

ARTICLE 19

BETTERMENT PROCEDURES

SECTION 1. Repairs on Private Ways. The Board of Selectmen may cause temporary minor repairs to be made on private ways in the Town provided that the following conditions are complied with according to their determination:

- a. The type and extent of said temporary minor repairs shall include only filling in of holes or depressions in the subsurface of set ways with gravel or other suitable materials where practical to be the same as, or similar to those used for the existing surface of such ways and grading, but shall not include surfacing or permanent construction of said ways. The scope of the work which can be performed will be no greater than that which has been done on the way previously. There will be no change in the character of the ways and no permanent expansion or improvement therein.
- b. No new drainage shall be included in paragraph A.
- c. A determination by vote of the Board will be made that public convenience and necessity require said repairs.
- d. Such repairs can be made only if petitioned for by the abutters who own more than fifty (50) percent of the linear footage of such total way and one hundred (100) percent of the affected area on which the work is to be done.
- e. The Town acting through its Selectmen is hereby authorized to assess betterments upon the owners of estates which derive particular benefit or advantage from the making of such repairs on any such private way. Such assessment shall be a sum equal, in the aggregate, to the total cost of such repairs, and in the case of each such estate, in proportion to the frontage thereof on such way. Except as otherwise provided, the provisions of Chapter eighty of the Massachusetts General Laws relating to public improvements and assessments therefore shall apply to repairs to private ways ordered to be made under this section; provided, that no assessment amounting to less than twenty-five dollars shall be apportioned and no assessment may be apportioned into more than five portions.
- f. The Town in making of repairs under this section shall not be liable on account of any damage caused by such repairs. Said repairs shall not be undertaken unless the Selectmen have in their possession agreements executed by all abutting owners of the affected area to release and save the Town harmless on account of any damage whatever caused by such repairs. Such agreements to release and save harmless may be recorded in the Worcester District Registry of Deeds and shall be deemed to be covenants running with the land and shall be binding upon all subsequent owners thereof.
- g. Said private way shall have been opened to public use for six years or more prior to adoption of this By-Law, namely open on May 10, 1972 and in such cases Section twenty-five (25) of Chapter Eighty-four (84) of the Massachusetts General Laws shall not apply.

- h. No such repairs shall be commenced unless and until cash deposit, equal in amount to the estimated cost of such repairs as determined by the Board of Selectmen with the assistance of the Director of Public Works or a contractor duly authorized by the Town to do the work, is paid to said Town.

SECTION 2. Public Street Layout and Acceptance Procedures.

- a. The laying out of a town way or private way may be initiated by the Board of Selectmen or upon the written request to the Board by at least 75% of the abutting owners of a private way. The Board of Selectmen shall refer the request to the Director of Public Works who shall cause a layout plan to be generated. (T.M. 10/20/03)
- b. Upon the receipt of the plan from the Director of Public Works, the Board of Selectmen shall vote its intent to lay out the way and refer the request to the Planning Board. (T.M. 10/20/03)
- c. Within 45 days from referral, the Planning Board shall make a non-binding recommendation to the Board of Selectmen.
- d. Before final consideration to lay out the way, the Board of Selectmen shall hold a public hearing, notice of which shall be given to all abutting owners of the proposed way, at least 7 days prior.
- e. Following the public hearing, if at least 75% of the abutting owners agree to accept the betterment costs, the Board of Selectmen may vote to adopt the layout as shown on the metes and bounds plan, and place an article on the Annual Town Meeting Warrant. The betterment authorization shall be submitted on a form approved by the Board of Selectmen. All abutters shall be assessed their proportionate share. The Town will pay 25% of the cost of the improvements and the abutting property owners will be assessed a betterment for the remaining 75%.
- f. If approved by the Board of Selectmen, the layout and the metes and bounds plan of the layout shall be filed with the Town Clerk and an article placed on the Annual 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 such purpose, as well as any necessary authorization for taking, acceptance of a gift or purchase.

(T.M. 05/08/00)