



**TOWN OF CHARLTON  
OFFICE OF THE BOARD OF SELECTMEN**

**37 Main Street**

**Charlton, MA 01507**

**WWW.TOWNOF CHARLTON.NET**

Phone

(508) 248-2200 x 2412

Fax

(508) 248-2066

**Per M.G.L. C. 82 §21, §22, §23**

**M.G.L. C. 39, §23B**

**M.G.L. C. 41, §81G, §81I**

**PUBLIC STREET LAYOUT AND ACCEPTANCE  
PROCEDURAL CHECKLIST FOR TOWN WAYS**

**I. LAYOUT**

- a. Petition to Selectmen to lay out the way as a public way.
- b. Selectmen vote intention to lay out the way and refer the petition to the Planning Board for a non-binding recommendation.
  1. Planning Board has 45 days from referral to report.
  2. If no report, proceedings may continue.
- c. Give notice of intent to layout the way to any owners of land to be taken for the way. (Please note that this only applies when the fee to the roadway has not been reserved by the developer. In these cases, deeds of easement must be acquired by all landowners upon the roadway to be laid out.)
  1. At least 7 days prior to meeting at which layout will be voted.
  2. By leaving notice at usual place of residence of land owners in person.
  3. There is no statutory requirement for notice to others unless otherwise dictated by local charter or bylaws.
  4. Notice should contain a metes and bounds description of the land with the proposed layout and any other land to be taken, date, time and place of meeting at which the layout will be adopted. If a plan has been prepared, reference to the plan and where it may be viewed is acceptable.
- d. Selectmen receive plan specifying the metes and bounds of the layout.
- e. Selectmen 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 specified in local charter or bylaws.
- 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.
- g. If possible establish any anticipated acquisition costs at this point, either by negotiation or 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 or 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.

### In Summary:

Due to the complexities of the steps necessary to properly layout and accept a roadway as a public way, it would seem appropriate to establish a schedule for receipt of the documentation required.

A petition to layout a way is received.	
Place on agenda to vote intent to layout the way.	14 days?
Refer item to Planning Board.	
Planning Board has 45 days to report.	45 days
Schedule public meeting to vote to layout the roadway.	21 days?
File decision with Town Clerk.	
Decision must be on file no less than 7 days prior to TM vote.	7 days

At any point in this process the item can be voted onto a Town Meeting warrant.

It seems realistic to establish a policy of being notified at least 90 days prior to a Town Meeting that a roadway is potentially up for acceptance. Given that Special Town Meetings have much shorter notice requirements, it would seem to make sense to encourage such petitions be handled only at the Annual Town Meeting, which has specific timelines.

*From:  
Alan Gordon*

**Statutory Procedures for the Layout, Alteration, Relocation, Acceptance and Discontinuance of Ways by Towns:**

\*Local charter provisions may have supplemented these procedures.

**1. LAYOUT, ALTERATION AND RELOCATION:**

**Step 1:**

Petition is made to lay out, alter or relocate a way. The petition is made to the Select Board in a town. This petition can be on the initiative of the Select Board, or may be made by one or more inhabitants of the town (Chapter 82, Section 21).

Although a plan is not required in towns before the actual layout, alteration or relocation, a preliminary plan and cost estimates would be useful.

**Step 2:**

The Select Board vote their intention to lay out, alter or relocate a way. The vote becomes a public record (Chapter 39, Section 23-B)

**Step 3:**

The Select Board refer the petition to the Planning Board for a non-binding recommendation and report. The Planning Board has forty-five (45) days to report. If the Planning Board makes no report within forty-five (45) days after it receives the petition, the proceedings continue (Chapter 41, Sections 81-G and 81-I).

**Step 4:**

Notice of a public meeting, hearing or viewing regarding the intended layout, alteration or relocation must be given by the Select Board.

➤ Notice in towns (chapter 82, Section 22)

1) At least seven (7) days prior to the actual layout, altering or relocating of a way by the Select Board or Road Commissioners, they must give notice of such intention to the owners of any land to be taken for such purpose.

2) Notice SHALL be given by:

a) Leaving such notice at the usual place of abode of the owners of the land which will be taken; or

b) Delivering such notice to such owner in person or to his tenant or authorized agent.

If the owner has no such place of abode in the town and no known tenant or authorized agent who is a resident of the town, such notice shall be posted in a public place in the town (Chapter 82, Section 22).

Although the statute requires that notice be given only to those persons whose land will be taken, it is recommended that notice also be given to

all owners of land abutting a way to be affected and to others who may have an interest in such way.

3) Notice should include:

The following provisions for content of notice are not specified in the statute, but are recommended and are comparable to those for a city.

- a) A description of the proposed layout, alteration or relocation, including a description of land proposed for taking;
- b) The date, time and place of the meeting at which the Select Board or Road Commissioners intend to lay out, alter or relocate such way;
- c) If a preliminary plan and cost estimates were prepared, the notice should also specify where the plan can be reviewed.

**Step 5:**

The Select Board or Road Commissioners hold a public meeting on the proposal (Chapter 82, Section 22 and Chapter 39, Section 23-B).

**Step 6:**

The Select Board or Road Commissioners adopt an order to lay out, alter or relocate the way. A plan must be prepared specifying the courses and distances of such layout, alteration or relocation of a way.

The Select Board or Road Commissioners vote to adopt such layout, alteration or relocation as shown on the plan (Chapter 82, Section 22).

**2. ACCEPTANCE:**

**Step 1:**

In towns, the Select Board or Road Commissioners file with the Town Clerk, the order and plan of any way which they have laid out, altered or relocated (Chapter 82, Section 23).

Appropriate boundaries of the way and measurements must be given (Chapter 82, Section 23).

**Step 2:**

The Select Board place an article on the Town Meeting Warrant, "To see if the town will vote to accept the layout, alteration or relocation..."

An article should also be placed on the Warrant, "To see if the town will appropriate money for necessary acquisition or construction..."

**Step 3:**

When at least seven (7) days has elapsed after completion of Step 1 (filing of order and plan with Town Clerk), the Town Meeting may, by a majority vote, accept the layout, alteration or relocation of the way (Chapter 82, Section 23). The Town Meeting should also vote to appropriate necessary funds for acquisition and/or construction. Such appropriation requires a two-thirds vote of the Town Meeting (Chapter 40, Section 14).

**Step 4:**

In town, within thirty (30) days after the termination of the Town Meeting at which a layout, alteration or relocation of a way was accepted, the Select Board or Road Commissioners shall either:

- (1) Acquire necessary land for such layout, alteration or relocation by purchase or otherwise; or
- (2) Adopt an order for the taking of such land by eminent domain under Chapter 79, M.G.L; or
- (3) Institute proceedings for such taking under Chapter 80-A, M.G.L. (Chapter 82, section 24).

**Step 5:**

Within thirty (30) days after the Select Board or Road Commissioners adopt an order of taking, they shall record such order in the registry of deeds of any county in which the property taken lies (Chapter 79, Section 3).

**Step 6:**

The manner in which a way is laid out, altered or relocated SHALL be specified in a report transmitted to the Town Clerk by the Select Board, and Road Commissioners.

The report SHALL give a description of the location and bounds of such way. Town Clerk SHALL record the report in a book kept for that purpose within ten (10) day of receipt (Chapter 82, Section 32).

**Step 7:**

The appropriate town official implements the layout, alteration or relocation in the ground as adopted and accepted. When a limited and determinable area receives benefit or advantage from a layout, alteration or relocation of a way, betterment may be assessed upon the owners of property who have benefited.



**Town of Charlton**  
**Office of the Town Administrator**  
37 Main St. Charlton MA 01507  
[www.townofcharlton.net](http://www.townofcharlton.net)

Jill R. Myers, Town Administrator  
Joan H. Gardecki, Administrative Assistant  
Cindy L.H. Lake, Department Assistant

Phone (508) 248-2206  
Fax (508) 248-2066

March 19, 2003

Pat Gliniecki, Legal Dept.  
The News  
25 Elm Street  
Southbridge, MA 01550

Please print the following in the legal advertisement section of your newspaper on Friday, March 21, 2003 and bill to the Board of Selectmen:

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Charlton Board of Selectmen will hold a public hearing on their intention to lay out Brackett Hill Road and Pikes Pond Circle as a public way on the petition of Joseph Curran d/b/a Moriah Development Co., Inc. in the Selectmen's Meeting Room, Town Hall, 37 Main Street, Charlton on Tuesday, April 1, 2003 at 7:20PM. A copy of the proposed plan and legal description is available for viewing in the Selectmen's Office between the hours of 8:00 AM and 4:00 PM Monday-Friday as of Tuesday, March 18, 2003. All interested parties are invited to attend the public hearing or submit written comments to the Board at the address listed above by 12 Noon on Friday, March 28, 2003.

**BOARD OF SELECTMEN**  
John R. Bacon, Chairman  
Tammra A. Russell, Vice-Chair  
Kathleen W. Walker, Clerk  
Richard T. Kwiatkowski, Member  
Francis B. Fennessey, Member