

TOWN OF MENDON

HIGHWAY PROTECTION AND SPECIFICATIONS ORDINANCE

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### Section 1: AUTHORITY AND ADOPTION

Pursuant to 19 V.S.A. Chapter 11 and 24 V.S.A. 1971 et seq., as amended, the following ordinance is promulgated in order to protect and regulate the use of Town highways and highway rights-of-way in the Town of Mendon.

This ordinance is designated a civil ordinance, pursuant to 24 V.S.A. 1971, et seq., as amended.

Any policy or ordinance to regulate the use of Town highways and highway rights-of-way or to establish highway specifications previously adopted by the Town of Mendon is hereby amended by deleting such policy or ordinance in its entirety upon the effective date of this ordinance as set forth below pursuant to 24 V.S.A. 1971 et seq., as amended.

### Section 2: DEFINITIONS

A. Selectboard shall mean the legislative body of the Town of Mendon as it may appear from time to time.

B. Town Highways: All highways in the Town of Mendon are classified as Class 2, 3, or 4 (Class 4 to include Trails and Pent Roads). The purpose of each class, and the Town's responsibility thereto, is as follows (19 V.S.A. 310 and 302, as amended):

1. Class 2 Town Highways are those highways selected as the most important highways in each town. As far as practicable, they shall be selected with the purpose of securing trunk lines of improved highways from town to town and to places which by their nature have more than normal amounts of traffic. The Selectmen, with the approval of the agency, shall determine which highways are to be Class 2 highways.

2. Class 3 Town Highways are all traveled Town highways other than Class 1 or 2 highways. The Selectmen, after conference with a representative of the agency, shall determine which highways are Class 3 Town 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. This would include but not be limited to sufficient surface and base, adequate drainage, and sufficient width capable to provide winter maintenance.

3. Class 4 Town Highways are all other Town highways. The Selectmen shall determine which highways are Class 4 Town highways.

4. Trails are public rights-of-way which is not a highway and which previously was a designated Town highway having the same width as the designated Town highway, or a lessor width if so designated; or a new public right-of-way laid out as a trail by the Selectmen for the purpose of providing access to abutting properties or for recreational use. Trails shall not be considered highways, and the Town shall not be responsible for any maintenance, including culverts and bridges.

5. Pent Road is any Town highway which, by written allowance of the Selectmen, is enclosed and occupied by the

adjoining landowner with unlocked stiles, gates or bars in such places as the Selectmen designate.

C. Highway Right-of-Way shall be 3 rods (49.5 feet) wide unless otherwise properly recorded. Many Town highway rights-of-way in the Town of Mendon are fifty feet wide.

### Section 3: TOWN HIGHWAY CONTROL

All Town highways shall be under the general supervision and control of the Selectmen of the town where the roads are located. Selectmen shall supervise all expenditures (19 V.S.A. 303., as amended).

### Section 4: OBSTRUCTING TRAVEL

It is unlawful to obstruct a public highway in a way that hinders public travel, or impedes or injures a person traveling on the highway or trail. Logging equipment may be left temporarily in the right-of-way of a trail, provided it does not block the trail.

### Section 5: INJURING HIGHWAY

It is unlawful to damage a highway, or a bridge, or any of their components by destroying or removing planks, posts, timber, stones or asphalt surface, or by digging pits for gravel, clay or for other purposes.

It is unlawful to injure a public highway by obstructing or diverting a stream, watercourse or sluice, or by dragging logs or timber or any other objects on the road surface.

### Section 6: WATER INTO RIGHT-OF-WAY

It is unlawful to obstruct a ditch, culvert or drainage course that drains a highway, or to fill or grade the land adjacent to a highway so as to divert the flow of water onto the highway right-of-way, without written permission from the Selectboard. (19 V.S.A. 1111(b), as amended).

### Section 7: SNOW OR OTHER SUBSTANCE LEFT IN PUBLIC HIGHWAY

It is unlawful to deposit any substance that is likely to injure or impede the travel of any person, animal or vehicle on the highway (23 V.S.A. 1126, 19 V.S.A. 1105, 19 V.S.A. 1111(c), as amended).

### Section 8: STRUCTURES IN RIGHT OF WAY

It is unlawful to build a fence or building, or deposit material of any kind within a highway right of way without written permission from the Selectboard. (19 V.S.A. 1111(b), as amended).

### Section 9: MAILBOXES

The Town of Mendon will not be responsible for mailboxes in the highway rights-of-way damaged by snowplows or other municipal equipment.

### Section 10: INSTALLING PIPES AND WIRES IN HIGHWAY

It is unlawful to dig up or excavate a trench in a public highway for the purpose of installing pipes or wires without written permission from the Selectboard. (19 V.S.A. 1111(c), as amended).

### Section 11: INSTALLING CULVERTS IN HIGHWAY RIGHTS-OF-WAY

Landowners must obtain a permit to install culverts in the highway right-of-way. The Selectboard or Road Commissioner may specify the size culvert necessary for a given application as part of the permit approval process.

### Section 12: MAINTENANCE, REPAIR AND REPLACEMENT OF CULVERTS

Landowners are responsible for the maintenance, repair and replacement of culverts serving driveways, private roads and logging roads accessing a public highway.

If a landowner neglects the maintenance, repair or replacement of defective culverts, and such neglect results in damage to a public highway, the Selectmen shall order the repair and/or replacement of the culvert as necessary to protect the public highway. Actual costs of culvert repair and/or replacement, and of repair of the damage to the public highway, will be the responsibility of the landowner.

### Section 13: TEMPORARY ROADS

Temporary roads are subject to the same restrictions and specifications as driveways and private roads. A permit must be obtained before the construction of a temporary road which joins a Town highway. The permit will state the length of time the temporary road may be used. The Road Commissioner will determine whether culverts are necessary. Culverts will be supplied by the applicant. Culverts must be removed and the highway right-of-way restored to its original condition by the applicant within thirty (30) days of expiration of the permit. After thirty days the Town of Mendon will perform the restoration work and the applicant will be responsible for actual restoration costs, payable to the Town of Mendon. The Selectboard reserves the right to require a deposit and/or performance bond prior to granting a permit for a temporary road.

### Section 14: PERMITS

A permit must be obtained from the Selectboard by anyone wishing to use any part of a highway right-of-way for a driveway, private road, temporary road, etc., or to install culverts, pipes and wires within a highway right-of-way. (19 V.S.A. 1111(a), as amended).

### Section 15: PERMIT RESTRICTIONS AND CONDITIONS

Pursuant to 19 V.S.A. 1111(b), as amended, the following regulations are established for the construction of driveways, private roads, logging roads, etc., and for the installation of culverts, pipes and wires within the right of way of all Town highways in the Town of Mendon.

1. The permit holder shall take all necessary precautions to safeguard the travelling public until the work is completed.
2. No installations or parking will be allowed within the highway right of way.
3. All construction costs and costs of materials to be at permit holder's expense. All expenses incurred by the Town in connection with these processes must be reimbursed by the applicant.
4. All applicable Town regulations and State Environmental Control Commission regulations must be met.
5. Drives to be constructed as per Vermont Agency of Transportation Standards for Residential and Commercial Drives, Standard B-71, of March 10, 1995.
6. The driveway grade must drop five (5) inches within twelve (12) feet of the traveled portion of the highway, then may rise no more than 15% within the next twelve (12) feet.
7. The angle at which the driveway enters the road shall be determined by the Selectboard or Road Commissioner, who in their determination will be guided by safe and practical ingress and egress to the Town highway.
8. Underground services will require a sleeve and markers to locate it and will be referenced on the map submitted with the permit.
9. Gravel, base and surface courses shall be replaced, if disturbed, by the permit holder.
10. Backfill shall be thoroughly compacted to prevent future settlement of the highway.

11. A fifteen (15) inch minimum diameter culvert will be installed under drive. The Selectboard or Road Commissioner may specify a larger culvert if deemed necessary for a given application.

12. All new drainage pipes within highway right of way shall be approved by the Selectboard or Road Commissioner before back filling trenches.

13. No effluent from septic tank or drainage field will be allowed to drain onto highway right of way.

14. The slopes within the highway right of way shall be graded in a workman like manner, seeded and mulched.

15. The Town of Mendon Road Commissioner may supervise and inspect the work in progress at his discretion.

16. An additional inspection and approval shall be obtained prior to paving drives.

17. The Applicant or Applicant's Agent shall be responsible for any damage, repair or maintenance of the facility within the highway limits.

18. All construction shall be completed within one year of the approved application.

#### Section 16: ACCEPTANCE OF CLASS 3 TOWN HIGHWAYS

A. Application: A developer of a housing project or business development, or the owner of a dwelling may apply to the Town for acceptance of his/her road as a Class 3 Town Highway after meeting the criteria set forth herein. The application must be accompanied by blueprints and a survey in a form acceptable to the Board of Selectmen for accuracy, thoroughness and legibility, and a proposed warranty deed of the land to be conveyed for highway purposes; said warranty deed to be in a form acceptable to the Town Attorney.

B. Unacceptable Roads: No road serving less than three (3) houses will be accepted. Any road under five hundred (500) feet in length will be considered a private drive and will not be accepted.

C. Warranty Deed and Title: Conveyances of all proposed roads being dedicated to the Town shall be by means of a good and sufficient Warranty Deed conveying good and marketable title to the proposed road. Title examination, together with title certificate, shall be furnished to the Town by an attorney approved by the Board of Selectmen.

D. Expenses: All expenses incurred in the process of laying out and constructing proposed highways shall be borne by the applicant. All expenses incurred by the preparation of the Warranty Deed, the Title examination and other legal expenses shall be borne by the applicant. All expenses incurred by the Town in connection with these processes must be reimbursed by the applicant.

E. Inspection: The Board of Selectmen or its designate will inspect the proposed road within 30 days of receiving the application for acceptance. No roads will be inspected between November 1 and May 1 of each year.

F. Hearing: The Board of Selectmen or its designate will, within 60 days of receipt of the completed application, hold a public hearing to receive suggestions and recommendations on the application. Affected property owners will receive 30 days notice of the hearing, and notice will be posted in the Town Office and published in a newspaper of general circulation not less than 10 days before the hearing.

G. Acceptance: A decision on the application will be made by the Selectmen at the next duly called meeting of the Board of Selectmen after the public hearing. A copy of the decision, in writing, will be sent to the applicant and will be posted in the Town Office.

H. Road Names: At the time that a road is accepted by the Town, the Selectmen will assign the official name of the road, after taking into consideration all legitimate requests that were submitted with the road acceptance application.

#### Section 17: CLASS 3 TOWN HIGHWAY SPECIFICATIONS

Specifications: The following are the minimum specifications for roads built in the Town of Mendon.

1. All proposed roads will be required to meet all material and construction methods of the Vermont Agency of Transportation Standards for Town and Development Roads, Standard A-76, of March 10, 1995.
2. All proposed roads shall have a minimum fifty (50) foot right-of-way. The traveled roadway shall be in the center of the right-of-way and shall be no less than twenty-four (24) feet wide.
3. Roads shall consist of a minimum sub-base of bank run gravel of at least eighteen (18) inches, a shaping course of one and one-half (1") inch crushed gravel of at least four (4) inches in depth. Where roads are built on clay, an approved filter blanket (a GEO textile fabric) on six (6) inches of sand cushion below the gravel sub-base will be required.
4. The Town shall require paving of all roads prior to being considered for acceptance. Paving shall be done in two (2) courses. The first course will be two (2) inches and the second course will be one (1) inch in thickness.
5. The Board of Selectmen, at their sole discretion, may waive the paving requirement if it is demonstrate that this would be in the best interest of all parties involved.
6. All paved and gravel roads will be required to set for one year prior to acceptance. This requirement will not be waived, whether the road is paved or gravel.
7. All proposed roads shall be so drained that no water will remain and collect in any one spot, or form a pool. To ensure proper drainage, sufficient ditches must be dug along both sides of the proposed road. Culverts under driveways must be at least fifteen (15) inches in diameter. Culverts under roads must be at least eighteen (18) inches in diameter and not less than thirty (30) feet long, or larger depending on the need as determined by the Road Commissioner. Underdrains shall be installed as required. An outfall for all drainage shall be at approved locations. Posts, or posts and guardrails shall be required where fills exceed ten (10) feet in height and at all culverts, or where the Road Commissioner determines a hazard warrants installation. Appropriate easements shall be obtained prior to the installation of any drainage facility.
8. The center line grade of all proposed roads shall not exceed ten (10) percent.
9. Curve radius for any proposed road shall be a minimum of two hundred seventy-five (275) feet, measured from the center line of the road.
10. Dead-end roads shall terminate in a circular turn-around having an outside radius of not less than seventy (70) feet, measured to the edge of the traveled portion of the highway, or in a non-circular turn-around approved by the Road Commissioner.
11. Suitable vegetation shall be planted and established wherever construction has left the earth subject to erosion. This must be approved by the Road Commissioner.
12. Brush and trees shall be cut to a width of at least eight (8) feet from each side of the traveled surface, and shall be removed from the right-of-way.
13. All Town highway repairs and maintenance will be done with materials that meet current Vermont Agency of Transportation Standards Specifications.

#### Section 18: CLASS 4 TOWN HIGHWAY AND LEGAL TRAIL POLICIES

- A. Control: The Selectmen shall exercise control of Class 4 Highways and Legal Trails to ensure their integrity as public rights of way.
- B. Permits: A permit must be obtained from the Selectboard by anyone wishing to use any part of a Class 4 Highway

or Legal Trail right-of-way for a driveway, private road, temporary road, etc., or to install culverts, pipes and wires within a highway right-of-way. (19 V.S.A. 1111(a), as amended).

C. Existing Use: Existing rights-of-way of Class 4 Highways and Legal Trails as of the date of adoption of this Ordinance shall be retained by the Town for purposes of access to private property, agricultural and forest management, and recreational multi-use activities.

D. Summer Maintenance: The Town shall not provide any summer maintenance of Class 4 Highways except as set forth herein. Such maintenance will be limited to repair or replacement of bridges, culverts and ditches as necessary to control erosion of highways or runoff to adjacent property, and removal of obstructions.

E. Winter Maintenance: The Town shall not provide any winter maintenance on Class 4 Highways. Plowing by private parties shall be only with the permission of the Selectmen. Any winter plowing of a Class 4 Highway allowed by the Selectmen to parties other than a municipality shall not nullify the privileges under 23 V.S.A. 3206(b)(2), as amended.

F. Legal Trails: The Town shall not provide any maintenance or upkeep on Legal Trails. Such maintenance or upkeep by private parties shall be only with the permission of the Selectmen.

G. Change in Classification: Class 4 Highways may be reclassified to trail status, discontinued, or upgraded to Class 3 or higher status. Legal Trails may be discontinued or upgraded to Class 4 status or higher. Reclassification will be done in accordance with 19 V.S.A. 708-716, as amended, and upon findings by the Selectmen that the public interests will be substantially advanced by such change in status.

H. Highway Specifications The Selectmen may require that a Class 4 Highway or Legal Trail be upgraded to meet the specifications of Section 17 of this Ordinance before considering the reclassification of said Class 4 Highway or Legal Trail to a Class 3 Highway.

H. Costs: The Selectmen may require that the cost of upgrading a Legal Trail to a Class 4 Highway, or a Class 4 Highway or Legal Trail to a Class 3 Highway be assigned to the petitioners. (19 V.S.A. 711, as amended).

#### Section 19: OVERWEIGHT VEHICLES

A. Pursuant to 23 V.S.A., Subchapter 15, as amended from time to time, vehicular use of highways and bridges is subject to limitation and regulation regarding gross vehicle weights, tire and axle weights and overall length and width.

B. Written approval of the Selectmen, or their authorized agent, may be granted for use or travel over highways by vehicles in excess of the legal size and weight limitations. (23 V.S.A. 1400a, as amended). Granting of this approval shall be regulated by the Town of Mendon Overweight Truck Permit Policy, as established by Board of Selectmen, and amended from time to time.

#### Section 20: DESIGNATION AS A CIVIL ORDINANCE; ADDITIONAL REMEDIES

A. For the purposes of 24 V.S.A. 1971, as amended, this Ordinance is designated as a civil Ordinance.

B. In addition to the remedies provided herein or otherwise available at law, this ordinance may be enforced pursuant to 24 V.S.A. 1974(a), as amended, at the election of any Enforcement Official who shall be, and is hereby, designated as the issuing municipal official for the purpose of pursuing civil remedies under 24 V.S.A. 1977 et seq., as amended.

#### Section 21: PENALTIES FOR VIOLATION

A. Any person, corporation, municipality or any other entity who violates any provision of this ordinance shall be subject to the fines, penalties, forfeitures, or other remedies set forth for such violations by the laws of the State of Vermont, as those laws may be amended from time to time. In aid of the foregoing, but not in limitation thereof, reference is hereby had to 24 V.S.A. 1974(a) and 19 V.S.A. 1105, 1108 and 1111, as amended.

## Section 22: SEVERABILITY

Any part or provision of this ordinance shall be considered severable, and the invalidity of any part or section will not be held to invalidate any other part or provision of this ordinance.

Approved on this 13th day of June, 1996

/s/ Ira M. Pike Chairman

/s/ J. Cortland Jones

## Section 19: OVERWEIGHT VEHICLES

A. Use of Mendon Town highways and bridges by unpermitted vehicles in excess of the weight, height, length, width and tire and axle restrictions as provided under 23 V.S.A. Chapter 13, Subchapter 15, or greater restrictions as shall be lawfully imposed by the Selectmen, shall be unlawful. Permits for overweight vehicles may be issued by the State of Vermont or the Selectmen, pursuant to 23 V.S.A. 1392, 1400, 1400a and other applicable state laws and town ordinances.

B. Unless lawfully altered by the Selectmen according to 23 V.S.A. 1396, weight restrictions on all bridges on Class I, II, III and IV town highways and all highways designated as Class II, III and IV shall be as set forth in 23 V.S.A. 1392.

C. The Selectmen are authorized to set different weight restrictions in accordance with 23 V.S.A. 1396, 1397 and 1398.

D. Fees for the issuance of overweight permits shall be determined by the Selectmen in accordance with 23 V.S.A. 1400a(c). In addition thereto, there shall be an administrative fee for the issuance of overweight permits in accordance with 23 V.S.A. 1400a(d). The Selectmen may require a bond of certificate of insurance as in their judgement seems adequate to cover any possible damage that may be occasioned by the use of an overweight vehicle.

E. Enforcement of this Section 19 shall be governed by 23 V.S.A. 1409 and 14100.

F. Penalties are hereby established for violations of this Section 19 in accordance with the provisions of 23 V.S.A. 1391a for overweight vehicles and 23 V.S.A. 1434 for vehicles in excess of applicable height, width and length restrictions.

G. The Town of Mendon reserves any applicable civil causes of action for any physical damage to town highways or other town property and for any damage to persons or property that result from use of the town highways by overweight vehicles, whether permitted or underpermitted and for violations thereof.

H. Any and all references to provisions of the law or any ordinance shall include any and all amendments thereto that are enacted from time to time.