ROAD, DRIVEWAY AND TRAIL ORDINANCE TOWN OF UNDERHILL, VT

Adopted by the Underhill Selectboard February 3, 2015

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SECTION 1. AUTHORITY, PURPOSE, SURVIVAL OF TERMS

1.1 This is a civil ordinance adopted pursuant to 24 VSA § 1971 and shall take effect 60 days from the date of adoption by the Underhill Selectboard except as otherwise provided by statute. (24 VSA §§ 1972, 1973).

1.2 The purposes of this ordinance are to:

A. Set standards for the construction, maintenance, and use of roads, trails, and driveways.

B. Set procedures by which roads, trails, and driveways are laid out, altered, classified, or discontinued.

C. Guide construction and maintenance personnel and inform residents and developers.

1.3 If any provision of this ordinance or its application is held invalid by a court of competent jurisdiction, the validity or application of other provisions of this ordinance shall not be affected.

1.4 Consistent with the provisions of the Underhill Unified Land Use and Development Regulations, where this ordinance differs from those Regulations, the more restrictive shall apply. The provisions of this ordinance are to be strictly applied by the Underhill Development Review Board and waiver or modification of the provisions of this ordinance can only be granted by the Selectboard as provided in this ordinance.

SECTION 2. DEFINITIONS

Definitions in 19 V.S.A. § 301 apply. The following additional definitions also apply:

"AOT" means the State of Vermont Agency of Transportation.

"Commercial Driveway" means any direct or indirect access from a Town highway to property that contains at least one commercial establishment other than an approved home business.

"Development Road" means any direct or indirect access from a Town or state highway serving four or more lots or dwellings and any road designated as a "private road" as of the date of adoption of this ordinance.

"DRB" means the Town of Underhill Development Review Board.

"Driveway" means any private direct or indirect access from a Town or state highway or private road to property, whether by easement or right-of-way, and serving up to three parcels, and includes the entire right-of-way.

"Including" and "includes" contain the meaning "but not limited to".

"Private Road" has the same meaning as Development Road.

"River corridor" has the meaning set out in 10 V.S.A. § 1422(12).

"Road" means Town highways and development roads.

"ULUDR" means the Underhill Unified Land Use and Development Regulations, as amended.

Section 3. Application & Interpretation

A. This ordinance replaces the Underhill Road Policy as amended through March 2002 and is the Town ordinance referred to in the ULUDR, as amended.

B. This ordinance applies to

(i) new construction of and the maintenance and repair of Town highways, Town trails, and Town bridges;

(ii) the substantial rebuilding of roads, driveways, and bridges but not activity that is incidental to regular road and driveway maintenance, including minor fill, grading, ditching or excavation, repairing, adding to or enhancing the top surface, resurfacing an existing road or driveway that does not result in widening or relocation, and culvert replacement, except that replacement culverts must meet current size standards.

(iii) a change of use of a development road or driveway. A change of use includes, without limitation, any increase in the length or alignment of a traveled way and any subdivision on an existing development road or driveway that increases the number of lots, businesses or dwellings, including accessory dwellings, served.

C. This ordinance does not repeal, annul, or impair any previously issued permit or approval.

D. Where a provision of this ordinance is stricter than a state or Town standard or law, the provision of this ordinance shall apply.

SECTION 4. HIGHWAY CLASSIFICATIONS

Town highway classifications and their determination are set out in 19 V.S.A. § 302. Town highway classifications can be found on the current *Underhill Road Map* in the Town Office.

(1) Class 1 Town highways are Town highways that form the extension of a state highway route and carry a state highway route number.

(2) Class 2 Town highways are Town highways other than Class 1 selected by the Selectboard as the most important highways in the Town.

(3) Class 3 Town highways are all traveled Town highways other than class 1 or 2 highways that meet the minimum standards of 19 V.S.A. § 302(a)(3)(B).

(4) Class 4 Town highways are all Town highways that are not class 1, 2, or 3 or unidentified corridors.

Trails are not Town highways.

Unidentified corridors are governed by 19 V.S.A. §§ 302(a)(6).

SECTION 5. ROAD AND DRIVEWAY STANDARDS

5.1 General Provisions.

A. Notwithstanding any other provision of this ordinance, the Town Road and Bridge Standards published from time to time by AOT shall apply to the construction, repair, and maintenance of all Town highways and bridges and shall be considered minimums. To the extent this ordinance has stricter standards the stricter standards shall apply.

B. Any new road or driveway shall be constructed to the standards of this ordinance.

C. All private parties involved in activities governed by this ordinance are charged with knowledge of and compliance with applicable state statutes and Town ordinances, regulations and policies.

D. Where a permit is required, it is the applicant's responsibility to secure all required municipal, state and federal road or driveway permits prior to commencing work on any road or driveway.

E. As of the adoption of this ordinance, AOT construction standards can be found at

https://outside.vermont.gov/agency/vtrans/external/CADD/WebFiles/Downloads/Standards/StandardList.htm

5.2 Construction and Design Requirements - Roads.

All roads shall comply with AOT Standard A-76 (as amended), the ULUDR, and this ordinance. Where the AOT standards include recommendations, those recommendations are requirements under this ordinance, except the A-76 recommendation for paving grades that exceed 7%. See Section 5.4 below. These standards are intended for low 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 dimensions for subbase and surface treatment.

New and substantially rebuilt Town highways shall follow the Vermont State Design Standards where natural and built environments allow, with attention to historic, archaeological, natural and recreational resources.

5.3 Construction and Design Requirements - Driveways.

All driveways shall comply with AOT Standard B-71 (as amended), the ULUDR, and this ordinance. Where the AOT standards include recommendations, those recommendations are requirements under this ordinance.

5.4 Grades. The average and maximum grades on any road or driveway shall not exceed 10%. A 10% grade shall not extend over a distance greater than five hundred (500) feet. With the express written permission of the Selectboard, a single grade of 12% may be allowed for a distance not exceeding 50 feet. The Selectboard may require the paving of portions of a road exceeding 7%. If lesser grades are specified by AOT standards, those lesser grades shall apply.

5.5 Radii. Radii of all curves shall be adequate to permit easy flow of traffic, including trucks, graders, and fire engines. The minimum radius in all cases, measured on the inner edge of the curve, is 35 feet unless otherwise approved by the Selectboard and the Underhill-Jericho Fire Department.

5.6 Curbs. Curbing is discouraged. Curbing is required only within the Underhill Flats Village Center zoning district and only where determined by the Selectboard on a case-by-case basis or as may be required by the DRB under ULUDR Section 8.6.E. Any curbing shall be granite and a minimum of 7 inches in height and may be either vertical or sloped ("mountable curb"). All curbing on development roads and driveways require the express prior written approval of the Selectboard.

5.7 Slopes, Banks and Ditches on Roads.

A. Vertical or sharp cut faces, excepting ledge, shall not be permitted. AOT Standards A-60, A-61, and A-62 shall apply to ledge and slopes in rock excavations.

B. Banks shall not interfere with snow removal.

C. Development roads shall follow the provisions for "Ditches and Slopes" in the Town Road and Bridge Standards published from time to time by AOT.

5.8 Geotextiles. Geotextiles shall be used for separation, reinforcement, filtration drainage, and moisture control in road and driveway construction. The use of geotextiles does not relax or reduce any road or driveway standard or specification.

5.9. Topography. Roads and driveways shall be sited to minimize site disturbance on steep slopes (15% or greater), primary agricultural soils, and surface waters, wetlands, and associated buffer areas, and to minimize the number and extent of stream crossings.

Roads and driveways and associated elements such as ditches shall not channel or direct stormwater runoff to adjoining properties, public rights-of-way, or surface waters and wetlands.

Additionally, to the maximum extent physically feasible, roads shall be designed and constructed to:

1. Follow natural elevation contours to minimize the amount of cut and fill and slope stabilization required, and the adverse visual impacts of road and utility cuts.

2. Avoid rock outcrops and ledges larger than 200 square feet in area.

3. Minimize the number and extent of stream crossings and buffer area disturbance within steep slope areas.

4. Roads and driveways, to the extent feasible, shall be shared and located along field edges or follow existing linear features such as roads, tree lines, stone walls, and fence lines, to minimize fragmentation of forests and agricultural land and associated visual impacts and to maintain access to forestland for long-term management.

5.10 Drainage.

A. Drainage from development roads and driveways shall not adversely affect public highway infrastructure or neighboring properties. No Access Permit shall be issued if the access will result in drainage over a Town road. Selectboard approval is required for any road drainage into a Town highway right-of-way. Drainage easements and off-site improvements are required for road drainage directed onto adjoining properties.

B. All proposed drainage facilities for development roads and driveways shall be sufficient to carry runoff from the surface and divert water away from the development road or driveway without causing sedimentation, erosion, or the impounding (except in approved retention basins) of water.

C. Any change in drainage patterns as a result of road or driveway construction or other excavating work associated with development must not adversely affect existing roads, road drainage facilities or any other property in the area.

D. A builder or developer shall be responsible for supplying an accurate and detailed plan of the topography and drainage patterns as a part of the road or driveway design approval process. The builder or developer shall also be responsible for correcting any problems that occur as a result of road or driveway construction. Bonding for that purpose may be required.

5.11 Wet areas. If the Selectboard determines that a proposed road or driveway is in a wet area that is not classified as a wetland or vernal pool and is located outside of required buffer

areas, the applicant may be required to contact the State's Wetlands Office for a determination and possible delineation. The Selectboard may also require additional gravel plus sand cushion and underdrain to ensure a stable road or driveway.

5.12 Ditches and Slopes. Drainage ditches shall be provided where necessary. Ditches shall be constructed to prevent infiltration of water into the gravel subbase, and to conduct storm drainage to waterways and absorption areas.

5.13 Culverts and Stream Crossings.

AOT standards A-76 and B-71 shall be followed as to culvert size and material for roads and driveways respectively.

Culverts shall have a minimum slope of 0.5% to allow for positive drainage flow.

Beaver Fences and Trash Racks. The Selectboard may require beaver fences and trash racks as necessary to protect the road and neighboring waterways.

Stream Crossings. When a design includes crossing a stream, a Vermont Stream Alteration Engineer and the Army Corps of Engineers shall be contacted by the owner or developer for design review and potential permitting prior to submission of a local access permit application, which shall include documentation of the responses of the respective state and federal government officials. All stream crossing structure designs shall incorporate fish and aquatic organism passage best management practices. The Vermont Department of Fish and Wildlife should be contacted for assistance with such structures.

5.14 Culvert, Ditch and Signage Costs.

A. The labor and materials cost of initial culvert installation at intersection with town highways, including coincidental ditching, is the responsibility of the affected property owner(s). The installation shall conform to the provisions of this ordinance. Town employees will install such culverts. Labor costs shall be assessed using the appropriate scale employed by the Federal Emergency Management Agency (FEMA) or its successor.

B. The cost of repair or replacement of existing driveway culverts or development road culverts in the Town right-of-way shall be borne by the Town. Replacement culverts shall conform to the provisions of this ordinance unless otherwise determined by the Select Board.

C. Activities and costs associated with ditches, culverts, and other drainage devices outside of the Town right-of-way are the responsibility of the property owner(s).

D. Should damage occur to Town right-of-way or infrastructure resulting from improper construction, maintenance, or grading, or as a result of stormwater runoff from a private road, driveway or right-of-way, the financial responsibility for necessary repairs shall be on the property owner(s). Town approval shall be obtained prior to repair. Repairs not completed within 30 days of notice may be completed by the Town and billed to the property owner(s).

E. Road signs indicating the intersection of a private road and a town highway or other private road shall meet town standards for such signs at the intersection of town highways applicable at the time of installation and shall be installed by the Town at the expense of the property owner(s).

5.15 Bridges.

Replacement of existing bridges and any new bridges must be designed in accordance with the AOT Hydraulics Manual and, in the case of perennial streams, conform to the statewide Stream Alteration standards. Additional design and review may be required for compliance with State and local Flood Hazard Area regulations. New and replacement bridges on roads and driveways must have a minimum load capacity of 35,000 lbs.

5.16 Right-of-Way.

A. Widths. Town highway and trail right-of-way is presumed to be 3 rods in width unless otherwise recorded. The minimum width of right-of-way in which a new driveway will fall, shall not be less than thirty (30) feet. The minimum width of right-of-way in which a development road will fall shall not be less than sixty (60) feet.

B. Work in Town Right-of-Way. Work within the Town right-of-way, including placement of utilities, is governed by 19 VSA § 1111 and Chapter 71 of Title 30 of the Vermont Statutes Annotated. State or Town permits or the express written permission of the Selectboard or AOT may be required, including without limitation Access Permits and permits under the ULUDR.

No person shall disturb the ground or pavement in any town right-of-way without first obtaining a signed permit from the Selectboard. Disturbance includes developing, constructing, or reconstructing an entrance or approach; erecting a fence or other structure; depositing material, obstructing drainage, or filling or grading the land adjacent to a highway so as to divert water onto the highway right-of-way.

Two sets of detailed plans must be submitted with any permit application. All plans filed with the Town shall include proposed locations of all items covered by the permit and are to be followed by as-built plans.

C. Damage to Objects or Obstructions in Town Right-of-Way. Objects placed in the Town right-of-way, including but not limited to mailboxes, fences, gardening supplies, recreational equipment, any structure, and any object placed in violation of Section 5.16.B above, are placed at the owner's risk The Town assumes no responsibility for any damage to such objects, including mailboxes damaged by snow or ice clearing operations. The Town may seek recovery of damages to Town equipment from objects placed in the Town right-of-way.

D. Trees and Shrubs. The placement or removal of roadside growths, plantings and brush is governed by 19 VSA §§ 901-904 and 906 and 24 V.S.A. § 2508, including penalties.

E. Emergencies. Nothing in this Section shall be construed to prevent excavation by a developer as may be necessary for the preservation of life or property, provided that the developer performing such work applies for a permit on the first working day after the commencement of excavation and complies with current State rules on working in streams during emergency events. Notice shall be given to State authorities as state rules may require, and to the Road Foreman, Town Clerk, Zoning Administrator, Town Administrator, and to emergency response agencies (*e.g.*, the Underhill-Jericho Fire Department, Essex Rescue, Vermont State Police, etc.) as required.

5.17 Road Names.

1. All new roads in the Town shall have names approved by the Selectboard.

2. Road names shall be unique to the Town and not duplicate the name of a road or roads in surrounding towns. Similarly spelt or sounding road names may be rejected. The Town Administrator shall be responsible for investigating all proposed names for conformance to this standard and shall report the results of the investigation to the Selectboard.

3. Applications for new development roads shall include at least 3 proposed names. The Selectboard may approve or reject any or all proposed names.

5.18 Paving of Town Highways.

Paving of Town gravel highways is in the discretion of the Select Board except where otherwise provided by law. The characteristics of the neighborhood in which the highway is located, safety for the traveling public and residents, foreseeable connections and reclassifications, costs of construction and maintenance, and public comment on the proposal shall be considered in deciding whether paving of an unpaved Town highway is appropriate.

Paving of Town highways shall meet Vermont State Highway specifications. Where heavy trucks are common or increased traffic expected, a pavement design shall be performed to determine appropriate thickness of subbase and pavement.

5.19 Waivers.

A. The Selectboard reserves the right to waive the standards for a particular project because of unique physical circumstances or conditions on good cause shown by the party seeking the waiver. In reviewing the application, the Selectboard shall consider the standards set forth in 24 V.S.A. § 4469. Such waivers shall be minor and not conflict with the stated purposes of this ordinance or state laws or rules. Fiscal reasons are not a basis for waiver of the standards or requirements of this ordinance.

B. Waivers shall include written findings and statements of any applicable conditions.

SECTION 6. ACCESS STANDARDS & PERMITS

6.1 Highway Access.

These standards shall apply to both direct and indirect access from Town highways, including driveways accessed from private or shared rights-of-way. Access Permits are required for pre-existing or new lots that do not have frontage on public roads. Temporary access/driveways which involve no permanent improvements may be administratively approved for a period not to exceed 3 months with written notification to the Selectboard. The Selectboard may extend the approval to exceed 3 months on a case by case basis on good cause shown.

6.2. Reasonable Access.

A. The Selectboard will allow reasonable access to public highways, balancing access with public safety, environmental concerns (including hydrology), and the purposes of this ordinance. Reasonable access may include, without limitation, alternate driveway locations, shared right-of-way, limits on the use of the property, and requirements for additional engineering and construction.

B. Certain conditions may make reasonable access impossible (*e.g.*, no direct access from Town highway; all road frontage is a Class II wetland). It is not the responsibility of the Selectboard to obtain or remedy a lack of frontage or other barriers to reasonable access for a property owner.

6.3. Location.

A. A lot shall be served by no more than one access (curb cut) onto a Town or state highway except for:

1. A temporary or permanent access used only for agriculture or forestry purposes, as approved by the Selectboard or state;

2. A temporary access for use during construction or special events, as authorized by the Selectboard or state; or

3. A lot or use for which it has been demonstrated by the applicant, and determined by the Selectboard in consultation with Town or state highway officials, that an additional access is necessary for vehicular and pedestrian safety.

B. Where a lot has frontage on two roads, access to the lot shall be provided from the less traveled road unless determined by the Selectboard as necessary to improve vehicle and pedestrian safety or traffic circulation on adjoining roads.

C. Except as permitted by the Selectboard on good cause shown by the applicant, no access or intersection shall be within 100 feet from a road intersection or another driveway unless the driveways or roads oppose each other.

D. All driveways shall comply with the setback requirements of the ULUDR.

6.4. Design.

A. Widths and height clearance

1. Widths for a residential driveway at the access point shall normally be the result of application of the apron radii set out in AOT B-71 standards. Actual access widths may be determined by the Selectboard. The traveled portion of the driveway may narrow to AOT B-71 standard at the edge of the access point right-of-way, except that the following minimums shall apply:

1 residence, 12 feet wide;

2 residences, 14 feet wide;

3 residences, 20 feet wide.

2. Widths for a commercial driveway at the access point shall normally be the result of application of the apron radii set out in AOT B-71 standards. Actual access widths shall be determined by the Selectboard based on anticipated traffic including the size and amount of truck traffic anticipated. The traveled portion of the driveway may narrow to AOT B-71 standard at the edge of the access point right-of-way.

3. Widths for a development road at the access point shall normally be the result of application of the apron radii set out in AOT A-76 standards. Actual access widths shall be determined by the Selectboard based on anticipated traffic including the size and

amount of truck traffic anticipated. The traveled portion of the driveway may narrow to AOT A-76 standard at the edge of the access road right-of-way except that the following minimums shall apply:

4 residences, 20 feet wide;

5 or more residences, 24 feet wide.

4. Driveways and development roads shall have clear height unobstructed of 13 feet 6 inches.

B. Paving. Where a gravel driveway or road is accessing a paved highway, a paved apron at least 10 feet in length is required. Where paving is required, the applicable AOT standard shall be followed.

C. Turnarounds. All new driveways and development roads shall be constructed with a turnaround (hammerhead, Y, cul-de-sac) sufficient for use by emergency vehicles including fire trucks and conforming to AOT A-76 or B-71 standards as applicable.

D. Driveways that exceed 500 feet in length shall include a 10-foot by 30-foot pull-off area at not more than 500 foot intervals.

6.5 Highway Access Permits.

A. Applicability. An Access Permit covers and is required for not only the access point but also the ensuing traveled way. Any new accesses, and all changes to existing accesses, including extensions, realignment or alterations of the traveled way and changes of use, must receive an Access Permit from the Selectboard or qualify for Administrative Amendment as provided below.

Any proposed new access or change in an existing access onto state highways will also require approval by the AOT. A Town access permit is also required when access is from a state highway to ensure that Town road and driveway standards are followed.

B. Application Process. Applications for an Access Permit shall be made on forms furnished by the Town and are to be submitted to the Zoning Administrator with any required fee. Applications shall, at minimum, conform to the requirements of the ULUDR and this ordinance. No construction or site work other than as necessary to develop the Access Permit application shall commence on a road or driveway until all required road and/or driveway permits and approvals have been obtained. Final Access Permits shall be effective for three years from the date of approval unless otherwise stated and the project shall be substantially completed within the life of the permit. The Selectboard may extend the life of an Access Permit on good cause shown by the applicant. Preliminary access permits issued pursuant to section 6.5.B.10 below shall be effective for five years from the date of approval.

Applicants are encouraged to be more, rather than less, detailed in their initial application materials and applicants' attention is drawn to the provisions of Sections 5.10.D and 6.5.B.5 of this ordinance. Applicants who are subject to DRB review should see Section 6.5.B.10 below.

1. Driveway Layout Drawing

A commercial or private driveway applicant must submit a sketch of the plot indicating lot lines and the proposed driveway right-of-way. The sketch must include landmarks and dimensions such that the path and slope profile of the proposed driveway can be easily identified. The

Selectboard in its discretion may require greater detail.

2. Road Design Drawings

Two sets of design drawings signed or stamped by a registered engineer or surveyor shall be filed with the application. They shall include a road right-of-way and layout showing all radii of curvature, a slope profile, road cross sections indicating road construction and drainage management. They shall have grade readings at 50-foot intervals unless a smaller interval is requested by the Selectboard. The location of utilities and details of road termination and/or intersection shall be shown. Terrain contour lines at 10 foot or lesser intervals shall be shown. Drawings shall be at least 11 inches by 17 inches.

3. Site Visit

An applicant must flag at 50-foot intervals, the centerline of a proposed driveway or road. The applicant shall then arrange a site visit or visits by the Zoning Administrator and Road Foreman (who may visit separately) and interested member(s) of the Selectboard. For a new road the Planning Commission or its delegate may also participate in the site visit and the applicant is responsible for contacting the Planning Commission to make arrangements. Where relevant, the Zoning Administrator will coordinate the site visit(s) with other interested parties. The site visit by the Zoning Administrator may be conducted simultaneously with any site visit by the DRB.

4. Written Report

The Zoning Administrator will write a report within two weeks of the site visit. The report will identify issues appearing to the Zoning Administrator and relating to specific requirements including design, width, sight lines, and drainage. It will also identify site limitations and issues regarding construction timing and scheduling and any other matters deemed relevant, and may include observations by the Road Foreman. The report may be a copy of a report submitted to the DRB.

The Selectboard will review the report and may conduct a site visit. If it appears that there are significant site limitations, the Selectboard may require engineering drawings that define the site topography and proposed driveway or road grades or, for driveways, any or all of the engineering drawings required under "Road Design Drawings" and Section 5.10.D above.

5. Inspection and Retention of Professional Advisers

The Selectboard in its sole discretion may engage a civil engineer or other professional to advise it on a road or driveway design and on compliance with the approved plan. In its sole discretion, the Selectboard may assess the applicant or property owner(s) for the costs of such professionals, which costs shall be paid before a letter of compliance is issued.

6. Review of Application

Access to Town highways shall meet the requirements of this ordinance and the ULUDR. Access to state highways shall meet AOT Access Management Program Guidelines in effect at the time of application. Where these standards differ, the more restrictive shall apply.

The Selectboard may at any time require the approval of the Underhill Jericho Fire Department in connection with any road or driveway application.

The Selectboard may withhold the issuance of permits when:

a. Construction or paving materials are unavailable; or

b. A satisfactory traffic, pedestrian, utility, diversion, or drainage plan cannot be implemented; or

c. Satisfactory information has not been supplied;

d. When applicants proposal does not comply with the standards and purposes of this ordinance; or

e. When other factors, including but not limited to issues arising in public comment appear pertinent.

7. Design Approval

A letter indicating driveway or road design approval or rejection will be sent to the applicant by the Town Administrator. Approval will include an access permit drafted by the Town Administrator for Selectboard approval that shall include any conditions set by the Selectboard.

8. Construction Inspection

A member of the Selectboard or its delegate may inspect road or driveway construction at any time. The Selectboard's delegate need not be the Zoning Administrator and may be a licensed civil engineer or other professional retained by the Selectboard pursuant to Section 6.5.B.5 above. In the case of a road, or where the Selectboard requires it in the case of a driveway, the holder of the Access Permit shall have stakes set on centerline and marked with finish grades at least every 100 feet for the entire length of the road, or side staked with distance and grades marked before inspection. Should the inspection result in questions or concerns regarding the construction methods, quality or the amounts of materia1, or compliance with this ordinance or any permit, the Selectboard will send written notice to the parties involved and, if necessary, order work stopped. No additional work shall commence until all concerns have been addressed.

9. Final Inspection

Prior to commencement of use of the property the road or driveway shall be inspected by the Selectboard, or a licensed civil engineer or other professional retained by the Selectboard pursuant to Section 6.5.B.5 above, for compliance with this ordinance and all applicable permits and designs, including cut and fill plans, surveys, layouts, rights-of-way, utility locations, and preparation and construction. If inspection is by a representative of the Selectboard, the representative shall submit a written report to the Selectboard. Upon a favorable result of the inspection the developer or property owner will be issued a "letter of compliance" stating that the road or driveway was installed to all applicable requirements, specifications and standards. The letter of compliance shall be deemed acceptable as to the topics it covers as part or all of any Certificate of Compliance required by the DRB. No letter of compliance is required for administrative amendments under section 6.7 of this ordinance.

10. Special provisions for projects subject to DRB proceedings

a. This subsection applies when a project is under the jurisdiction of the DRB.

b. Before filing an application with the DRB, an applicant shall seek preliminary access approval from the Selectboard.

c. An applicant for preliminary access approval shall submit drawings sufficient to determine compliance with this ordinance. The Selectboard may require such additional information as it deems appropriate.

d. Preliminary access approval, if granted, shall be on forms determined by the Selectboard and filed with and accompany any application to the DRB relating to the project.

e. If the project is approved by the DRB, the applicant shall return to the Selectboard for a final access permit. The application for the final access permit shall clearly state any changes in the access design that may have occurred following preliminary access approval. The Selectboard may require such additional information as it deems appropriate to determine compliance with this ordinance.

6.6 Conditions Applying to All Access Permits.

A. All work shall be conducted by a professional contractor unless otherwise approved by the Selectboard. The contractor shall have proof of general liability coverage that can be provided upon request for local approval as to amount and scope prior to commencement of a project. During work in the Town right-of-way the above-referenced insurance shall not be cancelled without thirty (30) days written notice to the Selectboard or designee.

B. The contractor shall file with the Zoning Administrator proof of a Dig Safe number if required by the Selectboard or state law.

C. The contractor shall provide a plan for the protection of shade and ornamental trees within the limits of public ways and places, the restoration of turf, and erosion prevention and sediment control plans as required by the Selectboard.

D. Other site-specific conditions of approval may be required by the Selectboard.

Recording

All Access Permits shall be filed with the Underhill Town Clerk and recorded in the Underhill Land Records.

Certificates of Compliance

Where applicable, Certificates of Compliance shall be issued by the DRB in accordance with the ULUDR. The Selectboard may require in addition a certification letter from the engineer or designer for the completion of the project in accordance with the permit.

6.7 Administrative Amendments. The following Access Permit amendments are eligible for review and administrative approval by the Zoning Administrator, unless the Zoning Administrator determines that the requested amendment may not meet the standards of this ordinance or other law, in which case the request shall be referred to the Selectboard: relocation or modification of roadways, utilities and related improvements within approved rights-of-way or utility corridors that otherwise comply with the findings and conditions of the Access Permit, with this ordinance (including slope, radius and drainage requirements), and other applicable regulations or statutes.

The Zoning Administrator shall issue, post and record administrative Access Permit amendments in the same manner as Access Permits.

SECTION 7. HIGHWAY AND TRAIL MAINTENANCE AND CONTROL

7.1 Class 2 and 3 highways.

A. Summer. Maintenance and repair of Town roads is the first priority. Reconstruction and road upgrades will be scheduled subordinate to maintenance and repair activities. The Selectboard shall have discretion to prioritize summer projects as in its judgment it deems appropriate.

B. Winter. Underhill does not have a "Bare Road" policy and expects travelers to drive with respect for winter conditions. Class 2 and 3 roads will be plowed as often as practical to provide passage for standard passenger vehicles. The Town cannot guarantee the time of day a road will be plowed. The Selectboard may decide not to plow a Class 2 or 3 road in winter based on the safety considerations for the traveling public and municipal employees and available resources. Road sand and salt will be applied only where deemed necessary to provide safe passage for vehicles.

7.2. Class 4 highways. The Town shall have no obligation to maintain Class 4 highways. In the discretion of the Selectboard or its delegate a Class 4 highway may be maintained to the extent deemed required by the necessity of the Town, the public good and the convenience of the inhabitants of the Town. To the extent the Town elects in its discretion to perform any maintenance work on Class 4 highways it shall not do so in an arbitrary or discriminatory manner.

The Town shall have no obligation for winter plowing of Class 4 highways. Winter plowing by private parties shall require prior approval by the Selectboard. Any winter plowing of a Class 4 road permitted by the Selectboard to parties other than the Town shall not nullify the effect of 23 VSA § 3206(b)(2).

Permission for private repair, maintenance, improvement, or restoration of Class 4 roads may be granted by the Selectboard under such conditions as it deems appropriate, including the posting of bonds and provision of signed releases relieving the Town of liability. The road shall be left in comparable or better condition as when permission is granted.

7.3 Trails. The Town shall not be responsible for maintenance or upkeep on trails. Permission for private repair, maintenance, improvement, or restoration of trails may be granted by the Selectboard under such conditions as it deems appropriate, including the posting of bonds and provision of signed releases relieving the Town of liability. The trail shall be left in comparable or better condition as when permission is granted.

7.4 Control of Class 4 Highways and Trails. The Selectboard may:

A. Establish vehicle weight limits;

B. Prohibit or restrict wheeled vehicles on trails and post signs and barriers;

C. Require permits for temporary heavy equipment access, and stipulations for damages and repairs as conditions of permit approval, and require bonds or advance deposits against the cost of repairs and damages;

D. Set speed limits;

E. Apply other controls approved by the Selectboard.

SECTION 8. SURVEY PROCEDURES & REQUIREMENTS

The Selectboard may authorize the survey of existing highways and associated rights-of-way, easements or fee title. The provisions of 19 V.S.A. §§ 33-35 shall be followed.

SECTION 9. Accepting a Private Right-of-Way as a Town Highway

The Town of Underhill will not accept development roads, private roads or commercial or private driveways as Town highways, and will not take over any associated improvements such as drainage structures or facilities.

SECTION 10. LAYING OUT, ALTERING, DISCONTINUING OR RECLASSIFYING A TOWN HIGHWAY

The provisions of Chapter 7 of Title 19 of the Vermont Statutes Annotated shall apply. When reclassifying roads from class '4' to class '3', the road shall be brought up to the standards established in this ordinance. Ordinarily, the Selectboard will require the petitioner(s) to bear the costs of such an upgrade.

SECTION 11. ADMINISTRATION, APPEALS, & ENFORCEMENT

10.1 Administration of this ordinance is under the supervision and control of the Selectboard.

10.2 The Road Foreman shall have only the powers and authorities delegated to him or her by the Selectboard.

10.3 The enforcement provisions of Chapter 59 of Title 24 of the Vermont Statutes Annotated apply. A civil penalty of not more than the statutory amount may be imposed for a violation of this ordinance; each day the violation continues shall constitute a separate violation.

10.4 The Selectboard shall adopt a fee schedule for the administration of requirements associated with this ordinance.

The Clerk of the Town of Underhill, Chittenden 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 February 3, 2015.

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.

4. A concise summary of the ordinance was published in the Burlington Free Press newspaper on February 5, 2015, accompanied by information as to the name of the municipality; the name of the municipality's website; the title of the ordinance or rule; the name, telephone number, and mailing address of a municipal official designated to answer questions and receive comments on the proposal; and where the full text may be examined. The same notice explained citizens' rights to petition for a vote on the ordinance or rule at an annual or special meeting as provided in section 1973 of Title 24, Vermont Statutes Annotated. A copy of the newspaper publication was entered into the Selectboard minutes on February 18, 2015.

5. Notice to petition: None filed: ✓ Date filed:_____

Signed:

Sherri Morin

Sherri Morin, Town Clerk
Town of Underhill