF OTHER LAWS AND ORDINANCES.

The access permit required through this policy shall not replace, amend, or eliminate any requirement to obtain approval through any other applicable State laws or municipal land use ordinances.

The applicant is solely responsible for ensuring that the access sought is in compliance with applicable State laws and municipal land use ordinances.

SECTION 14 – ENFORCEMENT AND PENALTIES.

The failure to obtain a permit, the failure to abide by the terms and/or conditions of approval, or any misrepresentation of any information contained within or in support of the application, may result in the Town using any or all of the enforcement options listed:

- a. Notice of Potential Violation and Voluntary Correction/Compliance.*

The Town will issue a notice of potential violation; the letter shall include the nature of the violation(s), corrective action necessary to remediate the violation(s), and the process and penalties associated with continued non-compliance.

b. Suspension.

The Town may suspend an approval until compliance with the policy and/or State statute is obtained. Continued work to construct or use of a non-compliant access point may result in physical closure of the access point by the Town. Physical closure will follow a determination by the Board that continued use of the access point negatively impacts all other highway users (drivers, cyclists, pedestrians, horses, and so on).

c. Injunctive Relief.

The Town may seek injunctive relief for non-compliance by bringing legal action against the individual to restrain – temporarily or permanently – the continuation or repetition of the violation of the policy and/or State statute. The Town may also seek civil penalties (see 13.d) as provided in 19 V.S.A. § 1111 (j).

d. Civil Penalties.

An individual violating the requirements of this policy or otherwise failing to adhere to conditions of approval may be subject to civil penalties of not less than \$100.00 and not more than \$10,000.00 for each violation. Each day during a situation in which a violation is of a continuing nature that is past the date fixed by a court for correction or termination of the violation may constitute a separate and distinct offense, except during an appeal of the original order.

The provision for civil penalties includes violation of the terms of an order issued by a court of law.

SECTION 15 – EFFECTIVE DATE.

This policy is effective as of the date of adoption or subsequent amendment.

If any section of the policy is held to be invalid by a court of competent jurisdiction, such finding shall not invalidate any other section of the policy.

Adopted this 23rd day of November, 2020.

SIGNATURES

Paul Hartshorn, Chair

Kellee Mazer, Vice-Chair

Jon Jamieson

Brian Shupe

Vacant