

**BOROUGH OF OAKLAND
ORDINANCE NO. 21-CODE-821**

**AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 12 OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF OAKLAND
ENTITLED "STREETS, SIDEWALKS, PUBLIC
RIGHTS-OF-WAY AND SANITATION" TO INCLUDE
SECTION 12-5.1A ENTITLED "MAILBOX DAMAGE DUE
TO SNOW PLOWING".**

WHEREAS, it has come to the attention of the Mayor and Council that residents' mailboxes are inadvertently damaged due to snow plowing; and

WHEREAS, the Mayor and Council have determined that it would be in the best interest of the citizens of the Borough of Oakland to amend the Ordinance to include a remedy to the citizens.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Oakland as follows:

SECTION I

A. Chapter 12, Section 5.1A - *Mailbox Damage Due to Snow Plowing*.

12-5.1A.1 **Intent; Rationale.** It is the intent of this article to establish uniform procedures to reimburse residents for damage to mailboxes due to snow removal operations. The Borough of Oakland's primary obligation is to ensure that its roadways are as clear as possible of snow and ice. It is also understood that most mailboxes are located within the public right-of-way and, therefore, while fulfilling the primary objective, mailboxes may be unintentionally and unavoidably damaged. This policy assumes there is a shared responsibility between the Borough of Oakland and the homeowner when mailboxes located in the public right-of-way are damaged during snow removal operations.

- 12-5.1A.2 **Resident Responsibility.** Snowplow operators make every effort to remove snow as close to the curblineline as practical and to provide access to mailboxes for the Postal Service. However, it is not possible to provide perfect conditions and minimize the damage to mailboxes with the size and type of equipment the Borough operates. Therefore, the final cleaning adjacent to mailboxes is the responsibility of each resident.
- 12-5.1A.3 **Landscaping; Hardscape.** Property owners should assume all risk of damage for landscaping/hardscape, including nursery and inanimate materials that are installed or encroach on the Borough right-of-way. The Borough assumes no responsibility for damage incurred to these nonpermitted elements as a result of snow plowing and ice control activities with the exception that lawns that are scraped or gouged by Borough equipment will be repaired by top dressing and seeding the following spring. In addition, inanimate materials such as boulders, timbers, etc., are a hazard and can cause damage to plow equipment.
- 12-5.1A.4 **Reimbursement Policy.** While there is no legal requirement, it is the policy of the Borough of Oakland to reimburse residents up to \$100 for eligible mailbox damage caused by direct plow contact or thrown snow coming off the plow on the part of the Borough's Department of Public Works or Borough private contractors. Residents seeking reimbursement greater than \$100 for mailbox damage caused by Borough operators may file a tort claim under Title 59 of New Jersey Statutes Annotated. Nothing in this article shall be construed to entitle any resident to reimbursement prior to an investigation and determination by the Director of Public Works or designee that the claimed damage is eligible for reimbursement pursuant to this section.
- 12-5.1A.5 **Eligibility; Procedure; Investigation.** For the purpose of this article, boxes used for receipt of United States mail and placed outside of residences and established for such purposes shall be referred to herein as "mailboxes". All

mailboxes must be installed in accordance with the United States Postal Service Mailbox Guidelines.

- A. Eligibility; mailbox damage claim. The reimbursement provisions shall only apply to those homeowners who satisfy the following criteria:
- (1) The mailbox is securely fastened to a sturdy post which is sufficiently anchored in the ground to resist the impact of plowed snow.
 - (2) The damaged mailbox and/or post must meet the requirements of the United States Postal Service Mailbox Guidelines, as well as all other requirements in regard to construction and location. Mailboxes that do not meet the requirements of the United States Postal Service and/or any other applicable regulations are not eligible for reimbursement.
 - (3) The damage must have been caused by direct contact with or thrown snow from Borough Department of Public Works or Borough private contractor plows or snow removal equipment.
 - (4) The homeowner must notify the Borough within 90 days of the date the damage occurred. Damage reported outside of this time frame will not be eligible for reimbursement.
 - (5) The homeowner must sign a general release discharging the Borough from all debts, claims, demands, damages, actions or further tort claims under Title 59.
- B. Claim procedure.

- (1) Within the time period above, a homeowner making a claim for reimbursement shall contact the Department of Public Works and file a mailbox damage claim.
- (2) The mailbox damage claim shall be accompanied with the following:
 - (a) Name, address, phone number and email address of claimant.
 - (b) Date and time of damage.
 - (c) Exact location of damage.
 - (d) Explanation of what happened/description of damage.
 - (e) Photographs of damage.
 - (f) Itemized receipt for the cost of the new mailbox and/or post.
- (3) After submission of the claim, the Director of Public Works or designee shall investigate the alleged damage to determine if the damage was caused by the plow blade, vehicle and/or thrown snow coming off the plow. A written response on the findings of the investigation will be mailed to the resident.
- (4) If it is determined that the mailbox was damaged by the plow blade, vehicle and/or thrown snow coming off the plow, the homeowner will be reimbursed for the cost of the mailbox and/or post in an amount not to exceed \$100 upon the submission of an itemized receipt for the cost of the new mailbox and/or post. If it is determined that

the damage was not caused by the plow blade, vehicle and/or thrown snow coming off the plow, no reimbursement will be given. All actual repairs and/or replacements shall be the responsibility of the homeowner.

SECTION II

All other parts, portions and provisions of Chapter 12 of the Code of the Borough of Oakland are hereby ratified and confirmed, except in the event of an inconsistency with the foregoing. In the event of any such inconsistency, the terms and provisions of Section I hereof shall be deemed to govern.

SECTION III

Should any part, portion or provision of this Ordinance be held unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof.

SECTION IV

This Ordinance shall take effect immediately upon publication and final passage according to law.

Linda H. Schwager, Mayor

ATTEST:

Lisa M. Duncan, Borough Clerk