

City of Dayton

Americans with Disabilities Act

Transition Plan for the Right of Way

July 2023



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Introduction

Transition Plan Need and Purpose

The Americans with Disabilities Act (ADA), enacted on July 26, 1990, is a civil rights law prohibiting discrimination against individuals on the basis of disability. ADA consists of five titles outlining protections in the following areas:

1. Employment
2. State and local government services
3. Public accommodations
4. Telecommunications
5. Miscellaneous provisions

Title II of ADA pertains to the programs, activities and services public entities provide. As a provider of public services and programs, the City of Dayton (City) must comply with this section of the ADA Act as it specifically applies to public service agencies. Title II of ADA Act provides that, "...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."¹

Subject to Title II of ADA, the City of Dayton has conducted a self-evaluation of its facilities and developed a transition plan to outline strategies to achieve compliance. The ADA Transition Plan (Plan) outlines policies and procedures for both the City to maintain compliance, and for community members to have a dialogue about accessibility issues. The City's Plan provides a better understanding of the assets within Dayton and will help guide the City's prioritization of ADA investment.

Additionally, progress on the Plan will ensure that the City maintains eligibility for State and Federal funding to support transportation projects.

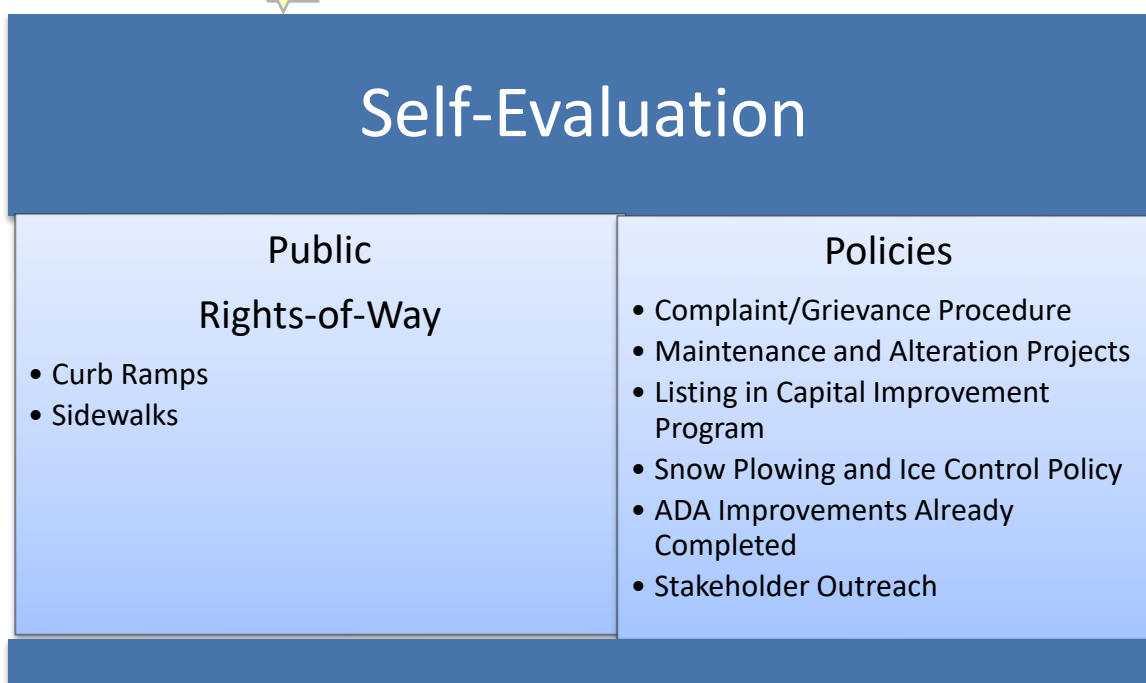
This transition plan and its implementation are overseen by the City of Dayton Department of Public Works and are specific to the maintenance, construction, and rehabilitation of public rights-of way, under its jurisdiction. The other areas of protection under ADA that are under the auspices of other city departments or government agencies, and they will coordinate as necessary with City of Dayton Department of Public Works as necessary to achieve compliance. Interagency coordination is outlined in the improvement schedule later in this document.

¹ ([42 USC. Sec. 12132](#); [28 CFR. Sec. 35.130](#))

Self-Evaluation

A key activity in developing the Plan is the self-evaluation. The self-evaluation inventories barriers in programs and activities that prevent persons with disabilities from reasonable access. The city began its evaluation of curb ramps and sidewalks in Spring 2022. This plan document pertains to public rights-of-way as well as policies. Other infrastructure elements will be incorporated into stand-alone documents or in future updates to this one. The City's Consultant (SRF) worked with City staff to provide professional services in completing the self-evaluation process. This consists of a field review of infrastructure and facilities alongside a review of policies and programs as shown in Figure 1.

Figure 1. Self-Evaluation Components



The self-evaluation provides an inventory of ADA compliance gaps and allows the City to catalog and prioritize future improvements. Programs and facilities are inventoried in an interactive, dynamic geographic database that will be delivered to the City for continuous monitoring and updates.

Plan Elements

The plan document is developed based on the outcome of the self-evaluation. In addition to the compliance assessment and progress report that the self-evaluation provides, several core elements will be incorporated into the Plan for public right-of-way.

Designating an ADA Coordinator

The City has identified a coordinator to oversee ADA policies and procedures and serve as the primary point of contact for ADA related issues. Contact information is located in [Appendix A](#).

Grievance Procedure

Under ADA, each agency is required to publish its responsibilities. A public notice will be documented in the plan. If users of City facilities and services believe the City has not provided reasonable accommodation, they have the right to file a grievance. A procedure for the prompt and equitable resolution of citizen complaints, concerns, comments, and other grievances is included in the Plan.

Public Outreach

The City recognizes that public participation is an important component in the development of this Plan. Input from the community will be gathered and used to help define priority areas for improvements within the jurisdiction of the City. Outreach for the ADA Transition Plan will be ongoing through public forums, council meetings, the City's website, and periodic newsletter mailings.

Monitoring

The Plan will be updated at least every 5 years, as policies within the City evolve, projects are completed, and development continues. With each plan update, a public comment period will be established to continue outreach.

Design Standards

All applicable design standards related to ADA are included in the Plan appendices.

Schedule and Budget

A projected schedule with defined milestones to achieve reasonable compliance is included in the Plan. Additionally, the City's Capital Improvement Plan (CIP) is updated annually and will include budgetary estimates for anticipated projects, which may include ADA-related projects.

External Agency Coordination

Several other agencies are responsible for pedestrian facilities, such as bus stops, traffic signals, pedestrian curb ramps, and sidewalks and trails within the jurisdiction of the City. The City will coordinate with those agencies to track and assist in the elimination of accessibility barriers along their routes. ADA contacts and interagency agreements will be

provided for City, County, and regional authorities that are responsible for right-of-way in Dayton.

Project Timeline

To complete the Transition Plan document, data collection is required. This includes the following:

- Evaluation of existing curb ramps.
- Evaluation of existing sidewalks.
- Notification and public comment on the Draft Plan.
- Final establishment of a working ADA Transition Plan Document.

This project will be completed throughout the calendar year 2023. The Plan framework was established in 2022 with the objective of having a Draft Plan available for public comment. An outline of project processes and schedule is shown in Figure 2.

Figure 2. ADA Transition Plan Process



ADA and its Relationship to Other Laws

Title II of ADA is companion legislation to two previous federal statutes and regulations: the [Architectural Barriers Acts of 1968](#) and [Section 504 of the Rehabilitation Act](#) of 1973.

The Architectural Barriers Act of 1968 is a Federal law that requires facilities designed, built, altered or leased with Federal funds to be accessible. The Architectural Barriers Act marks one of the first efforts to ensure access to the built environment.

Section 504 of the Rehabilitation Act of 1973 is a Federal law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency. Title II of ADA extended this coverage to all state and local government entities, regardless of whether they receive federal funding or not.

Agency Requirements

Under Title II, the City of Dayton must meet these general requirements:

Must operate their programs so that, when viewed in their entirety, the programs are accessible to and useable by individuals with disabilities ([28 C.F.R. Sec. 35.150](#)).

- May not refuse to allow a person with a disability to participate in a service, program or activity simply because the person has a disability ([28 C.F.R. Sec. 35.130 \(a\)](#)).
- Must make reasonable modifications in policies, practices and procedures that deny equal access to individuals with disabilities unless a fundamental alteration in the program would result ([28 C.F.R. Sec. 35.130\(b\) \(7\)](#)).
- May not provide services or benefits to individuals with disabilities through programs that are separate or different unless the separate or different measures are necessary to ensure that benefits and services are equally effective ([28 C.F.R. Sec. 35.130\(b\)\(iv\) & \(d\)](#)).
- Must take appropriate steps to ensure that communications with applicants, participants and members of the public with disabilities are as effective as communications with others ([29 C.F.R. Sec. 35.160\(a\)](#)).
- Must designate at least one responsible employee to coordinate ADA compliance [[28 CFR Sec. 35.107\(a\)](#)]. This person is often referred to as the "ADA Coordinator." The public entity must provide the ADA coordinator's name, office address, and telephone number to all interested individuals [[28 CFR Sec. 35.107\(a\)](#)].
- Must provide notice of ADA requirements. All public entities, regardless of size, must provide information about the rights and protections of Title II to applicants, participants, beneficiaries, employees, and other interested persons [[28 CFR Sec. 35.106](#)]. The notice must include the identification of the employee serving as the

ADA coordinator and must provide this information on an ongoing basis [[28 CFR Sec. 104.8\(a\)](#)].

- Must establish a grievance procedure. Public entities must adopt and publish grievance procedures providing for prompt and equitable resolution of complaints [[28 CFR Sec. 35.107\(b\)](#)]. This requirement provides for a timely resolution of all problems or conflicts related to ADA compliance before they escalate to litigation and/or the federal complaint process.

This document has been created to specifically cover accessibility within the public rights of way and does not include information on the City of Dayton programs and practices related to public buildings and transit facilities.

Public Rights-of-Way

Public rights-of-way in the City of Dayton include roadways and their adjacent facilities that serve a transportation purpose. This includes sidewalks, curb ramps, signals, and trails that provide a transportation route. Public rights-of-way do not include buildings, publicly accessible technology, recreational trails and facilities, and private property. These are covered outside of Title II of ADA or other City of Dayton Documents.

Self-Evaluation

Overview

The public ROW self-evaluation examines the condition of the City's PAR/PCR and identifies potential need for PAR/PCR infrastructure improvements. This includes sidewalks and curb ramps that are located within the City ROW. Any barriers to accessibility in the PAR/PCR identified during the self-evaluation are included in this Plan.

Summary

Beginning in 2022 the City of Dayton inventoried their pedestrian curb ramps within the ROW and sidewalks. The complete PAR/PCR inventory includes:

- City of Dayton Facilities
 - 351 City owned curb ramps.
 - Approximately 27.7 miles of concrete sidewalks. (205 Sidewalk points)

A detailed evaluation on how these facilities relate to ADA standards is found in [Appendix B](#) and will be updated periodically.

Field Guide for Data Collection

Two field guides were used to serve as a tool for the public ROW data collection process. The City developed an Inventory and Inspection Field Guide for ADA Ramps and sidewalks data collection. The two guides include all the materials used to conduct the field review of public ROW for the City's future reference. The guide is included in [Appendix C](#).

Policies and Practices

Previous Practices

The City of Dayton has strived to provide accessible pedestrian features as part of the City's CIP and new development projects. The City will continue to improve procedures to accommodate the required methods of providing accessible pedestrian features.

Policy

The City's objective is to continue incorporating accessible pedestrian design features with development and CIP projects. The City has adopted ADA design standards and procedures as listed in [Appendix C](#). These standards and procedures will be updated periodically in accordance with ADA best management practices.

The City will respond to all accessibility inquiries and improvement requests appropriately. These requests and inquiries will be evaluated internally, and an appropriate response will be communicated to the requestor. This may include comments and/or consideration for implementation with related CIP projects. The City will coordinate with external agencies to ensure that all new or altered pedestrian facilities within City jurisdiction are ADA compliant to the maximum extent feasible.

Maintenance of pedestrian facilities within the public ROW will continue to follow the policies set forth by the City.

Requests for accessibility improvements can be submitted to the City's ADA Coordinator. Contact information for ADA Coordinator is in [Appendix A](#).

Additionally, the City of Dayton coordinates with other jurisdictions for maintenance and improvements of facilities. These are outlined in the following section.

Existing Policies – Snow Plowing and Ice Control Policy

Clearing sidewalks of accumulated snow adjacent to public streets is the responsibility of adjacent residents and/or property owners. The City will maintain some of the sidewalks in the City after the streets are plowed. In accordance with MN State Statute (160.27 Sub (5) Misdemeanors), property owners or occupants are prohibited from depositing snow or ice on a public right-of-way or roadway. This includes pushing snow across the roadway onto an adjacent property. The detailed Policy can be found in [Appendix H](#).

Improvement Schedule

Types of Improvements

The following are typical improvements to public ROW that can be made to correct deficiencies in accessibility:

- Intersection corner ADA improvement retrofits (a stand-alone ADA improvement project).
- Intersection corner ADA improvement as part of an adjacent capital project.
- Sidewalk/Trail ADA improvement retrofit (to include at grade crossings and sidewalk ramps).

- Sidewalk/Trail ADA improvement as part of an adjacent capital project (to include at grade crossings and sidewalk ramps).

Cost estimates of these improvements are included in [Appendix D](#).

Priority Areas

The city will work with the public during the public comment period to determine priority areas for ADA improvements. These areas will be selected due to their proximity to specific land uses such as schools, commercial areas, public buildings, and from the receipt of public comments. Factors that determine this include, but are not limited to:

- severity of non-compliance,
- barriers to access a public program or service,
- feasibility of remedies,
- safety concerns, and
- whether a location receives high public use.

Priority will also be given to locations that would most likely not be updated by other City programs. Further, priority will be given to any location where an improvement project or alteration was constructed after January 26, 1991 (marking the formalization of ADA requirements), and accessibility features were omitted. Resident requests and location are also considerations for prioritizing improvements. To best use public resources, the priority areas for planned improvements projects were identified in the completion of this plan. A preliminary list of priority areas identified during the inventory process within the City can be found in [Appendix D](#).

Schedule

Dayton has set the following schedule goals for improving the accessibility of its pedestrian facilities within the City's jurisdiction:

- Baseline of the City's total existing PAR/PCR condition: 42% compliant.
- After 10 years, 60% of accessibility features that were constructed after January 26, 1991, would be reasonably ADA compliant.
- After 10 years, 60% of accessibility features within the priority areas identified by Dayton staff would be reasonably ADA compliant.
- After 20 years, 75% of accessibility features within the jurisdiction of the City would be reasonably ADA compliant.
- After 30 years, 90% of accessibility features within the jurisdiction of the City (as identified in this plan) would be reasonably ADA compliant and fall within with City's monitoring program (100% compliance is not feasible given Minnesota's annual freeze-thaw cycles and pavement deterioration).

The 30-year time frame to achieve 90 percent accessibility and the required commitment of funding is framed as a policy goal. The availability of funding and future development trends in the City of Dayton may affect how these projects are prioritized, and the timing of public ROW improvements may affect progress toward the compliance goal.

Methodology

ADA compliance will be achieved utilizing the following two methods:

1) Scheduled improvements to utilities and ROW

This type of project would include scheduled road reconstructions and/or new development projects.

2) ADA-Specific Improvement Projects.

This type of project would include standalone ADA improvement projects such as reconstruction of a pedestrian curb ramp and/or replacement of the APS system at a signalized intersection, separate from a road construction project.

These projects will be determined by the City's CIP, or on a case-by-case basis determined by the ADA Coordinator and the City's grievance procedure. The City's 2018-2022 CIP is available for review upon request.

External Agency Coordination

External agencies responsible for ROW pedestrian facilities within the jurisdiction of the City include MnDOT, Hennepin County, Minnesota Department of Natural Resources, and Metro Transit. The City will coordinate with those agencies to track and assist in the facilitation of eliminating accessibility barriers within the City. Additionally, this Plan supports the goals of other adopted documents that affect public ROW within the City, which includes specific cooperative agreements with MnDOT, Metro Transit, Hennepin County and Brooklyn Park.

External Agency Plans may be found at the following links or made available by the City's ADA Coordinator:

MnDOT ADA Transition Plan, 2015

[http://www.dot.state.mn.us/ada/pdf/2014 TransitionPlanFinal.docx](http://www.dot.state.mn.us/ada/pdf/2014%20TransitionPlanFinal.docx)

Metro Transit Accessibility

<https://www.metrotransit.org/accessibility>

Hennepin County ADA Transition Plan, 2015

<https://www.hennepin.us/residents/transportation/ada-transition-plan>

<https://www.hennepin.us/-/media/hennepinus/residents/transportation/documents/ada-sidewalk-transition-plan.pdf>

ADA Coordinator

In accordance with 28 CFR 35.107(a), the City of Dayton has identified an ADA Title II Coordinator to oversee the City policies and procedures. Contact information for this individual is located in [Appendix A](#).

Public Outreach

The City of Dayton recognizes that public participation is an important component in developing this document. Input from the community will be gathered and used to help define priority areas for improvements within the jurisdiction of the City of Dayton.

Public outreach for the creation of this document will consist of the following activities:

The ADA Transition Plan for Public ROW will be posted on the City of Dayton's website and made available in a hard copy for public comment for approximately thirty days prior to its recommendation for adoption. The draft version of the Plan will be distributed to key stakeholders including school administrators, local senior centers, businesses and service centers that have been identified as high priority areas for, and ROW improvements. The City of Dayton will incorporate ADA into future Comprehensive Planning efforts. The City will make a reasonable effort to incorporate public comments into the final version of the report and will incorporate the Plan into parallel outreach efforts. A printed hard copy of the draft document is also available for review at City of Dayton City Hall: 12260 South Diamond Lake Road Dayton, MN 55327.

Further information on the Public Outreach initiatives and a summary of the comments received can be found within [Appendix E](#).

Grievance Procedure

Under the ADA, each agency is required to publish its responsibilities regarding the ADA. A draft of this public notice will be provided in [Appendix F](#). If users of City facilities and services believe the City has not provided reasonable accommodation, they have the right to file a grievance.

To monitor the progress of compliance, the City, in accordance with 28 CFR 35.107(b), has established a grievance procedure for the prompt and equitable resolution of comments, concerns, or questions from the citizens of the City. The ADA grievance form is available online and at City Hall and can be returned to the ADA Coordinator. It may be used by anyone wishing to file a complaint, comment, or concern regarding discrimination based on disability. A sample of the Grievance Form can be found in [Appendix F](#).

Monitor the Progress

This Plan will continue to be updated as conditions within the City evolve. The appendices in this Plan will be updated periodically, while the main body of the Plan will be updated every 5 years with a future update schedule to be developed at that time. With each five-year update, a public comment period will be established to continue public outreach.

Appendices

A. Contact Information

B. Self-Evaluation Results

B-1: Right-of-Way Self-Evaluation Inventory

C. Agency ADA Design Standards and Procedures

C-1: City of Dayton ADA Inventory and Inspection Field Guide

C-2: PROWAG

D. Schedule / Budget Information

D-1: Cost Estimate by Right-of-Way

E. Public Outreach

F. Grievance Procedure

G. Glossary of Terms

H. Additional City Documents

H-1: Dayton Snow Plowing and Ice Control Policy

Appendix A – Contact Information

City of Dayton

ADA Coordinator/Public Works Director

Name: Martin Farrell, Public Works Director

Address: 12260 S. Diamond Lake Road, Dayton, MN 55327

Phone: 612-751-8847

E-mail: mfarrell@cityofdaytonmn.com

Hennepin County

ADA Coordinator

Name: Caron Battle

Address: 300 South Sixth Street A040 Government Center Minneapolis, MN 55487

Phone: 612-348-7741

E-Mail: caron.battle@hennepin.us

Minnesota Department of Transportation

ADA Contact

Name: Kristie Billiar

Phone: 651-366-3174

E-Mail: Kristie.billiar@state.mn.us

Appendix B – Self-Evaluation Results

At the time of the ROW inventories, the City was following general ADA design guidance and procedures. This included a commitment to providing access to all users but does not have a formal policy or procedure to assign priority regarding ADA accessibility issues within the City. Implementing a method to assign priority will be a part of this Plan effort.

Public Right-of-Way

Data Collection for the PAR/PCR (City) self-evaluation was completed in 2022. The self-evaluation was performed by SRF staff. The detailed inventory is found in B-1.

This initial self-evaluation of PAR/PCR yielded the following results:

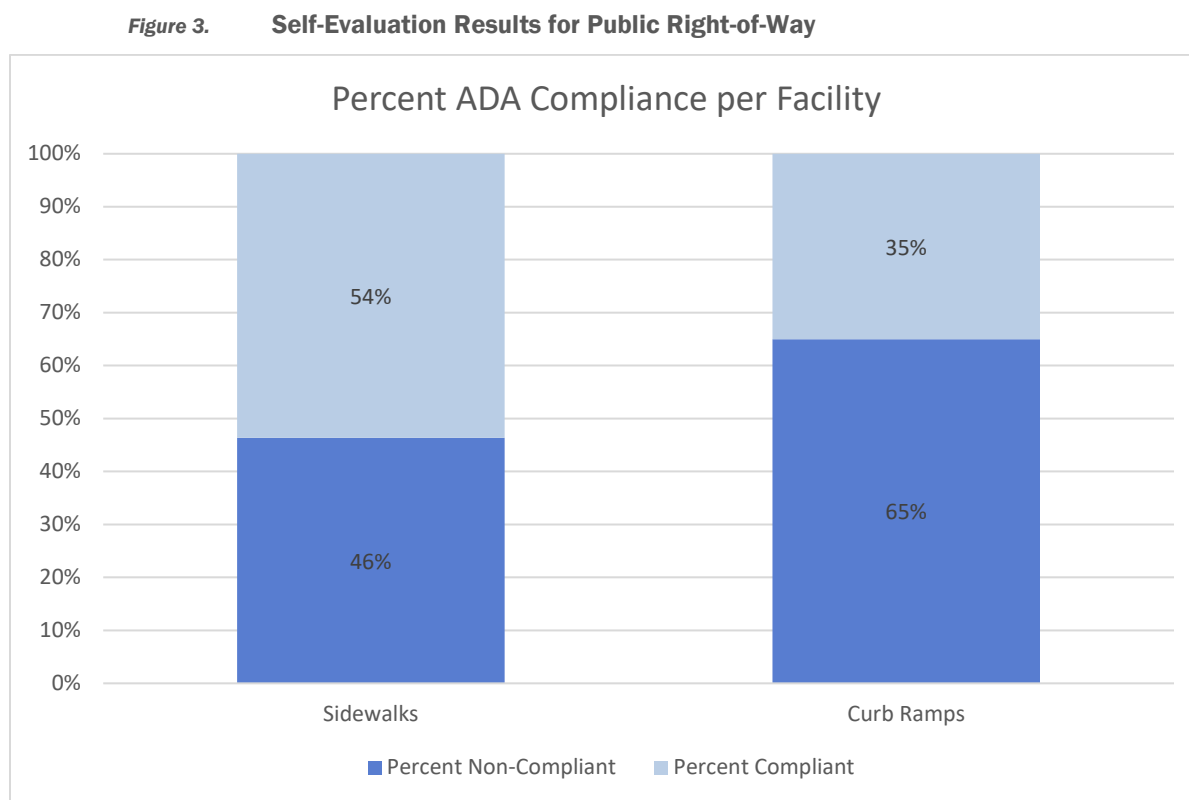


Chart Description: About 54 percent of sidewalks were ADA compliant. About 35 percent of curb ramps were compliant.

B-1: Right-of-Way Self-Evaluation Inventory

Appendix C – Agency ADA Design Standards and Procedures

Design Procedures

Intersection Corners

Curb ramps or blended transitions will attempt to be constructed or upgraded to achieve compliance within all capital improvement projects. There may be limitations which make it technically infeasible for an intersection corner to achieve full accessibility within the scope of any project. Those limitations will be noted, and those intersection corners will remain on the transition plan. As future projects or opportunities arise, those intersection corners shall continue to be incorporated into future work. Regardless of whether full compliance can be achieved, each intersection corner shall be made as compliant as possible in accordance with the judgment of the City.

Sidewalks / Trails

Sidewalks and trails will attempt to be constructed or upgraded to achieve compliance within all capital improvement projects. There may be limitations which make it technically infeasible for segments of sidewalks or trails to achieve full accessibility within the scope of any project. Those limitations will be noted, and those segments will remain on the transition plan. As future projects or opportunities arise, those segments shall continue to be incorporated into future work. Regardless of whether full compliance can be achieved or not, every sidewalk or trail shall be made as compliant as possible in accordance with the judgment of the City.

Traffic Control Signals

Traffic control signals will attempt to be constructed or upgraded to achieve compliance within all capital improvement projects. There may be limitations which make it technically infeasible for individual traffic control signal locations to achieve full accessibility within the scope of any project. Those limitations will be noted, and those locations will remain on the transition plan. As future projects or opportunities arise, those locations shall continue to be incorporated into future work. Regardless of if full compliance can be achieved or not, each traffic signal control location shall be made as compliant as possible in accordance with the judgment of the City.

Bus Stops

Bus stops within the City are provided by Metro Transit, a division of the Metropolitan Council. The Metropolitan Council maintains an ADA Transition Plan, which can be viewed here:

<https://metro council.org/Council-Meetings/Committees/Transportation-Accessibility-Advisory-Committee/2017/TAAC-Meeting-10-04-17/Met-Council-Transition-Plan.aspx>

If there is a specific bus stop of concern, a grievance may be filed with the Metropolitan Council. The City will attempt to coordinate replacement and new bus stops be constructed or upgraded to achieve compliance in the future. There may be limitations which make it technically infeasible for individual bus stop locations to achieve full accessibility within the scope of any project. Those limitations will be noted, and those locations will remain on the transition plan. As future projects or opportunities arise, those locations shall continue to be incorporated into future work. Regardless of if full compliance can be achieved or not, each bus stop location shall be made as compliant as possible in accordance with the judgment of City staff.

Other policies, practices and programs

Policies, practices and programs not identified in this document will follow the applicable ADA standards.

Design Standards

For public ROW facilities, the City of Dayton has PROWAG, as adopted by the Minnesota Department of Transportation (MnDOT), as its design standard. A copy of this document is included in C-2.

C-1: City of Dayton ADA Ramp Inventory and Inspection Field Guide

Appendix D –Schedule/Budget Information

Cost Information

Costs for upgrading public buildings, facilities and ROW can vary depending on each individual improvement and conditions of each site. Costs can also vary on the type and size of the ADA improvements. Listed below are representative 2023 costs for typical ROW accessibility improvements:

Table 1 Public Right-of-Way Unit Prices

	Project Cost
Intersection corner ADA improvement retrofit (per corner)	\$6,000 - \$8,000
Traffic control signal APS upgrade retrofit (per intersection)	\$30,000
Traffic control signal APS upgrade as part of full traffic control signal installation (each)	\$25,000
Sidewalk / Trail ADA improvement retrofit (per linear foot)	\$100.00
Single traffic control signal pushbutton station replacement (each)	\$3,000

For estimating purposes, the cost to improve a single curb ramp on an intersection corner was estimated to be \$7000. Cost estimates for the improvements are based on 2023 construction costs and include contingency for engineering and oversight. D-1 includes a summary of the total cost estimate for public ROW.

Priority Areas

The City has established the following criteria to define priority levels. The City will consider all ADA improvement requests as received, which may affect the prioritization level of a specific project when appropriate.

Category 1A (Highest Priority):

- No curb ramp where sidewalk or pedestrian path exists and location near a medical center, school, transit facility, government building, non-auto dependent household, or similar facility.

Category 1B:

- Existing curb ramp with a noncompliant running slope and location near a medical center, school, transit facility, government building or similar facility.
-

Category 2A:

- No curb ramp where a sidewalk or pedestrian path exists (not located near a medical center or similar facility).

Category 2B:

- An existing curb ramp with a running slope greater than 12% or a cross slope greater than 3% (not located near a medical center or similar facility).

Category 3:

- No curb ramp where a striped crosswalk exists.

Category 4:

- One curb ramp per corner and another is needed to serve the other crossing direction.

Category 5A:

- An existing curb ramp with an insufficient landing.

Category 5B:

- An existing curb ramp with obstructions in the ramp or the landing.

Category 5C:

- An existing curb ramp with any of the following conditions:
 - A running slope greater than 8.3%
 - A cross slope greater than 2%
 - A width less than 48 inches
- No flush transition or median, or island crossings that are inaccessible.
- Detectable Warnings do not extend the full width of the trail or sidewalk.

Category 5D:

- An existing curb ramp with returned curbs where pedestrian travel across the curb is not permitted.

Category 5E:

- An existing diagonal curb ramp without the 48-inch extension in the crosswalk.

Category 5F:

- An existing curb ramp without truncated dome texture contrast or without color contrast.

Category 6 (Lowest Priority):

- The pedestrian pushbutton is not accessible from the sidewalk or from the ramp.

The City will establish high priority areas for accessibility improvement projects based on the proximity to schools, commercial areas, senior care facilities, government services, and medical care facilities.

Entire Jurisdiction

Based on the results of the self-evaluation, the estimated costs associated with providing ADA accessibility within the entire jurisdiction including ROW (excluding traffic control signals) is \$2,071,000. This amount assumes project cost estimates depicted under Table 1 are applied as stand-alone projects. The City will likely benefit from economy of scale when larger street and ROW reconstructions occur.

The City will continue to incorporate ADA best practices and standards with CIP projects and as part of stand-alone projects.

D-1: Cost Estimate for Right-of-Way

Appendix E – Public Outreach

The City recognizes that providing an opportunity for review and comment is an important part of this Plan. Comments will be recorded and, if feasible, modifications to the document content and prioritization of improvements will be made.

As part of the Plan development process, the City posted the Plan document on the City's Public Works section of its website www.cityofdaytonmn.com, and the Plan will be made available for public comment. Additionally, a printed copy of the Plan will be made available at City Hall.

No Comments received during the comment review period.

Record of Public Outreach Summary

Add Information once completed.

Appendix F – Grievance Procedure

Under the ADA, each agency is required to publish its responsibilities regarding the ADA. A draft of this public notice is provided in Appendix E. If users of public ROW, buildings, and facilities believe the City has not provided reasonable accommodation, they have the right to file a grievance.

In accordance with 28 CFR 35.107 (b), the City has developed the following grievance procedure for the prompt and equitable resolution of citizen complaints, concerns, comments, and other grievances.

The City understands that members of the public may desire to contact staff and discuss ADA issues without filing a formal grievance. Members of the public wishing to contact the staff should contact the ADA Coordinator (for ROW/Public Building ADA Issues), listed in Appendix A, and are encouraged to do so. Contacting the ADA Coordinator to informally discuss ADA issues is welcome and does not limit the ability or right to file a formal grievance later. Upon receipt of a completed Grievance Form, the ADA Coordinator will contact the complainant within 15 calendar days to discuss the complaint and will respond in writing within 15 days of the discussion.

As per ADA requirements, the City has posted a notice outlining its responsibilities. This notice can be found in this Appendix.

The City appreciates and welcomes your comments. To provide feedback, please complete a comment form located in the following pages, or contact the ADA Coordinator listed in Appendix A.

Those wishing to file a formal written grievance with the City may do so by one of the following methods:

Internet

Visit the City of Dayton website www.cityofdaytonmn.com.

- For Public ROW/Buildings: Select the “Government” and “Public Works” links, where you will find a link to the “ADA Transition Plan” and then the **ADA Public Right-of-Way/Buildings Grievance Form**. Fill in the form online and click “submit.” A copy of The ADA Public Right-of-Way/Building Grievance Form is included in this Appendix.
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Telephone

Contact the ADA Coordinator (for ROW/Public Building ADA Issues) or the City Administrator (for Transit ADA issues), listed in the Contact Information section of Appendix A to submit an oral grievance. The ADA Coordinator/City Administrator or City staff person will utilize the Internet method above to submit the grievance on behalf of the person filing the grievance.

Paper Submittal

Contact the ADA Coordinator (for ROW/Public Building ADA Issues) or the City Administrator (for Transit ADA issues), listed in the Contact Information section of Appendix A, to request a paper copy of the City's grievance form, complete the form, and return it to the ADA Coordinator/City Administrator. The ADA Coordinator/City Administrator or City staff person will then utilize the Internet method above to submit the grievance on behalf of the person filing the grievance.

Public Notice

In accordance with the requirements of Title II of the Americans with Disabilities Act (ADA) of 1990, the city of Dayton will not discriminate against qualified individuals with disabilities on the basis of disability in City services, programs, or activities.

Employment: The City does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the Americans with Disabilities Act (ADA).

Effective Communication: The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. For example, individuals with service animals are welcome in City offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a City program, service, or activity, should contact the ADA Coordinator as soon as possible, but no later than 48 hours before the scheduled event.

The ADA does not require the City to take any action that would fundamentally alter the nature of its programs or services or impose an undue financial or administrative burden.

The City will not place a surcharge on an individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

ADA Public Right-of-Way/Buildings Grievance Form

Please fill out this form completely, in black ink or type. If you need any accommodation or assistance in completing this form, please contact the ADA Coordinator at [612-751-8847](tel:612-751-8847). Sign and return to: ADA Coordinator – City of Dayton – [12260 S Diamond Lake Road, Dayton, MN 55327](#)

Section I – Complainant Information

First Name: _____ Last Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Primary Phone Number: _____ Other Phone Number: _____

Email: _____

Accessible Format Requirements: Large Print ☐ TDD/Relay ☐ Audio Recording ☐

Other: _____

Section II – Third Party InformationAre you filling this complaint on your own behalf? (If yes, go to Section III) Yes ☐ No ☐

First Name of Person Filing Complaint: _____ Last Name of Person Filing Complaint: _____

Primary Phone Number: _____ Other Phone Number: _____

Email: _____

What is your relationship to the complainant: _____

Please explain why you have filed for a third party: _____

Please confirm that you have obtained the permission of the aggrieved party, if you are filing on behalf of a third party. Yes ☐ No ☐

Section III –Discrimination Description

Date of Alleged Discrimination (Month, Day, Year): _____

Time of Occurrence: _____

Have efforts been made to resolve this complaint? Yes ☐ No ☐

If yes, what is the status of the grievance? _____

Description of Grievance/Discrimination: _____

Name/ID of Employee(s) or Others Involved: _____

Location of Incident: _____

Mobility Aid Used (if any): _____

If above information is unknown, please provide other descriptive information to help identify the employee: _____

Section IV – Previous ComplaintsHave you previously filed an ADA complaint with this agency? Yes ☐ No ☐Has the complaint been filed with the Department of Justice or any other Federal, State or local civil rights agency or court? Yes ☐ No ☐

If Yes:

Agency or Court: _____

Contact Name: _____ Contact Title: _____

Agency Name: _____ Phone: _____

Section V – Follow Up

State the specific remedy sought to resolve the issues (s): _____

May we contact you if we need more details or information? Yes ☐ No ☐

What is the best way to reach you? _____

If a phone call is preferred, what is the best day and time to reach you? _____

You may attach any written materials or other information that you think is relevant to your complaint. Please sign (or type) your name and date below.

Signature: _____ Date: _____

Appendix G – Glossary of Terms

ABA: See Architectural Barriers Act.

ADA: See Americans with Disabilities Act.

ADA Transition Plan: MnDOT's transportation system plan that identifies accessibility needs, the process to fully integrate accessibility improvements into the Statewide Transportation Improvement Program (STIP), and ensures all transportation facilities, services, programs, and activities are accessible to all individuals.

ADAAG: See Americans with Disabilities Act Accessibility Guidelines.

Accessible: A facility that provides access to people with disabilities using the design requirements of the ADA.

Accessible Pedestrian Signal (APS): A device that communicates information about the WALK phase in audible and vibrotactile formats.

Alteration: A change to a facility in the public right-of-way that affects or could affect access, circulation, or use. An alteration must not decrease or have the effect of decreasing the accessibility of a facility or an accessible connection to an adjacent building or site.

Americans with Disabilities Act (ADA): The Americans with Disabilities Act; Civil rights legislation passed in 1990 and effective July 1992. The ADA sets design guidelines for accessibility to public facilities, including sidewalks and trails, by individuals with disabilities.

Americans with Disabilities Act Accessibility Guidelines (ADAAG): contains scoping and technical requirements for accessibility to buildings and public facilities by individuals with disabilities under the Americans with Disabilities Act (ADA) of 1990.

APS: See Accessible Pedestrian Signal.

Architectural Barriers Act (ABA): Federal law that requires facilities designed, built, altered or leased with Federal funds to be accessible. The Architectural Barriers Act marks one of the first efforts to ensure access to the built environment.

Capital Improvement Program (CIP): The CIP for the Transportation Department includes an annual capital budget and a five-year plan for funding the new construction and reconstruction projects on the county's transportation system.

Detectable Warning: A surface feature of truncated domes, built in or applied to the walking surface to indicate an upcoming change from pedestrian to vehicular way.

DOJ: See United States Department of Justice

Federal Highway Administration (FHWA): A branch of the US Department of Transportation that administers the federal-aid Highway Program, providing financial assistance to states to construct and improve highways, urban and rural roads, and bridges.

FHWA: See Federal Highway Administration

Pedestrian Access Route (PAR): A continuous and unobstructed walkway within a pedestrian circulation path that provides accessibility.

Pedestrian Circulation Route (PCR): A prepared exterior or interior way of passage provided for pedestrian travel.

PROWAG: An acronym for the *Guidelines for Accessible Public Rights-of-Way* issued in 2005 by the U. S. Access Board. This guidance addresses roadway design practices, slope, and terrain related to pedestrian access to walkways and streets, including crosswalks, curb ramps, street furnishings, pedestrian signals, parking, and other components of public rights-of-way.

Retrofit: The installation of ADA-compliant infrastructure to correct non-compliant elements within an existing transportation system without replacing the entirety of the existing infrastructure.

Right of Way (ROW): A general term denoting land, property, or interest therein, usually in a strip, acquired for the network of streets, sidewalks, and trails creating public pedestrian access within a public entity's jurisdictional limits.

Section 504: The section of the Rehabilitation Act that prohibits discrimination by any program or activity conducted by the federal government.

Uniform Accessibility Standards (UFAS): Accessibility standards that all federal agencies are required to meet; includes scoping and technical specifications.

United States Access Board: An independent federal agency that develops and maintains design criteria for buildings and other improvements, transit vehicles, telecommunications equipment, and electronic and information technology. It also enforces accessibility standards that cover federally funded facilities.

United States Department of Justice (DOJ): The United States Department of Justice (often referred to as the Justice Department or DOJ), is the United States federal executive department responsible for the enforcement of the law and administration of justice.

Appendix H – Additional City Documents

H-1: Dayton Snow Plowing and Ice Control Policy

City of Dayton snow plowing and ice control policy

September 2015

Approved 10/28/15
Motion Carried unanimously

DRAFT V.1

Introduction the City of Dayton, Minnesota, finds that it is in the best interest of the residents of the city to assume basic responsibility for control of snow and ice on city streets. Reasonable ice and snow control is necessary for routine travel and emergency services. The City will attempt to provide such control in a safe and cost effective manner, keeping in mind safety, budget, personnel and environmental concerns. The city will use city employees, equipment and/or private contractors to provide this service. This policy does not relieve the operator of private vehicles, pedestrians, property owners, residents, and all others that may be using public streets, of their responsibility to act in a reasonable, prudent and cautious manner, given the prevailing street conditions.

When will the City start snow or ice control operations? The street superintendent will decide when to begin snow or ice control operations. The criteria for that decision are:

- A Snow accumulation of 2 inches or more
- B Drifting of snow that causes problems for travel
- C Icy conditions which seriously affect travel
- D Time of snowfall in relationship to heavy use streets

Snow and ice control operations are expensive and involve the use of limited personnel and equipment. Consequently snowplowing operations will generally not be conducted for snowfall of less than 2 inches. Plowing will begin as close as practicable to the time the snowfall ceases, however every effort will be made to have main routes plowed and sanded prior to morning or afternoon rush hour.

How snow will be plowed: Snow will be plowed in a manner so as to minimize traffic obstructions. Snow on cul-de-sacs will normally be plowed to the center in an attempt to provide the largest turning radius possible, for emergency vehicle entry and exit. In times of extreme snowfall, streets will not always immediately be completely cleared of snow. Because of different storm situations and severity levels, starting times may vary.

Snow removal: The street superintendent will determine if and when snow will be removed from the area by truck. Such snow removal will occur in areas where there is no room on the boulevard for snow storage and in areas where accumulated piles of snow create a hazardous condition. Snow removal operations will not commence until other snowplowing operations have been completed. Snow removal operations may also be delayed depending on weather conditions, personnel and budget availability. The snow will be removed and hauled to a snow storage area. The snow storage area will be located so as to minimize environmental problems.

Priorities and schedule of streets to be plowed: The city has classified streets based on the street functions, traffic volume and importance to the welfare of the community. Those streets classified as "arterial routes" will be plowed first, these are high volume routes, which connect major sections of the city and provide access for emergency fire, police and medical services. The second priority streets are high volume residential streets, those streets providing access to schools and commercial businesses. The third priority streets are low volume residential streets. The fourth priority areas are city parking lots, trails and cul-de-sac clean up.

During significant and severe storms, the city must be prepared to move personnel and equipment to maintain priority routes first. In fulfilling the need to have all priority streets safe and passable, when resources are limited, plowing of all other streets may be stopped at any time so resources can be shifted to priority routes.

Unforeseeable circumstances may cause delays in completing assigned plow routes. Such circumstances may include weather conditions that endanger the safety of snowplow operators and/or safe and effective operation of equipment, commuter traffic, disabled vehicles, poor visibility conditions, parked cars along streets, assistance to emergency response vehicles, equipment breakdowns and personnel shortages.

Work schedule for snowplow Operators: Snowplow operators will be expected to work their assigned shifts. In severe snow emergencies, operators sometimes have to work longer shifts, but will be paid overtime for hours in excess of 40 per week, or pursuant to any collective bargaining contract language. However, because of budget and safety concerns, no operator shall work more than a twelve hour shift in any twenty-four hour period. While work breaks are not guaranteed, generally operators will take breaks in accordance with city policy, provided the breaks do not interfere with city services or operations. In addition, operators will be allowed sufficient time to eat a meal during any shift which is eight or more hours, or as provided in the collective bargaining agreement. After a twelve-hour shift, the operators will be replaced if additional qualified personnel are available.

Traffic regulations: The City recognizes that snowplow operators are exempt from traffic regulations set forth in Minnesota Statutes, Chapter 169 while actually engaged in work on streets, except for regulations related to driving while impaired and the safety of school children. Pursuant to this authority, snowplow operators engaged in snow removal or ice control on city streets have discretion to disregard traffic laws set forth in Chapter 169, except for laws relating to impaired driving and school children safety, when in their judgment, it is safe to disregard such laws. The privileges granted herein to operators of snow removal and ice control vehicles shall apply only if the vehicle is equipped with one lighted lamp displaying a flashing, oscillation or rotating amber light placed in such a position on the vehicle as to be visible throughout an arc of 360 degree.

Vehicle parking: Following any snowfall between the dates of November 1 of each year to April 1 of the following year, it shall be unlawful to park or leave standing any vehicle or part thereof on any City street from 2.00 am until such time as snow plowing curb to curb has been completed. All vehicles or parts thereof found in violation may be towed at the owner's expense.

This parking prohibition includes parking vehicles or part thereof on the street or right of way, whether improved with curb, gutter and pavement or not improved.

Weather conditions: Snow and ice control operations will be conducted only when weather conditions do not endanger the safety of snowplow operators and equipment. Factors that may delay snow and ice control operations include: severe cold, significant winds, and limited visibility.

Use of Sand, Salt and other Chemicals: The city will use sand, salt and other chemicals when there are hazardous ice or slippery conditions. The city is concerned about the effect of such chemicals on the environment and will limit its use for that reason.

Sidewalks: The city will maintain some of the sidewalks in the city. As there are a limited number of personnel available, the city will only maintain these sidewalks after the streets have been plowed. It is the responsibility of the resident and/or property owner to remove all accumulated snow from all other sidewalks along public streets adjoining their property. This includes any snow plowed from the public streets onto the sidewalk.

Pushing snow onto a public right-of-way or roadway: In accordance with MN State Statute, property owners or occupants, are prohibited from depositing snow on a public right-of-way or roadway. This includes pushing snow across the roadway onto an adjacent property.

Minnesota Highway Traffic Regulations:

160.27 Sub (5) Misdemeanors: It shall be unlawful to obstruct any highway or to deposit snow or ice thereon.

169.42 Sub (1). No person shall throw, deposit, place, or dump upon any Street or highway, any snow, ice, etc.

Resident responsibilities: These include clearing their own driveways, clearing areas for trashcans, clearing around mailboxes and newspaper delivery tubes. Trash cans must not be placed on the street surfaces. The City will not clear private driveways.

Snow plowing can cause additional snow to be deposited in driveway approaches and around roadside obstacles. Operators are instructed to attempt to minimize these instances; however, it is not practical to eliminate this situation. Residents should be aware they may have to clear their driveways a second time after their street has been plowed.

Property Damage: Snow plowing and ice control operations can cause property damage even under the best circumstances and care on the part of the City. The major types of damage are to improvements in the City right-of-way, which typically extends approximately 10 to 15 feet beyond the curb. The intent of the right-of-way is to provide snow storage, utilities, sidewalks and other City uses. Damage to fences, trees or other private improvements will not be repaired or replaced by the City if they are in the right-of-way. Lawns that are scraped or gouged by City equipment will be repaired by seeding the following spring. Residents are responsible to assist by watering the areas that are repaired.

In instances where there is a disagreement as to the source of the damage and the responsible party, the City shall determine the responsibility.

Mailboxes: Damage to a mailbox is a risk that snowplow operators face during their winter plowing requirements. The city will conduct a review of each mailbox damage claim to determine whether the city has any legal responsibility for the damage and if so, to replace or provide reimbursement for the mailbox. If the city, in its discretion, determines that reimbursement or replacement is appropriate, the city may:

1. At the mailbox owners request, replace the mailbox with a standard size, non-decorative metal mailbox and replace the support post as necessary with a 4' x 4', decay resistant wood support post, which will be installed by the city;
2. Provide reimbursement in a reasonable amount for the mailbox and support posts that meet the city's ordinance standards, as well as state and federal requirements for mailbox size, support and placement.

To be properly placed, a mailbox should be installed so its bottom edge is 45" to 47" above street level, with the post 36" back from the curb or front of the box. That amount of clearance is needed to keep the plow's wing from hitting the box. If there are any plastic newspaper tubes attached to the mailbox, they must be above 45" height requirement. The box's post should be securely in the ground.

Complaint procedure: Complaints will be recorded on telephone logs. Calls requiring service will be transferred to a work request and forwarded to the appropriate supervisor for scheduling. Emergency complaints will be handled in an expeditious manner as resources are available.

Deviation from policy: The Superintendent of streets may deviate from this policy when in his or her judgment it is in the best interest of the city or is necessary because of budget needs or other circumstances. Changes in priorities (lasting more than 4 hours) will be documented as to what caused such actions, why the change was necessary, and for how long the change is to be in effect. Those city employees and/or contractors affected will be notified immediately by radio or cell phone of such changes with all communications logged. Information logged will include the time and date of the communication, name of employee contacted, and how they were contacted. Any changes of priorities lasting more than 24 hours should be made in a written record and the public should be informed of such changes through normal methods used by the city for emergency notifications.

Review and modification of policy: The Street Superintendent shall keep on file all comments and complaints received regarding this policy. The policy will be reviewed periodically. Any review will consider comments and complaints since the last review and any other factors affecting the policy or its implementation.

Guidelines for Operators:

1. Operators will be required to be on stand-by and able to report to work within one hour notice from November 1st to March 31st unless arrangements are made with the Maintenance Supervisor or designated representative.
2. Operators will be responsible for the vehicle they are assigned to. This includes completing a daily maintenance and equipment check before and after each shift and reporting all deficiencies to the Maintenance Supervisor. During snowplowing operations any and all downtime or breakdowns will be reported to the Maintenance Supervisor or designated representative.
3. No snow removal vehicles shall be parked with less than three-quarters of a tank of fuel.
4. Operators shall not assist stranded vehicles by pushing, pulling or jump-starting with City equipment. Operators may assist by calling for help, offering sand, or offering a helping hand.
5. To minimize damage, no equipment will exceed twenty miles per hour in residential areas.
6. Operators will report all damage to the Maintenance Supervisor or designated representative at the end of each shift.
7. When plowing and sanding is completed after each storm, salt/sand should be emptied from all trucks and all equipment should be cleaned and washed.
8. When the operator has completed their assigned route, they will contact the Maintenance Supervisor or designated representative.
9. Before leaving duty at the end of the shift every effort should be made to contact the Maintenance Supervisor or designated representative.
10. No plowing of private property or towing of vehicles will be permitted unless it directly affects traffic. Any questions should be directed to the Maintenance Supervisor. Every effort will be made not to damage mailboxes and trash containers or other structures in the right-of-way.

Accidents during snow clearance operations: All accidents during snowplow operations should be reported to the Maintenance Supervisor. If the accident involves a vehicle or a personal injury, immediately contact the Sheriff's Department and then contact the Maintenance Supervisor. Remain at the scene until an accident report has been completed. The policies and procedures relating to the drug and alcohol testing for commercial vehicle drivers shall be implemented in this situation.

RELEVANT LINKS:

Sternitzke v. Donahue's Jewelers, 83 N.W. 2d 96 (Minn. 1957).

Minn. Stat. § 466.03 subd 4.

Smith v. Village of Hibbing, 136 N.W.2d 609 (Minn. 1965); *Scott v. Village of Olivia*, 110 N.W.2d 21 (Minn. 1961).

Otis v. Anoka-Hennepin School Dist. No. 11, 611 N.W.2d 390 (Minn. Ct. App. 2000); *Doyle v. City of Roseville*, 524 N.W.2d 461 (Minn. 1994).

D. Special problems in maintaining city streets

Maintaining streets can present unique problems for cities, who confront normal maintenance and infrastructure aging issues compounded by the extremes of Minnesota weather. Several reoccurring issues with city streets are discussed as special problems below.

1. Special problem: Snow removal

Snow and ice control on streets can pose a difficult and expensive maintenance problem for Minnesota cities each winter. Three types of special immunity protect cities from claims for damages that arise after accidents caused by the weather.

a. Snow and ice immunity

Under Minnesota statute, cities are immune to claims for damages based on snow or ice conditions on a public street or public sidewalk, unless the dangerous condition was affirmatively created by the negligent acts of the city.

A city may be found negligent when it has actual or constructive notice of a hazard due to snow or ice, but fails to correct the situation within a reasonable time period.

It is important to note the following exception to statutory snow and ice immunity:

- Snow and ice immunity only applies to sidewalks that do not abut a publicly-owned building or parking lot.

b. Mere slipperiness doctrine

The "mere slipperiness" doctrine provides that a municipality is not liable for injuries sustained due to the natural accumulation of snow and ice, unless the city allows the accumulation to remain long enough to form slippery and dangerous ridges, hummocks, depressions, and other irregularities.

The "mere slipperiness" doctrine acknowledges that in Minnesota's climate the task of keeping all city streets and sidewalks clear at all times could well amount to a physically and financially impossible task. As a result, cities must only act within a reasonable time frame to remove accumulations, but are generally not responsible for dangers created solely by the weather.

RELEVANT LINKS:

See Handbook, Chapter 18,
for more information on
negligence.

Hennes v. Patterson, 443
N.W.2d 198 (Minn. Ct. App.
1989).

See LMC model
Snowplowing Policy.

*Miller-Lagro v. Northern
States Power Co.*, 582
N.W.2d 550 (Minn. 1998).
Foote v. City of Crosby, 306
N.W.2d 883 (Minn. 1981).
Thuesch v. Berg, A09-1742
(Minn. Ct. App.) (unpublished
opinion).

See LMC information memo,
Maintenance of City Trees.

c. Discretionary immunity

When cities clear and plow their streets pursuant to an established snow plowing policy, they may also be immune from suit based upon discretionary immunity. The formulation of a snowplowing policy requires cities to make discretionary decisions that weigh social, economic and political factors.

For example, plaintiffs were injured when their car "rocketed up" a pile of snow and fell from a tall bridge. The snow pile was created by State of Minnesota snowplow operations, pursuant to a snowplowing policy. Though the existence of the snow pile was potentially dangerous and created by the state's snowplowing activities, the state was found to be not liable based upon discretionary immunity.

A typical snowplowing policy will address:

- When the city will start snow or ice control operations.
- How snow will be plowed.
- Snow removal.
- Priorities and schedule for which streets will be plowed.
- Work schedule for snowplow operators.
- Weather conditions.
- Use of sand, salt, and other chemicals.
- Sidewalks.

The League of Minnesota Cities Insurance Trust has drafted a model snowplowing policy to assist cities in creating a suitable local policy.

2. Special problem: Clear view and tree trimming

Cities can regulate the placement of trees and vegetation in their ROW to protect the sight line along the street for safety reasons. Cities may trim and remove trees that obstruct the clear view of traffic in the ROW or block traffic signals. Before felling or trimming trees or entering onto private property for these purposes, cities should confirm that they have a lawful right to do so. Erroneously felling trees may result in liability for a city and significant damage awards.

The city's ROW ordinance should provide guidelines for tree placement in the ROW and for the removal or trimming of trees that obstruct the clear view of traffic on the street or traffic signs in the ROW.