

ARTICLE III. DISCHARGE OF WATER AND DAMAGE TO ROADS

Sec. 15-50. Definitions.

For the purpose of this article, the following words, terms and phrases shall have the following meanings:

- (1) "highway" means any public highway, road, street, avenue, parkway or right-of-way under the control of the Town of New Fairfield.
- (2) "agency of the Town" includes all officials, officers, agents, boards and commissions of the Town of New Fairfield, including, without limitation, the building official, zoning enforcement officer, environmental enforcement officer, health director, public works director, zoning commission, planning commission and conservation commission.

Sec. 15-51. Increase in water discharge prohibited; damage to highways prohibited.

No person shall perform any act which creates or increases to any extent the discharge of water or other substance onto any highway. No person shall cause any damage to any highway, including the road bed, road surface, roadway, drainage structure or any appurtenance of a highway, including, without limitation, damage caused by the weight, treads or tires of a vehicle, or the discharge of water or other substance onto any highway.

Sec. 15-52. Connection to storm drains.

(a) Where storm drains exist in a highway, all roof and building drains, drainage trenches and other structures, ditches and devices used to affect the natural flow or percolation of water, which were created or constructed subsequent to the effective date of this article and which would otherwise discharge directly or indirectly into the highway, shall be connected with said storm drains in a manner satisfactory to the First Selectman, or his designee.

(b) Where storm drains exist on the effective date of this section or are subsequently installed in any highway, the First Selectman, or his designee, may order any person owning and/or controlling any roof and building drains, drainage trenches and other structures, ditches and devices used to affect the natural flow or percolation of water which is capable of discharging water upon said highway to connect with said storm drains in a manner satisfactory to the Town Engineer. Said order shall be in writing, shall be mailed to such person by certified mail, return receipt requested, and shall specify the date, not less than 30 days after mailing, when such connection shall be completed. Upon agreement between the First Selectman and the person so ordered, or upon the failure of said person to complete the connection as ordered, the Town may

make said connection for the account of said person and, acting by the First Selectman, may institute suit to recover the costs of said connection from said person.

Sec. 15-53. Compliance as condition of all permits; revocation and reinstatement.

(a) Compliance with Sec. 15-51 and Sec 15-52 during the construction of any improvement shall be considered a condition of all building or other permits issued by any agency of the Town. Any violation of Sec. 15-51 or Sec 15-52 shall constitute sufficient cause for the revocation of any such building or other permit.

(b) If any permit is revoked because of a violation of Sec. 15-51 or Sec 15-52, the agency revoking such permit shall, as a condition of the reinstatement of the permit, require full payment of all costs and expenses, including attorneys' fees, incurred by the Town as a result of the violation, and may require a guaranty in cash or a letter of credit in a sufficient amount to secure the remediation of any additional violations of this article, said guaranty to be released when the work under permit has been completed without further cost to the Town.

Sec. 15-54. Notification, abatement of violations and penalties.

(a) Notification. For each violation of Sec. 15-51 and Sec 15-52, the First Selectman, or his designee, shall issue an order in writing specifying the nature of the violation, directing the immediate discontinuance of the violation, and specifying the date by which all damage caused by the violation shall be remediated. Said order shall be mailed to each person responsible for the violation by certified mail, return receipt requested, addressed to each such person's last known address, or personally delivered to each such person.

(b) Abatement. If said order is not promptly complied with, the First Selectman, or his designee, may, without further notice, take all measures necessary to cure the violation and to remediate any damage caused by the violation, and each person responsible for the violation shall be liable to the Town for all costs and expenses incurred to cure the violation and remediate any damage caused by the violation. The Town, acting through the First Selectman, may institute suit to recover all such costs and expenses from each person liable for the violation.

(c) Immediate danger. Notwithstanding any other provision of this article, when, in the judgment of the First Selectmen, or his designee, any violation of this article poses an immediate threat of danger to a highway or to the safety of persons using a highway, the First Selectman, or his designee, may, without notice, take all measures reasonably necessary in his sole judgment to abate the violation and remediate any damage caused by the violation, and each person responsible for the violation shall be liable to the Town for all costs and expenses incurred to cure the violation and remediate any damage caused by the violation.

(d) Citation. After providing written notice of a violation and a reasonable opportunity to abate the violation, any person charged with the enforcement of this article may issue a citation to any person violating this article.

(e) Municipal Civil Penalties. The civil penalty for each violation shall be the greater of Two Hundred Fifty Dollars (\$250.00) or the maximum amount allowed by § 7-148(c)(10) of the Connecticut General Statutes, as the same may be amended from time to time, for each day that a violation continues, until the violation is completely remediated. The fine shall be payable to the Treasurer of the Town of New Fairfield.

(f) Upon failure of the owner to abate any violation of this article, the First Selectman or his designee and their agents may enter upon any land and abate such violations at the sole cost and expense of any person violating this article.

(g) No action for trespass shall lie against the Town or any agency of the Town, or any of their agents for any act performed in furtherance of this article.

Sec. 15-54. Citation Hearing Procedure.

The issuance, payment, and procedure to contest a citation shall be in accordance with Connecticut General Statutes § 7-152c and the Citation Hearing Procedure in Chapter 2 of the Code of Ordinances of the Town of New Fairfield.

Sec. 15-55. Supplemental Remedies.

The provisions of this article are in addition to, and not in lieu of, any other remedies available to the Town of New Fairfield under the Connecticut General Statutes, the State Building Code, Fire Code, Public Health Code, Zoning Regulations, Planning Regulations, Inland Wetlands Regulations, other sections of the Town Code, Federal law, or the common law.

Sec. 15-56. Severability.

The provisions of this article are severable and the invalidity of any one of the provisions of this article shall not nullify, abrogate or affect the validity or effect of any other.

Sections. 15-57 to 15-64: Reserved