

**MEMORANDUM**

November 23, 2016

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Public Hearing:** 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 and Co-Sponsor Councilmember Berliner, was introduced on November 15, 2016. A Transportation, Infrastructure, Energy and Environment Committee worksession will be scheduled at a later date.

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.

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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

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Lead Sponsor: Councilmember Riemer

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**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

<b>Boldface</b>	<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*

<b>DESCRIPTION:</b>	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.
<b>PROBLEM:</b>	The current fine structure has little deterrent effect on larger properties, for whom snow-clearing may be quite expensive.
<b>GOALS AND OBJECTIVES:</b>	Create an increased incentive for commercial property owners to comply with the County's sidewalk snow removal law by increasing fines for violations.
<b>COORDINATION:</b>	Department of Transportation
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Josh Hamlin, Legislative Attorney
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	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

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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.