

Alton Highway Policies and Regulations

Section 5. ROAD LAYOUT PROCEDURES

5.1 The Selectmen may layout any Class V highway, Class VI highway, Winter Road, Summer Road or Logging Access Road upon petition, provided there shall be an occasion. This procedure may also be used to apply for reclassification of an existing Class VI highway to a Class V highway, provided the Selectmen either grant permission for the petitioners to bring the road up to the minimum standards at their own expense or the Selectmen are convinced of a significant public need to the extent that waivers of these standards may be warranted.

5.2 An occasion for a highway layout shall only exist if the Board of Selectmen determines there is a public need.

5.3 The act of laying out a Town highway is a matter vested exclusively within the sound discretion of the Selectmen. The Selectmen shall not be obligated to vote to layout a road simply as a matter of right upon petition. No other Town body, including, but not limited to the Planning Board, Town Meeting or the Highway Agent has jurisdiction to layout a Town road or obligate the Town for any type of road maintenance without specific and legal authority to do so.

5.4 Any person may petition the Selectmen to layout a public highway, using the procedures described herein, provided that any one of the following conditions apply:

- (a) The proposed road does not presently exist;
- (b) The roadway exists but is not depicted on a plat or plan which has been approved by the Alton Planning Board
- (c) The petitioner desires Town maintenance during winter months only:
- (d) The petitioner desires access over someone else's property for logging operations:
- (e) The petitioner desires Town maintenance of an existing private road which series as access to a summer cottage.
- (f) The petitioner desires Town maintenance of an existing Class VI highway.

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- (g) The petitioner desires a public right of access and Town maintenance of an existing private street which has been depicted on a plat or plan which has been approved by the Planning Board, but the petitioner is unable to provide a warranty deed to the Town.
- (h) The petitioner desires a public right of access to private property for a commercial purpose, where no public access exists at the time of the petition, provided said Layout is for a Class VI highway, not be maintained by the Town.
- (i) The petitioner desires a public right of access and Town maintenance of an existing private road as part of a betterment process under RSA 231:29.

5.5 Any person seeking Town ownership and/or maintenance of a road under circumstances which do not apply under this Section should refer to the provisions in Section 6.

5.6 Upon receipt of a petition and all other required materials, the Selectmen shall schedule a discussion of the petition at their next regularly scheduled meeting for the purposes of determining whether a Public Hearing shall be held.

5.7. A petition for a highway layout must include the following:

- (a) A plan which depicts applicable bearings and distances, easements and any other existing features such as waterways, drainage structures, driveways, etc., as certified by a licensed land surveyor or New Hampshire Registered Professional Engineer;
- (b) An appraisal of the proposed layout by a New Hampshire certified appraiser accompanied by a statement as to the amount of any monetary damages which would result from the layout if approved;
- (c) A notarized title certificate issued to the Town which identifies abutters to the proposed layout, including all current property owners, tenants, mortgage and lien holders;
- (d) A statement as to the public need for the layout.

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5.8 The petitioner(s) shall be required to pay in advance, all reasonable fees incident to the request for road layout as set forth in Section 14.

5.9 The Selectmen may, at anytime during this process, deem it necessary for an engineering study to be conducted at the expense of the petitioner(s). Said study shall be required if the Selectmen determine professional evaluations are an essential part of the review process. In the event a study is required for the purposes of evaluating surface or sub-surface conditions, the petitioner(s) shall assume all responsibility for the contractual arrangements and fees associated with such an investigation. However, the engineer chosen must be a New Hampshire Registered Professional Engineer who is acceptable to the Highway Agent.

5.10 Upon a determination by the Selectmen that a Public Hearing shall be scheduled, they shall have the Town Administrator cause notice in writing of a time and place of Public Hearing, said notice to be issued at least thirty (30) days previous to the hearing. Notice of the hearing shall be sent via certified mail to the first petitioner and to each owner of land over which such highway may pass (see RSA 231:10) and shall be posted in at least one newspaper of general circulation and in two public locations. The Selectmen shall request written testimony from the Police Chief, Fire Chief, Town Planner, Highway Agent, Town Attorney and any other Town Official as may be applicable.

5.11 The purpose for having a Public Hearing shall be to determine if a public need exists and if the proposed highway meets all of the requirements established under these policies and regulations.

5.12 In considering whether or not a public need exists, the Selectmen shall conduct a review based in part upon the following criteria:

- (a) Will the layout of the highway benefit the community and not just the petitioners?
- (b) What are the known road surface and sub-surface conditions?
- (c) Is there any documented history of an adverse nature pertaining to driveway access, pending or existing litigation. accuracy of maps, contractor defaults, etc.?
- (d) What impact will a layout have on the ability of the Town to perform necessary maintenance and what is the likely impact on Town budgets?

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- (e) Are there any existing encumbrances which would adversely affect the public interest?
- (f) Is there an adverse budgetary impact upon the Town due to the payment of monetary damages, if applicable?
- (g) *If the layout is being requested as a Class V highway, has all of the necessary construction been completed in accordance with Section 4 of these policies and regulations?*
- (h) What is the length of the highway in conjunction with the degree of use. (NOTE: A minimum of at least an average of eight residences per mile of road and fifty percent (50%) of residential or commercial development, may be considered to 'be a reasonable degree of use in order to demonstrate evidence of public need.)
- (i) Does the highway under consideration for layout connect with an existing Town road or State highway within the Town of Alton? (NOTE: Streets which connect to roads in an adjacent Town will generally not be considered for acceptance without an inter-municipal agreement covering snow plowing and emergency services.) -
- (j) Are there any other outstanding issues which provide convincing evidence of a public need or lack thereof?

5.13 During the Public Hearing, any person in attendance may present testimony for or against the proposed layout, according to the rules and in a manner prescribed by the Chairman of the Board of Selectmen. Also, the Board may schedule a site visit at the location of the proposed road during any point in the review process.

5.14 *At the conclusion of the hearing, the Selectmen may render a decision at their convenience. The Selectmen may also:*

- (a) require the petitioner(s) to gather more evidence;
- (b) recess the hearing to another time and place;
- (c) adjourn the meeting without accepting the layout, or

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- (d) vote to conditionally layout the highway provided that a specific time frame is designated for all conditions to be met and that a return of layout is not executed until such time as the Selectmen have determined that all conditions are met.

5.15 A decision to approve a layout shall consist of a motion which designates the type of highway to be laid out and a determination as to the amount of monetary damages (if any) to be paid by the Town to the abutters.

5.16 Following a vote of the Selectmen to approve a layout, the Town Administrator shall prepare a "Return of Layout" for the Selectmen to sign as soon as possible upon a recommendation by the Highway Agent that all of the conditions relative to the layout have been met. Once the Selectmen have duly executed the "Return of Layout", it shall then be recorded at the County Registry of Deeds.

5.17 As part of this Section, the Selectmen wish it to be known that under the statutes of the State of New Hampshire, the laws pertaining to the layout of Town highways are extremely complicated and may require legal opinions and definitions beyond the ability of the Town to render assistance to any potential petitioner. Therefore, each petitioner shall, if necessary, avail of himself/herself, private legal counsel to assist in this process. The Town of Alton makes no obligation to act in any capacity which may be considered customarily in the purview of an attorney.