

TOWN OF HOPKINTON  
GENERAL BYLAW  
Chapter 174

**STREETS AND SIDEWALKS**

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**[HISTORY: Adopted by the Town Meeting of the Town of Hopkinton as indicated in article histories. Amendments noted where applicable.]**

**General References**

Betterment assessments and sewer privilege fees – See Ch. 163, Art II.

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**ARTICLE I**  
**Street Acceptance Petitions**  
[Adopted 3-6-1952 ATM, Art. 21]

**~ 174-1. Presentation to Board of Selectmen.**

No article or petition calling for the acceptance of any new street shall be acted upon at a Special Town Meeting unless said article or petition has been signed by 100, or 10%, of the registered voters of the Town prior to its presentment to the Board of Selectmen for insertion in the Town Warrant.

**ARTICLE II**  
**Street Names**  
[Adopted 3-3-1953 ATM, Art. 16]

**~ 174-2. Submission of names to Board of Selectmen.**

For the purpose of avoiding duplication of names of streets, the names of all new streets shall be submitted to the Board of Selectmen for approval before becoming official.

**ARTICLE III**  
**Acceptance of Private Ways**  
[Adopted 6-7-1963 STM, Art. 7]

**~ 174-3. Plan required; conditions for acceptance.**

Any private way in existence in the Town of Hopkinton at the time of the adoption of the Subdivision Control Law,<sup>1</sup> so-called, shall not hereinafter be considered for acceptance as a public way unless the petitioners shall present to the Board of Selectmen a plan suitable for recording in the Registry of Deeds and unless the abutting landowners shall agree to convey to the Town the land necessary to complete the laying out of said way and further agree to pay to the Town 50% of the cost of laying out said way, including water, drainage surfacing and all other necessary construction.

**ARTICLE IV**  
**Laying Out of Streets**  
[Adopted 3-3-1965 ATM, Art. 52]

**~ 174-4. Betterments assessments.**

The Board of Selectmen is authorized to lay out, relocate and/or alter, as public ways, private ways which were in existence at the time of the adoption by the Town of the Subdivision Control Law, so-called, and providing for assessment of the cost or part of the cost to the abutters of said ways under the Betterment Acts,<sup>2</sup> so-called, based on the special benefits and advantages derived therefrom by the abutters other than the general advantages to all of the community; said betterment assessments to be not less the 60% of the cost of said betterment, provided that the assessment shall not be in excess of the special benefits or advantages derived therefrom by the abutters other than the general advantages to all of the community as authorized by MGL c. 80 and c. 82; provided, further, that action under this article shall not in any way be interpreted as authorizing the establishment of public ways in any manner other than as now provided by law, which requires the layout of proposed public ways and recommendations to Town Meeting by the Board of Selectmen and a separate affirmative vote of the Town Meeting on each street recommended;

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<sup>1</sup> Editor's Note: See MGL c. 41, ~ 81K et seq.

<sup>2</sup> Editor's Note: See MGL c. 80, ~ 1 et seq.

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nor shall any action taken under this article be interpreted as infringing upon the exclusive right of the Board of Selectmen to determine what streets they shall lay out and recommend to Town Meeting for acceptance as public ways.

**~ 174-5. Apportionment of assessments in installments.**

Betterment assessments to be apportioned in equal annual installments over a ten-year period.

**~ 174-6. Relationship with other laws.**

No action taken under this article shall be interpreted as an amendment of Chapter 210, Zoning, or as in any way qualifying or in conflict with the rules and requirements of the Planning Board relating to the subdivision of land and the requirements of said rules and regulations relating to the construction of ways within subdivisions under the jurisdiction of the Planning Board.

**ARTICLE V**  
**Depositing Snow**  
**[Adopted 11-10-1983 STM, Art. 3]**

**~ 174-7. Obstruction of streets and sidewalks prohibited.**

No person shall pile, push, throw, shovel, plow or by any other method or means cause snow to be deposited or placed on any public roadway or sidewalk of the Town so as to impede, obstruct or interrupt or otherwise adversely affect the unrestricted flow of traffic or the safe travel of any pedestrian on such roadway or sidewalk.

**~ 174-8. Exceptions.**

Section 174-7 shall not apply to any person in the employ of the Town or in the employ of an independent contractor which has been hired by the Town for the purpose of snow removal.

**~ 174-9. Violations and penalties.**

Whoever violates this article shall be liable to a penalty not exceeding \$25 for each such violation. Each instance of such conduct shall constitute a separate violation of this article.

**ARTICLE VI**  
**Temporary Repairs on Private Ways**  
**[Adopted 10-3-2001 STM, Art. 23]**

**~ 174-10. Authorization to make repairs.**

The Town of Hopkinton may make temporary repairs on private ways when such repairs are deemed necessary or appropriate by the Director of the Department of Public Works (the Director) and are approved by the Board of Selectmen. The Director shall make such determination based on the public convenience and necessity, the protection of the health and safety of the general public using such ways, and the protection of the environment adjacent to the way and in the surrounding area.

**~ 174-11. Type and extent of repairs.**

The repairs may include the patching and filling of holes; oiling and treatment of road surfaces; the repair of specific portions of the way; cleaning of catch basins and drainage structures; installation of guardrails

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or other infrastructure; and the reconstruction of a way, including the removal of roadway surface and the regrading and installation of fill and roadway surface materials, including asphalt and concrete.

**~ 174-12. Drainage improvements.**

As part of the repair of any private way, the Town may make such drainage repairs and improvements to the private way as are deemed necessary or appropriate by the Director. The Town shall not perform any such drainage repairs or improvements on a private way unless the Director has indicated that such repairs or improvements are required by public necessity or for the protection of the environment.

**~ 174-13. Abutters.**

The Town may only perform such repairs, reconstruction, or improvements on a private way upon the occurrence of any of the following events: the request of the Planning Board to the Board of Selectmen; the request of the Director to the Board of Selectmen; or at least 80% of the owners of properties which abut the way to be repaired have signed a petition to the Board of Selectmen requesting that such repairs to the way be performed. Such petition must state that the public convenience and necessity require such repairs, reconstruction and improvements and shall request that the Director make an investigation of the condition of the way and report the findings to the Board of Selectmen.

**~ 174-14. Easements.**

If any easements are necessary for the completion of such repairs, reconstruction or improvements, the owners of the properties abutting the way and the owners of any land or interest in land upon which such easement would be required, shall be responsible for the cost of the preparation and the grant of such easements to the Town. Such easement shall include the grant of the right to the Town, its agents, contractors and employees, to enter upon the way for the performance of the work.

**~ 175-15. Approval and method of payment.**

Upon receipt of a request from the Director, or from the Planning Board, or upon receipt of a petition from the owners of abutting properties, the Board of Selectmen shall review the report of the Director, and determine whether such repairs, reconstruction or improvements are required for the public health or safety, the protection of the environment, and the public convenience and necessity, and, if it so determines, the Board of Selectmen may approve the project and determine whether such repairs, reconstruction or improvements shall be paid by the abutters by a cash deposit; shall be paid by the abutters by betterment charges which shall be assessed to the abutters; shall be paid partly by the abutters and partly by the Town by the assessment of betterment charges for a portion of the work; or shall be paid by the Town. In the event the Board of Selectmen determines that the project should be funded in whole or in part by the assessment of betterments or by a cash deposit from the abutters, the Board of Selectmen shall hold a public hearing on such determination within 30 days thereof. The Board of Selectmen shall notify the owners of the properties abutting the way by regular mail at least seven days prior to the date of the hearing, and shall cause notice of such hearing to be published in a newspaper of general circulation in the Town at least seven days prior to the date of the hearing. Such notices shall indicate that the Board of Selectmen is considering the assessment of betterments or a cash deposit to fund the project. The Board of Selectmen shall make the decision on the request and the method of payment therefor, within 60 days of the close of the public hearing. If the appropriation of funds or the assessment of betterments is necessary, the Selectmen shall thereupon submit an article to the next ensuing Town Meeting for approval by the Town of the repairs, reconstruction or improvements to the way and the method of payment therefor.

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**~ 174-16. Board of Selectmen action.**

If the appropriation of funds, the assessment of betterments or a cash deposit is not to be required in conjunction with the project, the Board of Selectmen shall review the request at a public meeting within 21 days of receipt of the request, and shall make a decision on the request within 45 days of its receipt.

**~ 174-17. Liability of town.**

To the fullest extent permitted by law, the Town shall not be liable for any claim, damage, loss, cost, liability, or expense, of any name, nature or description, including attorney's fees and costs, arising out of or as a result of the repairs, reconstruction or improvements performed on any private way by the Town or any damage resulting therefrom, including that to third parties. The Board of Selectmen may in relation to any such project as it deems appropriate, require the owners of the properties abutting the way to execute an agreement pursuant to which all such owners agree to save, indemnify and hold harmless the Town from any and all such claims, damages, losses, costs, liabilities or expenses, including attorney's fees, arising out of or as a result of such repairs, reconstruction or improvements.

**~ 174-18. Ways to be open to public use.**

The ways upon which the Town may perform any such repair, reconstruction or improvement, must have been open to public use for no less than one year prior to the date of the vote of the Board of Selectmen which approves such project or which authorizes the submission of the article relating thereto to the Town Meeting.

**~ 174-19. Standard of work.**

All work to be performed by the Town on any such way pursuant hereto must be to the standards established by the Department of Public Works of the Town.

**~ 174-20. Basis for assessment of betterments.**

In the event the Town Meeting authorizes such repair, reconstruction or improvement to such way, and authorizes the assessment of betterments for all or a portion of the cost of such work, it shall determine the percentage of project cost to be assessed, and such assessments shall be made based upon either the fixed uniform rate method using the linear frontage of each lot on the street as the standard for computation, or the uniform unit method, pursuant to which each existing or potential lot abutting the way shall constitute a unit.

**~ 174-21. Town Meeting appropriation of funds.**

No repair, reconstruction or improvement requiring an appropriation of funds shall be made to any way pursuant hereto unless and until the Town Meeting has appropriated any funds necessary for the project.

**~ 174-22. Minor repairs.**

Upon the request of the Director, the Planning Board or the owners of properties abutting a way, the Board of Selectmen, based on the recommendation and report and the certification of the Director that the funds necessary for the project are available, may authorize the Town to make minor repairs to private ways to a sum not to exceed \$1,000 in total on any way in any one fiscal year.

**~ 174-23. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

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PRIVATE WAY -- Shall not include driveways, common driveways, roadways and driveways within condominium projects, private access roads, and ways to which the public does not have access.

**~ 174-24. Severability.**

The invalidity of any provision of this chapter shall not invalidate any other section or provision thereof, which shall remain in full force and effect.

**ARTICLE VII**  
**Driveways**  
**[Added 5-2-2005 ATM, Art. 33**

**§ 174-25. Construction of Driveways.**

This Article shall apply to all driveway permits issued after the adoption of this Article. No driveway permit shall be issued unless the requirements of this Article shall have been complied with. The provisions of this Article shall not apply to roadways or driveways in Garden Apartment, Senior Housing, or Village Housing developments.

**§ 174-26. Permits.**

Any person, organization, public agency or other entity proposing the construction of a driveway shall first obtain a driveway permit from the Department of Public Works. The Department may require the submission of an application, fee, and other materials containing such information which it determines to be necessary prior to issuing a permit.

**§ 174-27. Regulations**

- A. The slope of a driveway within 20 feet of the edge of the pavement of a public or private way shall not exceed 10%.
- B. No driveway which has been permitted under this Article shall discharge stormwater runoff into a public or private way so as to cause flooding, icing, erosion or sedimentation, accumulation of debris, or other negative effects which impair the use and function of the way for the general public. If, in the opinion of the Director of Public Works (the "Director"), the use and function of a way has been so impaired, the property owner shall be responsible for mitigating the condition by implementing such measures as are necessary to prevent the discharge into the way. Prior to the implementation of mitigation measures, the owner may consult the Director to review those measures which would be implemented outside the way. The Director must approve any measures which would be implemented within the layout of the way.
- C. As part of its driveway permit review process, the Department of Public Works (DPW) will ensure that the roadway opening at the public or private way is adequate for proper public safety emergency vehicle access. The DPW will consult with the Fire Department for its input as it deems necessary. After issuance of the driveway permit and a Building Permit, the Director of Municipal Inspections will conduct a site visit to review the layout of the driveway once it is roughed in and before project completion, to ensure that it is adequate for proper public safety emergency vehicle access. The Director of Municipal Inspections shall consult with the Fire Department if it appears that public safety emergency vehicle access may be impaired. In those instances where the Fire Department has been consulted and determines that a public safety emergency vehicle cannot adequately access the property, the driveway permit holder shall prepare a plan for accommodating safety vehicles that is acceptable to the Fire Department and

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the Director of Municipal Inspections, and shall be responsible for implementing the plan prior to issuance of an occupancy permit. [Added 5-5-2008 ATM, Art. 28]

**§ 174-28. Enforcement**

The Director and the Public Works Highway Manager (the “Manager”) shall have the authority to enforce this Article. Any person who violates any provision of this Article shall be notified as soon as practicable by the Director or Manager. Such notice shall advise such person that if the violation is not corrected and impacts mitigated within a specified period of time, such person shall be punished by a fine of not more than \$100.00. Each day or portion thereof during which a violation continues after the expiration of the specified time period contained in the notice shall constitute a separate offense. As an alternative to criminal prosecution in a specific case, the Director or Manager may issue a citation under the noncriminal disposition procedure set forth in Chapter 1, Article II of the Town of Hopkinton Bylaws.

**ARTICLE VIII**  
**Discharge of Water Onto a Public Way**  
**[Adopted 5-5-2008 ATM, Art. 20]**

**§ 174-29. Discharge of water onto a public way prohibited.**

No person shall alter existing conditions so as to allow, or cause, the man-made diversion of water onto a public roadway or sidewalk of the Town, by pump, down spout, swale, grading of land, or any other method, so as to create a hazard to vehicle or pedestrian travel on such roadway or sidewalk.

**§ 174-30. Violations and penalties.**

Whoever violates this article shall be subject to a penalty not exceeding \$25 for each such violation. Each instance of such conduct shall constitute a separate violation of this article.

**§ 174-31. Corrective action required within 30 days.**

Whoever violates this article shall, within 30 days of receiving a notice of violation, take any and all corrective actions necessary to prevent future violations of this article, or submit to the Department of Public Works a plan of action to prevent future violations of this article.