

GUIDELINES, PROCEDURES, AND REQUIREMENTS  
OF THE BELMONT BOARD OF SELECTMEN  
FOR PETITIONS TO LAY OUT A PUBLIC HIGHWAY

A. GENERAL

The following information is provided by the Board of Selectmen as a reference guide for those individuals seeking to have a road laid out as a public highway under Town ownership and maintenance in accordance with New Hampshire Revised Statutes Annotated, chapter 231 before attempting to petition for a street lay out.

B. ADVICE AND ASSISTANCE

Individuals considering a petition to lay out a road may consult the Selectmen's office for advice and assistance. It is recommended that petitioners consult before they begin the formal process. Consulting in advance may help speed the process and eliminate potential problems thereby saving time and financial costs to the petitioners.

C. LAYING OUT

The Procedure to lay out a road is set forth in State Statute under RSA 231 and involves a number of individual sections within this chapter. The Procedure for the lay out is legal and technical, but fairly simple provided the procedures required are followed in progressive and orderly fashion. It is well to remember that there is only one procedure for the legal creation of a public highway. The Board of Selectmen is the only body that can create a public or Town road. It is well to make note that an article to lay out a road can be presented to a Town Meeting, but that a Town Meeting cannot create a public road is an established fact as determined by the Supreme Court.

D. TYPES OF STREETS COMMONLY LAYED OUT

1. PLANNING BOARD APPROVED STREETS: Streets and roads that have been approved by the Planning Board as part of a subdivision can be laid out as a Public Way.

The subdivision street must have been completed and must meet or exceed all of the requirements for the construction of roads as contained within the Planning Board's regulations. A written release from the Planning Board showing compliance must accompany the petition for lay out.

2. PRIVATE ROADS - Roads that are owned and maintained privately can be accepted and layed out by the Selectmen under certain conditions.

In order to be layed out the private road must meet or exceed all of the current requirements for the construction of roads as provided in the Planning Board's subdivision regulations.

It should be noted that most private roads require reconstruction to meet the above requirements.

3. COVENANTED STREETS - This type of street generally follows the same procedure for lay out as a private road. Petitioners should review the recorded covenants to determine all of the legal restrictions pertaining to the subdivision and its streets before petitioning for a street lay out.

Petitioners will be required to file a copy of each of the abutters deeds that show covenant restrictions at the time they petition for a lay out.

4. DISCONTINUED HIGHWAYS - State statute provides a special provision for the lay out of a highway that was previously discontinued by vote of the Town. Petitioners considering such an action should completely review and understand RSA 231:22 before proceeding to file a petition for lay out with the Board of Selectmen.

5. GATES AND BARS - The Selectmen may layout a Highway subject to gates and bars in the same manner as the laying out of a highway. All of the provisions of law relating to the layout of Highways must be met.

6. CLASS VI to CLASS V ROAD – The reclassification from a Class VI to Class V road must meet the new street standards set forth in the Town of Belmont Subdivision Regulations as amended. It should be noted that most Class VI require reconstruction to meet the above requirements.

## E. PETITION PROCESS

The filing of a petition to lay out a public highway is the first item to be completed in the process of creating a public road. Attached to these guidelines is a sample petition for your use.

1. SIGNATURES ON PETITION: Any one individual may petition for the lay out of a public highway. In most cases, it is and has become customary for all the abutters of a proposed new road to be petitioners.

2. SUBDIVISION STREETS - The most frequent situation where only one signature appears on a petition is in the case of a subdivision street. Normally the individual who was granted the subdivision will be the sole petitioner as he or she is the exclusive owner of the roadway.

3. NOTICE OF HEARING - Once a petition, together with all the supporting documents, has been filed with the Selectmen, the Board will appoint a time and a date of hearing and give notice to the abutters and the owners of land over which the highway will pass. Notice will also be posted in at least two public places within the Town.

4. HEARING - The Selectmen will hold the hearing at the place and time appointed and will take testimony from all parties interested. They will determine the approved route of the new highway and may adjourn as they see cause.

5. LAY OUT - The Selectmen may lay out the highway over any ground they may deem suitable, and alter any highway as they judge proper, without regard to those described in the petition.

A written formal order of lay out will be prepared following the Selectmen's vote of approval. This order will be recorded with the Town Clerk and at the registry of Deeds.

## F. BETTERMENT ASSESSMENTS

1. AGAINST ABUTTERS - When a petition for lay out is received for a private road that does not meet the construction standards for a Town road the Selectmen may lay out the road conditioned on betterments against the abutters to bring the road up to Town standards.
2. TIME PERIOD - The assessed betterment will be for a period of either one or ten years as determined by the Selectmen.
3. COLLECTION - The betterment becomes a lien against the individual properties of the abutters and is collected as a property tax once committed to the tax collector by the Selectmen. Failure to pay the betterment is subject to the same penalties as the non-payment of property taxes.

## G. SUPPORTING DOCUMENTS AND PLANS TO BE FILED WITH PETITION FOR LAY OUT.

1. STREET LAYOUT PLANS - The petitioner shall file with the Selectmen, street lay out plans (2 original mylars and 4 paper prints) of the roadway lay out that clearly shows all details, measurements, distances, drainage easements, rights -of - way, and bounds to the same scale and under the same conditions and requirements as for a subdivision plat.
2. SUBDIVISION AS BUILT PLAN - The petitioner will file a copy of the Planning Board's approved as-built plan required under the subdivision regulations.
3. DEEDS TO PUBLIC PROPERTY AND EASEMENTS - The petitioner shall file with the Selectmen completed deeds and easements for all property within a subdivision that is to become public property or a copy of said deeds if already recorded. Such deeds shall be warranted to transfer complete and absolute title to the Town. Easements shall grant the specified usage, maintenance and rights to the Town in perpetuity.
4. PLANNING BOARD CERTIFICATE OF COMPLIANCE - The petitioner will file a certificate of compliance from the Planning Board specifically releasing a subdivision and certifying that it complies with all subdivision regulations, is complete and is discharged from planning board jurisdiction.
5. LIST OF ABUTTERS - The petitioners will provide a current list of all owners of property that would abut the proposed highway or who owns a portion of the land to be taken for the highway.
6. RELEASES - The petitioner shall provide written releases from all utilities, county, State, and federal agencies, as well as Town agencies, stating that all permits issued for road, drainage and subdivision work have been completed and are unconditionally discharged.
7. STREET NAME - The petitioner shall provide the Selectmen with an appropriate name for the proposed highway that has been approved by the Planning Board.
8. PRIVATE EASEMENTS AND RIGHTS-OF-WAY - The Petitioner shall provide written unconditional discharges for all easements and/or rights-of-way located, on, in, over, across, or under the proposed street lay out or other public land to be deeded. to the Town.
9. OTHER DOCUMENTS - The petitioner shall provide all other documents as may be required by the Selectmen.

H. INSPECTION - The receipt of a petition for layout will automatically cause an inspection to be made by the Selectmen or their authorized representative. A copy of the report will be filed with the petitioner.

