

### **Emergency Lanes**

Municipal highway funds can be spent only on Class IV and V highways. [RSA 231:59](#). However, in 1994 the state legislature recognized a public safety need to keep some Class VI roads and private ways passable for emergency vehicles without requiring the municipality to reclassify or accept them as Class V roads with all the maintenance and liability responsibilities (RSA 231:90 through 92-a) that accompany maintained roads. [RSA 231:59-a](#) allows municipalities to spend highway funds to keep a Class VI highway or a private road "passable by firefighting equipment and rescue or other emergency vehicles," but only if the selectmen, after a public hearing, declare the relevant road as an "emergency lane."

#### **PROCEDURE**

In order to declare an emergency lane, the selectmen must hold a public hearing. In the case of a private road, "all persons known to have an interest in the way" must be given notice by regular mail 10 days prior to the hearing, and the private road can't be declared an "emergency lane" without owner permission, which can be withdrawn at any time. [RSA 231:59-a, III](#).

After the public hearing, the selectmen must first make written findings that "the public need for keeping such lane passable by emergency vehicles is supported by an identified public welfare or safety interest which surpasses or differs from any private benefits to landowners abutting such lane." [RSA 231:59-a, II](#).

If a road is declared an emergency lane, the municipality may then expend highway funds to remove brush, repair washouts or culverts, or do other work "deemed necessary to render such way passable by firefighting equipment and rescue or other emergency vehicles." [RSA 231:59-a, I](#).

#### **LIMITED AUTHORITY**

The limited authority to maintain Class VI roads and private ways granted in [RSA 231:59-a](#) -- repairing culverts, removing brush -- reflects the legislature's intention not to provide municipalities with a means to circumvent the normal procedures required for accepting and maintaining roads with the accompanying liability responsibility. However, when enacted properly, municipalities have strong protection from liability on minimally maintained emergency lanes. [RSA 231:59-a, IV](#) provides:

A declaration under this section may be rescinded or disregarded at any time without notice ... Utilization of this section shall be at the sole and unfettered discretion of a town and its officials, and no landowner or any other person shall be entitled to damages by virtue of the creation of emergency lanes, or the failure to create them, or the maintenance of them, or the failure to maintain them, and no person shall be deemed to have any right to rely on such maintenance.