

2000

## City of Las Vegas sidewalk maintenance and repair: Who is responsible?

Daphnee Legarza  
*University of Nevada, Las Vegas*

Follow this and additional works at: <https://digitalscholarship.unlv.edu/thesesdissertations>



Part of the [Public Policy Commons](#), [Social Policy Commons](#), and the [Urban Studies and Planning Commons](#)

---

### Repository Citation

Legarza, Daphnee, "City of Las Vegas sidewalk maintenance and repair: Who is responsible?" (2000). *UNLV Theses, Dissertations, Professional Papers, and Capstones*. 660.  
<http://dx.doi.org/10.34917/1769325>

This Thesis is protected by copyright and/or related rights. It has been brought to you by Digital Scholarship@UNLV with permission from the rights-holder(s). You are free to use this Thesis in any way that is permitted by the copyright and related rights legislation that applies to your use. For other uses you need to obtain permission from the rights-holder(s) directly, unless additional rights are indicated by a Creative Commons license in the record and/or on the work itself.

This Thesis has been accepted for inclusion in UNLV Theses, Dissertations, Professional Papers, and Capstones by an authorized administrator of Digital Scholarship@UNLV. For more information, please contact [digitalscholarship@unlv.edu](mailto:digitalscholarship@unlv.edu).

CITY OF LAS VEGAS SIDEWALK MAINTENANCE AND REPAIR: WHO IS  
RESPONSIBLE?

Daphnee Legarza

University of Nevada, Las Vegas

## INTRODUCTION

The City of Las Vegas (CLV) has recently adopted several new plans and elements requiring the creation of more pedestrian friendly and cluster development communities. The City of Las Vegas' 2020 Master Plan requires pedestrian friendly neighborhoods in newly developing areas by stating, "The importance of creating neighborhoods that are walkable and sustainable and which foster a sense of community must be key elements of our newly developing areas". (CLV Master Plan 2020, October 2000, p. 47) Also, in neighborhood revitalization areas the City requires "That new commercial development be designed in a walkable and non-vehicular friendly manner, providing shelter from sun and wind, with outdoor seating areas and other amenities and parking areas located away from the street". (CLV Master Plan 2020, October 2000, p. 42) With the emphasis being placed on walkable communities and the use of the sidewalks, not only is it important to construct sidewalks as linking pedestrian corridors, but also to keep new and existing sidewalks in good repair. In order to support the implementation of the City of Las Vegas 2020 Master Plan and the future of the City as a walkable community, the City is in need of a cost effective and enforceable policy for the maintenance and repair of damaged sidewalks.

Chapter 13.56 of the City of Las Vegas Municipal Code "Construction, Maintenance and Repair of Sidewalks and Transition Strips" addresses the maintenance and repair of existing sidewalks within the public right-of-way. The maintenance and repair of existing sidewalks owned by municipalities, within the public right-of-way, is not an issue unique to the City of Las Vegas. Other local and regional cities are faced with similar issues regarding who should pay to maintain and repair existing sidewalks

within the public right-of-way. For example, Clark County and the City of North Las Vegas, do not have a separate section of code addressing the repair and maintenance of existing sidewalks. Many local municipalities have not addressed or found adequate solutions as to whose responsibility it is to maintain and repair existing sidewalks.

The City of Las Vegas has dealt with the issue of the maintenance and repair of existing sidewalks moderately well over the years. Chapter 13.56 “Construction, Maintenance and Repair of Sidewalks and Transition Strips” was adopted in 1983. The City of Las Vegas averages one to two sidewalk repair complaints per month. These cases are initially addressed in conformity with the requirements set forth in the existing code. However, in an effort to reduce overall costs, many of the cases have been resolved by City maintenance crews rather than per the requirements as set forth in the Code. The City of Las Vegas is in the forefront for the valley with its effort to find solutions for this issue. Therefore, the purpose of this paper is to examine the current sidewalk repair code through analyzing different alternatives with regard to specific pertinent criteria, and by doing so develop an equitable, enforceable and cost effective sidewalk repair code for the City of Las Vegas.

## PROBLEM DEFINITION

In order to better understand Chapter 13.56 “Construction, Maintenance and Repair of Sidewalks and Transition Strips” of the City of Las Vegas (“CLV” or “City”), Municipal Code, a brief discussion of the existing code and its current implementation is necessary. (See Appendix A for CLV Municipal Code Chapter 13.56) The discussion will be followed by an explanation of the problems associated with both the existing code and informal code implementation for sidewalk repair and maintenance. Refer to Appendix B for a flow chart summarizing the code and its implementation.

### Code Definition

Chapters: 13.56.010 “Purpose”

13.56.020 “Definitions”

13.56.040 “Maintenance and repair of existing sidewalks”

Chapter 13.56 of the City of Las Vegas (CLV) Municipal Code (Code) states, “It shall be the responsibility of the property owner to maintain and repair existing sidewalks whenever necessary to the health, safety, welfare and benefit of the public” (CLV Municipal Code, 1983, p. 722). The code defines the term sidewalk as the portion of the public right-of-way improved for pedestrian traffic (CLV Municipal Code, 1983). By this definition, the sidewalk is located in the public right-of-way, and an owner’s private property does not include the public sidewalk. This definition excludes all privately owned pedestrian traffic corridors outside of the public right-of-way. For instance, many residential subdivisions within the City, gated and non-gated, have private streets where no public right-of-way has been dedicated and therefore, if sidewalks exist, they are located on private property and are required to be maintained by the homeowner or

property management association. A property management association is an organization that develops and enforces Covenants, Conditions and Restrictions (CC&R's) upon a particular development. Property management associations can be established to maintain any common landscape areas, private streets, trails or areas not owned by an individual property owner. Other residential subdivisions within the city dedicate public right-of-way to the back of the curb only, and therefore, where sidewalks are proposed, they are also on private property adjacent to the public street. In this case, the City requires pedestrian easements for access concerns, which are to be maintained by the property management association. Private sidewalks are not addressed in the current sidewalk code because they are privately owned. In the case of privately owned sidewalks, without a pedestrian access easement, a property management association controls both access and maintenance. The City is not involved. Sidewalks within pedestrian easements also are not addressed by the current sidewalk code. They are typically owned by a property management association or private individuals and therefore maintained by such. The City's only interest is that of pedestrian access, and without ownership of the sidewalk, the City cannot be held liable for the maintenance of and safety within the sidewalk area.

The code does not address the means by which a sidewalk repair can come to the attention of the City. However, once the need for a repair does come to the City's attention, the code specifies the following procedure.

Chapters: 13.56.060 “Noncompliance-Notice or approval”

13.56.120 “Standards and inspection”

13.56.130 “Permit required”

The code states “The Director of Public Services may notify the abutting property owner in writing that he has thirty (30) days in which to remedy the situation or to file an appeal with the City Council. The notice shall also state that in the event the property owner fails to take appropriate action or file an appeal to the City Council, that a lien may be imposed by the City against the property for the cost of remedying the situation” (CLV Municipal Code, 1983, p. 722a). In order for a property owner to remedy a sidewalk defect, the code states, “all maintenance and repair of existing sidewalks shall be in accordance with the Standard Plans, Specifications and Drawings” (CLV Municipal Code, 1983, p. 722-2) and “Upon completion of the construction, maintenance or repair, the sidewalk shall be inspected and approved” (CLV Municipal Code, 1983, p. 722-2). Also, “It is unlawful for any person including the owner of property abutting the public right-of-way, or the agent, servant, contractor or employee of the owner, to construct new sidewalk or to repair existing sidewalk located within the public right-of-way with the City without first obtaining a permit from the Director of Engineering Services” (CLV Municipal Code, 1983, p. 722-2). The code requires individual property owners to pull permits for any sidewalk repairs within the public right-of-way. In order to pull a permit at the City, one must be a licensed contractor, have an approved barricade plan and pay a fee.

Chapters: 13.56.070 “Appeal procedure”

13.56.080 “Necessity for remedial action”

13.56.090 “Appeal hearing – Determination by council”

13.56.100 “Remedial action – Cost – Time limit”

If the property owner elects not to remedy the situation and to file an appeal, the code states, “the property owner shall notify the City Clerk in writing who shall set a hearing date before City Council” (CLV Municipal Code, 1983, p. 722-1). According to the current code, when a property owner files an appeal, it is with the City Clerk. The City Clerk must then place the appeal on the City Council agenda. The City Council would then determine whether or not to approve or deny each appeal based upon the health, safety, welfare and benefit of the public (CLV Municipal Code, 1983). The Department of Public Services is also required to report any refusals or failures to complete the work or lack of appeals by the property owner to the City Council. The City Council then determines on a case-by-case basis if remedial action is required (CLV Municipal Code, 1983).

Once the City Council has determined the repairs are necessary, through a property owner appeal or notification by the Department of Public Services, the property owner has ten days from the notification of the Council’s action to commence and complete the required repairs (CLV Municipal Code, 1983). The City Council’s direction to make the repairs and a property owner’s failure to complete the repairs will result in the Department of Public Services proceeding with the necessary remedial action (CLV Municipal Code, 1983). As per Chapter 13.56.100 of the Code, “Subsequent to the completion of the work, the Director of Public Services shall forward to the property



owner a statement as to cost incurred by the City in connection with the remedial action and informing the property owner that failure to pay the amount stated therein within thirty days from the date of the statement shall result in a lien being assessed against the property of the property owner” (CLV Municipal Code, 1983, p. 722-1). The CLV Municipal Code states, “If after the expiration of the thirty-day period provided under Section 13.56.100 the property owner has failed to reimburse the City for the costs of the remedial action, the City Clerk shall forward to the County Recorder's Office a sworn statement stating the location of the work performed by the City, the date the remedial action was completed, the amount to be assessed as a lien which amount is to equal the cost of the remedial action plus ten percent and identifying the property subject to the assessment” (CLV Municipal Code, 1983, p. 722-2). Once the City Council has instructed the Department of Public Services to make the necessary repairs, the repairs are completed and the property owner has failed to reimburse the City within the allotted thirty days from receiving a statement from the City, a lien would be placed on the property to eventually recoup the costs of the repairs.

#### Tort Liability For Injury Claims

City of Las Vegas’ current code does not specifically state who is liable for injuries resulting from the lack of maintenance and repair to the existing sidewalks. Due to the fact the sidewalks in question are within the public right-of-way and therefore owned by the City, it would seem the owner (the City) would hold the ultimate liability for any injuries on their property (the sidewalk), even though many jurisdictions place maintenance and repair responsibilities on the adjacent property owners. There have been several court cases regarding the liability for a claim from injuries resulting from

damaged sidewalks. In the case of *Major v. Fraser*, 78 Nev. 14, 368 P.2d 369 (1962), the Nevada Supreme Court: “The general rule is that such statutes, even when the city has given an abutting owner specific notice to repair pursuant thereto, does not impose liability on the owner to travelers for injuries incurred by reason of a defective sidewalk.” (*Fraser*, 78 Nev. at 16). Even when a jurisdiction has a statute or code requiring a property owner to be responsible for the maintenance and repair of sidewalks, such requirement is only a means of paying for the costs of the repairs, the duty to keep the sidewalks in good repairs remains that of the local jurisdiction. Another case in which the court went even further in limiting property owner’s liability was that of *Rivett v. Tacoma*, 123 Wash. 2d 573, 870 P2d 299 (1994), where the court struck down an ordinance provision requiring the property owner to indemnify the City against any damages resulting from sidewalk defects. A more recent case, decided October 3, 2000 in Connecticut, also involved a pedestrian suing a landowner due to slipping and falling on an uneven portion of the sidewalk adjacent to the landowner’s property. *Dreher v. Joseph*, No. AC 18576 (Conn.App. Oct 3, 2000). There, the appellate court upheld the trial court’s conclusion that “absent a statute or ordinance to the contrary, the state does not recognize a cause of action against abutting landowners for injuries caused by defective public sidewalks.” *Dreher*, slip op. at ). Even though the court has not allowed for the liability associated with sidewalk defects to be the burden of the property owners, jurisdictions may continue, if allowed by state statute, to impose the cost of sidewalk maintenance and repair on property owners, regardless of fault. Based on past court decisions, it is judicious that the City of Las Vegas’ current code does not hold the adjacent property owners liable of injuries due to the lack of maintenance of the existing

sidewalks. The City has a maximum liability of \$50,000.00 as a limitation on award for damage on tort actions per claim. (Nevada Revised Statutes, 1995) Therefore, it is in the City's best interest both from a legal and a financial perspective to have a successful policy for the maintenance and repair of existing sidewalks, since ultimately the City is responsible for all injuries resulting from a damaged sidewalk.

#### Code Implementation

In order to understand the difficulties associated with enforcing or implementing the current code, the following is an explanation of the informal policy that has evolved with respect to sidewalk repair and maintenance. The City is made aware of sidewalk defects through either a citizen calling the City to report a damaged sidewalk or City staff noticing and reporting a damaged sidewalk. Once the City has been made aware of a potential sidewalk hazard, a representative from the Department of Public Works (DPW) will perform a field inspection to assess and document the condition of the damaged sidewalk. The necessity of a repair is based on the level of damage to the existing sidewalk. The level of damage is determined and compared to the current Americans with Disability Act (ADA) requirements. A sidewalk is not in need of repair if the damages are allowable within the ADA requirements for sidewalk construction. If it is determined that the damaged sidewalk is in need of repair, a certified letter is sent by the Department of Public Works to notify the property owner that portions of the sidewalk abutting their property require repair and/or replacement. The letter states, as per the current code, that the property owner has 30 days to remedy the situation and if appropriate action or an appeal with the City Council has not been filed within the 30 days, a lien may be placed upon the adjacent property by the City for the cost of

remedying the situation (See Appendix C for sample letter). The Department of Public Works also prepares a Sidewalk Report for the file to document the complaint (See Appendix D for sample Sidewalk Report). The Sidewalk Report includes the following: the owner's name and address, location of damage, description of neighborhood (i.e. Multi-family residential, commercial, industrial, etc.), council ward, method of discovery (Council Action Request, citizen complaint, employee identification, etc.), listing of correspondence history, description of sidewalk condition, any CLV Code or American Disability Act (ADA) concerns, repair requirements, and actions taken.

If a property owner elects to remedy the situation and repair the sidewalk, repairs must be made in accordance with the Standard Specifications and Drawings (See Appendix E for sidewalk standards) on file at the City and a permit must be obtained from the City to work within the public right-of-way. In order to pull a permit, the property owner must hire a licensed contractor, provide a barricade plan and pay a fee equivalent to 2% of the estimated construction cost, with a \$10.00 minimum cost, to the Department of Public Works. Once the repairs are completed, inspected and approved by the City, a "thank you" letter is sent by the Department of Public Works, to the property owner, along with a copy of the final report and the file is closed.

It is at this juncture that the City begins to stray from the letter of the Code. If the property owner elects to not remedy the situation and sends a letter of appeal to the CLV City Clerk or the Department of Public Works to be placed on the City Council agenda, the appeal is forwarded to the Department of Public Works and filed. However the file remains open and no City Council hearing dates are set. If a residential property owner elects to not repair the sidewalk and ignores the request to repair the sidewalk, the report

is filed and the file remains open. Commercial properties have typically repaired damaged sidewalks adjacent to their property. To date, the sidewalk repair cases opened from 1994 (when documentation began) through 1999 have been repaired using City forces. No liens have been placed on any properties to date.

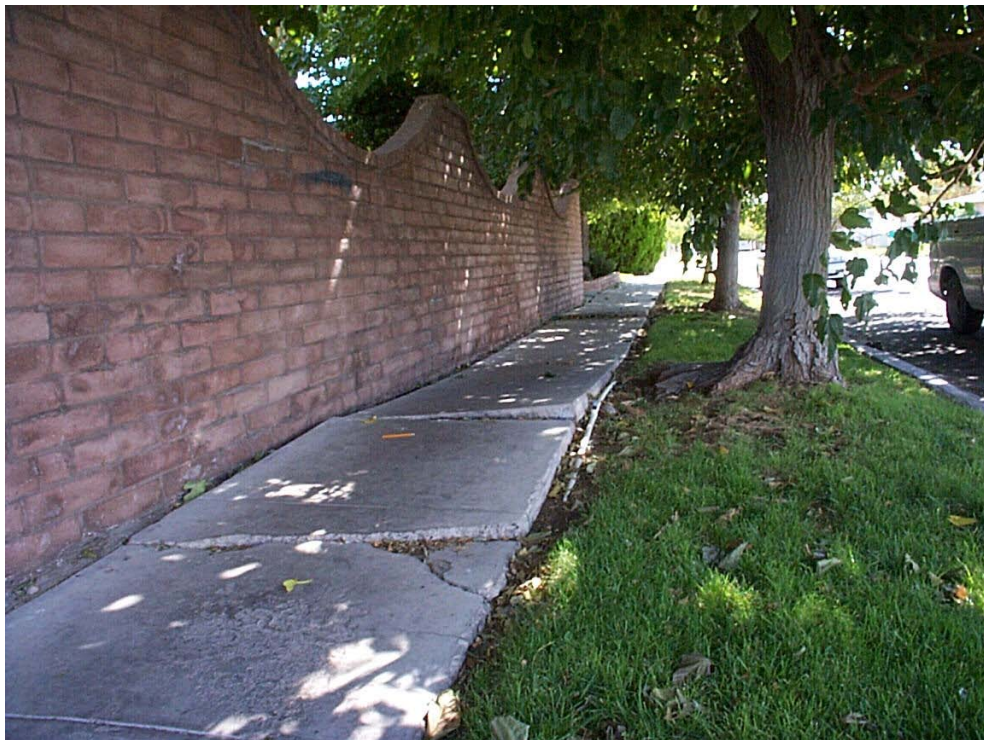
### Problems

There are several inherent problems with both the existing code and the informal policy implementation of the code as it exists today. The problems associated with the code and its implementation include: the lack of defining criteria for damaged sidewalks, costs and obstacles in obtaining the required permits and licensed contractors to perform the repairs in relation to the actual cost of the sidewalk repairs, and the impacts and costs associated with appeals being determined by the City Council.

The current code does not define criteria for a damaged sidewalk. The code states “to maintain and repair existing sidewalk whenever necessary to the health, safety, welfare and benefit of the public.” The code does not specify the parameters for a safe or beneficial sidewalk. The code does state that the repairs shall be in accordance with the Standard Plans, Specifications and Drawings, the City has adopted. The standards the City has adopted address both the new construction and the replacement of sidewalks, but do not address the criteria for a damaged sidewalk. For example, a sidewalk can have exposed aggregate, due to damage from adjacent lawn chemicals (as seen below)



or have sidewalk cracking that is commonly referred to as hairline cracking, or have tented or heaved sidewalks from nearby trees (as seen below)



or age and weather can damage the sidewalks. Requiring all aesthetic and non-aesthetic damage to be repaired will dramatically increase the amount or volume of sidewalk cases and repairs necessary.

To repair a damaged sidewalk, the current City code requires a property owner to pull a permit. To pull a permit, the property owner must hire a licensed contractor, provide a barricade plan and pay a fee equivalent to 2% of the estimated construction cost, with a \$10.00 minimum cost, to the Department of Public Works. Once a sidewalk has been determined in need of repair, the actual repairs in many cases consist of only two or three panels of sidewalk. Sidewalk panels are typically five foot by five foot (5' x 5') of Portland cement concrete. The average cost of installed sidewalk, including concrete and base aggregate and all materials and labor associated with mixing, loading, hauling, placing, compacting and any other incidentals associated with the construction of the sidewalk, is \$2.50 to \$3.00 per square foot. This cost is based upon typical City projects, which are publicly bid at prevailing wage rates. City projects, however, also include other types of concrete work, such as curb and gutter, cross gutter, manhole, etc. construction and the entire project is typically no less than \$100,000.00. This cost is also based upon the dollar amount used to calculate the bonds posted to the City for the offsite sidewalk associated with private development projects. Based on these figures, the replacement of two sidewalk panels cost, on average, (50 square feet) x (\$3.00) = \$150.00 plus the \$10.00 permit cost, for a total of \$160.00. In reality, however, many local concrete contractors, both big and small, will not even entertain providing a price for or actually replacing two panels of concrete sidewalk. If they do entertain such work, there are mobilization costs for both equipment and a work crew and profit, which greatly

outweigh the cost to do the actual sidewalk replacement. Many contractors do not have the time or desire to do the work. The Las Vegas valley has over the past ten years experienced a 73% increase in population (CLV Master Plan 2020, October 2000). In an area with such rapid growth, many local contractors have had the luxury of being able to turn down work or pick and chose the jobs upon which to bid and perform. For these reasons, a property owner may pay at least \$750.00 for a contractor to mobilize all the equipment and manpower, rather than a cost of approximately \$250.00 to repair their sidewalk, if they can even find a contractor who is willing and able to do the work.

The current City code requires the City Council to make determinations regarding appeals and whether or not repairs are necessary. If an appeal were placed on an agenda to be heard in front of City Council, such an item would need to be placed on the “discussion” agenda in order for an owner and the Department of Public Works to present evidence for consideration by the City Council. A public hearing may also be required since one determination made by the City Council is whether an individual property owner should pay the costs to repair a damaged sidewalk adjacent to their property or whether tax dollars should be used to repair the damages. A public hearing would allow for public comment regarding the item of discussion. Currently, the Department of Finance and Business Services places “appeals” and “reports of expenses to recover costs” (liens) for the abatement of nuisance/litter on the City Council discussion agenda as public hearing items.

As mentioned before, the City averages one to two complaints or sidewalk repair cases per month. In comparison, Clark County, which pays all costs associated with repairing sidewalks, made an average of 13 repairs each month to existing sidewalks



within their public right-of-way for the period 1993 through 1998. Clark County sidewalk repairs averaged an even higher 24 cases per month for years 1999 and 2000 (T. Sherber, personal communication, September 11, 2000). In the past, the policy has been to have City forces make the necessary repairs rather than send an appeal to the City Council. This departmental policy -not sending items to City Council- has been made in the interest of cost effectiveness. The costs associated with the City Council hearing an agenda item include the costs of staff time to prepare, advertise, and place notification of the item, briefing Council regarding the item, and costs for the actual time spent at the City Council meeting of both executive staff and Council members discussing and acting on each item. Also, many of the appeal letters received have been economic hardship appeals (See Appendix F for sample appeal letter). Therefore, City Council would have to spend time discussing and addressing each hardship appeal on a case-by-case basis. Even though City Council may need to be the ultimate authority on any irremediable appeals to the Municipal Code, it does not appear to be the desire of the City staff to place any of the appeals on a City Council agenda. Perhaps staff determined the money spent to discuss and act upon each sidewalk repair case could be better utilized toward the actual repairing of the damage sidewalk.

Due to the lack of a cost effective clear policy, the City has been placing itself in a difficult position with regard to the maintenance and repair of existing sidewalks. The City has been enforcing only portions of the existing Code and not adhering to the entire Code. Therefore, the City is no longer in a position to justify not repairing a damaged sidewalk by claiming they are not aware of the problem. Also, the City has increased its liability for injury with the amount of sidewalks being left in disrepair from year to year.

The City has been made aware and documented areas throughout the city requiring sidewalk repairs. In an effort to reduce the City's potential injury liability and in the interest of saving money, the City has repaired the outstanding damaged sidewalk areas, since 1994 using City resources. Without an entirely cost effective enforceable sidewalk code, the City will once again be faced with a decision to have City Council make the determination whether to lien property owners or not for the cost of the sidewalk repairs or to have City forces make the necessary sidewalk repairs. The future solution may not be as simple as having City resources pay for the necessary sidewalk repairs, since the amount and age of the sidewalks within the City is rapidly increasing each year. The following section will present several different alternatives to help address these concerns.

## ALTERNATIVES

In order to determine an effective policy for the City of Las Vegas regarding sidewalk repair and maintenance, this paper will examine three different alternatives against the status quo. These alternatives have been derived from the policies of other local and regional jurisdictions and the problems associated with enforcement of the City's existing Code.

### Alternative 1

The first alternative is that of maintaining the status quo, meaning nothing would change. The Code will continue to exist as previously discussed. City enforcement of the Code will continue to exist as previously discussed. Currently the code requires the owner to repair and maintain existing sidewalks. However in the interest of saving time and money, the City has opted to repair the damaged sidewalks at its expense. Therefore, many of the problems previously discussed will also continue to exist. Based on the current sidewalk repair load of one to two cases per month, this may be an adequate solution. It may be more economical, equitable, politically feasible and less uncertain for the City to continue to do business as it does today. However, the quantity and age of the City's sidewalks are growing, as will the number of complaints the City receives each year. Another purpose of this alternative is to establish a benchmark by which to compare all of the presented alternatives.

### Alternative 2

The second alternative is to enforce the existing code as it reads today in its entirety. This entails no changes to the current code, only a modification to the City's enforcement of the current code. This alternative requires City staff to take the necessary

actions to enforce the entire code. These actions include placing all citizen appeals or Public Works sidewalk repair requests on an agenda to be heard in front of City Council and placing liens on properties if the City has made repairs at the Council's direction and not been fully compensated for such repairs. This alternative is used in other regional areas similar in climate and population to the City of Las Vegas, such as Albuquerque, New Mexico and Tucson, Arizona.

The City of Albuquerque requires that all sidewalks be kept "in a state of good repair by the owner, occupants, or agents in charge of the abutting property". (Albuquerque, MN Code of Ordinances, 1989) Albuquerque's code goes even further than the City's code in that it requires "Any owner, occupant, or agent in charge of abutting property or street furniture shall be liable to the city for any claim or demand made upon the city which arises from a direct or indirect violation of Chapters 6-5-5-1 et seq. and shall hold the city harmless and indemnify the city for any such claim or demand". (Albuquerque Code of Ordinances, 1989) However, based on the previous discussion and the court decisions, Albuquerque may be overruled in respect to this portion of their code.

The City of Tucson has a code similar to that of Albuquerque which states "All owners or agents of owners with property abutting and fronting upon any plaza, street or alley within the corporate limits of the city are required to keep the public sidewalks immediately abutting their property in good order and repair. Each owner shall be liable to the city for all losses to the city or recoveries from the city for damages to person or property of others caused by his failure or that of his agents to repair and keep in good order and reasonably safe condition all such sidewalks abutting and fronting his property

upon any plaza, street or alley within the corporate limits of the city.” (Tucson Code of Ordinances Part II, 1964) Both Albuquerque and Tucson allow for the repairs to be caused by the respective jurisdictions and property owners to be responsible for the costs. Neither of these two jurisdiction codes have any provisions for an appeal.

### Alternative 3

The third alternative is to have the City pay to repair and maintain all existing sidewalks within the public right-of-way. This alternative requires changing the existing code and its enforcement. This alternative stems from the policy implementation of other local entities. Clark County, the City of Henderson, the City of North Las Vegas and Boulder City currently repair all sidewalks within their public right-of-way. All of these local entities have a concrete crew on staff to perform concrete work, including the repair of damaged sidewalks. The property owner is typically not contacted, the concrete sidewalk repair work, once identified and deemed necessary to repair, is placed on a priority list and repaired in the order it is received. Though the policy implementation of these local entities is nearly identical, the actual adopted code of each entity varies. The City of Henderson municipal code accepts the maintenance of all public sidewalks (City of Henderson Municipal Code, 1999). Clark County and the City of North Las Vegas do not specifically address the maintenance and repair of existing sidewalks in their codes. Boulder City municipal code, even though it is not implemented, is similar to that of the City of Las Vegas by requiring the owner to pay for either the entire cost or one-half of the cost to repair the existing sidewalk. (Boulder City Municipal Code, 1978) The code allows for a lien to be placed against the adjacent property. (Boulder City Municipal Code, 1978)

Alternative 4

The fourth alternative is to change the current City code to reflect the following:

(See Appendix G for Revised Code)

- 1) Allowing for City to repair damaged sidewalks once requested by and upon payment received from the property owner.
- 2) Creating a hardship appeal.
- 3) Assigning responsibility of reviewing and acting upon sidewalk repair appeals to a City Sidewalk Committee.

The first change to the code allows City forces to repair damaged sidewalks once requested by and upon payment received from the property owner. The letter notifying a property owner of the necessary repairs will state that they have has thirty days in which to remedy the situation, provide payment to the City for the work to be done through the City or to file an appeal with the Sidewalk Committee. This allows property owners the option of paying funds to the City for the sidewalk repairs or repairing the sidewalk themselves by hiring a licensed contractor. Each property owner, upon the City receiving payment, can be placed on a priority list. The City then has the option of establishing an annual concrete contract or utilizing an existing annual concrete contract to have the lowest responsive bidding contractor repair the damaged sidewalks and any other necessary concrete work quarterly.

Another component of this alternative is to revise the code to allow hardship appeals. The hardship appeal allows property owners, if qualified, to request relief of the reimbursement requirements. The code will specify the exclusions from hardship appeals, including commercial or retail establishments, corporate owners and property not owned by residents (rentals). By assigning responsibility for the reviews and decisions regarding

appeals to a Sidewalk Committee, the City Council will not be required address the appeals. The Sidewalk Committee consists of one City Council Liaison from each Ward, the Director of Field Operations or designee, and the Director of Neighborhood Services of designee. In Chapter 13.56 the code needs to be revised to replace “City Council” with the “Sidewalk Committee”. One type of appeal the Sidewalk Committee can consider is that of a hardship appeal. Several of the appeal letters sent to the City included inquiries as to whether the City has a hardship program.

This alternative is being recommended to address some of the current problems with the existing code. This alternative allows for the City to repair a damaged sidewalk if a properties owner elects to use this option; it is not mandatory. This also allows the potential for the work to be done at a lower cost to the property owner. The City may be able to obtain a lower cost than an individual property owner based on the larger volume of work. This alternative also addresses the lack of desire upon the City to place sidewalk repairs on City Council agendas by creating a Sidewalk Committee and a hardship appeal process.

## CRITERIA

Each of these alternatives will be analyzed based on several criteria. The criteria essential in today's local environment and to provide a thorough analysis of this issue include cost-benefit, equity and enforceability. Each of these criteria assists in balancing one another. For example the most enforceable alternative may not have the most desired cost-benefit ratio. Also, so as not to place too much weight on the quantitative analysis of a cost-benefit ratio, the equity and enforceability criterion bring the political and public aspects into the equation. The perspective each of these criteria is based upon is that of the City. For example, the cost to the City, the benefit to the City, the equity to the City's constituents, and the enforceability of the code for the City.

In order to improve public policy a cost-benefit analysis is essential. In this case the cost-benefit analysis will assist in determining which of the four alternatives are the most cost effective. The costs address all potential expenditures associated with each alternative, including sidewalk repair costs for City forces or contractors (based on previous City contracts), costs for the time spent by City staff/City Council and Sidewalk Committee members and City liability for injury costs. The cost estimates are based upon the best available current market cost information. Secondary effects or externalities, such as an increase in the volume of sidewalk repairs if the City regularly repairs sidewalk at their cost, have been mentioned though not included in the analysis. These effects are not deliberate, however based on numerous additional factors outside of the scope of this research, were not considered. All of the cost and benefits are expressed in constant or real dollars. The discount rate used to determine the net benefits or costs must be based upon the real discount rate as opposed to an observable nominal discount rate. The benefits will



be analyzed and presented relative to the City. All assumptions associated with this analysis and the basis for each assumption is presented in Appendix H. Many of the assumptions do not result in substantial changes to the overall cost of benefits and therefore a sensitivity analysis was not used nor does it seem necessary.

Equity can be defined for the public manager, as “a desirable distribution of goods and services to all members of a society through a just allocation of cost and benefits”. (Sylvia, Sylvia and Guinn, 1997, p.166) The equity criteria as it pertains to this analysis, will be evaluated with respect to income levels, geographic location and the type of development. For example many of the identified sidewalk repairs are located in Ward 1, Ward 3 and Ward 5. Therefore, if owners are not responsible for repairing the sidewalks and tax money is being used to repair the sidewalks, the constituents in Ward 2, Ward 4 and Ward 6 are paying for sidewalk repairs, the majority of which are miles from their homes or developments. Another criteria used to determine equity is whether an alternative considers the type of development responsible for the sidewalk repairs. For example, many commercial developments whose customers utilize the sidewalk to access the business refuse to repair damaged sidewalks adjacent to their businesses. An alternative that entails the City making the necessary repairs merely based on property owner refusal would not be equitable based on land use. In this case a small residential property owner may feel obligated to make the necessary sidewalk repairs, while a more savvy, larger commercial owner does not feel pressure by the City and waits for the City to make the necessary repairs. An alternative that requires a public body to review each appeal or refusal of a property owner of the necessary repairs would be a more equitable alternative. A commercial development may have more difficulty justifying a hardship

to a public body than would a residential development. The measurement for equity will be relative to each alternative. Using the status quo as a baseline, each of the alternatives will be evaluate in comparison to the equity provided by the status quo alternative.

The enforceability criteria will be used to answer whether an alternative is an enforceable alternative. This criterion will need to consider the number of departments involved in enforcing the code. Some of the difficulties associated with enforcement include not following through with the enforcement of the current code in its entirety. Once the code requires a department other than Public Works to become involved in the code enforcement there is a break down in the enforcement. One of the enforcement criteria will be based on no more than two departments being involved with the enforcement of the code. Another criterion, on which to base enforcement of each alternative, is whether an alternative addressed or eliminated two or more of the three problems with the current code. These current problems include cost and obstacles for property owners in hiring contractors and obtaining permits, lack of defining criteria for damaged sidewalks, and cost and impacts associated with appeals being determined by City Council. The enforceability of each alternative will also be based on whether or not there is an appeal process. City staff appears to be hesitant in placing any sidewalk repairs on a City Council agenda. Also, many property owners have, in the past, submitted formal appeals or called the City to voice an objection to the required repair based on a financial hardship. It is essential to the code enforcement that citizens have a means of appealing in the case of economic hardship. This criterion will not include the costs associated with code implementation, as these costs will be addressed in the cost-benefit ratios. The measurement for enforceability will be relative to each alternative. Using the status quo as

a baseline, each of the alternatives will be evaluate in comparison to the enforceability of the status quo alternative.

ANALYSIS

Cost-Benefit Analysis

The first analysis performed for each alternative is a cost-benefit analysis. The cost-benefit analysis is from the City’s perspective, meaning that it considers only the costs to the City and benefits for the City. The City of Las Vegas employee costs for each alternative are based upon the year 2000 salaries for City employees who currently perform the specified task. Employee costs do not include employee benefits or increases in salary. The three sidewalk panels replaced per repair is an average based upon the average number of sidewalk panels per repair location within the City of Las Vegas. The \$250.00 cost of repairing a panel of sidewalk is an average dollar amount based on current City costs of concrete work over the past two years. There are an average of 21 identified sidewalk repairs per year for each alternative, based upon the average number of identified sidewalk repairs for the City over the past six years from 1994 through 2000 as indicated in Table 1.

TABLE 1		
SIDEWALK REPAIR STATISTICS 1994-2000		
YEAR	CLARK COUNTY # OF REPAIRS/YEAR	CLV # OF IDENTIFIED REPAIRS/YEAR
1994	159	30
1995	186	15
1996	126	16
1997	149	17
1998	168	17
1999	259	27
2000	324	22
AVERAGE	196	21

Currently, based on historical data, 75% of the identified sidewalk repairs are fixed by either property owners, other utility companies who may have caused the sidewalk to be

damaged when accessing their facilities, or nearby City neighborhood projects. The remainder is an average of 25% of the identified sidewalk repairs are left in disrepair each year as identified in Table 2.

TABLE 2	
CITY OF LAS VEGAS SIDEWALK REPAIR STATISTICS 1994-2000	
Ward 1: 16 not repaired / 44 total repairs	36%
Ward 2: 2 not repaired/ 5 total repairs	40%
Ward 3: 13 not repaired / 48 total repairs	27%
Ward 4: 0 not repaired / 2 total repairs	0%
Ward 5: 9 not repaired / 36 total repairs	25%
Ward 6: 2 not repaired/ 9 total repairs	22%
AVERAGE	25%

The costs are calculated for each year over an eight-year period to account for those alternatives requiring significant start-up funds. The eight-year period is also amount of time sidewalk complaints accumulated until the City made the necessary sidewalk repairs. The benefits remain constant each year and therefore the yearly benefits need only be multiplied by 8 years.

All of the cost and benefits are expressed in constant or real dollars. The discount rate used to determine the net cost and benefits is based upon the real discount rate as opposed to an observable nominal discount rate. The real discount rate is calculated from the nominal discount rate and the expected rate of inflation. To arrive at the real discount rate, the nominal discount rate must be adjusted based on the following formula:

$$d = (r - i) / (1 + i)$$

Where “d” is the real discount rate, “r” is the nominal discount rate and “i” is the expected inflation rate. The real discount rate calculated for this analysis is 2.07%. This value was determined from an expected inflation rate, based on the current consumer price index, of

3.5%. Also from a nominal discount rate of 5.64%, based on an average for the current fiscal year July 2000 through April 2001 of the City of Las Vegas’ pooled investments. These pooled investment monies are from many different funds including general fund monies, special revenue funds, etc. Based on the calculated real discount rate of 2.07%, each alternative is discounted to a net present cost and benefit. The following is a brief summary of the cost-benefit analysis for each alternative. Refer to Appendix H for a detailed discussion of all costs and assumptions associated with each alternative.

Cost-Benefit Analysis – Alternative 1: Status Quo

The benefits-costs associated with this alternative, the City continuing to do business as it does today, are summarized in Table 3.

TABLE 3		
ALTERNATIVE 1 - BENEFIT-COST SUMMARY		
EIGHT YEAR BENEFITS	EIGHT YEAR COST	NET PRESENT COST
94,500.00	\$135,510.90	<b>\$33,367.28</b>

A more detailed summary of this analysis including all costs is presented in Appendix I. In this case the costs to the City are greater than the benefits. The City over an eight-year period will pay approximately \$135,500 for sidewalk repairs. This cost includes potential injury liability, actual sidewalk repair costs, and cost of City staff time for various tasks. The costs for this alternative increase each year with the greatest cost in the eighth year, when historically the City has made all the necessary sidewalk repairs. Because the City has historically made the necessary sidewalk repairs in the eighth year, the liability is cumulative from year to year. The first year cost for this alternative is approximately \$3,800, the least of all four alternatives as indicated in Table 4.

TABLE 4			
FIRST YEAR COSTS			
ALTERNATIVE 1	ALTERNATIVE 2	ALTERNATIVE 3	ALTERNATIVE 4
\$3,813.86	\$4,443.62	\$16,429.35	\$6,614.42

This low initial year cost may help to explain or justify the City not changing the status quo. However, it is also important to note the cost of each alternative in the eighth year as indicated in Table 5.

TABLE 5			
EIGHTH YEAR COSTS			
ALTERNATIVE 1	ALTERNATIVE 2	ALTERNATIVE 3	ALTERNATIVE 4
\$53,688.86	\$4,443.62	\$16,429.35	\$5,187.22

It is obvious that by the eighth year the cost for this alternative is much greater than any of the other three alternatives. This is mainly due to the cumulative liability costs and the final sidewalk repair cost resulting from the City not addressing or repairing sidewalks promptly after being made aware of the problem.

The City over an eight-year period will receive a benefit of approximately \$94,500 using this alternative. The benefits include the savings for the City by not repairing 75% of the damaged sidewalks. The yearly benefit to the City for this alternative is approximately \$12,000. For this alternative, the costs begin to outweigh the benefits in the fourth year. Overall this alternative results in a net cost to the City over eight years of approximately \$33,400.

Cost-Benefit Analysis – Alternative 2: Enforce code, as it exists today

The benefits-costs associated with this alternative, enforcing the code as it exists today, are summarized in Table 6.

TABLE 6		
ALTERNATIVE 2 - BENEFIT-COST SUMMARY		
EIGHT YEAR BENEFITS	EIGHT YEAR COST	NET PRESENT BENEFIT
\$126,000.00	\$35,548.97	<b>\$82,583.77</b>

A more detailed summary of this analysis including all costs is presented in Appendix J. In this case the benefits to the City outweigh the costs. The City over an eight-year period will pay approximately \$35,500 for sidewalk repairs. This cost includes potential injury liability, actual sidewalk repair costs, and cost of City staff time for various tasks. This is a reduction of approximately \$100,000 over eight years from the previous alternative. The cost for this alternative is consistent each year and is approximately \$4,500. Alternative 1 attained and exceeded this yearly cost within the second year with a second year cost of approximately \$6,400. There are no front end or rear end lump sum costs for this alternative.

The City over an eight-year period will receive a benefit of approximately \$126,000 using this alternative. The benefits include the savings for the City by not repairing 87.5% of the damaged sidewalks and for the savings in liability. The yearly benefit to the City for this alternative is approximately \$16,000, which is only approximately \$4,000 more than the previous alternative. For this alternative, the benefits outweigh the costs each year, with a net value of approximately \$11,000 per year. Overall this alternative results in a net benefit to the City over eight years of approximately \$82,500.



Cost-Benefit Analysis – Alternative 3: City pays to repair all damaged sidewalks

The benefits-costs associated with this alternative, the City paying to repair all damaged sidewalks, are summarized in Table 7.

TABLE 7		
ALTERNATIVE 3 - BENEFIT-COST SUMMARY		
EIGHT YEAR BENEFITS	EIGHT YEAR COST	NET PRESENT COST
\$17,640.00	\$131,434.80	<b>\$103,897.14</b>

A more detailed summary of this analysis including all costs is presented in Appendix K. In this case as with the status-quo alternative, the costs to the City outweigh the benefits. The City over an eight-year period will pay approximately \$131,500 for sidewalk repairs. This cost includes no potential injury liability, only the sidewalk repair costs, and cost of City staff time for various tasks. This cost also is very conservative in that it does not take into account any increase in the volume of sidewalk repairs due to the City paying for all repairs. As previously mentioned, an increase in volume could be expected based solely upon the current volume of sidewalk repairs within Clark County. Since there are many factors contributing to an increase in sidewalk repair volumes, it was assumed that there would be no increase in volume over the eight-year period for this alternative. The eight-year cost is only slightly less, approximately \$4,000, than the status quo alternative. The cost for this alternative is consistent each year and is approximately \$16,500. What makes this alternative the greatest net cost over the eight years of approximately \$114,000 is the low eight-year benefit cost of only approximately \$18,000. Each of the other alternatives resulted in eight-year benefits near \$100,000. The significantly less yearly benefit for this alternative is a result of no cost savings to the City for sidewalk repairs made by other

parties. The benefits for this alternative only include the savings in liability. The yearly benefit to the City for this alternative is approximately \$2,200, which is a reduction of approximately \$9,800 from the status quo alternative. For this alternative, the costs outweigh the benefits every year. There is an approximately \$14,000 net cost each year to the City for this alternative. Overall this alternative results in a net cost to the City over eight years of approximately \$104,000, the highest of all four alternatives.

Cost-Benefit Analysis – Alternative 4: Modify current code to allow for payment to City for repairs, creating a hardship appeal, and assigning the hardship determination to a Sidewalk Committee

The benefits-costs associated with this alternative, the City modifying current code to allow for payment to the City of repairs, creating a hardship appeal, and assigning hardship determinations to a Sidewalk Committee, are summarized in Table 8.

TABLE 8		
ALTERNATIVE 4 - BENEFIT-COST SUMMARY		
EIGHT YEAR BENEFITS	EIGHT YEAR COST	NET PRESENT <b>BENEFIT</b>
\$134,190.00	\$44,352.13	<b>\$81,943.40</b>

A more detailed summary of this analysis including all costs is presented in Appendix L. In this case, as with Alternative 2, the benefits to the City outweigh the costs. The City over an eight-year period will pay approximately \$45,000 for sidewalk repairs. This cost includes potential injury liability, actual sidewalk repair costs, and cost of City staff time for various tasks. This is an increase of approximately \$11,000 over eight years from the second alternative. The cost for this alternative is mostly consistent each year, varying only in the first and fifth years due to cost associated with bidding the work and the four-

year renewable contract. The yearly cost for this alternative is approximately \$5,000, a \$500 increase over Alternative 2. The increase in costs for this alternative over the second alternative is due to the City carrying the liability for 100% of the sidewalk repairs until the City hired contractor makes the necessary repairs, as opposed to only 25% of the liability until City Council directs either the property owner or the City to make the necessary repairs. The bidding cost is additional specific to only this alternative and is approximately \$3,000. However, the cost of the Sidewalk Committee is slightly less than that of City Council, approximately \$650 over eight years.

The City over an eight-year period will receive a benefit of approximately \$134,000 using this alternative. The benefits include the savings for the City by not repairing 94% of the damaged sidewalks and for the savings in liability. This is an increase in approximately \$8,000 over eight years for this alternative in relation to Alternative 2. The yearly benefit to the City for this alternative is approximately \$17,000, which is \$1,000 more than Alternative 2. For this alternative, the benefits outweigh the costs each for a yearly net benefit of a little over \$11,500 per year. Overall this alternative results in a net benefit to the City over eight years of approximately \$82,000, only approximately \$500 less than Alternative 2.

Equity Analysis

The second analysis performed for each alternative is an equity analysis. The equity analysis is being used to evaluate which alternative results in “a desirable distribution of goods and services to all members of society through a just allocation of cost and benefits” (Sylvia, Sylvia and Guinn, 1997, p. 166). Each alternative is evaluated considering three separate characteristics, based upon the equity definition provided. These three characteristics include income levels of owner and geographic location of property, and type of property.

Equity Analysis – Alternative 1: Status Quo

This alternative does not result in “a desirable distribution of goods and services to all members of society through a just allocation of cost and benefits” for any of the characteristics. (Sylvia, Sylvia and Guinn, 1997, p. 166) The equity based on income level, geographic location, and type of property associated with this alternative, the City continuing to do business as it does today, is summarized in Table 9.

TABLE 9			
EQUITY TABLE ALTERNATIVE 1			
INCOME LEVEL	GEOGRAPHY OR LOCAL	TYPE OF PROPERTY	TOTAL
-	-	-	0

Each dash indicates that the alternative is not equitable based on the criteria. In this case, all of the taxpayers within the City are paying for 25% of the identified sidewalk repairs, throughout the City. Also, many of the owners not willing to make the necessary repairs are commercial property owners, who in many cases have more income than single-family residential property owners. However, this alternative allows for the City to make the

necessary repairs for a commercial property while allowing for a single-family residence property to make the repairs themselves. The distribution of identified sidewalk repairs by City Council Ward is worth noting. The majority of the identified sidewalk repairs are located in Wards 1, 3 and 5 as indicated in Table 10 below.

TABLE 10		
CITY OF LAS VEGAS SIDEWALK REPAIR STATISTICS 1994-2000		
WARDS	TOTAL # IDENTIFIED REPAIRS	% IDENTIFIED REPAIRS
1	44	30.6%
2	5	3.5%
3	48	33.3%
4	2	1.4%
5	36	25.0%
6	9	6.3%
AVERAGE	144	100%

Therefore, there is an inequity based on geographic location. The taxpayers from Wards 2, 4 and 6 are most likely paying to repair sidewalks not even located in their Ward. There is also an inequity based on the type of property adjacent to the necessary repair. For example, many of the owners not willing to make the necessary repairs are commercial property owners, whose customers utilize the sidewalk on a daily basis to access into the owner’s business. However, this alternative allows for the owner of a commercial property to leave the sidewalk in disrepair until the City is forced or obligated to make the necessary repairs. This alternative does not meet any of the equity criteria and is therefore not a desirable alternative based on equity.

Equity Analysis – Alternative 2: Enforce code, as it exists today

The equity based on income level, geographic location, and type of property associated with this alternative, the City enforcing the code as it exists today, does result in “a desirable distribution of goods and services to all members of society through a just allocation of cost and benefits” for all of the above characteristics. (Sylvia, Sylvia and Guinn, 1997, p.166) The equity based on income level, geographic location, and type of property associated with this alternative, the City enforcing the code as it is written today, is summarized in Table 11.

TABLE 11			
EQUITY TABLE ALTERNATIVE 2			
INCOME LEVEL	GEOGRAPHY OR LOCAL	TYPE OF PROPERTY	TOTAL
X	X	X	3

Each “X” indicates that the alternative is equitable based on the criteria. In this case, each property owner will be responsible to repair any damaged sidewalk adjacent to his or her property. Therefore, the only way the tax payers would be required to pay the bill of any individual property owner would be if a majority of the City Council voted to approve the appeal request. Also, the City Council can weigh each appeal on a case-by-case basis as to whether or not a property owner with a low income should be afforded any assistance for the required repairs. This alternative allows for equity based on geographic location. It is at the City Council’s discretion, as to whether Ward 2 constituents will pay for a sidewalk repair within another ward. The location of the required repair is something the Council as a whole can weigh and factor into each appeal. Another indicator the Council may consider when making a decision on an appeal is that of property use. It may be difficult

for a commercial property owner to convince the City Council that he or she is financially unable to make the repairs or even that the repairs are not necessary. The City Council is what makes this alternative a more equitable alternative. This alternative meets the equity criteria for all three characteristics.

Equity Analysis – Alternative 3: City pays to repair all damaged sidewalks

The equity based on income level, geographic location, and type of property associated with this alternative, the City paying to repair all damaged sidewalks, does not result in “a desirable distribution of goods and services to all members of society through a just allocation of cost and benefits” for two of the above characteristics. (Sylvia, Sylvia and Guinn) The equity based on income level, geographic location, and type of property associated with this alternative, the City paying to repair all damaged sidewalks, is summarized in Table 12.

TABLE 12			
EQUITY TABLE ALTERNATIVE 3			
INCOME LEVEL	GEOGRAPHY OR LOCAL	TYPE OF PROPERTY	TOTAL
-	-	X	1

In this case, all of the taxpayers both rich and poor within the City are paying for 100% of the identified sidewalk repairs, throughout the City. Once again, the distribution of identified sidewalk repairs by City Council Ward is worth noting. The majority of the identified sidewalk repairs are located in Wards 1, 3 and 5 as was presented for Alternative 1. Therefore, there is an inequity based on geographic location. The taxpayers from Wards 2, 4 and 6 are most likely paying to repair sidewalks not even located in their Ward. There may not be an inequity based on the type of property adjacent to the necessary repair.

Whether the property is commercial or residential, the City will pay to make the repairs. If perhaps there were more commercial sidewalk repairs than there were residential sidewalk repairs, then an inequity may exist. However, the data is not available to make such a determination at this time. This alternative meets only one of the equity criteria.

Equity Analysis – Alternative 4: Modify current code to allow for payment to City for repairs, creating a hardship appeal, and assigning the hardship determination to a Sidewalk Committee

The equity based on income level, geographic location, and type of property associated with this alternative, the City modifying the current code to allow for payment to the City of repairs, creating a hardship appeal, and assigning hardship determinations to a Sidewalk Committee, does result in “a desirable distribution of goods and services to all members of society through a just allocation of cost and benefits” for all of the above characteristics. (Sylvia, Sylvia and Guinn, 1997, p. 166) The equity based on income level, geographic location, and type of property associated with this alternative, the City modifying the current code, is summarized in Table 13.

TABLE 13			
EQUITY TABLE ALTERNATIVE 4			
INCOME LEVEL	GEOGRAPHY OR LOCAL	TYPE OF PROPERTY	TOTAL
X	X	X	3

In this case, if the code were to be modified as indicated, each property owner will be responsible to repair any damaged sidewalk adjacent to his or her property. Therefore, the only way the tax payers would be required to pay the bill of any individual property owner would be if a majority of the Sidewalk Committee voted to approve the appeal request.



Also, the Sidewalk Committee can weigh each appeal on a case-by-case basis as to whether or not a property owner with a low income should be afforded any assistance for the required repairs. This alternative allows for equity based on geographic location. It is at the Sidewalk Committee's discretion, as to whether Ward 2 constituents will pay for a sidewalk repair within another ward. The location of the required repair is something the Committee as a whole can weigh and factor into each appeal. Another factor the Committee may consider when making a decision on an appeal is that of property use. It may be difficult for a commercial property owner to convince the Committee that he or she is financially unable to make the repairs or even that the repairs are not necessary. The Sidewalk Committee is what makes this alternative a more equitable alternative. This alternative meets the equity criteria for all three characteristics.

### Enforceability Analysis

The final analysis performed for each alternative is an enforceability analysis. The enforceability analysis is being used to evaluate which alternative results in a more enforceable policy. Each alternative is evaluated based on three criteria that influence or impact the enforceability of the code. These three factors include: 1) the implementation of the code requiring the involvement of fewer than two departments from beginning to end, 2) the code addressing two or more of the existing problems as previously discussed, and 3) the code allowing the property owners an appeal process. In the past, each of these factors has led to difficulties for City Staff in enforcing the code. The implementation of the code requiring the involvement of fewer than two departments enables City staff to better enforce the code and follow through with such enforcement. Today, the code is adhered to until departments other than Public Works become involved in the enforcement of the code. The code addressing two or more of the existing problems, including cost and obstacles for property owners in hiring contractors and obtaining permits, lack of defining criteria for damaged sidewalks, and cost and impacts associated with appeals being determined by City Council, will result in a more enforceable code. Many of these current problems result in the property owner not making the necessary repair and the City not following through with the enforcement of the entire code. The code allowing for an appeal process by property owners is also important to the successful implementation of the code. If the property owner is not able to appeal the City's request to repair or pay the cost of repairing the damaged sidewalk, many property owners may want to be heard and therefore resort to going to court in order to voice their complaints or concerns.

Enforceability Analysis – Alternative 1: Status Quo

Alternative 1, based on the four criteria listed above, is not an enforceable alternative. The enforceability analysis for this alternative is summarized in Table 14.

TABLE 14			
ENFORCEABILITY TABLE ALTERNATIVE 1			
2 OR LESS DEPTS INVOLVED	ADDRESSES MORE THAN 2 PROBLEMS	ALLOWS FOR AN APPEAL PROCESS	TOTAL
-	-	-	0

This alternative meets none of the enforceability criteria. This alternative requires the involvement of the Department of Public Works to assess, document and notify property owners of each sidewalk repair, the Office of the City Clerk to forward to Public Works any appeals from property owners, and the Field Operations Department to make the necessary sidewalk repairs.

All of the problems with the code continue to exist with this alternative and therefore the alternative does not address two or more existing problems. The alternative does not require City Council action. All repairs are ultimately completed by the City and therefore, no appeals need to be heard in front of City Council. Consequently, this alternative does not allow for an appeal process. The owners do not have an opportunity to justify or explain their reasoning for not repairing or paying to repair the damaged sidewalk. This alternative meets none of the criteria and therefore is not the desirable alternative based on the enforceability analysis.

Enforceability Analysis – Alternative 2: Enforce code, as it exists today

Alternative 2, based on the four criteria listed above, is not an enforceable alternative. The enforceability analysis for this alternative is summarized in Table 15.

TABLE 15			
ENFORCEABILITY TABLE ALTERNATIVE 2			
2 OR LESS DEPTS INVOLVED	ADDRESSES MORE THAN 2 PROBLEMS	ALLOWS FOR AN APPEAL PROCESS	TOTAL
-	-	X	1

This alternative only meets one of the enforceability criteria. This alternative requires the involvement of the Department of Public Works to assess, document and notify property owners of each sidewalk repair, the Office of the City Clerk to place property owner appeals on the City Council agenda and process any liens, the City Council Office to hear any appeals at the City Council meeting, and the Field Operations Department to make the necessary sidewalk repairs.

All of the problems with the code continue to exist with this alternative and therefore the alternative does not address two or more existing problems. This alternative does not define criteria for damaged sidewalks or rear sidewalks, does not eliminate any cost and obstacles in obtaining the required licensed contractors or permits, and does not eliminate the cost and impacts associated with appeals being determined by the City Council. This alternative does require City Council action. There is an appeals process. All appeals are heard in front of City Council. Therefore, owners have an opportunity to justify or explain their reasoning for not repairing or paying to repair the damaged sidewalk. This alternative only meets the criteria that allows for an appeal process and therefore is not the desirable alternative based on the enforceability analysis.

Enforceability Analysis – Alternative 3: City pays to repair all damaged sidewalks

Alternative 3, based on the four criteria listed above, is an enforceable alternative.

The enforceability analysis for this alternative is summarized in Table 16.

TABLE 16			
ENFORCEABILITY TABLE ALTERNATIVE 3			
2 OR LESS DEPTS INVOLVED	ADDRESSES MORE THAN 2 PROBLEMS	ALLOWS FOR AN APPEAL PROCESS	TOTAL
X	X	X	3

This alternative meets all of the enforceability criteria. This alternative requires the involvement of only the Field Operations Department to assess, document, inventory and make the necessary sidewalk repairs. At least two of the problems with the code are addressed with this alternative. This alternative does not define criteria for damaged sidewalks or rear sidewalks, however, this alternative does eliminate any cost and obstacles for property owners to obtain the required licensed contractors or permits, and does eliminate the cost and impacts associated with appeals being determined by the City Council. This alternative does not require City Council action. Also, with this alternative there is no need for an appeals process, since the City is paying for all sidewalk repairs. This alternative meets all criteria and therefore is a desirable alternative based on the enforceability analysis.

Enforceability Analysis – Alternative 4: Modify current code to allow for payment to City for repairs, creating a hardship appeal, and assigning the hardship determination to a Sidewalk Committee

Alternative 4, based on the four criteria listed above, is an enforceable alternative. The enforceability analysis for this alternative is summarized in Table 17.

TABLE 17			
ENFORCEABILITY TABLE ALTERNATIVE 4			
2 OR LESS DEPTS INVOLVED	ADDRESSES MORE THAN 2 PROBLEMS	ALLOWS FOR AN APPEAL PROCESS	TOTAL
-	X	X	2

This alternative meets all but one of the enforceability criteria. This alternative requires the involvement of the Department of Field Operations to assess, document, notify property owners of each sidewalk repair, place property owner before Sidewalk Committee, and make any necessary repairs through annual agreement with contractor, the members of the Sidewalk Committee to hear any appeals, and the Office of the City Clerk to process any liens. This alternative eliminates most of the problems with the existing code. This alternative does not define criteria for damaged sidewalks or rear sidewalks, however, this alternative does eliminate any cost and obstacles for property owners to obtain the required licensed contractors or permits, and does reduce the cost and eliminate any impacts associated with appeals being determined by the City Council. This alternative does require action by a Sidewalk Committee, which is less expensive than action by the City Council. There is an appeals process. All appeals are heard in front of the Sidewalk Committee. Therefore, owners have an opportunity to justify or explain their reasoning for not repairing or paying to repair the damaged sidewalk. This alternative meets all criteria and therefore is a desirable alternative based on the enforceability analysis.

RECOMMENDATIONS AND CONCLUSIONS

The desired outcome of this policy analysis is the recommendation of an equitable, cost effective sidewalk repair code the City can enforce. When doing a policy analysis one might expect each alternative to result in trade-offs for the City. For example, the most cost effective alternative may not necessarily be the most equitable or enforceable alternative. Based on the analysis performed for each of the four alternatives, two alternatives stand out slightly above the rest. In this case, Alternatives 2 & 4 appear to be the most cost effective and equitable sidewalk repair code for the City of Las Vegas. Table 18 below represents a summary of the overall results from each analysis for each alternative:

TABLE 18			
ANALYSIS SUMMARY			
ALTERNATIVE	COST-BENEFITS	EQUITY	ENFORCEABILITY
1	\$33,367.28 COST	0	0
2	\$82,583.77 BENEFIT	3	1
3	\$103,897.14 COST	1	3
4	\$81,943.40 BENEFIT	3	2

Based on the above table, it is apparent that Alternative 4 results in a more enforceable code than that of Alternative 2. It is important to note that both Alternatives 2 and 4 were comparable in relation to the benefits-cost analysis and equity analysis. This implies that the way code is currently written is both cost effective and equitable. Based on the analysis presented the only obstacle associated with the code as it is written today, is the enforcement of the code.

Weighing each analysis equally, Alternative 4 is the best overall alternative. Alternative 3 is the most enforceable alternative, however the cost for this alternative is

very high. These costs are the minimum cost to the City as, once owners realize the City makes necessary sidewalk repairs, at no cost to them, the volume of repairs in the City will increase. Alternative 4 is not only one of the better cost-benefit alternatives; it is also one of the two most equitable codes. The implementation of Alternative 4 will result in “a desirable distribution of goods and services to all members of society through a just allocation of cost and benefits” base on income levels, geographic location of property, and type of development on the property. The most enforceable alternative is Alternative 3, where the City pays to maintain all sidewalks. Alternative 4 is not the most enforceable alternative, however it is still an enforceable alternative, by meeting 3 of the 5 requirements for enforceability. In addition, Alternative 4 as opposed to Alternative 2 benefits the taxpayers. Alternative 4 allows the property owner the option of paying the City to make the necessary repairs. This can result in a cost saving to the property owner and also has a potential for more sidewalk repairs being paid for by property owners and an overall savings to the taxpayers. This benefit was not considered, as only benefits to the City were measured in the cost-benefit analysis. Therefore, based on the all analyses Alternative 4 appears to be the most cost effective and equitable sidewalk repair code for the City of Las Vegas.

This policy analysis grew as the process unfolded. Several items or issues were encountered along the way, which were not included in this study due to time and length constraints. One such issue is that of landscaping in the public right-of-way. The code requires landscaping within the public right-of-way to be maintained in the same manner as sidewalks. However, there is little data regarding solely landscape maintenance, only as it relates to the maintenance of the sidewalks. Therefore, the trimming and cutting of the



trees and roots were not considered in this policy analysis and will need to be further addressed at a later date. Another issue, beyond the scope of this study, which the City may want to explore at a later date, is that of sidewalk ownership. When a development proposes sidewalks outside of the public right-of-way, the City will require a pedestrian access easement. Such an easement allows for public access to the sidewalk and insures that one cannot block or prevent the public from accessing the sidewalk. However, when the sidewalk is located within a pedestrian access easement as opposed to within the public right-of-way, it is apparent that the association or adjacent property is the owner of the sidewalk. With ownership comes the understood responsibility of maintenance and repair. Perhaps even the liability for injury can be in question for sidewalks owned by property owners with only access easements granted to the local jurisdiction.

An essential element of the recommended alternative is that of implementation. In order to implement this alternative several things will need to occur. The first of which is the revision of the current code (See Appendix G) including an implementation plan. The revised code will need to be approved by the appropriate departments, Public Works, Field Operations, City Attorney and the City Manager's Office. Once each department has reviewed and accepted the revised code, the revised code will need to be heard in front of the Recommending Committee and then placed on a City Council agenda for approval. The adopted date of the revised code is then the day the revised code and implementation plan is approved by the City Council. The implementation plan may include a transition period from the adopted date to the full implementation date of the revised code. This transition period will allow for resolution per the previous code of any pending or existing sidewalk repairs prior to the adoption of the new code. In effect the grand fathering of

repairs in the system prior to the adoption of the new code. Based on the information gathered and presented above, it is my recommendation the City considers revising the current sidewalk repair and maintenance code in a manner similar to that of Alternative 4. It is also recommended the City consider an implementation plan for any such code revision.