

ORDINANCE NO. 2020-07

AN ORDINANCE ADOPTING A NEW WALLACE CITY CODE, TITLE 8, CHAPTER 5, PROVIDING FOR THE REMOVAL OF SNOW & ICE WITHIN THE CITY; DEFINING APPLICABLE TERMS; DECLARING PUBLIC NUISANCES; IMPOSING A DUTY TO REMOVE; PROHIBITING THE INTERFERENCE WITH SNOW REMOVAL OPERATIONS AND DEPOSITING OF SNOW; PROVIDING NOTICE OF VIOLATION; OUTLINING THE AUTHORITY TO ABATE A NUISANCE; PROVIDING A MECHANISM FOR APPEALING ABATEMENT COSTS; DECLARING CERTAIN ACTS PUBLIC OFFENSES; DEFINING VIOLATIONS AND PROVIDING BOTH INFRACTION AND MISDEMEANOR PENALTIES; LISTING EXEMPTIONS FROM DUTIES TO REMOVE; REPEALING ANY ORDINANCES OR CODE SECTIONS IN CONFLICT; DECLARING ORDINANCE SEVERABLE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has previously passed certain ordinances and codified the same in Title 8, Chapter 3, and amendments thereto, which contained provisions regulating snow removal within the City,

WHEREAS, the Mayor and City Council believe it to be in the best interest of the City, in preserving the public health, safety and welfare, to enact a new Wallace City Code, Title 8, Chapter 5, pertaining to and regulating Snow and Ice Removal specifically.

THEREFORE, BE IT HEREBY ORDAINED by the Mayor and City Council of the City of Wallace, Shoshone County, Idaho:

Section 1: ENACTMENT.

Pursuant to Article XII, Section 2 of the Idaho Constitution, and §50-314 (*et. seq.*) of the Idaho Code, the City does hereby take action to create a new Wallace Municipal Code, Title 8, Chapter 5, "Snow & Ice Removal." Upon the approval and publication of this ordinance as provided by law, a new Title 8, Chapter 5, including all sections therein, shall be added to the City of Wallace Municipal Code as follows:

CHAPTER 5

SNOW AND ICE REMOVAL

Chapter 5

SNOW AND ICE REMOVAL

- Sec. 8-5-1 Definitions
- Sec. 8-5-2 Public Nuisance
- Sec. 8-5-3 Duty to Remove
- Sec. 8-5-4 Interference with Snow Removal and Deposit of Snow
- Sec. 8-5-5 Notice
- Sec. 8-5-6 Authority to Abate

- Sec. 8-5-7 Appeal of Abatement Costs
- Sec. 8-5-8 Public Offense
- Sec. 8-5-9 Violations & Penalties
- Sec. 8-5-10 Exemption

Sec. 8-5-1 Definitions

The following definitions shall apply to this Chapter:

- A. *Owner.* Owner of record as determined from the records of the Shoshone County Assessor's office or such other records or information as the City may determine appropriate.
- B. *Tenant/Occupant.* Any person who occupies property or land.
- C. *Snow Removal Season.* That period of time from November 1 to March 31, during which snow removal operations are presumed to occur daily.

Sec. 8-5-2 Public Nuisance

The accumulation of snow and/or ice on sidewalks within the City which affects safe pedestrian usage of said sidewalks is a matter of public interest for which the City seeks to prevent or eliminate wherever practicable. Therefore, the city hereby declares that the accumulation of snow and/or ice on sidewalks within the City which affects safe pedestrian usage of said sidewalks is a public nuisance.

Sec. 8-5-3 Duty to Remove

It shall be the duty of every owner, tenant, occupant, or person in control of any land, building, or lot within the City, to remove natural snow and/or ice from adjacent sidewalks in order to allow the safe passage of pedestrians upon said sidewalks, and to abate any nuisance set forth in this Chapter. The following shall constitute the proper guidelines for placement of snow and ice from adjacent sidewalks:

- A. Snow and/or ice removed from sidewalks adjacent to commercial or residential buildings or land should be placed first in adjacent properties yard, and if this is not possible, it should be placed in the median between the sidewalk and street. If no median exists and the placement of snow and/or ice on adjacent property is not possible, then it may be pushed to the center of the street as a windrow, taking care to leave no ridges between the curb and the windrow.
- B. Snow removed from parking lots of businesses must not be deposited in streets, and should instead be pushed into an empty space in said parking lot.

Sec. 8-5-4 Interference with Snow Removal and Deposit of Snow

In an effort to assist citizens and keep public rights of way open and safe for travel, the City may undertake its own snow removal efforts, and direct citizens, using clearly marked signs conspicuously posted on public property, in order to better facilitate those efforts during snow removal season. Therefore, citizens should not interfere with these operations and are required to comply in this process as follows:

- A. **Interference with Snow Removal:** Compliance with all posted signs is required. In the absence of such signs, it shall be unlawful for any person to park, abandon, or otherwise leave unattended any vehicle or trailer, on any city right of way at any time or in any manner which will obstruct or hinder any city employee, city contractor, or state of Idaho employee during snow removal operations, or which will leave any vehicle in such a position that it is subject to damage by snow removal operations. This provision shall not prohibit the stopping of vehicles for periods of time sufficient to load or discharge passengers from such vehicles. Owners of vehicles parked in violation of this section shall be subject to citation, towing, or both, and shall also be held liable for any damage to snow removal equipment which may occur due to contact with said vehicle. The city of Wallace and the state of Idaho shall not be liable for damage to any vehicles or property parked in violation of this section.
- B. **Snow Deposited on Right of Way Prohibited:** Snow may not be dumped, placed, or pushed into a city street or public right of way, except in limited circumstances as described in Sec 8-5-3.
- C. Snow removed from private property may not be piled so as to block or cover any fire hydrant, snow pole, street sign, culvert inlets and outlets, or other drainage structures.
- D. Snow moved to a windrow in the street must not infringe on intersections of streets, alleys, or crosswalks. In addition, all ridges between the curb and windrow must be move to the windrow.

Sec. 8-5-5 Notice

Upon a determination that a parcel of property within the City is in violation of this Chapter, the City or its designee shall cause notice, in writing, to be served upon the owner, tenant, occupant, or person in control of said property, or to be posted upon property which is in violation of this Chapter. Said notice shall require the owner, tenant, occupant, and/or the person in control of said property, to abate said nuisance within twenty-four (24) hours of the time of service or posting of notice.

Sec. 8-5-6 Authority to Abate

If the property owner, tenant, occupant, or person in control of a property in violation of this Chapter fails to abate the nuisance within twenty-four (24) hours, the City may abate the nuisance and cause the sidewalk adjacent to said property to be cleared of snow and ice. The total cost of the abatement shall be billed to the owner of the property for payment. In the event payment for said costs is not made within thirty (30) days or if the owner or whereabouts of the owner is not known, the cost of abatement may be certified by the city clerk and forwarded to the county treasurer for inclusion in the county property tax assessment pursuant to applicable Idaho Codes. Pursuit of abatement costs by the city shall not preclude prosecution of violations of this chapter.

Sec. 8-5-7 Appeal of Abatement Costs

Within ten (10) days of receipt of billing for the costs of abatement, the owner may request a hearing before the City Council if the owner believes such costs were erroneous or unjust. Thereafter, the Council shall confirm, modify, or annul the costs associated with abatement and notify the owner of said decision.

Sec. 8-5-8 Public Offense

The following persons are in violation of this Chapter and have committed a public offense:

- A. The owner, tenant, occupant, or individual responsible for maintaining the sidewalk adjacent to his or her property, who has allowed snow or ice to remain on the sidewalk adjacent to his or her property for a period of twenty-four (24) hours, after notice has been provided as set forth herein.
- B. Any person who interferes with snow removal processes, including failing to comply with city signage related to snow removal, or otherwise depositing or moving snow in any manner prohibited under this Chapter.

Sec. 8-5-9 Violations & Penalties

- A. Violations of the provisions of this Chapter shall carry the following penalties:
 - 1. Any person violating the provisions of this Chapter shall be deemed guilty of an infraction and punished as outlined in Wallace City Code Section 1-4-1(B).
 - 2. Any person violating the provisions of this Chapter, having been previously found guilty of any provision of this Chapter within the five (5) years preceding such offense, shall be deemed guilty of a misdemeanor and punished as outlined in Wallace City Code Section 1-4-1(A).
- B. Each twenty-four (24) hour period after notice, during which an owner, tenant, occupant, or person responsible for maintaining a property in violation of this Chapter, shall fail, refuse, or neglect to remove snow and/or ice from the sidewalk adjacent to their property, shall give rise to a separate and distinct offense.

Sec. 8-5-10 Exemption

The duties placed upon persons in this Chapter to remove snow and/or ice applies to natural snowfall only; it does not extend to snow displaced onto sidewalks by City snowplows after natural snowfall has previously been removed. Failure to remove snow and/or ice deposited or displaced onto sidewalks by City snowplows shall not constitute a public offense or subject persons to violations under this Chapter.

Section 2: REPEAL OF CONFLICTING ORDINANCES.

Any and all ordinances and parts of any ordinance in conflict with this ordinance, are hereby repealed.

Section 3: SEVERABILITY.

The provisions of this ordinance are declared to be severable. If any section, sentence, clause or phrase of the ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this ordinance shall remain in effect notwithstanding the invalidity of any part.

Section 4: EFFECTIVE DATE.

This ordinance shall be effective upon its passage and a summary publication in the official newspaper of the City of Wallace.

PASSED under suspension of the rules upon which a roll call vote was duly taken and enacted as an ordinance of the City of Wallace at the regular meeting of the City Council held on the 10th day of February, 2021.



LYNN MOGENSEN, Mayor

Attested to by:


KRISTINA LARSON, City Clerk

IT WAS MOVED BY: Council member DeRoos and seconded by Council member Shaffer, to pass the foregoing Ordinance No. 2020-07.

CITY COUNCIL MEMBERS	Yes	No	Abstain	Absent
1. DEAN COOPER	X			
2. MICHELE BISCONER	X			
3. RICK SHAFFER	X			
4. HEATHER BRANSTETTER	X			
5. ELMER MATTILA	X			
6. DAVE DeROOS	X			
