

STREETS AND SIDEWALKS

Chapter 154

STREETS AND SIDEWALKS

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[HISTORY. Adopted by the Board of Selectmen on 10-8-2002. Amendments noted where applicable.]

Article I
Town Right of Way

§ 154-1. Purpose. To govern the placing of objects or structures, or the conduct of activity within the public right-of-way, in order to lessen the danger to the traveling public, facilitate the maintenance of storm and surface water drainage systems, regulate underground and above ground utilities and protect the community's investment in public streets and roads.

§ 154-2. Definitions.

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

DIRECTOR OF PUBLIC WORKS - Shall mean the duly appointed director of the Department of Public Works or his/her duly authorized representative.

RIGHT-OF-WAY - Shall mean the area of land which constitutes a public way under the provisions of NH RSA 229:1, extending from the property line on one side of the right-of-way to the property line on the other side of the right-of-way.

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SELECTMEN - Shall mean the duly elected Board of Selectmen of the Town of Bow.

STRUCTURE - Shall mean any material placed or affixed to the land, including buildings, walls, fences, stones, signs, mailboxes, culverts and catch basins.

TOWN - Shall mean the Town of Bow, New Hampshire.

§ 154-3. Regulations.

- A. No structures or objects including permanent or portable buildings, signs, lights, displays, fences, walls, or sanitary facilities may be placed or erected on, over or under the highway right-of-way without express permission of the Board of Selectmen or their designee.
- B. No construction, excavation, clearing, dredging for installation of drainage or underground utilities may be conducted on, over or under a public right-of-way without express permission of the Board of Selectmen or their designee.
- C. No temporary use or blockage of a street, road or other public way for parades, street fairs, etc. shall be permitted without the express permission of the Board of Selectmen.
- D. The installation, construction and maintenance of utility poles and wires shall be governed by the provisions of NH RSA 231:159 et seq.

§ 154-4. Permission requests.

Any request for a use governed by the Selectmen's permission shall be in writing directed to the Board. The Board shall solicit and accept comment from Town Departments including the Town Manager, Police, Fire, the Director of Public Works and the Code Enforcement Officer. In considering an application, the Selectmen shall be governed by the general premise that no use should ordinarily be allowed within the public right-of-way, and no activity which compromises safety, impedes free flow of traffic, or could result in increased municipal expenditure should be permitted. No easement is created or inferred by the granting of a request but a revocable license for use thereof.

§ 154-5. Existing structures.

Structures or uses in place as of September 1, 2002 may, but need not, apply for permission from the Selectmen to remain. In the event that permission is not applied for, the structure or use shall be permitted to remain provided that they are not deemed to be a danger to the public. The Director of Public Works shall determine whether a structure is a danger to the public by the following criteria:

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- A. The structure is not maintained in a safe manner.
- B. The structure is so located that it impedes snow removal operations.
- C. The structure is so located that it impedes free flow of traffic or impedes safe sight distance.
- D. The structure is so located that it impedes the access to public property. The Director of Public Works shall have the concurrence of the Police Chief in this determination.
- E. That the owner accepts all liability that may arise because of the said structure and agrees to indemnify the Town for all resulting damage or injury because of the presence of the structure in the right-of-way.
- F. That the owner agrees to remove the structure at his expense if the structure is deemed to be a danger to the public or is impeding highway or utilities work. If an owner fails to remove such item upon notice, the Director of Public Works may be directed to remove same and the owner shall have no claim against the Town for reimbursement or loss caused by the removal and disposal of said structure; further, the owner shall be billed for the cost of removal.
- G. Any person notified by the Director of Public Works to remove a structure or object from the right-of-way may apply to the Board of Selectmen for a permit, provided they have not already been denied such permission.

§ 154-6. Determination of the Right-of-Way.

The Director of Public Works, upon consultation of plans available and discussion with the Town Engineer, shall be responsible for determining the location of the Right-of-Way line. Any concerned property owner may submit, at his/her expense, a survey plan by a licensed land surveyor to assist the Director of Public Works in his determination. In doubtful situations, the Director of Public Works may require the installation of permanent bound markers.

§ 154-7. Mailboxes and temporary signs.

A. Mailboxes.

- (1) Notwithstanding the provisions of this article, an individual may erect and place a receptacle for receipt of U.S. Mail and motor or rural delivery of daily or weekly newspapers without permission of the Selectmen. All such installations shall be sufficiently off the traveled way so as to assure public safety and facilitate snow removal. Design criteria of the U.S. Postal Service shall be adhered to with respect to size and placement of mailboxes. Exhibit A illustrates mailbox placement that meets the requirements of both the U.S. Postal Service and the Town of Bow.

- (2) The Town assumes no liability with respect to loss or damage to mailboxes or newspaper receptacles placed in the right-of-way unless such loss or damage to a mailbox is the result of intentional or willful conduct, or gross negligence. For the Town to assume liability, the mailbox must display tangible physical evidence of having been actually struck by a snowplow, mower, or other Town vehicle performing official duties. Mailboxes that have been pushed over by snow or other causes but do not show the mark of a strike will be the sole responsibility of the property owner. If the Town acknowledges a struck mailbox, the Town will, at the option of the mailbox owner, install a generic rural mailbox on a metal post or issue a check to the mailbox owner in the amount of thirty dollars (\$30.00).

B. Temporary Signs.

- (1) Signs of a temporary nature, such as yard sale signs, political campaign signs, or real estate signs, may be placed within the Town Right-of-Way provided that they are erected far enough away from the shoulder maintenance area so as to not hinder a snowplow, mower, or other Right-of-Way maintenance work, and provided that they do not constitute a safety hazard such as restricting the line of sight.
- (2) Any sign impeding maintenance or constituting a hazard will be immediately removed and stored at the Highway Garage for a period of thirty days, after which it will be destroyed if not claimed by the owner. Before a temporary sign may be emplaced within the Town Right of Way, permission must also be obtained from the owner of the land abutting the right of way at that point. An abutting property owner who has not granted such permission shall have the right to remove a temporary sign from the right of way.
- (3) Political campaign signs shall not be erected prior to the end of the filing period for office and must be removed within ten (10) days after election day.
- (4) Yard, garage, or rummage sale signs shall not be erected more than seven days prior to the sale and must be removed the day after the sale.
- (5) Real estate “lead-in” or “arrow” signs must meet all of the above criteria and shall be immediately removed when the property is sold or when the listing has expired.
- (6) Temporary signs shall not be attached to, nor supported in any way, by any Town sign emplaced within the R.O.W., nor shall they be affixed to any utility pole per NH R.S.A. 236:75. Signs displayed in violation of this prohibition will be immediately removed and destroyed.

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(7) Town Land: The permitting of temporary signs in the Town's R.O.W. does not extend to Town lands and buildings. No signs other than those directed by the Board of Selectmen shall be displayed on Town lands and buildings.

§ 154-8. Enforcement.

- A. The Board of Selectmen by their designee, the Town Manager, shall be responsible for administration and enforcement of this article Removal of items within the right-of-way shall be done at the direction of the Town Manager.
- B. The Fire Department and Police Department shall report to the Town Manager any structure within the right-of-way erected in violation of this ordinance, or any pre-existing structure they deem to be a danger to the public.

Article II
Excavations

[HISTORY. Amended by Board of Selectmen on 9-24-13.]

§ 154-9. Authority.

This article is adopted pursuant to the authority granted by RSA 236:9-11, New Hampshire Revised Statutes Annotated, as amended.

§ 154-10. Permit required.

It shall be unlawful for any person to excavate any part of the streets, sidewalks or public places of the Town for the purpose of putting down or laying gas or water pipes, cable television or telephone lines, cellar or other drains or for any other purpose without first having obtained a permit from the Bow Public Works Director.

§ 154-11. Fees.

The fees for the excavation permit are found in Chapter 124, Fee Schedule, of this Code.

§ 154-12. Bond or deposit.

Prior to the issuance of any permit required by this article, the Public Works Director shall require the applicant to provide a bond, with corporate surety, payable to the Town of Bow, NH, in such amount as may be considered by the Public Works Director to be adequate to cover the costs and expenses of filling the authorized excavation and restoration of the surface of the place excavated to as good condition as it was prior to the excavation. In lieu of a bond, an applicant may provide a cash deposit for this purpose. The bond or cash deposit shall be held by the Town of Bow for a period of one (1) year following the acceptance of the project by the Public Works Director.

§ 154-13. Insurance.

Prior to the issuance of a permit under this article, the applicant shall furnish a certificate of insurance naming the Town of Bow, NH as certificate holder, with limits of coverage at a minimum of general liability - \$1,000,000; automobile liability - combined single loss limit (CSL) of \$1,000,000 and evidence of worker's compensation coverage. Evidence of coverage shall also be furnished for all subcontractors. If the policy is changed or canceled during the policy period, the policy shall provide that written notice will be given to the Board of Selectmen of the Town of Bow, NH at least fifteen (15) days prior to the effective date of such change or cancellation.

§ 154-14. Indemnification.

The permit holder shall fully indemnify and save harmless the Town of Bow, NH from all claims for damage or injury whatsoever that may arise from the encumbrance, obstruction, occupation, or use of said highway, and the permit holder shall be accountable for all damage that may occur on account of said encumbrance, obstruction, occupation, or use of the aforesaid highway, or that may arise from the obstruction or use of any public sewer or water facility in connection with the work contemplated under the permit.

§ 154-15. Departments to be notified.

The Department of Public Works (603-228-2207), Police Department (603-228-0581), and DIG SAFE (1-888-344-7233) shall be notified in writing at least seventy-two hours prior to any excavation being started. In the event of an emergency excavation, DIG SAFE, the Public Works Director, and the Police Department shall be verbally notified at the time, and the written excavation permit shall be applied for no more than forty-eight (48) hours after the work is completed.

§ 154-16. Inspection required.

All projects shall be inspected by the Public Works Director, or his designee. The Public Works Director shall be notified at all stages of the work for the purpose of inspection. All work performed under the permit shall be to the satisfaction of the Public Works Director or his designee.

§ 154-17. Excavation limits.

No opening or excavation in any street shall extend beyond the center line of the street before being backfilled, and the surface of the street must be passable to traffic. No more than three hundred (300') feet measured longitudinally shall be opened in any street at one time, except by special permission of the Public Works Director. A minimum of one (1) lane of traffic shall be provided on all streets at all times. The minimum width for temporary traffic lanes is eleven (11') feet. Access shall be provided to all places of business at all times.

§ 154-18. Restoration.

- A. Excavated material shall be replaced or backfilled in layers or courses not to exceed nine (9") inches in compacted thicknesses; and shall be compacted at or near optimum moisture content using pneumatic tampers, vibratory compactors, or other approved means. The material shall be compacted to not less than 95%. If unsuitable for backfill, excavated material shall be replaced with granular backfill as specified in the "Standard Specifications for Road and Bridge Construction, State of New Hampshire Department of Public Works and Highways." Water shall be uniformly applied during compaction in the amount necessary for proper consolidation, but puddling will not be allowed. The compacted backfill material shall be laid to within twelve (12") inches of the adjacent road surface; nine (9") inches of crushed bank run shall then be compacted in place. An approved bituminous mix material shall then be placed and carefully graded and rolled to the adjacent pavement grade as a temporary patch. After suitable exposure to traffic compaction, as determined by the Public Works Director, with a minimum of thirty (30) days, the pavement shall be sawed or cut in a clean manner on either side of the trench to provide a two (2') foot minimum overlap of the final patch on the undisturbed material. Within the sawed limits, the existing and temporary material shall be removed and replaced with a matching depth of asphaltic concrete. Edges of the trench cut shall be coated with an epoxy or bitumastic binder before the base course is applied. This final application shall contain a minimum of two (2") inch base course and one (1") inch of wearing course, and will be laid and compacted to meet exactly the existing pavement edge.
- B. The Public Works Director reserves the right to restore the highway or cause the same to be restored under his direction, and the grantees or parties to whom this permit is granted shall reimburse the Town for any and all liability and expense suffered by reason of such work.

§ 154-19. Safety measures.

From the time that any excavation is begun pursuant to a permit required by this article until completion of the work and restoration of the surface of the place excavated, the permit holder shall be responsible for the installation and maintenance of adequate safeguards to protect persons, animals, and property from dangers directly or indirectly arising from all work done with respect to such excavation, and the following safeguards, among others which may be necessary or appropriate, shall be mandatory: warning signs, adequate illumination at night and during other periods of darkness or poor visibility and enclosures of the place of excavation by guards, barricades, rope, or other suitable fixtures.

§ 154-20. General conditions.

- A. Property or street line monuments, survey reference points, and permanent survey bench marks shall not be removed or disturbed, unless specifically permitted in writing.
- B. Shade trees shall not be cut down, trimmed, or otherwise injured.
- C. Advertisements, notices, and signs shall not be displayed on or attached to any barricade or fence in any highway.
- D. The highway shall be left in as good condition of repair and cleanliness at the expiration of the permit as existed when said permit was granted.

§ 154-21. Penalties.

Any person found to be in violation with the provisions of this article may be fined not more than one thousand dollars (\$1,000.) for each violation.

Article III
Traffic Control

[HISTORY. Amended by Board of Selectmen on 9-24-13.]

§154-22. Traffic control requirements.

The Chief of Police of the Town may at his/her discretion require that traffic control people (flag people) are employed to safely control traffic by any construction company, utility company, or any other company or individual doing any work on private or public property that requires the placing or parking of any equipment on any portion of any road in the Town, which in the opinion of the Chief of Police constitute a hazard to the general public. The cost of such traffic control people shall be borne by the company or individual required to hire them. The Chief of Police may require the use of detailed police officers on heavily traveled arterial roads, and the chief may approve the use of cones on lightly traveled roads.

Article IV
Snow Removal

§154-23. Snow removal.

- A. No person shall permit or allow snow removed from their driveway or parking lot to be plowed or placed onto or across any road in the Town at any time.
- B. No person shall permit or allow snow removed from their driveway, parking lot or property to be plowed or placed or deposited onto any Town property, nor shall any snow removed be placed or deposited in any manner that would hinder access to any Town property.

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§154-24. Penalty.

Any person found to be in violation with the provisions of this article may be fined not more than one thousand dollars (\$1,000.) for each violation.

Article V
Deposit of Debris in Town Right of Way

[HISTORY. Amended by Board of Selectmen on 5-14-19 by Ord. No. 1-04.]

§154-25. Deposit of Debris.

No person shall place, throw, leave, in any way deposit or permit to be deposited, or permit to remain any dirt, leaves, rubbish, litter, debris or material of any kind upon any street, sidewalk, right of way, drainageway, or public ground in the Town of Bow

§154-26. Penalty.

Any person found to be in violation with the provisions of § 154-25 may be fined not more than one hundred dollars (\$100.) for each violation.