

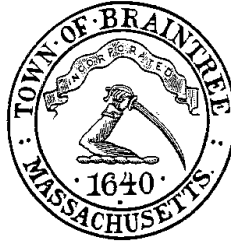
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At Large

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At Large

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District 1

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District 2



Charles Ryan
Vice President
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OFFICE OF THE TOWN COUNCIL

Procedure for Street Acceptance

DISCLAIMER: ALL PROPOSED AMENDMENTS TO THE STREET ACCEPTANCE BY-LAWS/ORDINANCES MUST COMPLY WITH THE PROCEDURES ESTABLISHED IN GENERAL LAWS. THIS DOCUMENT IS PROVIDED AS A GUIDELINE ONLY AND IS NOT INTENDED AS A SUBSTITUTE FOR COMPLIANCE WITH GENERAL LAWS. APPLICANTS ARE ADVISED TO CONSULT THE APPLICABLE STATUTE.

1. Street acceptance requests must be submitted to the Town Council Office along with the following:
 - a. Three copies of a plan and profile of each street drawn in ink or mylar or equivalent at a scale of one inch equals forty (40) feet and suitable for recording at the registry of deeds. The survey and plan must be accomplished by a private registered engineer or registered land surveyor and the cost of the work shall be borne by the abutters and/or petitioners.
 - b. If the applicant is not the property owner, three copies of a notarized affidavit from the property owner stating the fact the owner is requesting the Town to accept the way.
 - c. A list of the direct abutters of the petitioned street(s) certified by the Braintree Assessors' department.
 - d. Using the certified abutters' list, one set of envelopes for each abutter – addressed and postage paid. Notice of the Town Council hearing will be inserted by Town personnel and mailed 14-days prior to the Town Council hearing.
2. Upon receipt of all documentation, the Clerk of the Council dates and time stamps application, assigns and affixes a measure number on all documents and files with the Town's Clerk's Office.
3. Clerk of the Council submits the street acceptance application with all documentation to the Planning & Community Development Office and Town Engineer Office within 14-days of receipt.

4. The Town Engineer Office shall review application and prepare a Legal Description for the street acceptance request and provide a recommendation for acceptance to the Town Council Office and the Planning & Community Development Office within twenty-one (21) days of the date that the Town Council refers the application to the Town Engineer Office.
5. As per MGL Chapter 41, Section 81I, "In a city or town having a planning board established under section eighty-one (A) but which has not adopted an official map no public way shall be laid out, altered, relocated or discontinued, unless the proposed laying out, alteration, relocation or discontinuance has been referred to the planning board of such city or town and such board has reported thereon, or has allowed forty-five days to elapse after such reference without submitting its report."
6. The request will be introduced at the next scheduled Town Council meeting under "New Business" and referred to the Ordinance & Rules Committee after the following documents have been delivered to the Town Council Office or 45-days has elapsed:
 - a. Town Engineer Legal Description and recommendation (Step 4)
 - b. Planning Board Report (Step 5)
 - c. 45 days have elapsed since the street acceptance was referred to the Planning Board and no report was filed with the Town Council Office (Step 5)
7. Upon referral by the Town Council (Step 6) The Ordinance & Rules Committee shall meet and deliberate the street acceptance application within 21-days and make their recommendation to the Town Council at the next scheduled Council meeting under "Old Business".
8. The Town Council shall schedule a hearing before rendering a vote.
 - a. The Clerk of the Council is responsible for mailing all certified abutters notice of Council hearing as noted in Step 1D.
9. Voting requirements
 - a. If the Town is acquiring a real estate interest in the way by means of a purchase or taking the way by eminent domain, either of which requires an appropriation of funds for damages:
 - 1) A 2/3 vote is required to fund the damages to be awarded and then a second vote is required for the acquisition or taking of the property interest in the way.
 - 2) If the way was originally laid out under the Subdivision Control Law under the Planning Board's jurisdiction, a simple majority is required of the Council to acquire or take the way. (The petitioner would have to provide proof and/or the Planning Board would need to confirm this fact)
 - 3) If the way was not originally laid out pursuant to the Subdivision Control Law, then a 2/3 vote is required of the Council to acquire or take the way.
 - 4) If the Town is acquiring a real estate interest in the way by means of a gift to the Town, such that there is no need to appropriate funds for any damages, following paragraphs 2 or 3 above.

- b. If the Town is not acquiring a real estate interest in the way but is just accepting responsibility for the way:
 - 1) If the way was originally laid out under the Subdivision Control Law under the Planning Board's jurisdiction, a simple majority is required of the Council to accept the way. (The petitioner would have to provide proof and/or the Planning Board would need to confirm this fact)
 - 2) If the way was not originally laid out pursuant to the Subdivision Control Law, then a 2/3 vote is required of the Council to accept the way.

10. Recording of Acceptance

- a. It is the responsibility of the Developer and/or Petitioner of a new subdivision or of a new roadway to record the certified copy of the vote which accepted the street as a public way along with any maps required as part of the procedure for Street Acceptance within 30 days of Council Approval.
- b. All recording fees are the responsibility of the Developer and/or Petitioner.
- c. Copy of the recorded vote from the Registry of Deeds shall be submitted to the Town Clerk's Office within 10-days of recording.

Braintree Town By-laws

MODIFIED BY-LAW

12.04.060 Petition for street acceptance – Minimum Street Width

All petitions for the acceptance of streets, new or otherwise must be presented to the **[Braintree Town Council]**. No street or way shall be laid out or accepted by the town of a width less than forty (40) feet, unless the same shall have been actually opened and used for public travel prior to January 1, 1924 and is recommended and approved by the **[Town Council]**. Each petition for acceptance must be accompanied by a plan and profile of each street drawn in ink or mylar or equivalent at a scale of one-inch equals forty (40) feet and suitable for recording at the registry of deeds. The survey and plan must be accomplished by a private registered engineer or registered land surveyor and the cost of the work shall be borne by the abutters and/or petitioners. (ATM 5-8-90 Art. 12: prior code 113-9)

(Note: The above Town By-Law has been modified to reflect the 2008 change in government and has not been approved as an ordinance by the Town Council. A copy of the current by-law is shown below and/or can be found on the town website: www.braintreema.gov/townclerk)

EXISTING BY-LAW

12.04.060. Petition for street acceptance—Minimum street width.

All petitions for the acceptance of streets, new or otherwise must be presented to the board of **selectmen not later than January 1st previous to the annual town meeting, and such streets may be accepted only at an annual town meeting**. No street or way shall be laid out or accepted by the town of a width less than forty (40) feet, unless the same shall have been actually opened and used for public travel prior to January 1, 1924 and is recommended and approved by the **selectmen**. Each petition for acceptance must be accompanied by a plan and profile of each street drawn in ink on mylar or equivalent at a scale of one inch equals forty (40) feet and suitable for recording at the registry of deeds. The survey and plan must be accomplished by a private registered engineer or registered land surveyor and the cost of the work shall be borne by the abutters and/or petitioners. (ATM 5-8-90 Art. 12: prior code § 113-9)

ORDER #:

Application for Street Acceptance – Worksheet

SECTION TO BE COMPLETED BY PETITIONER

Petitioner

Name: _____

Address: _____

Phone: _____

Email: _____

Contact/Billing Information

Name: _____

Address: _____

Phone: _____

Email: _____

***Petition Submitted By:**

Date Received

Must return completed form to Town Council office along with all other documents when filing