

# **Town of Vermont Driveway and Field Road Permit Ordinance**

*Revised October 2020*

## **4.00 TITLE AND PURPOSE**

The title of this ordinance is the Town of Vermont Driveway Permit Ordinance. The purpose is to regulate the establishment, repair, construction, improvement, modification, and reconstruction of private driveways; to ensure that the methods of repair, construction, improvement, modification, and reconstruction practices used for any driveway will properly protect the public health, safety, and general welfare of persons in the Town of Vermont and to uphold the goals set forth in the Town's Comprehensive Plan.

## **4.01 CONSTRUCTION OF PRIVATE DRIVEWAYS REGULATED**

No person shall construct or modify a driveway on lands in the Town without complying with Sections 4.03 through 4.10.

## **4.02 DEFINITIONS**

**Driveway:** In this ordinance, a "driveway" is defined to mean private driveway, road, lane or other means of travel through any part of a private parcel of land, which provides access from any public highway to an improvement.

**Field Road:** In this ordinance, a "field road" is a road that is used only for accessing a property for agricultural, forestry, land management, hunting, or other similar purposes, and does not provide access to an improvement.

**Improvement:** In this ordinance, an "improvement" is a residential dwelling unit, a building or structure used for a business other than farming, or a structure that requires access for emergency services.

## **4.03 DRIVEWAY PERMIT REQUIRED**

1. No person may establish or construct a driveway or reconstruct, reroute, or alter an existing driveway in a manner that changes the existing topography of the land, without first obtaining a Driveway Permit from the Town. Application forms and information can be obtained on the town website, from the Plan Commission or the Town Clerk.
2. Any person prior to and at the time of seeking a Driveway Permit must own or have a legal interest in and current legal access to the land to which the permit(s) will apply.
3. No building permit for new residential construction will be issued until the driveway is routed with an appropriate base and erosion control. No occupancy permit will be issued until the driveway is completed in accordance to the specifications of this chapter and Chapter 14 of the Dane County Code and is approved by the Town Board.
4. With the approval of the Town Board, the driveway permit may allow for the excavation of a residential construction site to provide for site preparation and to provide fill for the proposed driveway.
5. Policies and procedures for the evaluation of a Driveway Permit application shall be established by resolution of the Town Board.
  - a. The Town Board shall define, within its policy and procedures, those maintenance or repair activities that do not require a driveway permit.
  - b. The Town Board shall define, within its policy and procedures, specific criteria and permit requirements for improvement of an existing driveway, as opposed to construction of a driveway.

- c. The Town Board shall establish a Driveway Committee to oversee the driveway permitting process.

#### **4.04 FIELD ROAD REQUIREMENTS; FIELD ROAD PERMIT REQUIRED**

1. A field road permit is required before constructing or modifying that part of a field road that traverses a public road right-of-way.
2. The first twenty four (24) feet of the field road adjacent to the public road right-of-way shall have a maximum of five percent (5%) grade. A slight dip across the field road shall be placed just before the culvert at the entrance to a public road to prevent debris from washing onto the public road.
3. The first twenty four (24) feet of the field road adjacent to the public road right-of-way shall have at least four (4) inches of two (2) inch rock on the roadbed.

#### **4.04 FEES**

A nonrefundable fee of an amount determined by a resolution of the Town Board as cited in Chapter 20 will be charged for each Driveway or Field Road permit application.

#### **4.05 EROSION CONTROL**

1. **EROSION CONTROL PLAN REQUIRED.** A Driveway Permit Application for any proposed driveway construction, improvement, or modification shall be accompanied by an erosion control plan. An erosion control plan shall include the driveway owner's intentions and timing to seed, mulch, ditch, place culverts and carry out other erosion control practices, all of which shall be accomplished within 60 days after beginning driveway construction or modification.
2. **ENGINEER'S PLAN.** An engineer's plan showing adequate erosion control measures is required for any segment of the proposed driveway which disturbs land with a grade of more than twenty percent (20%). See also requirements in Section 4.07. If an engineer's plan of the driveway is prepared, an erosion control plan shall describe practices which are not mentioned or required in the engineer's plan.
3. **EROSION CONTROL REQUIREMENTS.** All driveways shall be constructed and maintained to meet the erosion control and stormwater management requirements of Chapter 11 and Chapter 14 of the Dane County Ordinances.
4. **TEMPORARY EROSION CONTROL MEASURES.** Once the construction of the driveway has begun, all specified erosion controls shall begin immediately. For winter construction, erosion control alternatives must be implemented within 30 days and maintained until specified controls may be accomplished.

#### **4.06 SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS**

No permit shall be issued unless the materials submitted as required under Sections 4.05 and 4.07 demonstrate compliance with the requirements of this section. These specifications shall apply to construction of new driveways and major reconstruction of existing driveways. The Driveway Committee or the Town Board shall determine on a case-by-case basis which, if any, of these specifications shall be applied to minor improvement of existing driveways.

1. **COSTS.** All costs of construction of said driveway, including the cost of the culverts and engineer's plan, if required, shall be paid by the property owner requesting the permit.

2. SLOPE/GRADE:

a. To limit extensive excavation of hillsides, no land with a slope of more than 30% over a distance of 50 feet shall be disturbed for the construction, establishment, reworking or improvement of a driveway.

b. No land with a slope of more than 20% over a distance of 50 feet shall be disturbed unless erosion control measures are installed to limit soil loss from the construction site to no more than 7.5 tons per acre.

c. Maximum grade of the driveway or any portion of the driveway shall be no more than 13% over a distance of 20 feet.

d. Slope in percent is calculated from the vertical distance between two points divided by the horizontal distance between the points. Slope measurements are normally based on the elevation difference between points 25 to 50 feet apart. If a site's compliance with the slope limitation is uncertain, the maximum average slope shall be calculated as follows:

- Select as the starting point the location along the centerline of the proposed driveway with the steepest slope.
- Mark points 25 feet above and 25 feet below the starting point, measuring along the ground on the line of steepest slope.
- Measure the vertical elevation distance between these points. Multiply this number by 2.088 to determine the slope in percent.
- Repeat this measurement from two new starting points, measured 50 feet to either side of the original starting point along the centerline of the proposed driveway.
- Average the three slope measurements to determine the average slope.
- The applicant shall stake and flag the six points used for the slope measurement to allow verification by Town officials.

The slope may also be measured using a clinometer, transit level, or other instrument designed to read slope directly.

d. The side banks of the driveway shall be graded to a slope of no more than one (1) foot of vertical rise in each three (3) feet of horizontal distance, except where retaining walls or other erosion control measures are installed as specified in an engineer's plan approved by the Town Board.

e. A length of driveway of a minimum of twenty four (24) feet shall have a maximum of five percent (5%) grade at the point where the driveway enters onto a public road. A slight dip across the driveway shall be placed just before the culvert at the entrance to a public road to prevent debris from washing onto the public road.

Refer to the example diagrams in section 4.11, APPENDIX.

3. DRIVEWAY DIMENSIONS. The driveway shall be constructed with a minimum roadway of twelve (12) feet in width, with a minimum of four (4) feet on each side with a slope of one (1) foot of vertical rise for six (6) feet of horizontal distance. There shall be a minimum of twenty (20) feet from the center of the ditch on one side of the driveway to the center of the ditch on the other side. Curves in the driveway shall have an inside radius of no less than thirty-six (36) feet.

4. DRAINAGE CONTROL.

a. Each driveway shall have a culvert installed at the ditch line where the driveway meets the public road. The culvert shall be sized to carry the expected stormwater flow from a 2-year twenty-four hour storm event and a 10-year mean recurrence storm event and shall be at least eighteen (18) inches in diameter. Any modification to this requirement shall be approved by the Town Board and, in the case of county or state

highways, approved by the Dane County Highway Commission or district engineer of the Wisconsin Department of Transportation.

b. Ditches, roadway crowning, and culverts shall be designed to carry the expected stormwater flow from a 2-year twenty-four hour storm event and a 10-year mean recurrence storm event.

c. The driveway shall be planned, constructed, and maintained to prevent diversion of surface water onto public roads, and to prevent adverse impacts on adjoining properties.

5. **CONSTRUCTION METHODS/MATERIALS.** The driveway must have at least four (4) inches of two (2) inch rock on the roadbed, covered with two (2) inches of three-quarter (3/4) inch gravel.

6. **CLEARING.** An area twenty four (24) feet in width and twenty five (25) feet in height shall be cleared along the driveway right-of-way in order to permit the safe passage of emergency vehicles. In cases where such clearing would be environmentally damaging, the Town Board will determine if failure to clear will prevent or interfere with emergency service or create a safety hazard.

7. **SHARED ACCESS.** Access for more than one residence to a public road via any shared private road or driveway may be approved if the Town Board determines that a shared private road or driveway is desirable for environmental or safety reasons. A shared driveway shall be approved only if:

a. each property either has road access guaranteed by legal easement, or an alternative site for a private driveway;

b. a shared driveway maintenance agreement is executed and properly recorded with the Register of Deeds;

c. at least one turnout lane is provided, with a minimum roadway width of 24 feet and a minimum length of 75 feet; and

d. No more than four residences share a single driveway.

8. See also requirements for private access roads in chapter 7.06 (1) of the Town of Vermont Ordinances

9. Landowners shall be responsible to maintain their driveways in a condition that allows safe emergency vehicle access. The Town will not be responsible for the condition of private driveways unless there is an impact on public roads. See also Section 4.08.

#### **4.07 ENGINEERING PLAN**

1. **When Required.** The Town Board may require a plan prepared by a licensed engineer prior to any driveway construction or modification. An engineer's plan is required:

a. for any driveway or segment of a driveway whose construction requires the disturbance of land with a slope of more than twenty percent (20%);

b. for a driveway or segment of a driveway which requires a retaining wall or other special erosion control measure as determined by the Town Board; and

c. when the Town Board requests a plan.

2. **Contents of Plan.** The engineer's plan will include the following:

a. the precise location of the driveway or segment of driveway which requires an engineer's plan;

- b. the existing and future grade of the driveway showing no segment of the final grade exceeding thirteen percent (13%);
- c. location and structure of any retaining walls;
- d. location and size of any culverts;
- e. cross section of the driveway showing side banks and ditches. Cross sections should be shown for all segments that disturb side slopes over 20%; that will have a retaining wall; or will have cutting or filling; and
- f. erosion control measures to limit soil loss from the construction site to no more than 7.5 tons per acre for any segment of the proposed driveway that disturbs land with a slope of more than 20%.

3. Review of Plan. The Town Board, at its option, may engage a licensed professional engineer to review the plan, with all expenses of the review to be paid by the applicant. The town board shall, when applicable, seek review and comment from the local fire chief, or his or her deputies, regarding the proposed driveway and whether the proposed driveway will allow for adequate and timely emergency vehicle access and other equipment access to buildings and structures within the premises.

4. Engineer's Plan No Guarantee of Driveway Permit. The preparation of an engineer's plan does not guarantee the approval of a driveway permit.

#### **4.08 EXISTING DRIVEWAYS AND FIELD ROADS.**

When washing or other conditions created by existing driveways or field roads become a potential hazard to a public road, the Town Board shall notify the property owner of the conditions. Any property owner failing to correct such condition(s) within thirty (30) days after notice by the Town Board shall be subject to the Penalties of this ordinance and shall also be liable for any costs incurred by the Town to eliminate the hazard as provided in Wis. Stat. ss 66.60(16).

#### **4.09 APPROVALS, DENIALS, VARIANCES AND EXCEPTIONS**

1. Town Action. The town board shall approve or deny every Driveway Permit Application for new construction. The town board, or Driveway Committee, shall approve or deny every Driveway Permit Application for driveway improvement. The approving body may, as a condition of issuance, place specific restrictions or conditions on the permit, which shall require compliance by the permittee. Reasons for denying a Driveway Permit Application may include, but are not limited to:

- a. The inconsistency or nonconformance of the proposed driveway or highway access with any of the following:
  - This ordinance.
  - Any existing town comprehensive plan, master plan, or land use plan.
  - Town ordinances, rules, regulations, or plans.
  - Any applicable county, state, or federal laws, ordinances, rules, regulations, or plans.
- b. The driveway, bridge, culvert, or highway access, or any combination, when constructed, rerouted, reconstructed, or altered as proposed would be dangerous or unsafe for use by persons in the town.
- c. The application as filed and submitted is incomplete or contains false material as determined by the town board.

- d. Alternative driveway locations, bridges, culverts, and highway access locations will be safer for persons ingressing or egressing on the driveway and access point by motor vehicle or for persons traveling on the adjacent highway by motor vehicle.
- e. Alternative driveway locations or alternative highway access locations will preserve or better protect more prime or productive agricultural or forestry land in the town.
- f. Alternative driveway locations or alternative access highway locations will have less negative land use impact on historically, archaeologically, community, public, or culturally significant or environmentally sensitive parcels of land or facilities in the town, including land adjacent to or near the proposed driveway.
- g. The driveway will not provide timely and adequate ingress and egress for emergency vehicles.

2. Denial. In the event of a denial of a Driveway Permit Application, the town board shall recite in writing the particular facts upon which it bases its denial of the permit. The town board shall also afford the applicant an opportunity to review the town board's decision and present evidence at a public hearing after a Class 1 Notice under s. 985.07, Wis. stats., of the hearing to the town board refuting the determination. Thereafter, the town board may affirm, reverse, or modify its decision. The town board shall recite in writing findings for any decision to modify or reverse its initial determination. If the town board denies two consecutive applications for a Driveway Permit on the same parcel, no subsequent reapplication for a permit of the same type that was denied for that parcel will be considered within six (6) months of the second denial of either.

3. Effective Period. A Driveway Permit is effective for 36 months from the date of issuance.

4. Inspection. The Town Board, or its designees, shall have the right of inspection onto land pursuant to a warrant issued under s. 66.122, Wis. stats., for the purpose of inspecting existing or proposed driveways to determine if the driveways will allow for safe and timely travel by emergency vehicles or vehicles of the general public.

5. Variance. Any of the requirements of this chapter may be varied or excepted by the Town Board in such instances where, because of the unique nature of the property, rigid adherence to the above requirements would impose undue hardship, and the variance or exception includes measures to provide an equivalent level of health and safety protection as the provision being varied or excepted. The Town Board may grant an exception to the maximum slope restriction set forth in 4.06(2) in the case of natural rock outcroppings that would not be disturbed by the construction of the driveway.

6. The approval of a Driveway Permit application by the town does not constitute a determination that the driveway is safe, suitable for use or otherwise passable for vehicles of the general public or emergency vehicles, that public access and travel is authorized, or that the applicant or permittee is in compliance with this ordinance. No person may rely on the issuance of either permit to determine that a driveway, bridge, culvert, or highway access location is fit or safe for any purpose or that any person is in compliance with this ordinance or any State or County laws or ordinance. Issuance of a permit does not ensure that the driveway will be suitable for use or otherwise passable for emergency vehicles at any time after the date of issuance.

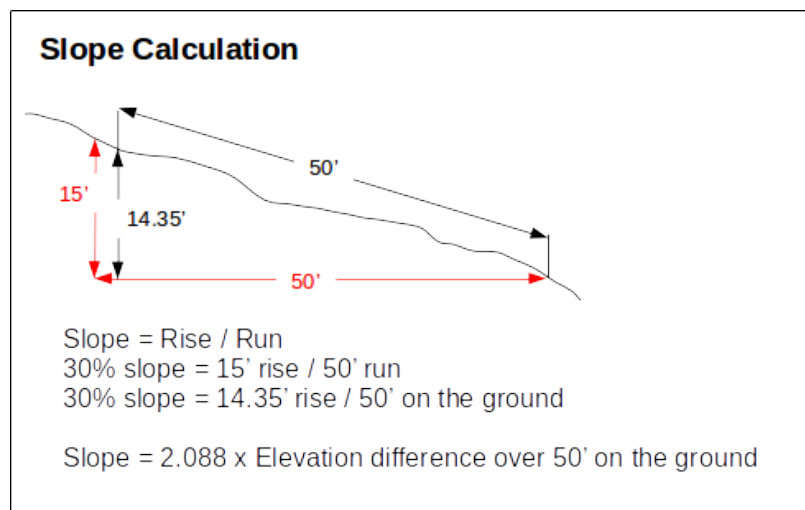
7. The approval of a Driveway Permit application does not establish or commit the town to future approval of any driveway as a public road or highway in the town.

#### 4.10 PENALTIES

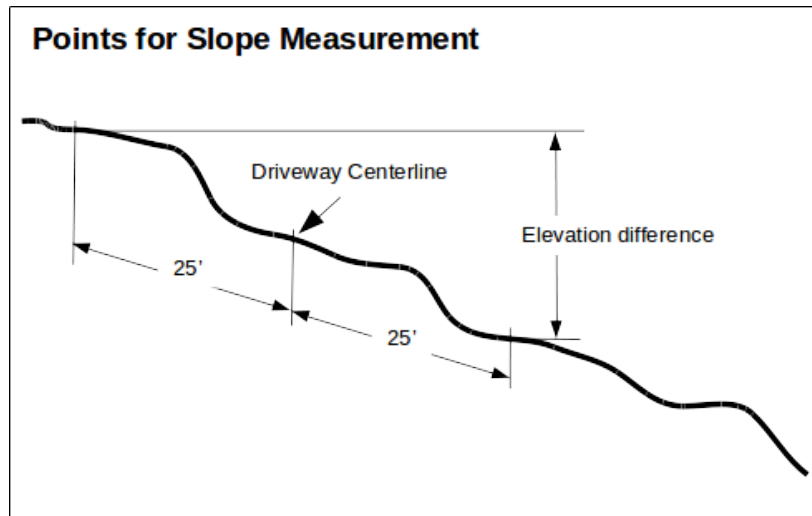
1. Forfeiture. Should a driveway be constructed or modified in violation of the provisions of this ordinance, the owner(s) of the land through which the driveway passes shall, upon conviction pay a forfeiture equal to two (2) times the fee charged for the permit application plus applicable assessments and fees and, in addition, shall make the corrections ordered by the Town Board within a period of time determined by the Town Board, but not less than ten (10) days. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations and require compliance with this ordinance.
2. Special Charge for Correction by Town. If the owner(s) of the land through which the driveway passes do(es) not make required corrections ordered by the Board under (1) within the specified time period, the Town Board shall cause the required corrections to be made and charge the cost of correcting such violations, including, when necessary, the return of disturbed land to its original condition. The Town's direct and indirect costs of correcting the violation, including but not limited to engineering, legal, administrative, materials and construction expenses, shall be imposed as a special charge against the property through which the driveway passes pursuant to Wis. Stat. ss 66.60(6).

#### 4.11 APPENDIX

Illustration of slope calculation



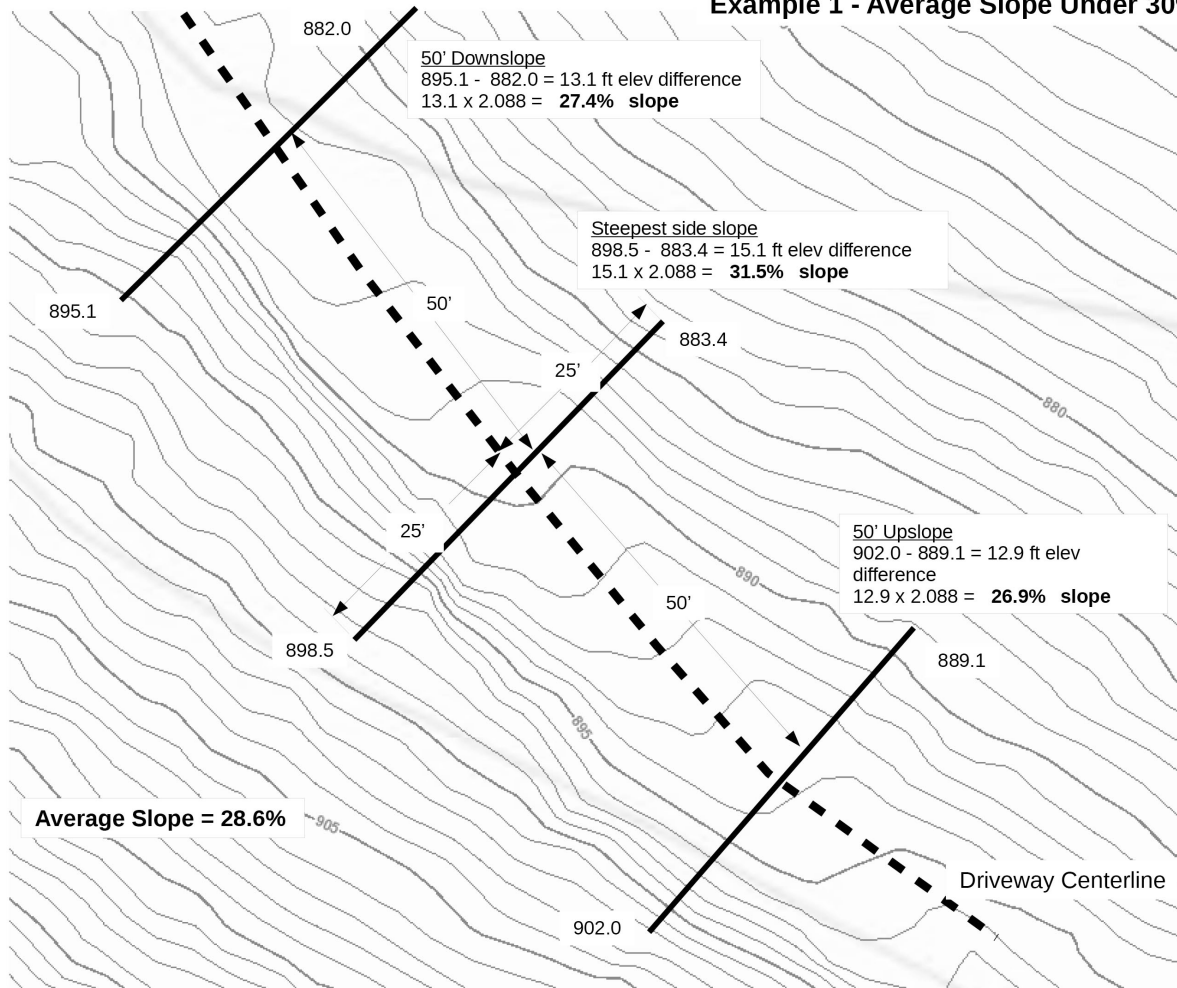
Selecting points for slope measurement



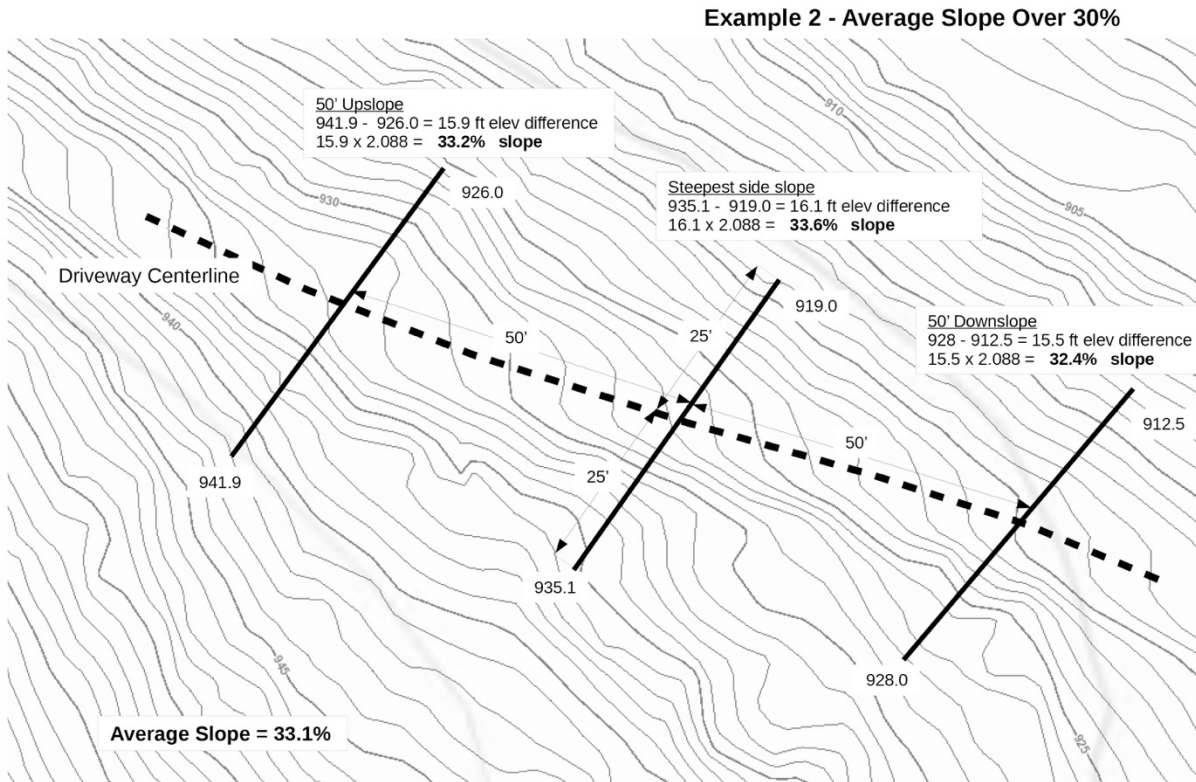


Example 1: Acceptable; within ordinance guidelines

Example 1 - Average Slope Under 30%



Example 2: Not acceptable; average slope over 30%



Example 3: Driveway routed to an approved path

Example 3 - Rerouted, Average Slope Under 30%

