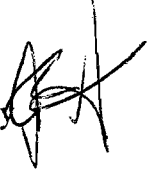


MEMORANDUM

November 10, 2016

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Introduction:** Expedited Bill 46-16, Streets and Roads – Snow Removal – Violations

Expedited Bill 46-16, Streets and Roads – Snow Removal - Violations, sponsored by Lead Sponsor Councilmember Riemer, is scheduled to be introduced on November 15, 2016. A public hearing is tentatively scheduled for November 29 at 1:30 p.m.

Expedited Bill 46-16 would provide for higher penalties for violations of the law requiring removal of snow and ice on commercial property. Section 49-17 of the County Code provides that “a person is responsible for removing snow and ice on any sidewalk, other walkway, shared use path, or parking area on or adjacent to property that the person owns, leases, or manages, including any walkway in the public right-of- way, to provide a pathway wide enough for safe pedestrian and wheelchair use.” A violation of § 49-17 is a class C violation, but is not subject to a citation unless the violation still exists 24 hours after a notice of violation.

Expedited Bill 46-16 would make a violation of § 49-17 on or adjacent to commercial property a class A violation, while a violation on or adjacent to residential property would remain a class C violation. Under the Bill, “commercial property” would mean real property that either is not designed for or intended for human habitation, or contains a multi-family dwelling of four or more units. “Residential property” under the Bill would mean real property containing either a single-family dwelling or a multi-family dwelling of three or fewer units.

A memorandum from the Bill’s sponsor is at ©6.

This packet contains:

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Expedited Bill No. 46-16
Concerning: Streets and Roads – Snow
Removal - Violations
Revised: November 8, 2016 Draft No. 3
Introduced: November 15, 2016
Expires: May 15, 2018
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Riemer

AN EXPEDITED ACT to:

- (1) provide for penalties for violations of the law requiring removal of snow and ice on certain property; and
- (3) generally amend the law concerning the removal of snow and ice from sidewalks and pedestrian crossings in the County

By amending

Montgomery County Code
Chapter 49, Streets and Roads
Article I, In General
Section 49-17

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec.1. Section 49-17 is amended as follows:**

2 **49-17. Accumulation of snow and ice on property prohibited.**

3 (a) (1) In this Section:

4 (A) Commercial property means real property that either:

5 (i) is not designed for or intended for human
6 habitation; or

7 (ii) contains a multi-family dwelling of four or more
8 units.

9 (B) Residential property means real property containing
10 either:

11 (i) a single family dwelling; or

12 (ii) a multifamily dwelling of three or fewer units.

13 (2) A person is responsible for removing snow and ice on any
14 sidewalk, other walkway, shared use path, or parking area on or
15 adjacent to property that the person owns, leases, or manages,
16 including any walkway in the public right-of- way, to provide a
17 pathway wide enough for safe pedestrian and wheelchair use.
18 For purposes of this Section, commonly owned property between
19 a single-family residential lot and a common walkway is
20 considered part of the lot if the intervening common property
21 includes a walkway or driveway that serves only that lot.

22 [(2)](3) Except as provided in paragraph (4), each owner, tenant,
23 or manager is jointly and severally responsible for clearing snow
24 and ice from the property and complying with Section 31-
25 26A(d).

26 [(3)](4) The requirements of this Section do not apply to:

27 (A) an unpaved walkway;

- 28 (B) a private walkway or parking area on the property of a
 29 single-family residence;
 30 (C) a public walkway behind a single-family residence that is
 31 not directly accessible from the owner's property; or
 32 (D) a walkway that:
 33 (i) is at least 25 feet from vehicular traffic;
 34 (ii) serves only pedestrian destinations that are also
 35 accessible by another walkway that this Section
 36 requires to be cleared;
 37 (iii) was not routinely cleared of snow and ice after
 38 August 1999; and
 39 (iv) is not the primary route for pedestrian access to a
 40 winter recreational facility open to the public.

41 ~~[(4)]~~(5) (A) An individual who lives in a multi-family
 42 [residential property] dwelling is not responsible for
 43 removing snow and ice from a common walkway or
 44 parking area.

45 (B) A homeowners' association, as that term is used in State
 46 law, is not responsible for removing snow and ice from a
 47 walkway adjacent to a single-family residential lot, if the
 48 lot owner is responsible under paragraph (1) for removing
 49 snow and ice from that walkway.

50 * * *

51 (g) Violations.

52 (1) A violation of this Section is:

53 (A) on or adjacent to residential property, a class C violation;
 54 and

55 (B) on or adjacent to commercial property, a class A violation.

56 (2) A person authorized to enforce this Section must not issue a
57 citation for a violation unless the violation still exists 24 hours
58 after a notice of violation. An authorized enforcement officer
59 may issue the notice of violation to any person responsible under
60 subsection (a) for clearing the snow or ice, or post the notice in a
61 conspicuous place on the property where the violation exists.

62 (3) Each day a violation continues to exist is a separate violation,
63 except for a violation on or adjacent to a single-family residential
64 property.

65 * * *

66 **Sec. 2. Expedited Effective Date:** The Council declares that this legislation is
67 necessary for the immediate protection of the public interest. This Act takes effect on
68 the date on which it becomes law.

69 *Approved:*

70 _____
Nancy Floreen, President, County Council Date

71 *Approved:*

72 _____
Isiah Leggett, County Executive Date

73 *This is a correct copy of Council action.*

74 _____
Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 46-16
Streets and Roads – Snow Removal - Violations

DESCRIPTION: Expedited Bill 46-16 would make a violation of the County's sidewalk snow removal law on or adjacent to commercial property a class A violation, while a violation on or adjacent to residential property would remain a class C violation.

PROBLEM: The current fine structure has little deterrent effect on larger properties, for whom snow-clearing may be quite expensive.

GOALS AND OBJECTIVES: Create an increased incentive for commercial property owners to comply with the County's sidewalk snow removal law by increasing fines for violations.

COORDINATION: Department of Transportation

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Josh Hamlin, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Class C violation (residential) and class A violation (commercial)



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

HANS RIEMER
COUNCILMEMBER AT-LARGE

To: Councilmembers
From: Hans Riemer
Date: November 8, 2016
Re: Sidewalk Snow Fines: Residential and Commercial

Colleagues, on Tuesday, November 15 I will be introducing a bill that strengthens sidewalk snow removal legislation by establishing a higher compliance fine on commercial property, by making commercial property owners subject to a Class A violation (with a fine up to \$500) if they are found in violation of the sidewalk snow clearing law. Residential property owners would remain subject to a Class C violation (with a fine up to \$50).

While a \$50 fine seems adequate for residential properties, it has very little, if any, deterrent effect on commercial property owners. Clearing commercial property can be more expensive, but it is no less important. The fine needs to be larger to enable code enforcers to more effectively deal with the problem actors, which are few but have a large impact.

While I still believe our current "light touch" and flexible approach to enforcement is generally the right way to go, the larger fine will be an effective tool in code enforcement's toolbox. Restoring mobility for every mode—including motorists, transit, pedestrians, and bicyclists—should be the County's priority after snow events. This legislation helps us do just that.

I respectfully request your support of the bill.