



COUNCILMEMBER DAVID ALVAREZ

**City of San Diego
Eighth District**

MEMORANDUM

DATE: March 8, 2017

TO: Council President Myrtle Cole

FROM: Councilmember David Alvarez

SUBJECT: Revisions to Council Policy 200-12: Sidewalk Maintenance Policy

Yesterday the City Council approved a settlement costing nearly \$5 million to an individual who was injured as a result of a tree-damaged sidewalk. The City's policy concerning sidewalk maintenance is ineffective and has resulted in many sidewalks across San Diego remaining damaged and unsafe, which results in injuries to residents on a regular basis and the need to pay out high priced settlements for personal injury. Council Policy 200-12: Sidewalk Maintenance Policy, essentially forces property owners to pay for permanent repairs to damaged sidewalks in most instances. Last year, I worked closely with the City Attorney's Office to determine how best to revise Council Policy 200-12 which would 1) shift the cost of maintaining sidewalks back to the City except in cases where it has been determined that an abutting property owner, or third party, damaged the sidewalk themselves, and 2) that if the City is made aware of an unsafe sidewalk condition, the City should replace that section of the sidewalk within 90 days.

Attached are my proposed revisions to Council Policy 200-12. I believe that they accomplish the goal of ensuring that the City has the main responsibility of maintaining sidewalks. As such, I would request that these revisions be docketed for discussion at the Rules Committee so that we can move forward in adopting the needed changes to address the currently flawed policy.

Thank you for your timely response to this matter.

CC: Mayor Faulconer
City Councilmembers
City Attorney Mara Elliott
Andrea Tevlin, IBA

(Clean version)

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: SIDEWALK MAINTENANCE POLICY
POLICY NO.: 200-12
EFFECTIVE DATE:

BACKGROUND:

The City's practices with regard to the maintenance of existing Portland Cement Concrete (PCC) sidewalks has for many years been based on the California Streets and Highways Code, Section 5610.

Under previous Council Policy, the responsibility for replacement of PCC sidewalk was placed totally on the abutting property owner unless there was an unsafe condition because of some act of the City or a party, such as allowing parkway trees to damage the sidewalk, permitting poor compaction of soil under a sidewalk, sidewalk damage caused by City utility intrusion, etc. Consequently, PCC sidewalk replacement at City expense was done only under the following conditions:

1. Damage caused by parkway trees.
2. Damage due to grade subsidence.
3. Damage due to City utility cuts.
4. Sidewalk fronting City-owned property.
5. Sidewalk at street intersection (no abutting property).
6. Damage due to heat expansion.

The City also had a cost sharing program whereby it offered to assist property owners with up to fifty percent of their costs for sidewalk maintenance, except in cases where the City Manager determined that the damage had been caused by the abutting property owner or by a third party.

PURPOSE:

The purpose of this policy is to permit greater sidewalk maintenance by the City.

POLICY:

It is the policy of the City Council that the cost of replacing unsafe Portland Cement Concrete sidewalk will be borne entirely by the City except in cases where the City Manager determines the damage to the sidewalk has been caused by owners of property abutting the sidewalk or by third parties, in which case the property owners or third parties shall be responsible for replacement of the damaged sidewalks.

Any section of a sidewalk that has been reported to the City and determined by the City to be in an unsafe condition shall be replaced within 90 days.

This policy applies only to conventional sidewalks built on-grade and is not meant to cover special circumstances such as sidewalks constructed over basements, garages or other unique features.

HISTORY:

Adopted by Resolution R-212590 02/06/1975

(Strikethrough/Underline version)

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: SIDEWALK MAINTENANCE POLICY

POLICY NO.: 200-12

EFFECTIVE DATE: February 6, 1975

BACKGROUND:

The City's practices with regard to the maintenance of existing Portland Cement Concrete (PCC) sidewalks has for many years been based on the California Streets and Highways Code, Section 5610.

Under previous Council Policy, ~~This section essentially places~~ the responsibility for replacement of PCC sidewalk was placed totally on the abutting property owner unless there was an unsafe condition ~~exists~~ because of some act of the City or a some-third party, such as allowing parkway trees to damage the sidewalk, permitting poor compaction of soil under a sidewalk, sidewalk damage caused by City utility intrusion, etc. Consequently, PCC sidewalk replacement at City expense ~~is~~ was done only under the following conditions:

1. Damage caused by parkway trees.
2. Damage due to grade subsidence.
3. Damage due to City utility cuts.
4. Sidewalk fronting City-owned property.
5. Sidewalk at street intersection (no abutting property).
6. Damage due to heat expansion.

The City also had a cost sharing program whereby it offered to assist property owners with up to fifty percent of their costs for sidewalk maintenance, except in cases where the City Manager determined that the damage had been caused by the abutting property owner or by a third party.

~~A significant portion of an existing unsafe sidewalk does not fall into any of the above categories, but is in such a condition because of its age. Naturally, these conditions are most prevalent in older parts of the community. Replacement of these unsafe old sidewalks therefore depends on the financial ability and willingness of the abutting property owners to do so. Experience indicates that few citizens avail themselves of the opportunity to replace an unsafe sidewalk. This is probably because they are reluctant to go through the process of obtaining a contractor, bids, permits, etc. All unsafe sidewalk conditions which come to the attention of the City are patched with asphalt to eliminate tripping hazards and assist in protecting the City from liability.~~

~~As a result of the aforementioned, there are now many areas of aged sidewalk which have been asphalt parched for safety, but which nevertheless are not satisfactory to the affected users. The problem is particularly acute in areas heavily used by senior citizens and small children.~~

PURPOSE:

The purpose of this policy is ~~to modify the City's sidewalk maintenance practice~~ to permit greater ~~financial participation in the replacement of unsafe PCC sidewalks~~ sidewalk maintenance by the City.

POLICY:

It is the policy of the City Council that the cost of replacing unsafe Portland Cement Concrete sidewalk will be borne entirely by the City except in cases where the City Manager determines the damage to the sidewalk has been caused by owners of property abutting the sidewalks or by third parties, in which case the property owners or third parties shall be responsible for replacement of the damaged sidewalks.

Any section of a sidewalk that has been reported to the City and determined by the City Manager to be in an unsafe condition shall be replaced within 90 days.

~~A. Will be borne entirely by the City when:~~

- ~~1. It has been damaged by parkway trees.~~
- ~~2. It has been damaged by grade subsidence.~~
- ~~3. It has been damaged by City utility cuts.~~
- ~~4. It fronts on City-owned property.~~
- ~~5. It exists at street intersections.~~
- ~~6. It has failed because of heat expansion.~~

~~B. Will be borne on a 50/50 matching basis under all other conditions; provided, however, that damage to sidewalks which the City Manager determines to have been caused by owners of property abutting damaged sidewalks or by third parties shall not be qualified for the 50/50 matching basis funding.~~

This policy applies only to conventional sidewalks built on-grade and is not meant to cover special circumstances such as sidewalks constructed over basements, garages or other unique features. ~~Determination as to whether repairs are required shall be made by the City Manager.~~

HISTORY:

Adopted by Resolution R-212590 02/06/1975