



Road Acceptance Procedures

1. Eligibility

Eligibility is limited to roads constructed under subdivision regulations since 1954. These fall into two categories:

Certain private ways (since 1954) were granted significant waivers in order to be constructed at lesser cost, and therefore were expressly negotiated so as to remain private unless the owners of the lots undertake to improve the road up to public way standards; these include:

Bancroft Place, Blackbrook Road, Briarcliff Lane, Denise Lane, Donbyrne Way, Erin's Way, Fairfield Drive, High Rock Road, Hunter Lane, Jessica Lane, Kinsman Lane, Longmeadow Way, Paddock Lane, Reinhalter Lane, Sagamore Farm Road, Spingler Drive, Surrey Lane, Veranda Circle, Villa Road, Woodland Meade, and any of several unnamed paper streets that generally appear as driveways.

Roads that were not necessarily created to private way standards (and/or were intended to meet public way standards) include:

Appaloosa Lane, Berrywood Lane, Donald Road, Hickory Lane, Taft Woods Road

2. Initiation of Process:

Consideration by the Planning Board of acceptance of any proposed street shall be upon presentation to the Planning Board of grants by all persons having any interest in land within the boundaries of said street. The Planning Board may, for good cause as determined by the Planning Board, permit grants from less than 100% by frontage of all such persons, but in no event, less than 51% by frontage of those persons with an interest in said street. In determining good cause, the Board will consider issues such as the public benefit in accepting the road and the unique characteristics of the land or road in question. This petition shall indicate one designated representative of the road to facilitate the acquisition of signatures and to communicate with the Planning Coordinator.

3. **Research:**

The Planning Coordinator will research (for the use of the Planning Board) the history of the road to document what design standards were in place for public ways at the time the subdivision was approved, and to note any easements, waivers, and so on granted to the subdivision. When this research has been prepared, the Coordinator will contact the designated representative to set up an appointment to appear before the Planning Board. The designated representative is responsible for publicizing this meeting to the road members.

4. **Planning Board Actions:**

At the Planning Board meeting, the Board will discuss the findings with the road members and discuss any modification of waivers. The result of this meeting will be a description of the standards the road is to meet in order to be accepted. This information will be outlined in a letter sent to the designated representative (who is responsible for passing it on to the other members of the road). A copy of the letter will also be sent to the DPW Director.

5. **DPW Actions:**

The DPW Director will evaluate the state of the road and determine any additional items of work that are required in order for the road to meet current standards for acceptance. This will incorporate any input from the Police and Fire Chiefs regarding public safety issues. The DPW Director will prepare a letter for the designated representative and the Planning Board summarizing all the work required and estimating costs of the work. At the request of the representative, the DPW Director will have a meeting with the residents of the street regarding the proposed work.

6. **Actions of the Designated Representative and Roadway Members:**

The designated representative must file the following two items with the Town Clerk (with copies to the Planning Coordinator) at least fifteen (15) days prior to Town Meeting:

- a. An existing layout plan, as required by both state law and the Town's By-law, which is a survey of the street showing boundaries and measurements of the way in a form satisfactory to be recorded in the Registry of Deeds; said plan to be paid for in full by the abutters to the way;
- b. A set of signed and notarized documents (Appendix A attached) from 100% of all persons whose lot and/or house have any interest in land within the boundaries of said way granting interest to the Town for the area in question, except that less than 100% shall be acceptable if the Planning board has determined good cause as specified in #2 above.

7-9 Town Meeting Process:

7. No new street shall be accepted without approval of the Planning Board and the Director of Public Works.
8. The Planning Board will submit an article for the following Town Meeting recommending acceptance of the road, including any appropriations needed.
9. Town Meeting votes on acceptance (this requires a simple majority).

10-11 Improvements and Betterments:

10. If Town Meeting votes acceptance of the way, the Town makes the necessary improvements to the way, with the costs being subject to Section 11, below.
11. The abutters to the way having interest in the way are charged betterments to pay for the costs incurred by the Town. The Town will pay 50% of the costs of the improvements and the engineering costs of the improvements. Costs involved with takings and defense of takings will be borne by the Town. The abutters will pay 50% of the costs of the improvements, said costs being allocated to the abutters having interest in the way based on the length of frontage along the way, unless 100% of the residents of a street have signed a document (which is recorded at the Registry of Deeds) indicating they agree the betterment costs should be allocated by lot rather than frontage.

Approval date: May 10, 1999

Chairman, Board of Selectmen:

Heather M. Ford

Selectman:

David H. Neill

Selectman:

BR

These procedures do not apply to private roads in existence before 1954; those roads will be handled on a case-by-case basis. No record of the date of Spring Avenue and Sunnyside Avenue exists; these roads will also be handled individually.

PUBLIC RIGHT OF WAY EASEMENT

On this ___ day of _____, 200_, I/we, _____,
[ADDRESS], Hamilton, MA ("Grantor") hereby grant to the Town of Hamilton ("Grantee") the
following:

RECITALS:

A. Grantor is the holder of an interest in a certain parcel of land located in the Town of Hamilton, County of Essex, Massachusetts, known as [Name of Road] designated to be laid out as a public way (the "Road") as shown on a plan entitled [name and date of plan] on file with the Town Clerk.

B. Grantee is a municipal corporation organized under laws of the Commonwealth of Massachusetts.

C. Grantee desires to obtain, and Grantor desires to grant and create, on the terms and conditions hereinafter set forth, a perpetual easement for the Road, all as more particularly provided for herein.

NOW, THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor provides as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as if repeated at length.

2. Grant of Easement. Subject to the terms and conditions herein provided, Grantor hereby grants to the Grantee a perpetual easement over, under and upon the Road to be used for: (i) all purposes for which public ways are used in the Town of Hamilton; (ii) the repair, maintenance and improvement of the Road once accepted as a public way; and (iii) the laying of any pipes, drains, catch basins, conduits, fire hydrants and appurtenant facilities and equipment on, above or below the Road of any nature or for any use, including but not limited to utilities and drainage, whether performed by the Grantee or granted by the Grantee to another.

3. Release. The Grantor hereby releases the Town of Hamilton from any and all claims, demands and liabilities whatsoever, of every name and nature, both in law and equity or otherwise, which Grantor or anyone claiming by or through the Grantor may have for damage on account of or in any way resulting from the acceptance of the Road as a public way and the grant of this easement.

4. Runs With the Land. The easement shall run with the land and shall be binding on the Grantor, his or her heirs, executors, administrators, assigns and successors in title.

5. Reservation. Grantor hereby reserves all rights of ownership in and to the Road which are not inconsistent with the easement granted hereby.

EXECUTED as of the date and year first above written.

GRANTOR:

Name:

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this ____ day of _____, 200_, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (s)he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

419706