

Massachusetts House of Representatives

Bill Summary

Bill #: H.4439

Title: An Act providing a simplified procedure for the layout and acceptance of subdivision roads in the City of Marlborough

Sponsors: Rep. Danielle Gregoire, Rep. Carmine Gentile

Committee: Municipalities and Regional Government

Hearing Date: September 4 to September 11, 2025 written testimony hearing

Prior History:

Current Law: MGL Chapter 79 is the Eminent Domain law, which contains a process by which a governmental body may take private property for a public purpose.

Chapter 82 governs the laying out, alteration, relocation, discontinuance and specific repairs made to public ways. It provides a public process which may include the taking of private property to create or alter roads. A public hearing must be held, with notice published for 2 weeks in the newspaper, and notice given to each abutting city or town into which the road extends. It also includes a process for notifying each property owner whose land might be taken for the road, a provision for viewing the site of the proposed road, and allows persons aggrieved by the land taking to recover damages.

Section 81K of Chapter 41 is the Subdivision Control Law. The law, in part, regulates the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways.

Section 55 of MGL Chapter 43 governs the approval or veto of orders, ordinances, etc. by a mayor and a process for overriding vetoes.

Summary: This special legislation seeks to resolve a longstanding issue involving unaccepted "private" ways; specifically as it pertains to approximately 50 roads that were created using the subdivision control law that were never accepted as public ways. The bill, supported by the city Planning Board, would authorize the city of Marlborough to use an alternate method for accepting such roads that meet the criteria for public use.

Section 1 of the bill authorizes the city of Marlborough, notwithstanding contrary language in existing statutes, to use an alternate procedure for the layout and acceptance of roads constructed within a subdivision that has been approved by the city planning board. The process is summarized here:

- The planning board, upon request of the mayor, city council, or on its own initiative, holds a public hearing concerning the layout and acceptance of specific roads. Every property owner abutting the road would receive written notice of the hearing at least 7 days in advance, and the notice would also be published in the newspaper and posted at the clerk's office. Within 21 days of

the hearing, the planning board would certify that the subdivision road has been properly laid out and constructed and submit the certification to the city council.

- Within 45 days of receiving the certification, the city council or committee would meet to consider whether the road should be accepted.
- If the city council, by majority vote, decides to layout and accept the road as a public way, then it would vote to adopt an order of acceptance for recording with the registry of deeds. The order would then be presented to the mayor.
- The order of acceptance shall be recorded within 90 days of approval. Upon being recorded, the order would vest in the city ownership of the road(s), along with ownership of all municipal easements identified in the certification, including but not limited to utility, drainage, flowage, access and other easements that are shown on the subdivision plan, for all municipal purposes.
- No owner of, holder of any interest in, land comprising the road, land abutting the accepted road, or land subject to an easement on the plan, shall have any claim for compensation against the city on account of such acceptance.

Section 2 provides for this legislation to take effect upon its passage.

Notes:

Approved by the Marlborough City Council 10-0 on July 21, 2025; approved by Mayor J. Christian Dumais on July 24, 2025.

According to a letter from the Planning Board, since many of the roads are part of subdivisions were constructed decades ago, it would be difficult if not impossible to contact the affected parties and assemble legal documents, and in most cases either the original subdivision developers are no longer available, or the entities are now defunct.