

Council President Cavo called the Common Council Committee of the Whole to order at 7:25PM.

The members were recorded as follows:

Louise P. McMahon, Shay Nagarsbeth, James H. Johnson, Charles Trombetta, Michael J. Calandrino, Duane E. Perkins, Fred Visconti, Benjamin Chianese, John J. Esposito, Thomas J. Saadi, Joseph M. Cavo, Paul T. Rotello, Jane Diggs, Mary Teicholz, Robert F. Arconti, Philip Curran, Jack Knapp, Warren M. Levy, Robert Riley, Gregg Seabury and Colleen A. Stanley

Present: 17 Absent: 4

Councilmen Trombetta and Calandrino were out of the country and Councilmen Perkins and Seabury were working.

Chief Alan Baker, Deputy Corporation Counsel Lazlo Pinter, Antonio Iadarola, P.E., Director of Public Works, Dennis Elpern, Director of Planning were also present to be available to provide information to the Council.

2. Removal of Private Debris, Code of Ordinance, Section 17-7

Councilman Arconti moved to amend Code Section 17-7 by addition of subsections (g) and (h) providing for restrictions and fines for illegal placement of materials on public property from private properties in accordance with said provisions. The motion was seconded by Councilwoman McMahon. Discussion followed regarding the need for the ordinance and the placement of responsibility on the police department for the enforcement of the ordinance. Proximate causation, levels of liability and standard care, which is based on case-law and state legislation, was also discussed.

Director Iadarola gave some insight into the City's snow plowing operation by giving examples of the difficulty of the plowing activities, the long hours required, contingency plans and the expectations for the drivers to report for their regularly scheduled work assignments after performing snow plowing duties. Overtime costs to remove snow obstructions could add up to approximately \$1,000 per incident. Director Iadarola provided specific examples of incidents resulting from the placement of snow in the roadways. There is a responsibility to take a level of care, which must be assumed by the contractor, to ensure that they are not placing the public in danger.

Director Iadarola further stated that certain streets in the City are vacuumed for leaves as the result of a decision made many years ago. A few streets have a significant number of city owned trees, and it is not a matter of receiving special services, but this has been practice over a long period of time to help relieve the burden of leaf removal from the property owners.

Atty. Pinter explained that the ordinance is not only relating to snow, yard clean-up debris, garbage, tree limbs are also included in order to promote good gutter flow and eliminate obstruction issues. The ordinance is also an attempt to reduce overtime costs.

Councilman Saadi moved amend the ordinance (subsection g) by inserting the following after the word debris: *that obstructs, may obstruct or otherwise interfere with safe passage upon, or otherwise interfere with the regular and proper maintenance or drainage of.* The motion was seconded by Councilman Chianese.

Discussion and debate followed regarding fining habitual violators, City plowing operations with regard to sidewalks, obstruction issues and holding the property owner responsible for the action of the contractor.

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Councilman Curran called the question. Seconded by Councilman Nagarsheth.

A roll call vote was taken with McMahon, Nagarsheth, Johnson, Cavo, Diggs, Teicholz, Arconti, Curran, Knapp and Riley voting in favor. Visconti, Chianese, Esposito, Saadi, Rotello, Levy and Stanley voted in opposition. **Motion passed 10/7.**

A vote was taken on the main motion, which was made by Councilman Arconti to amend Section 17-7, with: McMahon, Nagarsheth, Johnson, Visconti, Chianese, Esposito, Saadi, Cavo, Rotello, Diggs, Teicholz, Arconti, Curran, Knapp and Stanley voting in favor. Levy and Riley voted in opposition. **Motion passed 15/2.**

Councilman Levy called a point of order to inquire if a majority vote was needed to accept the motion. Atty. Pinter advised that a simple majority was the only requirement for passage of the motion.

Respectfully submitted,

Doratheia A. Gulya-Stasny
Recording Secretary

24-2



ORDINANCE
CITY OF DANBURY, STATE OF CONNECTICUT
COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury:

THAT Section 17-7 of the Code of Ordinances of Danbury, Connecticut is hereby amended by the addition of two subsections, designated as subsections (g) and (h), which said subsections read as follows:

Sec. 17-7. Removal of snow, ice, sand and debris from sidewalks and private property; deposit onto public property.

(a) Every person owning or occupying any land fronting upon any sidewalk within the city shall, within four (4) hours of daylight immediately following the cessation of any fall of snow, or accumulation of ice thereon, cause the same to be removed, so that travel upon said sidewalk shall not be obstructed, dangerous or inconvenient, and upon failure so to do within the time limit, shall be punished as provided in Section 1-7. After the expiration of the time limit as aforesaid, if such snow and ice shall not have been removed, the superintendent of highways or his designee shall cause the same to be removed at the expense of such owner or occupier, such expense to be recovered from either the owner or occupier in an action brought in the name of the city.

(b) Every person, firm, corporation, association or partnership owning any land fronting on any sidewalk within the City of Danbury shall be responsible for the maintenance and repair of said sidewalk. The superintendent of highways or his designee may issue an order to any such owner requiring him to repair any sidewalk abutting his property within such period of time as is specified in said order. If the owner of any such property fails to comply with a proper order of the superintendent of highways or his designee, the superintendent of highways shall cause repairs as specified to be made at the expense of such owner, such expense may be recovered from the owner of said abutting property in an action brought in the name of the City of Danbury.

(c) All lawful expenses incurred by the City of Danbury by virtue of subsection 17-7(a) or 17-7(b) shall accrue interest at a rate of twelve (12) per cent per annum and shall be a lien upon the premises adjoining such walk provided that the superintendent of highways shall cause a certificate of lien to be recorded in the town clerk's office within sixty (60) days of the completion of any necessary repair or removal authorized herein.

(d) Pursuant to the provisions of Public Act 81-340 and notwithstanding the provisions of Section 13a-149 of the General Statutes or any other General Statute or Special Act, the City of Danbury shall not be liable to any person injured in person or property caused by the presence of ice or snow on a public sidewalk unless the City of Danbury is the owner or person in possession and control of land abutting such sidewalk. The provisions hereof shall not relieve the City of Danbury from any liability imposed bylaw resulting from its affirmative acts with respect to such sidewalk.

(e) The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the City of Danbury had prior to the effective date hereof and shall be liable to persons injured in person or property where a breach of said duty is the proximate cause of such injury.

(f) No action to recover damages for injury to the person or to property caused by the presence of ice or snow on a public sidewalk against the person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two (2) years from the date when the injury is first sustained.

(g) No person shall place or cause to be placed any snow, ice, sand or debris that obstructs, may obstruct or otherwise interfere with safe passage upon, or otherwise interfere with the regular and proper maintenance or drainage of any street, road, public highway, sidewalk or other public property in the City.

(h) Any Danbury Police Officer or the Director of Public Works or his designee, shall be authorized to issue citations providing for penalties of Ninety Dollars (\$90.00) per violation for violations of this section.