

Appropriations Committee

Chairman Brodeur, Boisselle,
Mortimer, Infurna, Tramontozzi,
Forbes, Wright, McAteer-Margolis,
Seaboyer, Medeiros, Conn
In attendance: City Engineer and
Superintendent of Public Works Bob
Beshara

Appropriations called to order by Chairman Brodeur at 8:55 p.m.

Order No. 08-103, Amending Melrose Revised Ordinances, Chapter 177, Section 177-12. Snow and ice removal as set forth herein. (AL-1)

Whereas the Board of Aldermen recognizes that obstruction of public ways including but not limited to roads and sidewalks is detrimental to public safety; and

Whereas the Board of Aldermen finds that certain owners and occupants of land and buildings in the city create impassable obstacles on sidewalks by plowing snow across them, forcing pedestrians including schoolchildren to walk in the street; and

Whereas the Board of Aldermen finds that the city lacks a clearly-defined enforcement process for ensuring compliance with the Snow and Ice Removal Ordinance;

Therefore, be it ordained that Section 177-12, the Snow and Ice Removal Ordinance be amended as set forth herein:

Paragraph A shall be replaced in its entirety with the following:

A. No owner, tenant or occupant of land or a building, or any agent thereof, in this city shall cause any snow or ice from said land or building to be placed in the sidewalk, road, or other public way in the city.

Paragraph B shall be amended to insert the word "owner" between The and tenant in the first full sentence.

Paragraph E shall be added:

E. Enforcement

1. The Superintendent of Public Works and the Director of Inspectional Services and their designees shall have the authority to enforce all provisions of Section 177-12. The Melrose Police Department is authorized to assist in the enforcement of Section 177-12.

2. Whoever violates any of the provisions of subsections A through D of Section 177-12 shall be fined \$100 for a first offense, and \$300 for any subsequent offenses.
3. Owners, tenants, occupants and agents thereof shall be jointly and severally liable for any violation of subsections A through D of Section 177-12.
4. Upon neglect of or violation of the duties imposed by the provisions of subsections A through D of Section 177-12, such duties may be performed by the Superintendent of Public Works or his or her agent at the expense of the person(s) or entities liable to perform those duties. Assessment of costs under this subsection shall not preclude any party from being fined under subsection E.1.
5. The City Solicitor with the approval of the Mayor may in civil actions prosecute and adjust claims inuring to the city under the provisions of this section.

Chairman Brodeur says the current ordinance prohibits the creation of unnatural snow and ice conditions on streets, lanes or alleys, and holds businesses responsible for removing snow and ice from sidewalks. This amendment prohibits residents and businesses from plowing snow onto sidewalks and authorizes the City to bill them for the cost of removal.

Alderman Seaboyer asks if Section E.3 implies that a third floor tenant could be held responsible if a plowman hired by the owner violates this ordinance. Chairman Brodeur says yes, potentially, but the City would look first to the owner.

Alderman Boisselle says that tenants and occupants should be removed from Section E.3. He says the City does a great job plowing the sidewalks, but the contractors mound up snow on the corners of the sidewalks. City Engineer and Superintendent of Public Works Bob Beshara says his crew comes back and opens them up as best as they can. Alderman Boisselle the situation with the sidewalks not being shoveled forces people onto the street. He says this amendment doesn't address that and asks if the Alderman may do so. Chairman Brodeur says that idea was not embraced previously. Senior citizens would feel obligated at their own risk to clear substantial areas of snow, although it has been his experience that it isn't the senior citizens who don't shovel the sidewalks. Alderman Boisselle asks if this wouldn't be a good time to initiate a sidewalk clearing program with the Mayor's newly created public service involving 30 students or so. Chairman Brodeur says there are different levels of circumstances at hand. This amendment addresses people that completely block sidewalks with snow and ice which cannot be immediately remedied. Alderman Boisselle says the snow shoveling program is run by Nick Gove through the Public Works Department. Thirty kids are hired by the City to shovel Memorial Hall, City Hall and the Police Station. A senior citizen program could be facilitated through Public Works where the residents call the City Yard and requests someone to shovel.

Alderman Infurna says snow on sidewalks is an ongoing problem and a frustrating issue. Several things can be done but once it freezes it's too late. People need to be educated about the dangers that blocked sidewalks create. They need to hear it over and over

again. DPW and business owners have to get out there and clear the snow and slush down to the pavement. Maybe a letter could be sent from the Chamber of Commerce urging business owners to get out there and clear the sidewalks after the snow plows have gone by. Alderman Infurna applauds the Mayor for the teenage shoveling program. She is concerned about the \$100 fine in Section E.2, and suggests amending it to decrease the amount.

Alderman McAteer-Margolis says there are many different variables involved. Regarding snow on street corners, she asks if it is the result of business owners plowing out their lots or if it was put there by city plows. She asks what Mr. Beshara recommends for fines. Mr. Beshara says he tries to talk with people. The City faces this problem all the time. Talking with the owner or tenant usually resolves the issue. Alderman McAteer-Margolis asks if there are repeat offenders. Mr. Beshara says yes, but he hasn't had to fine anyone. Alderman McAteer-Margolis asks if the tenant of commercial property is responsible for shoveling the sidewalks; Mr. Beshara says yes. Chairman Brodeur says the current ordinance holds the tenant responsible and doesn't put the onus on the owner at all. Alderman McAteer-Margolis says they may need a mechanism to deal with repeat offenders. Mr. Beshara says there is one particular problem in which the owner doesn't respond.

President Conn says there are two situations before them. The order puts sanctions in place for people creating a public nuisance which he doesn't think anyone objects to. The order as written with a couple of amendments is fine. Another problem, a serious one, is people's loss of civic mindedness that they need to keep sidewalks safe. It seems more people are not taking care of their sidewalks and it is clear that people need to do a better job. He says the ordinance change Alderman Boisselle spoke to earlier regarding the situation where sidewalks are not being shoveled after a snow storm would require another order. President Conn asks Mr. Beshara how this amendment would be enforced. Mr. Beshara says by letter or by lien to the property. It could also be dealt with civilly by taking the person to court. President Conn says to the people listening, that people don't have the right to block sidewalks.

Alderman Forbes asks Mr. Beshara if he has the authority as Superintendent to tell a contractor that he can no longer plow for the City. Mr. Beshara says no. Alderman Forbes says that most problems are caused by private contractors and asks if they pay a fee for a permit to plow. Mr. Beshara says the City could license them but is unable to stop them from being hired by a private property owner.

Alderman Mortimer says the City is densely populated and developments max out parking lots with occupants' cars. He says perhaps part of the discussion before the Planning Board should be snow storage on the lot. Alderman Infurna says that is already part of the Planning Board's review.

Alderman Medeiros says in Section E.3, tenants could be causing the problem and suggests changing the word "shall" to "may." She asks how it is determined who is causing the problem – a neighbor or a City official seeing it in action and asks who is fined – the owner or the tenants and occupants. Mr. Beshara says this is referring to a residential situation. If a private plow is the cause, he can find out who did it. Alderman Medeiros asks if this amendment covers residences and businesses. Chairman Brodeur

says it prohibits both residents and business owners from obstructing sidewalks by dumping snow and ice on them.

Alderman Wright says he would rather see enforcement against property owners than tenants because it is easier to find out who owns property and easier to place a lien on them. If it is enforced against the owner and it's the tenant's responsibility, the owner will surely talk to the tenant and take care of it. The problem will likely be solved quickly.

Alderman Infurna says she is thinking that in Section E.2, the \$100 fine should be reduced to \$50, and the \$300 fine reduced to \$150, and that the \$50 fine be applied to failure to clear sidewalks and the \$150 fine be applied to creation of an obstruction. Alderman Boisselle asks what the offense in Section E.2 refers to. Chairman Brodeur says there are two different things going on within the ordinance.

Alderman Infurna motions to amend Section E.2 by deleting "\$100 for a first offense, and \$300 for any subsequent offenses" and inserting in place thereof "\$50." 2nd by Alderman Boisselle.

On discussion Alderman Medeiros says she supports lowering the fine for the first offense but if someone continues to violate the ordinance that maybe the \$300 fine should be applied.

On the motion to amend, one opposed, motion carries.

Alderman Infurna motions to amend Section E.3 by striking "tenants, occupants", 2nd by Alderman Forbes.

On discussion President Conn says it is standard procedure to go after the owner and that the City doesn't have the resources to have the Public Works department investigate who is responsible.

Alderman Mortimer asks if this ordinance covers only commercial property owners for shoveling sidewalks and both residential and commercial property owners for creating an obstruction. Chairman Brodeur says yes.

Alderman McAteer-Margolis asks if "tenant, occupant" should be struck throughout the document.

Alderman Infurna withdraws the motion; Alderman Forbes withdraws the second.

Alderman Infurna motions to amend by striking "tenant, occupants and agents thereof" and "jointly and severally" to read: "Owners shall be liable for any violation of subsections A through D of Section 177-12.", 2nd by Alderman Boisselle.

President Conn says he would like to send this to the City Solicitor for review.

On the motion to amend, two oppose, motion carries.

Alderman Infurna motions to amend Section E.1 by striking "and the Director of Inspectional Services", and further amend by deleting the word "their" and inserting in place thereof "his/her", 2nd by Alderman Boisselle. All in favor.

Alderman Boisselle motions to amend by inserting the following in Section D: "No owner shall leave their sidewalks unshoveled 24 to 48 hours after a snowstorm." Motion fails for lack of a second.

President Conn moves to recommend as amended, 2nd by Alderman Infurna. Two oppose, motion carries.

President Conn motions to adjourn, 2nd by Alderman Infurna. All in favor.

Appropriations adjourns at 9:50 p.m.

Maribeth Harrington
Clerk of Committees