

Town of Alton Highway Policies and Regulations
Section 16
Operating Procedures for Building Permit Permission Requests on
Class VI/Private Roads & Island Property

This procedure covers requests for building permits on existing Class VI/Private Roads & Island Property and will not apply to any road within a project approved by the Planning Board. The objective is to process in a fair and consistent manner any requests to build on these roads, balancing the rights of the property owner, and the impact on government services.

Class VI/Private Roads & Island Property:

- I. The property owner (hereinafter referred to as the "Applicant") will obtain the "Building Permit Permission Request" application packet, which includes the "Notice of Limitations of Responsibility and Waiver of Liability of the Town of Alton Pursuant to RSA 674:41" (hereinafter referred to as the "Waiver") from the Building Department after submission of a building permit. The completed application, additional required documentation, and the Waiver will be submitted to the Planning Department for processing.
- II. The request will be forwarded to the Department of Public Works (DPW), Fire, and Police Departments for review and comment.
- III. All Department Head Reviews should be returned to the Planning Department by the deadline stated. The Applicant will be provided with copies of the Department Head Reviews.
- IV. The application will be placed on the next available Planning Board agenda. Upon review and recommendation by the Planning Board, the Applicant will be provided with the Planning Board's comments. The request will then be forwarded to the Board of Selectmen's (Selectmen) office, and the entire application will then be scheduled for their review and decision.
- V. Both the Planning Department and Selectmen's Office will notify the applicant when the application is being reviewed to allow them the opportunity to attend the meetings.
- VI. If the request is approved, the Selectmen will sign the Waiver and provide it to the Applicant for recording at the Belknap County Registry of Deeds at the Applicant's expense. Original Waiver shall be submitted to the Building Department and a copy provided to the Selectmen.
- VII. If the application for a Class VI/Private Road or Island Property was approved with conditions related to road improvements: 1. Proof that those conditions have been completed to the satisfaction of the Town's DPW, and that the Waiver has been properly recorded, shall be provided to the Building Department prior to the issuance of a Building Permit; or, 2. The Selectmen may choose to accept security in the form of cash or letter of credit in an amount determined to be sufficient to complete the required road improvements in order for the Building Inspector to issue the permit prior to the improvements being completed. If this action is chosen, all road improvements shall be completed, and approved by the Town's DPW prior to the structure being occupied and a Certificate of Occupancy being issued.
- VIII. If the Building Permit Permission Request is not approved by the Selectmen, the reasons for denial shall be attached to the application and a copy provided to the Applicant. If the Applicant can remedy the reasons for denial, they then may apply to the Selectmen for reconsideration.

Town of Alton
Building Permit Permission Request for
Class VI/Private Roads & Island Property

Applicant(s)/Property Owner(s): _____

Address: _____

Home Phone: _____ Cell Phone: _____

Email: _____

Agent: _____

Address: _____

Home Phone: _____ Cell Phone: _____

Email: _____

Road Name: _____

Property Location: Tax Map ____ Lot _____ Zone: _____

Describe the location of the property in relation to the nearest Class V road, or Class V section of the existing road, and where the proposed driveway will be located on the property:

Please attach a copy of a survey, septic design, or sketch on a tax map copy showing the location of the proposed dwelling and driveway.

Applicant(s)/Agent Signature: _____

Date: _____

Submit this request to the Planning Department along with the completed Notice of Limitations/Waiver of Liability form. If an agent is being used, an agent designation letter shall also be submitted with the request.

Statute for Obtaining Building Permits on Class VI/Private Roads & Island Property

674:41 Erection of Buildings on Streets; Appeals. –

- I. From and after the time when a planning board shall expressly have been granted the authority to approve or disapprove plats by a municipality, as described in RSA 674:35, no building shall be erected on any lot within any part of the municipality nor shall a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is proposed to be placed:
- (a) Shall have been accepted or opened as, or shall otherwise have received the legal status of, a class V or better highway prior to that time; or
 - (b) Corresponds in its location and lines with:
 - (1) A street shown on the official map; or
 - (2) A street on a subdivision plat approved by the planning board; or
 - (3) A street on a street plat made by and adopted by the planning board; or
 - (4) A street located and accepted by the local legislative body of the municipality, after submission to the planning board, and, in case of the planning board's disapproval, by the favorable vote required in RSA 674:40; or
 - (c) Is a class VI highway, provided that:
 - (1) The local governing body after review and comment by the planning board has voted to authorize the issuance of building permits for the erection of buildings on said class VI highway or a portion thereof; and
 - (2) The municipality neither assumes responsibility for maintenance of said class VI highway nor liability for any damages resulting from the use thereof; and
 - (3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds; or
 - (d) Is a private road, provided that:
 - (1) The local governing body, after review and comment by the planning board, has voted to authorize the issuance of building permits for the erection of buildings on said private road or portion thereof; and
 - (2) The municipality neither assumes responsibility for maintenance of said private roads nor liability for any damages resulting from the use thereof; and
 - (3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought; or
 - (e) Is an existing street constructed prior to the effective date of this subparagraph and is shown on a subdivision plat that was approved by the local governing body or zoning board of adjustment before the municipality authorized the planning board to approve or disapprove subdivision plats in accordance with RSA 674:35, if one or more buildings have been erected on other lots on the same street.
- II. Whenever the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and when the circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets, the applicant for such permit may appeal from the decision of the administrative officer having charge of the issuance of permits to the zoning board of adjustment in any municipality which has adopted zoning regulations in accordance with RSA 674, or, in municipalities in which no board of adjustment exists, to the local legislative body, or to a board of appeals, whichever is appropriate, in accordance with RSA 674:14 and 674:15, including the requirement for a public hearing. In a municipality which does not require building permits, direct application may be made to the zoning board of adjustment, or the local legislative body, or the board of appeals for

permission to erect the building. In passing on such appeal or application, the board of adjustment, local legislative body, or board of appeals may make any reasonable exception and shall have the power to authorize or issue a permit, subject to such conditions as it may impose, if the issuance of the permit or erection of the building would not tend to distort the official map or increase the difficulty of carrying out the master plan upon which it is based, and if erection of the building or issuance of the permit will not cause hardship to future purchasers or undue financial impact on the municipality. Any such decision made in this connection by a board of adjustment, local legislative body, or by a board of appeals pursuant to this section and RSA 674:14 and 674:15 shall be in writing, together with the reasons for the decision, and shall be subject to review in the manner described in RSA 677.

II-a. Municipalities may except any lot, including island lots for islands served exclusively by boats, from the requirements of paragraphs I and II by an affirmative vote of the local legislative body pursuant to RSA 675, first submitted to the planning board for its approval and:

(a) If approved by the board, approved by a majority of those present and voting at a regular or special meeting of the local legislative body; or

(b) If disapproved by the planning board, approved by not less than 2/3 of those present and voting at a regular or special meeting of the local legislative body.

III. This section shall supersede any less stringent local ordinance, code or regulation, and no existing lot or tract of land shall be exempted from the provisions of this section except in accordance with the procedures expressly set forth in this section. For purposes of paragraph I, " the street giving access to the lot " means a street or way abutting the lot and upon which the lot has frontage. It does not include a street from which the sole access to the lot is via a private easement or right-of-way, unless such easement or right-of-way also meets the criteria set forth in subparagraphs I(a), (b), (c), (d), or (e).

IV. In addition to the requirements for the erection of buildings in paragraph I and notwithstanding the exceptions provided in paragraph II, the planning board for a county in which there are located unincorporated towns or unorganized places shall require every building which is erected on leased land located within an unincorporated town or unorganized place to have a building permit. A building permit shall be required under this paragraph regardless of the proximity of the building to any street or highway. The county shall, by resolution, authorize the planning board to issue building permits under this paragraph.

Source. 1983, 447:1. 1988, 131:2, 3. 1989, 266:20. 1995, 291:10. 1998, 344:6. 2002, 270:1, 5. 2004, 154:1, 2. 2005, 226:1, 2, eff. Sept. 3, 2005.