**TOWN OF GRAFTON**

 **HIGHWAY ACCESS POLICY**

**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:

"Access Permit" means the permit issued by the Selectboard to access the town highway system after following the procedural requirements of this Policy. As used in this Policy “Access Permit” includes Temporary Access Permit, depending on the context in which it is used. “Temporary Access Permit” means an access permit for a limited purpose for a limited length of time, and a date certain. The applicant/landowner shall remove the remove the Access in its entirety and restore the area, which was disturbed by its construction and/or removal, to its former condition. The removal and restoration work must be completed within 30 days of the termination of the permit. The permit shall expire on the occurrence of the earlier of a.) the purpose, for which it was intended, no longer exists or b.) the length of time for which the access was granted has expired. Except for the work of restoration, the Road Foreman shall deny use of the access when the permit has expired. Appeal of the Road Foreman’s decision is to the Selectboard.

"Highway" means the highway system for the Town of Grafton, 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.

"Notice" means the written Notice of Permission to Proceed, described in Section 5c of this Policy, issued by the Selectboard after an application for an access permit is approved.

"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 Grafton.

"Town" means the Town of Grafton.

"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, regrade, or resurface 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 Access Permit has been obtained from the Town Road Foreman, who is the Administrator of this policy, in accordance with this Policy.

[optional] A driveway or other access created or developed by the Town for official Town purposes is not required to obtain an Access Permit.

**Section 5 -- Process.**

1. **Application and Minimum Deposit.**

**Application.** A person may apply for an Access Permit from the Town using the Access Permit Application form provided by the Town Administrator’s Office. 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 $(now $25)\_\_\_ shall be paid at the time the application is submitted. A completed application must be submitted to the Road Foreman at least \_\_\_\_[*insert number of days*] before work is scheduled to begin. The Road Foreman 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.

**Minimum Deposit.** The Selectboard requires a minimum deposit of Five Hundred Dollars ($500.00) and a maximum to be set by the Road Foreman, which Deposit shall be reimbursed to the Applicant, provided the requirements of f. and g. of this Section have been met, as set forth in subparagraph i. of this Section; provided, however, the deposit for a Temporary Access Permit shall be retained until the requirements of subparagraph h. of this Section have been met, as set forth in subparagraph i. The amount of deposit set by the Road foreman may be appealed to the Selectboard.

**b. Consideration.**

[Optional] Prior to any action by the Road Foreman, the Foreman may confer with Grafton Fire and Grafton Rescue the accessibility of the access by emergency vehicles. Should Fire and/or Rescue have an issue, their response must be in writing to the Road Foreman, who shall resolve the issue. The resolution of the matter by the Road Foreman is appealable by the Permitee or Fire or Rescue to the Selectboard.

The Road Foreman will consider a completed application. The Road Foreman may approve, approve with conditions/modifications, or deny an application upon consideration of the approval standards set forth in Section 7 of this Policy. The Permitee ;may appeal this decision to the Selectboard.

**c. Notice of Permission to Proceed.** If an application is approved, the Road Foreman will issue written permission in the form of a Notice of Permission to Proceed ("Notice"). The Notice will list the specifications, requirements, and restrictions for the work. The Notice may require supervision and/or inspection by the Town. The Notice 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 15 days after construction is completed.

**e. Final inspection.** The Road Foremanshall conduct a final inspection within 15 days of receipt of the Notification, described in d. above, to determine if the work has been completed according to the requirements listed in the Notice.

**f. Issuance of Permit.** If, after inspection, it is determined that the Access has been constructed / developed in compliance with the Notice, a written Permit shall be issued by the Road Foreman within 7 days after final inspection.

**g. Recording of Permit.** A Permit shall not be valid until recorded in the Town Land Records at the expense of the Permittee.

**h. Temporary Access Permit; Removal and Restoration of Site.** When the Temporary Access Permit has expired the Permittee shall within 30 days remove the Access in its entirety and restore the area, which was disturbed by its construction and/or removal, to its former condition. The Permittee shall then notify the Road Foreman that the removal and restoration is complete. The Road Foreman shall within 7 days inspect the site and, when the site is in compliance with the Notice to Proceed, provide the Permittee with a written Noticeof Compliance stating that the removal and restoration is in compliance with the Notice to Proceed. The Permittee, at its own expense, must record that Notice of Compliance in the Land Records. **i.** **Refund of the Deposit.**

1. **For Access Permit.** When the Permittee has fulfilled the requirements of f. and g. of this Section 5., the Town shall within 30 days of the recording described in g., above, refund to the Applicant the Deposit paid by the Applicant to the Town as required by a., second paragraph, of this Section 5., and as set forth in the Application.
2. **For Temporary Access Permit.** When the Permittee has fulfilled the requirements of h. of this Section 5., the Town shall within 30 days of the recording of the Notice of Compliance described in subparagraph h., above, refund to the Applicant the Deposit paid by the Applicant to the Town as required by a., second paragraph, of this Section 5., and as set forth in the Application.

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

An application for an Access 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; if it is a Temporary Access Permit application so state and state the specific purpose for which the Access is needed, and the length of time, including a specific end date, the Access is expected to be used.

 (5) The Application fee, noting that it has been paid to the Town at the time the Application is presented to the Road Foreman;

 (6) The Minimum Deposit amount as set by the Road Foreman shall be set forth and the application shall indicate whether or not is has been paid to the Town at the time the Application is submitted.

 (7) 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;

 (8) Any additional information the applicant wishes to furnish that assists the Road Foreman or its designee in determining that the proposed access will comply with the applicable standards; and

 (9) The signature of the applicant or an individual authorized to act for the applicant.

**Section 7 -- Approval conditions.**

When issuing a Notice of Permission to Proceed under this Policy (See APPENDIX B), the Road Foreman 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" (See APPENDIX D).

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. [*Insert optional specific provisions that relate to the above 3 criteria.*]

The minimum security deposit, cash or bond, or a higher deposit if Road Foreman so requires, as described in Section 5a., shall be deposited with the Town or posted in favor of the town to ensure compliance with the conditions of the Notice or Permit and protection of the town highway system. In addition, the Road Foreman 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 Notice of Permit shall expire \_\_\_\_\_[*insert time period*] after the issuance of that Notice unless the work authorized by such Notice 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 § 1111(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 permission from the Town in the form of a written Notice of Permission to Proceed before any repair or replacement 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 Notice/Permit as required by this Policy, fails to abide by the terms and/or conditions of a Notice/Permit, or misrepresents any information contained within or in support of a Notice/Permit application, the Selectboard may resort to any or all of the following enforcement options:

**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.

Adopted this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 201\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**APPENDIX A**

**Town of Grafton, VT**

**Access Permit Application Form**

**Application # \_\_\_\_\_\_\_\_**

**NOTICE TO APPLICANT:** **This form is for use in conjunction with the Town's Highway Access Policy. Before submitting an application, applicants are urged to review the Town's Highway Access Policy in full.**

If an application is approved, the Road Foreman will issue written permission in the form of a Notice of Permission to Proceed ("Notice"). The Notice will list the specifications, requirements, and restrictions for the work. The Notice may require supervision and/or inspection by the Town. The Notice will state the date on which construction / development of the Access may proceed.

Once construction/development is completed, the Road Foreman shall conduct a final inspection to determine if the work has been completed according to the requirements listed in the Notice.

If, after inspection, it is determined that the Access has been constructed / developed in compliance with the Notice, a written Permit shall be issued by the Road Foreman within 7 days after final inspection. An access is not considered legally permitted until the written Permit has been recorded in the Town Land Records at the expense of the Permittee.

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Name of Applicant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address and telephone number of Applicant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If Applicant is an organization or corporate entity, list the principal officers of Applicant and any other individual authorized to represent the applicant group or entity applying for the Permit:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If Applicant is an organization or corporate entity, list the name address, email and telephone number of individual making the application:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Location of the proposed access: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If the applicant is not the owner of the premises where the proposed access will be constructed, list the name and contact information of the owner or other person that has the authority to consent to the use of the premises and attach a signed statement from that person stating that consent is given to the applicant to have the access constructed on those premises:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The date on which construction is proposed to begin: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_ This is an Application for a Temporary Access Permit for the specific purpose of \_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and for the duration of (length of time expected) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ending when the specific purpose is completed or on (specific date) \_\_\_\_\_\_\_\_\_\_\_\_\_, whichever first occurs.

Attach a visual depiction of the premises indicating location, layout, state and local highways, entrances and exits, traffic flow patterns, parking and land uses of the surrounding area.

Describe the arrangements that have been made to protect the public health, safety, welfare and convenience of the traveling public during construction including, but not limited to, arrangements for traffic control, crowd control, and waste and sanitation facilities:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Applicant may provide any additional information that may assist the Selectboard.

Fee paid: $\_\_\_\_\_\_\_\_\_\_\_

Security deposit paid: $\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_

Signature of the applicant Date

Or an individual authorized to act for the applicant

**FOR TOWN USE ONLY:**

**Application received by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [town official] on \_\_\_\_\_\_\_\_\_ [date]**

**Application fee of $\_\_\_\_\_\_\_\_\_\_, received by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[form of payment]**

**Security Deposit of $\_\_\_\_\_\_\_\_\_\_, received by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[form of payment]**

**APPENDIX B**

**Town of Grafton**

**Notice of Permission to Proceed with Construction / Development of Access / Right of Way**

**The Road foreman hereby acknowledges** the Town has received from the Applicant/Property Owner the fee in the amount of $\_\_\_\_\_\_\_\_\_ and the security deposit required for this project in the sum of $\_\_\_\_\_\_\_\_\_\_.

**Notice is hereby given** to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [name of Applicant / Property Owner] that the Road Foreman of the Town of Grafton hereby grants permission to proceed with the construction / development of the proposed access/driveway/curb cut at Parcel #\_\_\_\_\_\_\_\_\_\_\_, Street Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, which provides access to / connects with Town Highway # and Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_as per the Access Permit Application # \_\_\_\_\_\_\_\_\_, submitted to the Town on \_\_\_\_\_\_\_\_\_\_\_[date]. Construction / development may begin on or after \_\_\_\_\_\_\_\_ [date] and must proceed according to the following conditions and restrictions:

[If necessary, attach or continue on reverse side of this sheet.]

Permission granted in this Notice will expire \_\_\_\_\_days from the date of issuance and is not transferrable.

This Notice does not constitute an Access Permit. A Permit authorizing the use of the access and recognizing completion of the project will be issued and become effective only after it is determined that compliance with all conditions, specifications, and restrictions described in this Notice to Proceed are met. The Road Foreman for the Town of Grafton will have the authority and responsibility to determine when the conditions, restrictions, and specifications above are met.

Upon receipt of this Notice, you are hereby authorized to proceed with the project in accord with the conditions, specifications, and restrictions described herein. Approval covers only the work described in your Access Permit Application, as modified by the conditions, restrictions, and specifications listed above. You will be held financially responsible for any damage caused to the Town highway system resulting from the development or construction of a driveway/access, regardless of whether such development or construction has been authorized by the Town.

This Notice does not relieve you from any requirements imposed by other local, regional, or State agencies.

Issued on: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[date]By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Road Foreman**APPENDIX C**

**Town of Grafton**

**Access / Right of Way Permit**

It is the determination of the Road Foreman of the Town of \_\_\_\_\_\_\_\_\_\_ that all of the conditions, restrictions, and specifications described in Access Permit Application # \_\_\_\_\_\_\_\_\_, as modified by the relevant Notice to Proceed, which was issued by the Town on \_\_\_\_\_\_\_\_\_[date], have been met [For Temporary Access Permit check the following:

\_\_\_\_ “Except for the requirements for removal of access and restoration of site at expiration of the permit”.]

**Therefore, Permit # \_\_\_\_\_\_\_\_\_\_\_\_\_ is hereby issued to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

[Applicant / Property Owner], as Permitee for the access/driveway/curb cut located at Parcel # \_\_\_\_\_\_\_\_\_\_\_\_ , Street Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, which provides access to / connects with town highway (name and #)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. All of the conditions, restrictions, and specifications described in Access Permit Application # \_\_\_\_\_\_\_\_\_, as modified by the relevant Notice to Proceed, which was issued by the Town on \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_, remain in force as conditions of this Permit as long as the present land use continues. Any change in the present land use will require a new Permit.

**This Permit shall not be valid and no security deposit shall be returned to Permittee until this Permit is recorded in the Town Land Records at the expense of the Permittee.**

The issuance of this Permit does not relieve Permittee from any requirements imposed by other local, regional, or State agencies.

In the event that there is a failure to adhere to the conditions, restrictions, and specifications described above, this Permit may be suspended by the Selectboard until compliance is obtained.

If there is continued use or activity after suspension, the Selectboard may physically close the driveway or access point if, in the opinion of the Selectboard, the safety of highway users is or may be affected.

As per 19 V.S.A § 1111(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.

Permit issued on \_\_\_\_\_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Road Foreman

Received for recording on \_\_\_\_\_\_\_\_, 20\_\_\_.

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Town Clerk

**APPENDIX D**

**Town of Grafton**

**A-76 and B-71 Standards**

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