

Chapter 154

STREETS AND SIDEWALKS

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

GENERAL REFERENCES

Numbering of buildings — See Ch. 36.

Fire zones — See Ch. 74, Art. I.

Road Improvement Fund — See Ch. 80, Art. I.

Sidewalk Improvement Fund — See Ch. 80, Art. III.

Sewers — See Ch. 143.

Vehicles and traffic — See Ch. 172.

Extension of water mains — See Ch. 180, Art. I.

Subdivision of land — See Ch. 225.

ARTICLE I

Drainage on Town Highways

[Adopted effective 4-22-1966; amended effective 3-23-1968]

§ 154-1. Approval required.

On and after the effective date of this article, approval of the First Selectman shall be required before any person, firm or corporation shall:

- A. Move, alter or disturb any existing drainage ditch or culvert upon any public highway which the Town is obligated to maintain or which drains such highway;
- B. Excavate any ditch or trench for any purpose upon such highway; or
- C. Install or change any driveway connecting with or draining upon such highway.

§ 154-2. Performance bond.

The First Selectman may require the person, firm or corporation to whom or to which approval is granted under § 154-1 hereof to post a performance bond or other security acceptable to said First Selectman to guarantee the proper functioning of the installation or change of said facility.

ARTICLE II

Snow and Ice Removal from Sidewalks**[Adopted 10-7-2002, effective 11-2-2002; amended in its entirety by Town Meeting 6-8-2020]****§ 154-3. Definitions.**

The following words shall, unless the context requires otherwise, be construed and understood as follows:

SIDEWALK — Any portion of the street, usually lying on either side thereof, between the curb and the adjacent property line, intended for the use of pedestrians by virtue of having been improved by pavement whether of asphalt, concrete or stone.

STREET — Includes avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all of the public thoroughfares in the Town and means all that part thereof from property line to property line of the premises abutting thereon.

§ 154-4. Removal of snow and ice required.

- A. Duty to remove. Any fall of snow or sleet upon any sidewalk in the Town or any ice upon such sidewalks shall be removed by the owner, occupant or person having the care, maintenance or rental of the land, building or premises adjoining or fronting upon such sidewalk or connected therewith.
- B. Time within which snow is to be removed. Such removal of snow or sleet as provided for in Subsection A above shall be made within 24 hours following the cessation of the fall of snow or sleet, or 36 hours on weekends.
- C. Unremovable snow to be made safe. If snow, sleet or ice cannot be wholly removed as provided in Subsection B above; the owner, occupant or person having the care, maintenance or rental of such premises shall remove so much thereof as is reasonably possible and sprinkle sufficient sand or other proper substance in such quantity over the entire surface of the unremovable snow, sleet or ice remaining upon such sidewalk as may be required to keep the same in safe condition for public travel at all times.
- D. Penalty for failure to remove. Any person who violates or refuses or neglects to comply with the provisions of the preceding subsections shall be punished by a fine of not more than \$25 for a first violation, \$100 for a second violation and \$100 for each subsequent violation. Each day of failure to comply with the requirements of this article shall constitute a separate offense.
- E. Town to clear sidewalks at owner's expense. In addition to any other penalty provided by law, if any owner or occupant fails to comply with the provisions of Subsections B and C above, the Department of Public Works and its employees may clean and remove all snow and ice from such sidewalks. The expense of such removal shall be a lien upon the premises adjoining and abutting on such sidewalks, and the Board of Selectmen may cause a certificate of lien therefor to be recorded in the Town Clerk's office within 60 days after such removal.
- F. Foreclosure of lien. The expense of cleaning and removal of snow and ice by the Department of Public Works as provided in Subsection F above and the cost of the lien therefor may be entered in the next succeeding rate bill for taxes against the owner of the premises with the tax assessed upon such premises, and, if such expense and such cost of lien is paid with such taxes, the lien shall be discharged; if not so paid, the lien may be foreclosed in the manner provided by law for the foreclosure of other liens for local improvements.

§ 154-5. Liability of sidewalk abutter.

- A. Notwithstanding the provisions of Section 13a-149 of the Connecticut General Statutes or any other general statute or special act, the Town of Ellington shall not be liable to any person injured in person or property caused by the presence of ice or snow on a public sidewalk unless the Town of Ellington is the owner or person in possession and control of land abutting such sidewalk, other than land used as a highway or street, provided the Town of Ellington shall be liable for its affirmative acts with respect to such sidewalk.
- B. The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the municipality had prior to the effective date of this article adopted pursuant to the provisions of Connecticut General Statutes Sec. 7-163a and shall be liable to persons injured in person or property where a breach of said duty is the proximate cause of said injury.
 - (1) If the Department of Public Works clears the sidewalk of snow, sleet or ice pursuant to § 154-4E hereof, it shall be deemed the agent of the abutter responsible for said clearing and none of such work shall constitute an affirmative act of the Town under Subsection A.
- C. No action to recover damages for injury to the person or to property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

§ 154-6. through § 154-8. (Reserved)

ARTICLE III

Right-of-Way Permit**[Adopted 9-21-2015, effective 10-14-2015]****§ 154-9. Working within the public right-of-way; scope and purpose.**

It is the purpose of this article to regulate any excavation or placement of obstructions within the limits of the public right-of-way, including but not limited to curbs, sidewalks, driveways, drainage installations and to establish responsibility for such excavations and obstructions until they are restored or removed.

§ 154-10. Permit required.

Except as otherwise provided, no person, firm, corporation, public utility or public agency other than the Town or its agent shall excavate any part of any street or highway under the control of or maintained by the Town, or dig below the surface thereof, or place any obstruction thereon except customary United States Postal Service mailbox(es) and their support(s), or construct a driveway entrance from any street without first obtaining a permit therefor from the Director of Public Works or his authorized representative.

§ 154-11. Application for permit.

No permit required by § 154-10 shall be issued until after the receipt of an application, to be made in writing on forms provided by the Director of Public Works and signed by the applicant or his authorized representative.

§ 154-12. Surety bond.

No permit required under § 154-10 shall be issued until after the applicant has deposited with the Town a surety bond or other security acceptable to the First Selectman guaranteeing that any excavation or obstruction made under such permit will be restored or removed as required as the case may be without cost to the Town. Such bond shall be in an amount and for a period of time determined to be appropriate by the Director of Public Works and shall be issued by a surety company licensed to do business in and having a place of business in the state.

§ 154-13. Liability insurance.

No permit required by § 154-10 shall be issued until after the applicant has filed with the Town a certificate of insurance naming the Town as an additional insured, in form and amount as determined to be appropriate by the Director of Public Works. Furthermore, the applicant shall indemnify and save harmless the Town, its officers and employees and the Director of Public Works and his agents from all suits and actions of every name and description, including reasonable attorney's fees, brought against the Town or any officer or employee of the Town for or on account of any injuries or damages received or sustained by any persons in consequence of or resulting from any work performed by the applicant, his servants or agents or of or from any act or omission of said applicant, his servants or agents.

§ 154-14. Fee for permit.

The Board of Selectmen is authorized to set a reasonable fee for permits issued under the provisions of this article and may update the fee as necessary. Such fee shall be waived in the case of any firm, corporation or agency that, by special charter or franchise, is legally authorized, in the course of its normal activities to make excavations or place obstructions in the limits of public highways in the Town.

§ 154-15. Issuance of permit.

Upon the filing of an application, payment of the required application fee and submission of all required documentation, the Director of Public Works shall cause to be issued, on forms provided by him, a permit specifying the nature and location of the work to be done; the terms and conditions of such work, which terms and conditions shall be based upon the requirements of the public welfare and safety; and the time within which the work is to be completed, which shall not be longer than one year from the date of the permit.

§ 154-16. Inspection by Director.

- A. The Director of Public Works or his authorized representative is empowered to inspect, or cause to have inspected, at any time any or all work being performed under a permit issued under the provisions of this article.
- B. If, in the opinion of the Director, the public safety and welfare so warrant, or if the work is not satisfactory or not in accordance with Town standards, he may direct the permittee to restore any excavation or remove any obstruction within 12 hours of such notice; and, if such excavation is not restored or such obstruction removed within that period, he may cause such work to be done, and the permittee shall be responsible for the full expense of such work.

§ 154-17. Penalty for violation.

The violation of this article shall be unlawful and the fine for such offense shall be not more than \$100. Each day any such violation shall continue shall constitute a separate offense.