



# TOWN OF FAIRFAX

## STAFF REPORT

### June 7, 2023

**TO:** Mayor and Town Council

**FROM:** Loren Umbertis, Public Works Director

**SUBJECT:** Adopt a Resolution Approving a Sidewalk Pilot Program to Improve Town Sidewalks and to Assist Homeowners with their Responsibility to Maintain Sidewalks in a Safe Condition, authorize the Town Manager to pay up to \$170,000 to a contractor to shave or grind trip hazards on the identified sidewalks one time only in FY 23/24, and increase the grant maximum for sidewalk replacement/repairs from \$1,000 to \$2,000 per property owner.

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#### **RECOMMENDATION**

Adopt a Resolution Approving a Sidewalk Pilot Program to Improve Town Sidewalks and to Assist Homeowners with their Responsibility to Maintain Sidewalks in a Safe Condition, authorize the Town Manager to pay up to \$170,000 to a contractor to shave or grind trip hazards on the identified sidewalks one time only in FY 23/24, and increase the grant maximum for sidewalk replacement/repairs from \$1,000 to \$2,000 per property owner.

#### **BACKGROUND**

The Town of Fairfax recently received an evaluation of the condition of sidewalks in and around the center of Town. The length of evaluated sidewalks was approximately seven (7) centerline miles with some streets having sidewalks on both sides of the street and others just on one side. The evaluation was intended to ascertain the locations and extent of tripping hazards, also known as vertical offsets. Trips and falls are a significant source of health-related injuries to the general public and can often result in significant medical costs and other financial impacts to the injured and to the immediate property owner.

The Town's Municipal Code, §12.44.030(A) states as follows: "The owners of lots or portions of lots adjacent to or fronting on any portion of a sidewalk area between the property line of the lots and the street line, including parking strips, sidewalks, curbs and gutters, and persons in possession of such lots by virtue of any permit or right shall repair and maintain such sidewalk areas and pay the costs and expenses therefor"

Furthermore, under §12.44.040 it states that the "The property owner of a lot or portion of a lot fronting on or adjacent to any portion of a street or any portion of a sidewalk area between the property line of the lot and the street line, and any person in possession of such lot by virtue of any permit or right, shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and non-dangerous condition. If, as a result of the failure of any property owner or person in possession of the property, to maintain the sidewalk area in a non-dangerous condition, any person suffers injury or damage to person or property, the property owner or person in possession of the property shall be liable to such person for the resulting damages or injury. The requirements of this section shall not apply to any sidewalk damaged by

any tree, shrub, hedge or other landscaping installed and maintained by the Town of Fairfax.” Therefore, any sidewalk or driveway items on parcels not owned by the Town are assigned 3<sup>rd</sup> party responsibility for maintenance.

Similarly, the maintenance of trees are also the responsibility of the fronting property owner as the Town Municipal Code, §12.44.020(C) states that “Property owners required by this section to maintain trees, shrubs, hedges and other landscaping shall owe a duty to members of the public using public streets and sidewalks to maintain such trees, shrubs, hedges or other landscaping in compliance with provisions under this title in a safe and non-dangerous condition for users of the public streets and sidewalks.”

Notwithstanding the responsibility of property owners to maintain their sidewalks in a safe and non-hazardous manner, and that a grant program exists to assist property owners to improve and maintain their sidewalks, as the sidewalk evaluation shows the reality is that many vertical offsets and tripping hazards exist on the sidewalks of Fairfax.

Staff proposes two strategies to address the safety issues and improve the condition of Town sidewalks and seeks approval from the Council to proceed. The first strategy is for the Town to perform a one-time program of utilizing a contractor to shave/grind to remove vertical offsets where possible within the evaluated zone. Negotiating an agreement with a contractor for a significant area of work will provide the best value to the Community and ensure that work is completed in a timely fashion. The Town will perform this work on a one-time basis and will not assume on-going responsibility for future offsets and tripping hazards as they may re-form and come into existence in the future.

The second strategy is to remind property owners of the requirement to replace sidewalks that cannot be readily addressed with shaving or grinding and the Town will make grant funding available, as it has been in the past, and still currently provides. Property owners will need to address their particular projects through the hiring of independent contractors and ensuring that work is done to Town standards, and upon completion and submittal of appropriate documentation, the Town will provide for reimbursement up to allowable amounts as described in the grant program.

## **DISCUSSION**

The Town of Fairfax hired Precision Concrete Cutting (PCC) to walk approximately seven (7) miles of sidewalks within the town limits to inspect and document trip hazards, vertical offsets and other poor conditions. Within the area of inspection, PCC identified over 1141 locations where trip hazards and poor conditions were observed. PCC included an estimate for using shaving and grinding to remove these trip hazards and their proposed cost is \$168,139. This cost does not include the cost of removal and replacement of entire pads of sidewalk that are damaged to such an extent that shaving and grinding would not provide benefit.

As noted previously, property owners have a responsibility to maintain their sidewalks in a safe and non-hazardous condition. The Town has had in place a grant program to assist property owners to perform this important work but relatively few funds have been expended or matched by the Town for potentially many reasons, not the least of which may be a lack of awareness by

and of property owners of this responsibility and their potential liability for claims for injuries as a result of a trip and fall along their property.

In order to provide improved safety to pedestrians within our community and to maximize economies of scale by creating a larger project, Staff recommends that the Council approve a one-time expenditure of Town funds to perform shaving and grinding of sidewalks that were identified within the inspection area. The work will not include those areas where the sidewalk will not be improved by shaving or grinding but requires that entire section of concrete be replaced. For work beyond shaving and grinding, the property owner will remain responsible for the removal and replacement of those sections of sidewalk and grant funding shall be made available in accordance with the current Sidewalk Repair Grant Program. Per Council direction at their May 19, 2023 Budget Workshop, for FY 23-24, the maximum grant amount is increasing from \$1,000 to \$2,000 per property owner, and the total amount budgeted for the program is decreasing from \$40,000 to 20,000.

**FISCAL IMPACT**

Precision Concrete Cutting (PCC) completed their evaluation of sidewalks and provided an estimate of \$168,139 to remediate the observed and documented hazards. The Town of Fairfax in FY 2022/23 maintained a grant program Project Fund 53-804 containing \$40,000 (most of which was not used) and a Downtown Sidewalk Repair Project Fund 53-830 of \$80,000 for a total of \$120,000 minus minor expenditures from the grant program and other Town work. The draft budget for FY 2023/24 currently proposes \$20,000 for the grant program and \$170,000 for downtown sidewalk repair funding. Given the amount of the estimate for shaving/grinding, Staff will submit this to the contracting community to solicit bids for the work. If the grant amount is not sufficient for demand, staff will come back to the council with an additional proposal.

**ATTACHMENT**

Resolution

## RESOLUTION 23-\_\_

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX APPROVING A SIDEWALK PILOT PROGRAM TO IMPROVE TOWN SIDEWALKS AND TO ASSIST HOMEOWNERS WITH THEIR RESPONSIBILITY TO MAINTAIN SIDEWALKS IN A SAFE CONDITION AND AUTHORIZE THE TOWN MANAGER TO PAY UP TO \$170,000 TO A CONTRACTOR TO SHAVE OR GRIND TRIP HAZARDS ON THE IDENTIFIED SIDEWALKS ONE TIME ONLY IN FY 23/24 AND INCREASE THE GRANT MAXIMUM FOR SIDEWALK REPAIRS/REPLACEMENTS FROM \$1000 TO \$2000 PER PROPERTY OWNER**

**WHEREAS**, the Town of Fairfax contracted with Precision Concrete Cutting (PCC) to perform an evaluation of seven miles of sidewalks within Town Limits for the purpose of identifying trip hazards and poor condition of sidewalks; and

**WHEREAS**, within the area of inspection, PCC identified over 1141 locations where trip hazards and poor conditions were observed and PCC included an estimate for using shaving and grinding to remove these trip hazards and their proposed cost is \$168,139 to shave/grind; and

**WHEREAS**, the Town Ordinance states under §12.44.040 that the “The property owner of a lot or portion of a lot fronting on or adjacent to any portion of a street or any portion of a sidewalk area between the property line of the lot and the street line, and any person in possession of such lot by virtue of any permit or right, shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and non-dangerous condition. If, as a result of the failure of any property owner or person in possession of the property, to maintain the sidewalk area in a non-dangerous condition, any person suffers injury or damage to person or property, the property owner or person in possession of the property shall be liable to such person for the resulting damages or injury. The requirements of this section shall not apply to any sidewalk damaged by any tree, shrub, hedge or other landscaping installed and maintained by the Town of Fairfax.”. Therefore, any sidewalk or driveway items on parcels not owned by the Town are assigned 3<sup>rd</sup> party responsibility for maintenance; and

**WHEREAS**, notwithstanding the responsibility of property owners to maintain their sidewalks in a safe and non-hazardous manner, and that a grant program exists to assist property owners to improve and maintain their sidewalks, as the sidewalk evaluation shows the reality is that many vertical offsets and tripping hazards exist on the sidewalks of Fairfax; and

**WHEREAS**, Staff proposes two strategies to address the safety issues and improve the condition of Town sidewalks and seeks approval from the Council to proceed and that the first strategy is for the Town to perform a one-time program of utilizing a contractor to shave/grind to remove vertical offsets where possible within the evaluated zone and the second strategy is to remind property owners of the

requirement to replace sidewalks that cannot be readily addressed with shaving or grinding and the Town will make grant funding available to property owners, as it has in the past, and still currently provides; and

**WHEREAS**, in order to provide improved safety to pedestrians within our community and to maximize economies of scale by creating a larger project, Staff recommends that the Council approve a one-time expenditure of Town funds not to exceed \$170,000 to perform shaving and grinding of sidewalks that were identified within the inspection and that property owners will remain responsible for the removal and replacement of those sections of sidewalk that cannot be improved by shaving or grinding and that grant funding shall be made available in accordance to the current Sidewalk Repair Grant Program and that Staff also recommends increasing the maximum grant amount from \$1,000 to \$2,000 per property owner; and

**WHEREAS**, the Town of Fairfax in FY 2022/23 maintained a grant program Project Fund 53-804 containing \$40,000 and a Downtown Sidewalk Repair Project Fund 53-830 of \$80,000 for a total of \$120,000 minus minor expenditures from the grant program and other Town work and that the draft budget for FY 2023/24 currently proposes \$20,000 for the grant program and \$170,000 for downtown sidewalk repair funding; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council of the Town of Fairfax hereby approves a Sidewalk Pilot Program to Improve Town Sidewalks and to Assist Homeowners with their Responsibility to Maintain Sidewalks in a Safe Condition and authorizes the Town Manager to pay up to \$170,000 to a contractor to shave or grind trip hazards on the identified sidewalks one time only in FY 23/24, and increase the grant maximum for sidewalk replacement/repairs from \$1,000 to \$2,000 per property owner.

The foregoing resolution was duly passed and adopted by the Town Council of the Town of Fairfax at a duly noticed meeting held in said Town on the 7th day of June 2023 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Chance Cutrano, Mayor

Attest: \_\_\_\_\_  
Michele Gardner, Town Clerk