



TOWN OF HUDSON

LAND USE DEPARTMENT

Planning

Zoning

Engineering



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To: Planning Board

From: Jay Minkarah, Interim Town Planner

Date: February 24, 2025

Re: Sidewalk Winter Maintenance

As requested, I reached out to Town Counsel for input on potential Town liability related to sidewalk winter maintenance and on the questions of whether property owners can be required to clear sidewalks adjacent to their properties of snow and/or ice or charged to cover the cost of municipal winter maintenance for the same. The answers to these questions along with related references are provided below.

While there is no absolute protection against municipal liability (for pretty much anything), New Hampshire statutes provide explicit protection to municipalities for claims arising from a failure to provide winter maintenance on public ways including sidewalks. RSA 231:92-a Snow, Ice and Other Weather Hazards, states that:

“Notwithstanding RSA 231:90-92, a municipality or school district shall not be held liable for damages arising from insufficiencies or hazards on public highways, bridges, *or sidewalks* (emphasis added), even if it has actual notice or knowledge of them, when such hazards are caused solely by snow, ice, or other inclement weather, and the municipality's or school district's failure or delay in removing or mitigating such hazards is the result of its implementation, absent gross negligence or reckless disregard of the hazard, of a winter or inclement weather maintenance policy or set of priorities adopted in good faith by the officials responsible for such policy; and all municipal or school district employees and officials shall be presumed to be acting pursuant to such a policy or set of priorities, in the absence of proof to the contrary.”

Note though, that it would be a good idea for the Town to adopt a winter or inclement weather maintenance policy for sidewalks if it hasn't done so already.

To the next question, the Town cannot compel property owners to provide winter maintenance on sidewalks that abut their properties based on a long standing NH Supreme Court decision. In *State v. Jackman*, 69 N.H. 318 (1898), the court ruled that a city ordinance that required abutters to remove snow from the sidewalks adjoining the street was invalid. Though decided over 125 years ago, the case has not been overruled. Further, the Town cannot assess abutting property owners for the cost of sidewalk winter maintenance under New Hampshire law. RSA 231:113 states in relevant part that:

“ . . . sidewalks shall be maintained, repaired and reconstructed by the city or town in which they are located without further assessment to the abutting owner.”

I hope the contents of this memo are helpful to the Board in its deliberations on any potential sidewalk requirements.

Gradert Benjamin

From: Twardosky, Jason
Sent: Tuesday, February 25, 2025 10:26 AM
To: Chartier, Cheryl; Faulkner, Jeremy; Gradert Benjamin
Subject: RE: Sidewalk Policy

I believe the sidewalk policy is in the snow and ice policy. We are going to work on updating it before next winter but it has been our policy to work on sidewalks on main roads, in the center of town, soon as practically possible after the storm when all roads are deemed acceptable by the Public Works Director or his appointee. Any and all sidewalks in neighborhoods, not attached to our main sidewalks, should the homeowner want said sidewalk maintained, are the responsibility of the homeowner, or homeowners.



Town of Hudson

NEW HAMPSHIRE 03051

SNOW AND ICE REMOVAL PLAN

Updated September 2011

TOWN OF HUDSON N.H
HIGHWAY DEPARTMENT
SNOW AND ICE REMOVAL PLAN

OBJECTIVE: It is the goal and intent of the Town of Hudson to provide timely, efficient and cost-effective winter maintenance, snow removal and ice control on the roadways of the municipality for the safety and benefit of the Town's residents and the general motoring public.

PROCEDURE: The objective stated above will be achieved by implementation and execution of the procedures and tasks outlined in the Town of Hudson Winter Operations Snow Removal and Ice Control Procedures. Due to the many variables that are inherent in New England weather, each storm and/or weather event may required slightly different effort and/or emphasis on any number of maintenance tasks, which together, determine the overall winter maintenance, snow removal or ice control strategy.

LEVEL OF SERVICE: It is not possible to maintain a bare road or sidewalk totally free of snow and ice during a storm. It is the intention of the Town to provide practical, safe access to homes, businesses and municipal facilities during winter storms.

It is our policy to commence snow removal operations upon the accumulation of two-inches of snowfall. The Road Agent may, at his or her discretion based up weather information reports, elect to not remove snow until greater or lesser accumulations.

Pre-treatment and ice control may be addressed prior to the actual storm beginning, during the actual storm as seen effective, and preceding the storm. It should be noted that salt has a much slower effect on melting snow and Ice at temperatures below 25 degrees, and may not be applied until it is warmer. Alternate methods of treatment may be utilized as conditions warrant.

Sidewalk snow clearance will be conducted as soon as possible during winter storms. Personnel availability and the needs to maintain safe roadways will take priority.

COMMAND: Direction of all winter maintenance activities for the Town of Hudson is vested with the Road Agent and his or her designee.

EXECUTION: The policy outlined above is intended to serve as the normal operating procedures for winter maintenance, snow removal and/or ice control for the Town of Hudson. One or more of the following, which may delay or prevent the implementation of this policy, may affect all or any part of this Policy:

Equipment Breakdown
Snow Accumulation in Excess of 1" per Hour
Freezing Rain or Other Icing Conditions
Traffic Congestion
Emergencies
Personnel Illness

WINTER OPERATIONAL SNOW REMOVAL AND ICE CONTROL PROCEDURES

EQUIPMENT: The Highway Department utilizes all the assets of the department as needed to address snow emergencies. A list of the current rolling stock assets is included in the appendices of this policy.

ROUTES: Currently the Town is divided into 12 major plow and/or treatment routes. One route encompasses the Town's main arteries within the urban compact. This route has one truck dedicated to treating the main roads only and during snow plowing operation will be plowed by the road grader with this truck in tandem. Additionally, seven smaller pickup type trucks with reversible plows will be used to assist the larger dump trucks with their routes.

The Town also used two front end loaders to assist in snow removal on smaller streets and municipal/school parking lots. The Town has one sidewalk snow blower used for assigned sidewalks.

MANPOWER: The Town of Hudson has twenty four (24) full-time personnel assigned to its winter maintenance operations. In addition, three contract pickup trucks are hired for municipal/school parking lot snow removal.

MATERIALS: The Department uses approximately 3,000 tons of rock salts and 6,000 tons of sand each season. The sand is used as an abrasive and is applied to the road to improve the public's motor vehicles traction. Salt is employed by the Department as a de-icing and anti-icing agent. Rock salt and sand are purchased from a supplier as needed. A limited quantity is stockpiled by the Highway Department. Unless weather conditions require a different approach, winter maintenance routes are treated with a mixture of sand and salt. The mixture is maintained at approximately one part salt and two parts sand. The mixture is applied to the center of the roadway where traffic can work the mix traveling either way. The mixture, in conjunction with the traffic action, creates a watery brine melting snow and/or ice, and resisting snow and ice packing on the roadway. The road crown further assists with the spreading of the mixture brine. The sand/salt mixture is only effective to approximately 20 degrees Fahrenheit. Liquid calcium chloride may be used in conjunction with sand/salt mixture below 2- degrees Fahrenheit to increase its effectiveness.

COMMUNICATIONS: All of the Highway Department rolling stock is equipped with low brand radios capable of transmitting and receiving on a frequency of 37.26000. Each operator is assigned to a unique call number. A list of all call numbers is displayed in each piece of equipment or truck. A copy of the current call numbers is included as an appendix to this policy. Radios are also maintained at the Highway Department garage and Police Dispatch Center.

SCHOOLS: The Highway Department does have the responsibility for the clearing of snow and winter treatment of the Town schools access roads and parking lots. On days when school is in session, winter maintenance efforts must be timed to coincide with bus routing and delivery.

The School Superintendent or the designed official representative shall contract the Highway Department to determine the condition of the municipality's roads in order to determine the safety of students using school buses. The School Superintendent, not the Road Agent, shall make the decision to cancel or postpone school for that day.

PARKING: The Town has enacted a winter parking ban (ordinance #317-13) effective from December 1st to March 30th of each year. This ban prohibits parking in or on the Town's roads or rights of way between the hours of 11:00 pm and 7:00 am. The Town also prohibits any vehicles from impeding snow removals at any time (ordinance #317-19). The Town has the right to tow or ticket violators. The purpose of this winter parking ban is to allow winter maintenance crews unobstructed snow removal and ice control routes, as much as possible, to maintain the maximum effectiveness of their efforts.

PLOW ROUTE PRIORITIES: With a total of approximately 190 miles of roads from which to remove snow and control ice and with limited pieces of equipment to handle this responsibility. The Highway Department has to assign priorities for the winter maintenance route activity in order to maximize the effectiveness of their efforts for the motoring public.

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| PRIORITY 1 | Main roads and carrier roads within the urban compact will be given first priority. |
| PRIORITY 2 | Residential streets and commercial areas will be assigned the next highest priority. |
| PRIORITY 3 | Dead end streets and cul-de-sacs will be the third priority. |
| PRIORITY 4 | Municipal and school parking lots and access roads will be fourth priority. On days when school has not been cancelled and at the discretion of the road Agent or his/her designee, school/municipal parking areas may be assigned to Priority 3. Once completed, all dead end and cul-de-sacs will be the next priority. |

ROADS AND SIDEWALKS NOT RECEIVING WINTER MAINTENANCE: The Town of Hudson does not maintain a number of roadways and sidewalks as parts of its ongoing winter maintenance activities. The areas not maintained by the Town include:

- A. Town roads classified as Class VI roads
- B. Private roads
- C. Robinson Pond beach/access area. Claveau Landing to Ottornic Pond
- D. School District sidewalks which are the responsibility of the school district.
- E. Sidewalks other than those shown on the sidewalk snow removal map attached.
- F. State roads that do not fall within the urban compact.

FIRE HYDRANTS: Snow will be removed from the area of fire hydrants when snow has built up to a level that the Fire Chief requests they be cleared. The Road Agent will direct a Contractor, knowledgeable in the location of the hydrants, to clear these hydrants in a timely manner.

DAMAGE TO PRIVATE PROPERTY: It should be noted that the municipality isn't held responsible for the damage to private property that is located within the public right of way. &RSA 231:92-a) The right of way (ROW) is often 50' wide, and is often thought by property owners to be part of their own property. In most cases, the ROW often extends 10 to 20 feet of either side of the paved or gravel road. Homeowners often maintain lawns, place mailboxes, erect fences or stone walls and place irrigation systems in this area, which improves the appearance of the street greatly, but may be obstructive to maintenance being conducted on the roadway.

In the event of personal property damage, the Town of Hudson will only be responsible to repair or replace damaged property having been in actual contact with the snow removal equipment that is on private property and not within the public right-of-way.

As a courtesy to the resident of Hudson, the Town will repair or replace mailboxes that are placed within the right of way if physically struck and damaged by the snow removal equipment. At no time will the Town replace mailboxes that are not able to withstand the weight or lateral force of the snow due to age, rot or poor installation. The Town will only use standard rural type mailboxes and post as replacement equipment. If a resident does not want the replacement equipment offered the Town will reimburse them up to \$25.00 toward the purchase of a replacement of their choice. The Town will not install this equipment.

PLACEMENT OF SNOW: Town Ordinance #284-12 Impeding Traffic states: It is unlawful for any person, firm or corporation, while plowing, shoveling or removing snow, to place snow from their property onto the street in such a way as to impede traffic or require extra work by snow removal crews.

SIDEWALK SNOW REMOVAL:

A. Sidewalk snow clearance will not begin until all other snow removal Operations are manned in progress. If there is insufficient personnel Available to conduct sidewalk snow removal operations as well as street and road clearance, the streets and roads shall take priority.

B. Only the sidewalks in the Town center and on Route 102 by Alvirne High School, as highlighted on the attached sidewalk snow removal map will be plowed by the Town.

C. The sidewalks will be treated with sand as quickly as possible after the storm.

If pedestrians or vehicles cause obstructions to the sidewalk snow removal operation, the Town's winter maintenance operators are encouraged to request cooperation. Otherwise, the operator is expected to call the Police for assistance. The operator is cautioned to avoid confrontation at all possible costs.

OUTSIDE HIRE OF EQUIPMENT: Under normal circumstances the Town of Hudson will hire contract pickup trucks for municipal/school parking lot snow removal. These contractors are required to provide their own trucks with plows and spreaders. The Town will only supply cutting edges used exclusively for the Town. The contractor is required to supply their own fuel. De-icing materials will be provided by the Town.

It is the intent of this plan that all other snow removal operations will be performed by Highway Department employees with Town owned equipment.

MONITORING OF ROAD CONDITIONS: The normal hours of operation for the Highway Department is Monday thru Friday 6:00am to 4:00pm. Outside of these hours the Police Department, which is a 24 hour a day, 365 days a year operation will monitor the road conditions. Upon detecting a road hazard that needs an immediate response, the on duty Police Supervisor will contact the Street Division Foreman. The Foreman will evaluate the situation and determine the appropriate response.

If the deficiency discovered is not an emergency, the Police Department should notify the Highway Department during regular business hours.

CITIZEN COMPLAINTS/CONCERNS: Any resident who has a complaint or concern regarding the Highway Department snow and ice removal operation, or which to report damage to their property are encouraged to contact the Highway Department during our regular business hours. We can be reached by calling 886-6018.