

Sidewalks: more than just the cost to repair

By Tanya Crites

As cities/towns age, existing sidewalks deteriorate. As street trees grow, roots raise and damage sidewalk surfaces. Damaged sidewalks contribute to pedestrian falls, which result in liability claims against municipalities. Claims filed against a municipality result in higher liability coverage costs to the agency. WCIA member agencies can prevent or reduce the frequency and severity of sidewalk fall claims by focusing on sidewalk risk management, which in turn, can reduce costs.

Many WCIA members have ordinances requiring property owners to maintain sidewalks abutting their property. Once the member has notice of a damaged sidewalk, a letter or notice is typically sent to the abutting property owner asking them to make repairs. If the abutting property owner does not make repairs, the damaged sidewalk remains unless the agency itself makes the repairs. Many of these sidewalk code provisions require enforcement by the city/town council to force the abutting property owner to comply and repair the sidewalk. Many councils are not willing to take that action against citizens, resulting in sidewalks that are not repaired.

In Washington state, municipalities have a non-delegable duty to maintain sidewalks in a reasonably safe condition for pedestrians exercising due care for their own safety. The courts in Washington have placed sidewalk maintenance duties squarely on the municipality. Once a municipality has notice of a hazardous sidewalk condition, it must mitigate the hazard in a reasonable period of time.

Sidewalk Risk Management Recommendations

Develop and implement a sidewalk inspection or survey program. The program should include objective evaluation/rating criteria, e.g., a point system, to be used for a prioritized repair schedule. It is helpful to note the cause of the damage, if it is obvious (i.e., tree roots, vehicle damage). This program should be on-going, and areas of concern re-prioritized as needed. If the agency does not have the resources to implement an inspection program, develop a procedure for sidewalk inspection once on notice of a hazard.

Maintenance program. Develop a maintenance program for damaged or hazardous sidewalks. This could include, but certainly is not limited to, using white spray paint (or another non-locate color that stands out) on the damaged portion of the sidewalk for areas that need to be repaired/replaced but are not high on the priority list; using a sidewalk grinder or other mitigation tools (shimming or ramping) for areas that do not warrant complete sidewalk replacement; and, sidewalk replacement for those badly or extensively damaged areas.

Responding to complaints. Citizens can be your eyes and ears. When receiving a citizen complaint about a sidewalk condition, inspect the area within a reasonable period of time. Take photos of the sidewalk to document the damage reported, and even take a photo if no damage is evident at the address given. Create a work order, if warranted, and document what repairs, if any, were made.

Documentation. Whether the agency uses a software program or paper, documentation, and retention of documents of sidewalk inspections, maintenance, complaints, emergency repairs, work orders, etc., is how the municipality proves it has met the duty of maintaining its sidewalks in a reasonably safe condition. ALL documentation should include date and time, agency staff involved in the actions taken (inspection, maintenance, emergency repairs, etc.), and a description of what was done.

Every agency handles sidewalk inspection and maintenance a little differently. Some agencies have pro-active inspections and a formal priority-based maintenance program. Some react to citizen or other complaints. What is important is to have a formalized program which is followed consistently by staff who have been trained.

WCIA offers a Sidewalk Tool Kit to our members. The tool kit contains our Liability Resource Manual guidelines and sample documents, including sidewalk inspection forms. It also contains resources and sample documents from WCIA members. The Sidewalk Tool Kit can be found on the [WCIA website](#) in the Liability Resource Manual section under *Additional Resources*.

The WCIA Risk Management Representatives are always available to assist members with questions.