

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: July 6, 2020
Reviewed by: NA

SUBJECT: Status Report on Implementation of Requirement for Sidewalk Repairs at Time of Transfer, Construction, and Remodeling

REPORT BY: Jeff Bond, Community Development Director

SUMMARY

This is an information report on the implementation of a requirement for property owners to repair the sidewalk in front of their property at time of sale or at time of major renovation.

RECOMMENDATION

For information only.

BACKGROUND

In July 2018, the City Council approved Ordinance No. 2018-01 “Establishing Property Owner Responsibility for Sidewalk Repairs.” Following City Council approval, Community Development Department staff began working with the Oakland-Berkeley Realtors Association on the establishment of escrow instructions to be used by title companies at the time of transfer of properties.

DISCUSSION

The construction-triggered portion of the ordinance has been implemented by the Community Development Department. The need for repairs are flagged either through the plan review process or by the building inspector during construction field inspections. Since nearly all larger renovation projects involve some degree of concrete work, the incremental work is generally not a major issue.

During and following City Council deliberations, staff has been in discussions with real estate industry representatives regarding the implementation of point of sale portion of the ordinance. The challenge is that in recent years, properties are going into contract with shorter escrow periods and fewer contingencies. As a result, there is greater time pressure on the parties to the transaction to complete their required obligations.

In order for the City's point of sale ordinance to be practical for residential real estate transactions, determinations on the requirement for a sidewalk repair need to be made by the City within several business days (the Public Works Department has developed protocols to promptly respond to inquiries). In addition, if work is to be done in advance of the close of escrow, the seller will have to identify qualified contractors, promptly schedule repairs, and arrange inspections for final approval. Alternatively, if the work is not completed by close of escrow, the buyer has the option of entering into an agreement to complete the work within a year.

There is a common checklist of escrow instructions used by local real estate professionals. These instructions are updated periodically as local and state regulations change. Staff believes that Public Works and the Community Development Department are close to being prepared to implement the program. The final step will be to finalize the escrow instructions with the Realtors Association and incorporate into the next cycle of updates.

FINANCIAL IMPACT

No direct financial impact on the City's general fund or capital improvement program.

Attachments

1. Ordinance No. 2018-01

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ORDINANCE NO. 2018-01

**AN ORDINANCE OF THE ALBANY CITY COUNCIL ESTABLISHING PROPERTY
OWNER RESPONSIBILITY FOR SIDEWALK REPAIR**

WHEREAS, Albany residents have identified safe, passable sidewalks as an important aspect of quality of life and a high priority for investment by the City to ensure that pedestrians, including individuals with disabilities that affect mobility, are able to move safely through the City without using cars; and

WHEREAS, the City of Albany—like all California cities—has faced decreasing revenues to make essential infrastructure investments, resulting in deferred maintenance to many public facilities, including sidewalks; and

WHEREAS, delaying maintenance and repairs to Albany’s sidewalks increases the replacement costs in the long-run, and the City is committed to repairing our deteriorating sidewalks before the costs become more expensive in the future; and

WHEREAS, repairing and upgrading Albany’s sidewalks and removing mobility obstacles improves opportunities for residents and visitors to safely use alternative modes of transit to get around the City to play, work, and shop; and

WHEREAS, the City of Albany acknowledges the benefits and value to the public health and welfare of reducing vehicle miles traveled within the community by improving pedestrian facilities; and

WHEREAS, in 2010, the City approved a Climate Action Plan that includes a vision for an interconnected transportation system and land use pattern that shifts travel from autos to walking, biking, and public transit; and

1 **WHEREAS**, Climate Action Plan Measure TL 1.3: calls for implementation of
2 improvements to encourage walking in the community by eliminating obstacles such as
3 deteriorated sidewalks; and
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5 **WHEREAS**, in 2012, the City approved an Active Transportation Plan that includes a
6 detailed strategy to encourage pedestrian travel throughout the City. A key part of this strategy is
7 improving the safety and convenience of pedestrian facilities; and
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9 **WHEREAS**, in April 2016, the City adopted an updated General Plan that includes a
10 variety of policies that will lead to improvements to sidewalks; and
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12 **WHEREAS**, General Plan Policy T-2.10 calls for the City to establish reliable and
13 sustained funding sources to ensure maintenance of transportation facilities including sidewalks;
14 and

15 **WHEREAS**, in light of the foregoing benefits and considerations, the City wishes to
16 improve its commitment to repairing and improving pedestrian sidewalks; and

17 **WHEREAS**, the Albany City Council held a public hearing to discuss the proposed
18 ordinance on February 20, 2018 and held a Second Reading on March 5, 2018, considered all
19 public comments received, the presentation by City staff, the staff report, and all other pertinent
20 documents regarding the proposed ordinance; and
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22 **WHEREAS**, following the close of the public hearing on February 20, 2018, the City
23 council voted 5-0 to introduce for first reading the proposed ordinance;

24 **WHEREAS**, on March 5, 2018, the City Council received additional public comment,
25 and voted to continue to a date uncertain action on second reading to allow for further public
26 engagement.
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1 **NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:**

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3 **SECTION 1: SECTION 14-1.7 ENTITLED "PROPERTY OWNER**
4 **RESPONSIBILITY FOR SIDEWALK REPAIR" IS HEREBY ADDED TO CHAPTER 14**
5 **OF THE ALBANY MUNICIPAL CODE, TO READ AS FOLLOWS:**
6

7 a. General. Under Section 5610 of the California Streets and Highways Code and
8 Section 14-1.5 of this Code, property owners and persons in possession of property
9 are required to repair and maintain adjacent public sidewalks.

10 1. Sidewalk Compliance Certificate. The City Engineer or designee is
11 authorized to issue Sidewalk Compliance Certificates to property owners responsible for
12 adjacent public sidewalks. Certificates shall be issued upon a determination that the
13 condition of the sidewalk at the time of the application complies with adopted standards.

14 2. Title Transfer. Before completing a Title Transfer associated with a parcel,
15 either the transferor or transferee, as negotiated between them, shall obtain a Sidewalk
16 Compliance Certificate from the City of Albany, unless a Time Extension Certificate is
17 obtained. After the Title Transfer is complete, the transferee is solely responsible for
18 obtaining a Sidewalk Compliance Certificate. The requirement to obtain a Sidewalk
19 Compliance Certificate before Title Transfer in no way affects the legality of the transfer
20 of title in the underlying property transaction. As used in this section, the term Title
21 Transfer shall have the same meaning as set forth in Section 15-1.1 of this Code.

22 3. Construction and Remodeling. Whenever a property owner applies for a
23 building permit pursuant to the California Building Standards Code with a valuation that
24 exceeds the dollar amount specified in a resolution adopted by the City Council, the
25 property owner shall apply for a Sidewalk Compliance Certificate. Construction of
26 required repairs to the public sidewalk must be completed prior to final approval of
27 associated building construction.

28 b. Time Extension Certificates. If a Sidewalk Compliance Certificate cannot be
obtained before the Title Transfer, the transferor, transferee, or other interested party or parties

1 may obtain a Time Extension Certificate from the City of Albany. Time Extension Certificates are
2 issued in connection with Title Transfer transactions only.

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4 c. Exemption Certificates. A Property Owner may request an Exemption Certificate
5 from the City Engineer or designee.

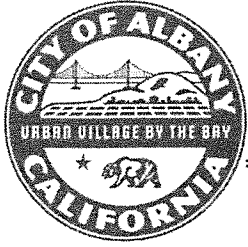
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7 d. Common Interest Developments. Property owners within Common Interest
8 Developments must obtain a Sidewalk Compliance Certificate.

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10 e. Hardship or Infeasibility Exemption. A Property Owner who believes that
11 circumstances exist that make it a hardship or infeasible to meet the requirements of this Section,
12 may apply for an exemption or reduction in requirements. In applying for an exemption, the
13 burden is on the property owner to show hardship or infeasibility. The City Engineer shall review
14 the information supplied by the property owner, and may request additional information from the
15 property owner. The City Engineer shall make a recommendation to the City Manager or designee
16 who shall have authority to make the final determination. If the City Manager or designee
17 determines that it is a hardship or infeasible for the applicant to meet fully the requirements of this
18 Chapter based on the information provided, the City Manager or designee shall require the
19 maximum feasible repair.

20 f. Fees. The City may establish fees for administration of this Section. The Property
21 Owner shall be responsible for paying any fees established by resolution of the City Council at
22 the time of receipt of an application for a Sidewalk Compliance Certificate.

23 g. Enforcement. Any violation of any provision of this Section shall be deemed a
24 public nuisance and a misdemeanor, but may be cited and prosecuted, in the discretion of the
25 enforcing officer, as an infraction, and shall be punishable as set forth in Chapter 1.20 of this
26 Code.

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City of Albany

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ORDINANCE NO. 2018-01

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

the 2nd day of July, 2018 by the following votes:

AYES: Council Members Barnes, Maass, Nason, Pilch, Mayor McQuaid

NOES: none

ABSTAINED: none

ABSENT: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

3rd day of July, 2018.

Eileen Harrington
DEPUTY CITY CLERK