

ORDINANCE NO. F-0313

AN ORDINANCE AMENDING THE TEXT OF THE WHEATON CITY CODE -
CHAPTER 58, ARTICLE I, SECTION 26
DEPOSIT OF SWEEPINGS, SCRAPS IN STREETS OR SIDEWALKS
IN BUSINESS DISTRICT

WHEREAS, the City of Wheaton, Illinois ("City"), is an Illinois home rule municipality pursuant to provisions of Article VII, Section 6, of the Illinois Constitution, 1970, and, as such, the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the subject matter of this ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, the City has determined that the removal of snow/ice from private parking lots and driveways and depositing such on City streets and/or right-of-ways can cause obstructions rendering the use of such City streets and/or right-of-ways unsafe; and

WHEREAS, the depositing of materials on the pavement of any public street, sidewalk, driveway, alley or right-of-way can be harmful to and cause injury to persons using the property; and

WHEREAS, the depositing of landscape waste such as grass clippings and leaves can impede the proper flow of stormwater drainage systems thereby causing unsafe conditions for those persons using the City streets, sidewalks, alleys or right-of-ways.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Wheaton City Code text is amended by deleting and repealing Chapter 58, Article I, Section 26, Deposit of Sweepings, Scraps in Streets or Sidewalks in Business District in its entirety and replacing it with new Section 26 as follows:

"Section 58-26. Depositing of Snow/Ice and/or Materials on Public Property.

- A. Depositing snow/ice. Except as to snow/ice removal and stockpiling of snow/ice by the city, it shall be unlawful to deposit by any means snow/ice upon any private driveway, or public street, sidewalk, right of way, curb, gutter, fire hydrant, or other public property so as to obstruct public or

private use of said facility. Obstruction for the purposes of this section shall mean any condition which obstructs, hinders, frustrates, prevents, blocks, or creates a partial or complete barrier, obstacle, or impediment to the public or private use of said facility; narrows access or travel on or about said facility; creates a line of sight impediment or hazard for pedestrians or drivers; or enhances a slipping or sliding hazard.

- B. Depositing material. It shall be unlawful for any person to sweep, throw, place, deposit or cause to be swept, thrown, placed, or deposited any material on any public street, sidewalk, driveway or alley which may be harmful to the pavement thereof or which may do injury to any person or property. Materials shall include, but are not limited to, any waste material, petroleum products, chemicals, glass, other particles, or landscape waste such as grass clippings and leaves.
- C. Depositing snow/ice or material declared a nuisance. The deposit of any snow/ice or material upon any private driveway, public street, sidewalk, driveway or alley contrary to the provisions of this section is a nuisance, and, in addition to the penalty provided for violation of this section, the city may summarily remove any snow/ice or material so deposited and cause the cost of said removal to be charged to the owner of the property from which said snow/ice or material had been removed.
- D. Enforcement. The Director of Public Works, his or her designees, are hereby authorized and directed to enforce the provisions of this section.
- E. Continued violations. Each twenty-four hour period where a violation occurs shall constitute a separate offense under this section for enforcement purposes. Repeated violations shall not nullify any pending notice issued under this section.
- F. Notice to remove snow/ice or material. If the owner of any parcel or lot deposits snow/ice or material in the public or private facility so as to create an immediate danger to the public health and/or safety, the Director of Public Works shall cause the issuance of a written notice to the owner that the snow/ice or material be removed immediately after the delivery of the notice.
- G. Filing of notice of lien. Upon removal of deposited snow/ice or material after failure of the owner to do so, the cost of such removal shall be paid within ten days after mailing of a statement of such costs to the owner. Within sixty days after such cost and expense is incurred and upon failure of the owner to reimburse the city for expenses in removal, the city clerk, shall file a notice of lien in the office of the recorder of deeds of the county, which shall be a lien against the real estate superior to all other liens and

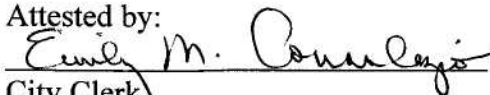
encumbrances except tax liens. However, such lien shall not be valid as to any mortgagee, judgement creditor or other lien or whose rights in and to such real estate arise prior to the filing of such notice. The notice shall consist of a sworn statement setting out a description of the real estate sufficient for identification thereof, the amount of money representing the cost and expense incurred or payable for the service, and the date or dates when such cost and expense was incurred.

- H. Penalty. In addition to the provisions set forth in this section, any person firm or corporation who or which violates the provisions of this section shall be subject to the general penalty provision of this code."

Section 2: That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3: This ordinance shall become effective from and after its passage, approval and publication in pamphlet form in a manner prescribed by law.


Mayor

Attested by:

City Clerk

Ayes:

Roll Call Vote:

Councilwoman Davenport
Councilman Eckhoff
Councilman Gresk
Mayor Carr
Councilman Johnson
Councilwoman Johnson
Councilman Mork

Nays:

None

Absent:

None

Motion Carried Unanimously

Passed: February 1, 1999

Published: February 2, 1999