

## CHAPTER 223

### WATER

[**HISTORY:** Adopted by the Board of Water and Sewer Commissioners 6-28-1989.

[ *Note: The Board of Water and Sewer Commissioners adopted Specifications for the Hillsborough Municipal Water System, which are on file in the Town offices.*] Amendments noted where applicable.]

#### GENERAL REFERENCES

Water Department — See Ch. 36.

Board of Water and Sewer Commissioners — See Ch. 82.

Sewers — See Ch. 181.

#### ARTICLE I

##### Definitions and Word Usage

#### § 223-1 Definitions.

Unless the context specifically indicates otherwise, the meanings of the terms used in this chapter shall be as follows:

COMMISSIONERS - Duly elected three members of the Board of Water and Sewer Commissioners.

EASEMENT - An acquired legal right for the specific use of land owned by others.

IMPROVED PROPERTY - Any property located within the Town of Hillsborough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and for which water may be used or consumed.

INDUSTRY - Any room, group of rooms, buildings or other enclosure used or intended for use in the operation of one business for manufacturing, processing, cleaning, laundering or assembling any product, commodity or article or for which any water, as distinct from domestic water, shall be used.

OWNER - Any person vested with ownership, legal or equitable, sole or partial, or possession of any improved property.

OWNER'S SERVICE PIPE - The pipe between the curb stop at the curblineline or property line and the building or other place of use.

PERSON - Any individual, firm, company, association, society, corporation or group.

SERVICE-PIPE - That part of the water system extending from a water main to the curblin and/or curb stop or, if there is no curblin, to the property line, whichever comes first. If no such "service-pipe" is provided, then "service-pipe" shall mean that portion or place on a water main which is provided for connection of such.

TOWN - The Town of Hillsborough, acting by and through its Board of Water and Sewer Commissioners, in appropriate cases, acting by and through its authorized representative.

WATER MAIN - The pipe conveying water for individual service pipes.

#### **§ 223-2 Word usage.**

"Shall" is mandatory; "may" is permissive.

### **ARTICLE II**

#### **Rules and Regulations**

#### **§ 223-3 Authority to adopt rules and regulations.**

The rules and regulations herein are adopted by the Town of Hillsborough by their Selectmen, duly authorized, and pursuant to the authority granted to the Town of Hillsborough as a municipal corporation under the laws of the State of New Hampshire.

#### **§ 223-4 Authority of Board of Water and Sewer Commissioners.**

The Town of Hillsborough hereby designates the Board of Water and Sewer Commissioners, hereinafter referred to as "Commissioners," as the lawful agents of the Town of Hillsborough for the purpose of administering, enforcing and otherwise implementing the rules and regulations created herein.

#### **§ 223-5 Amendments.**

The Board of Water and Sewer Commissioners may modify or amend these rules and regulations or make additional rules and regulations relating to the use of the municipal water system of the Town of Hillsborough that it may deem expedient, provided, nevertheless, that any modification or additional rules or regulations shall not become effective unless there shall have been held a public hearing with due notice thereof not less than 15 days prior to the public hearing and notice of the proposed rules shall be published in a newspaper of general circulation in the Town of Hillsborough prior to the proposed effective date.

### **ARTICLE III**

#### **Use of Public Water**

##### **§ 223-6 Connection to system.**

Every structure may be connected to the public water supply system, provided that there is a water main with certified capacity to supply the structure in the street and provided that the Commissioners approve. All water connections shall be performed in such a manner as the Commissioners may require.

##### **§ 223-7 Certification of system capacity.**

Any request to connect is subject to certification by the Commissioners that there is adequate capacity in the main line and/or the water system.

### **ARTICLE IV**

#### **Owner's Service Pipe Connections**

##### **§ 223-8 Separate connections required.**

Except as otherwise provided in this chapter, each improved property shall be connected separately and independently with a service pipe. Grouping of more than one improved property on one service pipe shall not be permitted, except under special circumstances and for good reasons or other good cause shown, but then only after special permission of the Commissioners, in writing, shall have been secured and subject to such rules, regulations and conditions as may be prescribed by the Commissioners.

##### **§ 223-9 Responsibility of owner/developer.**

A. In the event of any development or construction which will be requesting or required to use the municipal water system for use on the premises, the developer/owner will, at its expense, initially construct each water main service pipe to the curb or property line (where the service pipe ends) and all costs and expenses of construction of the remainder of the owner's service pipe, including connection to the structures served, shall be borne by the developer/owner of the improved property to be connected; and such developer/owner shall indemnify and save harmless the Town of Hillsborough, its officers and agents, from all loss or damage that may be occasioned, directly or indirectly, as a result of construction, or its connection to the water system. Waterlines constructed shall be guaranteed by the developer/owner for two years from date of first use.

B. The layout of the work will be done by a competent registered engineer or licensed land surveyor. Line and grade along with stake offsets and grade stakes shall be provided as required.

### **§ 223-10 Connection.**

A service pipe line shall be connected to a water main at the place designated by the Commissioners and where the municipal water main is provided. A smooth neat joint shall be made, and the connection of a waterline shall be made secure and watertight and acceptable to the Commissioners.

### **§ 223-11 Permit required.**

No person shall uncover, connect with, make any opening into or use, alter or disturb in any manner any municipal waterline or any part of the municipal water system without first obtaining a permit, in writing, from the Commissioners in accordance with the provisions of Article IV, § 223-8.

### **§ 223-12 Inspections.**

No waterline shall be covered until it has been inspected and approved by the Commissioners. If any part of a waterline is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to the municipal water system.

### **§ 223-13 Safe and sanitary operation; backflow prevention.**

Every owner's service pipe of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such property.

A. No connection capable of causing backflow between the municipal water system and any plumbing fixture, device or appliance or between any waste outlet or pipe having direct connection to waste drains will be permitted. If the Commissioners, or their duly authorized employees or representatives, discover or find such a connection, service will be terminated immediately.

B. All owner's service pipes shall have a backflow prevention device commensurate with the degree of potential hazard. All such devices shall be located inside the improved property or place of use or structure served, and all water consumption shall pass through the device.

C. The backflow prevention device will be inspected and tested at least twice (two times) each year in high-hazard installations. Annual inspection and testing will be performed in low hazard installations.

D. A charge as specified in the current schedule of water rents and assessments (Article XII, § 223-43) will be made when a backflow prevention device is inspected and/or tested.

#### **§ 223-14 Guarding of excavations.**

Every excavation for a waterline shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Streets, sidewalks and other public property disturbed in the course of repair or maintenance of a waterline shall be restored, at the cost and expense of the owner of the improved property being served, in a manner satisfactory to the town.

#### **§ 223-15 Remedying of unsatisfactory conditions.**

If any person, firm, partnership or corporation shall fail or refuse, upon receipt of a notice of the Commissioners, in writing, to remedy any unsatisfactory condition with respect to a waterline, within 30 days of receipt of such notice or a shorter time in the event of an emergency, the Commissioners may remedy any unsatisfactory condition with respect to a waterline and may collect from the owner the costs and expenses thereof by such legal proceedings as may be provided by law. The Commissioners or duly authorized employees shall have full authority to enter on the owner's property to do whatever is necessary to remedy the unsatisfactory condition.

#### **§ 223-16 Classes of permits; fees.**

A. There shall be three classes of owner's service pipe permits:

- (1) For residential (single-family) service.
- (2) For commercial and multifamily service, not to exceed four dwelling units.
- (3) For service to industrial establishments and any other complexes.

B. In any case, the owner or his agent shall make application on a special form furnished by the Commissioners. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Board of Water and Sewer Commissioners. A permit fee of \$2,500 for a residential (single-family) service, \$7,500 for commercial and multifamily service, \$10,000 for industrial establishments and other complexes shall be charged. The permit fee shall be paid at the time the application is filed. [Amended effective 7-1-2004]

#### **§ 223-17 Standard specifications.**

*[Note: Appendix A is on file in the Town offices]*

The size, slope, alignment, materials of construction of a waterline, and the methods to be used in excavating, placing of pipe, jointing, testing and backfilling the trench, shall conform to the standard specifications of the Commissioners. Construction regulations and specifications are attached as Appendix A.

## **ARTICLE V**

### **Permits**

#### **§ 223-18 Form; revocation.**

Permits to connect to the municipal water system shall be issued on a form and in a manner and for a fee as provided herein, provided that such permits may at any time be revoked and annulled for such cause as the Commissioners may deem sufficient, and all parties in interest shall be held to have waived the right to claim damages on account of such revocation, provided that such revocation shall be annulled on compliance with the provisions in this chapter and the Codes of the Town of Hillsborough.

#### **§ 223-19 Nontransferability; expiration; availability at site.**

A permit issued shall be nontransferable and construction started or permit shall expire one year from date of issue, unless requested in writing to the Board of Water and Sewer Commissioners. The permit is to be available at the site of the approved project, prior to the commencement of the work.

## **ARTICLE VI**

### **Conditions of Service**

#### **§ 223-20 Type and size of materials.**

The Commissioners will determine the size and type of materials used for all main lines (including fittings to include gate valves, hydrants, etc.) and service pipes including type of connections to be made.

#### **§ 223-21 Unrelated pipes prohibited.**

No service pipe shall be laid in the same trench with other pipes or lines not related to the water service.

#### **§ 223-22 Temporary service.**

The Commissioners may approve temporary service connections on a case-by-case basis.

#### **§ 223-23 Cross-connection control.**

In compliance and in conjunction with New Hampshire Code of Administrative Rules, Part WS 314, Cross-Connections, the Commissioners will administer a cross-connection control program to protect the municipal water supply system. No cross-connection within the system will be allowed unless protected by an approved backflow prevention device commensurate with the degree of potential hazard. All such devices shall be located at the owner's service pipe entrance and all water consumption within the premises shall pass through the protective device. The

Commissioners are empowered to establish and collect certain fees and charges associated with inspection and testing of premises and devices.

**§ 223-24 Shutoff valve.**

The owner must provide a shutoff valve immediately inside (before the backflow prevention device) the building and/or before any plumbing connections.

**§ 223-25 Internal plumbing.**

All internal plumbing shall conform to accepted standards, and along with the owner's service pipe, shall be maintained in good condition at all times, subject to termination of service for violations.

**§ 223-26 Protection from damage caused by water pressure fluctuation.**

The municipal water system will not be held responsible for any damage to hot-water tanks and/or any other appliances, resulting from fluctuations in water pressure. Such appliances must be installed with the proper automatic vacuum, temperature control and pressure relief valves in the piping system to protect such.

**§ 223-27 Damage caused by defective plumbing.**

The municipal water system will not be held responsible for any damage by water/water deposits or otherwise resulting from defective or faulty installed plumbing, broken or faulty services, or water mains.

**§ 223-28 Changes in water quality.**

The municipal water system will not be responsible for changes in water quality due to faulty plumbing, equipment failure or other events beyond the immediate control of the municipal water system.

**§ 223-29 Discontinuance of service.**

The Board of Water and Sewer Commissioners may discontinue service for just cause.

**§ 223-30 Water use restrictions.**

The Commissioners may restrict water use whenever it may be required, as a result of emergencies and unpredictable events.

**§ 223-31 Water turn-on and -off at curb box.**

The Commissioners or duly authorized employees will turn the water on or off at the curb box as required by the owner for a charge as determined by the Board of Water and Sewer Commissioners.

**ARTICLE VII**

**Powers of Assessment and Collection**

**§ 223-32 Statutory authority.**

The assessment and collection of the expense of construction and maintaining the municipal water system shall be governed by the provisions of RSA 252:9-18, inclusive, and any other applicable general laws. The Board of Water and Sewer Commissioners shall have all the powers granted to boards of mayor and aldermen thereunder with reference to establishing and assessing water charges and/or rentals.

**ARTICLE VIII**

**Protection from Damage**

**§ 223-33 Damage or destruction of equipment prohibited.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal water system.

**§ 223-34 Penalties.**

Any person who shall wantonly or maliciously injure any part of the water system shall be fined not more than the maximum as provided by statute and from time to time amended and be liable to pay treble damages to the owner thereof (RSA 252:24, as amended).

**ARTICLE IX**

**Construction, Repair and Maintenance Work**

**§ 223-35 Specifications and inspections.**

*[Note: Appendix A is on file in the Town offices.]*

Any construction, repair or maintenance work in connection with water pipes connected directly or indirectly to any municipal water system line and/or appurtenance shall be performed in accordance with specifications (refer to Appendix A) and under the inspection of the Commissioners.



**§ 223-36 Work on pipes which are not part of municipal system.**

For work performed on water pipes which are not part of the municipal water system at the direction of or under the supervision of the Commissioners for the particular or special benefit of any individual parcel or portion of real property, a charge is hereby established in an amount to be determined by the Commissioners.

**§ 223-37 Assessment of charges.**

The Commissioners shall annually assess against the individual parcel of land the amount of any such charges remaining unpaid on December 31, and such charges shall be added to the tax roll and collected in the same manner and at the same time as the other taxes are assessed, levied and collected pursuant to statute.

**ARTICLE X**

**Powers of Inspectors and Employees**

**§ 223-38 Right of entry.**

Duly authorized employees or representatives of the Commissioners, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter.

**§ 223-39 Availability of information.**

All information in the possession of the owner bearing on the industrial, commercial or other use of water which in the judgment of the Commissioners, affects the municipal water system, shall be made available to them or their authorized representative.

**§ 223-40 Easements.**

The Board of Water and Sewer Commissioners and duly authorized employees, bearing proper credentials and identification shall be permitted to enter all properties through which the Town of Hillsborough holds a duly negotiated easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the water system, to be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**ARTICLE XI**

**New or Changed Use**

**§ 223-41 Notification.**

Any person proposing a new use of the water system or a substantial change in the volume of water to be used from the system shall notify the Board of Water and Sewer Commissioners at least 30 days prior to the proposed change of use.

## **ARTICLE XII**

### **Rents and Assessments**

#### **§ 223-42 Quarterly charge imposed.** [Amended 1-16-2007]

A quarterly charge is also hereby imposed upon every owner whose premises are served or under an order to be served by the municipal water system, for payment of the costs of administration, operating, improving, maintaining and repairing the municipal water system.

#### **§ 223-43 Unit system of measurement.**

*[Note: Appendix A is on file in the Town offices.]*

A. The quarterly charge established by this chapter shall be based upon a unit system of measurement as follows: [Amended 1-16-2007]

- (1) Each single-family dwelling shall be charged at the rate of one unit.
- (2) Each multiple-use building, other than a boardinghouse, nursing home, tourist home, hotel or motel, with which space is allocated for business or professional offices, commercial occupancy or apartments shall be charged at the rate of one unit for each dwelling unit, apartment unit, professional business or commercial space allocation.
- (3) Rooming houses, tourist homes, nursing homes, hotels and motels shall be charged at the rate of one unit for each bedroom, and one unit minimum for each 500 square feet or major fraction thereof, of the gross floor area available for rent as determined by outside premises foundation measurement and floor count.
- (4) Restaurants, taverns, bars, grills, lodges, fraternal, stores, charitable and religious organizations who maintain facilities for the preparation of food and/or beverages and/or the serving of food and/or beverages shall be charged at the rate of three units plus, in the event that said food and beverage facilities are in use five days per week, or more, a charge of one unit for each 50 seating spaces, or major fraction thereof, which is in excess of 75 seating spaces.
- (5) Gasoline stations and automotive sales and/or repair premises shall be charged at the rate of two units plus one unit for each stall, space or floor area used for the washing of automotive vehicles, whether said stall, space or floor area shall be used for washing by manual, semiautomatic or automatic means.
- (6) So-called car washes or other real premises devoted exclusively to the washing of automotive vehicles by manual, semiautomatic or automatic means

shall be charged at the rate of two units for each stall, space or floor area devoted to said washing if operated 12 hours, or less, in each twenty-four-hour day; to this charge shall be added the charge of one unit for each of said stalls, spaces or floor areas operated or usable in excess of 12 hours in each twenty-four-hour day.

(7) Lodges, charitable and religious organizations, corporations or associations organized and conducted to enable members to meet, shall be charged at the rate of one unit.

(8) Laundromats containing manual, semiautomatic, automatic or coin-operated washers, shall be charged one unit for each washer.

(9) Schools (private and public) and governmental installations shall be charged at the rate of one unit for each 50 or fraction thereof, students, teachers, custodians or other regular occupants and/or employees, the number of which shall be determined as of the 30th day of September and the first day of March for the next succeeding six months.

(10) Commercial establishments, including but limited to retail stores, wholesale distributors, business operations, barber- and beauty shops, banks, post offices, funeral homes, professional and business offices, lunch bars and other types of business enterprises not heretofore or hereinafter described shall be charged at the rate of one unit for each 10 employees, or fraction thereof.

(11) Light manufacturing and industrial plants or facilities (as determined by the Board of Water and Sewer Commissioners on a case-by-case basis) shall be assessed based on the volume of water consumed. Each such facility shall provide at its expense a water meter which will be installed and maintained by the facility owner and will be pursuant to specifications provided by the Commissioners. (Refer to Appendix A for specifications.) The cost per volume of water used shall be determined from time to time by the Commissioners to reflect the fair allocation of the costs of the system to the use by the facility.

(12) All facilities using the public water system for private fire suppression devices will be charged, for the availability or standby charge, one unit per each 5,000 square feet of area served, as determined by outside premises foundation measurement and floor count. These rates apply to availability of water on standby capacity only.

(13) Facilities with large use of irrigation services or devices will be charged one unit for each five devices or fraction thereof.

B. In the event that the use of any parcel or real property combines two or more of the classifications herein set forth the number of units in each classification shall be

determined, and the total thereof shall constitute the number of units to be charged to the entire parcel.

C. A minimum charge of one unit will apply whether water is used or not.

D. The Commissioners reserve the right to assess charges for use of the municipal water system and/or for other services provided, in the event that a customer does not fall within any of the above classifications or in the event of special circumstances.

E. Any change in the number of applicable units chargeable to a premises shall be reported to the Board of Water and Sewer Commissioners (Article XI, § 223-41).

F. The Commissioners will review the user charges at least annually and revise the rates as necessary to ensure that adequate revenues are generated to pay the costs of operation and maintenance including replacement costs among users and user classes.

G. All moneys received in any way on account for the municipal water system shall be paid into the Town of Hillsborough Treasury and shall be kept and applied exclusively for the uses of said municipal water system, including the payment of the municipal water system bonds. The Board of Water and Sewer Commissioners or designated agent shall keep accounts, showing fully all receipts and payments made in any way on account of the municipal water system, including said bonds, separately and distinctly from all other receipts and payments.

## **ARTICLE XIII**

### **Billing**

#### **§ 223-44 Unit determination.**

Units as defined in Article XII shall be determined by the Board of Water and Sewer Commissioners.

#### **§ 223-45 Commitment of assessments and charges.**

Assessments and charges shall be committed to the Collector of Water Rents, and he/she shall have the same rights and remedies and shall be subject to the same liabilities in relation thereto as in the collection of taxes (RSA: 252:13).

#### **§ 223-46 Assessments create lien.**

All assessments of water charges and assessments shall create a lien upon the lands on account of which they are made, which shall continue, and in case an appeal has been taken and the assessment has been sustained in whole or in part upon such appeal, until such assessments are paid. Such assessments shall be subject to the interest and such other charges as are applicable to delinquent taxes (RSA 252:12).

## **ARTICLE XIV**

### **Conflicts**

#### **§ 223-47 Higher standards to prevail.**

If a provision of this chapter is found to be in conflict with any provision of any zoning, building safety or health or other ordinance or code of the Town of Hillsborough or the State of New Hampshire existing on or subsequent to the effective date of this chapter, that provision which, in the judgment of the Commissioners, established the higher standard of safety and protection of health shall prevail; and that ordinance, law, code or provision which sets the lower standard is hereby declared to be invalid to the extent that it is found to be in conflict with the ordinance, law, code or provision which sets the higher standard.

## **ARTICLE XV**

### **Constitutionality**

#### **§ 223-48 Severability.**

Should any section, paragraph, sentence, clause or phrase in this chapter be declared unconstitutional or invalid for any reason, the remainder of the chapter shall not be affected hereby and shall remain in full force and effect, and to this end the provisions of this chapter are declared to be separable.

## **ARTICLE XVI**

### **Enforcement**

#### **§ 223-49 Penalties for offenses.**

Any person, firm, partnership or corporation found to be violating or in violation of the specifications of the Appendix and/or this chapter shall be fined in the amount not exceeding \$500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

#### **§ 223-50 Liability for expenses, loss or damage.**

Any person violating any of the provisions of this chapter shall become liable to the Town for any expense, including reasonable legal expenses or loss or damage occasioned by the Town by reason of such violation.

**ARTICLE XVII**  
Waiver and Standards

**§ 223-51 Petition; grant of waiver.**

Upon petition of any person or persons to the Board of Water and Sewer Commissioners, said Board may in its discretion grant a waiver of the strict application of any rule, regulation or requirement set forth in this chapter.

**§ 223-52 Considerations.**

In the exercise of any discretion by the Board of Water and Sewer Commissioners pursuant to this code or any rules and regulations adopted pursuant to the authority herein, the Board of Water and Sewer Commissioners shall make its determination considering the best interest of the Town of Hillsborough, the protection of the municipal water system, the protection of the health and welfare of the residents and visitors of Hillsborough and the hardship of the property owner and shall not be arbitrary, capricious or unlawful.

**ARTICLE XVIII**  
Repealer

**§ 223-53 Previous ordinance repealed.**

Upon the date of adoption of this chapter with rules and regulations herein, the previous water ordinance adopted by the Town of Hillsborough is hereby repealed.

**ARTICLE XIX**  
Effectiveness

**§ 223-54 When effective.**

This chapter shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

**ARTICLE XX**  
Enactment

**§ 223-55 Date; recording and publication.**

This chapter becomes effective upon adoption by the Board of Water and Sewer Commissioners, this 28th day of June 1989, after recording and publication as provided by law by, the Board of Water and Sewer Commissioners of the Town of Hillsborough, Hillsborough County, State of New Hampshire at a duly held session of the Board of Water and Sewer Commissioners, of the Town of Hillsborough.