

(Published in the Topeka Metro News June 6, 2011)

**ORDINANCE NO. 19570**

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending Chapter 12.40 of the City of Topeka Code concerning sidewalk snow and ice removal.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 12.40.010, Duty of abutting property owner or occupant, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Article I. Generally~~

~~**Duty of abutting property owner or occupant.**~~

~~(a) — It shall be the duty of the owner, occupant or agent of any lot or piece of ground adjoining or abutting upon any street, avenue or public way within the city where a sidewalk is located, except as otherwise provided in Article II of this chapter, either in front of or at the side, or both, of such lot or adjoining ground, to clean and remove therefrom all snow and ice within 12 hours after the same shall have fallen or accumulated on the sidewalk; provided, that if the fall or accumulation occurs in the nighttime, the snow and ice shall be removed not later than six hours after sunrise.~~

~~(b) — Where ice or compacted snow is of such character as to make removal of such ice or snow from any sidewalk practically impossible, the sprinkling of sand, ashes or other noncorrosive or non-ice-forming chemical may be applied within the time limits for the removal of snow and ice from sidewalks, and the same shall be deemed a compliance with the provisions of this section.~~

~~(c) — It shall be unlawful for any person to push, plow or otherwise move, or allow the same to be done, snow and/or ice which has accumulated in a public or private parking area onto any public sidewalk, public or private street or handicapped stall.~~

**Removal of snow or ice from public sidewalks.**

(a) Residential property. It shall be unlawful for the owner of record of real property, with a zoning use group designation of R-1, R-2, R-3 or R-4 (Single-Family Dwelling Districts) or M-1 (Multiple-Family Dwelling Districts), immediately adjacent to a public sidewalk on public right-of-way to fail to remove from the sidewalk, within forty-eight (48) hours after the end of a snow or ice event, determined by the City Manager or designee based on information from the National Weather Service for Topeka, any snow or ice accumulated on such sidewalk or obstructing such sidewalk. If ice has accumulated of such character as to make removal thereof impossible, the sprinkling or placement of sand, ash or other noncorrosive material thereon within the time specified for removal in such a manner as to make such sidewalk safe for travel of pedestrians shall be deemed compliance with the provisions of this chapter. Provided, however, the residential property owner shall not be cited for an accumulation of snow or ice on the sidewalk when the accumulation is caused by the snow removal activity of the City, State of Kansas, or any other political and taxing subdivision of the State.

(b) Multifamily, commercial and nonresidential property. It shall be unlawful for the owner of record of real property with a zoning use group designation of M-2, M-3, M-4, or E (Multiple-Family Dwelling Districts), D & O (Multiple-Family Dwelling and Office District) or C (Commercial Districts), O & I (Office and Institutional Districts), D

51 (Downtown Districts) or X (Mixed Use Districts) immediately adjacent to a public  
52 sidewalk on public right-of-way to fail to remove from the sidewalk, within twenty-four  
53 (24) hours after the end of a snow or ice event, determined by the City Manager or  
54 designee based on information from the National Weather Service for Topeka, any  
55 snow or ice accumulated on such sidewalk or obstructing such sidewalk. If ice has  
56 accumulated of such character as to make removal thereof impossible, the sprinkling or  
57 placement of sand, ash or other noncorrosive material thereon within the time specified  
58 for removal in such a manner as to make such sidewalk safe for travel of pedestrians  
59 shall be deemed compliance with the provisions of this chapter.

60 Section 2. That section 12.40.020, Notice to abate, of The Code of the City of  
61 Topeka, Kansas, is hereby amended to read as follows:

62 **Notice to abate.**

63 ~~Any accumulation of snow and ice upon the sidewalks of the city contrary to the~~  
64 ~~provisions of this article is hereby declared to be a public nuisance and subject to~~  
65 ~~abatement as follows: whenever any person, whose duty it is to keep sidewalks free~~  
66 ~~from snow and ice under the provisions of TMC [12.40.010](#), shall fail or refuse to do so,~~  
67 ~~the director of the department of public works or designee shall serve or cause to be~~  
68 ~~served upon such person a notice requiring such removal to be done immediately, and~~  
69 ~~if such person shall fail to remove snow and ice from any sidewalk or treat such snow~~  
70 ~~and ice or cause such removal or treatment to be done within 12 hours after service of~~  
71 ~~such notice, such person shall be deemed guilty of a misdemeanor. Any notice~~  
72 ~~authorized by this article may be served by delivering the notice or copy thereof to the~~  
73 ~~owner or occupant by leaving the notice at the owner's or occupant's usual place of~~

~~business or abode, and if such owner is a nonresident and the property is unoccupied, and the owner or an agent cannot be found in the city, by posting such notice in a conspicuous place on such lot upon which the sidewalk shall be located.~~

**Enforcement.**

(a) The public works director and his or her designee shall be responsible for enforcing the provisions of this chapter within the City, but nothing in this section shall be interpreted to prohibit any other person who would otherwise be lawfully entitled to enforce the provisions of this chapter from taking enforcement action under this chapter.

(b) Any person may register a complaint under this chapter to initiate enforcement with the public works director or his or her designee.

(c) The public works director and his or her designee shall be authorized to issue notice of violation of this chapter.

(d) The public works director and municipal court administrative judge or their designees shall be jointly authorized to:

(1) Collect money paid as fines and penalties for violations of the provision of this chapter;

(2) Establish procedures necessary for the prompt, fair and efficient operation of the administrative adjudication system; and

(3) Adopt administrative rules and regulations pertaining to the administration of this chapter, including, but not limited to, the content of forms and procedures for administering adjudication of violations of this chapter.

Section 3. That section 12.40.030, Removal by city in certain cases; assessment of costs, of The Code of the City of Topeka, Kansas, is hereby amended to

read as follows:

**~~Removal by city in certain cases – Assessment of costs.~~**

~~In a case where any lot or piece of ground is vacant and the owner thereof is unknown or a nonresident and the provisions of this article are not complied with, the director of the department of public works or designee may, after giving the notice provided in TMC [12.40.020](#), proceed to remove the snow or ice, or treat the snow and ice in accordance with the regulations pertaining thereto, and keep a record of the cost thereof and certify such cost to the city clerk for a service assessment as provided in Chapter [3.45](#) TMC, Article III.~~

**Notice of violations.**

(a) The notice of violation shall state the following information:

- (1) The section of this chapter allegedly violated;
- (2) The name and address of the owner of the property where alleged violations occurred;
- (3) The location, date and time of the alleged violation;
- (4) The applicable administrative monetary penalty;
- (5) The fee which shall be automatically assessed for late payment;
- (6) The payment of the indicated administrative monetary penalty and any applicable late fee shall operate as a final disposition of the violation;
- (7) Information about the availability of the administrative appeal procedure, and
- (8) Information about the availability of the Snow Relief Team or other

available local assistance.

(b) The public works director or his or her designee shall compile and maintain complete and accurate records relating to all violations of this chapter and the dispositions thereof.

Section 4. That section 12.40.040, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Article II. Downtown Commercial Districts~~

**Definitions.**

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~“Downtown areas” means areas as described in the notice to property owners and persons in charge of property in TMC [12.40.060](#).~~

~~“End of the snowstorm” means the time that is designated as the end of the snowstorm by the United States Weather Service for the city area.~~

**Penalties for violations.**

(a) Residential property. The following fine schedule is hereby adopted for a violation by any property owner with real property with a zoning designation of R-1, R-2, R-3 or R-4 (Single-Family Dwelling Districts) or M-1 (Multiple-Family Dwelling Districts), who violates the provisions of this chapter except that no penalty shall be assessed against persons qualified for assistance through the Snow Relief Team:

(1) \$20 per violation for a first violation.

(2) \$50 per violation for a second or subsequent violation within a

continuous twelve (12) month period of the first violation.

(b) Multifamily, commercial and nonresidential property. The following fine schedule is hereby adopted for a violation by any property owner with real property with a zoning designation of M-2, M-3, M-4, or E (Multiple-Family Dwelling Districts), D & O (Multiple-Family Dwelling and Office District), C (Commercial Districts), O & I (Office and Institutional Districts), D (Downtown Districts) or X (Mixed Use Districts) who violates the provisions of this chapter:

(1) \$50 per violation for a first violation.

(2) \$100 per violation for a second or subsequent violation within a continuous twelve (12) month period of the first violation.

Section 5. That section 12.40.050, Duty of abutting property owner or occupant, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Duty of abutting property owner or occupant.**

~~The owners, occupants or persons in charge of any lots or pieces of land located in the downtown areas shall remove and clear the sidewalks that abut such property of all accumulations of ice and snow. All accumulations of snow or ice from a storm that ends between midnight and 8:00 a.m. the following morning shall be removed and cleared by 10:00 a.m. the same day. All accumulations of snow or ice from a storm that ends between 8:00 a.m. and noon shall be removed and cleared by 3:00 p.m. of the same day.~~

**Removal of snow or ice by city.**

If the owner of real property with a Multifamily, commercial and nonresidential

property zoning designation of M-2, M-3, M-4, or E (Multiple-Family Dwelling Districts),  
D & O (Multiple-Family Dwelling and Office District), C (Commercial Districts), O & I  
(Office and Institutional Districts), D (Downtown Districts) or X (Mixed Used Districts)  
immediately adjacent to a public sidewalk on public right-of-way fails to remove from the  
sidewalk any snow or ice accumulation within twenty-four (24) hours after being service  
notice of violation of this chapter and said snow or ice constitutes a threat to public  
health and safety, the public works director or his or her designee may cause all  
accumulation of snow or ice to be removed. The costs of said snow or ice removal shall  
be charged to the owner of the real property.

Section 6. That section 12.40.060, Notice to abate, of The Code of the City of  
Topeka, Kansas, is hereby amended to read as follows:

**~~Notice to abate.~~**

~~(a) The city clerk shall give notice each year on the first regular business day  
of November, December, January, February, March and April, of the provisions of this  
article to the owners, occupants or persons in the possession of lots or pieces of land  
located in the downtown commercial districts of the city, by publication in the official city  
newspaper of the following notice:~~

~~Notice to Property Owners and Persons in Charge of Property. All property  
owners and persons in charge of or in possession of any tracts, lots or pieces of land in  
the downtown commercial districts of the City of Topeka, Kansas, are hereby notified  
that all accumulations of snow and ice on sidewalks that abut such tracts, lots and  
pieces of land from a storm ending between midnight and 8:00 a.m. the following  
morning that have not been removed and cleared from such sidewalk by 10:00 a.m. of~~



189 ~~such day shall thereafter be declared to be a nuisance, and all accumulations of snow~~  
190 ~~and ice from a storm ending between 8:00 a.m. and noon that have not been removed~~  
191 ~~and cleared from such sidewalk by 3:00 p.m. of the same day shall thereafter be~~  
192 ~~declared to be a nuisance, and unless the owner, occupant or person in charge of any~~  
193 ~~such property shall immediately abate such nuisance by causing all accumulations of~~  
194 ~~snow and ice to be removed and cleared from such sidewalks, the city may proceed to~~  
195 ~~abate the nuisance by removing all accumulations of snow and ice and levying an~~  
196 ~~assessment against the property for the cost of such abatement.~~

197 ~~(b) For purposes of this section, the downtown commercial districts shall be~~  
198 ~~defined to mean those areas described as follows:~~

199 ~~North Topeka Downtown Area. All sidewalks along both sides of Kansas Avenue~~  
200 ~~from Norris Street to Morse Street, with the exception of sidewalks adjacent to public~~  
201 ~~property.~~

202 ~~South Topeka Downtown Area. All sidewalks in the area bounded by Fourth~~  
203 ~~Street from Jackson Street to Quincy Street, Jackson Street from Fourth Street to 12th~~  
204 ~~Street, 12th Street from Jackson Street to Quincy Street, and Quincy Street from 12th~~  
205 ~~Street to Fourth Street, and all sidewalks along both sides of the above-described~~  
206 ~~boundary streets, with the exception of sidewalks adjacent to public property.~~

### 207 **Appeals.**

208 Appeals from notices of violation and administrative hearings shall be in  
209 accordance with the administrative appeal procedure set forth in Chapter 2.145.

210 Section 7. That section 12.40.070, Removal by city – Assessment of costs. of  
211 The Code of the City of Topeka, Kansas, is hereby repealed.

**Removal by city—Assessment of costs.**

~~The director of the department of public works or designee may cause all accumulations of snow and ice to be removed and cleared from sidewalks that abut any tracts, lots or pieces of land in the downtown commercial districts that remain after 3:00 p.m. of a day in which the storm has ended between 8:00 a.m. and noon of that day and after 10:00 a.m. if a storm has ended between midnight and 8:00 a.m. the following morning. The charge for removal and clearing of such snow shall be \$25.00 per hour with a minimum charge of \$10.00 per tract, lot or piece of property; and shall be certified by the director of the department of public works to the city clerk, who shall cause such charges to be assessed against the particular lots or pieces of land which abut the sidewalks from which the snow and ice were removed and cleared as provided in Chapter [3.45](#) TMC, Article III. All money collected pursuant to this article shall inure to the street fund.~~

Section 8. That original § 12.40.010 through § 12.40.070 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 9. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 10. This ordinance shall supersede any ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 11. Should any section, clause or phrase of this ordinance be declared to be invalid, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

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PASSED AND APPROVED by the City Council May 24, 2011.

CITY OF TOPEKA, KANSAS

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William W. Bunten, Mayor

ATTEST:

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Brenda Younger, City Clerk