

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

The statutes were updated in November, 2018, and contain all actions of the 2018 legislative session.

Title 19: Highways

Chapter 7: Laying Out, Discontinuing, And Reclassifying Highways

Subchapter 1: General Provisions

§ 701. Definitions

(1) "Acceptance" means receipt of the right-of-way needed for a new highway, in some cases this may include a completed roadway.

(2) "Altered" means a major physical change in the highway such as a change in width from a single lane to two lanes.

(3) "Classification" means the categorization of all town highways pursuant to section 302 of this title.

(4) "Discontinued" means a previously designated town highway which through the process of discontinuance all public rights are reconveyed to the adjoining landowners.

(5) "Dedication" means the process of selecting a right-of-way or an alignment for a highway.

(6) "Interested person" or "person interested in lands" means a person who has a legal interest of record in the property affected.

(7) "Landowner" means a person who has title to real estate in fee simple or a life estate.

(8) "Lay out" means the legal procedure establishing the alignment or right-of-way of a highway.

(9) "Reclassify" means to change the classification of a highway using the legal process described in this chapter. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 702. Width of highways and trails

The right-of-way for each highway and trail shall be three rods wide unless otherwise properly recorded. Any highway which had been designated as a trail prior to July 1, 1967 and later becomes a trail shall retain the same width of right-of-way as a trail as it had as a highway, but not exceeding three rods. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 703. Widening of highways

If the width of a highway as laid out is less than the law or the public convenience requires, the selectmen may widen the highway accordingly. Persons whose lands are taken or are damaged shall be entitled to compensation. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 704. Survey and boundaries

When selectmen accept, lay out, or alter a highway, as provided in this chapter, they shall cause a survey to be made in accordance with the provisions of section 33 of this title and shall mark each termination of the survey by a permanent monument or boundary or refer the termination or survey by course and distance, to some neighboring permanent monument. The survey shall describe the highway and the right-of-way by courses, distances, and width, and shall describe the monuments and boundaries. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1993, No. 195 (Adj. Sess.), § 3)

§ 705. Papers to be recorded

A copy of any order of a court establishing, altering, or discontinuing a highway, together with a survey of so much of the road as is in any one town, certified by the clerk of the court, shall be recorded in the office of the town clerk. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 706. Duties of commissioners appointed by the supreme or superior court

Any commissioners appointed by the supreme or superior court to build or repair a bridge, or lay out, alter, or discontinue a highway, may order the town or towns, in or through which they lay out or alter a highway, to grade the hills to such inclination as they deem proper, and to gravel the portions they deem necessary. The commissioners shall estimate the expense and report to the court. The court may accept or reject the report in whole or in part and order the town or towns to gravel portions of the highway and to grade the hills in the manner and to the extent it deems proper. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 707. Powers of supreme and superior courts

Upon petition for that purpose as in case of laying out, altering, or discontinuing a highway, and by similar proceedings, the supreme or superior court may order hills to be graded and surfaces to be graveled on existing highways under the provisions of section 706 of this title. (Added 1985, No. 269 (Adj. Sess.), § 1.)

Subchapter 2: Laying Out

§ 708. Petition

(a) Persons who are either voters or landowners, and whose number is at least five percent of the voters, in a town, desiring to have a highway laid out, altered, reclassified, or discontinued, may apply by petition in writing to the selectboard for that purpose. A person who is a landowner in a town, desiring to have an unidentified corridor which passes through or abuts his or her land discontinued or altered, may apply in writing to the selectboard for that purpose. The selectboard may also initiate these proceedings on its own motion.

(b) A class 4 highway need not be reclassified to class 3 merely because there exists within a town one or more class 3 highways with characteristics similar to the class 4 highway. In considering whether to reclassify a class 4 highway to class 3, consideration may be given as to whether the increased traffic and development potential likely to result from the reclassification is desirable or is in accordance with the town plan. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 2005, No. 178 (Adj. Sess.), § 3.)

§ 709. Notice and hearing

The selectmen shall promptly appoint a time and date both for examining the premises and hearing the persons interested, and give 30 days' notice to the petitioners, and to persons owning or interested in lands through which the highway may pass or abut, of the time when they will inspect the site and receive testimony. They shall also give notice to any municipal planning commission in the town, post a copy of the notice in the office of the town clerk, and cause a notice to be published in a local newspaper of general circulation in the area not less than ten days before the time set for the hearing. The notice shall be given by certified mail sent to the official residence of the person(s) required to be notified. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 710. Survey or order of discontinuance

After examining the premises and hearing any interested parties, and if the selectmen judge that the public good, necessity, and convenience of the inhabitants of the municipality require the highway to be laid out, altered, or reclassified as claimed in the petition, they shall cause the highway to be surveyed in accordance with the provisions of section 33 of this title if the highway right-of-way cannot be determined and shall place suitable monuments to properly mark the bounds of the survey. If they decide to discontinue a highway, the discontinuance shall be in writing setting forth a completed description of the highway. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1993, No. 195 (Adj. Sess.), § 4.)

§ 711. Selectmen's return; recording

(a) Within 60 days after the examination and hearing, the selectboard shall return the original petition with a report of their findings and of the manner of notifying the parties together with the survey or discontinuance, to the town clerk's office. Their order laying out, altering, reclassifying, or discontinuing the highway, with the survey, shall be recorded by the clerk.

(b) As part of the report of findings provided for in subsection (a) of this section, the selectmen may order that the petitioner bear the cost of upgrading a class 4 town highway to the class 3 town highway standards established in subdivision 302(a)(3)(B) of this title. Nothing in this section shall be construed to require a town to maintain a class 4 highway or to upgrade a highway from class 4 to class 3. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1991, No. 47, § 2.)

§ 712. Damages paid or tendered

When the selectmen determine that a person, through whose land the highway passes or abuts, is entitled to damages, the town shall pay or tender to him or her, damages as the selectmen determine reasonable before the highway is opened. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 713. Time for vacating land

When the selectmen lay out or alter a highway, they shall fix in their order the time within which the owner of the lands taken shall remove his or her buildings, fences, timber, wood, or trees. Without the consent of the owner, the time shall not be less than two months, but if the lands taken have buildings, the time shall not be less than six months, nor, in either case, until compensation for damages is paid, if the sum fixed by the selectmen is accepted or damages are awarded by referees. Notice of the time when the removal shall be made shall be given to the owner and included in the selectmen's order. An appeal of the damages awarded shall not stay the work contemplated. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 714. Possession after time expires

When a highway is laid out or altered, the selectmen may take possession of the land within the surveyed limits, at any time after the expiration of the time fixed by the selectmen unless appealed to the Superior Court for landowners to remove their buildings, fences, trees, timber, or wood. They may remove obstructions, and open the lands for working and travel, if they have previously paid or tendered to the landowners the damages awarded by them or by the Commissioners laying out or altering the highway. An appeal of the damages awarded shall not stay the work contemplated. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§§ 715, 716. Repealed. 1999, No. 156, § 21(2) and 21(3), eff. May 29, 2000.

§ 717. Evidence of highway completion or discontinuance

(a) The lack of a certificate of completion of a highway shall not alone constitute conclusive evidence that a highway is not public.

(b) A town or county highway that has not been kept passable for use by the general public for motorized travel at the expense of the municipality for a period of 30 or more consecutive years following a final determination to discontinue the highway shall be presumed to have been effectively discontinued. This presumption of discontinuance may be rebutted by evidence that manifests a clear intent by the municipality or county and the public to consider or use the way as a highway. The presumption of discontinuance shall not be rebutted by evidence that shows isolated acts of maintenance, unless other evidence exists that shows a clear intent by the municipality or county to consider or use the highway as if it were a public right-of-way.

(c) A person whose sole means of access to a parcel of land or portion thereof owned by that person is by way of a town highway or unidentified corridor that is subsequently discontinued shall retain a private right-of-way over the former town highway or unidentified corridor for any necessary access to the parcel of land or portion thereof and maintenance of his or her right-of-way. (Added 1999, No. 156 (Adj. Sess.), § 25, eff. May 29, 2000; amended 2005, No. 178 (Adj. Sess.), § 4.)

Subchapter 3: Appeal From Selectmens Award For Damage**§ 725. Arbitration**

If the damages offered by the selectmen are unacceptable to the property owner, or interested person, the selectmen with the consent of the other party, may agree to refer the question of damages to one or more disinterested persons mutually selected, whose award shall be final. The reference and award, and the proceedings used in settling the damages, shall be included in the proceedings of the selectmen returned to the town clerk for recording. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 726. Petition to Superior Court

A person not satisfied with the damages offered by the selectmen, or any decision made by the selectmen, may apply to the Civil Division of the Superior Court for the appointment of Commissioners to appraise the damages. Any other persons claiming damages on account of the highway may join in the petition, but filing the petition shall not delay the opening of the highway. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 2009, No. 154 (Adj. Sess.), § 238.)

§ 727. Application

The application shall be made within 60 days after the highway is opened for travel. A person who did not receive notice of the selectmen's hearing may apply within one year of the day the highway is opened. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 728. Service

On receipt of the petition, the Court shall issue a citation stating the time and place of hearing, which with the petition, shall be served on one or more of the selectmen at least six days before the time. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 729. Commissioners-Selection

When the parties do not agree with any other method of appointing commissioners, the court may make a list of 18 disinterested people. Each party may object to six on the list, and out of the number not objected to, the court shall select three for commissioners. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 730. Commission

The court shall direct the commission to impartially appraise the damages sustained by the petitioner or the relief sought as set forth in the petition, and report their findings to the court by a date stated in the instructions. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 731. Impartial appraisals

The Commissioners shall be sworn to make impartial appraisals. They shall give at least six days' notice of the time of making the appraisal to one or more of the selectmen and, at the time appointed, examine the premises, make the appraisal, and report their findings as directed in their instructions from the Court. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 732. Report

The court may accept or reject the report in whole or in part or recommit it to the same or new commissioners with such instructions as justice requires. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 733. Costs

When the appraisal by the Commissioners is more than was offered by the selectmen, the town shall pay the costs; when less, costs shall be borne by the petitioner. (Added 1985, No. 269 (Adj. Sess.), § 1.)

Subchapter 4: Petition To Superior Court

§ 740. Petition

(a) When a person owning or interested in lands through which a highway is laid out, altered, or resurveyed by selectboard members, objects to the necessity of taking the land, or is dissatisfied with the laying out, altering, or resurveying of the highway, or with the compensation for damages, he or she may appeal, in accordance with Rule 74 of the Vermont Rules of Civil Procedure, to the superior court in the same county, or in either county when the highway or bridge is in two counties. Any number of aggrieved persons may join in the appeal. The appeal shall be filed within 30 days after the order of the selectboard members on the highway is recorded. If the appeal is taken from the appraisal of damages only, the selectboard members may proceed with the work as though no appeal had been taken. Each of the appellants shall be entitled to a trial by jury on the question of damages.

(b) The words "necessity" and "damages" as used in this section shall have the same definition as set forth in chapter 5 of this title. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1997, No. 161 (Adj. Sess.), § 12, eff. Jan. 1, 1998; 2005, No. 178 (Adj. Sess.), § 5.)

§ 741. Appointment of commissioners

The court shall appoint three disinterested landowners as commissioners, to inquire into the convenience and necessity of the proposed highway, and the manner in which it has been laid out, altered, or resurveyed, and, except where a trial by jury is requested, as to the amount of damages sustained by the appellant. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1997, No. 161 (Adj. Sess.), § 13, eff. Jan. 1, 1998.)

§ 742. Commissioners' report; judgment on report

The commissioners shall give notice to one or more of the selectboard members and to the appellants of the time and place where they will examine the area and hear testimony. After completing their inquiries, they shall make a report to the court. The court may accept or reject the report in whole or in part, and by its order or decree may establish, alter, resurvey, or discontinue the highway, and may render judgment for the appellants for any damages as they have severally sustained. When this allowance is greater than was offered by the selectboard members, the court may tax costs for the appellants, or for either party, as is just. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1997, No. 161 (Adj. Sess.), § 14, eff. Jan. 1, 1998.)

§ 743. Opening of highway stayed; damages

When the appeal to the superior court is based on objections to the necessity of taking the land, or on dissatisfaction with the laying out, alteration, or resurvey by the selectboard members, the opening of the highway shall be stayed until the court renders its decision. The court may fix the time when it shall be opened, as provided in this chapter, and for paying damages awarded when the appeal includes or relates solely to the question of damages. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1997, No. 161 (Adj. Sess.), § 15, eff. Jan. 1, 1998.)

Subchapter 5: Proceedings In Superior Court On Refusal Of Selectmen To Act

§ 750. Petition

When the selectmen do not lay out, alter, or discontinue a highway, or when a highway is laid out by selectmen and is not built and opened for use within three years, or if discontinued by the selectmen before it is built and opened, persons who are either voters or landowners, and whose number is at least five percent of the voters, of the town may apply for relief by petition in writing to the Superior Court for the same county, or in either county when the highway or bridge is in two counties, for any of these purposes. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 751. Service of citation; commissioners

The petition with a citation, shall be served on one or more of the selectmen within 21 days from the date received by the Court. Unless cause is shown to the contrary, the Court shall appoint as commissioners three disinterested landowners, preferably from other towns. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 752. Court may refuse to appoint commissioners

When, within five years from the date of the petition, two prior petitions have been brought for substantially the same purpose, and the appointed commissioners' report was adverse to the petition, the court may refuse to appoint commissioners and may dismiss the petition. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 753. Hearing by Commissioners

The Commissioners shall appoint a time and place for examination and hearing, give notice to one or more of the selectmen and to persons owning or interested in the land through which the highway may be laid, examine the premises and inquire into the convenience and necessity of the highway in the same manner as the selectmen, following the requirements of section 709 of this title. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 754. Survey; determining damages

When the commissioners decide to lay out or alter a highway, they shall cause the highway to be surveyed and determine what damages will be sustained by the persons interested in the lands after notifying the persons of the time and place of the hearing. The expenses of making the survey shall be included in the commissioners' accounts and allowed by the court. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 755. Petitioners especially benefited

When the commissioners determine that the petitioners or some of them, will be especially benefited, they may make their decision to lay out the highway conditional upon the payment by the petitioners benefited of money, in the amount as the commissioners deem just, towards the expense of laying out and building the highway. They shall include a statement of the names of the parties benefited and the amount apportioned to each, in their report to the superior court. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 756. Filing of report

When the commissioners have completed their inquiries, they shall report their findings and decision with the survey and appraisal of damages, if any. The report shall be returned to and filed in the county clerk's office within 30 days after the completion of the inquiry. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 757. Filing of survey and appraisal

The commissioners shall also file a copy of the survey and the appraisal of damages in the town clerk's office at the time of filing their report in the superior court. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 758. Opposing report

The town or any interested person may appear before the court to oppose the acceptance of the report by

showing any relevant facts. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 759. Orders on report; costs

The court may reject or accept the report in whole or in part, and by its order or decree establish, alter, or discontinue the highway, in whole or in part, and render judgment for or against the town in favor of the persons interested in the lands and for the damages they have severally sustained. If the petition is wholly granted, or wholly rejected, the court shall assign costs accordingly, or if otherwise, may assign costs as appears just. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 760. Order to require payment to town

When the report makes the laying out of the highway conditional upon the payment of part of the expense by the petitioners especially benefited, the order laying out the highway shall require payment to the town within a stated time. (Added 1985, No. 269 (Adj. Sess.), § 1.)

Subchapter 6: Time For Opening Of Road

§ 765. Time limits

When the supreme or superior court orders a highway to be laid out or altered, it shall fix the time within which owners of lands taken shall remove their buildings, fences, timber, wood, and trees, and open the land for working, and the time when it shall be opened to be occupied; which time, without consent of the owner, shall not be less than two months, nor less than six months if the lands taken have buildings. The court may order sections of a highway to be completed in different times as circumstances may require, but the whole period shall not be less than one year. When the court orders the building of a bridge, it shall fix the time within which it shall be completed, which shall not be less than six months. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 766. Extension of time

The selectmen of a town in which a highway or bridge is ordered to be built may apply by petition to the court making the order, to extend the time for completing the highway or bridge. Notice shall be given to one or more of the original petitioners for the highway or bridge, and one or more of the selectboard of any other town, in which the highway or bridge is partly located, by serving the petition on them with a citation for that purpose, at least 12 days before the term of the Court to which the petition is returnable, and the Court may extend the time as the circumstances of the case require. (Added 1985, No. 269 (Adj. Sess.), § 1.)

Subchapter 7: Discontinuance Of Highways

§ 771. Procedure

(a) The legislative body of a municipality may discontinue a town highway after following the procedures of sections 708-711 of this title. The authority of the legislative body under this subsection shall extend to any town highway, regardless of whether the highway was originally laid out by the town, the former county court, the supreme court, a committee of the general assembly, a turnpike company, or was established in any other manner now or formerly authorized by law.

(b) Notwithstanding subsection (a) of this section, the legislative body shall not discontinue a class 1 or class 2 town highway without the prior approval of the secretary of transportation.

(c) Notwithstanding subsection (a) of this section, the legislative body shall not discontinue a class 3 or class 4 town highway extending into an adjacent municipality without notifying the legislative body of the adjacent municipality. If the legislative body of the adjacent town is aggrieved by a decision of the legislative body of the municipality in which the highway is located, it may appeal to the transportation board pursuant to subdivision 5(d)(9) of this title. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 2005, No. 178 (Adj. Sess.), § 6.)

§ 772. Service of petition; costs

When a petition is made to the Superior or Supreme Court to discontinue a highway laid out by Commissioners appointed by either of the Courts, which has not been built agreeably to the orders of the Court, the petition shall be served on one or more of the original petitioners for the laying of the highway, as well as on one or more of the selectmen of the town or towns through which the highway is laid, or the petition, on motion, shall be dismissed. If Commissioners are appointed and report adversely to the request of the petition, the original petitioners shall, in the discretion of the Court, be entitled to costs. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§§ 773, 774. Repealed. 2005, No. 178 (Adj. Sess.), § 7.

§ 775. Title to discontinued highway

The selectmen shall notify the Commissioner of Forests, Parks and Recreation when they have filed a petition to discontinue a highway under this subchapter. The selectmen may designate the proposed discontinued highway as a trail, in which case the right-of-way shall be continued at the same width. The Commissioner of Forests, Parks and Recreation with the approval of selectmen, may also make this designation. If the discontinued highway is not designated as a trail, the right-of-way shall belong to the owners of the adjoining lands. If it is located between the lands of two different owners, it shall be returned to the lots to which it originally belonged, if they can be determined; if not, it shall be equally divided between the owners of the lands on each side. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 776. Damages for highways discontinued before completion

When a public highway is laid out and damages are assessed to the owners of the land or rights acquired and the highway is legally discontinued before being worked or opened, the assessment of damages shall become void. Damages from the laying out, less actual damages accrued before discontinuance, shall be returned to the town. Actual damages before discontinuance shall be established by the selectmen using the procedure in section 923 of this title. Thereafter, title to the land shall be returned to the original landowner or his or her assigns. (Added 1985, No. 269 (Adj. Sess.), § 1.)

Subchapter 8: Neglect Of Town To Build Highways Or Bridges

§ 781. Assessment

When a town does not perform the order of the supreme or superior court as to building a highway or building a bridge, the court may, on application, assess the town a sum sufficient to build and complete the highway or bridge. The assessment shall be spent in building the highway or bridge under the direction of a commissioner to be appointed by the court. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 782. Application; service of citation

The application may be made by one or more of the original petitioners for the highway or bridge within three years from the expiration of the time prescribed by the Court order for the performance, and, with a citation, shall be served on one of the selectmen of the town to be proceeded against, within 21 days from the date of the application, notifying the town to appear and show cause why the request of the application should not be granted. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 783. Trial by jury; costs

The town may have a trial by jury regarding its neglect to perform the order of the court and the court may award costs to either party. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 784. Suspension of assessment upon discontinuance of highway or bridge

When a highway or bridge established by a court is discontinued in whole or in part and before the assessment under section 781 has been spent according to the court order, the town assessed may apply to have the court suspend the collection of the assessment in whole or in part and order the assessment in whole or in part to be spent for building any highway or bridge which the town is liable to build. (Added 1985, No. 269 (Adj. Sess.), § 1.)

Subchapter 9: Highways Involving Two Or More Towns

§ 790. Laying out highway or bridge on or near line between two towns

The selectmen of two adjoining towns may, by agreement, lay out, reclassify, or discontinue a highway on the line between the towns, or erect a bridge over a stream between the towns, if a majority of the selectmen of each town assent. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 791. Apportioning expenses

When a highway is or has been previously laid out on the line between the towns, they may agree as to what part of the highway shall be built and repaired and what share of the damages paid by each town. When a bridge is so erected, they may agree upon the proportion which each town shall pay towards making and keeping it in repair. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 792. Petition to selectmen

When the public good or convenience of the inhabitants requires a highway to be laid out, altered, reclassified, or discontinued on, or intersecting the line between two towns, or a bridge across a stream between two towns to be built, persons who are either voters or landowners, and whose number is at least five percent of the voters, of the towns, may petition, in writing, the selectmen of either town to lay out, alter, reclassify, or discontinue the highway, or build the bridge. The selectmen presented with the petition shall notify the selectmen of the other town. The two boards shall establish a time for hearing, and shall give notice of it. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 793. Proceedings by selectmen

The selectmen shall proceed in the same manner as the selectmen of one town in laying out highways or building bridges. A copy of their findings shall be filed with the clerk of each town within six months from the time of final hearing on the application and their order and surveys shall be recorded in each town clerk's office and their decision shall be binding on their respective towns. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 794. Highway near but not on line between towns

When the public good or the convenience of the inhabitants requires a highway to be laid out, reclassified, or altered so that it shall be near the line between two towns instead of on the town line, on account of the position of the land or nature of the soil over which it is laid, and, when both towns are benefited in a similar manner as though the highway were on the line, the highway may be laid out, reclassified or altered by the selectmen or the Superior Court, on the report of Commissioners. The damages and expenses of making and repairing the highway may be apportioned and the same proceedings shall be followed as provided in case of laying out, reclassifying and altering highways on the line between two towns.

When the selectmen of the towns are petitioned as provided in this chapter and do not lay out, alter or reclassify or discontinue a highway on or near a line between two towns, persons who are either voters or landowners, and whose number is at least five percent of the voters, of the towns may apply to the Superior Court. The Court shall inquire and render judgment using the same proceedings as in case of a highway extending into or through two or more towns. The Court may inquire of and receive recommendations from a Commissioner or Commissioners, but the Court shall issue the order. The Court shall direct in its order which part of the highway each town shall make, or repair, or reclassify, and what damages shall be paid by each, if a highway is made or altered. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 795. Town not assessed for highway in another town

A town shall not be assessed for the expense of building or maintaining any highway in another town, except as provided by this title. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 796. Petition by selectmen

When a bridge is required between two towns and the selectmen of the towns do not agree to build it, the selectmen of either town may petition the Superior Court. The petition and citation shall be served on one or more of the selectmen of the other town and the same proceedings shall be had as though application had been made by persons who are either voters or landowners, and whose number is at least five percent of the voters. (Added 1985, No. 269 (Adj. Sess.), § 1.)

Subchapter 10: Provisions Relating To Damages

§ 808. Payment of damages

When a court orders damages to be paid to a person for injury done to his or her lands by laying out or altering a highway, it may allow the town a reasonable time to pay the damages, not exceeding the time allowed for opening the highway. If the sum allowed is not paid within the time limited, the clerk of the court shall issue execution for the sum. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 809. Value of discontinued highway

When a discontinued highway belongs to the owner of land through which a highway is laid out, the value may be taken into consideration in estimating the damages sustained by the owner. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 810. Allowance lands

When a lot of land remains entire, as originally divided among the proprietors of a town, and is owned by one person, or jointly, to which a quantity of land was allowed for the use of highways more than has been taken up by highways already laid out, and a highway is laid through the lot, the allowance land may be taken into consideration in estimating the damages sustained by the owner. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 811. Benefits to landowner considered

In estimating the damages sustained by a person owning or interested in lands, by reason of laying out or altering a highway, the benefits which the person may receive shall be taken into consideration. (Added 1985, No. 269 (Adj. Sess.), § 1.)

Subchapter 11: Community Service Areas

§ 816. Access roads; State aid; application

When after hearing on a petition or on their own motion, selectmen find that the convenience of the inhabitants and the public good require that a highway be laid out or altered to provide access to a recreational, industrial, or community service area and that the estimated costs of taking land for constructing the highway exceed the amount available to the town for highway construction for the preceding two years, they may apply in writing to the board for additional money to construct the highway. A "community service" area is one having an institution or facility for providing legally authorized educational, social, or welfare services to the public such as schools, hospitals, medical centers, or nursing homes. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 817. Application; contents

In their application under section 816 of this title, the selectmen shall show:

- (1) the general location of the proposed highway;
- (2) the nature and ownership of lands to be affected;
- (3) the plans for the development of the area to be served by the highway;
- (4) the anticipated effect of the business or facility to be served, on the economy of the town and the State, and on the health, safety, transportation, education, and convenience of the public;
- (5) the consistency of the plans with town, regional, and state planning and zoning requirements;
- (6) if the town does not have a comprehensive plan or a zoning ordinance, any other provisions for regulating the use of land adjacent to the highway;
- (7) the land dedicated and funds available from town taxes and private contributions for acquiring land and constructing the highway;
- (8) the financial arrangements and responsibility of the person or municipality proposing to construct the facility in the area;
- (9) what other town boards and officials have been consulted relative to the proposed development and their comments and criticisms; and
- (10) all other facts reasonably pertinent to establish the necessity for laying out and constructing the proposed highway. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 818. Transportation board; action

When the board receives an application for additional state money for constructing an access road, it shall immediately cause studies and estimates to be made to determine whether the proposed highway can be constructed according to accepted engineering standards on or near the proposed location and the cost, and whether the plans for the area, according to accepted engineering and other standards, adequately provide

for vehicular and other traffic, for parking, for public utilities, and for emergency services. Upon completion of the studies, the board shall send at least two copies of its report and recommendations to the applicant town and, upon request, to the general assembly. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 819. Other investigation

The applicant town should also consult with such other agencies or departments of state government including but not limited to the agency of commerce and community development, the health department, and the department of forests, parks and recreation as may be necessary to furnish the general assembly with complete information as to the effect of the proposed highway and the development of the facilities upon the community and the state. Whenever a town informs one of those departments or agencies that it has applied for funds under this subchapter, and needs assistance to develop the information needed to support the advisability of constructing the highway, that department or agency promptly shall investigate the proposal and provide a complete report to the town. Upon request, a copy shall be provided to the general assembly. (Added 1985, No. 269 (Adj. Sess.), § 1; amended 1995, No. 190 (Adj. Sess.), § 1(a).)