



**Berkeley City Councilmember**  
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CONSENT CALENDAR

April 11, 2023

To: Members of the Berkeley City Council

From: Councilmember Mark Humbert (Author)  
 Councilmember Rigel Robinson (co-sponsor)

Subject: Budget Referral: Fully fund the City's 50-50 Sidewalk Repair Program

RECOMMENDATION

Refer \$2.2 million to the FY 24 Mid-Biennial Budget Update for the purpose of fully funding clearance of the existing backlog in Berkeley's 50-50 Sidewalk Repair Program. Refer an additional \$1 million per year (above the existing \$1 million baseline funding for sidewalk repair) to future budget processes to ensure all of Berkeley's sidewalks are kept in a state of good repair.

SUMMARY

Providing safe, passable sidewalks is one of the most basic functions of any City government. The [City's 50-50 sidewalk repair program](#) splits sidewalk repair costs 50-50 between the City and property owners. Although Berkeley has made progress in addressing cracked and uneven sidewalks, there is a significant backlog of maintenance requests in the 50-50 repair program. It is estimated that \$2.2 million would be necessary to clear this backlog. It is further estimated that an additional \$1 million per year in regular sidewalk maintenance funding (in addition to the current \$1 million baseline) would be necessary to avoid the creation of a new backlog. Repairing Berkeley's sidewalks more expeditiously has the potential to save the City money in the long run and help fulfill the City's mobility, equity, and climate action goals.

FINANCIAL IMPLICATIONS

\$2.2 million in General Fund impacts in the first year (FY 24), decreasing to an additional \$1 million in General Fund impacts annually (above current baseline) thereafter.

Due to the nature of the backlog and the City's practice of contracting with outside firms for repair, it is expected that these amounts will allow the 50-50 program to easily scale up without requiring significant additional staff time or additional hires.

BACKGROUND

Property owners in Berkeley are responsible for maintaining the sidewalks adjacent to

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their property in a safe condition, including repairing cracks, deterioration, and other damage. ([BMC 16.04.010](#)) To repair a damaged sidewalk, property owners can choose to hire a contractor at their own cost, or request support from the City in repairing the sidewalk through the 50-50 program. The City will perform the repair, then bill the property owner for half the cost. City staff review requests to be added to the 50-50 program. If a request is approved, the City adds the property owner to a waitlist. Being on the waitlist does not relieve property owners of their responsibility to maintain a safe and usable sidewalk.

### CURRENT SITUATION AND ITS EFFECTS

Berkeley's Measure T1 has provided additional funding for sidewalk repairs through the City's 50-50 program. This has allowed the City to make progress on the sidewalk repair backlog, reducing it from over ten years to perhaps 3–4 years.<sup>1</sup> However, an estimated 350–450 properties remain on the waitlist, with new properties being added each year. This results in a significant number of sidewalks remaining uncomfortable or even potentially hazardous for pedestrians longer than they should.

### RATIONALE FOR RECOMMENDATION

Fixing damaged sidewalks is something the City must do eventually, and doing so sooner has the potential to save City resources. Although owners are responsible under state and local law for maintaining sidewalks adjacent to their properties and can be legally liable in the event someone is injured, "trip and falls" remain a significant source of claims against the City, costing staff time and sometimes settlement money—even if a court might hypothetically not ultimately find the City liable. Additionally, regardless of who may be liable, injuries resulting from poor pavement conditions are a burden on those who experience the injury, the medical system, and economic productivity.

Damaged sidewalks are also a deterrent to walking and other forms of alternative transportation and tend to have an outsized effect on the mobility of seniors and people with disabilities. Poor quality sidewalks are difficult to safely navigate, present greater dangers for at-risk groups, and thus discourage people and certain populations in particular from walking for pleasure or everyday tasks.

Front-loading these fixes and then consistently providing the resources to ensure sidewalks remain in a state of good repair can allow residents and the City to enjoy greater benefits and overall cost savings over time. Given that the City will presumably need to eventually fix these sidewalks anyway, the difference in total direct costs over

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<sup>1</sup> "Berkeley's sidewalk repair backlog is shrinking," *Berkeleyside*, Dec. 26, 2022, <https://www.berkeleyside.org/2022/12/26/berkeleys-sidewalk-repair-backlog-is-shrinking>

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the long run would be negligible. Moreover, as with roads, sidewalk repair costs tend to compound over time (with early interventions preventing more expensive future failures). Frontloading these repairs could actually result in overall direct cost savings.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Because this item is fundamentally about accelerating planned repairs to existing infrastructure rather than expanding infrastructure, this item is not anticipated to result in direct sustainability or climate impacts above and beyond what is already anticipated from planned maintenance/repair.

However, this action has the potential to indirectly improve sustainability and climate action outcomes by encouraging alternatives to driving. In the [Climate Action Plan and Resilience Update](#) originally planned to be presented by staff at Council's March 14th, 2023 meeting<sup>2</sup>, it was reported that transportation accounted for nearly half of Berkeley's greenhouse gas (GHG) emissions in 2020. Given that use of transportation in general was down significantly in 2020 as a result of the pandemic, it's reasonable to assume that the proportion of Berkeley's GHG emissions attributable to transportation has risen again—perhaps to the roughly 60% that had been seen in the times prior to the pandemic. This expectation is consistent with the conclusions of the staff report. Since transportation generates such a large proportion of Berkeley's GHG emissions and since walking is a low-emissions form of mobility, encouraging more walking by ensuring that sidewalks are safe and pleasant to use can help reduce GHG emissions from transportation in Berkeley.

Encouraging walking in this way is also consistent with Berkeley's Climate Action Plan and its Electric Mobility Roadmap, both of which seek to reduce reliance on automotive transportation and instead encourage alternatives like walking, biking, transit, and electric micro-mobility devices. Since people on bikes, scooters, and transit are also likely to be pedestrians for some portion of their journey, sidewalk conditions are very important to their safety, comfort, and willingness to use these non-car mobility options.

### CONTACT PERSON

Councilmember Mark Humbert    District 8    510-981-7180

### ATTACHMENTS

1. City of Berkeley Sidewalk Repair Page

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<sup>2</sup> Climate Action Plan and Resilience Update, Berkeley City Council, March 14, 2023  
<https://berkeleyca.gov/sites/default/files/documents/2023-03-14%20Item%202023%20Climate%20Action%20Plan.pdf>

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2. Berkeleyside Story - Berkeley's sidewalk repair backlog is shrinking

[Housing Authority \(https://bha.berkeleyca.gov/\)](https://bha.berkeleyca.gov/)[Public Library \(https://www.berkeleypubliclibrary.org/\)](https://www.berkeleypubliclibrary.org/)[Rent Board \(https://rentboard.berkeleyca.gov/\)](https://rentboard.berkeleyca.gov/)[School District \(https://www.berkeleyschools.net/\)](https://www.berkeleyschools.net/)[Home \(/\)](#) > [City Services \(/city-services\)](/city-services/) >[Streets, Sidewalks, Sewers, and Utilities \(/city-services/streets-sidewalks-sewers-and-utilities\)](/city-services/streets-sidewalks-sewers-and-utilities/) >Share  (<https://www.adc>)

Sidewalk Repair

# Sidewalk Repair

*Property owners must ensure their sidewalks are safe by repairing cracks and damage. Apply for a permit to do the repairs yourself, or split the cost of repairs with the City under the 50-50 program.*

Property owners in Berkeley are responsible for maintaining the sidewalks adjacent to their property in a safe condition, including repairing cracks, deterioration, and other damage. See [BMC 16.04.010 \(https://berkeley.municipal.codes/BMC/16.04\)](https://berkeley.municipal.codes/BMC/16.04) for additional information. Please call 311 to report a sidewalk that is in an unsafe condition. City crews will install a “make-safe” measure to temporarily address the issue. “Make-safes” are not intended to be permanent repairs. To repair your damaged sidewalk, you can choose to hire a contractor at your own cost, or request support from the City in repairing the sidewalk through the 50-50 program. The City will perform the repair, then bill the property owner for half the cost.

## REQUEST SUPPORT WITH SIDEWALK REPAIRS THROUGH THE 50-50 PROGRAM

To request support with sidewalk repairs through the City’s 50-50 program, please call (510) 981-2489 to report your sidewalk issue and request a temporary “make-safe” repair by the City. You will then be sent a notice with a 50-50 application via mail to the mailing address designated on Alameda County’s assessment roll.

Please submit your completed application either:

- By mail: 1947 Center St, 4th Floor, Berkeley, CA 94704

- By email: [PWSidewalks@cityofberkeley.info](mailto:PWSidewalks@cityofberkeley.info) ([Page 9 of 12](https://berkeleyca.gov/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance))

City staff will review your request to be added to the 50-50 program. If your request is approved, the City will add you to a waitlist. Being on the waitlist does not relieve your responsibility as property owner to maintain a safe and usable sidewalk.

The City will notify you at least one month prior to scheduling the work. The City (or a City-hired contractor) will notify you 1-2 weeks before construction begins, and post "No Parking" signs 72 hours in advance of the work. Following completion of the work, the City will send you an invoice for your half of the repair cost.

## PERFORMING REPAIRS YOURSELF

Property owners can hire a contractor to repair the sidewalk after getting the appropriate permits, but will not qualify for funding from the City.

To repair the sidewalk yourself, first get a quote from a licensed concrete contractor who has a City of Berkeley business license (learn more about [hiring contractors \(/construction-development/permits-design-parameters/permit-process/licensed-contractors-and-design\)](/construction-development/permits-design-parameters/permit-process/licensed-contractors-and-design)). The contractor should submit a line drawing to apply for an Engineering Permit at the [Permit Service Center \(/construction-development/permits-design-parameters/permit-process/permit-service-center\)](/construction-development/permits-design-parameters/permit-process/permit-service-center).

## DAMAGE BY TREE ROOTS

All trees in the strip between the sidewalk and street are City property, and cannot be pruned or removed by anyone except City staff, even if the tree is causing damage to the sidewalk. Learn more about City trees and how to request services by the [City's Urban Forestry Unit \(/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance\)](/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance).

If a City tree causes damage to a sidewalk, the City will pay half the cost of repairs under the 50-50 program. If the same tree causes damage again within 10 years, the City will pay the full cost of repairs. If the same tree causes damage a third time, the City will pay the full cost of repairs and the property owner can request removal of the tree, at their own expense.

If a tree on your private property is causing damage to the sidewalk, it is your responsibility to remove or prune the tree yourself unless the tree is a coast live oak. The City of Berkeley has protections for [coast live oak trees \(/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance\)](/city-services/streets-sidewalks-sewers-and-utilities/city-trees-and-coast-live-oak-ordinance).

IN THIS SECTION



**SIDEWALK REPAIR**

**Email:** [PWSidewalks@cityofberkeley.info](mailto:PWSidewalks@cityofberkeley.info) (<mailto:PWSidewalks@cityofberkeley.info>)

**Phone:** (510) 981-2489

**Related BMC**

 [BMC 16.04](#)

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**(510) 981-2489**



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(/your-government/about-us/city-offices-service-locations)

## CITY

# Berkeley's sidewalk repair backlog is shrinking

The city has helped fund over 2,800 sidewalk repair jobs since 2019 in a popular cost-share program, but the end of the waitlist is years away.

By Kate Darby Rauch

Dec. 26, 2022, 2:01 p.m.



A sidewalk in need of repair in the Berkeley Hills. File photo: Jerome Paulos

Walk around this city these days, and you may notice fresh stretches of concrete underfoot — sidewalk that's been recently repaired or restored.

This doesn't mean other sections of Berkeley's 400 miles of sidewalk aren't rough, rocky or dangerously uneven (mostly from the push of tree roots). It would take \$50 million-plus to fix all



sidewalks citywide, according to a spring 2022 city estimate.

But in the often confusing world of sidewalk responsibility and repair, the city is reporting steady progress in problem-solving, according to Scott Ferris, Berkeley parks director. Recent work is largely attributed to voter-approved **Measure T**, a \$100 million infrastructure and facilities improvement bond, passed in 2016.

“The sidewalk repair backlog has shrunk from 10+ years to 3-4 years, mostly because Measure T1 is funding more repairs,” Ferris wrote in an email.

The repair backlog Ferris refers to specifically applies to a city program that splits the cost of sidewalk repairs with property owners.

Chronically underfunded, the **50/50 cost-share program** had a waiting list of years. So long that some program applicants forgot they had even applied, according to several messages sent to Berkeleyside over the past year. People were confused by letters from the city saying their sidewalks were up for repair work and asking for 50% of the cost.

Measure T funds are helping with sidewalk catch-up, Ferris said.

**Budgeted in stages or phases**, the bond has helped fund around 2,811 sidewalk repairs through the 50/50 program since 2019, Ferris said, including around 550 jobs in the past year. It will assist with another 575 repairs in 2023.

This leaves 350 to 450 applications waiting, with the goal of completing these projects in a few years, Ferris said, noting this list isn't static and always changes.

### **Property owners responsible for sidewalk conditions**

Many people assume city sidewalks, like roads, are maintained by the city.

But in Berkeley, as in most cities in the state, responsibility for sidewalk repair is on property owners.

“**State** and local law place sidewalk maintenance as the responsibility of the property owner,” said Matthai Chakko, city spokesperson. Maintenance must meet city standards.

This also means property owners are liable for legal action stemming from bad sidewalks.

According to the Berkeley Municipal Code: A property owner “owes a duty to members of the public to keep [their] sidewalk in a safe condition. If said owner fails to maintain said sidewalk

in a safe condition, and a person sustains injury or damage as a result of said failure, then the owner shall be liable to such person for the resulting injury or damage.”

“

***It would take \$50 million-plus to fix all sidewalks citywide, according to a spring 2022 city estimate.***

Cities can take on responsibility for sidewalk maintenance under local ordinance, though few do.

Cities can also pitch in to help, such as with

the 50/50 program, which is statewide.

**Participation in the 50/50 program is by application.** All property owners are eligible, and projects are completed on a first-come, first-served basis, Ferris said.

After applying, property owners receive a letter from the city saying, in part:

“Please note that this program is extremely popular and the waitlist is long. Please be advised that being on this waitlist does not waive your liability in the event of a third-party injury, and it does not Relieve your responsibility as property owner to maintain the sidewalk adjacent to your property in a safe and usable condition.”

### **‘Make Safe’ repairs**

There’s another way Berkeley steps in for more urgent sidewalk repairs.

Berkeley sidewalk repair is primarily complaint driven, Ferris said. Complaints drive city inspections, which drive notices to property owners.

If the city doesn’t receive any complaints about a sidewalk issue, the problem can persist.

Ferris said the city responds to all complaints, though some people contacting Berkeleyside said they alerted the city to dangerous sidewalks, without seeing any changes.

Property owners worried about their sidewalks can always make repairs themselves, using city-approved contractors. Or, they can apply for the 50/50 program, risking a wait.

But sidewalk inspections may also drive emergency repairs.

The city does temporary “make-safe” sidewalk repairs “all the time,” said Joe Enke, city engineer, usually asphalt patching and filling. Property owners are told they’re responsible for permanent fixes.

A “make safe” repair may last until someone’s name comes to the top of the 50/50 list.

The city also does sidewalk shaving or grinding, at no cost to property owners. Sidewalk shaving, a relatively quick process, can reduce or eliminate tripping hazards. “We do repairs as they are brought to our attention,” Enke said.

Patching almost always eventually needs additional work, Enke said. But shaving “can solve many identified issues.”

A city shaving contractor just started \$1 million worth of work focused on schools and areas in Southwest and Northwest Berkeley,” Enke said.

### **Street trees belong to the city**

One of the most common ways sidewalks are damaged is by tree roots, uplifting sections of concrete which easily snag feet or wheels.

It's easy to assume property owners, responsible for their sidewalks, are also responsible for trees growing in the strips of land between the sidewalk and the street.

But this isn't so. Sidewalks are one thing, median strips another.

“It's City Right of Way (ROW) and ownership of the ROW [is] complicated,” Ferris said. “The width of the ROW varies from street to street, but typically includes the curb, planting strip, the sidewalk and sometimes a narrow area beyond the sidewalk.

“***City tree care ultimately falls to the city, even when roots are damaging a sidewalk a property owner must repair.***

the homeowner,” Ferris said.

“The City takes on responsibility of managing and maintaining the trees in the ROW in order to ensure that they are property maintained. The rest of the ROW (sidewalk/vegetation) is the responsibility of

Property owners are welcome, and even encouraged, to partner with the city on tree care, Ferris said. City arborists will offer advice.

But city tree care ultimately falls to the city, even when roots are damaging a sidewalk a property owner must repair.

The worst offenders are some older trees, including liquidambar and camphor trees. To address this challenge, the city's urban foresters are now planting urban site-suitable species such as trident maple, redbud, Chinese flame, Brisbane box, Persian ironwood, Chinese pistache, and

water gum, said Chakko, the city spokesperson.

In Berkeley, as in many cities, many older street trees that are now recognized as poor choices for urban environments were planted before this was clearly understood.

Climate change is also affecting the health of street trees, Chakko said.

### **Disability survey will shed more light on sidewalks**

Soon, Berkeley will know more about the state of its sidewalks. A sidewalk inspection required by the Americans With Disability Act (ADA) was recently completed, Enke said.

“Nearly all of the city sidewalks were surveyed,” Enke said. A contractor did the work.

The survey is one part of the city’s **ADA Self Evaluation and Transition Plan**, a framework for complying with pedestrian accessibility requirements of the federal law. The initial plan was completed years ago, but updates are required.

“ADA compliance is ongoing. A timeline for accessibility improvements, including sidewalks, will be developed as the plan is finalized,” Enke said. Budgeting for ADA compliance is up to the city.

Public hearings and reports are part of the transition plan.

To report a broken or dangerous sidewalk or to get information on repairing the sidewalk by your house, including the city’s free shaving or the 50/50 cost sharing program contact the Berkeley Public Works sidewalk division by emailing **PWSidewalks@cityofberkeley.info** or calling 510-981-2489.

*This story has been corrected to better explain which types of trees are most likely to cause sidewalk damage and how urban foresters are addressing the issue. A previous version of the story listed as problematic some types of trees that, the city says, are actually well suited for urban environments.*