

TOWN OF HOPKINTON
GENERAL BYLAW

Chapter 99

EASEMENT MANAGEMENT

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| §99-3. Permission to alter easements. | |

[HISTORY: Adopted by the Annual Town Meeting of the Town of Hopkinton 5-6-1996, Art. 43. Amendments noted where applicable.]

~ 99-1. Purpose.

The purpose of this chapter is to provide a mechanism for the management and enforcement of certain obligations concerning easements which exist for a public purpose or benefit.

~ 99-2. Jurisdiction.

- A. This chapter shall apply to easements conveyed to the Town of Hopkinton or established as a result of an official action by a town board or commission of the Town of Hopkinton.
- B. This chapter shall not apply to easements on private property existing solely for the benefit of the owners of private property.
- C. Except as permitted in this chapter or by recorded documents governing the subject easement, no person shall remove, fill, dredge, build upon, degrade or otherwise alter any easement, without having first obtained the required approvals.
- D. Types of easements regulated by this chapter include but are not limited to:
 - (1) No-cut and no-build easements or areas.
 - (2) Limited disturbance buffers.
 - (3) Lot area not included within building envelopes.
 - (4) Drainage easements.
 - (5) Easements established to provide access for the benefit of the Town of Hopkinton, its agents, employees and/or residents.
 - (6) Scenic easements.

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- (7) Conservation easements or restrictions.
- (8) Trail easements.

~ 99-3. Permission to alter easements.

- A. A property owner of the town may propose to the appropriate board, officer or commission that it be permitted to alter land within an easement area subject to this chapter. Such land may be altered, provided that:
 - (1) The alteration is approved by the board, officer or commission of the Town of Hopkinton, responsible for maintaining the easement or, in the event that the easement was not conveyed to the town, the board, officer or commission which required the easement as a result of its official action.
 - (2) If the land is in private ownership and the owner has not requested the alteration, a representative of the town shall consult with the owner.
 - (3) The proposed alteration will not be detrimental to the purpose of the easement.
 - (4) The proposed alteration includes appropriate mitigation.
- B. In the case of an easement that prevents the cutting of certain trees, no tree within this easement shall be cut without certification from a Massachusetts certified arborist that said tree meets the specified criteria of the easement language for cutting or removal or is diseased or should for some other appropriate reason be cut or removed.
- C. In the case of an easement which creates access to or relates to a drainage system, no alteration of the land within the easement area shall be permitted without first obtaining the permission of the Hopkinton Highway Department.

~ 99-4. Monumentation.

The line of each easement which has been or will be established and which will be subject to this chapter shall be completely defined and proper monumentation set on the ground by placing of permanent monuments at all bounds and at each point of change of direction of the line. Such monumentation shall be of a different type than that used to denote property lines and street rights-of-way.

~ 99-5. Enforcement.

- A. Any person who violates any provision of this chapter may, at the discretion of the town board, officer or department having jurisdiction over the easement, be liable for a fine of \$100 per violation, and the requirement to perform appropriate mitigation which shall be determined by such town board, officer or department serving as official holder of the easement. If the easement has not been conveyed to the town, then the town board, officer or commission which required the easement may levy the fine and determine

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appropriate mitigation. Mitigation shall include restoration of the disturbed area whenever possible.

- B. In the event that trees are cut in violation of this chapter, the cutting of each tree shall be considered a separate violation.
- C. The town board, officer or department which has the authority to levy the fine and determine mitigation may, in appropriate circumstances, waive such fine and mitigation.
- D. The town board, officer or department which requires the easement as its official action may, in appropriate circumstances, waive the placement or manner of placement of monuments.