



CITY OF DEL REY OAKS

650 CANYON DEL REY BLVD., DEL REY OAKS, CALIFORNIA 93940
PHONE (831) 394-8511 FAX (831) 394-6421

DATE: October 28, 2025

TO: Honorable Mayor and City Council

FROM: John Guertin, City Manager

SUBJECT: Introduce and approve the first reading an Ordinance amending Chapter 12.04 of the Del Rey Oaks Municipal Code

CEQA: Not applicable.

Recommendation

That the City Council:

1. Introduce and approve the first reading an Ordinance amending Chapter 12.04 of the Del Rey Oaks Municipal Code relating to the definition of "Superintendent of Streets," sidewalk maintenance and repair, liability for injuries and right-of-way maintenance.
2. Provide policy direction regarding potential additional requirements for construction of new sidewalks upon (a) new development, (b) transfer of real property, and/or (c) issuance of building permits exceeding a set threshold.

Background

Chapter 12.04 of the Del Rey Oaks Municipal Code (DROMC) regulates streets, sidewalks, and public places. Specifically with respect to the repair and maintenance of sidewalks, DROMC section 12.04.090 makes owners of property adjacent to sidewalks and rights-of-way responsible for their maintenance and repair via reference to Section 5610. However, staff feel the DROMC could be clearer in establishing this responsibility.

California Streets and Highways Code Chapter 22 (Division 7, Part 3, Sections 5600 et seq.) authorizes cities to require property owners to maintain and repair sidewalks, curbs, parking strips, and related frontage improvements adjacent to their property. Pursuant to this authority, Del Rey Oaks has imposed the obligation for sidewalk and right-of-way repair and maintenance on adjacent property owners.

In addition, some communities have adopted proactive policies requiring new sidewalk construction upon development, property transfer, or issuance of substantial building permits, in order to incrementally improve pedestrian safety and accessibility.

Discussion

The proposed ordinance amendment would:

- Define the "Superintendent of Streets" as the City Manager.
- Replace existing Section 12.04.090 with new provisions assigning responsibility for sidewalk repair and maintenance to adjacent property owners, consistent with state law.

~~12.04.090 – Streets and Highways Code provisions adopted.~~

~~The provisions of Sections 5600 through 5629, inclusive, of the Streets and Highways Code of the State of California, as they now exist or may hereafter be amended, are adopted as the procedure governing the maintenance and repair of sidewalks, driveways, driveway approaches in the city. For the purpose of this chapter, "sidewalks" as defined in Section 5600 of said Streets and Highways Code, shall also include a "driveway" and a "driveway approach."~~

12.04.090 – Maintenance and Repair of Sidewalks.

A. Anything in this chapter to the contrary notwithstanding, the maintenance and repair of sidewalk areas and the making, confirming and collecting of assessments for the cost and expenses of said maintenance and repair may be done and the proceedings therefor may be had and taken in accordance with this part and the procedure therefor provided in Chapter 22 of Division 7, Part 3, of the Streets and Highways Code of the state as the same is now in effect or may hereafter be amended. In the event of any conflict between the provisions of said Chapter 22 of Division 7, Part 3, of the Streets and Highways Code of the state and this Chapter 12.04, the provisions of Chapter 12.04 shall control.

B. The owners of lots or portions of lots adjacent to or fronting on any portion of a sidewalk area between the property line of the lots and the street line, including parking strips, sidewalks, curbs and gutters, and persons in possession of such lots by virtue of any permit or right shall repair and maintain such sidewalk areas and pay the costs and expenses therefor, including a charge for the City of Del Rey Oaks' costs of inspection and administration whenever the city awards a contract for such maintenance and repair and including the costs of collection of assessments for the costs of maintenance and repair under subsection A. of this section or handling of any lien placed on the property due to failure of the property owner to promptly pay such assessments.

C. For the purposes of this Chapter, maintenance and repair of sidewalk area shall include, but not be limited to, maintenance and repair of surfaces including grinding, removal and replacement of sidewalks, repair and maintenance of curb and gutters, removal and filling or replacement of parking strips, removal of weeds and/or debris, tree root pruning and installing root barriers, trimming of shrubs and/or ground cover and trimming shrubs within the area between the property line of the adjacent property and the street pavement line, including parking strips and curbs, so that the sidewalk area will remain in a condition that is not dangerous to property or to persons using the sidewalk in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of said sidewalk area.

D. Notwithstanding the provisions of Section 5614 of the state Streets and Highways Code, the superintendent of streets may in his or her discretion, and for sufficient cause, extend the period within which required maintenance and repair of sidewalk areas must commence by a period of not to exceed ninety days from the time the notice referred to in said Section 5614 is

given.

- Add Section 12.04.100 clarifying that property owners may be liable for injuries caused by failure to maintain sidewalks in a safe condition, consistent with state law.

12.04.100 – Liability for Injuries to Public.

The property owner required by Section 12.04.090 to maintain and repair the sidewalk area shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and nondangerous condition. If, as a result of the failure of any property owner to maintain the sidewalk area in a nondangerous condition as required by Section 12.04.090, any person suffers injury or damage to person or property, the property owner shall be liable to such person for the resulting damages or injury.

- Add Section 12.04.110 with provisions assigning responsibility for right-of-way maintenance to adjacent property owners.

12.04.110 Owner responsibility for right-of-way maintenance.

A. The owner of any premises within the city has the primary responsibility for keeping said premises free of public nuisances. Tenants and occupants of the premises, for the purposes of this chapter, shall be deemed to be the agents of the owner for purposes of this chapter.

B. The owner of any lot fronting any portion of a parkway or sidewalk, or other public right-of-way, shall maintain such parkway, sidewalk, curb, gutter and right-of-way, including any and all trees, shrubs, hedges, or landscaping in the abutting parkway, sidewalk, or public right-of-way, in a condition that will not interfere with the public safety and convenience and the use of the parkway, sidewalk, curb, gutter and right-of-way.

C. The owners of lots fronting any portion of any parkway, sidewalk, curb, gutter or other public right-of-way shall keep those areas free of debris at all times.

D. The failure to comply with the requirements of this section shall be deemed a public nuisance. The city may exercise any remedy permitted by law for violations of this section, including those contained in Chapters 1.16 and 1.19.

E. Notwithstanding the owner's primary responsibility for the maintenance of parkways, sidewalks, curbs, gutters and public rights-of-way, the city shall retain discretion for ensuring the general maintenance level of public rights-of-way for the purpose of ensuring the safety of the public, including, but not limited to, maintaining street trees and other landscaping improvements, including irrigation systems, roadways systems and shoulders, utility services, parkways, and pedestrian sidewalks. This includes privately owned improvements within the public right-of-way.

Maintenance and Repair Responsibilities

The City of Del Rey Oaks' practices with respect to sidewalk (including curb and gutter) and parkway maintenance have been for many years based on the California Streets and Highways Code, Section 5610. The recommended changes to Chapter 12.04.090 and addition of Chapter 12.04.110 provide clear language regarding the responsibilities of property owners for maintenance and repairs of parkways, sidewalks, curbs, gutters and public rights-of-way adjacent to their properties.

Liability for Injuries

While property owners are typically responsible for sidewalk repair, case law generally does not assign liability to them for injuries caused by sidewalk defects—unless the property owner directly caused the defect. Most California cities have adopted ordinances that place the duty to repair sidewalks on adjacent property owners. However, these ordinances vary in how the obligation is imposed and in the extent of property owner liability. Importantly, cities cannot fully transfer liability away from themselves under state law, as established by the Tort Claims Act. Cities may, however, establish concurrent liability, meaning both the city and the adjoining property owner can be held jointly responsible for damages or injuries resulting from defective sidewalks.

To impose concurrent liability, a city's ordinance must use clear and unambiguous language describing the respective responsibilities of the city and property owners. The City of San Jose's ordinance—upheld in *Gonzales v. San Jose* (2004)—is a key example. That ordinance requires property owners to maintain and repair sidewalks adjacent to their property in a safe condition and expressly holds them liable for any injury or damage resulting from unsafe sidewalks.

San Jose's ordinance does not absolve the city of liability but allows both the city and the property owner to share responsibility. According to the City of San Jose Department of Transportation, the city does not currently offer financial assistance for sidewalk or tree repairs; property owners must cover the full cost and obtain necessary permits for work in the public right-of-way.

The City of Sacramento follows a similar policy. The only distinction is that Sacramento allows property owners to request city crews or contractors to perform the repairs—though the property owner still bears the full cost.

The recommended amendment to the Del Rey Oaks Municipal Code would align closely with the approach used in San Jose.

Policy Options for Potential Additional Requirements

In the recent past, community members as well as some council members have expressed concerns regarding pedestrian safety due to the lack of existing and standardized sidewalks throughout the city. To facilitate discussion of options for requiring property owners to install sidewalks, staff has reviewed how other agencies address this issue. In addition to the above amendments, Council may consider adopting one or more of the following options for future implementation:

Option A – New Development Requirement

- Require installation of sidewalks along the frontage of all new development projects.
- This approach ensures new development contributes to community-wide pedestrian safety and ADA compliance.

Option B – Property Transfer Requirement

- Require construction or repair of sidewalks upon the sale or transfer of real property.
- This approach uses the point of sale to incrementally upgrade sidewalk infrastructure but may impose costs on property sellers or buyers.

Option C – Building Permit Threshold

- Require sidewalk installation or upgrades when permits are issued that exceed a certain size or dollar amount (e.g., \$50,000 in valuation, or additions over 500 square feet).
- This ensures that substantial property improvements include corresponding public infrastructure improvements.

If Council approves, staff will return at the next meeting with the second reading and adoption of the ordinance. Staff also requests Council direction on whether to return with draft code language for one or more of the policy options (A–C).

Fiscal Impacts

The proposed ordinance clarifies that adjacent property owners are financially responsible for sidewalk repair and maintenance. City costs may include administrative and inspection expenses, which may be recoverable through assessments.

Attachments

- Draft Ordinance Amending Chapter 12.04

Respectfully submitted,

John Guertin
City Manager

ORDINANCE No. 322

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL REY OAKS AMENDING CHAPTER 12.04 OF THE MUNICIPAL CODE RELATING TO STREETS, SIDEWALKS AND PUBLIC PLACES

WHEREAS, the City of Del Rey Oaks Municipal Code Chapter 12.04 regulates streets, sidewalks, and public places; and

WHEREAS, Chapter 12.04 currently requires the owners of property adjoining sidewalks and rights-of-way to maintain and repair them; and

WHEREAS, the City wishes to make clearer the responsibilities of such owners.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Del Rey Oaks, California as follows:

SECTION 1. A new Section 12.04.005 is added to Chapter 12.04 to read as follows:

12.04.005 – Superintendent of Streets Defined.

As used in this chapter, the term “superintendent of streets” means the City Manager, or their designee.

SECTION 2. Section 12.04.090 of the Del Rey Oaks Municipal Code is amended in its entirety to read as follows:

12.04.090 – Maintenance and Repair of Sidewalks.

D. Anything in this chapter to the contrary notwithstanding, the maintenance and repair of sidewalk areas and the making, confirming and collecting of assessments for the cost and expenses of said maintenance and repair may be done and the proceedings therefor may be had and taken in accordance with this part and the procedure therefor provided in Chapter 22 of Division 7, Part 3, of the Streets and Highways Code of the state as the same is now in effect or may hereafter be amended.

B. The owners of lots or portions of lots adjacent to or fronting on any portion of a sidewalk area between the property line of the lots and the street line, including parking strips, sidewalks, curbs and gutters, and persons in possession of such lots by virtue of any permit or right shall repair and maintain such sidewalk areas and pay the costs and expenses therefor, including a charge for the City of Del Rey Oaks' costs of inspection and administration whenever the city awards a contract for such maintenance and repair and including the costs of collection of assessments for the costs of maintenance and repair under subsection A. of this section or handling of any lien placed on the property due to failure of the property owner to promptly pay such assessments.

C. For the purposes of this Chapter, maintenance and repair of sidewalk area shall include, but not be limited to, maintenance and repair of surfaces including grinding,

removal and replacement of sidewalks, repair and maintenance of curb and gutters, removal and filling or replacement of parking strips, removal of weeds and/or debris, tree root pruning and installing root barriers, trimming of shrubs and/or ground cover and trimming shrubs within the area between the property line of the adjacent property and the street pavement line, including parking strips and curbs, so that the sidewalk area will remain in a condition that is not dangerous to property or to persons using the sidewalk in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of said sidewalk area.

D. Notwithstanding the provisions of Section 5614 of the state Streets and Highways Code, the superintendent of streets may in his or her discretion, and for sufficient cause, extend the period within which required maintenance and repair of sidewalk areas must commence by a period of not to exceed ninety (90) days from the time the notice referred to in said Section 5614 is given.

SECTION 3. A new Section 12.04.100 is added to Chapter 12.04 to read as follows:

12.04.100 – Liability for Injuries to Public.

The property owner required by Section 12.04.090 to maintain and repair the sidewalk area shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and nondangerous condition. If, as a result of the failure of any property owner to maintain the sidewalk area in a nondangerous condition as required by Section 12.04.090, any person suffers injury or damage to person or property, the property owner shall be liable to such person for the resulting damages or injury.

SECTION 4. A new Section 12.04.110 is added to Chapter 12.04 to read as follows:

12.04.110 – Owner responsibility for right-of-way maintenance.

A. The owner of any premises within the city has the primary responsibility for keeping said premises free of public nuisances. Tenants and occupants of the premises, for the purposes of this chapter, shall be deemed to be the agents of the owner for purposes of this chapter.

B. The owner of any lot fronting any portion of a parkway or sidewalk, or other public right-of-way, shall maintain such parkway, sidewalk, curb, gutter and right-of-way, including any and all trees, shrubs, hedges, or landscaping in the abutting parkway, sidewalk, or public right-of way, in a condition that will not interfere with the public safety and convenience and the use of the parkway, sidewalk, curb, gutter and right-of-way.

C. The owners of lots fronting any portion of any parkway, sidewalk, curb, gutter or other public right-of-way shall keep those areas free of debris at all times.

D. The failure to comply with the requirements of this section shall be deemed a public nuisance. The city may exercise any remedy permitted by law for violations of this section, including those contained in Chapters 1.16 and 1.19.

E. Notwithstanding the owner’s primary responsibility for the maintenance of parkways, sidewalks, curbs, gutters and public rights-of-way, the city shall retain discretion for ensuring the general maintenance level of public rights-of-way for the purpose of ensuring the safety of the public, including, but not limited to, maintaining street trees and other landscaping improvements, including irrigation systems, roadways systems and shoulders, utility services, parkways, and pedestrian sidewalks. This includes privately owned improvements within the public right-of-way.

SECTION 5. Environmental Determination. The City Council finds the enactment of this ordinance is not subject to the California Environmental Quality Act (CEQA) as it is not a project pursuant to Guidelines Section 15378 (b)(5) because it is an organizational or administrative activity of the City that will not result in direct or indirect physical changes in the environment. Also, it can be seen with certainty that there is no possibility the enactment of this ordinance may have a significant effect on the environment pursuant to Guidelines section 15061(b)(3).

SECTION 6. This ordinance shall take effect thirty (30) days following its final adoption.

SECTION 7. The City Manager and City Clerk are directed to perform all tasks necessary to implement this ordinance.

SECTION 8. Severability. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses, or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 9. Publication. The City Clerk is hereby directed to publish in a newspaper of general circulation.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Del Rey Oaks, California, at its regular meeting held on the ____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Scott Donaldson, Mayor

ATTEST:

Karen Minami, City Clerk