

Next Ord: 1814-15  
Next Res: 909-15

VISION STATEMENT

SEDRO-WOOLLEY IS A FRIENDLY CITY THAT IS CHARACTERIZED BY CITY GOVERNMENT AND CITIZENS WORKING TOGETHER TO ACHIEVE A PROSPEROUS, VIBRANT AND SAFE COMMUNITY

MISSION STATEMENT

TO PROVIDE SERVICES AND OPPORTUNITIES WHICH CREATE A COMMUNITY WHERE PEOPLE CHOOSE TO LIVE, WORK AND PLAY

**CITY COUNCIL WORKSESSION**

**AGENDA**

**January 7, 2015**

**7:00 PM**

**Sedro-Woolley Municipal Building**

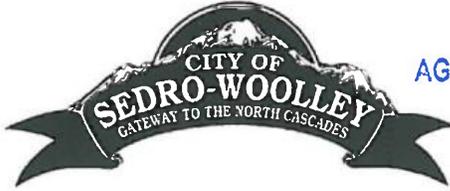
**Public Safety Training Room**

**325 Metcalf Street**

- A. Skagit Conservation Presentation on Stormwater
  
- B. Sidewalks and Street Trees  
*(Staff Contact: Eron Berg and Mark Freiburger)*

CITY COUNCIL  
WORKSESSION

JAN 07 2015



AGENDA ITEM

B

CITY OF SEDRO-WOOLLEY  
Sedro-Woolley Municipal Building  
325 Metcalf Street  
Sedro-Woolley, WA 98284  
Phone (360) 855-9922  
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Eron M. Berg  
City Supervisor & Attorney

MEMO TO: City Council  
FROM: Eron Berg  
RE: Sidewalks and Street Trees  
FOR MEETING ON: January 7, 2015

ISSUE: Should the Council update the municipal code to more effectively and more clearly address issues related to sidewalks and street trees?

BACKGROUND: In recent months (and as is typical this time of year), the public works department has received a number of inquiries, complaints and comments regarding dangerous trees and/or damaged sidewalks. The city has long responded to such issues by telling the adjoining property owners that they are responsible to repair and maintain both the sidewalks and street trees that abut their property. The basis for this response is SWMC 12.28 for sidewalks and SWMC 12.40 for street trees and planting strips, landscaping, etc. The questions we are presenting for the city council's considerations are: 1. How do you want to address the repair and maintenance of sidewalks, 2. How do you want to manage the liability that flows from known damaged sidewalks, and 3. How do you want to address the maintenance of street trees and other landscaping that protrudes into the rights-of-way.

SIDEWALKS: Our city's law on sidewalks was adopted in 1913 and has not been updated since. SWMC 12.28.010 reads as follows:

Whenever any street, lane, square, place, or alley in the city shall have been improved by the construction of a sidewalk or sidewalks, along either or both sides thereof, the duty, burden and expense of maintenance, repair and renewal of such sidewalk or sidewalks shall devolve upon the property directly abutting upon that side of the such street along which such sidewalk has been constructed as hereinafter provided. Whenever in the judgment of the street committee of the city council, the condition of any sidewalk is such as to render the same unfit or unsafe for purposes of public travel, the street committee shall direct the street superintendent or police chief to notify, and such officer shall thereupon serve a notice on the owner of the property immediately abutting upon such portion of the sidewalk of the condition thereof, instructing the owner to clear, repair, or renew the portion of the sidewalk. The notice provided for shall be deemed sufficiently served if delivered in person to the owner of the property or his authorized agent, or by leaving a copy of such notice at the home of the owner or authorized agent, or if the owner is a nonresident by mailing a copy of his last known address, or if the owner of the property be unknown, or if his address be unknown then such notice shall be addressed to the general delivery office of the city wherein the improvement is to be made, such notice shall specify a reasonable time within which such cleaning, repairs, or renewal shall be executed by the owner, and shall state that in case the owner shall fail to do such cleaning or to make such repairs or renewal within the time specified therein which shall be not less than ten days, then the officer or department will proceed to clean the sidewalk or to

make such repairs or renewals forthwith, and will report to the city council at its next regular meeting or as soon thereafter as possible, the date to be definitely stated, an assessments roll showing the lot or parcel of land immediately abutting on that portion of the sidewalk so improved, the cost of such improvement or repair and the name of the owner, if known, and that the council will hear any or all protests against the proposed assessment. The council shall at the time in such notice designated or at an adjourned time or times assess the cost of such work against the property in accordance with the benefits devised therefrom, which charge shall become a lien upon the property and shall be collected by due process of law in the manner provided by Chapter 98 of the session laws of 1911 relating to local improvements in cities and towns and by Ordinance No. \_\_\_\_\_ of the city of Sedro Woolley relating to local improvements in the city. For the purposes of this chapter all property having a frontage upon the side or margin of any street shall be deemed to be abutting property and such property shall be chargeable, as provided in this chapter for all the costs of maintenance, repairs or renewal of any form of sidewalk improvement between the street margin and the roadway lying in front of and adjacent to the property, and the term sidewalk, as intended in the purposes of this chapter, shall be taken to include any and all structure or forms of street improvement included in the space between the street margin and roadway. (Ord. 130 § 1, 1913)

The big question that has been asked several times is who is liable for an injury sustained on a sidewalk. Our supreme court gave solid direction in 1994 and a steady stream of cases since have further refined the response. The 1994 case, *Rivett v. City of Tacoma*, held that a city's code that requires the adjoining property owner to indemnify the city for all costs relating to an injury from a dangerous sidewalk, without notice and an opportunity to appeal, and without any fault of the adjoining property owner, was not permitted. However, if the adjoining property owner's own actions result in the dangerous conditions (e.g., tree roots that lift sidewalk panels, gravel from front yard that flows onto sidewalk, channeling water to sidewalk that freezes, driveway use that results in potholes or cracks, and similar situations) then the adjoining property owner can have liability for the injury sustained from the damaged sidewalk. The city faces liability for dangerous sidewalks that it knows about or could reasonable know about (the existence of a damaged area for a period of months can result in such knowledge). Ultimately, each claim for damages resulting from injuries caused by dangerous sidewalks is very fact specific with regard to each party's liability (city, adjoining property owner and claimant). But, I think it is safe to conclude that both the city and the adjoining property owner have risk when someone is injured. It is also fair to conclude that the city has the ultimate authority and responsibility to maintain or cause the maintenance of its sidewalk system and a failure to act on known defects will result in liability for injuries.

The state provides authority to cities on sidewalks in a number of statutes, one such statute is RCW 35.69.020 which reads:

- (1) Whenever a portion, not longer than one block in length, of any street in any city is not improved by the construction of a sidewalk thereon, or the sidewalk thereon has become unfit or unsafe for purposes of public travel, and such street adjacent to both ends of said portion is so improved and in good repair, and the city council of such city by resolution finds that the improvement of such portion of such street by the construction or reconstruction of a sidewalk thereon is necessary for the public safety and convenience, the duty, burden, and expense of constructing or reconstructing such sidewalk shall devolve upon the property directly abutting upon such portion except as provided in subsections (2) and (3) of this section.
- (2) An abutting property shall not be charged with any costs of construction or reconstruction under this chapter, or under chapter [35.68](#) or [35.70](#) RCW, in excess of fifty percent of the valuation of such abutting property, exclusive of improvements thereon, according to the valuation last placed upon it for purposes of general taxation.
- (3) An abutting property shall not be charged with any costs of reconstruction under this chapter, or under chapter [35.68](#) or [35.70](#) RCW, if the reconstruction is required to correct deterioration of or damage to the sidewalk that is the direct result of actions by the city or its agents or to correct deterioration of or damage to the sidewalk that is the direct result of the failure of the city to enforce its ordinances.

The City of Vancouver has a clearer code than ours which reads as follows:

## **SIDEWALK AND STREET FRONTAGE MAINTENANCE**

### **Sections:**

**11.30.010 Purpose and authority.**

**11.30.020 General requirements.**

**11.30.030 Sidewalk and street frontage maintenance standards.**

**11.30.040 Sidewalk and street frontage reconstruction and local improvements.**

**11.30.050 Notice of violation; correction.**

**11.30.060 Sidewalk openings.**

**11.30.070 Enforcement.**

### **Section 11.30.010 Purpose and authority.**

This chapter establishes the requirement to maintain sidewalks and other street frontage to minimum standards and sets procedures to accomplish the same.

The Director is authorized to inspect property frontage for compliance, enforce the provisions of this chapter, and adopt regulations to implement its provisions.

(M-4026, Added, 10/15/2012, Sec 7-Effective 11/15/2012)

### **Section 11.30.020 General requirements.**

Street frontage must be maintained in accordance with the standards adopted in VMC titles 11, 12, 17, and 20. Permits may be required to undertake work to meet the requirements of this chapter.

(M-4026, Added, 10/15/2012, Sec 7-Effective 11/15/2012)

### **Section 11.30.030 Sidewalk and street frontage maintenance standards.**

It is a violation for any owner or lessee of property abutting a public right of way to:

Allow any sidewalk to be or remain in a defective, dangerous, dirty, slippery, or obstructed condition; or

Allow any sidewalk to be or remain in a condition in violation of current ADA accessibility guidelines; or

Place or cause or permit to be placed any material including, but not limited to, fuel, building material, lumber, or any vehicle or part thereof or other object in such manner as to encroach or overhang any street or sidewalk except for the sole purpose of loading or unloading; or

Cause or permit any refuse of whatever kind or the drippings or washings from any store or other abutting property to be deposited upon the sidewalk, parking or planting strip, curb, gutter, or street; or

Permit the accumulation of snow or ice; or

Permit any accumulation of volcanic ash, dust, or debris.

(M-4026, Added, 10/15/2012, Sec 7-Effective 11/15/2012)

### **Section 11.30.040 Sidewalk and street frontage reconstruction and local improvements.**

In addition to the enforcement mechanisms provided in this chapter, the City may construct or reconstruct a sidewalk pursuant to RCW 35.69, or implement a local improvement pursuant to RCW 35.43.

(M-4026, Added, 10/15/2012, Sec 7-Effective 11/15/2012)

### **Section 11.30.050 Notice of violation; correction.**

Upon finding that an owner or lessee is maintaining a condition prohibited by this chapter, the Director may order the repair, reconstruction, replacement, cleaning, removal, or remedy of the condition or obstruction pursuant to VMC Title 22.

(M-4026, Added, 10/15/2012, Sec 7-Effective 11/15/2012)

### **Section 11.30.060 Sidewalk openings.**

Sidewalk openings must be covered with a door or doors constructed to meet current ADA accessibility guidelines. No person may allow any sidewalk opening to be or remain open, except when the opening is actually in use. When in use, the sidewalk opening must be provided with doors that swing outward and upward into a perpendicular position; the doors must be held in that position by two parallel bars securely fastened across the end of each door nearest the center of the sidewalk; one bar must be positioned at the top of each door and one at half of the distance between the upper bar and the sidewalk on each door, provided that a chain may be used instead of the lower bar.

(M-4026, Added, 10/15/2012, Sec 7-Effective 11/15/2012)

### **Section 11.30.070 Enforcement.**

It is unlawful to violate the provisions of this chapter. Its enforcement is governed by VMC Title 22. (M-4026, Added, 10/15/2012, Sec 7-Effective 11/15/2012)

**STREET TREES:** Our city's law on street trees was adopted in 2000 and is codified in SWMC chapter 12.40 with the most relevant sections reproduced as follows:

**12.40.050 Removal of trees and shrubs.**

The stumps and roots of trees or shrubs removed under the authority of this chapter shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The remaining roots shall be treated with a suitable compound to prevent future sprouting or growth. Roots from trees planted on public property or adjacent private property, which have disrupted or broken the adjacent street surface, sidewalk or curb, shall be repaired at the adjacent property owner's expense. (Ord. 1382-00 § 5, 2000)

**12.40.060 Trimming overhanging trees—Duty of property owner.**

All property owners within the corporate limits of the city shall, at their own expense, keep all trees, brush and other foliage from projecting out over the public streets and sidewalks and alleys so as not to interfere, in any way, with the use of street construction, utility franchises right-of-way and license, and cleaning equipment, nor shall the same interfere with sidewalk traffic or create a hazardous situation insofar as the same obstructs the view of motorists using the public streets. (Ord. 1382-00 § 5, 2000)

**12.40.090 Short plats, subdivisions and planned unit development—Tree planting in rights-of-way.**

Other than distances noted above from street corners and utilities, developers of short plats, subdivisions and PUDs are required to plant trees in parking strips per the following requirements: Trees shall be planted every twenty feet (at a minimum depending on the size of the tree) with ground cover or shrubs to be used liberally. In the instance of commercial or industrial planned unit development adjacent to residentially zoned property, trees must be planted a maximum of fifteen feet and in conformance with the remainder of the landscaping requirements established in Section [17.50.080](#) of the Sedro-Woolley Municipal Code. (Ord. 1382-00 § 8, 2000)

**12.40.120 Inspection and appeal.**

A. The city may inspect any tree upon or which overhangs any public property or lawn to determine whether the same or any portion thereof is in such a condition as to constitute a hazard or impediment to the progress or vision of anyone traveling on public property. Any tree or part thereof growing upon private or public property, but overhanging or interfering with the use of public property that endangers life, health, safety or property, or is otherwise in violation of this chapter, is hereby declared to be a public nuisance. The city shall by written notice require the adjacent property owner to abate the nuisance by trimming, destroying or removal, at the owner's cost and expense. The property owner shall have thirty days from the date of the notification of the nuisance to remove or trim the hazardous or nuisance tree. If the adjacent property owner does not cause the nuisance to be corrected or removed, the city may abate the nuisance and the cost shall be assessed to the adjacent property owner.

B. Appeals from the city determination that a nuisance exists may be made by any citizen or the adjacent property owner within ten days after the property owner is notified of the city determination. Such determination may be appealed to the city council at the next regularly scheduled meeting. Action taken by the city council on such appeal shall be final.

C. If the owner of such private property does not correct or remove such nuisance within thirty days after receipt of written notice from the city, they shall be guilty of a civil infraction, and subject to a

monetary penalty of not more than two hundred fifty dollars. Each day for which the violation is allowed to continue shall be a separate offense. Nothing contained in this chapter shall be deemed to impose any liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree upon his property or under his control in such a condition as to prevent it from constituting a public nuisance as defined in this section. (Ord. 1382-00 § 11, 2000)

For street trees, the state provides clear authority to regulate through RCW 35.21.310 which reads as follows:

Any city or town may by general ordinance require the owner of any property therein to remove or destroy all trees, plants, shrubs or vegetation, or parts thereof, which overhang any sidewalk or street or which are growing thereon in such manner as to obstruct or impair the free and full use of the sidewalk or street by the public; and may further so require the owner of any property therein to remove or destroy all grass, weeds, shrubs, bushes, trees or vegetation growing or which has grown and died, and to remove or destroy all debris, upon property owned or occupied by them and which are a fire hazard or a menace to public health, safety or welfare. The ordinance shall require the proceedings therefor to be initiated by a resolution of the governing body of the city or town, adopted after not less than five days' notice to the owner, which shall describe the property involved and the hazardous condition, and require the owner to make such removal or destruction after notice given as required by said ordinance. The ordinance may provide that if such removal or destruction is not made by the owner after notice given as required by the ordinance in any of the above cases, that the city or town will cause the removal or destruction thereof and may also provide that the cost to the city or town shall become a charge against the owner of the property and a lien against the property. Notice of the lien herein authorized shall as nearly as practicable be in substantially the same form, filed with the same officer within the same time and manner, and enforced and foreclosed as is provided by law for liens for labor and materials.

The provisions of this section are supplemental and additional to any other powers granted or held by any city or town on the same or a similar subject.

Some of the issues that exist today are best represented by photos:

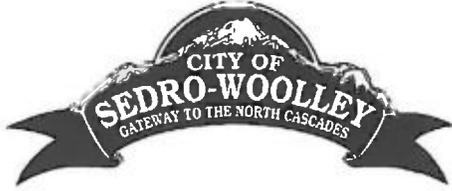




Also, attached to this memo are two letters provided by the public works department addressing sidewalk and street tree questions, referencing the current codes, and a Seattle Department of Transportation handout on sidewalk maintenance and repair that is informative.

I think we can revise our code to more clearly state the city's policy on street trees and sidewalks, but before redrafting the existing codes, it makes sense for the council to consider the underlying policy questions: 1. How do you want to address the repair and maintenance of sidewalks, 2. How do you want to manage the liability that flows from known damaged sidewalks, and 3. How do you want to address the maintenance of street trees and other landscaping that protrudes into the rights-of-way.

**RECOMMENDATION:** Provide direction to staff for any possible changes to be prepared and presented at a future council meeting.



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Fax (360) 855-0707

Mark A. Freiburger, PE  
Director of Public Works

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December 12, 2014

Subject: **Sidewalk Repairs and Maintenance**

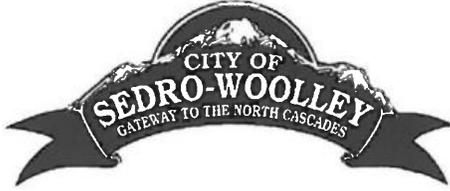
Questions occasionally arise from the public regarding city policy regarding sidewalk repair and maintenance. Sedro-Woolley Municipal Code Chapter 12.28.010 Repairs-Maintenance-Responsibility covers this topic. Refer to the Sedro-Woolley Public Works Department Standards Chapter 1.3.5 3.2.7 for requirements for new sidewalks for developments.

Note that repair and maintenance of sidewalks is the responsibility of the abutting property owner, as defined in sections 12.60 and 12.80. The city may at its discretion participate in the cost of removal and replacement of defective sidewalks.

**12.28.010 Repairs-Maintenance-Responsibility.**

Whenever any street, lane, square, place, or alley in the city shall have been improved by the construction of a sidewalk or sidewalks, along either or both sides thereof, the duty, burden and expense of maintenance, repair and renewal of such sidewalk or sidewalks shall devolve upon the property directly abutting upon that side of the such street along which such sidewalk has been constructed as hereinafter provided. Whenever in the judgment of the street committee of the city council, the condition of any sidewalk is such as to render the same unfit or unsafe for purposes of public travel, the street committee shall direct the street superintendent or police chief to notify, and such officer shall thereupon serve a notice on the owner of the property immediately abutting upon such portion of the sidewalk of the condition thereof, instructing the owner to clear, repair, or renew the portion of the sidewalk. The notice provided for shall be deemed sufficiently served if delivered in person to the owner of the property or his authorized agent, or by leaving a copy of such notice at the home of the owner or authorized agent, or if the owner is a nonresident by mailing a copy of his last known address, or if the owner of the property be unknown, or if his address be unknown then such notice shall be addressed to the general delivery office of the city wherein the improvement is to be made, such notice shall specify a reasonable time within which such cleaning, repairs, or renewal shall be executed by the owner, and shall state that in case the owner shall fail to do such cleaning or to make such repairs or renewal within the time specified therein which shall be not less than ten days, then the officer or department will proceed to clean the sidewalk or to make such repairs or renewals forthwith, and will report to the city council at its next regular meeting or as soon thereafter as possible, the date to be definitely stated, an assessments roll showing the lot or parcel of land immediately abutting on that portion of the sidewalk so improved, the cost of such improvement or repair and the name of the owner, if known, and that the council will hear any or all protests against the proposed assessment. The council shall at the time in such notice designated or at an adjourned time or times assess the

cost of such work against the property in accordance with the benefits devised therefrom, which charge shall become a lien upon the property and shall be collected by due process of law in the manner provided by Chapter 98 of the session laws of 1911 relating to local improvements in cities and towns and by Ordinance No. \_\_\_\_\_ of the city of Sedro Woolley relating to local improvements in the city. For the purposes of this chapter all property having a frontage upon the side or margin of any street shall be deemed to be abutting property and such property shall be chargeable, as provided in this chapter for all the costs of maintenance, repairs or renewal of any form of sidewalk improvement between the street margin and the roadway lying in front of and adjacent to the property, and the term sidewalk, as intended in the purposes of this chapter, shall be taken to include any and all structure or forms of street improvement included in the space between the street margin and roadway. (Ord. 130 § 1, 1913)



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Mark A. Freiburger, PE  
Director of Public Works

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December 12, 2014

Subject: **Hazard or Nuisance Tree Inspection, Trimming and Removal**

Questions occasionally arise from the public regarding city policy regarding hazard or nuisance trees on city or private property. Sedro-Woolley Municipal Code Chapter 12.40 Tree Standards covers trees planted within public property or trees located on private property that overhang or interfere with use of public property. Pertinent sections of Chapter 12.40 are quoted verbatim below. Refer to Chapter 12.40 for additional sections dealing with subdivisions, prohibited trees and recommended trees.

Note that trimming of street trees and removal of hazard or nuisance trees is the responsibility of the abutting property owner, as defined in sections 12.60 and 12.80. See section 12.120 for the inspection, notification and appeal process. The city may at its discretion participate in the cost of trimming or removal of such trees.

**12.40.010 Purpose.**

It is hereby declared that the preservation and development of the beauty of nature is essential to the progress and growth of the city. It is the policy of the city to plant and maintain, and to encourage the planting and maintenance of, desirable trees and other plantings to enhance the beauty of the community for the health, welfare and safety of its citizens. The council has become concerned with the proper selection, location and care of trees planted in parking strips, other public places and adjacent areas, and has studied ways to eliminate problems connected with adequate street illumination, safety to the community preservation of public utilities, and providing the greatest aesthetic value to the city. The ordinance codified in this chapter is adopted for the purpose of establishing rules and regulations relating to the planting, care and maintenance of such trees. (Ord. 1382-00 § 1, 2000)

**12.40.020 Definitions.**

As used in this chapter, the following words and phrases shall have the meanings ascribed to them:

- A. "Owner" means the legal owner of real property fronting or abutting on any property of the city and any lessees of such owner, including fee owner and holder of a purchaser's interest in a real estate contract.
- B. "Parking strip" means that part of the public street or avenue, or right-of-way not covered by sidewalks, lying between the property line and the curb or that portion of the street or avenue being used for vehicular traffic.
- C. "Public property" means all roads, streets, avenues, alleys, public rights-of-way, tree lawns, parking strips or any public property or portion thereof of the city. (Ord. 1382-00 § 2, 2000)

**12.40.030 Permission to plant trees.**

All trees, shrubs and plants planted in any public place or right-of-way shall be with prior permission of the city and in accordance with the provisions of this chapter. No tree shall be planted in any parking strip or public property less than four feet wide. No tree shall be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet. On streets that do not have curbs and/or sidewalks or planters, the city shall approve the location of new trees consistent with street and sidewalk standards. No tree shall be planted within twenty feet of another tree or within twenty-five feet of a street light or intersection. Trees planted under utility lines shall not exceed a maximum mature height of twenty-five feet. No street tree other than small trees may be planted under or within ten

lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, transmission line, or other utility. (Ord. 1382-00 § 3, 2000)

#### **12.40.040 Utility right-of-way.**

Notwithstanding any other provision of this chapter, all trees shall be placed and maintained in such a manner as not to interfere with any utility franchise, license or right-of-way granted, or to be granted, by the city. (Ord. 1382-00 § 4, 2000)

#### **12.40.050 Removal of Trees and Shrubs.**

The stumps and roots of trees or shrubs removed under the authority of this chapter shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The remaining roots shall be treated with a suitable compound to prevent future sprouting or growth. Roots from trees planted on public property or adjacent private property, which have disrupted or broken the adjacent street surface, sidewalk or curb, shall be repaired at the adjacent property owner's expense. (Ord. 1382-00 § 5, 2000)

#### **12.40.060 Trimming overhanging trees – Duty of property owner.**

All property owners within the corporate limits of the city shall, at their own expense, keep all trees, brush and other foliage from projecting out over the public streets and sidewalks and alleys so as not to interfere, in any way, with the use of street construction, utility franchises right-of-way and license, and cleaning equipment, nor shall the same interfere with sidewalk traffic or create a hazardous situation insofar as the same obstructs the view of motorists using the public streets. (Ord. 1382-00 § 5, 2000)

#### **12.40.070 Clear vision area.**

A clear vision area shall be maintained on the corners of all property adjacent to the intersection of two streets or of a street and a private drive or street, alley or railroad. A clear vision area shall contain no planting, fence or other temporary or permanent obstruction exceeding three feet in height, measured from the top of the curb, or where no curb exists, from the established centerline grade of the street. Taller trees may be permitted if all branches and foliage to a height of eight feet above the top of the curb or sidewalk and fourteen feet above the street are removed. No tree shall be planted closer than twenty feet from any public or private street corner, measured from the nearest intersection curb or curbline. No street tree shall be planted closer than twenty feet from any fire hydrant. (Ord. 1382-00 § 6, 2000)

#### **12.40.080 Care and disposition of existing trees.**

Any hazardous or nuisance trees in existence on the effective date of the ordinance codified in this chapter shall be removed by the property owner. The city may remove, or cause to be removed, at the expense of the abutting land owner, a tree or part of a tree which is in an unsafe condition or constitutes a nuisance, or which by reason of its nature is injurious to utilities, sidewalks or other public improvements. The city may, but is not required, to contribute to the cost of removal and replanting by payment or in-kind services. (Ord. 1382-00 § 7, 2000)

#### **12.40.120 Inspection and appeal**

A. The city may inspect any tree upon or which overhangs any public property or lawn to determine whether the same or any portion thereof is in such a condition as to constitute a hazard or impediment to the progress or vision of anyone traveling on public property. Any tree or part thereof growing upon private or public property, but overhanging or interfering with the use of public property that endangers life, health, safety or property, or is otherwise in violation of this chapter, is hereby declared to be a public nuisance. The city shall by written notice require the adjacent property owner to abate the nuisance by trimming, destroying or removal, at the owner's cost and expense. The property owner shall have thirty days from the date of the notification of the nuisance to remove or trim the hazardous or nuisance tree. If the adjacent property owner does not cause the nuisance to be corrected or removed, the city may abate the nuisance and the cost shall be assessed to the adjacent property owner.

B. Appeals from the city determination that a nuisance exists may be made by any citizen or the adjacent property owner within ten days after the property owner is notified of the city determination. Such determination may be appealed to the city council at the next regularly scheduled meeting. Action taken by the city council on such appeal shall be final.

C. If the owner of such private property does not correct or remove such nuisance within thirty days after receipt of written notice from the city, they shall be guilty of a civil infraction, and subject to a monetary penalty of not more than two hundred fifty dollars. Each day for which the violation is allowed to continue shall be a separate offense. Nothing contained in this chapter shall be deemed to impose any

liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree upon his property or under his control in such a condition as to prevent it from constituting a public nuisance as defined in this section. (Ord. 1382-00 § 11, 2000)

**12.40.130 Reserved rights.**

Nothing in this chapter shall create a property right or interest in the public right-of-way for adjoining owners. The city may amend or repeal all or part of this chapter at any time. (Ord. 1382-00 § 12, 2000)

# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## Sidewalk Maintenance and Repair

Revised January 6, 2010

### I. What is a property owner's responsibility for streets and sidewalks?

Streets and sidewalks are for everyone's use. They add value to private property by providing access to the property and a way to get to other places in the city.

When property is developed, property owners dedicate part of the land as "public right-of-way" for streets, sidewalks, utilities and similar public uses.

What some property owners do not realize is that they are responsible for maintaining part of the public right-of-way next to their property, including the sidewalk and planting strip, or the roadway shoulder if unimproved. Property owners are also responsible for maintaining unpaved alleys next to their property.

### II. Why is sidewalk repair my responsibility?

Seattle Municipal Code, Title 15.72 requires that property owners keep the sidewalk adjacent to their property fit and safe for the purposes of public travel.

As such, property owners must repair cracks and other damage to the sidewalk as well as ensure that snow and ice do not pose a hazard to pedestrians. If the sidewalk is determined to be unfit or unsafe, the Municipal Code requires SDOT to direct the abutting property owner to fix their sidewalk.

### III. When does my sidewalk need to be repaired?

A sidewalk is considered to be damaged and in need of repair in the following instances:

- The sidewalk is cracked
- There is a fault or other discontinuity greater than 1/2 inch in the sidewalk
- Any piece of the sidewalk can be moved with ordinary foot pressure,
- If in the view of SDOT the grade or slope of the sidewalk creates a concern for safe pedestrian passage.

See *Attachment 1 Sidewalk Damages that Require Repairs* to view different examples of damaged sidewalks that require repairs.

If SDOT notices that your sidewalk needs to be repaired, the damaged area of the sidewalk will be marked with paint. This is an expedient way of alerting pedestrians to the damage.

You may also notice that asphalt has been placed over cracks and uplifts on sidewalks. These "shims" are temporary in nature and are placed over cracks in order to make the damaged area safe before long-term repairs can be made.

If SDOT determines that your sidewalk needs to be repaired, you will be notified with a Street Use Warning that you need to obtain a Street Use Sidewalk repair permit.

### IV. How to obtain a sidewalk repair permit

If there is an unsafe condition and you need to repair the sidewalk, you will need to apply for a Street Use sidewalk repair permit type 55.

You can apply for a permit by going to the Street Use Permit Counter located at:  
Seattle Municipal Tower, 23<sup>rd</sup> Floor  
700 5th Avenue  
Seattle, WA 98124-4996  
(206) 684-5253

[www.seattle.gov/transportation](http://www.seattle.gov/transportation)



Alternatively, you can apply online at [http://www.seattle.gov/transportation/stuse\\_permit\\_s\\_online.htm](http://www.seattle.gov/transportation/stuse_permit_s_online.htm).

For more information on online permitting, please see Client Assistance Memo CAM 2105 at [http://www.seattle.gov/transportation/stuse\\_docs.htm#CAM\\_general](http://www.seattle.gov/transportation/stuse_docs.htm#CAM_general)

Regardless of whether you are applying online or in person, you will need to provide the following information to obtain a street use permit:

- A. Name and address of applicant and owner
- B. Address of proposed site and description of the area to be repaired
- C. Drawings or plan of the site
- D. Start date and length of construction time

See below for permit fees for sidewalk repair. Fees for inspection time will be deducted from the required deposit.

- 100 sq. ft. and less = \$172.00 inspection deposit
- 101 sq. ft. up to 500 sq. ft. = \$146.00 issuance fee, \$172.00 inspection deposit
- 501 sq. ft. and greater = \$172.00 deposit for field review prior to issuance. Upon issuance, \$146.00 issuance fee and \$172.00 inspection deposit.

#### **V. Hiring a concrete contractor**

The yellow pages and internet can be used as a resource for finding Concrete Contractors. You might also ask friends for recommendations. Always ask for and check references and make sure the contractor is licensed to work in the city of Seattle as well as is bonded. If you are unsure the contractor holds a valid license, check the web at: <http://www.seattle.gov/biz/> and search either by a company name or commodity. For example you can look under Concrete Work or General Contractors – Non Residential Buildings as well as other categories.

The contractor must ensure that the repaired sidewalk meets the City's current standards, including wheelchair ramps at street corners and proper drainage of the street area.

For more information see *Attachment 2 STANDARD SIDEWALK PLAN NO 420* or go to *Sidewalks Standard Plan No. 420* at: [http://www.seattle.gov/util/Engineering/StandardPlans\\_&Specs/index.asp](http://www.seattle.gov/util/Engineering/StandardPlans_&Specs/index.asp)

#### **VI. Managing Street Trees during sidewalk repair**

If a tree on private property is causing sidewalk damage, owners should consult with an ISA Certified Arborist.

Street trees must often grow in a limited space between the curb and sidewalk. Street trees planted by the City are either maintained by SDOT or Parks Urban Forestry crews. Street trees planted by citizens with or without a street tree permit are the responsibility of the abutting property owner to maintain to City standards.

If your street tree is causing sidewalk damage and it is not maintained by the City, you or your contractor must get a sidewalk repair permit and arrange to meet on site with an SDOT Arborist to evaluate the tree for root pruning potential and/or to discuss alternative sidewalk repairs.

To contact the City Arborist call:

(206) 684-TREE or 684-7649  
Seattle Municipal Tower, 23<sup>rd</sup> Floor

If the sidewalk damage has been caused by a street tree, once you have obtained a sidewalk repair permit from Street Use, have your contractor remove the old concrete. When the area is exposed, you should arrange a site visit by the City of Seattle arborist and the right of way inspector for an evaluation and an inspection before proceeding with the new sidewalk construction.

#### **VI. References**

- A. Ordinance 65482, Relating to the construction and reconstruction of sidewalks.
- B. Ordinance 108992, Amending Ord. 65482, to conform with amendments in State statutes
- C. Seattle Municipal Code, Title 15, Street and Sidewalk Use

**Attachment 1 Sidewalk Damages that Require Repairs**

A sidewalk lift may affect an entire panel or an isolated edge. Sidewalk lifts may be ground down if less than 1 inch or shimmed with a suitable patching material as a temporary safety measure. Broken, loose segments need to be removed and the sidewalk properly repaired.



Holes and cracking in the sidewalk can vary in size and must be filled.



Tree Root heave created by too little growing space. By increasing the size of the tree pit, the sidewalk and the growing conditions are improved.



An asphalt shim is used to keep the sidewalk functioning and safer for pedestrians.



Maximum slope is 1:4  
For temporary sidewalk shims  
and grinding.

Concrete grinding is an effective way to reduce sidewalk lifts that could cause tripping. Lifts of greater than 1 inch should not be ground as this reduces the thickness and strength of the sidewalk. These portions of sidewalk are best removed and replaced.



Vegetation overgrowth can cause injury and make a sidewalk inaccessible. Seattle Municipal Code requires property owners to maintain vegetation at least 8 feet above the sidewalk, 14 feet above the curb and at least 1 foot back from the edge of a sidewalk.

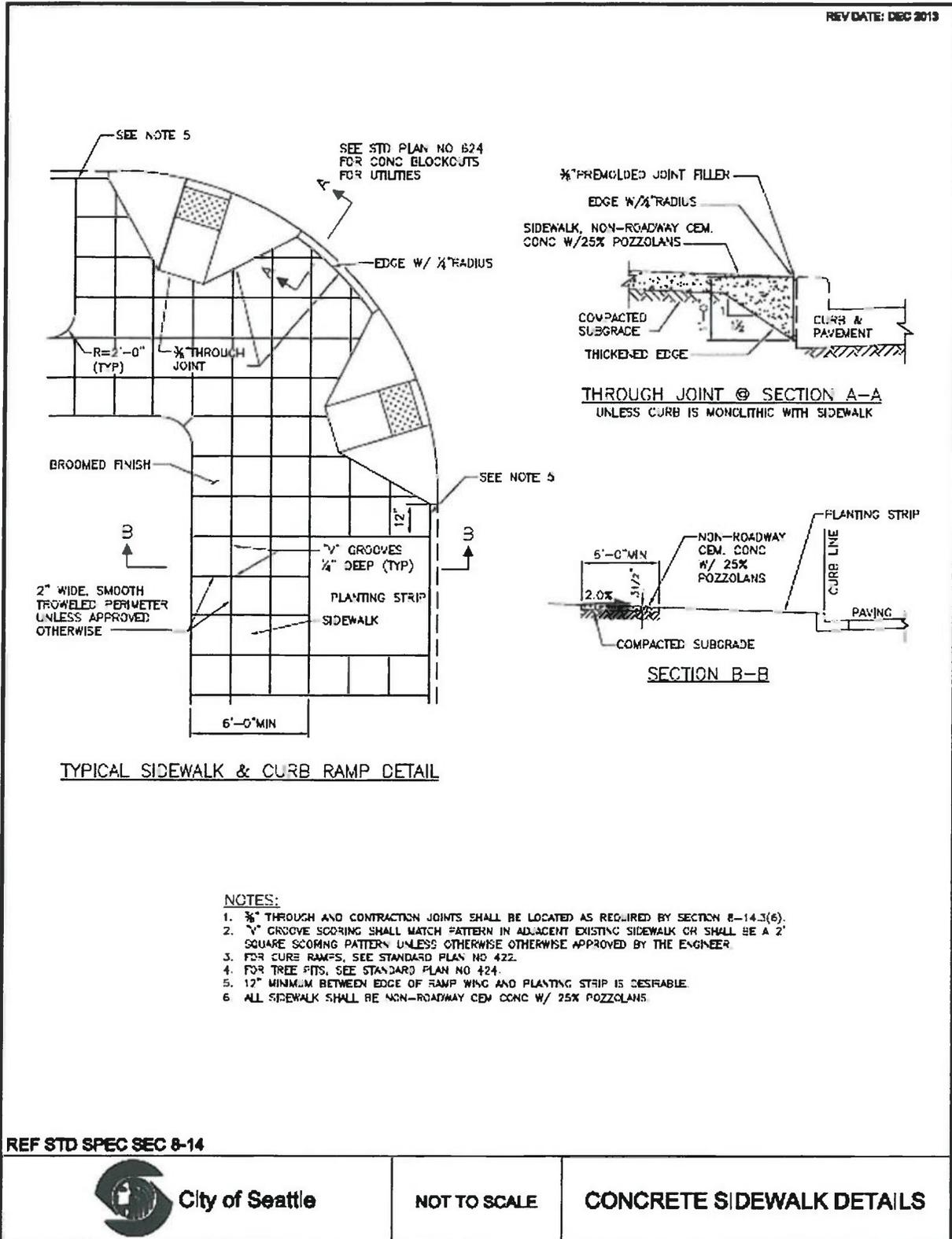


Attachment 2 STANDARD SIDEWALK PLAN NO 420

400 STREET PAVING & APPURTENANCES

STANDARD PLAN NO 420

REV DATE: DEC 2013



NOTES:

1. 1/2" THROUGH AND CONTRACTION JOINTS SHALL BE LOCATED AS REQUIRED BY SECTION 8-14.3(6).
2. 1/2" GROOVE SCORING SHALL MATCH PATTERN IN ADJACENT EXISTING SIDEWALK OR SHALL BE A 2" SQUARE SCORING PATTERN UNLESS OTHERWISE OTHERWISE APPROVED BY THE ENGINEER.
3. FOR CURB RAMPS, SEE STANDARD PLAN NO 422.
4. FOR TREE PITS, SEE STANDARD PLAN NO 424.
5. 12" MINIMUM BETWEEN EDGE OF RAMP WING AND PLANTING STRIP IS DESIRABLE.
6. ALL SIDEWALK SHALL BE NON-ROADWAY CEM CONC W/ 25% POZZOLANS.

REF STD SPEC SEC 8-14



City of Seattle

NOT TO SCALE

CONCRETE SIDEWALK DETAILS

2014 Edition City of Seattle Standard Plans for Municipal Construction

This Standard Plan and additional information about sidewalks can be found here:

<http://www.seattle.gov/util/Engineering/Standard Plans & Specs/index.htm>

LEGAL DISCLAIMER: This Client Assistance Memo (CAM) should not be used as a substitute for codes and regulations. The applicant is responsible for compliance with all code and rule requirements, whether or not described in this CAM.