

## Street Acceptance Reference for Subdivision Roads - Town of Westford

### Statement of Purpose

The purpose of this document is to provide an understandable description of the process required to bring a road forward for acceptance.

### Definitions

For the purposes of this document the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number included the singular number, and words in the singular number include the plural number. As used in this document, the word "shall" always implies a mandate, not an optional directive.

For the purpose of this document the terms street, way, and road will be used interchangeably.

1. Resident – Citizen residing within the Town of Westford.
2. Unaccepted– Any road which has not been accepted by majority vote of Town Meeting, in accordance with Mass General Law (MGL) Chapter 82, Section 21, 22, & 23.
3. Definitive plan - The road must be completed to the specifications in the last approved site plan for the subdivision, and will be held to that standard for the road regardless of the year of completion. The Planning Board of Westford has approved a definitive plan for every subdivision in Town of Westford and this Definitive Plan is recorded at the Middlesex North Registry of Deeds.

*This and other documents relating to a road and subdivision can be found online at the Middlesex North Registry of Deeds, Lowell Deeds web site, [www.lowelldeeds.com](http://www.lowelldeeds.com). Simplify your search by selecting the Town of Westford, property, and enter the specific road name. Only approved documents can be found at this web site. Documents on sub-divisions which are not yet approved can be found in the Planning Board meeting notes. It may be necessary to review your deed for subdivision name, book and plan number, etc. to facilitate your search.*

4. Standard for the road – The standard set by the Planning Board and specified in the definitive plan for the subdivision.
5. Betterment (B) – Charge to the resident to cover the cost of an improvement. This cost can be divided over a number of years to pay off construction costs incurred by the Town of Westford. This is a lien on the property and is usually paid through an addition to the resident's property tax. The resident may chose at any time to pay off the amount owed to the town. **The resident should be aware that the property cannot be sold until the lien is paid in full.**
6. Neighborhood Funded (NF) – Residents may privately fund the cost of bringing a road to acceptance. The advantage is that residents are not required to pay the prevailing wage that the Town of Westford is required to pay, thereby potentially reducing the overall cost. However it also means that the project must be funded at the time of completion.
7. Special Town Meeting – Any meeting other than Annual Town Meeting. **(MCL Chap 39 Sec 12)**
8. Warrant – A document issued by the Board of Selectmen and presented at Town Meeting consisting of a list

of items be voted on by the registered voters in present at the Town Meeting. The Warrant may consist of numerous of Articles.

9. Article – The specific item included within the Warrant which will be brought before the town meeting for vote.
10. Motion - A formal proposal for action made to an assembly for discussion and vote.
11. Punchlist – List of items to be completed or corrected on a specific road, issued by the Town Engineer.
12. Running – Legal terminology used to grant perpetual\_unlimited access.
13. Form G – section of Subdivision Rules and Regulations.

### **Street acceptance - an affirmative vote of the Town Meeting**

Resident should be aware that street acceptance can only be granted by a majority vote at Town Meeting. Street acceptance has historically been reserved for the Fall Special Town Meeting whenever possible due to both weather and requirements of the Highway and Engineering departments (*See **Timeline for Street Acceptance** section*).

### **Residents have a right to petition for street acceptance**

Massachusetts law states that a resident may place Articles on the Warrant without approval by the Selectmen by petitioning to insert the Article. Petitions to insert an Article on the warrant for an Annual Town Meeting require ten signatures. Petitions to insert an Article on the Warrant for a Special Town Meeting require 100 signatures or the signatures of ten per cent of the registered voters in the town, whichever is less.

It is however always advisable to have discussed the petition for street acceptance and received concurrence from the responsible Town Boards, since Town Boards will be asked for their opinions and recommendations at Town Meeting.

Resident should also be aware that a Timeline for Street Acceptance does exist and under Mass General Law it must be followed (*See **Timeline for Street Acceptance** section*).

### **Prior to street acceptance the Town Engineer must assess road condition**

Town Engineer and Highway Superintendent will assess roadway conditions and determine items to be completed. Some of these items are weather dependent. This means that they cannot be properly performed if there is snow, frost, or cold-weather present. Performance of most items would not meet standards if they were done in winter or early spring and would therefore result in premature failure or deterioration that the Town of Westford would ultimately be financially responsible for. This is the main reason for the requirement that work is not started prior to April 15<sup>th</sup>. Additionally, inspection of many items would be very difficult and sometimes impossible during winter or early spring. A few examples are; the inspection of bounds covered by snow-and the observation of the health of deciduous trees during winter months. An additional concern is that it is the practice of the Town of Westford to observe the roadway through the course of one winter to ensure there are no defects that could result in immediately necessary repairs. Of the utmost importance is to observe the function of the drainage, including infiltrating systems and detention basins, through an entire winter. Annual Town Meeting date does not afford adequate time for this full observation and appropriate repairs to be made for a roadway unless it has gone through a previous winter. When reasonably possible it is recommended and preferred that road acceptance applications be presented at Special Town Meeting.

### **Subdivision Developer Responsibilities**

It is the responsibility of the builder of a subdivision to build all roads to the standard which was approved in the Definitive Plan. Prior to starting the subdivision the developer and Planning Board have agreed upon the standard – it is specified in the definitive plan. The developer has also assumed responsibility for bringing his subdivision roads before Town Meeting for acceptance. The resident should therefore turn to the developer with initial questions about road acceptance to verify that all of his responsibilities have been met.

In the case where the developer has abandoned the subdivision it shall become necessary for the resident to work with the Town to complete this process. The primary town liaison is the Town Engineer who will assist the resident(s) with their effort to bring the road forward for approval.

### **Costs**

Any costs involved in the process are the responsibility of the resident. These costs are dependent upon what remains to be done and are discussed below. When available the Town of Westford will make every effort to expend bond money as delineated on Form G of Subdivision Rules and Regulations.

A number of legal documents are required to complete this process and it is the responsibility of the resident to complete all documents and cover whatever costs are associated with the compilation and completion of those documents.

### **Governing Laws**

Street Acceptance is governed by both the Town of Westford Subdivision Rules & Regulations and the Mass General Law (Zoning - Chapter 40A). *These documents can be found online.*

### **Should your road be unaccepted, please continue with the steps listed below.**

A number of the following items in this process should have already been completed by the subdivision developer. Should that be the case the resident may only need to complete missing items or update items that are deemed to be outdated. The resident should first meet with the Town Engineer to define what remains to be done and to create a plan for completion.

*The following steps are taken from the Westford Subdivision Rules and Regulations, Chapter 218, and the Code of the Town of Westford, Edition: October 25, 2004. In this document we have tried to make the code more understandable however it is the responsibility of the resident to verify that the code has not been updated. In all instances the most recent code will apply. The Code can be found on the Town of Westford web site by selecting "Documents Online", then "Subdivision Rules and Regulations".*

1. Resident should request a meeting with the Town Engineer to determine road status. The Town Engineer will provide the resident with the following information and status:
  - Definitive plan – containing the original construction specifications for the road
  - Results of the last inspection done on the road
  - Bond money remaining – seized or existing bond monies to be used as delineated in Form G of Subdivision Rules and Regulations.
2. Citizens may submit a written request to the Board of Selectmen for street acceptance and/or improvement under the Town's Betterment Policy.

3. The Town Engineer will provide an estimate for completion of the road. This estimate will be based on the standard for the road established in the definitive plan.
4. No application for street acceptance may be made until the following minimal requirements are met.
  - a. All conditions listed on the Town Engineer punch list must be met (Street Acceptance Procedure (SAP) Article VIII Sec. 218-28 B).
  - b. Upon completion of all work the road must have the approval of the Highway Superintendent (SAP Article VIII Sec. 218-28 A).
  - c. The resident will request a certificate of compliance from the Conservation Commission in the case where an order of conditions has been issued for the construction of the roadway and/or its drainage system (SAP Article VIII Sec. 218-28 C, 218-30 E).

*[Resident should contact the Conservation Director to discuss compliance (name and phone number can be found on the Town of Westford web site).]*

- d. Create a Street Acceptance Plan - Mylar plan and four (4) paper prints showing the street or streets to be accepted and all appurtenant easements by bounds, courses and distances (SAP Article VIII Sec. 218-30, and MGL 40B which only requires 1 paper copy of the Street Acceptance Plan with meets and bounds).

Using the certification of monuments form (Form M) the applicant shall produce certification that the granite bounds were placed as required by the approved planning board definitive plans and this form shall be stamped by a Registered Land Surveyor (SAP Article VIII Sec. 218-30 J).

*[Form M can be found in the appendix of the Town of Westford Subdivision Rules & Regulations) If possible the resident should contact the original surveying company to get the most cost effective pricing for this work. The name of the surveying company should be found on the Definitive Plan documents.]*

- e. The Town Engineer will provide instruments suitable for recording running to the "Inhabitants of the Town of Westford" for all easements which are not a part of the street or streets (including, but not necessarily limited to drainage, water and other utilities). These instruments must be signed by all parties having an interest or rights in such easement (SAP Article VIII Sec. 218-30 B).
- f. The Town Engineer shall provide a deed for the street itself, running to the "Inhabitants of the Town of Westford". This deed shall contain a legal description of the street named in the acceptance application and shall be signed by all parties having any rights or interests in such street (SAP Article VIII Sec. 218-30 C).
- g. A statement from the Westford Fire Chief certifying that all fire protection requirements, including but not necessarily limited to installation of hydrants and cisterns, have been provided and are satisfactory *[Contact the Westford Fire Chief to get this form and information. Name and phone number can be found on the Town of Westford web site.]* (SAP Article VIII Sec. 218-30 F).

**Necessary documents:**

1. Petition for road status.

2. Certificate of compliance from the Highway Superintendent stating the utilities & drainage are built according to the plan.
3. Definitive plan.
4. Statement of Compliance from the Conservation Commission (SAP Article VIII Sec. 218-30 E).
5. Statement of Compliance from the Westford Fire Chief certifying that all fire protection requirements, including but not necessarily limited to installation of hydrants and cisterns, have been provided and are satisfactory (SAP Article VIII Sec. 218-30 F).
6. Create a Street Acceptance Plan - Mylar plan and four (4) paper prints showing the street or streets to be accepted and all appurtenant easements by bounds, courses and distances (SAP Article VIII Sec. 218-30 A).
7. Form M (*found in the appendix of the Town of Westford Subdivision Rules & Regulations*) completed and stamped by a Registered Land Surveyor (SAP Article VIII Sec. 218-30 J).

### **Timeline for Street Acceptance**

#### **For presentation at any Town Meeting (Annual or Special):**

90 days before	Deadline for submittal of all street acceptance application materials to the Town of Westford Town Clerk (SAP Article VIII Sec. 218-29 A).
90 - 75 days before	Review period for application materials submitted.
75 - 60 days before	Resident must correct incomplete items and/or deficiencies and notify appropriate Town Departments for inspection (SAP Article VIII Sec. 218-29 B).

### **Appendix**

- a. Petition for road status
- b. Petition to apply for road acceptance
- c. Petition for street improvement
- d. Petition against street improvement
- e. Example of a road acceptance warrant article
- f. Indemnity Agreement
- g. Street acceptance flowchart

**Appendix A**

**PETITION FOR ROAD STATUS TO THE TOWN OF WESTFORD BOARD OF SELECTMEN**

The undersigned residents of \_\_\_\_\_,

[Name of Street(s)]

hereby request the following information on the status of the afore mentioned road(s) within subdivision

\_\_\_\_\_ (Subdivision Name)

1. The definitive plan for the road and subdivision (*the last specification of the planning board*)
2. The results of the last inspection done on the road (*what is left to do*).
3. The amount of any bond monies remaining for the completion of the road(s), or subdivision.

Petitioners' Signature:

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The board may contact our representative, \_\_\_\_\_ (Name)

\_\_\_\_\_, at \_\_\_\_\_

(Address)

(Phone and/or Email)

\_\_\_\_\_



NOTE: Only the owners of premises abutting on \_\_\_\_\_ should sign the foregoing petition. IMPORTANT: Signatures should in all cases be identical with the names of the owners on then\* deeds. If record title stands in the names of more than one owner, all owners must sign.

**Appendix C**

**Town of Westford Petition for Street Improvements**

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

Board of Selectmen

Town of Westford

55 Main Street

Westford, MA 01886

Petition for street improvements.

Dear Board Members:

I/we \_\_\_\_\_

(Print Name of Names)

Of \_\_\_\_\_

(Print – Street number & Name)

Petition the Town of Westford, through its Selectmen to improve the Street / Road known as

\_\_\_\_\_

(Print Street or Road Name)

To be improved as a public town street in accordance with the current Town of Westford policy for street improvements. The cost of said improvements to be paid for by the Town of Westford, with the street residents being assessed a betterment cost of seventy-five (75%) percent of the cost of said improvements.

Signatures:

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Signature)

The following information will be provided by the Assessor's Office:

Tax Map # \_\_\_\_\_

Lot # \_\_\_\_\_

Add additional pages for names, addresses, and signatures as needed.

Appendix D

**Town of Westford Petition against Street Improvement**

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

Board of Selectmen

Town of Westford

55 Main Street

Westford, MA 01886

Petition against street improvements.

Dear Board Members:

I/we \_\_\_\_\_

(Print Name of Names)

Of \_\_\_\_\_

(Print – Street number & Name)

Petition the Town of Westford, through its Selectmen NOT to improve the Street / Road known as

\_\_\_\_\_

(Print Street or Road Name)

I/we request that NO improvements, to the above listed street be made at any expense to me/us. I/we do not want to be burdened with the cost of said improvements.

Signatures:

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Signature)

The following information will be provided by the Assessor's Office:

Tax Map # \_\_\_\_\_

Lot # \_\_\_\_\_

Add additional pages for names, addresses, and signatures as needed.

**Appendix E**

**Example of a road acceptance warrant article**

To see if the Town will vote to accept the layout of the following streets as Town public ways pursuant to Massachusetts General Laws Chapter 82: (street names go here)

Or act in relation thereto.

## Appendix F

### Indemnity Agreement

1. No repair of a private way shall be undertaken until the Board of Selectmen has in its possession agreements executed by at least 85% of abutting owners on the portion of the way to be repaired holding the Town harmless from any additional damage arising from any negligent repair, and which includes the following provisions:
  - that the Town assumes no liability to such owners by making the repairs;
  - jointly and severally, to indemnify and hold harmless the Town with respect to such statutory liability and any and all other liability for claims of injury, death or property damage to such owners or third parties caused by alleged defects in the way, including attorneys' fees and other costs of defense;
  - that should the Town decide not to continue to provide temporary repairs to such way, the owners will themselves keep such way in good repair so as to minimize the liability of the Town for having undertaken such repairs;
  - that such repair shall not constitute "maintenance" of such way, so as to give the way the status of a way "maintained and used as a public way" under the Massachusetts Subdivision Control Law;
  - that if betterment assessments are assessed for the repairs, the owners will not appeal the amount of the assessment and agree that the assessment may be apportioned over a number of years.

### Appendix G

### Street acceptance flow chart

Town of Westford Street Improvement Flowchart ver 2 December 6, 2011



