ORDINANCE NO. 2023-383

AN ORDINANCE OF THE TOWN OF WINDSOR ADDING CHAPTER 6, SIDEWALK MAINTENANCE AND LIABILITY, TO TITLE X, STREETS, SIDEWALKS AND BRIDGES, OF THE TOWN OF WINDSOR MUNICIPAL CODE

WHEREAS, Sections 5600 *et seq.* of the California Streets and Highways Code requires the owners of property adjacent to public streets and rights-of-way to maintain the sidewalks adjacent to their property in a condition safe for members of the public; and

WHEREAS, failure to maintain sidewalks in a safe condition creates a safety hazard that can cause serious injuries; and

WHEREAS, property owners are best positioned to know when an adjacent sidewalk is in need of repair; and

WHEREAS, the Town Council desires to amend the Windsor Municipal Code to ensure that public sidewalks are maintained in a condition that is safe for use by the general public.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Municipal Code Amendment.

Chapter 6, Sidewalk Maintenance and Liability, is hereby added to Title X, Streets, Sidewalks and Bridges, of the Town of Windsor Municipal Code to read as follows:

"Chapter 6 - Sidewalk Maintenance and Liability
10-6-100 Maintenance and repair of sidewalks

A. The owners of parcels or real property, or portions thereof, adjacent to any sidewalk shall maintain such sidewalk in a safe and non-dangerous condition, and shall repair and replace such sidewalk as necessary to maintain the sidewalk in a safe and non-dangerous condition as the owners' sole cost and expense. For the purposes of this Chapter the sidewalk area shall be the area between the property line of the parcel and the back of the curb or the edge of the roadway pavement, whichever is closer to the property line. The term sidewalk shall not include the curb and gutter.

B. For the purposes of this Chapter, maintenance and repair of sidewalk area shall include, but not be limited to, maintenance and repair of surfaces including grinding, removal and replacement of sidewalks, removal of weeds and/or debris, tree root pruning and installing root barriers, trimming of shrubs and/or ground cover and trimming shrubs, so that the sidewalk will remain in a condition that is safe and not dangerous to property or to persons using the sidewalk in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of the sidewalk.

10-6-200 Repair By Town

If the Town becomes aware that a portion of the sidewalk needs repair or endangers the public's use of such sidewalk, the Public Works Director, or his or her designee, may notify the owner of the adjacent property that such sidewalk needs repair. Notices shall be sent either in the manner provided for either in Streets and Highways Code Sections 5600 *et seq.*, as those sections may be amended and renumbered from time to time, or in Chapter 1 of Title 1 of this Code. If the owner does not repair the sidewalk within the time provided in the notice, or within such longer period of time provided by the Public Works Director in writing, the Town may repair the sidewalk and recover the costs of such repair from the property owner in the same manner as provided for by either Streets and Highways Code Sections 5600 *et seq.* or Chapter 1 of Title 1 of this Code.

10-6-300 Liability for injuries to public

The owner of real property in the Town shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and non-dangerous condition as required by this Chapter. The failure of an owner to fulfill the duties imposed by this Chapter is negligence. If, as a result of the failure of any property owner to maintain the sidewalk area in a non-dangerous condition as required by this Chapter, any person suffers injury or damage to person or property, the property owner shall be liable to such person for the resulting damages or injury. The Town shall not be liable for an injury caused by the negligence of a property owner.

10-6-400 Exceptions

An adjacent property owner is not responsible for sidewalk damage and repair if the damage is caused by the action of the Town, or its officials and employees, and the property owner has notified the Public Works Director in writing of the damage or defects in the sidewalk. For the purpose of this section, damage caused by trees shall not be the responsibility of the Town to correct.

Section 2. Environmental Review.

The Town Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15061(b)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 3. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable. The Town Council of the Town of

Windsor hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 4. Effective Date.

This Ordinance shall be effective thirty (30) days following its adoption.

Section 5. Publication or Posting.

The Town Clerk of the Town of Windsor shall cause this Ordinance to be published, or to be posted in at least three (3) public places in the Town of Windsor, in accordance with Section 36933 of the Government Code of the State of California.

PASSED, APPROVED AND ADOPTED this 20th day of December 2023, by the following vote:

AYES:	**COUNCILMEMBERS FUDGE, SALMON, VICE MAYOR POTTER AND MAYOR REYNOZA**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**COUNCILMEMBER WALL**

ROSA REYNOZA, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK