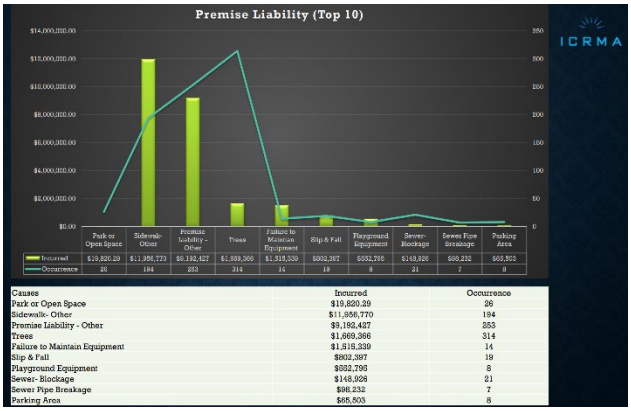
Risk Safety Bulletin
August 2024
Streets and Sidewalks – Keeping Your Community Safe

Tough economic times and tight city budgets require cities to think "outside the box," especially when they develop plans and procedures for inspecting, maintaining, and repairing streets and sidewalks.



Causes	Incurred	Occurrence
Park or Open Space	$19,820.29	26
Sidewalk- Other	$11,956,770	194
Premise Liability - Other	$9,192,427	253
Trees	$1,669,366	314
Failure to Maintain Equipment	$1,515,339	14
Slip & Fall	$802,397	19
Playground Equipment	$832,799	8
Sewer- Blockage	$148,929	21
Sewer Pipe Breakage	$98,232	7
Parking Area	$85,803	8

Every city employee who observes potentially dangerous street or sidewalk conditions should be empowered and encouraged to report those conditions. When a city can choose where work is to be done or utility structures are to be located, pedestrian safety should be a consideration. When the city becomes aware of hazardous situations, it should take reasonable steps to warn pedestrians or to eliminate the hazard.

Frequently, cities receive claims because they are unaware of what they own and what they are responsible for maintaining. Cities can decrease their liability exposure by increasing their awareness of pedestrian, bicycle, and motor vehicle traffic patterns and volumes. Cities need to pay special attention to transition zones, i.e., the transition of a sidewalk to a handicap access ramp, crosswalks, and city parking lots.

Cities have decided to use decorative or non-traditional surfaces for some of their sidewalks. Special surfaces may require unusual care. Cities also need to be aware of utility boxes, guy wires, light poles, tree grates, newspaper boxes, benches, and other structures located within their right of way and on public sidewalks. If not properly located and maintained, any structure located on the sidewalk can cause problems for people using streets and sidewalks. Streets and sidewalks under construction also present areas of special concern, especially if the street or sidewalk remains in use during construction.

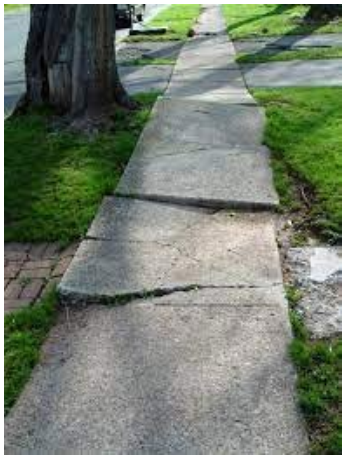
Most importantly, a city should adopt a policy for street and sidewalk maintenance, inspection, and repair and follow their policy. ICRMA has a sample policy and checklist on the ICRMA web site.

Have established repair criteria.

All requests for street and sidewalk work should be reported to the same department or same person. If the city does not have a central repository for gathering street and sidewalk condition complaints it is too easy for records to get misplaced or lost. The lost or missing documents can be problematic during the defense of a claim.

Cities should also be especially aware of potholes in streets that may form because of winter water line breaks or repairs. Observations of street and sidewalk conditions made by police, fire, and others should be forwarded to the Public Works Department or the receiving entity for the city.

Make good choices about where to locate structures and do work:



Water shutoff valves should be in the street rather than the sidewalk or pedestrian crossings. Storm sewer grates should not be in the crosswalk if other locations are feasible. If a storm sewer grate is located within a crosswalk both it and the pavement around it must be carefully maintained and the storm sewer grate should be appropriately marked.

Although the legal standard is "reasonableness," reasonable condition for a sidewalk as compared to reasonable condition for a boulevard are different. Sidewalks are expected to be more pothole and defect free than boulevards or city streets.

Inspect and repair defective sidewalks in a timely manner:

There is no duty to warn of a condition that is not hazardous. If, after a complaint is received, inspection reveals that a condition does not meet the city's criteria for warning, correction, or repair, the city's records should indicate an inspection occurred, and the record should document the nature and extent of the condition observed and the condition does not meet the city's established criteria for replacement or repair.

Spray paint can sometimes be used to temporarily mark hazardous conditions. If an area is spray-painted in response to an accident or complaint, photos and measurements of the existing condition should be made before spray painting occurs. Spray painting is only good temporarily (usually one season or less). It works best when bright colors are used, and the marking is touched up as needed.

Signs, type two-barricades, and cones used to mark dangerous conditions must be inspected regularly (weekly). The city should also determine whether the sidewalk or street is in such bad condition that it needs to be temporarily closed. Barricades and cones present additional problems because they are frequently moved or stolen and can create additional hazards to pedestrians.

Know what you own:

Cities need to keep track of recent property acquisitions. Vacant city owned lots where parking is allowed, and tax forfeit properties may contain sidewalks the city is (but did not realize they were) responsible for maintaining.

Cities should also be aware of conditions on their own buildings that may adversely affect sidewalk conditions, down spouts from publicly owned buildings that cause water to flow across the sidewalk or in an alley way used by pedestrians are areas of concern.

Know where people walk:

Cities should focus their efforts on high pedestrian traffic areas, and areas that abut city owned buildings and parking lots. As a practical matter, this means the downtown business district and areas near schools, senior citizen centers, apartment complexes, and small commercial areas (especially if they include a grocery or convenience store, drug store, post office, etc.) are areas that may warrant more frequent inspection or attention than other areas of the city.

Cities should also pay attention to alleyways that are used as sidewalks to access businesses. In many cities the back-door alley entrance of a business is used almost as often as its front door. Alleyways present special concerns because of the possible buildup of ice and snow, location of dumpsters, boxes, and debris. In addition, most alleys are built within an "invert" to allow drainage to the middle of the alley; this may increase the buildup of ice during the winter and potentially decrease pedestrian safety.

Cities must also be concerned about crosswalks and the location of utility structures and potholes in crosswalks. If the crosswalk crosses a state highway or county road, the state or county may be responsible for maintaining the road surface; however, there are frequently state/city or county/city agreements that make the city responsible for crosswalk maintenance and pavement markings. Cities need to be aware of all such agreements and follow them. It is common for these agreements to be in place for an extended period of time and for the city to be unaware that it has assumed, by contract, responsibility for maintaining the surface of someone else's road.

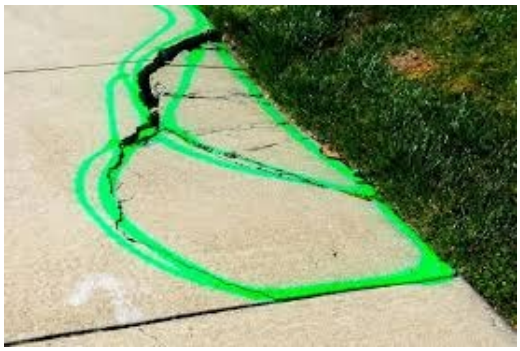
Transition zones:

The transition of the sidewalk to a handicap access ramp creates a slope that can cause problems, as frequently there are differences in elevation and sometimes changes in surface from a standard concrete to an exposed aggregate concrete. Cracks or deterioration that appear in a handicap access ramp may present greater liability exposure for the city than similar conditions in other areas. Handicap access ramps should be maintained in a manner so that ADA standards for wheelchair accessibility are maintained.

Other transition areas of concern, a transition of a curb or gutter of the street and the transition of a sidewalk to a building entry or private sidewalk. When streets are being repaved, there is sometimes a difference in elevation between the gutter and the pavement before the final "wear course" is applied. The difference in elevation between a concrete gutter and asphalt pavement can, over time, create a tripping hazard especially in crosswalk areas.

Take particular care of special surfaces:

For aesthetics and other political, social, and public policy reasons, cities sometimes want to have decorative surfaces for sidewalks such as boardwalks, paver bricks, exposed aggregate (this is of particular concern when using river washed gravel), and sidewalks constructed of a combination of concrete and brick.



Paver bricks can cause problems because the surface of the sidewalk can sometimes be quite uneven depending on the time of year and the amount of moisture in the sand underneath the bricks. In addition, the transition between paver bricks, water shutoff valves, and other structures located in the sidewalk can, at times, cause tripping hazards. Cities use a sidewalk constructed of a decorative concrete and brick pattern. These can cause problems because the concrete and brick "contract" with the heat and cold at different rates causing deterioration of the brick surface, particularly in the area where the brick and the concrete meet.

Be aware of what else is on the sidewalk:

Cities need to be concerned about everything located within their right of way and on their sidewalks. This would include utility boxes, guy wires, light poles, hanging planters, tree grates, newspaper boxes, benches, bus shelters, and any other item constructed on the sidewalk.

Guy wires are of concern. Guy wires should be marked with a "guy guard." Guy guards are made of bright yellow plastic and make the guy wire less dangerous and more visible.

Be aware of conditions when streets and sidewalks are under construction:

When the streets and sidewalks are "under construction" they must either be closed or very carefully marked. If the sidewalk is closed, a sensible and safe alternative route should be provided. It is also important to provide residents and others with advance notice. Tell them what will happen with respect to sidewalk and street construction and when it will happen. This way they will not be "surprised" when work commences.

Sometimes cities decide that a sidewalk will remain open during construction. If, however, construction changes in a way that it increases potential danger to pedestrians, the cities may sometimes need to depart from their original plan and either close the sidewalk (providing alternative access to businesses) or modify the construction schedule to allow access during construction.

Do something:

Cities should follow their policies for sidewalk inspection and repair. In the policy, cities should define what conditions are defective and establish a schedule or program for replacement or repair. If the city cannot follow its policy, a city must state why it must depart from policy guidelines (i.e., lack of funds, resources, harsh weather, other emergencies, etc.).

It is also important for cities to follow up on all complaints. Good record keeping is necessary. If the city loses the complaint or record, the city still has notice.

In responding to a complaint or record, it is important to do what you can and explain why you cannot do more or do it sooner if a more comprehensive repair will be delayed. It is also important that cities not make a "knee jerk" reaction to every complaint.

After a complaint is received, the city should first look at the complaint area and the city's policy, inspect the sidewalk, and then decide what to do and when to do it. If necessary, a city can always reprioritize its repair or replacement schedule. Multiple falls or complaints about the same area may require a city to place a sidewalk or street higher on the schedule for replacement, attention, or repair.

Best practices to consider:

- Develop and implement a comprehensive sidewalk inspection and maintenance program, which includes routine sidewalk inspections.
- Utilize Code Enforcement and/or your agency's attorney to advise and enforce the provisions of Street and Highways Code Section 5610 when a landowner is not maintaining a sidewalk in a non-dangerous condition.
- Enact an ordinance based on Streets and Highways Code Section 5610

- Consistently enforce your sidewalk repair ordinance

This bulletin does not address potential liability for public entities as to defective or reduced-size sidewalks under the Americans With Disabilities Act or applicable disability access laws. Special attention should be made to ensure this temporary process does not violate existing codes and regulations.

ICRMA offers a training for city staff on the management, inspection, and evidence collection post a claim. If you are interested, contact Robert May, Director of Loss Control, to schedule a training course.