

**ARTICLE 6. REZONE 30 WORCESTER ROAD TO INDUSTRIAL**

To see if the Town will vote to amend the Town of Webster Zoning Map referenced in Section 650-13 of the code of the Town of Webster to re-zone one parcel of land totaling 1,350,404 square feet (31 acres) from the current zoning of Business with Sewer (B-4) to Industrial (I) as said Real Estate in the Town of Webster located on Worcester Road in the County of Worcester Massachusetts as shown on the map entitled "Proposed Change in Zoning District from Business with Sewer (B4) to Industrial (I), 30 Worcester Road – 1 Parcel" and on file with the Board of Selectmen and Town Clerk; or take any action thereon.

**ARTICLE 7. MARIJUANA ESTABLISHMENTS ZONING BYLAW**

To see if the Town will vote to amend the Town of Webster Zoning Bylaws by amending Chapter 650, Attachment 1, Table of Use Regulations, which would allow Marijuana Research Facilities, as defined in G.L. c. 94G § 1 in the Town of Webster by special permit or take any other action relative thereto, as follows:

Principal Use	District											
	1	2	3	4	5	5A	6	7	8	9	10	11
	SFR	ASFR	MFR	B-4	B-5	B-SA	IND	LR	FP	CD	WP	ROD
Marijuana Research Facilities***	N	N	N	N	N	N	SP	N	*	N	*	*

**ARTICLE 8. DISTRICT USES UPDATED ~ ZONING BYLAW**

To see if the Town will vote to amend the Town of Webster Zoning Bylaws by amending Chapter §650-20B., by adding new subsections to permit Marijuana Research Facility, by special permit in the industrial zone, and to impose additional special conditions to said Marijuana Establishments in Sections E. and F. or take any other action relative thereto, as follows:

- (7) Marijuana Research Facility

**ARTICLE 9. RETAIL MARIJUANA ~ ZONING BYLAW**

To see if the Town will vote to amend the Town of Webster Zoning Bylaws to add the following new Article XIII, § 650-93, Recreational Marijuana Retail Sales Overlay District and to establish the same overlay as shown on the map entitled "Recreational Marijuana Retail Sales Overlay District, Goya Drive and Town Forest Road – 8 Parcels" and on file with the Board of Selectmen and Town Clerk; or take any action thereon.

**Article XIII — Recreational Marijuana Retail Sales**

## **§ 650-93 Purpose; definitions; special requirements for retail sales of adult use marijuana**

### **A. Purpose.**

1. To preserve the character of the community and create a place for adults to have access to legal marijuana in the Town while mitigating community impact.
2. To provide regulations and criteria that will support adult access to legal marijuana in the Town while protecting the public health, safety, and well-being.
3. To provide for Marijuana Retailers in suitable locations and under strict conditions.
4. To regulate the siting, design, placement, operation, safety, monitoring, modification and removal of any Marijuana Retailer that may be located in the Town.
5. To minimize adverse impact to nearby properties, residential neighborhoods, schools and other places where minors congregate.
6. To prohibit on-premises consumption in Marijuana Retailers unless the Town votes to authorize on-premises consumption through protocols established pursuant to M.G.L c.94G, Section 3.

### **B. Applicability**

1. This Article applies to Marijuana Retailers, as defined pursuant to G.L. c. 94G, § 1 only. This Article shall not apply to other Marijuana Establishments defined pursuant to G.L. c. 94G, § 1, including Marijuana Cultivators, Marijuana Product Manufacturers, Marijuana Research Facilities or Marijuana Testing Facilities. This Article also shall not apply to Registered Medical Marijuana Dispensaries.
2. No Marijuana Retailer shall be established except in compliance with the provisions of this Article.
3. Nothing in this Article shall be constructed to supersede federal or state laws.

### **C. Administration & Procedure**

1. The Planning Board shall be the Special Permit Granting Authority (SPGA).
2. Site Plan: In addition to this section, the granting of a special permit will further require the submission and approval of a Site Plan based on the requirements set forth in this Article and with the requirements set forth Article VII Site Plan Review of the Zoning Bylaw. This Article shall supersede in the event of a conflict with Article VII, Site Plan Review.
3. Applicants for a Special Permit pursuant to this Article are strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed application

for a new Marijuana Retailer to discuss the proposal in general terms prior to the formal submission of an application.

4. A Marijuana Retailer that seeks to expand or alter its operations so as to come within a new class or sub-class of establishments as defined pursuant to 935 CMR 500.050(d), shall obtain a new special permit prior to undertaking such expansion or alteration.
5. The SPGA shall not issue any special permit that would cause the Town to exceed the limits on Marijuana Retailers set forth in Part II, Chapter 445 of the Town's General By-Laws.

#### D. Definitions

Where not expressly defined in this Article, terms used in this Article shall be interpreted as defined in The Regulation and Taxation of Marijuana Act, as amended, and as codified in G.L. c.94G, and the CCC Regulations promulgated thereunder, 935 CMR 500.000, et seq., as the same may be amended from time-to-time, and otherwise by their plain language. As used in this Article, the following words shall, unless the context clearly requires otherwise, have the following meanings:

1. Marijuana: The same substance defined as "marihuana" under Chapter 94C of the Massachusetts General Laws.
2. Marijuana Retailer: An entity licensed to purchase and deliver adult-use, aka recreational, marijuana or marijuana products from Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana product other Marijuana Establishments and to consumers.
3. Retail Premises: The entire parcel on which the Marijuana Retailer is located including the building and appurtenant facilities, such as a parking lot, walkway.
4. Agent: A board member, director, employee, executive, manager, or volunteer of a Marijuana Retailer. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

#### E. Eligible Locations for Marijuana Retailers - Recreational Marijuana Retail Sales Overlay District

1. The Recreational Marijuana Retail Sales Overlay District is herein established as an Overlay District as shown on the following plans: Recreational Marijuana Retail Sales Overlay District Zone 70 Worcester Road — 2 Parcels and Recreational Marijuana Retail Sales Overlay District Zone Goya Drive and Town Forest Road — 8 Parcels. Included in said overlay district are those parcels identified as Assessors Map 88, Lots B\_40\_0, B\_41-42\_0; on Assessors Map 96, Lots A\_2\_1, A\_2\_2; Assessors Map 97, Lots C\_1\_0; Assessors Map 98, Lots D\_1\_0, D\_2\_0, D\_3\_0, D\_4\_0, Assessors Map, Lot 99\_A\_1\_0.

2. A Marijuana Retailer shall be permitted only in the Recreational Marijuana Retail Sales Overlay District by Special Permit by the Planning Board in accordance with the provisions noted below and in accordance with the general Special Permit and Site Plan requirements as set forth in Articles III and VII of these bylaws.
3. The Marijuana Retailer shall not be located within 500 feet of any lot containing a school, licensed child care facility, public park, playground, athletic field or other recreational land or facility; drug or alcohol rehabilitation facility; correctional facility, halfway house or similar facility; or any other non-located Medical Marijuana cultivation facility or dispensary. For the purposes of this section, distances shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Establishment is or will be located. The SPGA may reduce the minimum distance requirement set forth in this subsection (3) as part of the issuance of a special permit where the SPGA determines that the reduction in the minimum distance is necessary for the purpose of maintaining consistency with M.G.L c.94G, 935 CMR 500 and/or state guidance relative to local regulation and siting of a Marijuana Retailer.
4. All rules of the underlying district(s) shall remain in full force and effect, except where the requirements of the Recreational Marijuana Retail Sales Overlay District are more stringent in which case, the requirements of this overlay district shall supersede those of the underlying district.
5. All other uses not specifically defined are prohibited under this Article — cultivation, manufacture, research, testing, third party transporter, mixed use, café, etc.

F. Use Regulations

1. Marijuana Retailers are prohibited from making off-site or home deliveries of marijuana or marijuana products to consumers.
2. Marijuana Retailers are prohibited from offering marijuana or marijuana products for the purposes of on-site social consumption.
3. Marijuana Retailers shall be prohibited from locating within a building containing residential units, including but not limited to transient housing and group housing.
4. Marijuana Retailers shall be prohibited from having locations which are moveable, mobile or transitory.
5. Use variances under this section are prohibited.
6. Marijuana Retailers are prohibited as an accessory use and prohibited as a home occupation.

G. Special Permit Criteria

1. Marijuana Retailer operations shall conform at all times to M.G.L., c.94G, and regulations issued thereunder; failure to comply therewith shall result in immediate revocation of a special permit issued hereunder.
2. The proposed use shall be designed to minimize any adverse impacts on the on the residents of the Town and the surrounding neighborhood.
3. Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the Marijuana Retailer is located and Marijuana Retailer shall comply with the requirements of 935 CMR 500 with respect to visibility of marijuana and marijuana products. Any artificial screening device erected to eliminate products from public view shall be subject to a vegetative screen and the SPGA shall consider the surrounding landscape and view shed to determine if an artificial screen would be out of character with the neighborhood.
4. Marijuana Retailer operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding the Retail Premises and adjacent properties. "Nuisance" includes, but is not limited to, consumption of Marijuana on the Retail Premises, disturbances of the peace, excessive pedestrian or vehicular traffic, littering, loitering, illegal parking, loud noises, odor excessive citation for violations of State or local traffic laws and regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public or private way (sidewalks and streets).
5. The Marijuana Retailer shall adhere to a security plan, approved by the Webster Police Department for the site and transportation of marijuana and marijuana products to and from off-site locations to ensure the safety of employees and the public and to protect the Retail Premises from theft or other criminal activity.
6. The Marijuana Retailer shall adhere to an approved traffic plan as detailed in its Traffic Impact Statement which mitigates the impact of vehicular and pedestrian traffic, circulation and parking.
7. The Marijuana Retailer shall provide and keep current contact information as required by the Chief of Police, Fire Chief, Health Director and the Building Commissioner such as name, telephone number and electronic mail address of a contact person who must be available 24 hours a day, seven days a week.
8. Signage shall be limited to that which is permitted under of 935 CMR 500 and Section 650-38 of this By-law.
9. All shipping and receiving areas shall serve the Marijuana Retailer exclusively. In the case of multi-use or multi-tenant site, the Marijuana Retailer shall be laid out and designed to ensure separation from other uses or tenants at the site.
10. No Special Permit shall be granted without first having an executed Host Community Agreement with the Town of Webster.

11. No Special Permit shall be granted until a Community Outreach Meeting in accordance with said the CCC regulations has occurred.
12. No Special Permit shall be granted without first having been issued a Provisional License from the Commission pursuant to 935 CMR 500.
13. No person shall operate a Marijuana Retailer without having a license in good standing from the Cannabis Control Commission.

#### H. Special Permit Submission Requirements

In addition to the standard Special Permit Application form, an application for a Special Permit under this article shall also submit the following:

1. A letter from the Webster Police Department to the Planning Board acknowledging receipt and approval of a security plan shall be submitted as part of the special permit application, indicating that the Department is satisfied that (1) there is limited undue burden on the Town public safety officials as a result of the proposed Marijuana Retailer; (2) security measures for the site and transportation of marijuana and marijuana products to and from off-site locations is sufficient to ensure the safety of employees and the public and to protect the Retail Premises from theft or other criminal activity; (3) the security measures are sufficient to mitigate any potential harm to the employees and the public including ensuring all persons entering the Retail Premises are at least 21 years of age; and (4) that the Marijuana Retailer agrees to post at a conspicuous location at the public entrance a sign that states "Only individuals 21 years of age or older", the text of which shall be a minimum of two inches in height.
2. A Traffic Impact Statement which adequately addresses issues of vehicular and pedestrian traffic, circulation and parking, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.
3. A copy of the final, executed Host Community Agreement between the Applicant and the Town of Webster.
4. Documentation demonstrating that a duly advertised Community Outreach Meeting was conducted in accordance with 935 CMR 500.100 including date, time, location and a copy of the public meeting notice.
5. The applicant shall submit proof that the application to the Commission has been deemed complete pursuant to 935 CMR 500.102. Copies of the complete application, to the extent legally allowed, shall be provided as part of the application to the SPGA, and no Special Permit application shall be deemed complete until this information is provided.
6. A Site Plan in compliance with Section 650-39 Motor Vehicle Parking and Loading.
7. Waivers: a list of any waivers of regulations that the Applicant seeks to obtain.

8. Written statement confirming that no marijuana or marijuana products will be smoked, burned, or consumed on the Retail Premises.
9. Evidence that the applicant has site control and the right to use the proposed site as a Marijuana Retailer. Such evidence shall be in the form of a deed, purchase and sale agreement, lease, or other legally binding document.

I. Special Permit Approval Conditions.

1. In addition to compliance with M.G.L. c.94G, and 935 CMR 500 et seq., the SPGA may impose reasonable conditions to improve site design, traffic flow, public safety, water quality, air quality, protection of significant environmental resources; and the preservation of community character of the surrounding area including, without limitation, the following:
  - a. Minimization of the impacts of increased noise and traffic.
  - b. Imposition of security precautions related to the high value of products.
  - c. Deterring the presence of unauthorized or ineligible persons at, or near, the Marijuana Retailer.
  - d. Imposition of measures to prevent diversion of marijuana and marijuana products.
  - e. Conditions related to the design and construction of the facility to improve safety, security and conformance with community character.
2. The SPGA shall include conditions concerning the following in any special permit granted pursuant to this Article:
  - a. The Marijuana Retailer is, or will become, fully permitted by all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all State laws and regulations; that issuance of a valid license pursuant to M.G.L. c.94G may be a condition subsequent of the special permit.
  - b. Compliance with the Host Community Agreement.
  - c. The submission of a copy of the license from the Cannabis Control Commission with the SPGA and the Building Commissioner prior to the issuance of a building permit, certificate of occupancy, or commencement of use, whichever occurs first.
  - d. The reporting of any cease and desist order, quarantine order, suspension order, limiting sales order, notice of hearing or final action by the Cannabis Control Commission or the Division of Administrative Law Appeals, as applicable, regarding the Marijuana Establishment to the Building Commissioner within 48 hours of the applicant's receipt.
  - e. Copies of all reports submitted to any state agency, including, but not limited to, the reports required by 935 CMR 500.105(10)(d) describing the establishment's liability insurance coverage and the annual security system audits required by 935 CMR 500.110(8) shall be submitted to

the SPGA within 5 business days of submission to the State. Such reports may be redacted as necessary to comply with any applicable state or federal laws or regulations.

- f. Documentation to the SPGA and the Police Chief that each Agent has completed training regarding the proper handling of marijuana prior to performing job functions including, but not limited to the Responsible Vendor Program under 935 CMR 500.105(2)(b). Such documentation must be provided to the Board within 5 business days of the completion of such training. Annually, the establishment shall provide documentation to the SPGA and the Board of Selectmen that all Agents have received at least eight hours of on-going training.
  - g. Annual Inspection: Any operating Marijuana Retailer within the Town shall be inspected annually by the Building Inspector, Health Director, the Fire Chief, the Police Department, or their designee(s), to ensure compliance with this Section and with any conditions imposed by the SPGA as a condition of the special permit approval.
  - h. A Marijuana Retailer shall file notice with the Town Administrator, Director of the Health Department, Police Chief, and the Building Commissioner within 24 hours of receipt of any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state agency (including, but not limited to, the Commission and Massachusetts Department of Public Health) regarding the Marijuana Establishment or the Marijuana Establishment's Cannabis Control Commission license.
3. The issuance of a special permit pursuant to this Article shall also be subject to the following:
- a. The special permit shall expire within three (3) years of the date of issue. If the applicant wishes to renew the special permit, an application to renew must be submitted at least 120 days prior to the expiration of the special permit.
  - b. Special permits shall be limited to the original applicant(s) and shall expire on the date the special permit holder ceases operation of the Marijuana Establishment.
  - c. The holder of a special permit shall annually file an affidavit with the Building Commissioner and the SPGA demonstrating that it is in good standing with respect to its license from the Cannabis Control Commission and any other applicable State licenses.
  - d. The holder of a special permit shall notify the Building Commissioner and the SPGA in writing within 48 hours of the cessation of operation



of the Marijuana Establishment or the expiration or revocation of the permit holder's license from Cannabis Control Commission.

- e. Special permits for Marijuana Retailers shall lapse upon the expiration or revocation of an applicant's license from the Cannabis Control Commission.
- f. A Special Permit shall be issued to the owner of the Marijuana Retailer and shall not transfer with a change in ownership of the business and/or property and shall lapse upon a change of use of the Premises.
- g. A Special Permit shall lapse if not exercised within one year of issuance.

**J. Adult On-Site Social Consumption**

On-site consumption of marijuana and marijuana products, as either a primary or accessory use, shall be prohibited unless permitted by a local ballot initiative process, as allowed by M.G.L. c.94G s.3(b). The prohibition of on-site social consumption shall include private social clubs or any other establishment which allows for social consumption of marijuana or marijuana products on the Premises, regardless of whether the product is sold to consumers on site.

**K. No Accessory Use Marijuana Establishments**

Use of property as Marijuana Retailer shall be deemed a principal use for purposes of the Zoning Bylaw, and shall be permitted exclusively in accordance with this Article. No Marijuana Retailer may be allowed within Town as an accessory use.

**L. Severability**

The provisions of this By-Law are severable. If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this By-Law.

**M. Violations**

Any violations of this bylaw shall be grounds for revocation of a special permit issued under this Section.

**ARTICLE 10. MARIJUANA ESTABLISHMENTS ZONING BYLAW**

To see if the Town will vote to amend the Town of Webster Zoning Bylaws by amending Chapter 650, Attachment 1, Table of Use Regulations, which would add a new column 12 RMRSO, for the Recreational Marijuana Retail Sales Overlay District or take any other action relative thereto, as follows:

	District												
	1	2	3	4	5	5A	6	7	8	9	10	11	12
Principal Use	SFR	ASFR	MFR	B-4	B-S	B-SA	IND	LR	FP	CD	WP	ROD	RMRSO

Recreational Marijuana Retail Sales	N	N	N	N	N	N	N	N	*	N	*	*	SP
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**ARTICLE 11. MARIJUANA RETAILERS LICENSED ~ GENERAL BYLAW**

To see if the Town will vote to amend Part II, Regulatory Bylaws, Chapter 445 – Marijuana of the Town of Webster General Bylaws by deleting the text shown with a ~~strikethrough~~, and inserting the text shown in *italics* as follows, or take any action relative thereto:

**Chapter 445 – Marijuana**

**§ 445-1. Marijuana Retailers Limitation.**

*The number of Marijuana Retail Licenses issued in the Town of Webster shall be limited to twenty (20%) percent of licenses issued in the Town of Webster for retail sale of alcoholic beverages not to be drunk on the premises where sold, which shall be calculated by rounding up to the next whole number.*

**§ 445-2. Marijuana License Required**

A. No person shall operate as a ~~Craft~~ Marijuana Cultivator Cooperatives, Marijuana Cultivators, Marijuana Product Manufacturers, *Marijuana Research Facilities, Marijuana Retailers*, Marijuana Testing Facilities, or other type of Marijuana Establishment as defined by Massachusetts General Laws Chapter 94G within the Town unless first duly licensed thereof by the Board of Selectmen annually.

**§ 445-3. Regulations.**

A. The Board may adopt reasonable rules and regulations related to the issuance of such licenses, including the fees to be paid therefore and the conditions to be satisfied by any applicant for such a license.

**§ 445-4. Applications.**

Applicants for a license annually shall file an application on a form by the Board of Selectmen, signed under the penalties of perjury by the applicant, containing such information as the Board of Selectmen may reasonably require from time to time. Each applicant annually shall pay an application fee as may be reasonably determined from time to time by the Board of Selectmen.

**§ 445-5. Hearing.**

A. The Board of Selectmen must act upon the application at one of their next three regularly scheduled meetings with due written notice provided to the applicant of the time, date and location where such appeal will be heard.

**§ 445-6. Decision.**

A. The Board of Selectmen may deny or approve the application with conditions. Such decision shall be based on the evidence taken at the public hearing, consistent with the protection of the health, safety and welfare of the public, and consistent

with the regulations promulgated by such board. *The Board of Selectmen shall determine as part of its decision, the permitted hours of operation.*

**§ 445-7. Orders and Fines for Licensed Premises.**

The Board of Selectmen may issue orders as appropriate to aid in the enforcement of this regulation and may enforce these provisions in equity, including the request for injunctive relief, in a court of competent jurisdiction. Any failure to comply with any Order issued hereunder shall result in the issuance of a formal warning. Any failure to comply with such a warning shall result in a fine of \$100.00. Any failure to comply after the issuance of said initial fine may be punishable by a subsequent fine of \$300.00. Each day of a continued non-compliance shall constitute a separate violation. Further, the Board of Selectmen may hold a hearing, with notice to the licensee, to determine if such license should be modified, suspended or revoked.

**§ 445 -8. Enforcement.**

This By-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to Massachusetts General Laws Chapter 40, section 21, as amended, or by noncriminal disposition pursuant to Massachusetts General Laws Chapter 40, section 21D, as amended, by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer.

**§ 445-9. Authority.**

A. Home Rule Amendment [art. 89 of the Amendments to the Massachusetts Constitution]; Massachusetts General Laws, Chapter 94G, § 3, 935 CMR 500.000.

**Sponsored by the Town Administrator**

**ARTICLE 12. TEMPORARY REPAIRS OF PRIVATE WAYS**

To see if the Town will vote to amend the Town's General Bylaws by adding the following new Chapter 573, or take any other action relative thereto:

**Chapter 573 Section 1 - Repair of Private Ways**

573.1.1 Pursuant to Massachusetts General Laws Chapter 40, Section 6N, the Board of Selectmen is hereby authorized to make temporary repairs on private ways which have been open to public use for a period of six (6) consecutive years or more, provided the repairs are for the protection of the health and safety of the general public using such private ways, subject to the provisions of this Bylaw.

573.1.2 No repairs shall be made on private ways that have not been released from covenant and/or bond.

**Section 573.2 - Minor Temporary Repairs**

573.2.1 The Town may make minor temporary repairs upon a private way in the Town. Such repairs shall be made only after the board of selectmen determines that, based on recommendation from the highway superintendent, the repairs are required by public necessity. No petition by abutters shall be necessary for the Town to make such minor repairs.

573.2.2 Minor temporary repairs shall include the filling of holes in the subsurface of such ways and repairs to the surface materials thereof. Materials for such repairs, where practical, should be the same as, or similar to, those used for the existing surfaces of such ways, but may include surfacing the ways with, bituminous materials, including but not limited to bituminous concrete.

573.2.3 Minor temporary repairs shall be limited to minor work such as filling, patching and not more than grading or scraping twice per year. Such repairs shall not include surfacing, resurfacing, installation of drainage of any kind or the original construction of sidewalks, curbing, street construction, or brush cutting and tree removal.

573.2.4 The cost of such minor temporary repairs shall be borne entirely by the Town, subject to funds being available through an appropriation voted by the Town; no betterment charges shall be assessed against the abutters; and, no cash deposit shall be required for minor temporary repairs.

### **Section 573.3 - Major Temporary Repairs**

573.3.1 The Town may make major temporary repairs on a private way in the Town. Such repairs shall be made only after a petition has been filed in the office of the board of selectmen. Such petition shall identify the repairs to be made and shall be signed by the owners of no less than 2/3rds of the primary lineal frontage of said way. Where a property is owned by more than one person or entity, each such person, and where appropriate, each trustee and/or representative, must sign the petition in order for that property's frontage to count towards the frontage percentage.

Following the submission of said petition, the board of selectmen shall conduct a public hearing, at which hearing interested persons may present evidence relative to the petition.

No repairs shall be made until the board, by a majority vote of its members, and following such hearing, determines that such repairs are required by public necessity, and until the town meeting has appropriated funds for such repairs.

573.3.2 Following such determination by the board that said repairs are a public necessity, the owners of land abutting such private way who derive benefit from said repairs shall be assessed betterment charges by the board. Betterment charges, in an amount of 100% of the aggregate cost to plan, prepare, and repair the private way shall be assessed on the proportion of the lot frontage on the way or portion of the way to be repaired to the frontage of said repaired way or other

proportional method as may be required by the Board of Selectmen. A cash deposit in the amount of \$250 shall be required.

573.3.3 Drainage easements, if necessary, shall be the responsibility of the petitioners.

#### **Section 573.4 - Assessments**

573.4.1 Except as herein otherwise provided, the provisions of G.L c.80, as it relates to public improvements and assessments therefor, shall apply to major temporary repairs, as defined in this Bylaw, to private ways where such repairs are ordered to be made under authority of this Bylaw.

573.4.2 Any assessment made in accordance with the provisions of this Bylaw upon the owner of an estate shall be paid within six (6) months of the date that such assessment is levied, where the total assessment is less than two hundred dollars (\$200.00).

573.4.3 Where the total assessment amounts to two hundred dollars (\$200.00) or more, the owner of the estate may divide the payment of such assessment into not more than ten (10) equal payments, the final installment payment to be made not later than five (5) years from the date of the levy of the assessment.

573.4.4 Assessments made under this Bylaw shall constitute a lien upon the land assessed in accordance with the provisions of G.L c.80, §12.

#### **Section 573.5 - Liability**

573.5.1 The Town, in making repairs under this section shall not be liable for any damages to persons or property caused by negligent repair or maintenance of the private way.

573.5.2 The Town shall not be liable or accountable for any damage caused by repairs made pursuant to this Bylaw. This bylaw does not confer any obligation or duty on the town or its agents to either initially place or thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or want of repair. The making of such temporary repairs to private ways, no matter how often or to what extent, does not constitute an acceptance by the town of such private ways as public ways, nor does it constitute a way being "maintained and used as a public way" under the Massachusetts Subdivision Control Law.