

Order 92-07/08

Given first reading on 11/5/07

Emergency Passage: 11/19/07 8-0 (Cloutier gone)

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**CITY OF PORTLAND**  
IN THE CITY COUNCIL

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**AMENDMENT TO PORTLAND CITY CODE**  
**CHAPTER 25 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**  
**ARTICLE VIII. REMOVAL OF SNOW AND ICE**  
**SECTIONS 25-171 THROUGH 25-179**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Article VII, Removal of Snow and Ice, Sections 25-171 through Section 25-179 of the Portland City Code is hereby amended to read as follows:*

**Sec. 25-171. Purpose.**

The purpose of this article is to regulate the removal of snow and ice ~~both from the business pedestrian district, as defined herein, and also from all other areas~~ in the city.

(Ord. No. 132A-93, 11-15-93)

**Sec. 25-172. Definitions.**

For the purposes of this article, the following words shall have the meanings set forth below:

*Business-pedestrian district* shall be coterminus with the Portland Downtown Improvement District as established by order # 0306 (3/16/92) of the city council, as amended by order # 0185 (2/22/95), as it may be further amended from time to time, and the map and related descriptions of that district kept on file in the city clerk's office which are hereby incorporated by reference.

*Charges* means penalties, fees, fines, costs or other financial levies.

*Commercial property owner* shall mean the owner of any real property other than a residential property owner.

*Residential property owner* shall mean the owner of property that contains a building with 1 to 4 residential dwelling units or a vacant lot that is in an R-zone.

*Sidewalk* means the entire paved surface, intended primarily for use by pedestrians, between the boundaries of a street's public right-of-way and the curb, including any curb ramps and the area that crosses a driveway.

*Street* means all public ways or easements and includes courts, lanes, alleys or squares.  
(Ord. No. 132A-93, 11-15-93; Ord. No. 194-77, § 1, 2-3-97; Ord. No. 31-04/05, 10-4-04)

**Cross reference(s)**--Definitions and rules of construction generally, § 1-2.

**Sec. 25-173. Snow and ice to be removed from sidewalks.**

(a) *Commercial property* - the following provisions apply to commercial property owners and commercial property:

(1) Commercial property owners, or the manager or any person having responsibility for any commercial building or lot of land which abuts any street where there is a sidewalk shall remove snow from the sidewalk in such a manner as to clear a path four (4) feet wide within twelve (12) hours after snow has ceased to fall and shall thereafter keep the sidewalk clear of snow from that storm including snow placed on the sidewalk as a result of subsequent snow removed by the city from the adjacent street.

(2) Whenever the sidewalk or any part thereof adjoining any building or lot of land on any street shall be encumbered with ice for six (6) hours or more during the daytime, it shall be the duty of the commercial property owners and any person having the responsibility for such building or lot to cause such sidewalk to be made safe and convenient by removing the ice therefrom or by covering the same with sand or some other suitable substance.

- (3) Either the ~~d~~Director of ~~p~~Parks and Recreation, the ~~d~~Director of ~~p~~Public ~~w~~Works, or the head of the ~~b~~Building ~~i~~Inspections ~~d~~epartment Division, or their respective designees, may arrange for the removal of snow or removal or covering of ice which exists in violation of the provisions of subsections (1)and (2) above.
- (4) The penalty for an offense shall be two hundred fifty dollars (\$250.00). If the city removes the snow or ice or arranges for its removal, a commercial property owner shall also be charged the cost of removal of the snow or ice, plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of the abutting property as soon as practicable after the charges are incurred. The record owner of each such abutting property shall be the owner of record as of April 1<sup>st</sup> of that year as designated in the office of the city tax assessor.

(b) *Residential property owner* - the following provisions apply to residential property owners and their properties:

- (1) Residential property owners, or the manager or any person having the responsibility for any residential property building or lot of land which abuts a street where there is a sidewalk shall remove snow from the sidewalk in such a manner as to clear a path four (4) feet wide within twenty-four (24) hours after snow has ceased to fall or within twenty-four (24) hours after the city conducts its last snow clearing for that storm on the adjacent street whichever is later. In cases where a sidewalk is less than four (4) feet wide the entire sidewalk shall be cleared.
- (2) Whenever the sidewalk or any part thereof adjoining any building or lot of land on any street shall be encumbered with ice for twenty-four (24) hours or more ~~during the daytime~~, it shall be the duty of the residential property owner and any person having the responsibility for such building or lot to cause such sidewalk to be made safe and convenient by removing the ice therefrom or by covering the same with sand or some other suitable substance, so that the sidewalk is suitable for pedestrian use, to a width of four (4)

feet. In cases where a sidewalk is less than four (4) feet wide, ice on the entire sidewalk shall be cleared or covered.

- (3) Either the ~~d~~Director of ~~p~~Parks and Recreation, the ~~d~~Director of ~~p~~Public ~~w~~Works, or the head of the ~~b~~Building ~~i~~Inspections department Division, or their respective designees, may arrange for the removal of snow or removal or covering of ice which exists in violation of the provisions of subsections (1)and (2) above.
- (4) The penalty for a second offense shall be fifty dollars (\$50.00). The penalty for a third offense shall be one hundred dollars (\$100.00). The penalty for any subsequent offense shall be two hundred dollars (\$200.00). If the city removes the snow or ice or arranges for its removal such owner shall also be charged the cost of removal of the snow or ice plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of the abutting property as soon as practicable after the charges are incurred. The record owner of each such abutting property shall be the owner of record as of April 1<sup>st</sup> of that year as designated in the office of the city tax assessor.

(Ord. No. 132A-93, 11-15-93; Ord. No. 31-04/5, 10-4-04)

**~~Sec. 25-174. Ice to be removed from sidewalks.~~**

~~(a) Commercial property~~ the following provisions apply to ~~commercial property owners and commercial property:~~

- ~~(1) Whenever the sidewalk or any part thereof adjoining any building or lot of land on any street shall be encumbered with ice for six (6) hours or more during the daytime, it shall be the duty of the commercial property owners and any person having the responsibility for such building or lot to cause such sidewalk to be made safe and convenient by removing the ice therefrom or by covering the same with sand or some other suitable substance.~~
- ~~(2) Either the director of parks, the director of public works, or the head of the building inspections department or their respective designees, may arrange~~

~~for the removal or covering of ice which exists in violation of the provisions of subsection (1) above.~~

~~(3) The penalty for an offense shall be two hundred fifty dollars (\$250.00). If the city removes the ice or arranges for its removal such owner shall also be charged the cost of removal or covering of the ice, plus a ten (10%) percent charge for administration. A separate bill for each such removal or covering shall be submitted to the record owner of the abutting property as soon as practicable after the charges are incurred. The record owner of each such abutting property shall be the owner of record as of April 1<sup>st</sup> of that year as designated in the office of the city tax assessor.~~

~~(b) Residential property — the following provisions apply to residential property owners and residential properties:—~~

~~(1) Whenever the sidewalk or any part thereof adjoining any building or lot of land on any street shall be encumbered with ice for twenty four (24) hours or more during the daytime, it shall be the duty of the residential property owner and any person having the responsibility for such building or lot to cause such sidewalk to be made safe and convenient by removing the ice therefrom or by covering the same with sand or some other suitable substance, so that the sidewalk is suitable for pedestrian use, to a width of four (4) feet. In cases where a sidewalk is less than four (4) feet wide, ice on the entire sidewalk shall be cleared or covered.~~

~~(2) Either the director of parks, director of public works, or the head of the building inspections department, or their respective designee, may arrange for the removal or covering of ice which exists in violation of the provisions of subsection (1) above.~~

~~(3) The penalty for a second offense shall be fifty dollars (\$50.00). The penalty for a third offense shall be one hundred dollars (\$100.00). The penalty for any subsequent offense shall be two hundred dollars (\$200.00). If the city removes the ice or arranges for its removal or covering of the ice, plus a ten (10%) percent charge for administration. A~~

~~separate bill for each such removal or covering shall be submitted to the record owner of the abutting property as soon as practicable after the charges are incurred. The record owner of each such abutting property shall be the owner of record as of April 1<sup>st</sup> of that year as designated in the office of the city tax assessor.~~

~~(Ord. No. 132A-93, 11-15-93; Ord. No. 31-04/05, 10-4-04)~~

**Sec. 25-174.5. Snow or ice threatening use of streets or sidewalks.**

(a) *Commercial property* - the following provisions apply to commercial property owners and commercial property:

- (1) When an accumulation of snow or ice on a building poses the threat of falling onto streets or sidewalks, it shall be the duty of the commercial property owner to remove such accumulations in order to make a passage along the streets and sidewalks safe and convenient.
- (2) Such removal shall begin either: (i) whenever a threatening condition occurs; or (ii) within four (4) hours after the head of building inspections or his or her designee has verbally or in writing notified the owner of the condition and ordered the owner to remove such accumulations, whichever occurs first. Whenever snow or ice accumulates in such a manner as to hang over a street or sidewalk, such a condition shall constitute prima facie evidence that the condition is a threatening condition. A determination by the building inspector or his or her designee that an accumulation of snow or ice is a threatening condition shall be conclusive and not subject to challenge or appeal until after the building owner has removed the snow or ice. Notice shall be given to the owner or to an owner's agent who has maintenance responsibility for such building.
- (3) The Director of the Building Inspections Division or his or her designee may arrange for the removal of snow and ice accumulations which exist in violation of subsection (2) above.

- (4) The penalty for an offense shall be two hundred fifty dollars (\$250.00), plus attorney's fees and costs. When the city removes or arranges for the removal of snow or ice accumulations the owner shall also be charged the costs of removal, plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of the building as soon as practicable after the charges have been incurred. The record owner of each such building shall be deemed to be the owner as of April 1<sup>st</sup> that year as designated in the office of the city tax assessor.
- (5) Pursuant to 30-A M.R.S.A. § 3007, after a building owner or lessee has been given one (1) notice and order under subsection (2) above and failed to comply and the city has removed the snow or ice, or when a building has been the subject of three (3) or more notices within an eighteen-month period, the head of building inspections or his or her designee may require the owner of a building to install roof guards, or take other measures approved by the building inspector or his or her designee, at the owner's expense to prevent the fall of snow or ice.

(b) *Residential property:*

- (1) This section (25-174.5) shall not apply to residential property owners or residential property.

(Ord. No. 194-77, § 2, 2-3-97; Ord. No. 31-04/05, 10-4-04)

**Sec. 25-175. Regulations relating to snow storage and removal from specified areas.**

- (a) When snow is to be plowed or removed from privately owned or operated expansive parking, storage or other open areas, such as, but not limited to, filling stations, parking lots, used car lots, hospitals and truck terminals, no such snow shall be placed within the area reserved for sidewalk or street purposes. All snow plowed or removed from such areas shall either be stored within the boundaries of the premises for which it is plowed or removed or hauled to the city snow dump or other location suitable to the public works authority.

(Ord. No. 132A-93, 11-15-93)

(b) Either the Director of Parks and Recreation, the Director of Public Works, or the head of the Building Inspections Division, or their respective designees, may arrange for the removal of snow which exists in violation of the provisions of subsection(a)above.

(c) The penalty for an offense shall be two hundred fifty dollars (\$250.00), plus attorney's fees and costs. When the city removes or arranges for the removal of snow or ice accumulations the owner shall also be charged the costs of removal, plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of the building as soon as practicable after the charges have been incurred. The record owner of each such building shall be deemed to be the owner as of April 1<sup>st</sup> that year as designated in the office of the city tax assessor.

**Sec. 25-176. Snow removal provided by city; when and under what conditions.**

In the business-pedestrian district and in other areas where snow is removed and hauled away by the city, the city will move any and all snow removed from private property, except in the cases covered by section 25-175, which has been placed within the street area from curb to curb, provided that such snow has not been piled in one (1) spot or area but spread evenly within such street area abutting property from which it was removed before removal operations by the city are commenced. On those portions of streets from which the city removes snow by loading and hauling away, snow may be removed from roofs of buildings or sidewalks and deposited evenly within the street area where it shall be accessible for removal by the city, provided that such depositing is done prior to commencement of removal operations by the city and provided that such snow is spread in the manner provided above.

(Ord. No. 132A-93, 11-15-93)

**Sec. 25-177. Snow not to be stored within street and sidewalk areas; exception.**

In all cases, after a street area has been plowed or cleared of snow, no snow shall be placed therein beyond the windrowed accumulation along the curblines, and in those areas where snow is removed by the city, no snow shall be deposited within the street or sidewalk area after completion of removal operations by the city. Snow removed from driveways shall be stored within the boundaries of the premises from which it is removed and shall not be plowed into or deposited in the area reserved for street or sidewalk purposes. In cases of driveways which do not come within the provisions of section 25-175 hereof and where there is no room on the premises for such storage, snow plowed or removed therefrom may be spread in the street area along the curb frontage of the premises from which it is plowed or removed, provided that such storage is done before the city has plowed or cleared the street. Such snow must be spread along the curb outside of the sidewalk area in such manner as not to impede traffic and must not be pushed or moved into or across the street to the opposite curb.

(Ord. No. 132A-93, 11-15-93)

**Sec. 25-178. Enforcement.**

(a) This article shall be enforced by the ~~and~~ Director of ~~and~~ Parks and Recreation, the ~~and~~ Director of ~~and~~ Public Works, or the head of the ~~and~~ Building ~~and~~ Inspections ~~department~~ Division or their respective designees.

(Ord. No. 132A-93, 11-15-93; Ord. No. 31-04/05, 10-4-04)

(b) A written warning shall be given for ~~the first~~ each violation except that no warning is required for a violation of section 25-174.5. Such warning must inform the property owner or the resident manager or person having the responsibility for the removal of snow or ice or the covering of ice that the city has the authority to remove the snow or ice or cover the ice ~~within~~ twenty-four (24) hours after the time that the warning is given for a ~~first~~ violation and bill the property owner the costs for such service plus a ten (10%) percent charge for administration. A written warning posted on the property containing the required information shall be sufficient to meet the requirements of this section. ~~The warning shall also state that the city can take the same action in relation to any subsequent violations without~~

~~providing any written notice; however, snow or ice removal costs, including ten (10%) percent administrative cost, shall be assessed in all cases where the city removed or arranged for the removal of snow or ice. Once a written warning has been given, no other warning is required for any acts prohibited by the specific section or sections originally violated as long as a copy of the section or sections is attached to the warning.~~

~~For the purpose of determining whether a violation or offense is a first or subsequent violation or offense, only violations or offenses occurring in the same fiscal year shall be counted.~~

**Sec. 25-179. Penalties and liens.**

In addition to other collection methods authorized by law, and the penalties provided herein and in section 1-15, charges assessed pursuant to this article shall be enforceable by lien for the benefit of the city pursuant to section 1-16 of this Code.

**BE IT FURTHER ORDAINED** that these amendments are enacted as an Emergency, pursuant to Article II, Section 8 of the Portland City Charter, so that they can go into effect immediately in case the City experiences a winter storm.