Commonwealth of Massachusetts

EXECUTIVE OFFICE OF HOUSING & LIVABLE COMMUNITIES

Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Edward M. Augustus Jr., Secretary

To: All Local Housing Authorities
From: Robert Garrett, Facilities Management Supervisor
Date: December 6, 2023
Re: Winter Planning Guidance

EOHLC WINTER PLANNING GUIDANCE

The Executive Office of Housing and Livable Communities (EOHLC) recognizes that the coming winter months have the potential to greatly impact the operations of Local Housing Authorities (LHAs) and their residents. In addition to the normal challenges of Local Housing Authority (LHA) operations, LHAs must also be prepared to deal with winter storms and other severe weather events.

As we enter the coldest winter months, we urge LHAs to review and/or revise current winter storm plans and policies. If your LHA does not yet have a winter storm plan and policy, EOHLC recommends that it immediately develop and implement a customized winter plan and snow removal policy, providing residents with an overview of the plan's provisions.

Clearly articulated and adhered-to winter plans and snow removal policies will help to prevent some resident injuries and help **LHAs defend themselves if a lawsuit is brought.**

Why is winter planning important?

- To ensure the safety of housing authority residents, staff and visitors;
- To protect the property of the LHA from ice dams, frozen pipes, etc.;
- To meet LHA obligations as a landlord within the requirements of the MA State Sanitary Code;
- To ensure that LHAs are providing reasonable property care during snow and ice conditions and can document these efforts to meet legal standards, especially in the unfortunate event of "slip and fall" lawsuits that need to be defended by the LHA in court;
- To inform residents what to expect when there is a snowstorm, their obligations regarding snow removal, if any, and to allow them to plan for their safety when the need arises to leave the property.

POLICY

EOHLC recommends that every LHA adopt a board-approved snow removal policy for each development. The policy should specifically and chronologically describe how your LHA will respond to every storm.

For example:

- Does your LHA clear front walkways first?
- When should residents expect to see snow removal begin?
- What is the level of service at various levels of snow accumulation?
- What is the protocol if your residents are expected to move their vehicles?
- When, and where is ice melt applied?
- When, and how to prioritize the clearing of emergency exits, fire escapes and hydrants and less used areas such as secondary walkways and dumpsters.
- Specific responsibilities of the LHA and its residents for snow removal, by development.

The LHA's policy should inform residents what conditions will trigger a response and describe the anticipated timeline and typical process for a given storm, at each specific LHA property. Please reach out to your assigned Facilities Management Specialist (FMS) if you would like assistance with the development of a policy.

An LHA is required to meet its responsibilities to address hazardous snow or ice conditions in a reasonable time. There is no standard definition of how many hours or days is reasonable, as it will depend on the unique conditions of the weather, characteristics of the property, and the resources and capabilities of the LHA.

Many LHAs expect residents at family housing developments to address snow removal for pathways to their units and have policies which state the same. LHAs should keep in mind that unless a tenant has exclusive control over the areas of entrance and egress, including fire escapes, that the landlord is responsible for a reasonable attempt at snow removal under the State Sanitary Code--- **unless the lease contains a snow removal addendum**. EOHLC encourages LHAs to consult with legal counsel regarding any property where they believe the tenant has exclusive control, in order to develop a snow removal addendum which can be implemented at the time of new lease-ups and/or rent recertification. EOHLC also encourages LHAs to work with their FMS to evaluate options for ensuring that their family housing properties' snow removal plans are compliant with landlord obligations, as outlined in the State Sanitary Code.

COMMUNICATION AND COMMUNITY OUTREACH

A sound policy will serve as the foundation of your response but does not alone fulfill the need for continuing communication throughout the winter. EOHLC recommends that every LHA routinely communicate with LHA residents, as well as, local officials--- prior to the winter season and when a "winter weather warning" is issued in your LHAs geographic area by the National Weather Service.

The Commonwealth offers a website and telephone service that can help LHAs check the weather and get alerts for weather events sent to them, Mass511, https://mass511.com/.

A few best practices to consider:

1) EOHLC strongly recommends all LHAS contact their local Emergency Management Director (EMD) and/or Police and Fire officials and request inclusion within their town or cities Local Emergency Planning Committee. Find your EMD here: https://www.mass.gov/find-your-local-emergency- management-director-emd

2) Every winter season, provide your residents a copy of the board approved snow removal policy and a friendly reminder of items that should be addressed prior to the first snowfall. Residents should remove doormats, lawn furniture, grills, pumpkins, propane tanks and any other item that will impede the snow removal process and/or create a potential hazard to LHA residents and staff.

3) LHAs should consider sending periodic reminders of adopted policy before and after inclement weather events. LHAs should also consider posting these seasonal policies in community rooms or other high traffic areas.

4) Your LHA may consider utilizing a tenant notification system, whether they be texts, emails, or automated telephone messages to communicate storm specific messages or LHA operational and protocol changes.

5) Assess signage at each LHA development. The LHA can review current signage across developments and determine the cost vs. benefit of additional installations or placements. Are there specific areas that are prone to freezing? Are there parking restrictions in place during winter months? Adding signage can be an effective way to communicate LHA policies and process to residents and visitors.

Note: Regardless of how well your LHA plans, every storm has the potential to create unforeseen challenges--- which will require a quick adaptation and revision of plans that are hinged on effective internal and external communication.

PROCESS

LHAs should plan for the winter season well in advance of inclement weather by maintaining equipment, conducting necessary procurement, and identifying locations to store winter necessities and pile excess accumulated snow. LHAs can establish a process and designate a staff person to be responsible for the monitoring of potential weather events and the scheduling or dispatch of LHA staff and snow removal contractors. These practices should be part of the LHA's maintenance plan. There are many ways to stay informed about emergency alerts and weather events. In addition to Mass511, MEMA provides an emergency alert and weather warning system which will ping to a cell phone. For more information about available alert systems, LHAs should visit: https://www.mass.gov/info-details/be-informed-and-receive-emergency-alerts

- LHA Maintenance Staff should have a clear understanding of when to report, what steps to take and in what order, when arriving at the worksite.
- LHA Maintenance Staff should be familiar with walkways and parking areas that are prone to ice and hazardous conditions. LHA maintenance staff may consider applying extra ice melt and sand to these areas.
- LHAs should assess current supplies and consider bulk purchases of ice melt. LHAs may also consider using colored ice melts that will help residents assess risk on LHA walkways or parking areas.
- LHAs should assess snow removal equipment prior to every storm. LHA maintenance staff should have spare parts (such as shear pins, bolts, blades, skids) on hand in the event of a breakdown.
- LHAs may utilize snow stakes and reflective markers indicating locations of walkways, curbs, fire hydrants and/or any other item that may cause damage or be damaged due to snow cover.
- Maintenance should assess fuel supplies and fill all vehicles and/or fuel containers. Where possible, all batteries for communication should be charged and readily available.
- If your LHA has a generator, staff are advised to check fuel and oil levels prior to the storm and have a supply on hand in the event of extended use.

After the most pressing tasks are completed, LHAs should follow through with lower priority aspects of the snow and ice plan, such as the clearing of secondary use areas, dumpster access areas, etc.

DOCUMENTATION

The documentation of snow removal efforts is a crucial part of an effective winter plan. This documentation will become written evidence to prove that the LHA met its duty as a landlord to comply with the State Sanitary Code and to provide a reasonably safe environment for its tenants.

Because many “slip and fall” incidents on snow and ice now lead to litigation, your LHA will have a strong defense against legal claims when it can produce written documentation that snow operations were conducted to make the property reasonably safe for its tenants.

Documentation best practices include: a snow log and/or emergency work order that identifies the property maintained, the specific steps taken, the person who performed the work and the time the work was done. The ideal document will be simple for LHA maintenance staff working in the field to use, therefore a check-off form or log for each building is an excellent way to document snow and ice removal measures taken by the LHA. It also may be helpful to take additional steps to document completed snow operations, including taking photographs and/or video of completed snow operations and preserving photos and video of these snow removal efforts.

Additionally, it is equally important that LHAs do not overlook snow removal efforts related to emergency exits, fire escapes, hydrants and dumpster areas. LHAs should ensure these areas are cleared from snow and ice accumulation following a storm and document this work was performed.

If the LHA becomes aware of a fall causing injury on LHA property during winter months, the LHA should take immediate steps to preserve documentation showing either the fall, the area of the fall--- on the day in question, or snow clearance operations by the LHA, in that area.

EOHLC recommends that every LHA develop an internal system that documents their hard work and reflects the LHA's reasonable efforts to address snow and ice on the property. Whether an LHA chooses to use an emergency work order to document snow removal efforts or utilizes a weather log, it is important for the LHA to identify a system that can be reliably implemented in the field and can be produced in the future, in the event evidence is needed to document that snow and ice were cleared.

SAFETY

Staff should be using occupational safeguards for hearing and vision protection consistent with OSHA requirements.

Residents should be informed about basic safety tips relating to snowstorms and the risks of traveling during winter conditions.

Residents should be made aware that it is unsafe to approach any LHA staff when engaged in the operation of snow removal equipment, as the employees obstructed vision and hearing could result in injury to the resident and/or the worker.

Inform residents how to report a winter safety issue and/or work order that should be addressed and rectified.

LEGAL REFERENCES

780 CMR 1001.3.1 – Exterior stairs and fire escapes shall be kept free of snow and ice

105 CMR 410.260 (State Sanitary Code) – Safe condition: Owner shall maintain egress safe and free of snow and ice. However, independent egress and letting agreement which so states, occupant is responsible.

MGL Ch. 84 sec. 21 – 30 day snow and ice accident report law (not a defense unless owner is prejudiced by failure to report).

ADA/Fair Housing/Reasonable Accommodation Law

Public way law

Municipal sidewalk clearing ordinances.

CONCLUSION

EOHLC hopes that your LHA adopts many of the aforementioned policies and recommendations, as appropriate. We believe they will greatly improve your response and put your LHA in a position to successfully serve your residents through every storm that comes your way.

Please contact your assigned Facilities Management Specialist (FMS) for further assistance.