

ORDINANCE NO. 15003

FILE OF CITY COUNCIL

BILL NO. 36 – 2012

MAY 16, 2012

AN ORDINANCE

Amending Article 741, Street and Sidewalk Regulations, by prohibiting the placing or deposited of snow or ice removed on the right-of-way of any street.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: That Article 741, Street and Sidewalk Regulations be amended to read as follows:

**ARTICLE 741
STREET AND SIDEWALK REGULATIONS**

- 741.01 Definitions
- 741.02 Obstructing Crossings by Trains
- 741.05 Removal of Snow and Ice
- 741.06 Spitting on Sidewalk
- 741.08 Consumption of Alcohol on Streets and Sidewalks
- 741.09 Enforcement
- 741.10 Regulations
- 741.11 Violation Ticket Appeals Process
- 741.12 Severability (14365 § 3/7/06)
- 741.99 Fines and Penalties

CROSS REFERENCES

Power to Prohibit Streets Obstructions - 3rd Class §2403 (16) - (53 P.S. §37403 (16))

Article 741.01, Parades or Assemblages; Permits was deleted by Ordinance No. 13352 passed on the 22nd day of September, 1995. (2598 §1 4/1/30; 13352 §1 9/22/95)

741.01 DEFINITIONS

The following words, terms and phrases when used in this article shall be defined as follows, unless the context clearly indicates otherwise:

1. **Notice of violation** is a written document issued to a person in violation of a city ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action.
2. **Person** means every natural person, firm, corporation, partnership, association, or institution.

3. **Private Property** means any land and the improvements thereon owned by any person and includes front, side and rear yards; vacant lots, buildings and other structural improvement; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial or commercial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

4. **Public Officer** means any police officer, authorized inspector, or public official sworn to enforce the City Ordinances.

5. **Sidewalk Area** means the public right-of-way between the property line and the curblineline or the established edge of the roadway.

6. **Violation Ticket** is a form issued by a police officer or public officer to a person who violates a provision of this Article. ~~The violation ticket is an offer by the City of Allentown extended to a person to settle a violation by paying the fine in lieu of a citation being issued against the violator.~~ (14365 §1 3/7/06)

741.02 OBSTRUCTING CROSSINGS BY TRAINS

No person shall obstruct any street crossing within the City limits by locomotives or cars standing, moving or shifting upon any railroad track for a longer period than five (5) minutes. No person shall keep any gates erected at grade crossings closed for a longer period at any one time than five (5) minutes. Before again closing, full opportunity shall be given to all persons and vehicles to cross the railroad tracks that may be waiting to do so. (509 §1 5/29/17)

741.05 REMOVAL OF SNOW AND ICE

A. All persons owning, controlling or occupying any private property, premises, lot or tract of land adjoining or fronting upon any of the streets of the City shall remove snow and ice from the sidewalk area or footway of such premises within ten (10) hours after it shall have ceased snowing, sleeting or raining as reported by the National Weather Service at the ABE Airport. It shall be considered compliance with this section if a cleared portion three (3') feet in width shall have been made upon such sidewalk or footpath. (12616 §1 8/15/84; 14365 §1 3/7/06)

B. No person shall remove snow or ice from private property and put, place, deposit or cause to be put, placed or deposited, snow or ice so removed upon the right-of-way of any street.

C. No person shall remove or cause to be removed snow or ice from any sidewalk or footway and put, place, deposit or cause to be put, placed or deposited, snow or ice so removed upon that portion of the street normally used for the travel of vehicles.

D. This section shall not be in force and effect in areas where curbside parking is prohibited, provided it is not a vehicle travel lane or there is no available private property upon which to put, place or deposit snow or ice so removed.

741.06 SPITTING ON SIDEWALK

No person shall spit upon any paved sidewalk or footpath within the City. (Ordinance passed 5/14/08)

741.08 CONSUMPTION OF ALCOHOL ON STREETS AND SIDEWALKS

A. No person shall drink or consume an alcoholic beverage or possess, with the intent to drink or consume, an open container containing an alcoholic beverage in any public place except at a party, function or activity for which a special activity or sidewalk cafe permit has been obtained from the City of Allentown, and where in the case of the special activity permit, such permit authorizes the consumption of alcoholic beverages at said party, function or activity. Possession of an open container containing an alcoholic beverage by any person shall create a rebuttable presumption that such person did intend to consume the contents thereof in violation of this section. (13675 §4 5/21/98)

B. Definitions, for the purpose of this section, are as follows:

1. **Alcoholic Beverage** means any liquid intended for human consumption containing more than one-half of one (.05%) percent of alcohol by volume.

2. **Public Place** means any place to which the public has access and includes any public street or public sidewalk, as well as the front of and the area immediately adjacent to any parking lot, store, restaurant, tavern or other place of business but shall not include those premises duly licensed for the sale and consumption of alcoholic beverages on the premises or within their own private property.

C. Nothing in this section shall be deemed to prohibit the consumption of an alcoholic beverage in any duly licensed establishment whose certificate of occupancy extends upon a sidewalk.

D. Any person guilty of a violation of this section shall be subject to the penalties prescribed in Section 711.99. (12410 §1 2/6/80)

741.09 ENFORCEMENT

A. The provisions of ~~Section 741.05~~ this Article shall be enforced by police officers or any other public officer.

B. Any violation of the provisions of ~~Section 741.05~~ this Article may be cause for a citation, a violation ticket and/or a notice of violation to be issued to the violator

C. A notice of violation or violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

D. Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

E. A public officer is authorized and empowered to cause a violation to be corrected.

F. If the City has effected the correction of the violation, the cost thereof may be charged to the owner of the property, tenant or offending party. The cost shall be determined by the Manager of Engineering Director of Public Works or designee in order that the City shall be compensated for both direct and indirect costs and expenses incurred. (14365 §1 3/7/06)

741.10 REGULATIONS

The City may publish and post any regulations governing the procedures and enforcement of any provisions of this Article. (14365 §1 3/7/06)

741.11 VIOLATION TICKET APPEALS PROCESS

A. A person in receipt of a violation ticket may appeal to the Bureau of Recycling & Solid Waste by filing a request within ten (10) days of receipt of the violation ticket.

B. A Hearing Officer, designated by the Manager of the Bureau of Recycling & Solid Waste and in consultation with the Bureau of Engineering, may uphold the Appeal, deny the Appeal or may modify the violation ticket and/or any associated costs, fines or penalty amounts. (14365 §1 3/7/06)

741.12 SEVERABILITY

If any provision, paragraph, word, section or subsection of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect. (14365 §1 3/7/06)

741.99 FINES AND PENALTIES

A. Violation Ticket Fines

1. Violation tickets may be issued in the amounts of Twenty-five (\$25) Dollars or One Hundred (\$100) Dollars.
2. Any person who receives a violation ticket for any violation of this Article, may within ten (10) days, admit the violation, waive a hearing and pay the fine in full satisfaction of Twenty-five (\$25) Dollars or One Hundred (\$100) Dollars, as indicated on the violation ticket.

B. Violation Ticket Penalties

1. If the person in receipt of a Twenty-five (\$25) Dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a Ten (\$10) Dollar penalty for days eleven (11) through twenty (20).
2. If the person in receipt of a One Hundred (\$100) Dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a Twenty-five (\$25) Dollar penalty for days eleven (11) through twenty (20).
3. Failure of the person to make payment within twenty (20) days shall make the person subject to a citation. (14365 §1 3/7/06)

C. Citation Fines (14365 §1 3/7/06)

Any person violating any of the provisions of this article shall be fined not more than Six Hundred (\$600) Dollars or imprisoned more than ninety (90) days, or both. ; and, for violation of Section 741.05 ~~741.05, Removal of Snow and Ice, the fine shall be at least Twenty-five (\$25) Dollars on the first offense, Fifty (\$50) Dollars on the second offense, and One Hundred (\$100) Dollars on the third offense and thereafter~~ (11995 §1 2/21/73; 13034 §4 3/6/91; 14169 §1 4/8/04; (14365 §1 3/7/06)

SECTION TWO: That this Ordinance takes effect ten (10) days after final passage.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

	Yea	Nay
Joe Davis	X	
Jeanette Eichenwald		
Cynthia Y. Mota	X	
Ray O'Connell, VP	X	
Mike Schlossberg	X	
Peter G. Schweyer	X	
Julio A. Guridy, Pres.	X	
TOTAL	6	0

I hereby certify that the foregoing Ordinance was passed by City Council on June 20, 2012 and signed by the Mayor on June 25, 2012.



CITY CLERK

What Department or bureau is Bill originating from? Where did the initiative for the bill originate?

Amendments to Article 741, Street and Sidewalk Regulations

The Bill is originating from the Bureaus of Recycling & Solid Waste, Streets and Engineering and will be enforced in conjunction the Allentown Police Department (APD).

• **Summary and Facts of the Bill**

The changes to this Article seek to address the issue of individuals shoveling and depositing snow and/ice upon the public right-of-way which include vehicle travel lanes, primarily, after the street was plowed. A SWEEP Violation Ticket may be issued for violations.

• **Purpose – Please include the following in your explanation:**

- **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
- **What are the Benefits of doing this/Down-side of doing this**
- **How does this Bill related to the City's Vision/Mission/Priorities**

The Bill seeks to address safety issues from individuals who plow or shovel snow or ice onto right-of-ways and vehicle travel lanes after plowing and/or salting has taken place. This snow and ice can become slippery and may potentially refreeze resulting in unsafe conditions.

The benefit of safe public-right-of-ways is of utmost importance and part of the City's missions to create a clean and safe environment for the public.

• **Financial Impact – Please include the following in your explanation:**

- **Cost (Initial and ongoing)**
- **Benefits (initial and ongoing)**

Even though a violation ticket and fine may be issued, the financial impact is minimal compared to the impact of health and safety.

• **Funding Sources – Please include the following in your explanation:**

- **If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.**

No additional funding is required.

• **Priority status/Deadlines, if any**

The Administration would like to see this passed and publicized prior to this coming winter season.

• **Why should Council unanimously support this bill?**

It benefits all of Allentown's citizens and its visitors.