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**AMENDMENT OF PORTLAND CITY CODE CHAPTER 25.
STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES
ARTICLE VIII. REMOVAL OF SNOW AND ICE**

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

1. That Chapter 25, Article VII, Removal of Snow and Ice. Sections 25-172 to 25-175, 25-177.5 to 25-178, and 25-180 of the Portland City Code are hereby amended to read:

Sec. 25-172. Definitions.

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

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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.

Repeat Offender means any Residential Property owner or Commercial Property owner that shall receive three (3) or more Charges per snow season.

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.

Snow season shall mean the period beginning November 1 and ending April 30 of the following year.

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 be the curb at the intersection, giving access to the street and abutting ADA ramps.

(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 and reapply as needed.

(3) Either the Director of Public Works, or the head of the building inspections division Director of the Permitting and Inspections Department, 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. If the city removes the snow or ice which exists in violation of subsections (1) and (2) above, 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. For the purposes of this Article, the

record owner of each such abutting property shall be the owner of record as of April 1st of that year as designated in the office of the city tax assessor.

- (4) In addition to any cost of removal charged under subsection (3) above, penalties shall accrue for violations of subsections (1) and (2). The penalty for a ~~first~~ offense shall be two hundred fifty dollars (\$250.00). The penalty for a second offense in the same winter season shall be five hundred dollars (\$500.00). The penalty for any subsequent offense in the same winter season shall be one thousand dollars (\$1,000.00).~~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 1st 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~~eighteen (24~~18~~) hours after snow has ceased to fall or within ~~twenty-four~~eighteen (24~~18~~) 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 and abutting ADA ramps.
- (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~~eighteen (24~~18~~) 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 and reapply as needed, 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~~irector of ~~the p~~ublic W~~orks~~ Department, or the ~~head~~Director of the ~~building inspections division~~Permitting and Inspections Department, 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. If the City removes snow or ice which exists in violation of the provisions of subsections (1) or (2) above or arranges for its removal, such owner shall be responsible for 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. For the purposes of this Article, the record owner of each such abutting property shall be the owner of record as of April 1st of that year as designated in the office of the City Tax Assessor.

~~(34)~~ In addition to any cost of removal charged under subsection (3) above, penalties shall accrue for violations of subsections (1) and (2). The penalty for a ~~second~~first offense shall be ~~fifty-seventy-five~~ dollars (\$~~7550~~.00). The penalty for a ~~third~~second offense in the same winter season shall be one hundred and twenty-five dollars (\$~~12500~~.00). The penalty for any subsequent offense in the same winter season shall be two hundred and fifty dollars (\$~~2500~~.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 1st 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~~Director of the Permitting and Inspections Department or his or her designee may arrange for the removal of snow and ice accumulations which exist in violation of subsection (2) above.

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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 ~~p~~Public ~~w~~Works, or the ~~head of the building inspections division~~Director of the Permitting and Inspections Department, 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 1st that year as designated in the office of the city tax assessor.

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Sec. 25-177.5. Rules and regulations.

(a) Prior to October 1, 2012, the public works authority shall establish rules and regulations governing exceptions to the requirement for residential property owners to clear the sidewalk abutting their property under 25-173(b)(1). Such exceptions shall take into account pedestrian safety, the city's priority snow removal areas, and whether the property is on a street where sidewalks are to be plowed by the city on at least one side.

(b) No less than 7 days before promulgating any rules or regulations under paragraph (a) above, the public works authority shall notify the public through notice to the media, posting on the city website, Facebook and other available electronic media, that the public works authority will be promulgating such rules, that a copy of the proposed rules or amendments may be obtained at the public works authority office and on the city website, and that a public hearing will be held

at a specified date, time and place. A copy of the rules shall be placed upon the city council agenda as a communication after such public hearing. The rules will take effect within 15 days after being placed on the council agenda, unless disapproved or amended by the city council.

(c) The director shall review any rules promulgated under paragraph (a) annually and shall ensure that the city council and the public are notified of the rules through the media, website, ~~F~~facebook and e-mail lists prior to November 1 of each year. Any amendments to such rules shall be promulgated in the same manner as provided in paragraph (b) above by October 1 of such year.

Sec. 25-178. Enforcement.

(a) This article shall be enforced by the ~~d~~Director of ~~P~~ublic ~~W~~orks, or the ~~head of the building inspections division~~Director of the Permitting and Inspections Department 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.~~

~~Such written warning shall include contact information whereby the property owner may appeal the warning to the director of public works on the basis that the property owner is unable to remove the snow or ice due to its weight, composition or height. The director shall make a determination as to such appeal prior to any further enforcement action. The director's determination shall be final.~~

(~~e~~b) 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 state in the declaration.

Any such declaration shall be reduced to writing as soon as practicable thereafter, stating the reasons therefore. Such declaration shall be communicated to such representatives of the communications media as the city manager may direct.

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Sec. 25-180. Appeals. Reserved.

(a) Procedure. An appeal to the City Manager may be taken by a person in receipt of a notice of violation of this Article within ten (10) days of the mailing of notice of the violation or receipt of written notice of the violation, whichever occurs first. The appeal shall be in writing and shall state the basis for appeal. The City Manager shall designate himself/herself or any agent or employee to act as hearing officer in the appeal. The hearing officer shall provide such person with the opportunity to be heard and to demonstrate why the decision is in error.

(b) Notice of hearing. Notice of the hearing shall be given by regular United States mail at least seven (7) days in advance of the hearing date.

(c) Action by hearing officer. The hearing officer may affirm, modify or vacate the decision of the Public Works authority. The written decision of the hearing officer shall be issued to the appellant. Any person aggrieved by a decision of the hearing officer may obtain review available by law in the superior court in accordance with the Maine Rules of Civil Procedure 80B.

BE IT FURTHER ORDERED, that this amendment shall be effective on July 1, 2018.