

Order 135-08/09  
Given 1<sup>st</sup> reading: 1/23/08 – Referred to Fin. Comm: 2/4/08  
Referred to Public Safety: 10/20/08  
Amended & Passed: 11/17/08 7-2 (Mavodones, Cohen)

EDWARD J. SUSLOVIC (MAYOR)  
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DAVID A. MARSHALL (2)  
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**CITY OF PORTLAND**  
IN THE CITY COUNCIL

JAMES I. COHEN (5)  
JOHN M. ANTON (A/L)  
JILL C. DUSON (A/L)  
NICHOLAS M. MAVODONES (A/L)

**AMENDMENT TO PORTLAND CITY CODE**  
**CHAPTER 25 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**  
**ARTICLE VIII. REMOVAL OF SNOW AND ICE**  
**SECTIONS 25-173 & 25-174**

**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 25-173 and Section 25-174 of the Portland City Code are hereby amended to read as follows:*

**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. Property owners whose property abuts a sidewalk containing a curb cut and/or leading to an intersection shall clear a path four (4) feet wide through the curb cut or to the curb at the intersection, giving access to the 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)

hour 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 director of public services, or the head of the building inspections 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. Property owners whose property abuts a sidewalk containing a curb cut and/or leading to

an intersection shall clear a path four (4) feet wide through the curb cut or to the curb at the intersection, giving access to the 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 twenty-four (24) hours or more, 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 director of public services, or the head of the building inspections 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.
- (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 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.

**Sec. 25-174 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) shall not apply to residential property owners or residential property.

**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.

(b) Either the director of public services 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. 25-178. Enforcement.**

(a) This article shall be enforced by the director of public services, or the head of the building inspections division or their respective designees.

(b) A written warning shall be given for each violation except that no warning is required for a violation of section 25-174. 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 twenty-four (24) hours after the time that the warning is given for a 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.

(c) The city manager, or his or her designee, may declare a delay of enforcement of this article. Such a declaration shall be for the purpose of giving property owners additional time to clear their sidewalks of snow or ice which has accumulated, or for other good cause stated in the declaration. Any such declaration shall be reduced to writing as soon as practicable thereafter, stating the reasons therefor. Such declaration shall be communicated to such representatives of the communications media as the city manager may direct.

**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 as it is the middle of the winter season.