

SIDEWALKS in Maine..... need to maintain in winter?

Question: Are municipalities in Maine legally required to maintain their sidewalks during the wintertime?

Answer: Generally speaking, yes. If a town way (a road that a municipality is required to maintain, as opposed to a public easement) is “blocked or encumbered” with snow, the way must be opened and made passable within a reasonable time (see 23 M.R.S. § 3201). This obligation to remove snow also extends to public sidewalks located within the legal limits or boundaries of a town way. But this duty does not apply to public sidewalks located outside of a town way (in a public park, for example) or to private sidewalks along private roads.

Despite their general obligation to keep public sidewalks clear of snow, municipalities are absolutely immune from liability for damages to any person on foot on account of snow or ice or slippery conditions on any sidewalk or crosswalk (see 23 M.R.S. § 3658). This blanket immunity for pedestrian accidents on snow- or ice-covered sidewalks is akin to the blanket immunity for motor vehicle accidents on snowy or icy public roads (see 23 M.R.S. § 1005-A(1)). These immunities simply recognize the realities of life in a Maine winter and the responsibility of every motorist and pedestrian to exercise due caution during wintry conditions.

Incidentally, Maine law also authorizes the municipal officers (selectmen or councilors) to enact ordinances requiring the owner, occupant, or agent in charge of abutting property to remove snow and ice from public sidewalks (see 30-A M.R.S. § 3009(1)(A)). Some towns and cities (mostly larger ones with builtup downtowns and dense residential neighborhoods) have enacted such ordinances, often over public protest and with decidedly mixed results.

For a comprehensive review of municipal liabilities in winter – from roads and sidewalks to mailboxes to outdoor recreation areas to slippery stairs to contaminated wells – see “Liability for Snow & Ice,” Maine Townsman, Legal Notes, December 2009. (By R.P.F.)

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Comment from ME Local Roads Center: Federal ADA requirements also require sidewalks to be maintained for accessibility reasons all year. People with disabilities should not be walking in the road because sidewalks are not plowed.