

**Section 11. RIGHT-OF-WAY PERMITS**

11.1 The Town hereby requires specific permits for any of the following activities:

- (a) Travel upon a Class V or Class VI highway by heavy equipment for logging or construction activity.
- (b) Installation of a culvert, dam, drainage device or bridge within a Class V or Class VI highway right-of-way.
- (c) Any type of excavation, digging or disturbance of soil, vegetation or road surface which takes place within a Class V or Class VI highway right-of-way.
- (d) Travel upon a Class V highway by a motor vehicle or trailer which exceeds the posted weight limit, including travel over designated roads during a declared "Road Weight Limit Emergency".
- (e) Installation or relocation of a utility device such as a pole, underground cable, water line, septic line or any other utility device without a license approved by the Selectmen.
- (f) Installation or relocation of a recreation facility or landscaping device such as fence, gate, wall, curbing, light pole, vegetation, etc.
- (g) Travel upon a Class V or Class VI highway by unregistered vehicles or OHRV's in accordance with the provisions of RSA 215-A.

11.2 The Highway Agent shall have the initial responsibility for approval or denial of all permits required under this Section.

11.3 Any person required to apply for a permit under this Section shall also be required to post a surety to be used in the event of any damages to a Town highway resulting from the permitted activity.

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## Alton Highway Policies and Regulations

11.4 Surety amounts shall be determined by the Highway Agent, provided the minimum surety amount shall not be less than one hundred dollars (\$100.00) and the maximum surety amount shall not exceed ten thousand dollars (\$10,000.00). The Highway Agent shall promulgate guidelines for determining surety amounts and he/she may accept bonds in lieu of a liquid asset surety in such amounts as may be necessary to repair any likely damages.

11.5 All forms of surety shall be made payable to the Town of Alton. Said sureties shall be held in the custody of the Finance Officer, to be released upon authorization from the Highway Agent within ninety (90) days after the permittee has notified the Highway Agent that the activity has been completed and no physical damages are evident. In addition, the permittee may petition the Highway Agent to release the surety immediately upon completion if no physical damages are evident.

11.6 It shall be the permittee who shall be responsible for any damages, repairs or fines applicable under these policies and regulations. In cases where no permit exists, the Town reserves the right to institute legal proceedings and claims against the violator and/or the property owner.

11.7 Except where otherwise noted, no activity within a Town right-of-way shall take place in relation to an activity covered under this Section prior to an application being approved by the Town of Alton. A copy of the application (as contained in Section 16 of these policies and regulations) with an indication of all actions taken by the authorized Town Official shall be sent to each applicant within twenty-one (21) days of receipt by the Town.

11.8 In the event the Town fails to respond to a permit application within twenty-one (21) days from the date the initial submission is received, the applicant may proceed without being required to comply with the terms of these policies and regulations, however, nothing in this Section shall be construed as relieving the applicant of his/her legal responsibilities to repair any damages.

11.9 Under no circumstances shall a permit be issued under this Section for any purpose which requires access onto or off of a public right-of-way unless the applicant has a valid Driveway Permit.

11.10 In the event a logging operation will require travel by heavy equipment over a Town right-of-way, the Selectmen shall delay action on any "Notice of Intent to Cut" for the maximum thirty (30) day period unless a valid permit has been issued under this

## Alton Highway Policies and Regulations

11.11 The, Code Official shall not issue any permit which requires heavy equipment travel over a Town Right-of-Way unless a valid permit has been issued under this Section.

11.12 Only one permit shall be required for any activity covered under this Section.

11.13 Any applicant may appeal a decision of the Highway Agent under this Section to the Board of Selectmen within ten (10) days of receipt of the decision. The Selectmen shall then review the decision during the next regularly scheduled, duly posted, public meeting, at which time the applicant shall be permitted to address the Board. However, any applicant that proceeds to work without a permit shall forfeit their right of appeal.

11.14 In the event physical damages have been found to exist, the Highway Agent shall determine the nature of any repairs to be made at the expense of the permittee. Nothing in this policy shall be construed as a limit upon the landowner or permittee of their rights to seek any claims against the person(s) responsible for any damages, but the Town shall not be made a party to such claims.

11.15 If physical damages have been declared to exist, the Town shall notify the permittee in writing of the location and the extent to which repairs shall be made. Said permittee shall then have thirty (30) days to complete all repairs to the satisfaction of the Highway Agent, otherwise, the Town shall initiate a claim against the permittee and use the surety.

11.16 In the event a claim is made against a surety held by the Town, the permittee shall be entitled to a refund of the remaining amount after repairs (if any), less a two percent (2%) administration fee. The Town reserves the right to file additional claims against the permittee and/or person(s) responsible for damages in the event the amount of damages exceed the surety amount.

11.17 The burden of proof that work or damages has not occurred within a right-of-way covered under this Section shall fall upon the landowner, permittee or transportation company. Although survey documents are not a requirement, plans stamped by a licensed land surveyor shall be given due consideration as an indicator of actual ownership. And, absent any evidence to the contrary, the Town shall assume ownership or control over all land to which the Town holds a deed, within a public right-of-way as measured based upon overall width from the centerline of the traveled way or between rock walls.

## Alton Highway Policies and Regulations

11.18 In the event of any damages within a Town right-of-way, the person(s) responsible must contact the Highway Agent within two (2) hours of the incident or any existing permits shall automatically be rescinded.

11.19 Any permit granted by the Town is provided on the condition that the Town shall be indemnified and furthermore, the permittee shall hold the Town harmless for any claims or damages which may result from any activity which takes place under the auspices of the permit.

11.20 Permit holders shall have copies available in every vehicle to which the permit shall apply.

11.21 Copies of permits issued under this Section shall be forwarded to the Police Department and Inspections Department.

11.22 Notwithstanding the authority of the Highway Agent to maintain a Class V highway in a safe condition, the provisions of this Section shall be enforced by any duly authorized law enforcement official to the extent permitted by law.

11.23 In the interest of road protection, the Highway Agent may revoke any Right-of-Way permit at anytime upon notice to the permittee, due to extenuating circumstances such as weather, emergency maintenance operations or other unforeseen events.