

ORDINANCE 04-35

(passed 40)

**TO AMEND TITLE 12 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED "STREETS, SIDEWALKS AND STORM SEWERS"
AND TO AMEND TITLE 2 ENTITLED "ADMINISTRATION AND PERSONNEL"
(Modifying the Duties, Fines, and Citation and Collection Procedures Related to the Shoveling of
Snow from Sidewalks within the City's Right-of-Way)**

WHEREAS, accumulation of snow and ice on sidewalks poses a safety threat to the community; and

WHEREAS, the City of Bloomington wants to encourage the timely removal of snow and ice from sidewalks;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Section 12.04.070 Snow and ice removal-Duty of abutting property owner, shall be amended by deleting the section and replacing it with the following:

It shall be the duty of every owner of any premises abutting a sidewalk in all parts of the city to remove, or cause to be removed, all snow and ice from the sidewalk to allow safe and reasonable travel on said sidewalk within twenty-four hours after snow or ice has ceased to fall or in any way accumulate. In the downtown snow removal area, the minimum clear width of the path shall be the lesser of 54 inches or the full-paved width of the sidewalk, while in the remainder of the city the minimum clear width of the path shall be 36 inches.

For purposes of this section, the downtown snow removal area is defined as:

College Avenue and Walnut Street from 3rd Street to 10th Street
Gentry Street from 4th Street to 5th Street
Morton Street from 5th Street to 10th Street
3rd Street between Walnut Street and College Avenue
4th Street between Walnut Street and Gentry Avenue
Segments of 5th, 6th, 7th, 8th, 9th, and 10th Streets from Walnut to Morton Streets
Kirkwood Avenue from Indiana Avenue to Rogers Street.

Where the ownership of the premises abutting a sidewalk is being transferred by means of a sales contract that has been recorded in the office of the county recorder, the duty to remove snow and ice shall be on the purchaser of the premises, who shall be considered the owner for the purposes of the ordinance codified in this section.

SECTION 2. Section 12.04.080 Snow and ice removal-Failure to remove, shall be amended in the following manner:

A. The first sentence of subsection (a) shall be deleted and replaced with the following two sentences:

(a) If the owner of any premises abutting a sidewalk fails to remove or cause to be removed snow and ice as required in Section 12.04.070, the owner may be issued a notice of ordinance violation and may be fined in the amount of fifty dollars. Said notice of ordinance violation may be issued by the following City of Bloomington departments: Engineering, Fire, Housing and Neighborhood, Parking Enforcement, Planning and Police.

B. The second to last sentence in subsection (a) shall be amended by replacing the word "seven" with the word "10 business" (and replacing the word "receipt" with the word "issuance") so that the sentence now reads:

The owner may make payment within 10 business days of issuance of the notice in full satisfaction of the penalty.

SECTION 3. Chapter 12.04 shall be amended by inserting Section 12.04.085 entitled "Appeal," which shall read as follows:

12.04.085 Appeal.

Any person who has been cited for violations of Sections 12.04.050, 12.04.070 or 12.04.080 and wishes to appeal the citation, may apply to the Board of Public Works during regular operating hours of the Department of Public Works, and after a hearing of the Board of Public Works, the board may reduce or waive fines imposed for violations of said sections for good cause. All appeals must be filed, in writing, within 10 business days of the issuance of a citation. The board will consider the appeal at its next regularly scheduled meeting.

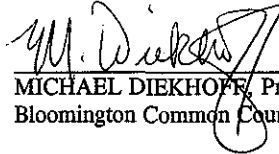
SECTION 4. Section 2.27.010 Appointment of administrator of bureau and designation of agents for collection of civil penalties, shall be amended by adding the phrase "and Section 12.04.080, Snow and ice removal-Failure to remove" to the following subsection:

(d) Housing and Neighborhood development

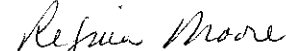
SECTION 5. Severability. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid section, sentence, provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 6. This ordinance shall be in full force and effect on and after its passage by the Common Council of the City of Bloomington and approval by the Mayor.

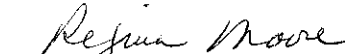
PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 17th day of November, 2004.


MICHAEL DIEKHOFF, President
Bloomington Common Council

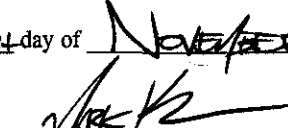
ATTEST:


REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 17th day of November, 2004.


REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 17th day of NOVEMBER, 2004.


MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This ordinance encourages timely removal of snow and ice from sidewalks and establishes efficient collection of fines for violations.

Note: On November 17, 2004, the Council adopted this ordinance with two amendments. Amendment 1 amended Section 1 in order to require property owners in certain areas of the downtown to clear a 54 inch (rather than a 36 inch) path through the snow and ice. Amendment 2, as reconsidered, amended Sections 3 and subsequent sections in order to establish an appeal procedure, match the period of time for paying the fine with the period of time for appealing the citation, and authorize rather than require the issuance of citations and the levying of fines.

Signed copies to:
Legal (5)
Circuit Clerk
Public Works
H-T advert.
Pbl. Downtown Commission
Monroe County Courthouse

Engineering
Fire Dept.
HAND
PARKING
Planning
Police Dept.

BMC file
file
CLERK
CA/CA(2)