

# TOWN OF SANDWICH

THE OLDEST TOWN ON CAPE COD

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BOARD OF  
SELECTMEN

TOWN  
MANAGER

## TOWN OF SANDWICH – BOARD OF SELECTMEN

May 21, 2015

### STREET LAYOUT AND ACCEPTANCE POLICY AND PROCEDURE TIMELINE

#### Introduction

This policy is intended to establish procedures that the Board of Selectmen will utilize in processing petitions for the layout and acceptance of private roads as public ways. Nothing in this policy is intended to prohibit any inhabitant from petitioning for the layout of a particular road, but rather establishes standards and procedures that the Board of Selectmen intend to utilize as a condition of voting to accept the layout of private roads as public ways. Furthermore, nothing in this policy is intended to vary the statutory requirements and procedures for street layouts and acceptances under the Massachusetts General Laws.

In order for the Town to lay out and accept a private road as a public way, the following is a brief summary of the statutory requirements pursuant to G.L. c. 82, ss. 17-32:

1. A petition from an inhabitant of the Town is submitted to the Board of Selectmen to lay out a private way as a public way.
2. Once the Board of Selectmen votes its intention to lay out the way as a town way, the matter is then referred to the Planning Board for a recommendation. The Planning Board has 45 days after such reference in which to make its report. A public hearing is not required by statute. Once the Planning Board issues its report or the 45 days have passed, whichever is the earlier, then the public way proceedings may continue.
3. Once the Planning Board has submitted a report, or 45 days have lapsed since the referral to the Planning Board, and notice has been given to the landowners granting the easement for the roadway or from whom an easement in the roadway will be taken, at least seven (7) days prior to the meeting, the Board of Selectmen shall hold a public meeting at which time it may vote to approve the layout as shown on the layout plan.
4. The layout description as voted, including the layout plan, must be filed with the Town Clerk at least seven (7) days prior to Town Meeting.

5. In order for the street layout to be accepted by the Town as a town way, the Town Meeting must vote to accept the street as a town way as described in the layout of the street voted by the Board of Selectmen. A majority vote is required to accept a way that is shown on an approved subdivision plan. A two-thirds vote is needed to accept any other way. However, in the event that there is an appropriation of funds to acquire the easements or for improvements to the roadway, then a two-thirds vote of Town Meeting is required.
6. Within 120 days after Town Meeting voted to accept the way as a town way, the Board of Selectmen is required to acquire the necessary easements by purchase or gift; or adopt an order of taking pursuant to G.L. c.79. If an Order of Taking is adopted, the order must be recorded with the Registry of Deeds within 30 days of the adoption of the order.

### **Procedure and Timeline**

In order to comply with the statutory requirements for the lay out and acceptance of a private way as a town way, the Town of Sandwich has adopted the following procedures. The following schedule is for informational purposes and is subject to change, depending upon circumstances in the review of the petitions and completed applications. The Petitioner must submit the following documents to the Board of Selectmen at the Office of the Town Manager for the Town's consideration to layout and accept a street as a town way:

4:30 p.m. last  
Business day of June

1. Petition- The Petition must be submitted to the Board of Selectmen on the form prescribed by the Town Engineer and it must be received no later than 4:30 p.m. on the last business day of June for consideration by the Board of Selectmen for the upcoming fiscal year, signed by one hundred percent (100%) of the property owners abutting the road. Blank Petition forms are available at the Engineering Department. The acceptance of the layout of a street as a public way shall only be considered at Annual Town Meetings. The Board of Selectmen shall only consider the **FIRST FIVE FULLY COMPLETED PETITIONS**, containing all of the documents required to be submitted with the Petition as set forth below, for consideration for each fiscal year. The remaining petitions will be put on a list in the order in which they are fully completed for consideration for the following fiscal year. The Board of Selectmen may accept additional petitions each year if they determine it is in the Town's best interests to do so.

Petitions will only be considered for layout of roads that are determined by the Town Engineer to be in good condition, free of significant defects, and that meet the standards specified in the Planning Board's Subdivision Rules and Regulations. Petitions for roads not meeting these criteria may be considered by the Board of Selectmen provided that the abutters of the subject road(s) agree to

betterments to be assessed by the Town for one hundred (100%) percent of the costs to improve the road(s) in accordance with the aforementioned criteria.

Prospective petitioners are encouraged to meet with Department staff prior to submission to review the layout and acceptance process.

2. Two (2) originals of the layout plan and profile of the existing roadway meeting the requirements of the Town of Sandwich Planning Board Subdivision Rules and Regulations for an “as-built” plan, prepared and certified by a Massachusetts Registered Professional Land Surveyor. Existing plans on file at the Planning Department are acceptable if they meet current regulations.
3. Coring and/or test hole logs showing pavement structure performed and certified by a Massachusetts Registered Professional Engineer approved by the Town of Sandwich Engineering Department. Said corings and/or test holes shall be taken at the limits of the petitioned road and at points every 300 feet in between, or at the midpoint if less than 300 feet.
4. A certified abutter’s list from the Town of Sandwich Assessor’s Office indicating property owners abutting the roadway being petitioned. The Town Clerk shall certify such list.
5. A certified check made payable to the Town of Sandwich in an amount to cover the following costs:
  - a. \$100.00 application fee PER STREET request;
  - b. \$22.00 publication fee is required per application;
  - c. \$6.49 PER ABUTTER fee (certified letters must go to every abutter), (Only one notification letter is required if a person owns more than one piece of property on a given street.)
  - d. Recording fees in accordance with Registry of Deeds requirements. Contact the Engineering Department in advance of filing the application to determine the recording fees for each road petition. This fee will be returned if the road is NOT accepted.

July 1<sup>st</sup> to  
Mid August:

In consideration of each Petition, the Engineering Department shall first perform a preliminary investigation of each petitioned road(s) including;

1. Research of construction records and historical information as needed to determine road construction quality.

2. Field inspection of road pavement structure, drainage components, utilities and other pertinent items.
3. Review submitted plans and all researched data and develop list of road conditions not meeting current Planning Board Rules & Regulation Standards and submit to Planning Board.

Note: As an option, abutters may improve the private road at their own expense without using the betterment process. All construction work shall be completed for Engineering Department inspection by August 1, to be discussed at a mid-August Planning Board Hearing.

Mid August: Once the Engineering Department had completed its preliminary review of the petitioned road, the Board of Selectmen shall vote its intention to layout the street as a public way and shall pursuant to G.L. c. 41, §81G, refer the matter to the Planning Board for a recommendation. Upon receipt of the Planning Board's report or 45 days having elapsed since the Petition was referred to the Planning Board, whichever is the earlier, then the Board of Selectmen may hold a meeting to vote on the layout of the street as a public way.

September: Engineering Department develops preliminary estimates of betterment including legal and survey costs, in order for the street to be laid out as a public way and determines cost per abutter based on appropriate method (i.e. per lot, frontage, etc.). Board of Selectmen then notifies each abutter by certified mail of the estimated betterment cost and requests each abutter to return an executed form agreeing to the assessment of the betterment. The notice shall include the terms for the payment of the betterment.

Beginning of October: Board of Selectmen gives written notice of the meeting at which the Selectmen will consider the layout to property owners from whom the Town intends to acquire easements by gift or by eminent domain. The Town must give notice at least 7 days prior to the meeting at which the layout will be voted. The Board of Selectmen may vote to accept the layout of the street as a public way provided all of the abutters of the street agree to accept the betterment costs and agree to grant the roadway easements or the taking of the roadway easements by the Town. In the event that all of the abutters do not agree to accept the betterment and the roadway easements, then the Board of Selectmen may agree to layout the street as a public way by a majority vote that a compelling public need exists for the layout of the road as a public way. Nothing herein prohibits a petition to be filed by less than one hundred percent (100%) of the

owners abutting the road. Furthermore, this policy does not prohibit the Board of Selectmen from laying out and accepting roads pursuant to its authority under G.L. c. 82.

Beginning of  
February:

The Board of Selectmen shall place an article on the Town Meeting Warrant for acceptance of the street as a public way. If land or easements need to be acquired by the Town, the Article should authorize the acquisition of the land or easements by purchase, gift or eminent domain and, if necessary, appropriate funds therefor. If an Article placed on the warrant, the Petitioner shall submit Construction and Layout Plans per Town regulations.

Mid April:

The vote approving the layout and the layout plan must be filed with the Town Clerk at least 7 full days prior to Town Meeting. Final recordable plans and the Selectmen report are filed with the Town Clerk's Office. Documents shall be submitted in hardcopy and electronic formats. Final estimated betterment costs are calculated using lowest acceptable construction bid.

May:

For the street to be accepted as a public way, the Annual Town Meeting shall vote to (1) accept the way as laid out by the Board of Selectmen and to acquire the land or easements from all abutters by gift, purchase or eminent domain, (2) appropriate sufficient funds to make any necessary improvements to the street, and (3) assess betterments for 100% of the costs.

Within 120 days  
After ATM:

Town Counsel prepares the necessary documentation for the grant of easements to the Town or taking of easements by the Town and records all documents and plans at the Barnstable Registry of Deeds or the Barnstable Registry District of the Land Court once they have been executed by the Board of Selectmen or the property owners, depending upon the circumstances.

If necessary, the Town will undertake the necessary improvements to the way in accordance with the bidding procedures under the Massachusetts Public Construction Laws.

Upon Completion  
Of Betterments:

Each abutting owner shall be billed for his proportionate share of the actual total costs of laying out and accepting the road as a public way, and not the estimated costs. The assessment of betterments shall be governed by the applicable provisions of the General Laws.

Given under our hands this 21<sup>st</sup> day of May, 2015

Board of Selectmen:

Frank Pannorfi

Susan R. James

Ed Stocco

D. Bell

Peter Beauvois

**PETITION TO THE BOARD OF SELECTMEN  
FOR THE ACCEPTANCE OF A PRIVATE WAY**

We, the undersigned respectfully request that the duly elected Board of Selectmen of the Town of Sandwich, in accordance with the Street Layout and Acceptance Policy and Timeline established May 21, 2015 consider and recommend to the voters of the \_\_\_\_\_ Annual Town Meeting that the public convenience and necessity require that \_\_\_\_\_, a private way beginning at \_\_\_\_\_ and running to \_\_\_\_\_, be accepted as a Town Way pursuant to the provisions of Massachusetts General Laws authorizing said acceptance and the assessment of betterments.

We do hereby enclose the necessary documents as required by the aforementioned policy and submit to you that the signatures below represent one hundred percent (100%) of the owners abutting the petitioned way or the owner(s) of the fee interest in the petitioned way.

**PETITIONER**

**ADDRESS**

(PRINTED NAME AND SIGNATURE REQUIRED)

PRINTED NAME: _____  SIGNATURE:	
PRINTED NAME: _____  SIGNATURE:	
PRINTED NAME: _____  SIGNATURE:	
PRINTED NAME: _____  SIGNATURE:	





Road Name: \_\_\_\_\_

Page \_\_\_ of \_\_\_

Petition filed by: \_\_\_\_\_ Tel. No.: \_\_\_\_\_

Date received: \_\_\_\_\_

NOTE: Use additional signature pages as necessary.

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