

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

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3 **ORDINANCE NO. 19570**

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5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending  
6 Chapter 12.40 of the City of Topeka Code concerning sidewalk  
7 snow and ice removal.  
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9 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA,  
10 KANSAS:

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

14 ~~Article I. Generally~~

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

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

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

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

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

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

47           (b) Multifamily, commercial and nonresidential property. It shall be unlawful  
48 for the owner of record of real property with a zoning use group designation of M-2, M-3,  
49 M-4, or E (Multiple-Family Dwelling Districts), D & O (Multiple-Family Dwelling and  
50 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~~

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

77 **Enforcement.**

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

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

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

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

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

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

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

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

97 read as follows:

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

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

106 **Notice of violations.**

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

108 (1) The section of this chapter allegedly violated;

109 (2) The name and address of the owner of the property where alleged  
110 violations occurred;

111 (3) The location, date and time of the alleged violation;

112 (4) The applicable administrative monetary penalty;

113 (5) The fee which shall be automatically assessed for late payment;

114 (6) The payment of the indicated administrative monetary penalty and  
115 any applicable late fee shall operate as a final disposition of the  
116 violation;

117 (7) Information about the availability of the administrative appeal  
118 procedure, and

119 (8) Information about the availability of the Snow Relief Team or other

120 available local assistance.

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

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

126 ~~Article II. Downtown Commercial Districts~~

127 **Definitions.**

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

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

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

135 **Penalties for violations.**

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

141 (1) \$20 per violation for a first violation.

142 (2) \$50 per violation for a second or subsequent violation within a

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

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

150 (1) \$50 per violation for a first violation.

151 (2) \$100 per violation for a second or subsequent violation within a  
152 continuous twelve (12) month period of the first violation.

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

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

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

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

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

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

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

177 **Notice to abate.**

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

183 ~~Notice to Property Owners and Persons in Charge of Property. All property~~  
184 ~~owners and persons in charge of or in possession of any tracts, lots or pieces of land in~~  
185 ~~the downtown commercial districts of the City of Topeka, Kansas, are hereby notified~~  
186 ~~that all accumulations of snow and ice on sidewalks that abut such tracts, lots and~~  
187 ~~pieces of land from a storm ending between midnight and 8:00 a.m. the following~~  
188 ~~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.

212           **Removal by city – Assessment of costs.**

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

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

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

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

231           Section 11. Should any section, clause or phrase of this ordinance be declared  
232           to be invalid, the same shall not affect the validity of this ordinance as a whole, or any  
233           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