

## Snow Removal on HOA Sidewalks

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Lately some residents have been asking the Business Office Manager why the sidewalks throughout the neighborhood aren't plowed by the Association. Being in Colorado, of course, the snow accumulates during cold spells, and makes walking throughout the neighborhood a bit tricky at times. If we can't plow all the sidewalks, people ask, can we at least plow Homestead Parkway for the children who walk to school? As many who are long-time residents will recall, this query has occurred many times in the past three decades of our Homestead history and been reviewed by many past Boards and members.

Obviously, a primary consideration for our Homeowners Association (HOA) is the safety and convenience of our residents and their families, but there are other factors that influence the decision to clear snow:

**Cost: Snow Clearing.** As a tightly-controlled, non-profit HOA, our Board of Directors have a fiduciary duty to every member to make the best decision possible relative to our finances. Given the number of miles of paved or concrete pathways in our community, the cost becomes prohibitive in looking at a "normal" snow season of plowing, and more so when we have an extra heavy winter of snow. Even when looking only at the Homestead Parkway sidewalk, the number of lineal feet is significant and, given reviews in the past, was far too costly and unpredictable to pay for on a storm-by-storm basis.

**Cost: Repair to Greenbelt Assets:** No matter how careful a plow machine operator may be, experience at virtually every other serpentine sidewalk location that has engaged plowing, always shows continual Spring season repairs to scarred sod, broken sprinkler heads and other landscaping features that have been damaged. Thus, the unpredictable, highly variable cost of plowing itself is predictably increased by the repairs needed when snow has obscured the path to the sight of the plow operator. Another question would be the application of any de-icing chemicals, sand or salts: what ecological and landscape cost would result from such use of various snow/ice control/melting measures?

**Cost: a Risk/Utility Analysis:** As with every spending decision, the Board has the fiduciary obligation to make an appropriate risk-utility analysis on the plowing issue. In other words, what are the risks of plowed versus unplowed sidewalks and what is the utility or usefulness of either condition, to include the dollar cost of any alternative. The Board has consulted their legal counsel and insurance agent who both advise that should the Association assume the duty of snow removal from sidewalks and greenbelt paths they would increase the HOA's premises liability. When no snow removal is provided, snow on a walkway is a recognized hazard that homeowners can choose to proceed through or not. If the Association provides snow removal, residents and their guests have an assumption of safety and should ice accumulate on a shoveled area that causes a slip and fall, the HOA and therefore all homeowners are liable. A lawsuit against the Association affects all homeowners who bear the cost in both legal fees and increased insurance premiums.

In addition to the HOA Board's fiduciary duty, one view is that the Board and the HOA have a duty of reasonable care relative to maintenance of HOA property. Stated another way, was the Board's choice of action or inaction on the snow issue a *reasonable* position, all things considered and when compared to what other HOA's are doing when the HOA is of like composition, size, budget, etc., to our own.

**Will of the Community:** while some homeowners might consider paying considerably more in Association dues to cover the high cost of snow removal, others are adamantly against doing so. To date, the office has received an in person visit, two written inquiries and one website request asking that the Association provide snow removal of the sidewalks. Thus four homeowners out of 898 have made the query concerning snow removal.

The Association has put this question to a vote of the homeowners several times in the past, with the most recent vote in 2017. Each time this question was overwhelmingly defeated by the homeowner population. Based on this consistent will of the homeowners, the HOA Board does not plan to pursue this matter again.

In keeping with our good neighbor history, the HOA Board does encourage all homeowners to shovel the sidewalk in front of their houses as quickly as possible after it snows. For those of us who live on corners, that means the front ***and sides*** of our property. While it won't solve the problem of snow accumulation on Homestead Parkway or the interior greenbelts, it will make walking a lot easier in most areas.