



## Staff Report

**Date:** July 12, 2016

**To:** City Council

**From:** Valerie J. Barone, City Manager

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**Subject:** **Considering adoption of Policy and Procedure No. 171  
Establishing a Formal City of Concord Policy on Sidewalk  
Inspection and Repair**

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### Report in Brief

Staff is working to implement the On-Call Sidewalk Replacement Pilot Program that was approved by the City Council in September 2015. The Program is intended to streamline the repair of sidewalk areas which are the responsibility of property owners by allowing them to use the City's authorized sidewalk repair contractors and waive the requirement to obtain individual encroachment permits for the repairs.

To complement the pilot program, staff is proposing a formal policy and procedure on the permanent and temporary repairs of sidewalks. Developing formal sidewalk policy will aid staff in the decision-making and notification process when sidewalk defects are found. This staff report presents a history on sidewalk inspection and repairs and makes a recommendation to adopt a formal City policy on sidewalk repairs. The pilot program is scheduled to begin in the upcoming 2016-17 fiscal year.

### Recommended Action

The Policy Development and Internal Operations Committee, and staff, recommend that the City Council adopt Policy and Procedure No. 171, "Sidewalk Inspection and Repair."

### Background

City of Concord Municipal Code Sections 12.25.030 and 12.25.040 states that the adjacent or fronting property owner is responsible for maintenance and repair of sidewalk areas, including sidewalks, curbs and gutters and parking strips. Hazardous conditions presented by damaged sidewalks and driveways pose tripping hazards and

accessibility barriers for pedestrians. The Public Works Department performs basic (asphalt) ramping and grinding of uplifted sidewalks under certain conditions. The application of these repairs are intended to reduce tripping hazards but do not absolve the property owners of their responsibilities under Concord Municipal Code.

City staff often receives requests to repair and/or replace sidewalks by property owners as well as complaints regarding broken and uplifted sidewalks. Once made aware of a hazardous sidewalk condition either from a request, complaint or inspection by staff, the Public Works Department will make a temporary repair by ramping and/or grinding to reduce the hazard. City staff then notifies the property owners that, in order for permanent repairs to be made, they are required to find their own contractor, acquire the necessary City permits, pay for and manage construction, and make sure the work is inspected by the City. After advising property owners of their responsibility to maintain and repair the sidewalk, as well as the standard associated costs, these repairs often go unaddressed.

In September 2015 the City Council approved an On-Call Sidewalk Replacement Pilot Program. The program was designed to provide an option for property owners to have the City manage the replacement of damaged sidewalks, driveways, and curb and gutter, in the City right-of-way fronting their property. Under the pilot program, property owners will still be responsible for the costs of the work, and have the option of securing their own contractor to complete any repairs. The Sidewalk Replacement Pilot Program has been designed to provide a more cost effective option for property owners as they will not be required to obtain individual encroachment permits for the repairs and they benefit from economies of scale pricing through the City's contract.

The Engineering Division recently completed the Plans, Specifications, and Estimate package for the Sidewalk Replacement Program. The bid package was designed to provide prospective bidders with a biddable estimate of "on-call" services by including "estimated quantities" of the various items of work needed to establish "per unit" costs. Actual work will be outlined on work orders issued to the selected contractor, as needed, with a limited window for repair and the Contractor will then be paid based on the unit prices as each work order is completed. Once the contracting process is complete and a vendor is selected to perform work for the City and private property owners, the On-Call Sidewalk Replacement Pilot Program will begin. Staff plans to begin implementing the pilot program by the end of the first quarter of the upcoming 2016-17 fiscal year.

On June 28, 2016 the City Council rejected bids for the On-Call Sidewalk Replacement Pilot Program. Only one bid was received and it was approximately 50% higher than the Engineer's Estimate. Staff contacted the bidder and other potential bidders to understand why additional bids were not submitted and why the bid received was so high. Respondents indicated that they were currently quite busy and could be selective about what jobs they bid on and that this bid contained uncertainty as to the amount of

work per work order. Based on the feedback, staff evaluated and identified options to make the project more attractive to potential bidders. The project will be re-bid sometime during July 2016.

On May 12, 2016 staff met with the Policy Development and Internal Operations Committee. Staff presented the draft policy to the Committee, at which time it was reviewed and questions were asked by Committee members and answered by staff. After listening to the staff report and discussing the policy elements, the Committee directed staff to present the draft policy to the full City Council for consideration.

### **Analysis**

As previously discussed, the City currently has a practice of making temporary repairs to hazardous sidewalk conditions and notifying property owners of sidewalk maintenance and repair responsibilities. The City does not, however, have policy and procedure that formalizes the process. Staff believes that formal policies and procedures which address sidewalk maintenance and repair are necessary for a consistent and deliberate approach when considering these items.

The attached Sidewalk Inspection and Repair Policy outlines sidewalk maintenance and repair responsibilities per municipal code, procedures for sidewalk preventative maintenance and inspection, property owner notification, including information on the City's Sidewalk Replacement Program, and retention of records. Staff believes that adoption of formal policy and procedure will ensure consistency when carrying out sidewalk inspection, maintenance and repairs and when implementing the Sidewalk Replacement Program.

The attached policy does not address the On-Call Sidewalk Replacement Pilot Program, with the exception of requiring that information on the Program be included in property owner notification letters. The reason for this is that it is expected that the pilot program may change from time-to-time, potentially including the infusion of city funds to help private property owners offset the cost of sidewalk repairs. As it is now, the pilot program scheduled to begin during the 2016-17 fiscal year does not include City funds to help private property owners perform sidewalk repairs. Staff will develop internal processes and procedures for carrying out the pilot program separate from the proposed Sidewalk Inspection and Repair Policy, allowing staff to easily modify the program in response to available resources and other changing conditions.

### **Financial Impact**

There will be no fiscal impact should the Sidewalk Inspection and Repair Policy be adopted. The Sidewalk Replacement Program was designed to provide an option for property owners to have the City manage the replacement of damaged sidewalks; however, property owners will still be responsible for the costs of the work.

### **Public Contact**

The City Council Agenda was posted.

**Attachments**

1. Policy and Procedure No. 171, "Sidewalk Inspection and Repair."



## CITY OF CONCORD

Number: 171  
 Authority: Council Motion  
 Effective: 07-12-2016  
 Revised:  
 Reviewed:  
 Initiating Dept.: PW

## SIDEWALK INSPECTION AND REPAIR

### 1. PURPOSE

This Sidewalk Inspection and Repair policy has been established to make certain that appropriate oversight and consistent approach is provided when the City inspects and repairs sidewalks.

### 2. BACKGROUND

The City's Sidewalk Ordinance delineates the responsibility for maintaining and repairing sidewalks to the owners of real property that are adjacent to, or which front any portion of a sidewalk. The City's Streets Maintenance Division in Public Works will perform certain temporary sidewalk curb and gutter repairs on said sidewalks as set forth herein.

Upon receipt of a complaint of a sidewalk defect, made either directly to Public Works from a citizen, Public Works or another City department or division, or through the City Attorney's Office, or upon annual inspection, when feasible, as set forth herein, the Streets Maintenance Division will make temporary repairs upon inspection of sidewalks, as set forth below.

Any temporary repairs installed or performed by the Streets Maintenance Division on City sidewalks shall be performed as a courtesy only, and shall not void, supersede or replace any duties of an adjacent property owner to implement permanent repairs to the sidewalk in accordance with the City's Sidewalk Ordinance.

### 3. POLICIES

#### I. CITY'S SIDEWALK ORDINANCE

- A. Property Owner Responsibility to Maintain. Pursuant to the City's Sidewalk Ordinance, Sections 12.25.030 and 12.25.040 of the Concord Municipal Code set forth below, the owner of real property that is adjacent or fronting any portion of a sidewalk is responsible for the maintenance and repair of said sidewalk. Additionally, any liability that occurs as a result of the failure to maintain sidewalks are also passed on to the adjacent property owner pursuant to the City's Sidewalk Ordinance.

1. Concord Municipal Code Sec. 12.25.030 Maintenance and repair of sidewalks. 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 lots by virtue of any permit or right shall repair and maintain such sidewalk areas and pay the costs and expenses therefore. Maintenance and repair of sidewalk areas 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 filing or replacement of parking strips, removal of weeds and/or debris, tree 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 owners or persons using the sidewalk in a reasonable manner and in a condition which will not interfere with the public convenience and use of said sidewalk area.

2. Concord Municipal Code Sec. 12.25.040 Liability for personal injury and property damage. The property owner required by section 12.25.030 to maintain and repair the sidewalk area shall owe a duty of care to the members of the public to keep and maintain this sidewalk area in a safe and non-dangerous condition. If, as a result of a failure of any property owner to maintain the sidewalk area in a non-dangerous condition as required by section 12.25.030, any person suffers injury or damage to personal property, the property owner shall be liable to such person for the resulting damage or injury.
- B. City's Responsibility to Maintain. The City shall be responsible to maintain and repair any sidewalk defects that are caused by City-owned and maintained trees and landscaping. (CMC Sec. 8.40.020 and 8.40.050).

## II. SIDEWALK PREVENTATIVE MAINTENANCE PROGRAM

- A. Criteria and method of repair. The City's Streets Maintenance Division shall use the following criteria for repairs and method of repair for temporary repairs of sidewalks:
  1. Criteria for Sidewalk Repair includes, but is not limited to:
    - a. Vertical displacement over 3/4.”
    - b. Horizontal displacement, including cracks without vertical displacement, over 3/4.”
    - c. Disruptions in longitudinal profile uniformity greater than 1” rise or fall per 1 foot horizontal run longitudinal (ramp effect).
  2. Recommended Temporary Repair Method includes, but is not limited to:
    - a. Grinding or ramping: to be used for vertical displacement up to 1 inch.
    - b. Concrete Mortar: to be used on horizontal displacement, including cracks without vertical displacement.
    - c. Best available technique: to be used on disruptions in longitudinal profile uniformity greater than 1” rise or fall per 1 foot horizontal run longitudinal (ramp effect).
  3. The Streets Maintenance Division shall document any temporary sidewalk repairs by entering the street location and method of repair into a log.
    - a. Upon request by the City Attorney's Office to inspect and/or repair a sidewalk based upon a citizen complaint, the Streets Maintenance Division shall complete the City Attorney's Office Sidewalk Inspection Request form (Attachment A), take measurements of the sidewalk defect and shall also take photographs of the defect and the repair.
- B. Sidewalk Inspection Program. The City has over 14.5 million square feet of sidewalk within its City limits, divided into five (5) inspection and maintenance zones. If feasible (given budget and staffing restraints), the Streets Maintenance Division shall attempt to inspect each zone at least once every five (5) years, and maintain an inventory of existing sidewalk conditions.

If feasible, the downtown Todos Santos area sidewalks shall be inspected at least once a year.

1. Any inventory of existing sidewalk defects shall be maintained by the Street Maintenance Division to be included CIP sidewalk enhancement projects as resources become available.

- C. Notification of Property Owner of Sidewalk Defect. Pursuant to Streets and Highway Code Section 5610, a City may at its option repair a sidewalk and lien the adjoining or fronting property owner for the costs of repair.
1. Once it is determined that a sidewalk defect exists and that a fronting property owner is responsible pursuant to the City's Sidewalk Ordinance and the Streets and Highway Code, the Streets Maintenance Division staff shall send a letter to the property owner to notify the property owner of his or her responsibility to repair the sidewalk defect.
    - a. The letter to the property owner shall include information on the City's Sidewalk Replacement Program, in which the property owner will have the option of performing the sidewalk repair at a flat rate (calculated either by job or by square feet of concrete) which may be less expensive to the property owner than hiring a private contractor, and will not require the property owner to obtain a permit. A property owner who hires a private contractor for sidewalk repair outside of the City's Sidewalk Replacement Program will be required to obtain the necessary permits before performing work.
- D. Retention of Records
1. The Public Works Department shall maintain all records of notification letters, temporary repairs and inspections for the time specified in the City's records retention policy, currently ten years.