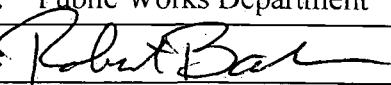




POLICY AND PROCEDURE

Subject: Comprehensive Sidewalk Policy	Index: Public Works & Utilities Number: 801-1
Effective Date: October 1, 2013	Prepared By: Public Works Department
Supersedes: October 16, 2012	Approved By: 

1.0 PURPOSE:

It is the purpose of this policy to provide for repair of trip hazards and defects in existing sidewalks within the public right-of-way (ROW), installation of new sidewalk within the public ROW, and compliance with the American with Disabilities Act (ADA) when replacing existing sidewalks or installing new sidewalks.

2.0 ORGANIZATIONS AFFECTED:

Public Works, Community Development, and Beaches, Parks & Recreation Departments.

3.0 REFERENCES:

Resolution No. 03-04.

SCMC Chapters 12.08 and 12.24.

California Streets & Highways Code Section 5610.

California Division of the State Architect 2011 Access Compliance Reference Manual.

U.S. Access Board Proposed Accessibility Guidelines for Pedestrian facilities in the Public Right-of-Way (36 CFR Part 1190).

4.0 POLICY:

It is the desire of the City of San Clemente to provide for ADA compliant, safe and properly maintained sidewalks within the public ROW and to facilitate installation of ADA compliant sidewalks on public and private streets. Property owners are responsible for providing maintenance of sidewalks located within the public ROW, as required by State law (Streets and Highways Code Section 5610) and the City Municipal Code (Chapter 12.24.050). The City and property owners will comply with ADA requirements as appropriate for maintenance of existing sidewalks or construction of new sidewalks.

5.0 DEFINITIONS:

5.1. Curb: A concrete or asphalt edging which defines the edge of a paved street and may, but need not, provide drainage.

- 5.2. Gutter: A depressed, hard-surfaced area for conveying surface water.
- 5.3. Parkway: The area from back of curb to the edge of sidewalk or area from back of curb to the edge of right of way. If no curb exists, that area from the edge of the street to the edge of the right-of-way.
- 5.4. Private street: A right-of-way that is not owned by the City of San Clemente, the County of Orange, or the State of California, used to provide safe and efficient movement of people and goods by all modes of travel.
- 5.5. Right-of-way (ROW): The entirety of that area dedicated for public or private use.
- 5.6. Sidewalk: An improved pedestrian walkway within a right-of-way adjacent to a street.
- 5.7. Street: A right-of-way owned by the City of San Clemente, the County of Orange, or the State of California, used to provide safe and efficient movement of people and goods by all modes of travel.
- 5.8. Structurally impracticable: Those rare circumstances where the unique circumstances of terrain prevent the incorporation of accessibility features (28 CFR 35.15(a)(2)).
- 5.9. Technically Infeasible: An alteration of a facility or public right-of-way that has little likelihood of being accomplished because existing physical or site constraints or a lack of public right-of-way prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility (See ADAAG § 4.1.6(1) (j)).
- 5.10. Undue Burden: Means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include: 1) The nature and cost of the action needed under this part; 2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site; 3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity; 4) If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and 5) If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity (28 CFR 36.104).

6.0 EXISTING SIDEWALK – TRIP HAZARD AND SURFACE DEFECT REPAIR

- 6.1. The purpose of this program is to repair trip hazards and deteriorated surfaces in sidewalks along public streets in the interest of public safety and welfare. This program is focused on protecting public safety and is not intended to address sidewalk defects which are primarily aesthetic in nature but do not pose a significant hazard to the public.
- 6.2. A trip hazard is defined as a vertical displacement of 0.75 inches or more in the sidewalk itself (does not include the actual curb or a vertical displacement between the sidewalk and curb) unless either of the following situations applies:

- 6.2.1. A vertical displacement in the sidewalk of 0.5 to 0.75 inches will also be considered a trip hazard if it is located in one of the following priority locations: within ¼ mile of a school, senior citizen housing/center or public park/beach access, and within the Del Mar/El Camino Real T-Zone.
 - 6.2.2. A vertical displacement between the sidewalk and adjacent curb is considered a trip hazard if it is greater than or equal to 0.75 inches and located in one of the sensitive locations listed in Section 6.2.1.
- 6.3. In addition to trip hazards, sidewalks with deteriorated surfaces may also pose a potential safety hazard to the public. The following types of deteriorated surfaces, while not necessarily meeting the definition of a trip hazard, may nonetheless pose a potential hazard to pedestrians in certain situations:
- 6.3.1. Cracked into 4 or more pieces or has any crack 0.5 inches wide or greater or has one or more holes that are 0.5 inches or greater in depth and diameter;
 - 6.3.2. Missing a piece greater than 16 square inches or missing a full depth piece of any size; or
 - 6.3.3. Spalled over 50% of the surface.
- 6.4. Repair Funding Responsibility and Prioritization:
- 6.4.1. As required by State law (Streets and Highways Code Section 5610) and San Clemente Municipal Code Section 12.24.050, private property owners are responsible for maintenance and repair of sidewalks within the public ROW and located along their property frontage.
 - 6.4.2. Although the City is not obligated to fund repair of trip hazards and deteriorated sidewalks fronting any properties other than those owned by the City, the City has adopted a cost sharing program per City Resolution No. 03-04 where, subject to available funds, the City will provide up to 50% of the cost for repair of sidewalk trip hazards described in Sections 6.2, 6.2.1 and 6.2.2 of this policy. This cost sharing program applies only to sidewalks located within the public ROW, and does not apply to sidewalks along private streets.
 - 6.4.3. For deteriorated sidewalk sections described in Section 6.3, the City will require the repair to be conducted by the fronting property owner per San Clemente Municipal Code Chapter 12.24.
 - 6.4.4. Repair Funding and Priority: Each fiscal year the City will strive to allocate funds to complete trip hazard and deteriorated sidewalk section repairs. If funding is not available or not sufficient to complete all identified repairs in any given fiscal year, the repair locations shall be selected according to the following priority order (from highest to lowest priority): 1) sidewalk trip hazards of 1 inch or greater; 2) trip hazard locations per Section 6.2.1; 3) trip hazard locations per Section 6.2; and 4) trip hazard locations per Section 6.2.2.

6.5. Trip Hazard Identification:

- 6.5.1. The Public Works Department shall be responsible for inspecting all public sidewalks within the City to identify trip hazards and deteriorated sidewalk sections. The inspections shall be conducted so that the entire public sidewalk network is inspected every two years.
- 6.5.2. In addition to the ongoing inspection program, Public Works staff will investigate potential trip hazard or deteriorated sidewalk locations in public sidewalks by citizen request.

6.6. Repair Standards

- 6.6.1. Identified trip hazards and deteriorated sidewalk sections shall be repaired according to sidewalk standards approved by the Public Works Director/City Engineer.
 - 6.6.1.a. Repair of trip hazards shall generally be by replacing locations where there is 1 or more inches of vertical displacement and by grinding where there is less than 1 inch of displacement, unless otherwise approved by the Public Works Director/City Engineer.
 - 6.6.1.b. Repair of deteriorated sidewalk surfaces may be by replacing the deteriorated section or patching or filling of the surface defects, or as approved by the Public Works Director/City Engineer.
 - 6.6.2. The scope and extent of the repair shall be limited to that needed to remedy the identified trip hazard. The repair itself must comply with ADA to the extent practicable, but is not intended to address any existing ADA issues (e.g. substandard sidewalk width, existing nearby obstructions, etc.).
 - 6.6.3. Tree impacts/conflicts: Whenever the construction of new sidewalk, or repair of existing sidewalk, conflicts with existing trees, the City's tree policy shall govern the course of action.
- 6.7. City documentation: City staff shall maintain a database of all identified trip hazard and deteriorated sidewalk locations and use written logs/reports and photos to document completion of all trip hazard repairs, whether conducted by the City or completed by the property owner. The database shall be updated on a regular basis.

7.0 EXISTING SIDEWALK – ADA COMPLIANCE IMPROVEMENTS

- 7.1. The purpose of the Existing Sidewalk ADA Compliance Program is to improve accessibility of existing public sidewalks by removing existing obstructions to provide accessible paths of travel consistent with current ADA standards.
- 7.2. Improvements to existing sidewalks are considered alterations. The City will strive to remove obstructions in existing sidewalks to improve accessibility and ADA compliance to the maximum extent feasible.

7.2.1. Examples of obstructions include:

- 7.2.1.a. Vertical point obstructions such as fire hydrants, mailboxes, street sign poles, retaining walls, etc. Typical approaches to address such obstructions could include removal, relocation, or widening of sidewalk to provide acceptable clearance.
- 7.2.1.b. Trees. Typical approaches to address such obstructions could include removal, relocation, widening or realignment of sidewalk to provide acceptable clearance. The City's tree policy shall govern whether existing trees are removed or relocated.
- 7.2.1.c. Driveway approaches or curb ramps that don't meet current ADA standards, missing curb ramps, or trip hazards and deteriorated sidewalks as defined in Section 6.0.

7.2.2. The City will evaluate the entire path of travel along a sidewalk on a given block to identify which existing obstructions can be feasibly addressed to meet ADA requirements. Obstructions deemed infeasible for removal will be documented with findings to support the basis for leaving the obstruction. The basis can be: 1) undue burden; 2) structurally impractical; 3) technically infeasible; or 4) cost disproportionate (where "cost disproportionate" would be evaluated by comparing the project against the total linear footage of the block being addressed). If needed to address an obstruction, the City will only acquire ROW from a willing property owner provided the cost for doing so is not disproportionate to the total cost for addressing the obstructions. The City will not use condemnation to acquire ROW for such sidewalk alterations.

7.2.3. Each year the City will identify potential obstructions for removal and consideration during the budget process, or develop 5-year plans, using location and condition criteria to prioritize improvement locations.

7.3. Private development projects must also remove obstructions in existing sidewalk segments fronting the parcel(s) of the proposed development project to comply with ADA to the maximum extent practicable as follows:

- 7.3.1. As a condition for issuance of a building permit for new buildings or improvements to existing buildings totaling \$50,000 or more (similar to the new sidewalk construction requirement discussed in Section 8.3 of this policy).
- 7.3.2. If needed to address an existing obstruction, a project meeting the threshold in 7.3.1 and which is also discretionary will be required to dedicate ROW or provide an easement for public sidewalk if the existing ROW is insufficient, unless such condition to require dedication of sufficient ROW or easement(s) is waived by the appropriate City approval body.
- 7.3.3. The total cost to address existing obstructions shall not exceed the cost that would be required to construct a 4-foot wide sidewalk per City standards along the entire property frontage.

- 7.3.4. The requirement to remove existing sidewalk obstructions may be partially waived by the City Manager to reduce, but not entirely waive, the amount of repair required along a property frontage if one or more criteria in Municipal Code Chapter 12.08 are found to apply to a portion of the of property frontage.
- 7.4. Funding: Each fiscal year the City will strive to allocate funds to address ADA issues in existing sidewalks. ADA issues in existing sidewalks will only be addressed to the extent funding is available.

8.0 NEW SIDEWALK CONSTRUCTION

- 8.1. The purpose of the New Sidewalk Construction Program is to expand the City's public sidewalk network to provide a safe, comfortable and connected pedestrian system to improve the quality of life for residents and visitors. The City's new sidewalk construction program consists of four components: CDBG new sidewalk installation; building permit new sidewalk installation requirement; new development/re-development new sidewalk requirement; and City New Sidewalk Construction CIP program.
- 8.2. The CDBG New Sidewalk program relies solely on Federal CDBG funds for installation of new sidewalk in the City's CDBG target area (see attached map). There is an annual process coordinated by the Planning Division to solicit public feedback and develop a priority list of potential sidewalk projects in the CDBG area. The City will continue to implement this program, and may also supplement it from time to time as other funding sources may become available.
- 8.3. Chapter 12.08 of the City's Municipal Code requires property owners who are developing new buildings or adding improvements totaling \$50,000 or more to construct sidewalks and monolithic curbs/gutters along their entire property frontage when such improvements don't exist. The City will continue to implement this program with the following clarifications:
- 8.3.1. Sidewalks shall be required whenever the ROW, as measured from the back of curb to the property line, is four (4) feet or wider. Where the existing ROW width, as measured from the back of curb to the property line, is less than four (4) feet, sidewalks shall not be required unless an easement or ROW dedication can be required via a discretionary approval.
- 8.3.2. Property owners shall remove all obstructions within their control (e.g. mailboxes, small walls, steps, planters, landscape/hardscape but not features such as utility boxes or poles) to allow for the construction of sidewalks, unless the City allows all the obstructions to remain in the ROW through a Minor Encroachment Permit or Administrative Encroachment Permit approved by the Public Works Director/City Engineer.
- 8.3.3. The requirement for installation of new sidewalk may be partially waived by the City Manager to reduce, but not entirely waive, the amount of new installation or repair required along a property frontage if one or more

criteria in Municipal Code Chapter 12.08 are found to apply to a portion of the of property frontage.

8.4. If the building construction is subject to discretionary approval and the valuation of building construction improvements meets the threshold in Section 8.3, then the discretionary approval shall be conditioned to require dedication of ROW or an easement(s) for public sidewalk purposes and be required to install new sidewalk, unless such condition to require dedication of sufficient ROW or easement(s) is waived by the appropriate City approval body.

8.5. As City funding becomes available, the City may pursue construction of new sidewalk under the CIP program.

8.5.1. Identification and Prioritization: The City will identify target areas for new sidewalk construction. The City's Bicycle and Pedestrian Master Plan may inform on target areas, plus location-based considerations such as: high-pedestrian areas (e.g. beach accesses, downtown, schools); City parks and offices; and citizen requests.

8.5.2. ROW availability: Unless directed by the City Council, the City will not use condemnation to acquire ROW for new sidewalks, and instead will only acquire needed ROW for new sidewalk from willing property owners, except as related to development conditions/requirements. If necessary ROW for construction of a sidewalk can't be acquired from a willing property owner then the City will not pursue that specific sidewalk project.

8.5.3. The City Council may also consider and require property owners to construct new sidewalks pursuant to California Streets and Highways Code Sections 5870 through 5895.1.

8.6. ADA Compliance:

8.6.1. Construction of new sidewalk or curb ramps shall fully comply with ADA unless structurally impracticable.

8.6.2. For a proposed new curb ramp or sidewalk or portion thereof deemed structurally impracticable, a design exception shall be approved by the Public Works Director/City Engineer to justify the structural impracticability determination and to determine if it is appropriate to proceed with the modified project (that does not comply fully with ADA) or if the sidewalk or curb ramp project should not be constructed.

8.6.3. If full ADA compliance can't be achieved due to structural impracticability, the portion of sidewalk or curb ramp deemed structurally impracticable will be made accessible to the extent that it is not structurally impracticable.

8.6.4. The above shall apply to City and private development projects.

8.6.5. The City shall consider "living street" approaches (e.g. street narrowing) to accommodate ADA compliant sidewalk by developing a 5-year plan to identify new sidewalk projects and develop a funding plan to allocate funds to highest benefit areas. The City's Bicycle and Pedestrian Master Plan shall be considered when developing the 5-year sidewalk plan.