

Town of Belmont Special Town Meeting – November 4, 2013
FINAL RESIDENTIAL SNOW REMOVAL GENERAL BYLAW

§ 60-800

I. Residential Property Snow Removal.

(1) Purpose. Since pedestrians are safer when walking on Sidewalks than when walking in the streets used by vehicular traffic, the purpose of this Section is to encourage owners of residential property to remove the snow, slush, and ice from abutting Sidewalks so that Sidewalks throughout the Town are safe for use during the winter season, and so that the Town's local services and amenities are reasonably accessible by pedestrians via Sidewalks, especially by elderly persons, persons using wheel chairs, persons using carriages to transport children, and students walking to school.

(2) Definitions. For the purposes of this Section, the following terms shall have the following definitions:

- (a) OBLIGATED PERSON - the person responsible for compliance with this Subsection pursuant to Paragraph (4).
- (b) SIDEWALK - a paved walkway (whether paved with brick, stone, cement, concrete, asphalt, or other impervious material) that is located within the right-of-way of a street that abuts residential property.

(3) Obligations. Snow, slush, and ice shall be removed from the Sidewalk, in accordance with the deadlines set forth in Paragraph (5), to a width of at least 36 inches or, if the Sidewalk is narrower, for the full width of the Sidewalk.

(4) Obligated Persons. The owner of record of a residential property abutting a right-of-way in which a Sidewalk is located shall be obligated to comply with this Section within that portion of the right-of-way to which the residential property abuts, unless the owner of record can demonstrate that this obligation has been duly delegated to a responsible person, identified by name and address, by a written agreement signed by the person so delegated or by an express reference to the obligation in a written lease.

(5) Deadlines for Removal and Treatment.

- (a) After the cessation of a weather event that has resulted in snow, slush, or ice on a Sidewalk, the snow, slush, or ice shall be removed no later than 8 p.m. the following day, and the Sidewalk shall be treated with melting compounds, sand, or other grit, as reasonably necessary to inhibit slipping. Regardless of this deadline, Obligated Persons are encouraged to remove snow, slush, and ice promptly from the full width of the Sidewalk in order to minimize the ice formed on the Sidewalk when snow or ice melts and refreezes, so that neighbors and others can use the Sidewalks as soon as possible.
- (b) Treatment of ice that forms on Sidewalks shall be accomplished no later than 8 p.m. on the day after the ice has formed, but Obligated Persons are encouraged to treat the ice promptly so that neighbors and others can use the Sidewalks as soon as possible.
- (c) The deadlines set forth in this Subsection shall be extended for Obligated Persons who are temporarily absent from the residential property for vacations, holidays, hospitalization, and unexpected absences; provided, however, that such Obligated Persons shall be required to complete their removal and treatment obligations by 8 p.m. on the day following the end of their temporary absence.

(6) Rules and Regulations. The Board of Selectmen shall adopt rules and regulations further implementing this Section, including, without limitation, provisions and hearing procedures for exemptions from the requirements of this Section for Obligated Persons who are physically unable to perform the obligations themselves and have a *bona fide* financial hardship; provided, however, that exemptions granted to such Obligated Persons shall be void if the Obligated Person causes portions of the residential property to be cleared of snow, slush, or ice for vehicular access from the street.

(7) Fines. Fines for violations of this Section shall be on the following schedule: First offense – written warning, Second offense – \$50, Third and successive offences – \$100 each, to a maximum of \$350 per winter season (October 1 – April 30). In situations where there is more than one Obligated Person, such fines may be assessed jointly or individually. No more than one fine may be assessed with respect to any single weather event requiring removal or treatment of snow, slush or ice.

(8) Enforcement.

- (a) A person who is an "Enforcing Person" as defined in Subsection J shall take appropriate action with respect to observed or reported violations of this Section.
- (b) An Enforcing Person taking cognizance of such a violation, shall promptly send the alleged offender a non-criminal written citation thereof by hand delivery or mail, postage prepaid, addressed to the owner of record.
- (c) An owner of record who receives a citation pursuant to this Subsection shall have 20 days thereafter to pay the applicable fine or to provide to the Enforcing Person a photocopy of the written agreement or lease used to delegate the obligation to comply with this Section, in which case the owner of record shall not be responsible for paying any applicable fine, and the Enforcing Person may dismiss or modify the citation or reissue the citation to the Obligated Person as is deemed appropriate.
- (d) If a citation is not dismissed and the fine is not timely paid, the provisions of Subsection J, other than those establishing penalties, shall be applicable.

(9) Not Evidence. Except as required by applicable law, violations of this Section shall not be admissible as evidence of negligence in any civil proceeding brought by an injured third party against an Obligated Person, tenant, or owner of record.

(10) Sunset. This Subsection shall be null and void and have no force and effect on and after April 30, 2016.

J. In addition to the provisions for enforcement set forth elsewhere in this Article, the provisions of Subsections A, B, D(2), E(2), G, H and I of this section and any regulations promulgated thereunder may also be enforced by non-criminal disposition as provided in MGL c. 40, § 21D ("Section 21D"). The penalty for such violation shall be \$300 for each offense. Each day or part thereof shall constitute a separate offense. .

- (1) "Enforcing person" as used in this subsection shall mean any police officer of the Town, the Director of Public Works and any other Town employee designated by the Board of Selectmen as an enforcing person.
- (2) An enforcing person taking cognizance of a violation of Subsection A, B, D(2), E(2), G, H or I or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof for the noncriminal disposition thereof in accordance with the provisions of § 21D. The provisions of §21D are incorporated herein by this reference.

Approved Rules and Regulations – Snow Removal Bylaw (December 16, 2013)

1. The Director of Community Development will be responsible for the overall administration of the enforcement provisions of this bylaw. The Director of Community Development is granted the authority to exercise discretion, as he/she deems appropriate, in the overall administration of the enforcement and compliance provisions contained within this Bylaw. In exercising discretion, the Director should be guided by the following principles:
 - The Director should give primary enforcement priority to areas near schools, or areas that serve elderly or disabled populations.
 - The Director should give secondary enforcement priority to areas that serve high volumes of pedestrians, including access points to public transportation, or where the road design poses significant risks to pedestrian or vehicular safety (such as where there are limited sight distances).
 - The Director should enforce the Bylaw in a manner deemed most likely to secure ongoing voluntary compliance with the Bylaw as widely as possible.
2. Determination of compliance with the Bylaw regarding the removal and treatment of snow, ice or slush shall not occur before 8 p.m. as described in section 5 of the bylaw.
3. Homeowners who have an approved Clause 37A (Blind Exemption), 41C (Elderly Exemption) or Clause 22 (Veteran Disability Exemption) from the Belmont Board of Assessors as of October 1 each year shall be exempted from the requirements of the Residential Snow bylaw for the winter season which begins October 1 through April 30. However, homeowners exempted from the Bylaw are encouraged to comply voluntarily.
4. A temporary absence as referenced in section 5, item c shall be defined to be no more than 5 calendar days.