

ORD 2007-1

AN ORDINANCE AMENDING CITY OF BELGRADE REGULATIONS REQUIRING OWNERS OR TENANTS OF ANY PROPERTY TO KEEP SIDEWALKS IN FRONT AND ADJOINING THEIR PROPERTY IN GOOD SAFE CONDITION.

WHEREAS; It is the intent of the City Council to provide safe, easily passable sidewalks for pedestrian wintertime travel within the City of Belgrade, and to require the owners or tenants of the adjoining premises to keep the same free from snow or other obstruction, in accord with 7-14-4105 (3) M.C.A.

It is the further intent of the City Council that any person who fails to keep his/her sidewalks cleaned per the requirements of this ordinance may be liable for actual costs of the City cleaning the sidewalk plus a civil penalty plus a criminal penalty.

It is also the intent of the City Council that the criminal offenses listed in this ordinance be offenses involving absolute liability. Those offenses shall not require proof of any one of the mental states described in subsections (33), (37) and (58) of Section 45-2-101, M.C.A., and there shall be no penalty of imprisonment for a violation of this chapter.

WHEREAS; It is the duty of the owners or tenants of any premises within the city to keep the sidewalks in front of and adjoining their premises in good, safe and substantial condition and repair, and the owners or tenants shall see that all breaks and unsoundness of any character resulting from natural deterioration, or from any cause whatever, are repaired with all possible dispatch.

WHEREAS; The following definitions shall apply in the interpretation and enforcement of this ordinance:

- A. "City" is the City of Belgrade.
- B. "Manager" is the City Manager or his/her duly designated and acting representative.
- C. "Lot" or "parcel" means a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings and which may include more than one platted lot.
- D. "Person" means any individual, business association, partnership, corporation or other legal entity, to include owner, tenant, occupant, lessee, or otherwise.
- E. "Roadway" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel or parking, exclusive of the berm or shoulder.
- F. "Sidewalk" means a paved, concrete, or cement pathway intended for public pedestrian use and located parallel to a street or road, on either public right-of-way or a public use easement.

Whereas; Every person owning, in charge or control of, or occupying as tenant any building or lot of land within the city which fronts on, abuts, or contains within a public use easement a sidewalk, shall remove and clear away, or cause to be removed and cleared away, snow, ice, slush, mud, or other impediment to safe and convenient foot travel from so much of said sidewalk as is in front of, abuts on, or is contained within said building or lot of land. It is further such person's duty to prevent accumulation of the same upon such sidewalks.

Snow, ice, slush, mud, or other impediment shall be removed from all sidewalks in the City by 12:00 p.m. (noon) of the next day following a snowfall.

When from freezing of water, snow or slush thereon, or by reason of such compaction resulting from the wear of foot travel or from any cause whatever, sidewalks are rendered dangerous, unsafe or difficult to the free passage of pedestrians, it shall be the duty of the owners or tenants of premises in front of, adjoining or containing within a public use easement such sidewalks to forthwith remedy such conditions by sprinkling sand or de-icing agents on the sidewalks, or chipping or by other safe and efficient means.

WHEREAS; No person shall deposit or cause to be deposited any accumulation of snow or ice on or against a fire hydrant or on any sidewalk, pedestrian roadway crossing, roadway, roadway shoulder or berm, curb or gutter, any handicap parking space, any loading and unloading area of a public transportation system or any area designated for use by emergency vehicles for access.

WHEREAS; In the event of the failure of any person responsible for clearing the sidewalk to clear away or treat with abrasives or suitable de-icing agents and subsequently clear away any snow, ice, slush, mud, or other impediment from any sidewalk as required by this ordinance, or cause this to be done, the Manager may, as soon as practicable after such failure, cause such work to be done at the expense of the property owner.

The Manager shall ascertain and keep a record of: the exact date and costs of all work caused to be done in accordance with this section on account of each act or omission of each person; a legal description of the lot or lots fronting, abutting on or containing within a public use easement the sidewalks cleared along with the street address; and the identity of the owner(s) of the premises along with, when possible, any tenant(s), occupant(s) or lessee(s).

Each person whose act or omission makes it necessary that the Manager cause work to be done in accordance with this section shall be liable to the City for the cost of such work. The costs will be: a minimum of \$25.00 for up to one-half hour of snow removal work plus actual time for snow removal beyond one-half hour pro-rated at the rate of \$50.00 per hour, plus an administrative fee of \$35.00. Actual fees may exceed the minimum fee in instances in which actual costs are documented to exceed the minimum fee.

The Manager shall give each person written notice of the amount owed to the City as soon as practicable. The payment of such amount may be enforced through suit for collection or by levying an assessment on the premises or both.

In the event of assessment, the City Council shall annually pass and adopt a resolution levying an assessment and tax against each lot or parcel of land fronting, abutting on, or containing within a public use easement the sidewalks cleared under the order of the Manager and according to his/her report. Any such assessment or tax against the lot or parcel of real estate to which this sidewalk clearing service is furnished and for which payment is delinquent, shall become a lien on the real estate receiving the benefit.

Any person who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount of not less than twenty-five dollars or more than fifty dollars. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. There shall be no penalty of imprisonment for a violation of this chapter.

Passed by the City Council of the City of Belgrade, Montana, on first reading at regular session thereof held on the 5th day of February, 2007.

Russell C. Nelson, Mayor

Attest:

Marilyn Foltz, Director of Finance

Passed, adopted and approved by the City of Belgrade, Montana, on second reading at a regular session held on the 5th day of March, 2007.

Russell C. Nelson, Mayor

Attest:

Marilyn Foltz, Director of Finance