

Snow Removal

CLAIMS BRIEF



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Snow Removal Claims Guidelines

By Sherri Butler

Winter will arrive soon and Maryland's own *Hagerstown Almanac* predicts fifty inches of the white stuff. Unfortunately, along with the burden of snow removal responsibilities, our members face the inevitable and sometimes overwhelming snow removal claims. Most snow removal claims involve damage to fixed objects, such as mailboxes, landscaping materials, fences, and utility pedestals, located within the road right of way. No matter how careful our drivers are, some property damage during snow removal is unavoidable.

However, our members are not always legally liable for damage caused by a snowplow. Consider two claims LGIT received last year. A citizen left his car parked on the side of the roadway during a snow emergency. Because he didn't want to have to clean his car, he covered his vehicle with a white sheet. Unable to see the car, a plow struck the vehicle during snow removal and the citizen demanded that his car be repaired. A Carroll County resident made a claim because her daffodil bulbs, which were planted in the right of way, were dug up during plowing operations. Both claims were denied.

It is important to develop a legally sound policy for snow removal claims and apply the policy in a consistent and fair manner. The Claims Staff has developed the following guidelines for

determining the responsibility to pay claims related to the snow removal activities of our members. Of course, each claim must be investigated and evaluated according to the facts of the incident.

Snow Removal Claims Guidelines

Property located within the road right of way

Mailboxes

- LGIT will reimburse a citizen for the cost of replacing a standard or like kind mailbox, if the mailbox, legally placed within the road right of way, is damaged by physical contact of a snowplow or other piece of snow removal equipment.
- LGIT will not replace a mailbox damaged as a result of the weight or impact of snow and ice being moved by a snowplow, if there has been no physical contact with the mailbox by a piece of equipment.

Other Structures

Occasionally, structures other than mailboxes are placed within the right of way. Claims for damage to structures that are permitted in the right of way will be handled in the same manner as mailbox claims.

Please Route to:

Sheriff _____
Attorney _____
Police Chief _____
Clerk _____

Human Resources _____
Risk Management or Claims _____
Manager _____

- LGIT will pay the cost of repair or replacement if there has been physical contact with the structure.
- LGIT will not pay for damage caused by the movement of snow or ice.
- LGIT will not assume responsibility for damage caused to un-permitted structures located within the road right of way.

Landscaping

Property owners often plant and seed within the right of way abutting their property. During the ordinary course of removing snow, damage to this kind of landscaping will occur -- from movement of snow and ice, contact with the equipment, and from salting.

- LGIT will not reimburse a citizen for damage to landscaping and plants that have been placed within the road right of way.
- If the local government maintains the right of way, the area will be repaired and re-seeded by the local government. LGIT will not reimburse an abutting property owner for any repair or replacement work done by the property owner.

Private Property

Snow removal activities do not usually cause damage to private property located outside the right of way of the roads maintained by our members.

- Any claim that private property was damaged as a result of snow removal operations will be investigated, and liability will be determined on a case-by-case basis.

Parked Vehicles

Snow removal involves the operation of a 10-ton vehicle carrying 10 tons of salt during extreme weather conditions and under time limitations. Although our operators always attempt to operate safely, occasionally parked vehicles will be struck by snow removal equipment.

- State law prohibits a person from parking a vehicle on any highway or roadway that is designated and appropriately posted as a snow emergency route when a snow emergency has been declared and is in effect. LGIT will not pay for the repair of any vehicle, which is struck by snow removal equipment on an emergency route when a snow emergency is in effect.

Liability for other vehicles will be determined after a full investigation of the occurrence.

Salt Distribution

Salt distribution is a necessary part of snow and ice removal and is considered normal roadway hazard. Generally, salting does not damage vehicles unless the vehicle is following too closely and refuses to yield to a snow removal vehicle.

- LGIT will not pay for paint damage to a vehicle unless the member had knowledge that the salt mechanism was malfunctioning.

Citizens are more likely to accept claim denials if they know their local government has a predetermined claim policy based on sound principles. We recommend that you adopt the foregoing policy and disseminate the policy to the public prior to the snow removal season. Remind your citizens of the emergency nature of snow removal. When citizens are forewarned that there is a policy regarding snow removal claims, they will be more likely to accept the decisions that LGIT will make regarding your snow removal activities. Let it snow!!!■

This bulletin is intended to be merely informational and is not intended to be used as the basis for any compliance with federal, state or local laws, regulations or rules, nor is it intended to substitute for the advice of legal counsel.



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