

DEPARTMENT OF PUBLIC WORKS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Public Works, pursuant to the authority set forth in Section 8 of An Act providing for the removal of snow and ice from the paved sidewalks of the District of Columbia, effective March 11, 2015 (D.C. Law 20-211, 61 DCR 13074 (December 26, 2014)) (the Act), and Mayor’s Order 2015-174, dated June 25, 2015, hereby gives notice of the adoption of a new Chapter 17 (Winter Sidewalk Safety) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

The adopted rules provide guidance on compliance with the Act, set forth the penalty for failure to comply, and establish a process by which a senior citizen or resident with a disability may self-certify his or her exemption from compliance.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 21, 2015 at 62 DCR 011600. No comments were received during the comment period. Comments received after the comment period were considered; however, no changes were made to the rulemaking. The rules were adopted as final on October 5, 2015, and will become effective upon publication of this notice in the *D.C. Register*.

Chapter 17, WINTER SIDEWALK SAFETY, of Title 24 DCMR, PUBLIC SPACE AND SAFETY, is added to read as follows:

CHAPTER 17 WINTER SIDEWALK SAFETY

1700 WINTER SIDEWALK SAFETY: GENERAL PROVISIONS

1700.1 Each owner of a commercial or residential building or property in the District shall remove snow and ice from any paved sidewalks, curb cuts, and curb ramps abutting the building or property within eight (8) hours of daylight after the snow or other precipitation has ceased falling, regardless of the source of the accumulation.

1700.2 The owner may delegate this responsibility to a tenant, occupant, lessee, or other individual (referred to in this chapter as a “delegee”) by written agreement.

1701 DUTIES OF OWNER OR DELEGEE

1701.1 In carrying out his or her obligation under Section 1700, the owner or delegee shall:

- (a) Clear the entire width of the sidewalk or to a width of thirty-six inches (36”), whichever is less. If only a width of thirty-six inches (36”) is required to be cleared under this paragraph, the owner or delegee shall ensure that the sidewalk is cleared in a continuous path;

- (b) Clear all curb ramps that provide access to the sidewalk, regardless of the source of snow accumulation;
- (c) Clear all curb cuts abutting the property, regardless of the source of the snow accumulation; and
- (d) Place snow or ice in the tree box area or in the grassy area adjacent to the sidewalk. If no tree box or grassy area is present, the owner shall place the snow or ice in the area of the sidewalk adjacent to the curb but not in the street or bicycle lane.

1701.2 If snow or ice cannot be removed without damaging the sidewalk, the owner or delegee shall cover the snow or ice with sand, sawdust, or another appropriate substance to render the sidewalk safe for pedestrian travel.

1702 PENALTIES FOR FAILURE TO COMPLY

1702.1 If the owner or delegee fails to properly remove or cover snow or ice within twenty-four (24) hours after the snow or other precipitation has ceased to fall, the Mayor or his or her designated agent may issue a notice of violation for the failure to comply with this section.

1702.2 No more than one (1) notice of violation may be issued within a twenty-four (24) hour period for the same property.

1702.3 The fine imposed for a violation shall be:

- (a) Twenty-five dollars (\$25) for a residential property; and
- (b) One hundred and fifty dollars (\$150) for a commercial property.

1702.4 A notice of violation issued under this subsection shall be adjudicated pursuant to the Litter Control Administration Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Official Code §§ 8-801 *et seq.*).

1703 EXEMPTIONS FOR SENIOR CITIZENS AND DISABLED PERSONS

1703.1 A residential property owner who is sixty-five (65) years of age or older or who is disabled shall be exempt from the provisions of this section.

1703.2 If such an owner is issued a notice of violation, it shall be a complete defense if the owner self-certifies that he or she is sixty-five (65) years of age or older or disabled, unless the District shows by a preponderance of the evidence that the certification is false or does not meet the standards set forth in Subsection 1703.1 of this section.

- 1703.3 For the purposes of this section an owner is disabled if the owner:
- (a) Has been determined to have a disability pursuant to a government assistance program; or
 - (b) Has evidence from a medical doctor that he or she is unable to, or should not, undertake the physical activity required to remove ice or snow.

1703.4 For the purposes of the exemption set forth in this section, the property must be owner-occupied and residential.

1799 DEFINITIONS

1799.1 For the purposes of this chapter, the following terms shall have the meanings ascribed:

Commercial property - property that does not receive District government solid waste collection service.

Curb cut – a depression or opening in the curb along the traveled portion of a roadway created to permit the travel of motor vehicles from the roadway to property adjacent to the roadway.

Curb ramp – a ramp cutting through a curb or built up to the curb, generally designed to provide an accessible path to individuals with disabilities, such as a ramp leading from a roadway to a sidewalk.

Residential property - property that receives District government solid waste collection service (residential buildings containing three (3) or fewer dwelling units) as defined in 24 DCMR § 1399.1.