

“PROPOSED ORDINANCE”

Revised November 15, 2018

Draft Amendments to
CHAPTER 9 SNOW REMOVAL

Amend Chapter 9 SNOW REMOVAL in Title 13 Health and Safety of the Code of Ordinances to add a new Section 1403. Snow or Ice Threatening Use of Public Streets or Sidewalks to read:

Section 1403. Snow or Ice Threatening Use of Public Streets or Sidewalks

1403.1. Applicability: The following provisions shall apply to all property owners with buildings or structures that abut the public sidewalks and/or streets, or are in proximity to public sidewalks and/or streets such that ice or snow falling from the building or structure would fall on the public sidewalks and/or streets.

1403.2. Enforcement: The provisions of this section shall be enforced by the Code Enforcement Officer and/or her/his designee.

1403.3. Duty to Remove: When an accumulation of snow or ice on a building or structure poses the threat of falling onto public sidewalks and/or streets, it shall be the duty of the property owner to remove such accumulations in order to make passage along sidewalks and/or streets safe and convenient and to eliminate any danger from falling ice or snow to pedestrians, vehicles, and/or property.

1403.4. Removal of the Hazard: Removal of any accumulation of ice or snow with a potential for falling onto public sidewalks and/or streets shall take place either: (1) whenever a threatening condition occurs; or (2) within twenty-four (24) hours after the Code Enforcement Officer or his/her designee has verbally or in writing given notice as provided below of the condition and ordered the removal of such accumulations, whichever occurs first. Whenever snow or ice accumulates in such a manner as to hang over a street or sidewalk, such a condition shall constitute prima facie evidence that the condition is a threatening condition. A determination by the Code Enforcement Officer or his/her designee that an accumulation of snow or ice is a threatening condition shall be conclusive and not subject to challenge or appeal until after the building owner has removed the snow or ice. Notice shall be given to the owner or to an owner's agent who has maintenance responsibility for such building. The record owner of each such building shall be the owner as appears in the tax assessment records of the City of Gardiner.

1403.5. Notice of Threat and Barricading of Sidewalks: If the Code Enforcement Officer determines that there is an imminent threat to public safety from falling ice or snow, she/he

shall notify the property owner verbally or in writing on such threat. The property owner, within four (4) hours of receiving such notice, shall erect or cause to be erected signs warning users of the sidewalk of the potential danger of falling ice and/or snow and shall work with the Public Works Department to provide appropriate barricades to discourage the use of the sidewalks in the immediate vicinity of the threat. The notices and barricades shall be removed only after the potential threat has been removed or otherwise addressed.

1403.6. Failure to Remove the Threat: In instances where the owner has not caused the removal of the accumulated ice and snow within twenty-four (24) hours of receiving notice of the threat, the Code Enforcement Officer or his/her designee may arrange for the removal of snow and ice accumulations which exists in violation of **1403.3** and **1403.4** above in order to eliminate any danger to pedestrians, vehicles and/or property.

1403.7. Enforcement Delay: The City Manager may delay enforcement of the provisions of this section. Such a delay shall be for the purpose of giving property owners additional time to clear ice or snow from buildings upon which ice or snow has accumulated, or for such other good cause shown. Any such declaration shall be reduced to writing as soon as practicable thereafter, stating the reasons therefore.

1403.8. Correction of Conditions Creating the Threat: Pursuant to 30-A M.R.S.A. § 3007, after a building owner has been given one (1) notice and order under **1403.4** above and failed to comply and the City has removed the snow or ice, or when a building has been the subject of three (3) or more notices within an eighteen-month period, the Code Enforcement Officer or his/her designee may initiate action to require the owner of a building to install roof guards, or take other measures at the owner's expense to prevent the fall of snow or ice. The Code Enforcement Office shall provide the property owner with written notice of the requirement to take corrective action. If the property owner fails to take the required action within thirty (30) days or such other longer period provided for by the Code Enforcement Officer, the City Council shall send a written notice to the owner. If the property owner does not install roof guards or take other corrective action approved by the Code Enforcement Officer within (14) fourteen days after the notice is sent, the municipal officers may have proper roof guards installed or other corrective action taken at the municipality's expense with the costs plus a ten percent (10%) administrative charge recovered from the owner by direct billing or by a special assessment as provided in 25 M.R.S.A. § 2393 if such billing is not paid within thirty (30) days.

1403.9. Penalties: The penalty for an offense shall be two hundred fifty dollars (\$250.00) plus attorney's fees and costs. For this purpose, each day on which a violation shall occur or continue shall constitute a separate offense. When the City removes or arranges for the removal of snow or ice accumulations, the owner shall also be charged the costs of removal,

plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of the building as soon as practicable after the charges have been incurred.

1403.10. Liens: In addition to other collection methods authorized by law, and the penalties provided herein, charges assessed pursuant to this Section shall be enforceable by lien for the benefit of the City. If the penalties, assessments, and costs are not paid within thirty (30) days of notice to the owner of the amount due, then the non-payment shall be provided to the Tax Collector who shall collect the amount as part of the next year's ad valorem property taxes for the property. In addition, a notice of lien may be filed in the Kennebec County Registry of Deeds.

1403.11 Liability: Where there is a failure of the owner after notice to remove the accumulated ice or snow from a building or structure pursuant to this section, and the City must perform the removal, then the City shall be held harmless from any form of liability with regard to the removal.

1403.12 Severability: Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.