

## **Board of Selectmen Policy Public Street Layout and Acceptance**

### **1.0 Authority**

In accordance with MGL Ch. 82, §§17-32 and Article 5, Section 3 of the Town of Douglas General Bylaws: "Petition of Private Ways," the Board of Selectmen adopts this Public Street Layout and Acceptance Policy. This policy supersedes the Town of Douglas Street Acceptance Policy, as endorsed by the Board of Selectmen and the Planning Board in effect as of May 28, 2002.

### **2.0 Purpose**

This policy is a result of historic problematic issues related to the proper layout and acceptance of public ways within the Town of Douglas. Accordingly, this policy has been prepared to ease and facilitate the process by which private roads are laid out and accepted as public ways within the Town of Douglas and further to ensure a thorough and complete review of all ways proposed to be accepted as public ways.

### **3.0 Preliminary Requirements**

As appropriate, the Planning Board process for subdivision road construction and oversight shall be completed prior to petitioning the Board of Selectmen for Road Layout and Acceptance of a subdivision road.

### **4.0 Layout**

The "laying out" process establishes the metes and bounds and physical location of the way. It does not, by itself, constitute either the acquisition of an interest in the underlying land or acceptance of the way as a public way. The laying out process is, however, an essential prerequisite to the formal vote of acceptance by Town Meeting.

#### **4.1 Petition Process**

The laying out of a town way may be initiated by the Board of Selectmen/Road Commissioners, or through petition to the Selectmen/Road Commissioners by the Planning Board or by one or more inhabitants of the Town of Douglas (MGL Ch.82, §§17 and 21). In accordance with Article 5, Section 3 of the Town of Douglas General Bylaws, the petition shall be submitted prior to October 1<sup>st</sup> in order to be considered for acceptance at the Annual Town Meeting in the following May.

The layout petition shall include the following comprehensive documentation in order to be considered for layout and acceptance:

- a) copy of Planning Board meeting minutes showing a vote supporting the petition for road layout and acceptance as a public way;

- b) Letter from Town Counsel indicating that all necessary legal documents (ie. deeds, easements, title search, assents of mortgages, subordination agreements with the lender, etc.) are acceptable as to form;
- c) an original title certification for all roads, ways and easements being petitioned along with a letter from Town Counsel indicating the document is acceptable as to form;
- d) Signed and notarized originals of the approved legal documents (ie. deeds, easements, title search, etc.) ready to be executed by the Selectmen. These documents will be held by the Selectmen until Town Meeting approval, and then the acquisition process will commence;
- e) a certified list of abutters from the Town Assessor's Office of all property owners having frontage along the way that is proposed to be accepted as well as any land owners of the way to be laid out and any other owners of property that contain easements associated with the way (ie. slope, drainage, utility, sightline, etc.);
- f) a metes and bounds legal description of the way including a metes and bounds legal description of all easements to be included as part of the way;
- g) a printout from the Tax Collector showing that real estate taxes are paid in full thru the current date;
- h) two (2) paper plots of the layout plans (full-sized) and seven (7) paper plots (half-scale) showing all metes and bounds of the proposed public way as well as any associated easements. These layout plans shall show information and notes as is required for recording at the Worcester County Registry of Deeds. One Mylar copy is to be provided at the time of the layout meeting for signature.

#### **4.2 Notification of Layout Public Meeting**

At least seven (7) days prior to laying out the way, notice of the meeting at which the layout will be considered must be given to owners of any land or easements to be taken for the roadway, including any slope, drainage, or other easements. Notification shall be by U.S. Mail and shall be posted in a public place in the Town. The notice shall contain a metes and bounds description of the proposed layout and a description, by reference to assessors map and parcel numbers, or all land or easements to be taken, as well as the time and place of the layout meeting and shall also advise of the time and place the layout plans may be

viewed. The Board of Selectmen/Road Commissioners shall be responsible for providing notice of this public meeting.

#### **4.3 Action**

Once the meeting has been held concerning the layout, the Selectmen/Road Commissioners may vote to adopt the layout as shown on the metes and bounds plan. The layout description, as voted, including any plan, must then be filed with the Town Clerk (c. 82 §§22 and 23), who must record such decision in a book kept for this purpose within 10 days (c. 82 §32). Recording of this information at the Registry of Deeds is not required.

### **5.0 Acceptance**

“Acceptance” is the procedure whereby Town Meeting votes to recognize and accept responsibility for the street layout adopted by the Selectmen or Road Commissioners. In order for acceptance to occur, the Selectmen shall have voted positively to layout the way as a public way and all of the backup documentation required under Section 4.1 herein shall have been submitted and approved in final form prior to warrants closing for the Annual Town Meeting (end of March).

### **6.0 Acquisition**

If the Town will be acquiring the land or an easement in the way or any necessary easements associated with the way, such as slope or drainage easements, the Selectmen or Road Commissioners must, within 120 days after the termination of the Town Meeting at which the public way was accepted, either:

- (1) acquire the land by gift or purchase, or
- (2) adopt an order of taking under MGL c. 79, or
- (3) institute proceedings for a taking under MGL c. 80A (c. 82, §24).

If an order of taking is adopted under MGL c. 79, that order must be recorded in the Worcester County Registry of Deeds within 30 days of such adoption (c. 79, §3).

### **7.0 Waiver**

The Selectmen/Road Commissioners may waive any part of this policy as regards to the timing and/or deadlines provided that all statutory requirements are complied with for the purpose of public street layout and acceptance.