

**Chapter 199  
WATER**

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

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**ARTICLE I**

**Water Extension Petitions**

**[Adopted 3-6-1952 ATM, Art. 22; amended 5-3-2000  
ATM, Art. 55; 5-6-2002 ATM, Art. 16]**

**~ 199-1. Petition requirements.**

No article or petition calling for a new water extension 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**  
**Water Use Restrictions**  
[Adopted 5-1-1995 ATM, Art. 22; amended 5-3-2000  
ATM, Art. 55; 5-6-2002 ATM, Art. 16; , 5-7-2007 ATM, Art. 22]

**~ 199-2. Authority.**

This article is adopted by the Town under its police powers to protect the public health and welfare and implements the Town's authority to regulate water use and also implements the Town's authority under MGL c. 40, ~ 41A, conditioned upon a declaration of water supply emergency issued by the Massachusetts Department of Environmental Protection (hereinafter the "Department").

**~ 199-3. Purpose.**

The purpose of this article is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a state of water supply conservation or state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department.

**~ 199-4. Definitions.**

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

PERSON -- Any individual, corporation, trust, partnership, association or other entity.

STATE OF WATER SUPPLY CONSERVATION --A state of water supply conservation declared by the Town pursuant to ~ 199-5 of this article.

STATE OF WATER SUPPLY EMERGENCY -- A state of water supply emergency declared by the Department under MGL c. 21G, ~ 15 through 17.

WATER USERS or WATER CONSUMERS -- All public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

**~ 199-5. Declaration of a state of water supply conservation. [Amended 5-3-2000 ATM, Art. 55, 5-7-2007 ATM, Art. 22]**

The Town, through its Director of the Department of Public Works, may declare a state of water supply conservation upon a determination by the Director that a shortage of water exists and conservation measures are appropriate or if restrictions are required to be implemented by the Department of Environmental Protection or other state agencies to ensure an adequate supply of water to all water consumers. Public notice of a state of water conservation shall be given under ~ 199-7 of this article before it may be enforced.

**~ 199-6. Restricted water uses. [Amended 5-7-2007 ATM, Art. 22]**

A declaration of a state of water supply conservation shall include one or more of the following restrictions, conditions or requirements limiting the use of water as necessary to protect the water supply or required to meet state regulations. The applicable restrictions, conditions or requirements shall be included in the public notice required under ~ 199-7.

- A. Odd/even day outdoor watering. Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor watering by water users with even-numbered addresses is restricted to even-numbered days.
- B. Outdoor watering ban. Outdoor watering is prohibited.
- C. Outdoor watering hours. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a state of water supply conservation and public notice thereof.
- D. Filling swimming pools. Filling of swimming pools is prohibited.
- E. The use of outdoor automatic sprinkler systems is prohibited. **[Amended 5-6-1998 ATM, Art. 27]**
- F. Watering by Precinct – One or two days per week dependent upon current Department of Environmental Protection Regulations. The designation of the precinct and the days of the week during which water is permitted in each precinct shall be as specified in the declaration of a state of water supply conservation and public notice thereof. **[Amended 5-7-2007 ATM, Art. 22]**

**~ 199-7. Public notification of a state of water supply conservation; notification of Department.**

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a state of water supply conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the state of water supply conservation. Any restriction imposed under ~ 199-6 shall not be effective until such notification is provided. Notification of the state of water supply conservation shall also be simultaneously provided to the Department.

**~ 199-8. Termination of a state of water supply conservation; notice. [Amended 5-3-2000 ATM, Art. 55, Amended 5-7-2007 ATM, Art. 22]**

A state of water supply conservation may be terminated by the Director of the Department of Public Works, upon a determination that the water supply shortage no longer exists or Department of Environmental Protection Regulations allow. Public notification of the termination of a state of water supply conservation shall be given in the same manner as required in ~ 199-7.

**~ 199-9. Violation of restrictions and conditions.**

Upon notification to the public that a declaration of a state of water supply emergency has been issued by the Department, no person shall violate any provision, restriction, requirement or condition of any order approved or issued by the Department intended to bring about an end to the state of emergency.

**~ 199-10. Violations and penalties.** [Amended 5-3-2000 ATM, Art. 55]

Any person violating this article shall be given a written warning for the first offense. For subsequent violations, the person shall be liable to the Town in the amount of \$100 which shall inure to the Town for such uses as the Director of the Department of Public Works may direct. Fines shall be recovered by noncriminal disposition in accordance with MGL c. 40, ~ 21D. Each day of violation shall constitute a separate offense. In addition to the above fines, for violations beyond the second offense, the Town shall have the right to suspend water service. Fines may be recovered by the inclusion of the amount of the fine as a charge on the next scheduled water bill.

**~ 199-11. Severability.**

The invalidity of any portion or provision of this article shall not invalidate any other portion or provision thereof.

**ARTICLE III**  
**Rules and Regulations of the Hopkinton**  
**Municipal Water Distribution System**  
[Added 5-3-04 ATM, Art. 18]

**~199-12 Assessments.**

The Town of Hopkinton, acting through its Board of Selectmen, shall assess the owners of land abutting a public water line installed by the Town by a rate based upon any or a combination of the methods set forth in MGL c. 40, §§ 42G, 42H, 42I or 42K. Water assessments shall be determined by the Board of Selectmen and approved by the Town Meeting and shall be levied as betterment assessments and/or water privilege fees as described herein.

**§199-13 Statutory Authority.**

The authority to assess betterments, as well as the permitted methodologies for doing so, are described in MGL c. 40, §§ 42G, 42H, 42I and 42K.

**§199-14 Severability.**

If any provision of these regulations or the application thereof to any person or circumstance is

held invalid, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without such invalid provisions or applications.

**§199-15 Method of Assessing Betterments; Order of Assessments.**

- A. The Town of Hopkinton shall assess water betterments based upon any or a combination of the methods referred to in MGL c. 40, §§ 42G, 42H, 42I and 42K. Those properties abutting a street which is served by the town water distribution system and which are assessed based upon the uniform unit method, shall be assessed by a rate proportional to the value assigned to the water unit at the time of the assessment. Said rate shall be determined by user class and shall apply to all lands developed or undeveloped abutting the street. Those properties abutting a street which is served by the town water distribution system and which are assessed based upon the fixed uniform rate method shall be assessed according to the frontage of such land on any way in which a water main is constructed, or according to the area of such land within a fixed depth from such way, or according to a combination of both such frontage and area. Said rate shall apply to all lands developed or undeveloped abutting the street. The total assessments shall not exceed the local share of the total water project cost which shall include total costs of engineering survey and design, construction, land acquisition, construction engineering services, legal services, interest, and all related contingencies less all state and federal aid received.
  
- B. The Board shall levy, by preparing an order of assessment, assessments against those properties abutting a street which is served by the town water distribution system as it deems appropriate. In the order of assessment, the Board shall designate the owner of each parcel, as of the preceding January 1, as liable to the assessment as stipulated under the provisions of the General Laws.

**§199-16 Time of Assessment.**

- A. Betterments – The equivalent monetary value of one water unit shall be established for the water main extension construction project based upon the local share of the cost of the project as indicated in §199-15A of this Chapter. Appropriations for the construction cost of water projects may establish a differing equivalent monetary value of one water unit to be used for the construction costs of the appropriation. The time of assessment for lands abutting the street in which the water main has been installed shall be that date upon which the water system with appurtenances is approved for use. In the case where the construction of that portion of the water system partially funded by betterments is completed prior to the date upon which the water system is approved for use, it shall be within the powers of the Board to establish an earlier date of assessment.
  
- B. Water Privilege Fees
  - (1) For those properties not abutting the water line but tying into the system at a future date, the time of assessment shall be the date upon which that property connects into the water system.

(2) For those properties serviced by the water system but subdivided at a future date, the time of assessment for the portions of the subdivision which receive water in the future shall be the date upon which those subdivisions connect to the water system.

C. The water main extension water assessments shall be based upon 100% of the cost of the design and construction of the water facilities, less any grants, gifts, or other funds received by the town which reduces such amount, but including interest costs incurred by the town with respect to any short-term borrowing for the project, and shall be assessed as betterments to all properties benefited by this project.

**§199-17 Water Unit Designation.**

A. General. Water units shall be designated based upon the user class of those properties to be assessed a betterment. Said classes shall include residential and nonresidential. The nonresidential class shall include commercial, industrial, municipal and any or all other nonresidential properties.

B. Water Unit Determinations. Properties receiving direct benefit from the public water system, whether developed or undeveloped, shall be designated a number of water units in accordance with the following:

(1) Residential, Developed.

(a) Single-family dwellings shall comprise one water unit.

(b) Duplex dwellings shall comprise two water units.

(c) Three-family dwellings shall comprise three water units.

(d) Four-family dwellings shall comprise four water units.

(e) Multiple family dwellings (in excess of four dwelling units) shall comprise a number of water units based on the following methodology:

[1] Rental properties (apartments) shall be assessed one water unit for each apartment with more than one bedroom. Rental properties shall be assessed one half of one water unit for each one bedroom or studio apartment.

[2] Condominium complexes shall be assessed one water unit for each dwelling unit.

(2) Nonresidential, Developed

(a) Nonresidential property shall include all industrial, commercial and municipal properties.

(b) Nonresidential buildings which are metered for water use shall comprise a number of water units based upon the average water consumption for the 12 months most recently preceding the date of the establishment of the assessment using the following formula:

Nonresidential Water  
in gallons per day (gpd) = equivalent number

300 gpd of water units

(All decimals shall be rounded up to the next whole highest number).

(3) Residential Undeveloped – Undeveloped lots shall be assigned one water unit and be assessed accordingly. Future subdivisions of the assessed lot shall be subject to the assessment of water privilege fees.

(4) Nonresidential, Undeveloped – Undeveloped lots shall be assigned one water unit and be assessed accordingly. The lot shall be subject to the assessment of water privilege fees. Future use of the land shall govern the assessment of water privilege fees.

### **§199-18 Betterment Payment.**

- A. General – Except as herein provided, the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of water assessments, to liens therefore and to interest thereon, shall apply to assessments made under this article, and the Tax Assessor of the town shall have all of the powers conveyed by the General Laws.
- B. Lump-sum Betterment – The lump-sum betterment payment for an assessed property shall be equivalent to the product of the total number of water units designated upon said property and the appropriate value for one water unit at the time of assessment. Said values shall be determined as described herein.
- C. Apportionment of Betterment Payment – Property owners shall have the option to finance betterment payments through apportionment. The interest rate charged by the town shall be 2% greater than the project bond rate being paid by the town for the water construction project.
- D. Betterment Deferral – The provisions of MGL c. 80, § 13B, with regard to deferral of betterment assessments when adopted by Town Meeting would apply.

### **§199-19 Water Privilege Fee**

#### **A. Private Water Extension**

(1) If a developer or a person other than the Town of Hopkinton, or duly authorized representative of same, constructs an extension to the public water system in a phase of the water construction project which has been assessed a water betterment based upon the uniform unit method, the town shall assess a water privilege fee in lieu of betterment assessment against each property tying into said water extension. The water privilege fee shall be equivalent to 90% of the calculated betterment assessment value pertinent to each property as determined following the procedure outlined in § 199-17 of these regulations. Water privilege fees shall be levied at the time of connection to the public water system. Property owner options for payment of said fees shall reflect those related to payment of

betterment assessments as described in § 199-18B and 18C of these regulations.

(2) In addition, the developer and/or property owners connecting the private water extension shall bear the burden of all costs, including costs of legal services, related to the following:

(a) Review of design plans and specifications for the private water extensions to be accepted as part of the public water system conducted by a registered professional engineer as authorized by the Board.

(b) Inspection fees of the Board related to the installation of the private water extension tying into the public water system.

(c) Application fees for a building water installation permit, which shall include all reasonable costs related to installation inspection performed by an inspector for the Town of Hopkinton.

(3) Costs associated with the design and construction of a private water extension shall be considered separate to the water privilege fee. Payments or method of payment related to these costs shall not be reflected within the water privilege fee.

B. For those properties which are located within areas included in phases of the water construction project which have been assessed a water betterment based upon the uniform unit method, if a property abuts a private or unaccepted way within which a public water main has been installed, the town shall assess the betterment assessment as described in §199-18 of this article against said property. All rules and regulations governing the payment and the method of payment relating to betterment assessments as described in §199-18B and 18C of these regulations shall apply.

### C. Compensatory Water Privilege Fee

(1) Undeveloped Property – In the situation where a betterment has been assessed to an undeveloped property based upon the number of water units required by these regulations and said property is ultimately developed to accommodate a number of water units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory water privilege fee.

(2) In the situation where a betterment has been assessed to a developed nonresidential property based upon the number of water units required by these regulations and usage of said property is changed or increased which results in a number of water units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory water privilege fee.

(3) The compensatory water privilege fee shall be equivalent to that sum of money that would have been charged as a betterment assessment upon the property at the time of the original assessment, under the conditions to which they have changed or increased, less the amount of the original assessment. The compensatory water privilege fee shall be the product of the number of water units applicable to a property as ultimately developed multiplied by the water privilege fee amount for the applicable phase of the water construction project.

(4) All rules and regulations governing the payment and method of payment related to betterment assessments as designated in §199-18B and 18C of these regulations shall apply.

(5) No water privilege fee shall be assessed upon properties which have been assessed a betterment assessment based upon the fixed uniform rate method.

(6) The Board of Selectmen is authorized to take any other action necessary or appropriate to accomplish the establishment and recovery of such betterment assessments.