

Town of Belmont, MA
Tuesday, January 19, 2016

Chapter 60. Public Health, Safety, Welfare and Environmental Protection

Article 8. Streets and Sidewalks

§ 60-800. Public ways, sidewalks and rights-of-way.

- A. No person, other than an authorized Town agent, shall place or throw or cause to be placed or thrown onto any public sidewalk, street, fire hydrant, or highway or upon any of the common lands of the Town any snow, dirt, gravel or foreign substance, including excrement or noxious or slippery liquids or material, or suffer the same to remain thereon after being notified by a police officer to remove the same.
[Amended 4-26-1999 ATM, approved 10-18-1999; 5-29-2013 STM, approved 10-8-2013]
- B. Other than for official Town or conservation purposes, no person shall place or cause to be placed on any public sidewalk, street or highway, or upon any of the common lands of the Town, any refuse containers to be collected for disposal of refuse by the Town or any other collector of refuse and suffer the same to remain thereon for more than 24 hours prior to the time said containers are scheduled to be collected for disposal of refuse or for a period of time terminating at 8:00 a.m. on the day following the said collection. In connection with a project for construction, demolition or repair of any building or any other construction for which disposal of refuse cannot be effected in accordance with the preceding sentence, the owner of the property upon which such construction, demolition or repair is undertaken may apply to the Board of Selectmen or its designee for a written permit which the Board or its designee may in its discretion issue subject to such terms and conditions, including a bond, as may be deemed necessary and appropriate to protect the public safety.
[Amended 4-23-1984 ATM, approved 7-30-1985]
- C. No person shall erect, set up or maintain any fence, portico, platform or doorstep extending into or on any public sidewalk or way.
- D. Obstructions.
[Amended 4-28-2008 ATM, approved 12-23-2008]
- (1) No person shall permit a tree, branch thereof, hedge, bush or shrubbery growing on his/her land to extend over or overhang any street, sidewalk or highway so as to interfere with the free and full use of such street, sidewalk or highway.
 - (2) No person, other than an authorized agent of the Town, may place or cause to be placed or maintained any permanent or temporary structure or any natural or man-made materials on any public street, sidewalk or highway in such a manner as to obstruct or otherwise interfere with the free and full use of such public street, sidewalk or highway for the passage of vehicles or pedestrians, except upon written permit or authorization from the Board of Selectmen or its designee, which the Board or its designee may in its discretion issue subject to such terms and conditions, including a bond, as may be deemed necessary and appropriate to protect the public safety.
 - (3) In addition to other penalties applicable to violation of these bylaws, in the event the Town undertakes to remove any obstructions described in Subsection **D(1)** and **(2)**, the Town may charge the landowner for the reasonable cost thereof.

- E. Authorization required for certain activities.
[Amended 4-28-2008 ATM, approved 12-23-2008]
- (1) No person, other than an authorized agent of the Town, shall break, dig up or construct any sidewalk; walk upon or otherwise alter lots or borders on cemetery grounds or areas of other municipal grounds upon which hedges, shrubs or flowers are grown; in any way damage or write, paint, print, inscribe, display signs or distribute written matter upon any Town property; or conduct any parade upon public ways, except upon written permit or authorization from the Board of Selectmen or its designee.
 - (2) No person, other than an authorized agent of the Town, shall break, remove, dig up, or install any pavement, ground, or curbing in or on any public street or highway for any purpose whatsoever, including but not limited to the creation or modification of a driveway curb cut, except upon written permit or authorization from the Board of Selectmen or its designee.
 - (3) Any written permits or authorization granted pursuant to Subsection **E(1)** and **(2)** above shall be in force for such time and subject to such conditions, including a bond, as the Board of Selectmen or its designee may specify and shall set forth any appropriate safety or security measures to be taken, the manner in which the permitted activity is to be performed or the condition of the affected municipal property upon completion of the authorized activity.
- F. No person shall throw stones, snowballs, sticks or other missiles, or kick a football or play at any game in which a ball is used, or fly kites or other objects, or shoot with or use an airgun, bow and arrow, slingshot, or other similar device in or across any public ways of the Town, except that the Board of Selectman may authorize the use of a public way for recreational purposes in the same manner as is provided for an activity pursuant to Subsection **E**.
- G. No person, other than an authorized agent of the Town, shall excavate a trench in a public way or otherwise dig below the surface of a public way, and no person shall excavate a trench on any private land, for any purpose, without first obtaining a written permit from the Board of Selectman or its designated agent, and then only in accordance with said Board's written regulations and with the applicable provisions of MGL c. 82, §§ 40 through 40D, and MGL c. 82A; provided, however, that in the case of an emergency excavation made by a person engaged in the transmission or distribution of a public utility, written permission may be obtained after commencement of such excavation, provided that the Board of Selectmen is satisfied that the perceived emergency was, in fact, a situation in which immediate action was necessary to maintain or restore an essential utility service to avoid imminent danger to the public health or safety.
[Added 4-28-2008 ATM, approved 12-23-2008]
- (1) Definitions. For purposes of this bylaw, the words "excavation" and "emergency" shall have the same meanings as defined in MGL c. 82, § 40. The word "trench" shall have the same meaning as defined in MGL c. 82A, § 4. The word "person" shall include, without limitation, any individual or any entity such as a partnership, joint venture, trust, corporation, company, association, public utility, or governmental body or agency.
 - (2) Regulations. The Board of Selectmen may promulgate and, from time to time, amend rules and regulations for the excavation and restoration of public ways and for the excavation of trenches on private land. Such rules and regulations may include, but shall not be limited to, requirements for plans, insurance, notification of public utilities, traffic control, protection of adjoining properties, cleanup, backfilling, testing, scheduling, workmanship quality, bonds, and permit fees. Such rules and regulations may also designate a Town officer to act as the Board's agent in issuing permits hereunder.
- H. Any owner or owners of record and/or commercial tenant or tenants of commercial property within commercial areas annually designated by the Selectmen shall be individually and jointly responsible for the removal and shall remove all snow and ice on any abutting public sidewalk in such designated areas to the extent practicable down to the sidewalk's natural surface and otherwise level and evenly cover the same with sand, earth or ashes to prevent slipping. This responsibility shall be subject to the following terms and conditions:
[Amended 4-27-1987 ATM, approved 8-17-1987; 4-23-2001 ATM, approved 8-24-2001]

- (1) The removal and treatment of ice and snow shall be accomplished within 12 hours after the same shall cease to fall or be formed on such sidewalks.
 - (2) Snow and ice shall be removed from all portions of such sidewalks excluding no more than 1/2 of the width thereof nearest the curb or other lateral limit of the roadway.
 - (3) Notice of such commercial areas designated by the Selectmen shall be posted by November 1 of each year in the Town Hall and published for two successive weeks in a newspaper, printed in the Town or circulated therein as a local paper, in October prior to the posting thereof.
 - (4) The Town may undertake to remove or treat such snow and ice in the event any such owner or owners and/or commercial tenant or tenants shall have refused or neglected to remove the same and, in addition to other penalties applicable to violation of these bylaws, such owner or owners and/or commercial tenant or tenants shall be liable to the Town for the cost and expense incurred by the Town for the removal or treatment thereof.
 - (5) The Selectmen, or their designee, may establish regulations and fix charges for the removal and treatment of snow and ice on public sidewalks within the designated commercial areas.
 - (6) The Selectmen, or their designee, may, on behalf of the Town, by prearrangement with any such record owner or owners and/or commercial tenant or tenants, agree and undertake to remove or treat snow and ice on such public sidewalks on a regular or annual basis upon terms and conditions which assure the prompt and timely reimbursement by the owner or owners and/or commercial tenant or tenants thereof to the Town of the charges thereby incurred.
- I. Residential property snow removal.
[Added 11-4-2013 STM, approved 1-30-2014]
- (1) Purpose. Since pedestrians are safer when walking on sidewalks than when walking in the streets used by vehicular traffic, the purpose of this subsection is to encourage owners of residential property to remove the snow, slush, and ice from abutting sidewalks so that sidewalks throughout the Town are safe for use during the winter season, and so that the Town's local services and amenities are reasonably accessible by pedestrians via sidewalks, especially by elderly persons, persons using wheelchairs, persons using carriages to transport children, and students walking to school.
 - (2) Definitions. For the purposes of this subsection, the following terms shall have the following definitions:

OBLIGATED PERSON
The person responsible for compliance with this subsection pursuant to Subsection I(4).

SIDEWALK
A paved walkway (whether paved with brick, stone, cement, concrete, asphalt, or other impervious material) that is located within the right-of-way of a street that abuts residential property.
 - (3) Obligations. Snow, slush, and ice shall be removed from the sidewalk, in accordance with the deadlines set forth in Subsection I(5), to a width of at least 36 inches or, if the sidewalk is narrower, for the full width of the sidewalk.
 - (4) Obligated persons. The owner of record of a residential property abutting a right-of-way in which a sidewalk is located shall be obligated to comply with this subsection within that portion of the right-of-way to which the residential property abuts, unless the owner of record can demonstrate that this obligation has been duly delegated to a responsible person, identified by name and address, by a written agreement signed by the person so delegated or by an express reference to the obligation in a written lease.
 - (5) Deadlines for removal and treatment.
 - (a)

After the cessation of a weather event that has resulted in snow, slush, or ice on a sidewalk, the snow, slush, or ice shall be removed no later than 8:00 p.m. the following day, and the sidewalk shall be treated with melting compounds, sand, or other grit, as reasonably necessary to inhibit slipping. Regardless of this deadline, obligated persons are encouraged to remove snow, slush, and ice promptly from the full width of the sidewalk in order to minimize the ice formed on the sidewalk when snow or ice melts and refreezes, so that neighbors and others can use the sidewalks as soon as possible.

- (b) Treatment of ice that forms on sidewalks shall be accomplished no later than 8:00 p.m. on the day after the ice has formed, but obligated persons are encouraged to treat the ice promptly so that neighbors and others can use the sidewalks as soon as possible.
 - (c) The deadlines set forth in this subsection shall be extended for obligated persons who are temporarily absent from the residential property for vacations, holidays, hospitalization, and unexpected absences; provided, however, that such obligated persons shall be required to complete their removal and treatment obligations by 8:00 p.m. on the day following the end of their temporary absence.
- (6) Rules and regulations. The Board of Selectmen shall adopt rules and regulations further implementing this subsection, including, without limitation, provisions and hearing procedures for exemptions from the requirements of this subsection for obligated persons who are physically unable to perform the obligations themselves and have a bona fide financial hardship; provided, however, that exemptions granted to such obligated persons shall be void if the obligated person causes portions of the residential property to be cleared of snow, slush, or ice for vehicular access from the street.
- (7) Fines. Fines for violations of this subsection shall be on the following schedule: first offense: written warning; second offense: \$50; third and successive offenses: \$100 each, to a maximum of \$350 per winter season (October 1 to April 30). In situations where there is more than one obligated person, such fines may be assessed jointly or individually. No more than one fine may be assessed with respect to any single weather event requiring removal or treatment of snow, slush or ice.
- (8) Enforcement.
- (a) A person who is an enforcing person as defined in Subsection **J** shall take appropriate action with respect to observed or reported violations of this subsection.
 - (b) An enforcing person taking cognizance of such a violation shall promptly send the alleged offender a noncriminal written citation thereof by hand delivery or mail, postage prepaid, addressed to the owner of record.
 - (c) An owner of record who receives a citation pursuant to this subsection shall have 20 days thereafter to pay the applicable fine or to provide to the enforcing person a photocopy of the written agreement or lease used to delegate the obligation to comply with this subsection, in which case the owner of record shall not be responsible for paying any applicable fine, and the enforcing person may dismiss or modify the citation or reissue the citation to the obligated person as is deemed appropriate.
 - (d) If a citation is not dismissed and the fine is not timely paid, the provisions of Subsection **J**, other than those establishing penalties, shall be applicable.
- (9) Not evidence. Except as required by applicable law, violations of this subsection shall not be admissible as evidence of negligence in any civil proceeding brought by an injured third party against an obligated person, tenant, or owner of record.
- (10) Sunset. This subsection shall be null and void and have no force and effect on and after April 30, 2016.
- J. In addition to the provisions for enforcement described above, the provisions of Subsections **A, B, D(2), E (2), G, H** and **I** of this section and any regulations promulgated thereunder may also be enforced by noncriminal disposition as provided in MGL c. 40, § 21D (“§ 21D”). The penalty for such violation shall be \$300 for each offense. Each day or part thereof shall constitute a separate offense.

[Amended 11-8-2010 ATM, approved 2-10-2011; 11-4-2013 STM]

- (1) "Enforcing person" as used in this subsection shall mean any police officer of the Town, the Director of Public Works and any other Town employee designated by the Board of Selectmen as an enforcing person.
- (2) An enforcing person taking cognizance of a violation of Subsection **A, B, D(2), E(2), G, H** or **I** or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof for the noncriminal disposition thereof in accordance with the provisions of § 21D. The provisions of § 21D are incorporated herein by this reference.