

PUBLIC STREET LAYOUT AND ACCEPTANCE  
PROCEDURAL CHECKLIST FOR TOWN WAYS

I. LAYOUT

- A. Petition to Selectmen or Road Commissioners to lay out way as a town way.
- B. Selectmen or Road Commissioners vote intention to lay out the way and refer the petition to the Planning Board.
  - 1) Planning Board has 45 days from referral to report.
  - 2) If no report, proceedings may continue.
- C. Give notice of intent to lay out to any owners of land to be taken for the way.
  - 1) At least 7 days prior to meeting at which layout will be voted.
  - 2) By leaving notice at usual place(s) of residence of land owner(s) in person or to owner(s) tenant(s) or authorized agent(s), of if an owner does not reside in the town and has no known tenant or agent then by posting in a public place in the town.
  - 3) No statutory requirement for notice to others -- but check local charter or by-laws.
  - 4) Notice should contain a metes and bounds description of the land within the proposed layout and of any other land to be taken, as well as the date, time and place of the meeting at which the layout will be adopted. If a plan has been prepared, reference may be to the plan and where it may be viewed.
- D. Selectmen or Road Commissioners have plan prepared specifying the metes and bounds of the layout.
- E. Selectmen or Road Commissioners hold a public meeting and vote to approve the layout as shown on the metes and bounds plan. A public hearing is not required unless otherwise specified in the local charter or by-laws.
- F. The vote approving the layout and the metes and bounds plan of the layout are filed with the Town Clerk, who, within 10 days, must record the description in a book kept for this purpose. This needs to be done at least 7 days in advance of any Town Meeting action on the question of acceptance of the way.

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- G. If possible, establish the anticipated acquisition costs at this point, either by negotiation or by appraisal.

II. ACCEPTANCE

- A. Selectmen place an article on the Town Meeting warrant regarding acceptance of the way. If land or easement acquisition is necessary, the acceptance article or a separate article should seek an appropriation for taking, acceptance of a gift, or purchase.
- B. Not less than 7 days after the layout vote and plan have been filed with the Town Clerk, the Town Meeting may vote to accept the way.
  - 1) A majority vote is needed to accept a way which has been approved as part of a subdivision.
  - 2) A two-thirds vote is needed to accept any other way.
  - 3) A two-thirds vote is needed to authorize and appropriate funds for acquisition by purchase or eminent domain, where applicable.

III. ACQUISITION

- A. Within 120 days after termination of Town Meeting, the Selectmen or Road Commissioners either:
  - 1) Acquire necessary land by purchase or acceptance of a gift; or
  - 2) Adopt an order of taking under c.79; or
  - 3) Institute proceedings for a taking under c.80A.
- B. If an order of taking is adopted, the order must be recorded in the Registry of Deeds of the county in which the property lies within 30 days of the order.

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