

**140.00**  
**MUNICIPALITY**

**140.01 Streets, Parkways, Sidewalks And Alleys--Duty Of City**

[Withdrawn]

**Comment**

In prior editions of IPI, this instruction read: “A city has a duty to use ordinary care to maintain [streets] [parkways] [sidewalks] and [alleys] in a reasonably safe condition.”

The committee has withdrawn IPI 140.01 and offers no instructions that deal specifically with the duties or negligence of municipalities. This is based on the committee's conclusion that such instructions are unnecessary and duplicative of IPI 10.04 (adult's duty to use ordinary care), 14.04 (duty to refrain from willful and wanton conduct) and 120.02 (duty of owner/occupier to exercise ordinary care to keep property in a reasonably safe condition). See *Barreto v. City of Waukegan*, 133 Ill.App.3d 119, 478 N.E.2d 581, 590; 88 Ill.Dec. 266, 274 (2d Dist.1985); *Rehak v. City of Joliet*, 52 Ill.App.3d 724, 367 N.E.2d 1070, 1071-1072; 10 Ill.Dec. 461, 462-463 (3d Dist.1977).

A municipality's duty to a particular plaintiff in a particular fact situation is an issue of law to be determined by the court. Once that determination is made, either IPI 10.04, 14.04, or 120.02 will almost always apply. Ordinarily, there should be no reason to particularize the duty to the facts of the case, any more than in any other case involving non-municipality defendants. In the rare case where a special duty exists, IPI 10.04 or 14.04 can be modified appropriately.