

ARTICLE V. EXCAVATIONS

DIVISION 1. GENERALLY

Sec. 18-118. Leaving excavations unprotected.

It shall be unlawful for any person, firm or corporation making any excavation for any purpose whatsoever in any of the streets or sidewalks to fail to securely cover such excavations with plank or place ropes around the same three feet from the ground or shall fail to place a sufficient number of red lights around such excavation before dark and to keep such lights around such excavation burning all night, every night such excavation shall be open.

(Prior Code, ch. IV, § 4)

Secs. 18-119—18-149. Reserved.

DIVISION 2. DRAINAGE INSTALLATIONS

Sec. 18-150. Drainage pipe installation.

No owner, occupant, tenant, or other similar person or entity (hereinafter referred to as "lot owner") shall dig, excavate or otherwise create a drainage ditch or install any drainage pipe for a driveway on any parcel of real estate with a single-family, two-family, townhouse or multifamily dwelling or any vacant parcel of real estate for which the town's zoning ordinance allows a single-family, two-family, townhouse or multifamily dwelling, except pursuant to the terms and conditions of this division.

(Prior Code, ch. IV, § 23)

Sec. 18-151. Letter of recommendation from engineer—Required.

- (a) Any lot owner who desires to dig, excavate or otherwise create a drainage ditch or install a drainage pipe for a lot with a single-family, two-family, townhouse or multifamily dwelling or any vacant lot for which chapter 26, zoning, allows a single-family, two-family, townhouse or multifamily dwelling shall request from the town a letter of recommendation from an engineer designated by the town manager.
- (1) The request for a letter of recommendation must be in writing and signed by the lot owner or the lot owner's agent.
 - (2) The town may charge the lot owner a fee for the letter of recommendation to cover the cost of the services of the designated engineer. The town manager shall inform the lot owner of the amount of this fee.
- (b) The town manager shall not request the letter of recommendation from the engineer until the lot owner has complied with all of the terms of subsection (a) of this section.

(Res. of 4-13-2009, § 1(A), (B))

Sec. 18-152. Same—Contents.

- (a) When the lot owner complies with all of the terms of section 18-151(a), the town manager shall request from the engineer a letter stating:
 - (1) That the adjacent properties will not be adversely affected;
 - (2) The size of the pipe to be installed;
 - (3) The necessary materials to be used in the installation of the drainage pipe, including but not limited to, pipe drop inlets, curb inlets, junction boxes, flared and end sections, rubber gaskets, stone and fill material;
 - (4) The dimensions of the easement to the town for the installation and maintenance of the drainage pipe; and
 - (5) Any other recommendations which the engineer determines to be relevant to the installation of the drainage pipe.
- (b) Within a reasonable amount of time, the engineer shall hand deliver or mail by first class mail the letter of recommendation to the town manager and to the lot owner.

(Res. of 4-13-2009, § 1(C), (D))

Sec. 18-153. Installation requirements; easement agreement.

- (a) Upon receipt of the letter of recommendation from the engineer, the lot owner shall inform the town manager in writing of the lot owner's intention to install or not install the drainage pipe.
 - (1) If the lot owner does not inform the town manager in writing of the lot owner's intention to install the drainage pipe within 60 days of the date of the letter of recommendation, then and in that event, the letter of recommendation shall be void and the lot owner must make a new request and pay a new fee if the lot owner desires to install a drainage pipe.
 - (2) If the lot owner informs the town manager in writing of the lot owner's intention to install the driveway pipe, the lot owner shall:
 - a. Obtain, at the lot owner's expense, all of the required materials to be used in the installation of the drainage pipe as set out in the letter of recommendation, including but not limited to, pipe drop inlets, curb inlets, junction boxes, flared and end sections, rubber gaskets, stone and fill material;
 - b. Sign a statement conveying all of the lot owner's right, title and interest in and to all of the materials described in subsection (a)(2)a of this section; and
 - c. Convey an easement to the town over and across that portion of the lot owner's property as set out in the letter of recommendation. The lot owner may execute an easement agreement prepared by the town attorney or an attorney retained at the lot owner's expense.
 - 1. If the lot owner decides to execute an easement agreement prepared by the town attorney, the lot owner shall inform the town manager and pay the town the attorney's fee for the preparation of the easement agreement and the fee for recording the easement agreement with the county register of deeds. The town manager will obtain the easement agreement from the town attorney. The town manager will coordinate the execution of the easement agreement with the lot owner and the town attorney.
 - 2. If the lot owner decides to retain an attorney at the lot owner's expense, the lot owner shall so inform the town manager and pay the fee for the town attorney to review the

easement agreement and the fee for recording the easement agreement with the county register of deeds. The lot owner's attorney shall submit to the town manager or to the town attorney the proposed easement agreement. Upon the written approval of the proposed easement agreement by the town attorney, the lot owners or the lot owner's attorney shall submit to the town manager or the town attorney the executed easement agreement.

3. Before the town begins the installation of the drainage pipe, the executed easement agreement must be recorded by the town manager or the town attorney with the county register of deeds.

(b) When all of the requirements of subsection (a)(2) of this section have been met, the town shall install the drainage pipe. The town may install the pipe with the services of the town's employees or the services of a third-party paid by the town. The installation of the drainage pipe shall be completed 60 days from date of the fulfillment of all of the requirements of subsection (a)(2) of this section.

(Res. of 4-13-2009, § 1(E, F))

Sec. 18-154. Owner to keep ditches and pipes clear of obstruction.

(a) The lot owner, the lot owner's successors and assigns, and any other persons or entities who own the property after the lot owner, shall take reasonable steps to keep the drainage ditch and drainage pipe clear of any obstructions.

(b) The lot owner, the lot owner's successors and assigns, and any other persons or entities who own the property after the lot owner, shall not take any action or allow any person to take any action which would obstruct the drainage ditch or damage the drainage pipe or other materials installed by the town.

(Res. of 4-13-2009, § 1(G, H))

Sec. 18-155. Maintenance by the town.

(a) Pursuant to the above-referenced easement agreement, the town may, in the town's sole discretion, go onto the property of the lot owner to repair, replace or otherwise maintain the drainage pipe or other materials installed by the town.

(b) If after consulting with the town's engineer, the town manager determines that the drainage pipe and/or materials installed by the town are causing drainage or other problems to the adjacent properties sufficient to warrant the removal of the drainage pipe and/or the materials installed by the town, the town manager shall inform the current owner of the lot of the town's intention to remove the drainage pipe and/or materials installed by the town. Within a reasonable amount of time, the town shall remove the drainage pipe and/or materials causing the problem. The removed drainage pipe and/or materials shall be the property of the town and shall be discarded by the town.

(c) This division shall not apply to any ditches or drainage pipes located on property owned or occupied by the town.

(Res. of 4-13-2009, § 1(I)—(K))

Secs. 18-156—18-178. Reserved.