

Sidewalk liability – property owner responsibility

Introduction

Property owners are responsible for the sidewalks that adjoin their premises. A person who is injured due to a hazardous condition of the sidewalk can seek recovery for their damages from the property owner. The following information highlights the common hazards and risk control measures needed to reduce accidents and the resulting injuries.

Develop an action plan

Property owners with public sidewalks need to assess the condition of the walking surface, handrails, changes in level and affect of adverse weather. Planned inspection, repair and maintenance are a function of good property management as well as risk control. A sample sidewalk safety checklist is included at the end of this bulletin. It refers to many of the most common sidewalk safety hazards. When a property owner becomes aware of a condition that needs improvement, he or she should develop an action plan to correct that condition. This may mean removal and re-laying of a section of the sidewalk, installing handrails, resurfacing a slick surface, arranging for more frequent snow removal, or rerouting pedestrian traffic flow.

In many municipalities, if a property owner is cited by municipality's inspectors for an unsafe sidewalk, they will be given a reasonable amount of time to correct the condition. If the owner does not respond, the municipality may arrange for a contractor to make the repair and bill the property owner for the repair. Accidents that occur after such a citation may be difficult to defend since the hazard is known and is a matter of public record.

How to develop an action plan

A municipality may have a list of contractors that they have approved for sidewalk repairs, but the property owner usually has the option to select their own contractor, as long as the work meets the requirements of the municipality.

Jurisdiction considerations

Each municipality has its own ordinances or codes dealing with the maintenance of safe sidewalks, installation of handrails and guardrails, and snow removal. Each property owner should know the requirements of the municipality in which they own and manage property. Likewise states and counties may have statutory and/or case laws that establish or influence the level of care or specific activities associated with sidewalks. Some duty of care is typically owed even to protect trespassers on property. Consulting an attorney and municipal authorities can help you better understand your rights and obligations and make the appropriate decisions to protect people on your property and therefore yourself.

Creating awareness

Property managers and facility maintenance staff must understand the hazards associated with the public use of sidewalks on or adjoining the building's premises. Being involved in the on-site sidewalk safety inspection and the development of action plans to correct problems is an excellent way to prepare property level managers with the responsibility of owning and managing a commercial property. The review of tenant complaints and any city inspection is also a learning opportunity for all staff members.

Conclusion

The control of sidewalk safety hazards is a high payback opportunity for a commercial property owner or operator. Slip, trips and falls are a major source of premises liability claims. It is a key opportunity to reduce a large source of liability claims. Efforts to control this exposure will help reduce the potential for injury.

Note: A Sample Sidewalk Safety Checklist begins on the following page.

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Sample Sidewalk Safety Checklist

Location: _____

Street Address/Block: _____

Surveyed by: _____

Date: _____ **Time:** _____ **AM/PM**

| Hazards to Check | OK | N/A | Fix | Comments/Action plan |
|--|----|-----|-----|----------------------|
| Good drainage, away from entrances and walkways. | | | | |
| No door stops or projections sticking up out of sidewalk. | | | | |
| Walking surface free of depressions, holes, grates, edges and drop offs (not greater than ¼ inch). | | | | |
| Walking area free of manhole covers, drain clean outs raised edges, cracks (½ inch wide). | | | | |
| Cellar/vault doors do not deflect more than 1 inch, surface is slip resistant. | | | | |
| Walking surface not slippery. | | | | |
| Warning signs where needed Safety yellow highlights edges and changes in level. | | | | |
| Signs do not block walks or vision. | | | | |
| Curb and sidewalk joint is even (not greater than ¼ inch difference). | | | | |
| Hand and guardrails at level changes. | | | | |
| Good visual contrast at sidewalk ends, curbs and level changes. | | | | |
| Wheel stops and speed bumps are used only where necessary, and they are high visual contrast. | | | | |
| Down spouts and rain gutters do not cause wet or icy walks. | | | | |
| Foot traffic is routed away from immovable or temporary hazards. | | | | |
| Snow removed promptly. | | | | |
| Algae or slime, wet conditions? | | | | |