



MEMORANDUM

To: **Mayor and City Council**

Through: Douglas G. Faseler, City Manager

From: Andy Quittner, City Attorney *AQ*

Date: December 9, 2015

Re: Ordinance amending abutting owner's responsibility for maintaining sidewalks

The City's current code, like many other cities, places the responsibility for maintaining sidewalks on the abutting property owner. For a couple of reasons, such ordinances are generally unworkable. First, many sidewalks are built in the street right of way – thus abutting property owners don't see them as their property. As a result, they don't get maintained. Second, many of the sidewalks that need the most repair are in older, poorer parts of the city where the abutting property owner can least afford the maintenance (or rebuilding costs). Third, from the perspective of the Americans with Disabilities Act, the Federal government has made the cities responsible for accessible routes, which includes maintaining sidewalks in a manner to keep routes accessible. As a result of these issues many cities either don't enforce their sidewalk maintenance ordinance, or have changed them to a more workable scheme.

Given the above concerns, the proposed ordinance reallocates some, but not all, of the responsibility for sidewalk maintenance. Abutting property owners would still be responsible for keeping sidewalks clean, free of grass, dirt, weeds, and tree branches that might hinder use of the sidewalk. The ordinance also reinforces a property owner's duty to cut grass to the street – including grass that is between the sidewalk and the street.

Unless damaged by an abutting property owner (or the owner's contractor, lessee or agent) the City would be responsible for replacing or repairing sidewalks (as is generally done during street reconstruction projects). The property owner, however, will remain responsible for any driveway apron that connects to the street.