



Folsom City Council Staff Report

MEETING DATE:	5/11/2021
AGENDA SECTION:	New Business
SUBJECT:	Policy for Sidewalk Maintenance Responsibility and Direction to Staff
FROM:	Public Works Department

RECOMMENDATION / CITY COUNCIL ACTION

The Public Works Department is requesting direction from the City Council as it pertains to the Policy for Sidewalk Maintenance.

BACKGROUND / ISSUE

The City is responsible for ensuring the sidewalks are maintained throughout the City of Folsom. Currently, Public Works staff responds to reports of sidewalk hazards, typically within 24 hours, and makes temporary repairs. While these repairs are necessary, they often do not adequately address the underlying cause of the hazard nor resolve the issue in the long term. A lack of a clear policy has made it difficult to address sidewalk replacements in many locations, with staff being tasked with making temporary repairs multiple times before a permanent repair can be made.

The City does not have a dedicated ordinance that identifies and provides guidelines for the responsibility of sidewalk maintenance; however, Chapter 22 of the California Streets and Highways Code, Section 5610, requires the maintenance of sidewalks to be the responsibility of the affronting property owner. Although many other local municipalities do require the affronting property owner to maintain the sidewalk in a clear and safe condition, the City has historically taken on the repairs to reduce its exposure to litigation as well as to reduce any hardships to property owners. Due to a lack of clear policies and procedures, many of the temporary repairs degrade over time and the permanent repairs are not completed.

Streets and Highways Code, Chapter 22, Section 5610, states:

The owners of lots or portions of lots fronting on any portion of a public street or place when that street or place is improved or if and when the area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience in the use of those works or areas save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him by law or by the city authorities in charge thereof, and such persons shall be under a like duty in relation thereto.

While the Streets and Highways Code does set forth the mechanisms by which the City may notice and require repairs to be undertaken or assess property owners for the costs of the repairs if undertaken by the City, it does not allow for any mutually beneficial policies on sidewalk replacement such as cost-sharing or allowing property owners to choose to have the City perform the repairs at known costs. In many instances the City would likely be able to facilitate necessary repairs for considerably less cost, passing those savings onto the property owners.

Due to the increasing number of sidewalk uplifts and a backlog of repair locations, the Public Works Department is interested in pursuing an ordinance amendment that would establish sidewalk maintenance responsibilities and policies for replacement. The ordinance would contain clear policies regarding sidewalk maintenance responsibility, temporary repair guidelines, possible cost-sharing opportunities, and a potential method for the City to administer required sidewalk maintenance at a discounted price to the property owner due to economy of scale. The ordinance could also address private property trees which account for most sidewalk uplifts. Topics such as tree removal and root pruning could be addressed so that any sidewalk maintenance performed will not need to be redone in a few years due to further uplift from unmitigated trees. Other local agencies have policies where the City will cover the cost of the sidewalk replacement if the property owner removes the tree, as another example of a benefit from a sidewalk maintenance ordinance.

There are liability issues with the current lack of a policy on sidewalk maintenance. In the past 10 years, the City has received 14 sidewalk injury claims. Case law has proven that liability cannot be imposed on property owners via Streets and Highways Code Section 5610. Liability can however be imposed through the adoption of a properly worded ordinance.

An ordinance could expressly provide that property owners owe a duty of care to members of the public to keep and maintain sidewalk areas in a safe, non-dangerous condition. In December 2004, the California Appellate Sixth District Court upheld the validity of a City ordinance finding in part that the imposition of a duty of care on an abutting landowner serves as an important public purpose by providing property owners with an incentive to maintain the sidewalks adjacent to their property in a safe condition. The court's ruling that the ordinance is valid – in effect, makes it an even stronger tool for use by cities throughout California.

It is the Public Works Department’s goal to contract yearly with contractors that would be utilized to replace damaged sidewalks. Folsom residents could choose to make the repairs themselves, hire their own licensed contractor or opt to have the City make the repairs at a known cost. Regardless of which direction is chosen, repairs would be required to be completed to City of Folsom standards and specifications and inspected by City staff. It is likely that many property owners would choose to have the repairs made by the City to avoid the nuances of obtaining an encroachment permit and hiring a contractor.

Below are the sidewalk maintenance policies of other nearby local municipalities:

Agency	Policy	Responsible Party
City of Citrus Heights	Streets and Highways Code	Property Owner
City of Elk Grove	Municipal Code	Property Owner
City of Rancho Cordova	Streets and Highways Code	-City repairs residential -Property owner repairs commercial
City of Sacramento	Municipal Code	Property Owner

POLICY / RULE

The City Council is vested with authority to adopt Ordinances pursuant to Section 2.12 of the Folsom City Charter. Amendments to the Folsom Municipal Code require approval of the City Council.

This item is not requesting an ordinance amendment, but rather is being presented as a discussion item to request direction from Council on further investigating an ordinance amendment.

ANALYSIS

Staff has prepared three options for your consideration as presented below:

City to Maintain Sidewalks	No written policy for sidewalk maintenance responsibility
	Property owners not financially or legally liable for maintenance
	Increasing backlog of repair locations and temporary repairs
	Depletion of sidewalk repair funds
Adhere to California Streets and Highways Code Section 5610	Clear policy for sidewalk maintenance responsibility
	Does not allow for any cost sharing opportunities between the City and property owners
	Liability cannot be imposed on property owners
	Increased financial liability to property owners
Amendment to the City Sidewalk Ordinance	Clear policy for sidewalk maintenance responsibility
	Potential cost sharing opportunities between the City and property owner
	Liability can be imposed on property owners
	Increased financial liability to property owners
	Decreased liability to the City

FINANCIAL IMPACT

The Public Works Department spends approximately \$350,000 per year on sidewalk repairs and replacement. As mentioned previously, this amount has not been adequate to address all known sidewalk maintenance required. Further, there are likely many more locations that need maintenance, or soon will need maintenance, that have not been realized by the City.

The adoption of a sidewalk maintenance ordinance could allow these funds to be used for cost-sharing programs with property owners for sidewalk maintenance, resulting in a reduced backlog of repair locations and a safer, pedestrian friendly City.

ENVIRONMENTAL REVIEW

This action is not considered a project under Section 15061(bX3) of the California Environmental Quality Act Guidelines, and as such is exempt from environmental review.

Submitted,

Dave Nugen, PUBLIC WORKS DIRECTOR

This page intentionally left blank