



# **TOWN OF MORAGA TOWN POLICY**

**APRIL 10, 2024**

**Subject: Street Rehabilitation Cost Sharing Policy**

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## **I. Purpose**

To provide guidelines with respect to the use of the Town's Measure K funds for the repair and replacement of sidewalk area improvements (gutters, curbs, sidewalks, aprons, pathways, trees, landscaping, and/or related improvements) located within the area fronting a street from the roadway edge to the private property line in conjunction with an annual Town funded street rehabilitation project. This policy is intended to be a practical application guide to ensure compliance with Moraga Municipal Code Title 12 and in no way binds the Town Council to a continued or ongoing use of Measure K funds.

## **II. Policy**

- A. Moraga Municipal Code (MMC) Title 12 – Streets, Sidewalks and Public Places provides that the owner of a parcel of real property is under a duty to members of the public to keep the portion of the sidewalk area in a safe condition.
- B. On November 6, 2012, Moraga voters approved Measure K Sales Tax (1%) as a "general purpose" local revenue source to support a variety of general purposes, including the repair of failing streets and storm drains.
- C. The Town's Measure K funds may be used for cost sharing participation for eligible sidewalk area repairs, when the abutting property is within project limits of an annual Town funded street pavement rehabilitation project.
- D. The use of Measure K funds for cost sharing participation is limited to available revenues within the designated project.
- E. Street improvement projects associated with new infrastructure construction and/or non-Measure K funded projects are not subject to this policy.

- F. Town of Moraga staff is responsible for determining which sidewalk area repairs are needed and to ensure that the Town approved construction standards are followed. The Town Engineer will make the final eligibility determination and construction rehabilitation method if conflicts arise.
- G. Moraga property owners that benefit from the Town's Measure K cost sharing participation will be asked to sign an acknowledgement document that specifies that each property owner will still be obligated to maintain the sidewalk area repair as set forth in the Moraga Municipal Code pertaining to the public right-of-way maintenance, repair, and liability responsibilities.
- H. In recognition that the Town's Measure K funds are limited, each annual street rehabilitation project may not receive a sufficient Measure K funding allocation and the Town Council may use Measure K funds for any other general purpose. If Measure K funds are allocated to an annual street rehabilitation project, and when the project specified Measure K funding for a sidewalk area repair is exhausted, no additional Town Measure K funded cost sharing will be available. Property owners continue to retain their responsibilities and liabilities per the Moraga Municipal Code.
- I. Sidewalk area repair locations outside the annual street rehabilitation project limits are not eligible for use of Measure K funds or cost sharing agreements.
- J. The Town Manager, in consultation with the Town Attorney, is authorized to approve administrative updates to this policy to ensure compliance with changes in federal, State, and local laws and requirements (including the Moraga Municipal Code), along with other Town Council directives and resolutions.

### **III. Definitions**

- A. Annual street rehabilitation projects consist of the rehabilitation and preventative maintenance of Town public streets (within the public right-of-way). The primary objective is the maintenance or repair of the existing asphalt pavement. Auxiliary improvements which may include sidewalk area improvements in the public right-of-way may need to be repaired or replaced to facilitate maintenance of the asphalt pavement or may be required to comply with federal and/or State codes.
  - i. Preventive maintenance of streets is required on a regular basis to extend the life of streets and to provide a quality riding surface for all modes of travel. Preventive maintenance is less costly than street pavement rehabilitation up to 18 to 1 cost factor.

ii. Rehabilitation of streets is required when the road surface condition becomes poor or defective, or when rehabilitation or resurfacing work is needed to restore the pavement surface to the required level of service. Pavement may become worn or damaged over time due to ageing, weathering, and the impact of road traffic.

B. Tripping Hazard is defined as:

1. Lifts or depression equal to or greater than  $\frac{1}{2}$  - inch.
2. Cracks greater than  $\frac{1}{2}$  inch
3. Scarring/Spalling over 25% of the surface.
4. Chipped edges over 4 inches.
5. Any sidewalk defects determined by the Town Engineer to be a hazard to safe pedestrian travel, including overriding above minimal standards.

C. Abutting Property Owner is defined as:

The owner of a parcel of real property which abuts any portion of a sidewalk area between the property line of the parcel and the street line, including a parking strip and curb.

C. Public Right-of-Way is defined as:

The area in, upon, above, beneath, or across any land or interest which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the use of the general public for travel, and includes any public street, road, highway, freeway, bridge, lane, court, alley, boulevard, sidewalk, median, parkway, or emergency vehicle easement.

D. Sidewalk Area is defined as:

Gutters, curbs, sidewalks, aprons, pathways, trees, landscaping, and/or related improvements located within the area fronting a street from the roadway edge to the private property line.

#### **IV. Procedures**

A. Town staff shall be responsible for determining which sidewalk area infrastructure is to be repaired or replaced for each annual street rehabilitation project using Town approved construction standards. The Town Engineer will make the final determination on eligibility and construction rehabilitation method, if conflicts arise.

Appeals of Town Engineer's determination may be appealed to the Town Manager. Town Manager's determinations are final with no higher appeal possible.

- B. Abutting properties must be within the incorporated limits of the Town of Moraga.
- C. Property owner requests for repairs or replacement must be submitted prior to the start of a street rehabilitation project during the project design phase and before going out to public bid.
- D. The repairs and/or replacement must involve sidewalk area improvements.
- E. Requests for new sidewalk or pathway extensions and/or gap closures along with the replacement of non-defective sidewalks are not eligible.
- F. Defective curbs, gutters, pathways, and sidewalks have to be identified by the Town as trip hazards or misaligned to pavement surfaces and are within the Town's public right-of-way.
- G. Property owners must sign an agreement to acknowledge repair and maintenance responsibilities per the Town's Municipal Code.
- H. Repair and replacement work must be completed in accordance with Town approved standards.
- I. Town Measure K funds are not eligible for reimbursements of property owner-initiated sidewalk area repairs after April 24, 2024.

## **V. Additional Information**

Please refer to:

- A. Ordinance No. 132, dated April 24, 1990, Amending Title 9 by Adding Chapter 2 "Maintenance and Repair of Sidewalks", subsequently renumber to MMC Chapter 12.
- B. Ordinance No. 289, dated June 10, 2020, Amending Title 12, Trees, Shrubs, Hedges and Other Landscaping in the Public Right-of-Way.
- C. Ordinance No. 301, dated October 12, 2022, Amending MMC Title 12, Trees, Shrubs, Hedges and Other Landscaping in the Public Right-of-Way, Sections 12.10.020, 12.10.030 and 12.10.040.