

TITLE 14

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CHAPTER 14.04

Boundaries and Improvements

14.04.010 Designated.

The channel of Clear Creek within the corporate limits of the Town shall be as follows: On the south branch, not less than twelve (12) feet or more than twenty (20) feet in width; on the west branch, not less than fifteen (15) feet or more than twenty-five (25) feet in width; and on the main stream below the junction, not less than twenty-five (25) feet or more than thirty-six (36) feet in width. (Ord. 48 §1, 1907)

14.04.020 Survey and marking authorized.

The Board of Selectmen may order work to survey, mark and define the creek channel on the ground and plat the same, showing the boundaries of the Town lots and streets upon which such creek channel may be located; and when such survey and plat is approved by the Board of Selectmen, the creek channel shall be fixed and established in accordance with such survey and plat. (Ord. 48 §2, 1907; Ord. 300 §1(part), 1980)

14.04.030 Improvements.

All improvements, including the building or rebuilding of bridges in and on the creek, when ordered to be made by the Board of Selectmen, shall be under the direction and supervision of the Town Administrator and/or such other person as the Board may direct. (Ord. 48 §3, 1907; Ord. 300 §1(part), 1980; Ord. 2 §1, 2003)

CHAPTER 14.08

Maintenance

14.08.010 Responsibility of property owners.

The channel of Clear Creek from the point of junction of its west and south forks to the north line of Thirteenth Street, and also the channels of both forks or branches, shall be maintained by the respective owners of the lands abutting said channels, and the charges thereof shall be a debt of such owner and a lien and burden on the abutting properties. The channels shall be retained by walls or embankments of wooden log cribbing, masonry or concrete not less than four (4) feet high and be of workmanlike and durable construction, so placed that the minimum width of bottom flow shall be not less than the minimum established by this Chapter 14.04, or as hereafter established by ordinance. The center of the channel as existing in 1953 (at the date of the original ordinance codified in this Chapter) shall determine the rights and obligations as between different properties. (Ord. 111 §1, 1953; Ord. 2 §1, 2003)

14.08.020 Erection and modification of walls and bridges.

Walls or embankments, and all bridges or other structures over or against the channels or affecting the stream flow at any stage, shall be erected, repaired, altered or modified only on notice to the Building Official and under his or her supervision. (Ord. 111 §2, 1953; Ord. 2 §1, 2003)

14.08.030 Right of entry.

Authorized Town officials may, with notice, enter on any property in the Town at all reasonable times to inspect walls or other channel structures, and in an emergency repair the same with or without notice, and maintain or construct walls or channel structures as required if any property owner fails to comply with this Chapter. (Ord. 111 §3, 1953; Ord. 2 §1, 2003)

14.08.040 Notice of breach of Chapter; hearing; work by Town; assessment of costs.

Town officers shall report promptly any violation of this Chapter to the Board of Selectmen, or any wall or other structure on the channels requiring construction, repair, alteration or maintenance. The Board (unless an emergency exists in its judgment) shall give notice to each property owner responsible for any necessary repairs or maintenance by mailing such notice to the name and address of each owner as appearing on the books of the County Assessor, and posting a notice on the premises involved. Such notice shall set forth a date for a hearing before the Board of Selectmen in not less than ten (10) days and contain information describing the construction, repair or alteration of channel walls or other structures needed to be done on the property described. Upon allowing the property owner to be heard, the Board of Selectmen may order the construction, repairs, maintenance, alterations or other action deemed necessary in accordance with the terms of this Chapter requires, and fix the time for execution thereof. If not executed as ordered, or as any amended order may direct, the Board of Selectmen may direct Town personnel to enter and complete the work required, keeping account of all expense, materials or labor, including the time and materials contributed by Town officers and employees, or account of any contract price, and, upon auditing the same by the Board, the amount thereof shall be a debt due the Town by the owner of the property benefiting therefrom and shall become a lien upon the lands involved, junior only to general taxes. The debt may be sued upon by the Town and/or concurrently certified to the County Treasurer and collected as in the case of real property taxes, except as this Chapter otherwise prescribes. (Ord. 111 §4, 1953; Ord. 2 §1, 2003)

14.08.050 Repair charges; interest on debt.

All charges incurred in carrying out repairs or other channel maintenance as described in Section 14.08.040 shall bear interest at six percent (6%) per year on each installment to its due date and thereafter, if unpaid, at one percent (1%) a month, until paid. The resolution of the Board of Selectmen auditing and certifying the charges shall fix the payment dates and amounts thereof, but there shall not be more than ten (10) installments fixed and no installment shall be less than ten dollars (\$10.00). (Ord. 111 §5, 1953; Ord. 2 §1, 2003)

14.08.060 Repair charges; due date.

Repair and maintenance charges shall be due on and after the date of the auditing resolution of the Board of Selectmen and may be paid without interest to the Town Clerk within thirty (30) days

thereof, but if not paid in full within thirty (30) days, shall be paid with interest as provided in the auditing resolution. (Ord. 111 §6, 1953; Ord. 2 §1, 2003)

14.08.070 Emergency right of entry and repair.

The Board of Selectmen or Police Judge may in an emergency without notice, enter and make, or cause to be made, any construction, repairs or maintenance deemed necessary to the creek channel. Afterward, on reasonable notice as set forth in this Chapter and opportunity to be heard, the Board may audit, fix and certify to the County Treasurer as a lien the charges incurred against the owner of the property benefited by such repairs. (Ord. 111 §7, 1953; Ord. 2 §1, 2003)

14.08.080 Creek beds Town property; removal of obstructions.

The beds of Clear Creek and its forks within the lawfully existing walls now standing, but no less wide than the minimums mentioned in this Chapter, are declared the property of the Town by grant and prescription, and the Town may at any time enter thereon, and with reasonable notice to and access from the adjoining property, inspect, clear, clean and remove obstructions from the same. (Ord. 111 §8, 1953; Ord. 2 §1, 2003)

14.08.090 Prohibited acts designated; penalty.

Any person who shall, or who knowingly permits a tenant, servant, employee or member of his or her family to:

- (1) Obstruct the stream flow of Clear Creek or either of its forks;
- (2) Dump or deposit therein any dirt, debris, rubbish, garbage materials, cans, wood, stone or other substance which might obstruct or render unsafe or unhealthy the waters thereof; or
- (3) Fail to construct, repair and maintain the walls or embankments as required by this Chapter;

shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine as authorized under this Code. (Ord. 111 §9, 1953; Ord. 2 §1, 2003)

CHAPTER 14.12

Use Regulations

14.12.010 Bathing and washing prohibited.

It is unlawful for any person to bath, launder or wash articles or utensils in or on the Clear Creek, Channel or to deposit or leave any refuse, garbage, bedding or human or animal waste therein. It is also unlawful to establish or use any privy, septic tank or chemical disposal apparatus within fifty (50) feet of the channel banks. (Ord. 129 §4, 1958; Ord. 2 §1, 2003)

14.12.020 Warning signs; enforcement.

The Town Administrator is authorized and directed to post such signs and warnings as he or she deems necessary to enforce the provisions of this Chapter; however, the absence or lack of any sign, or the failure of a person to see any sign or notice shall not be a defense to a prosecution for a violation of any provision contained in this Chapter. (Ord. 129 §5, 1958; Ord. 2 §1, 2003)