

**GUIDELINES, PROCEDURES, AND REQUIREMENTS
OF THE BELMONT BOARD OF SELECTMEN**

PETITION 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 Class V public highway under Town ownership and maintenance in accordance with New Hampshire Revised Statutes Annotated, Chapter 231. The statute should be thoroughly reviewed before attempting to petition for the layout of a public highway. Today, the more typical way to create a public highway is through the somewhat less cumbersome Dedication and Acceptance (RSA 229:1) process.

B. ADVICE AND ASSISTANCE

An individual considering a petition to layout a public highway may consult the Selectmen's and Land Use offices for advice and assistance. It is recommended that petitioners consult well 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 petitioner.

C. THE LAYOUT

The procedure to lay out a public highway as set forth in State Statute under RSA 231 involves a number of individual sections within this chapter. The procedure for the layout is legal and technical, but fairly straight forward provided the required procedures are followed in progressive and orderly fashion. It is well to remember that layout is but one procedure for the legal creation of a public highway, one that has been losing favor in recent years. The Board of Selectmen is the only body that can create a public or Town highway by layout. Town Meeting can only create a public highway by acceptance of a dedicated road, not thru a layout.

D. TYPES OF STREETS COMMONLY LAID OUT

1. PLANNING BOARD APPROVED STREETS: A street or road that was approved by the Planning Board as part of a subdivision can be laid out by the Selectmen as a public highway.

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 Town of Belmont Subdivision Regulations, as amended. A written release from the Planning Board showing compliance must accompany the petition for layout.

2. PRIVATE ROADS - Roads that are owned and maintained privately can be laid out by the Selectmen as public highways under certain conditions.

In order to be laid out as a public highway, the private road typically must meet or exceed all of the current requirements for the construction of roads as provided in the Town of Belmont Subdivision Regulations, as amended.

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

4. DISCONTINUED HIGHWAYS - State statute provides a special provision for the layout of a public 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 layout with the Board of Selectmen.

5. GATES AND BARS - The Selectmen may lay out a public highway subject to gates and bars (a Class VI highway) in the same manner as the laying out of a public highway (a Class V highway). All of the provisions of law relating to the layout of public highways must be met.
6. CLASS ROAD VI to CLASS V – In order to reclassify a road from Class VI (an unmaintained public highway) to Class V (a public highway that a town has the duty to maintain) it typically must meet the new road construction standards set forth in the Town of Belmont Subdivision Regulations, as amended. It should be noted that most Class VI highways require complete reconstruction to meet the above requirements.

E. PETITION PROCESS

The filing of a completed layout petition is the first step in the process of creating a public highway. Attached to these guidelines is a sample petition for your use.

1. SIGNATURES ON PETITION: Any one individual may petition for the layout of a public highway. In most cases, it is and has become customary for all the abutters of a proposed new highway 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. Typically, today, subdivision streets become public highways through Dedication and Acceptance process.
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. LAYOUT – A return, the written formal order including the description and width of the highway, will be prepared following the Selectmen's vote of approval. This order will be recorded with the Belmont Town Clerk and at the Belknap County Registry of Deeds.

F. BETTERMENT ASSESSMENTS

1. AGAINST ABUTTERS - When a petition for layout is received for a private road that does not meet the construction standards for a Town highway 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 prorated over a period not to exceed 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 A LAYOUT PETITION

1. STREET PLAT - The petitioner shall first file with the Planning Board for their review and approval a street plat (2 original Mylars and 4 paper prints) of the roadway layout 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. Without Planning Board approval, the Selectmen cannot act on the petition (RSA 674:40 & 40-a) and the road may only be accepted (not laid out) by a vote of no less than 2/3 of those present and voting at a regular or special meeting of the local legislative body (Town Meeting).
2. AS-BUILT SUBDIVISION PLAN - The petitioner will file a copy of the Planning Board's approved as-built plan required under the Town of Belmont Subdivision Regulations, as amended, if applicable.
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 and shall include all applicable mortgage subordinations. 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 Town of Belmont Subdivision Regulations, as amended, is complete and is discharged from planning board jurisdiction.
5. LIST OF ABUTTERS - The petitioner 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 and Fire Department for E911.
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 layout 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.
10. WAIVER OF DAMAGES - The petitioner will present a waiver of damages from all abutters 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.