

## *Appendix F - Right-of-Way Types*

### II Right-of-Way Types

**A. Right-of-Way (ROW)** is commonly purchased to accommodate state and local highways where no access control is warranted. Lands acquired by the state for ROW expansion are purchased in fee as of 1992 in accordance with RSA 230:14

*RSA 230:14 Layout by commission. The Governor, with advice of the council, may appoint a commission of three persons who, upon hearing, shall determine whether there is occasion for the laying out or alteration of a class I or class II highway or a highway within the state included in the national system of interstate highways in a location proposed by the commissioner of transportation and if so, the commission may purchase land or other property in the proposed location and shall layout the remainder of such highway or alteration. Any such land or property which cannot be acquired by agreement with the owner or owners thereof may be acquired in accordance with RSA 498-A. All property rights acquired under this section shall be fee simple, including property acquired by condemnation proceedings.*

Prior to 1992 ROW was purchased by the state as a highway easement. Fee ownership of the property under the highway remained with the abutting property owners.

**B. Limited Access Right-of-Way (LAROW)** is defined by RSA 230:44

*RSA 230:44 Definition. For the purposes of this subdivision, a limited access facility is defined as a highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a limited right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways may be parkways from which trucks, buses and other commercial vehicles shall be excluded; or they may be freeways open to use by all customary forms of highway traffic.*

LAROW typically allows no access to abutting properties which are located adjacent to the highway facility. LAROW was purchased as part of interstate highway system and is commonly used for all Limited Access highway facilities in New Hampshire.

**C. Controlled Access Right-of-Way (CAROW)** is included in RSA 230:44 and is used by the Department to limit the number of access points to the highway. Access points, i.e. driveways, through CAROW may be granted as part of the public hearing process for a highway project. The number of access points granted is dependent on the horizontal and vertical geometry of the highway and the present use, size and location of the existing parcel.

The intent in limiting or controlling the access to a highway facility is to protect the highway capacity and safety and reduce number of conflicts on the corridor. CAROW is typically purchased when constructing or reconstructing major arterial highways. Examples of highways where CAROW has been purchased are US routes 4,11, and 202 or NH routes 108 and 43.

Once LAROW or CAROW is purchased by the Department, access to abutting properties, if any is defined. Any future subdivision of parcels abutting CAROW must use existing access points granted or share access points between parcels. As part of the driveway permit process it may be possible to move access points granted along the frontage of a parcel as long as the number of access points which were initially granted to that parcel do not change.

Approval for access through ROW and CAROW is determined by the driveway permit process, which is administered by the Department's maintenance District offices. See the attached district location map on page 14. Even in areas where no access control is established the number of driveways permitted is limited by the Department's driveway manual entitled, "Administrative Rules for the Permitting of Driveways and other Accesses to the state Highway System". Below is an excerpt from this publication which relates to access limitations, (Figure II - I)

Fig. II - I

**Tra 302.08 Access Limitations.**

(a) No more than 1 driveway shall be permitted to a single parcel of land on a single highway unless there is all season safe sight distance of 400 feet in both directions along the highway. If the all-season safe sight distance cannot be obtained, and the driveway is not an unreasonable hazard to the traveling public, the single access shall be located at the safest point as determined by the district engineer.

(b) When frontage along the highway is 500 feet or less, no more than 2 driveways to a single parcel of land shall be permitted so long as all season safe sight distance can be maintained for all driveways and there are no other significant safety risks which could endanger the traveling public.

(c) When frontage does exceed 500 feet, no more than 3 driveways or accesses shall be permitted. The construction of internal street systems or service roads outside the highway right of way shall be utilized, if practicable, to provide greater safety for the subdivision occupants as well as other highway users, and to maintain the level of service of the highway.

(d) Exceptions to (c) above shall be granted if warranted by unusual conditions. The district engineer shall determine whether the individual conditions provide a basis for an exception.

(e) In determining whether an exception shall be granted, the district engineer shall consider the following:

- (1) Topographical features of the property which unreasonable restrict internal street access, such as mountains, ravines, lakes, rivers and wetland;
- (2) Restrictive lot area and depth which unreasonably restricts internal street access; or
- (3) Other unique characteristics.