



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of June 12, 2010**

**DATE:** June 7, 2010

**SUBJECT:** County Ordinance Relating to Removal of Snow and Ice from Public Sidewalks.

**C. M. RECOMMENDATION:**

Amend, reenact and recodify Chapter 27 (Miscellaneous Ordinances) of the Code of Arlington County, Virginia, by adopting the proposed ordinance (Attachment A) relating to the removal of snow from public sidewalks, to become effective upon enactment.

**ISSUES:** County Board action is needed to enact an ordinance to require removal of snow from public sidewalks and to set civil and/or criminal penalties as they relate to the new requirements.

**SUMMARY:** On March 13, 2010, when the County Board approved an emergency snow removal ordinance, the County Board also directed the County Manager to prepare "an analysis of the alternative provisions available to the Board in enacting a snow removal ordinance together with draft ordinance language for the Board's consideration." A draft ordinance was advertised for public hearing on June 12, 2010. In accordance with the Board's direction and after listening to public comments, staff is recommending approval of the ordinance contained in Attachment A and has developed a report that outlines the elements and potential impacts of the ordinance.

**BACKGROUND:** From December 19, 2009, to February 10, 2010, Arlington received approximately 54.9 inches of snow in a series of several large snowfalls. The snowfalls between February 5 and February 10 came during a period of prolonged cold weather, with new snow piling on top of each previous snow fall. Due to the cold weather the snow did not start melting until more than a week after the storm, and caused serious disruptions to normal activities. There were numerous instances of public sidewalk not being cleared for extended periods of time, resulting in dangerous situations of pedestrians walking in roadways.

Although the snow events clearly demonstrated the need for snow removal from public sidewalks, it should be noted that last winter was extraordinary in terms of amount and duration of snowfall. More typical snow deposits for Arlington fall in the four- to eight-inch range a few times per year. Normally Arlington receives about 15 inches of snow in a year, and prolonged cold weather does not occur regularly. Against this more typical backdrop, however, ensuring

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the effective and timely clearing of snow and ice remains an important objective and a snow removal ordinance is a critical vehicle for achieving this objective.

State statutes allow Arlington County to adopt a snow removal ordinance with timeframes for clearing, and penalties and abatement procedures. The City of Alexandria and Loudoun County have similar snow removal ordinances. In March 2010, the County Board enacted an emergency snow removal ordinance, effective for 60 days, and directed the Acting County Manager to develop options for a permanent snow ordinance. In April 2010, the County Board authorized advertising of a draft ordinance to begin public discussion of the appropriateness and terms of a permanent snow removal ordinance. The ordinance now recommended by the County Manager is essentially the same as the draft ordinance that was advertised. However, in response to issues that are of most concern to residents and businesses, staff has identified options for the County Board's consideration.

**DISCUSSION:** Providing safe and accessible conditions for all users of the transportation infrastructure is an overarching objective of the Master Transportation Plan. Access to employment, schools, services and other activities depends on all modes being available as soon as possible after a snow storm event. With a significant amount of rail and bus transit trips either originating or destined for the County on a typical weekday, providing clear pedestrian routes is essential to ensuring access to jobs, schools and services for all.

Snow and ice present significant challenges for safe and comfortable walking during the winter. These challenges are even greater for children, adults walking with children, seniors and people with disabilities. Additionally, not all residents of Arlington have access to a car, and rely on walking, bicycling and transit as their primary means of travel. Arlington's Master Transportation Plan takes a long term view of developing a community that is not dependent on the automobile and emphasizes the importance of walking, bicycling and transit. During the past 30 years Arlington has made great strides at becoming a world class pedestrian and transit accessible community. However, developing pedestrian friendly facilities comes with the responsibility of maintaining these facilities. Implementation Actions in the Pedestrian Element of the Master Transportation Plan recommend that the County "Consider enactment of a snow removal ordinance and enforcement mechanism for public sidewalks. With or without a snow removal ordinance, a program should be undertaken to alert property owners and occupants to clear snow from their sidewalks in a timely manner."

The 2007/2008 Household Survey indicates that over 27 % of Arlington residents use transit, walk or bicycle as their daily travel mode, and the percentages of transit, walking and bicycling use in the Rosslyn-Ballston and Jefferson Davis Corridor are as high as 41% and 44% respectively. The walking range of some pedestrians to transit stops is as far as one mile. Many of the residents in these corridors are dependent on accessing sidewalks to get to transit stops and do not have automobiles as an alternative mode of travel. Maintenance efforts should treat sidewalks and trails as equals to other transportation modes, and ensure convenient access for people of all ages and abilities.

On March 13, 2010, the Board approved an emergency ordinance, which required commercial property owners to clear snow in excess of (2) inches from sidewalks within (24) hours after the

snow ceases to fall. The ordinance had a waiver provision for persons who are over 65 years old, disabled or otherwise physically incapable of meeting the snow removal requirements. The ordinance also provided for penalties for violators. The ordinance expired in 60 days (May 12, 2010).

Staff recommends adoption of a proposed permanent ordinance that builds on the emergency ordinance and subjects all properties, residential as well as commercial, adjacent to public sidewalks, to the requirement to clear snow and ice from the sidewalks. The main elements of the proposed ordinance are discussed below.

It should be noted that if an ordinance is approved, County staff would need to complete an Implementation Plan that details how the ordinance will be administered and puts the ordinance in the context of all the other efforts needed to ensure a successful outcome. The Implementation Plan is discussed throughout this report.

**State Enabling Statute.** Section 15.2-2025 of the Code of Virginia authorizes Arlington County to adopt a snow removal ordinance. The relevant part of the statute states:

“Any county in Northern Virginia Planning District 8 may provide by ordinance reasonable criteria and requirements for the removal of accumulations of snow and ice from public sidewalks, by the owner or other person in charge of any occupied property. Such ordinance shall include reasonable time frames for compliance and reasonable exceptions for handicapped and elderly persons, and those otherwise physically incapable of meeting the reasonable criteria requirements for such removal. Civil penalties not to exceed \$100 may be imposed for violation of such ordinance.”

Additionally, Va. Code § 15.2-900 authorizes a locality to “bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any ...public nuisance.” If the Board were to make an official finding in the ordinance that all unabated accumulations of snow on public sidewalks constitute a public nuisance, then the ordinance may also contain an abatement clause. The abatement clause allows the County to remove snow from public sidewalks when such snow accumulations present an imminent and immediate threat, and to institute an action against the property owner to recover the costs incurred in such removal.

Finally, Va. Code § 15.2-2018 prohibits any person from using public property or any public easement “in a manner not permitted to the general public” without having first obtained consent from the County Board. The County may use this statute to enact subsection 27-25, which allows the County to fine persons who deposit snow from private property onto sidewalks, streets, and crosswalks. Unlike the snow removal ordinance, which imposes civil penalties, this statute imposes criminal penalties. Violation of the statute constitutes a class 4 misdemeanor, which imposes a fine up to \$250. Each day of violation is counted as a separate offense. The statute defines such unauthorized use as a nuisance, and the County may abate and charge the costs against the offender.

**Ordinance Elements.** The enabling statutes allow Arlington County to establish an ordinance that specifies which properties are subject to the requirements, what the standards are for removal in terms of amount of snowfall and time, whether there are any waivers, what the penalties are for non-compliance, and what provisions there are for County abatement and recovery of abatement costs. These elements are included in the proposed ordinance and are discussed below along with staff’s reasoning and recommendations.

1. **Base Ordinance**

**Option A. - Clearing snow from sidewalks - County-wide (recommended):** The proposed ordinance applies County-wide, to both residential and commercial property. The intent is to enable pedestrians to use sidewalks throughout the County in order to reach the commercial corridors as well as the schools, businesses and other services spread throughout the County. Staff further recommends specifying clearing a minimum width of thirty-six inches in order to accommodate strollers, wheelchairs, and a parent walking with a child in hand. The ordinance specifies a 24-hour period after snowfall has ceased for less than 6 inches and a 36-hour period for 6 inches or more. The owner, occupant or other person or entity in charge of occupied property would be held accountable. Although State statute says only “owner or other person in charge,” staff has included additional wording to clarify that the legal construction of “person” would include the occupant or other entity in charge of the property.

A County-wide snow ordinance provides an enforcement mechanism that could be applied to all properties across Arlington, raises the level of accountability, and indicates the County commitment to clearing snow from County owned properties in typical weather conditions. Heavier than normal snowfall, the presence of ice, and prolonged and extreme cold will impinge on the County’s ability to fulfill its obligation to remove snow from all sidewalks adjacent to County property.

**Option B. - Clearing snow from sidewalks - limited to commercial corridors (not recommended):** An alternative to imposing snow removal requirements County-wide is to take the approach in the Emergency Snow Removal Ordinance, which applied only to the commercial and high-density residential zones, where there are more pedestrians and more potential for pedestrian-vehicle conflicts. However, connections between the commercial and high density residential zones, and adjacent lower density and single family residential neighborhoods would not be addressed. Corridors such as Rosslyn/Ballston and Columbia Pike are linear and attract many transit riders that walk to transit stops from outside the commercial zones. A limited snow removal ordinance for commercial corridors could result in disconnected sidewalk paths to residential neighborhoods, and would not address pedestrian access along heavy trafficked arterials or access to schools. For those reasons, staff is not recommending this option.

2. **Other ordinance elements:**

a. **Restrict snow placement from private property onto County streets or sidewalks (recommended):** During snow storms numerous property owners have been observed clearing snow from private property and moving it onto County streets or sidewalks. This ordinance element would prohibit private property owners from moving snow or ice

from private property onto public streets or sidewalks. Violations of the ordinance would result in criminal penalties (as contrasted with civil penalties for failure to remove snow and ice from public sidewalks), and to reimbursement of abatement costs if the County is forced to remove the snow or ice. Staff recommends this option as important to efforts to keep public streets and sidewalks clear.

- b. **Waivers (not recommended):** Property ownership comes with responsibilities and the expectation is that property owners who cannot personally clear snow from the sidewalk would obtain the services of someone who could, or would be assisted by relatives or neighbors. The analogous situation would be the requirements under the Care of Premises ordinance to keep grass cut back and plant overgrowth controlled. The proposed ordinance states that “it shall be the duty of the owner .....to remove or cause to be removed snow or ice...” Staff believes that any owner who physically cannot himself/herself remove the snow or ice, can arrange for someone to do it for him/her. Notwithstanding the lack of an express exception in the ordinance, exceptions consistent with the state enabling authority could be included in internal enforcement policies to ensure that homeowners who could not arrange to have their sidewalk cleared and who met the exemption criteria, did not have the ordinance applied to them.

However, if the Board desires, the ordinance could include explicit exceptions for handicapped and elderly persons, and those otherwise physically incapable of meeting the requirements, as allowed by the State statute. If exceptions are allowed, policies and procedures will need to be put into place to establish qualifying criteria, require applications and supporting documentation, and enact administrative procedures to grant the exceptions. In addition measures will need to be in place for clearing the sidewalks for those persons, so that those sections of the sidewalk network do not remain uncleared.

- c. **Abatement (recommended):** The abatement provision in the ordinance allows for the County to remove the snow or ice from public sidewalks if the property owner does not remove it in the time prescribed in the ordinance under circumstances where the snow or ice presents an imminent threat to the public. Snow removal abatement would likely be accomplished by a contractor. The contractor would be responsible for clearing the violation and billing the cost, which would then be billed to the property owner. The abatement provision is conditioned upon the County Board officially finding that all unabated accumulation of snow is a public nuisance and would be subject to proof of an imminent threat to the public. This finding of a nuisance is contained within the attached ordinance. Staff recommends providing flexibility to abate conditions that meet the finding and recouping the cost.
- d. **Civil penalties:** Based on state legislation, the maximum civil penalty allowed for violation of the snow and ice removal section of the ordinance is \$100 for each snow event. Staff recommends the full \$100 penalty for all zones. Because the maximum penalty is relatively low, staff does not recommend having a lower penalty for different zones or categories of uses. However, the County Board may enact an ordinance that imposes a lesser penalty on some zones. For example, the County Board may want to impose a \$50 penalty in all “R” districts, or perhaps in low-density residential districts

(some combination of R-20, R-10, R-10T, R-8, R-6, R-5, R2-7, and R15-30T) and a \$100 penalty in all other districts.

- e. **Enforcement of ordinance:** The general intent of the enforcement efforts would be to target particular locations and situations that pose a public safety hazard. Observations of County staff as well as complaints from neighbors, pedestrians, and bicyclists are expected to be the primary ways violations would be identified. County staff will likely establish a dedicated telephone number and e-mail address to report alleged violations. In most cases, it is hoped that an initial contact by the County with the property owner in violation, where feasible, will remedy the situation. Upon report of non-compliance, enforcement officers would perform an inspection, and the property owner may receive a ticket for the civil or criminal penalty. Every attempt would be made to be reasonable in enforcing the ordinance. For example, extenuating circumstances, such as snow plowed onto sidewalks after sidewalks were initially cleared, will require judgment on the part of the enforcement officer, and complaints will be handled on case-by-case basis. It is the clear desire of the County that voluntary compliance will result in clearing most sidewalks of snow and ice, and that enforcement action will be reserved for the violations that pose a public safety hazard. In extraordinary situations, such as last winter's record-breaking snowstorms, the County Manager could suspend enforcement of the ordinance until the passage of time and changing weather conditions made compliance with the snow ordinance feasible. The County's own ability to fulfill its obligations to clear sidewalks adjacent to County property could serve as a guide to what is feasible for private owners. The Implementation Plan will detail priorities in snow emergencies, including priorities for County action and enforcement of the snow removal ordinance.

### 3. Additional Snow Related Measures

- a. **Public awareness/education program:** An enhanced Public Awareness/Education Program would be undertaken to encourage more citizens to get involved with the clearing of snow. Various media distribution networks such as newspaper, radio, television and electronic media channels would be used to get the word out about the civic responsibility of keeping the sidewalks safe for public travel. A public education program will likely produce modest improvements; however it would be a reminder to further encourage businesses and residents to clear their sidewalks. The City of Chicago, in an effort to make walking safe and convenient, developed two efforts last year to encourage sidewalk snow and ice removal. One effort was a sidewalk snow removal award for businesses and the other was the distribution of a snow removal reminder door hanger. Both of these efforts were designed to encourage businesses and residential areas to get the word out about their civic responsibility. County staff recommend developing and implementing a Public Awareness/Education Program in conjunction with the new ordinance.
- b. **Expanded snow blower loan program:** The County's Department of Parks, Recreation and Cultural Resources (PRCR) currently loans eight snow blowers to civic associations and other groups, after safety and usage training, maintaining and storing the equipment each year. The County could consider purchasing additional snow blowers for distribution to volunteers and expanding the program to include trails. To significantly

expand the number of snow blowers in the program, PRCR would likely need to arrange for volunteers to store the snow blowers, since County storage capacity is limited. Because of the cost and resource demands on staff, County staff are not recommending expansion of the snow blower program at this time. Staff will monitor the effectiveness of volunteer efforts and may decide at a later time that the investment is worthwhile. The current program will undergo further review by Risk Management and the County Attorney's Office to ensure the County's interests are fully addressed.

- c. **County efforts at clearing its own sidewalks:** The question has been asked whether the County can meet the standards being imposed on all properties in the County by approval of the ordinance. Clearly the County could not clear its own sidewalks of the extraordinary snowfall of this past winter within the 36-hour standard. Even with a typical winter snowfall, County crews would be hard pressed to meet this standard given limited resources and competing priorities to meet demands on sidewalks along State roads, bus stops and fire hydrants, and schools. Restoration of a full County crew in the FY 2011 budget will help in this effort. As part of the Implementation Plan, the County will develop priorities for clearance, deploy County resources to best achieve these priorities, and work with volunteers to expand sidewalk clearing efforts. If County efforts still fall short, staff may recommend additional or reallocated resources as part of the annual budget process.

**Ordinance Comparison.** Staff reviewed numerous jurisdictions that have ordinances or conditions that govern sidewalk snow removal. A review of neighboring Northern Virginia communities indicated the following:

- The City of Alexandria has a city-wide ordinance that requires property owners to clear the public sidewalks within 24 hours. The ordinance has a provision that assesses a civil penalty of \$50 for violations; a written notice is required prior to issuing the civil penalty. The City of Alexandria suspended the enforcement of the snow ordinance conditions during the heavy snow fall events in early February 2010. On February 19, 22 and 23 the City issued a total of 216 notices to businesses and residents in violation of the snow ordinance. The 24-hour follow-up after issuing the notice indicated that a majority of the property owners complied and cleared the sidewalks. A total of twelve (12) civil fines were issued. The Code Administration and Construction Inspection Divisions were responsible for enforcing the City snow ordinance.
- Loudoun County has a County-wide ordinance that requires property owners to clear the public sidewalk within 6 hours. The ordinance provides waivers for physical or mental disability, or for those sixty-five years of age or older, and no snow clearing is required on Sunday. Although not noted in the ordinance, Loudoun County staff indicated that they provided written notice to all reported violators, and that the follow-up compliance was very high with no fines issued. The County ordinance provides that violations constitute a Class 4 misdemeanor with a \$250 fine for each offense and each day.

- The County of Fairfax does not have a sidewalk snow removal ordinance. However, the County does provide a snow removal fact sheet and reference guide that encourages sidewalk snow removal.

**Public Outreach.** Staff engaged in a variety of techniques to get public feedback on the proposed ordinance in late April, May and early June. The core element of the public outreach was a series of listening sessions with various advisory committees, Transportation Commission, civic and community groups. In summary, the public outreach included:

- Press Release – April 24, 2010;
- Established a location on County Website to post the ordinance;
- Established an e-mail address to obtain feedback on [snow@arlingtonva.us](mailto:snow@arlingtonva.us) ;
- Established a location on Arlington County Facebook to obtain feedback;
- Issued a Media Alert;
- Produced and distributed a news article;
- Sent out e-mail to Arlington County civic and community groups detailing the proposed ordinance and identifying the time and location of the listening sessions;
- Bicycle Advisory Committee – May 3, 2010 meeting;
- Advisory Council on School Facilities and Capital Programs – May 10, 2010 meeting;
- Transit Advisory Committee – May 11, 2010 meeting;
- Public Forum – May 20, 2010;
- Business Forum – invitation to Chamber of Commerce, Businesses, BIDs and Partnerships, NAIOP, AOBA – May 21, 2010;
- Civic Federation – letter from Civic Federation;
- Transportation Commission – May 27, 2010 meeting;
- Pedestrian Advisory Committee – June 8, 2010 meeting.

The concerns heard are summarized below along with responses to the questions raised.

**Bicycle Advisory Committee - May 3, 2010**

The Bicycle Advisory Committee indicated that it supports the Snow and Ice Removal Ordinance, and plans to develop a detailed list of comments to be incorporated into the Implementation Plan. The committee would like to see the clearing of high priority trails, such as the Custis Trail, W&OD Trail and Four Mile Trail from Shirlington to National Airport. Members feel that these trails are commuter trails and should be given the same priority as clearing of sidewalks.

**Advisory Council on School Facilities and Capital Programs - May 10, 2010**

The Advisory Council on School Facilities indicated that it supports the Snow and Ice Removal Ordinance. The Council had general concerns regarding clearing routes to schools and clearing snow at school, ART and Metro bus stops.

**Transit Advisory Committee - May 11, 2010**

The Transit Advisory Committee indicated that in concept it supports the Snow and Ice Removal Ordinance, and is developing a detailed list of transit related comments that will be incorporated into the Implementation Plan. The committee had general concerns regarding clearing routes to

ART and Metro bus stops. Also, the Transit Committee was concerned about clearing bus stops, routes to bus stops and maintaining bus service during and after a snow storm.

**Public Forum – May 20, 2010**

Twenty-two people attended the public forum and most of the comments were against the snow ordinance; there was some support for an ordinance expressed. Comments centered around providing waivers for elderly, disabled and individuals away on vacation. Other comments included the County's performance during this year's snow storm, enforcement of the ordinance and the 36" snow clearing width.

**Business Forum - Chamber of Commerce, Rosslyn BID, Columbia Pike Revitalization Organization – May 21, 2010**

The Business Forum attendees supported the ordinance and were interested in establishing snow dumping locations in the major commercial corridors, and developing improved communication techniques for getting the word out about snow clearing responsibilities.

**Civic Federation –** Staff had direct contact with Civic Federation President, Mike Kerley, who confirmed that the Civic Federation has already taken a position in support of an ordinance and stands behind that position at this time. The Civic Federation developed a resolution that represents the results of their analysis and position on the sidewalk snow clearing issue. The Civic Federation's members adopted the resolution (29 to 1) in December 2007. Before adopting the resolution, Civic Federation members thoroughly discussed the nature of requiring snow removal from sidewalks. The part of the issue that took the most discussion time was the question of providing waivers. Attachment B contains the "Updated Resolution Regarding Arlington County's Snow and Ice Policy."

**Transportation Commission – May 27, 2010**

The Transportation Commission did not have a quorum but voted 4 to 1 in favor of the proposed Snow and Ice Removal Ordinance. The Commission indicated that the ordinance should include exceptions for the elderly and handicapped, that the County Manager should have the ability to suspend the enforcement of the ordinance during extreme weather conditions and additional clarity should be provided as to how County staff will enforce the ordinance.

**Pedestrian Advisory Committee – June 8, 2010 meeting**

**E-mail and Facebook**

The County received over 110 e-mails and 16 Facebook postings. The responses were generally in favor of establishing a snow ordinance.

**Comments and Concerns.** Comments and concerns from the various mechanisms have been compiled and consolidated into the following categories:

- **Re-clearing of snow on sidewalks from County or VDOT plowing.** The most common complaint heard was the frustration of people who cleared their sidewalks only to have snow plows plow snow back onto their sidewalks. To address this issue, the Implementation Plan will develop ways to coordinate County, VDOT and contractor

plowing activities with messaging to the public on when to clear sidewalks, and will investigate ways to ameliorate the unavoidable effect of snow plowing on blockage of sidewalks, trails, crosswalks and bus stops, while accomplishing the objective of plowing roadways quickly and efficiently. As written, it is the responsibility of the owner to keep clearing the sidewalk after it may be re-covered due to plowing or other events. Enforcement of the ordinance and imposition of penalties will take into account extenuating circumstances, such as snow being plowed onto already cleared sidewalks. Staff considered inserting additional language in subsection 27-24 (B) to address this issue, such as “provided, however, that if additional snow or ice is deposited on the sidewalk as a result of governmental action after the cessation of snowfall, such snow or ice shall be removed by the property owner, occupant or other person or entity in charge to maintain the required clearance, within XX hours of such additional deposit.” However, staff concluded that it may be difficult to determine when the additional snow was deposited on a particular sidewalk (and in some cases whether by governmental or private action) and enforcement staff would be required to track subsequent/multiple time periods. Because ultimately the premise of the ordinance is owner responsibility for clearing sidewalks – even multiple times – staff recommends that the County depend on enforcement discretion to deal with this issue.

- **Is Arlington County going to be held to the same sidewalk snow clearing standard?** The County is responsible for maintaining more than 206,000 linear feet (about 39 miles) of sidewalk, including more than 51,000 linear feet next to public facilities, more than 100,000 linear feet next to parks, and about 54,000 linear feet next to public schools. County Staff will prioritize sidewalk clearing efforts in the Implementation Plan, and develop appropriate strategies to deal with clearing sidewalks around County properties relative to priorities for non-County properties (such as State roads, bridges, fire hydrants and bus stops), the timing of the clearing and various snow volume scenarios. Staff considered additional wording added to the ordinance exempting the County from this ordinance, but recommends against it.
- **Will the County provide waivers for the elderly, individuals with disabilities or individuals away from home?** The recommended snow ordinance does not provide waivers. The Implementation Plan will lay out a number of ways to encourage and organize volunteers to assist elderly persons, individuals with disabilities, and people away from home. Staff will also investigate ways to connect people for hire with those who need assistance. Staff recommends no waivers in the ordinance, based on the fundamental premise that owners are *responsible for ensuring* that public sidewalks adjacent to their properties are cleared. As stated above, enforcement policies will ensure that homeowners who meet criteria consistent with the exceptions in the state enabling authority are not cited for ordinance violations provided that they have taken reasonable steps to arrange help in clearing their sidewalks and failed. If the County Board prefers express waivers in the ordinance, wording could be added as additional point (E) under subsection 27-24. Staff suggests: *“Any occupant, owner or other person in charge of a property who is prevented from fulfilling the requirements of subsections (A) and (B) because such individual is handicapped, otherwise physically incapable of meeting the criteria and requirements for such removal, or is sixty-five years of age or older is*

*exempt, provided that said occupant, owner or other person in charge has made reasonable efforts to undertake alternative means for fulfilling said requirements.”*

- **What is the length of time to clear snow above 12”?** Some persons suggested a different standard for snowfalls considerably higher than 12 inches. For extreme conditions, such as those experienced last winter, staff considered adding language to subsection 27-24 (B) explicitly authorizing the County Manager to suspend the ordinance in extreme situations (such as the declaration of a snow or ice emergency). However, under the proposed ordinance, the County Manager already has the authority to not impose penalties, so changes to the ordinance are not necessary. The Implementation Plan will discuss how the County will deal with extreme weather emergencies, including suspending enforcement of portions of the ordinance.
- **Three (3) foot wide path seems excessive (or not wide enough).** Some persons wanted a lesser width required for clearing in residential areas, or the lesser of three feet and actual sidewalk width, or the greater of three feet and a percentage of width of wider sidewalks present in commercial areas. A narrower path might accommodate a single individual; however, a three foot wide clear path is intended to accommodate a range of users that might need a little more room to maneuver, such as wheel chair users or a parent pushing a stroller or walking with a small child. Staff continue to recommend the three-foot minimum to express this intent. Enforcement will consider actual constraints, such as a sidewalk width of less than three feet or other physical barriers that prevent achieving a three-foot width. If the County Board prefers, this measurement could be adjusted by reducing the width or eliminating this requirement from the wording in subsection 27-24 (A) of the proposed ordinance. Many ordinances in other jurisdictions do not specify a particular width. Eliminating the specified width would give discretion to the enforcement agent to decide what constitutes compliance.

Some persons commented that the three-foot width was not wide enough in heavily trafficked commercial areas, and suggested requiring clearing greater widths in zoning categories other than “R” or where the sidewalk is wider than six feet. Increasing the width would be beyond the scope of what was advertised. If the County Board would like to consider requiring a wider width in some circumstances, we would need to re-advertise the ordinance language.

- **Do corner property owners need to clear the front and side sidewalk areas?** The ordinance requires that “property in the County which is adjacent to any public sidewalk to remove or cause to be removed snow or ice”. The ordinance does not distinguish the need to clear sidewalks on one street versus another and staff does not recommend such a distinction.
- **Establish priority/emergency sidewalk network that the County is responsible for keeping clear.** The County does not have an emergency sidewalk network, but does have priority sidewalk areas and routes. The routes will be included and expanded in the Implementation Plan. Staff does not recommend additional language be added to the ordinance to address this issue.

- **How does the County plan to expand the snow blower program?** The County Manager does not recommend expanding the snow blower program at this time. The Implementation Plan will incorporate the current snow blower program, develop additional ways to build volunteer efforts, and will look at whether an expansion of the snow blower program may be justified in the future.
- **How can the County facilitate neighbors helping neighbors?** The County intends to work with civic associations and other volunteer organizations in developing volunteer snow clearing groups. The snow clearing groups could be trained and educated to prepare themselves, their families, and neighborhoods in case of snow related events. The program would bring together local community leaders and neighborhood volunteers to increase community involvement, help persons who are elderly or handicapped, and be prepared to respond to snow events.
- **Should the County be promoting alternatives to sand and other substances?** A concern expressed was that by requiring the use of snow and ice melting substances the County could unintentionally be creating an environmental concern. Staff considered different wording but deciding against requiring specific substances. If the County Board wanted to address this issue, it could modify the end of subsection 27-24 (A) to read, “...shall apply proper substances or take such other measures so that such sidewalk shall be safe for public travel.”
- **Would the County designate any snow storage areas?** The staff heard this suggestion at the business listening session and would consider this option as part of the Implementation Plan, but is not prepared to specify this option in the ordinance. If the County Board wanted to address this issue it could add to subsection 27-25 (A) an exception for County identified snow storage areas.
- **Would the County fine someone who was away during a snow storm?** The proposed wording applies to any occupied property and does not address times when the occupant is away. Staff feels that an exception should not be made for times when the occupant is away for the same reason staff is not recommending waivers. Such circumstances likely will be addressed by a discretionary determination whether to enforce the ordinance.

**Implementation Plan.** If the County Board enacts the Snow and Ice Removal Ordinance, the County Manager will develop a comprehensive Snow and Ice Removal Implementation Plan. The Implementation Plan will be divided into four major sections: Communications, County Responsibilities, Schools and Volunteers. The Plan will include Administrative Regulations that set policies and major procedural requirements for all departments, priorities for deployment of County resources, public awareness and education, enforcement, abatement, volunteer engagement, and resources needed. The Plan would be completed and put into place prior to the next winter season.

**FISCAL IMPACT:** The fiscal impacts cannot be known with any preciseness until the Implementation Plan is completed. There are likely to be fiscal impacts in the following areas:

1) **Additional snow clearing for County properties** – To the extent that enhanced efforts are desired to meet the County’s obligations to clear its own sidewalks and meet other pedestrian priorities, additional equipment, staffing or contract resources may be needed. Staff will be looking at the baseline standards for resources that are in keeping with weather conditions and probability of levels of snowfall. These issues will be identified in the Implementation Plan.

2) **Contract snow clearing services for abatement** – The cost for abatement will be recovered from property owners. There are likely to be additional costs for administration of recovery efforts.

3) **County enforcement staff** – Additional staffing will be needed to carry out enforcement of the ordinance, both of the civil penalties and the criminal penalties. The County is likely to deploy existing County employees and costs would be incurred for overtime, training, and support. The level of deployment and the costs will be developed as part of the Implementation Plan.

4) **Additional public education and outreach** – There will need to be an initial first year public education campaign that may cost in the range of \$10,000 to \$25,000. Ongoing efforts will be needed to target problem areas in succeeding years.

## ATTACHMENT A

### **AN ORDINANCE TO AMEND, REENACT AND RECODIFY CHAPTER 27 (MISCELLANEOUS ORDINANCES) OF THE CODE OF ARLINGTON COUNTY, VIRGINIA, RELATING TO THE REMOVAL OF SNOW AND ICE FROM PUBLIC SIDEWALKS, TO BECOME EFFECTIVE UPON ENACTMENT.**

**BE IT ORDAINED** by the County Board of Arlington County, Virginia, that Chapter 27 (Miscellaneous Ordinances) of the Arlington County Code is amended, reenacted, and recodified, to read in pertinent part, as follows:

#### **§ 27-24. Snow and ice removal**

The County Board of Arlington County hereby finds that the unabated accumulation of snow and ice on public property threatens the public health, safety and welfare of the community, and constitutes a public nuisance unless abated in accordance with the requirements of this Section.

- (A) It shall be the duty of the owner, occupant or other person or entity in charge of any occupied property in the County which is adjacent to any public sidewalk to remove or cause to be removed snow or ice from such sidewalk, a minimum of thirty-six inches wide, including any adjacent curb-cut, and if the same cannot be wholly removed, shall apply thereon sand or other proper substance so that such sidewalk shall be safe for public travel.
- (B) Snow or ice below six (6) inches shall be removed within twenty-four (24) hours, and six (6) inches or above shall be removed within thirty-six (36) hours of the cessation of such snow fall or freezing. (Snowfall as measured by the National Oceanic and Atmospheric Administration at National Airport)
- (C) Any person who violates subsection A and B may be assessed a civil penalty of one hundred dollars (\$100).
- (D) Notwithstanding the assessment of a penalty under subsection C, the County may remove any snow or ice which has not been removed pursuant to subsections A and B, and recover abatement costs against the property owner or other person or entity in charge of maintenance of the property, in addition to issuance of penalties under subsection C.

#### **§ 27-25. Deposit of snow and ice on streets or sidewalks**

The County Board of Arlington County hereby finds that the unabated accumulation of snow and ice on public property threatens the public health, safety and welfare of the community, and constitute a public nuisance unless abated in accordance with the requirements of this Article.

- (A) No person shall plow, shovel or blow any snow or ice from private property onto a public street, crosswalk, transit stop, sidewalk or any public property.

- (B) Any person convicted of violating this section shall be guilty of a class 4 misdemeanor. Every day's continuance of the violation shall be deemed a separate offense.
- (C) Notwithstanding subsection B, the County may remove any snow or ice which has been moved into the public right-of-way pursuant to subsection A, and recover abatement costs against the owner or other person or entity in charge of maintenance of the property, in addition to the criminal penalty under subsection B.

Attachment B



December 7, 2007

Arlington County Board  
Arlington County, Virginia  
#1 Courthouse Plaza, Suite 300  
2100 Clarendon Boulevard  
Arlington, VA 22201

Honorable Paul Ferguson, Chairman

**Subject: Updated Resolution Regarding Arlington County's Snow and Ice Policy**

Dear Paul:

At the Federation's meeting of December 4, 2007, our delegates approved the attached resolution calling on the County Board to enact and enforce an amendment to the zoning ordinance that would require property owners to promptly clear snow and ice from public sidewalks adjacent to their properties. The resolution also calls upon the County to adopt policies that would ensure that frequently used sidewalks and bike paths on County property are similarly cleared. The resolution passed by a vote of 29-1.

The resolution reaffirms a similar resolution approved by the Federation seven years ago to the day, on December 4, 2000 (also attached and incorporated by reference to the updated resolution). The preamble to the resolution notes that Alexandria and Fairfax County have snow removal ordinances in place, as do communities in snow areas throughout the country. It particularly notes the danger that snow and ice pose for the disabled and the elderly in our community, as well as for children who walk to school. However, the resolution recognizes that not all residents have the ability to shovel snow and ice, and calls upon the County to exempt residents who are physically unable to do so, for health and other reasons, and also to exempt homeowners when they are out of town.

As always, we appreciate the Board's consideration of our views, resolutions and positions. Please feel free to contact me via telephone at: 703-525-8921, or via email at; [larrymayer@civfed.org](mailto:larrymayer@civfed.org).

Sincerely,

*Larry Mayer*

Updated Resolution Regarding Arlington County's Snow and Ice Policy  
December 7, 2007

Page 2

Lawrence R. Mayer  
President, Arlington County Civic Federation  
3108 4<sup>th</sup> Street North  
Arlington, VA 22201-1614

Attachments: Updated Resolution Regarding Arlington County's Snow and Ice Policy  
(Passed December 4, 2007)  
Original Resolution Regarding Arlington County's Snow and Ice Policy  
(Passed December 4, 2000)

CC: Ron Carlee, County Manager  
Mike Kerley, Chair – Public Services Committee  
Jerry Auten, Chair – ACCF Transportation Committee  
Bill Gearhart and Martha Moore – Co-Chairs, ACCF Planning and Zoning  
Committee

**Updated Resolution Regarding Arlington County's Snow and Ice Policy  
(Passed December 4, 2007)**

**Whereas** the Arlington county Civic Federation passed a "Resolution Regarding Arlington County's Snow and Ice Policy" on December 4, 2000 (see below), which calls upon the County to adopt and enforce an ordinance that requires owners or tenants of private property to promptly clear sidewalks in the public right of way of snow and ice, and also calls upon the County to take the necessary actions that will ensure that County streets and sidewalks and trails on public property are promptly cleared of snow and ice;

**Whereas** no action was taken by the County pursuant to the Federation's Resolution of December 4, 2000, purportedly due to perceived difficulties in enforcing an ordinance and in removing snow and ice from public properties;

**Whereas** neighboring communities and communities throughout the country have adopted and enforce ordinances that require commercial and residential property owners and tenants to remove snow and ice, and also have implemented policies that ensure that snow and ice are promptly removed from public streets and sidewalks and trails on public property;

**Whereas** snow and ice on sidewalks and streets pose a serious danger to the health and safety of pedestrians and motorists, particularly the elderly and those with disabilities; and

**Whereas** the County's increased emphasis since 2000 on alternative transportation and on "safe routes" to school for children make the adoption of an appropriate ordinance and policies all the more urgent;

**THEREFORE BE IT RESOLVED** that the Arlington County Civic Federation reaffirms its resolution of December 4, 2000, and calls upon the Arlington County Board to promptly:

- (a) Adopt a snow and ice removal ordinance and take the necessary actions that will ensure that the ordinance is enforced, and
- (b) Allow for exceptions for residents who are physically unable, and
- (c) Take the necessary actions that will ensure that County streets and sidewalks on public property, including frequently used bike and pedestrian trails, are promptly cleared of snow and ice.

**Original Resolution Regarding Arlington County's Snow and Ice Policy  
(Passed December 4, 2000)**

**Whereas** unsafe walking conditions, sometimes lasting weeks, exist in the county following periods of snowfall forcing persons to walk in the street, drive, or remain snowbound,

**Whereas** the county encourages citizens to walk or use transit when weather conditions make driving dangerous or difficult,

**Whereas** current road clearing methods often push snow onto sidewalks, bus stops, and crosswalks,

**Whereas** many county trails which are used for transportation (e.g., walking to school or Metro), not just recreation, and walkways over bridges, which serve as crucial pedestrian connectors, are left uncleared,

**Whereas** Arlington, unlike other local jurisdictions such as the Cities of Falls Church and Alexandria, does not require property owners to clear snow and ice from sidewalks adjacent to their property,

**Therefore**, the Civic Federation resolves that,

Arlington should enable citizens to walk or use transit when weather conditions make driving dangerous or difficult by:

- Enacting a snow ordinance requiring all property owners (business and residential) to clear snow and ice from sidewalks adjacent to their property within a reasonable period of time following snowfall, with an exemption, as permitted by the state, for those persons physically and financially unable to clear snow and ice; and
- Setting an example by effectively clearing snow and ice from the walkways of county facilities including police and fire stations, county offices, and schools; and
- Clearing snow from high-priority trails, walkways, and bridges used by pedestrians, bicyclists and others for transportation; and
- Improving roadway snow clearance by using methods which will not block sidewalks, crosswalks, and bus stops and considering long term solutions such as designing sidewalks with planting strips wide enough to store snow cleared from roads.