



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

FROM: Fred Kelley
Director, Oakland
Department of
Transportation

SUBJECT: Sidewalk Parking

DATE: August 14, 2023

City Administrator Approval

Date: Aug 29, 2023

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On Sidewalk Parking Including Clarification Of The City's Obligations Under Federal, State And Local Laws And Recent Efforts To Meet Those Obligations And Respond Effectively To Community Concerns.

EXECUTIVE SUMMARY

Parking on sidewalks is illegal under Federal, State, and local law. When a motor vehicle is parked in a way that partially or fully obstructs a sidewalk, pedestrians – people walking, such as seniors and children, and those with mobility disabilities, such as wheelchair users or people who are blind – are denied the safe use of the public right of way.

The City of Oakland (City) Parking Enforcement staff are tasked with enforcing state and local parking regulations. Staff issue approximately 5,000 to 10,000 sidewalk parking violations per year. Despite this, sidewalk parking remains a consistent issue and source of confusion. City letters and communications to the public and to staff may have contributed to confusion about this issue as discussed below. In order to comply with state law and make the public right of way available to pedestrians, the City will resume enforcement of laws related to sidewalk parking in all areas starting in October 2023.

BACKGROUND / LEGISLATIVE HISTORY

In 1996, the City Council adopted Resolution No. 73036 CMS supporting public transit and alternative modes, known as Oakland's Transit First Policy. This Policy favors transit and alternative modes over private vehicles to reduce congestion and improve air quality and safety for people walking and bicycling, decrease parking demand, reduce individual transportation costs, and provide a balanced transportation system that supports many modes, making communities more livable.

In 2013, the City Council adopted a set of Parking Principles (Resolution No. 84664 CMS). These Principles inform and guide the active management of the parking system and include goals like achieving 85% on-street parking occupancy, bolstering the economic vitality of neighborhood commercial areas, encouraging the use of off-street parking lots and garages, and reinvesting a portion of parking revenue directly back to commercial district investments, potentially through Parking Benefit Districts.

In 2016, the newly-formed Oakland Department of Transportation (OakDOT) published a [Strategic Plan](#) outlining goals for improving transportation options and minimizing parking demand, congestion, and pollution (Vibrant Sustainable Infrastructure #13), and managing public parking to balance the diverse needs of Oakland's visitors, merchants, commuters and residents (Vibrant Sustainable Infrastructure #14).

ANALYSIS AND POLICY ALTERNATIVES

This informational report addresses the issue of sidewalk parking throughout the City. The purpose of the report is to inform elected officials, the public, and City staff of the illegality of parking motor vehicles on sidewalks within the public right of way and the OakDOT directive to resume enforcement of laws related to sidewalk parking.

Parking on sidewalks is both illegal and a cause of real harm to Oaklanders. When a motor vehicle is parked in a way that partially or fully obstructs a sidewalk, pedestrians – people walking, such as seniors and children, and those with mobility disabilities, such as wheelchair users or people who are blind – are denied the use of the public right of way. When navigating around the obstruction, sidewalk users may be forced to move into traffic or to use other routes that are unsafe, inconvenient, or infeasible.

Title II of the Americans with Disabilities Act (ADA) affirmatively requires that state and local governments ensure that persons with disabilities, including mobility disabilities, have meaningful access to the pedestrian routes in the public right of way. In 2003, the U.S. Supreme Court ruled in *Barden v. Sacramento* that the ADA applied to sidewalks. This ruling established a nationwide precedent requiring cities and other public entities to make all public sidewalks accessible and usable to people with mobility and vision disabilities. The court ruled that public entities must address barriers such as missing or unsafe curb ramps throughout the public sidewalk system, as well as barriers that block access along the length of the sidewalks.

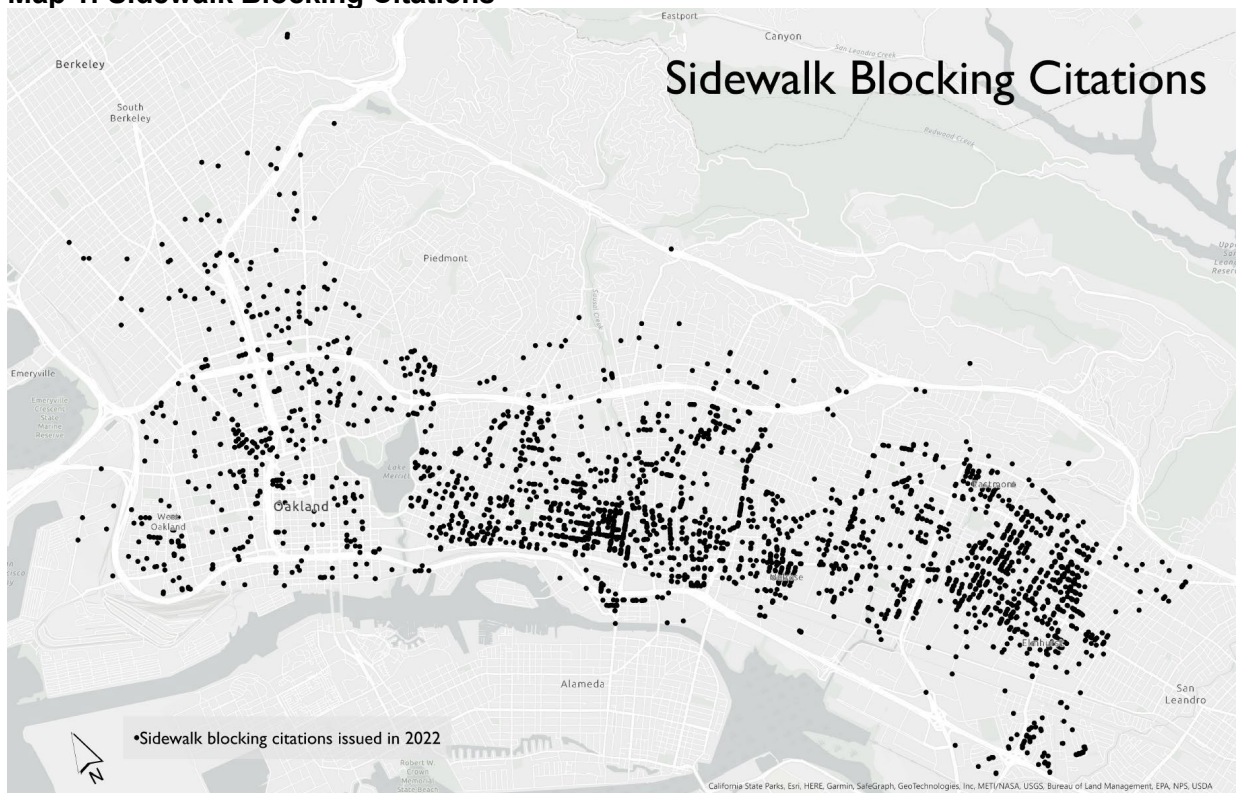
State law is clear that no portion of a vehicle may be parked on or over any portion of any sidewalk, with the lone exception being a 10" allowance for the overhang of side-view mirrors. Specifically, the California Vehicle Code (CVC) Section 22500(f) states:

22500. A person shall not stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places: (f) On a portion of a sidewalk, or with the body of the vehicle extending over a portion of a sidewalk, except electric carts when authorized by local ordinance, as specified in Section 21114.5. Lights, mirrors, or devices that are required to be mounted upon a vehicle under this code

may extend from the body of the vehicle over the sidewalk to a distance of not more than 10 inches.

The Oakland Municipal Code (OMC), Chapter 10.48.010 reflects State law by assessing a \$100 parking violation for “22500(f) No Parking – Sidewalk”. The City’s Parking Enforcement staff must enforce state and local laws, including CVC 22500(f). Staff issue approximately 5,000 to 10,000 sidewalk parking violations each year. Despite this, sidewalk parking remains a consistent issue. **Map 1** shows the distribution of the 6,164 sidewalk parking violations issued between January 1st and December 31st 2022, the most recent year for which full data was available. The map shows that citations for sidewalk parking were largely issued in less affluent, flatland neighborhoods populated by mostly people of color and relatively few were issued in wealthier, mostly white hillside neighborhoods.

Map 1: Sidewalk Blocking Citations



City letters and communications to the public and to staff may have contributed to confusion about this issue. For example, a letter from former Oakland City Attorney John Russo (included as **Attachment A**), dated 2004 and addressed to the residents of Underhills Road, stated that vehicles would not be cited for parking on the sidewalk as long as 36 inches of sidewalk remained clear. A similar memo was issued regarding Hillsborough Street (included as **Attachment B**). The position outlined in those letters conflicts with the ADA, the CVC, the OMC, the Transit First and Alternative Modes Policy (Resolution No. 73036 CMS), and OakDOT’s goal of prioritizing vulnerable road users. The current City Attorney’s Office has determined that any agreements or arrangements made by the prior City Attorney and the then-District Councilmember with the community via such letters that allowed residents to block or park on

City sidewalks are null and void. Neither official received the requisite legal authorization from the City Council, State or Federal Government to enter into such agreements or arrangements. Similarly, an Interoffice Memo (included as **Attachment C**) to all parking control technicians dated 2010 directs staff not to enforce CVC 22500(f) (No Parking – Sidewalk) in cases where a vehicle is parked on a narrow street with two wheels on the curb. Staff also consider this memo null and void because staff did not have the requisite legal authority to issue it. The Manager of OakDOT's Parking and Mobility Division will issue a new memo to Parking Control Technicians and other staff clarifying current enforcement policy in September 2023.

In order to comply with state law and make the public right of way available to pedestrians, OakDOT will resume active enforcement of laws related to sidewalk parking, including CVC 22500(f), in all parts of the city. When parking rules or enforcement practices are changed, staff typically issue warnings instead of violations for up to one month as a courtesy. In keeping with this practice, staff expect to resume enforcement of sidewalk parking rules on all streets in October 2023, with up to one warning per vehicle. Violations will be issued starting in November 2023.

OakDOT's Parking Enforcement Unit has recently completed a major recruiting effort and expects to be fully staffed, with dozens of new technicians in the field, later this fall. When the unit reaches full capacity, resident concerns about a lack of enforcement for sidewalk parking and other important violations, such as blocking street sweeping vehicles, should be allayed. The additional staff are expected to increase the total number of citations issued by as much as 50 percent.

To report a sidewalk parking violation, or any other parking-related violation, residents can use Oak311(www.oaklandca.gov/services/oak311) or call Parking Enforcement Dispatch at (510) 238-3099, Monday through Friday, 8:30 AM to 5:00 PM. Outside of those hours, constituents can call the Oakland Police Department non-emergency line at (510) 777-3333.

FISCAL IMPACT

This report is for informational purposes and has no fiscal impact or cost. Resuming enforcement of sidewalk parking violations this October in areas where this violation has not been enforced may result in modest increase in citation revenue to the General-Purpose Fund (1010).

PUBLIC OUTREACH / INTEREST

Staff presented this topic and received public feedback at the following public meetings:

- August 15, 2022 Mayor's Commission on Persons with Disabilities (MCPD)
 - A recording of this meeting is available on the MCPD website at: <https://www.oaklandca.gov/meeting/mayors-commission-on-persons-with-disabilities-mcpd-meeting#recordings>
- August 18, 2022 Bicyclist and Pedestrian Advisory Commission (BPAC)
 - recording of this meeting is available on the BPAC website at: <https://www.oaklandca.gov/meeting/bicyclist-pedestrian-advisory-commission-bpac-aug-2022#recordings>

Feedback received at both meetings was largely positive, with many commissioners and attendees supporting the proposal and acknowledging the issue of sidewalk parking and pedestrian access. Some attendees at the BPAC meeting who live on or near Underhills Road expressed a need to park their vehicles on the sidewalk. Staff reiterated to these constituents that sidewalk parking is illegal under State and local law and that the City has an obligation to keep sidewalks clear for pedestrian use.

COORDINATION

In preparation of this report, staff coordinated with the Office of the City Attorney, OakDOT's Parking Enforcement and Mobility Division and, the ADA Programs Division of the City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

Economic: Sidewalk parking discourages walking by denying physical access to the portion of the public right of way that is designated for pedestrian passage. Resuming enforcement of sidewalk parking rules in all areas may encourage residents to replace car trips with walking trips, thereby reducing their transportation cost burden.

Environmental: Sidewalk parking discourages walking by denying physical access to the portion of the public right of way that is designated for pedestrian passage. Resuming enforcement of sidewalk parking rules in all areas of the city may have the effect of increasing walking trips and reducing car trips. Emissions from cars are a major source of carbon emissions and air pollution, while walking causes no emissions of either air pollution or greenhouse gasses.

Race & Equity: Sidewalk parking violations are enforced throughout the city except for a few streets in majority white, majority wealthy neighborhoods. This disparity privileges parkers in those neighborhoods over parkers in all other neighborhoods while denying access to the right of way for pedestrians.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive An Informational Report On Sidewalk Parking Including Clarification Of The City's Obligations Under Federal, State And Local Laws And Recent Efforts To Meet Those Obligations And Respond Effectively To Community Concerns.

For questions regarding this report, please contact Michael Ford, Division Manager, Parking & Mobility Division, Department of Transportation via email at mford@oaklandca.gov or via phone at (510) 238-7670.

Respectfully submitted,

/Megan Wier, acting for Fred Kelley

/Megan Wier, acting for Fred Kelley (Aug 28, 2023 12:44 PDT)

FRED KELLEY

Director, Oakland Department of Transportation

Reviewed by:

Megan Wier, Assistant Director
Department of Transportation

Michael Ford, Manager
Parking and Mobility Division

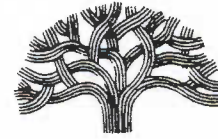
Prepared by:

Kerby Olsen, Transportation Planner III
Mobility Management Team

Attachments (3):

- A. Letter to residents of Underhills Road (2004)
- B. Memorandum regarding parking exemptions on Hillsborough Street (2004)
- C. Memorandum regarding enforcement policy for wrong way parking and parking on sidewalks (2010)

ATTACHMENT A
CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

August 26, 2004

Hand-delivered and by U.S. Mail

TO THE RESIDENTS OF UNDERHILLS ROAD

Dear Underhills Road residents,

We have reached an agreement that will allow residents of Underhills Road to continue to use both sides of the street for parking while preserving sidewalk access for Gregory Junn.

The agreement is as follows:

1. Underhills residents are required to trim their vegetation to ensure that it does not encroach on sidewalk access. Hedges and other plantings may no longer protrude onto the sidewalk and residents must ensure careful and consistent trimming. The date for completion of trimming is September 12. Beginning on Monday, September 13, any resident who does not comply will be subject to receipt of an abatement notice from the City.

2. Underhills parking will be restricted as follows:

On the even side of the street, parkers shall maintain a **minimum of 36 inches** and a maximum of 48 inches for pedestrian access to the sidewalk. The City will investigate the feasibility of a wider sidewalk corridor in the future. In order to ensure that the minimum is consistently maintained, the City will use water-based paint and dashed lines on the sidewalk to indicate the 36-inch minimum space that parked cars must permit for sidewalk access. These minimally intrusive marking will be completed by September 30, 2004.

On the odd side of the street parkers must leave as much room for vehicles to pass as possible.

TO THE RESIDENTS OF UNDERHILLS ROAD

August 26, 2004

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The Lakeshore Homeowners' Association and residents of Underhills Road will enforce the parking agreement in whatever ways they believe will be effective, including but not limited to notifying all residents of the parking restrictions, requesting that all residents notify contractors and visitors of the parking restrictions and placing notices of violations on all improperly parked cars.

3. The City will conduct a feasibility study to assess whether to relocate the residential disabled parking zone serving the Jurin residence from Grosvenor to Underhills Road. The feasibility study will be performed by the end of the day on September 17, 2004, and the City will reach a decision concerning the matter by September 30, 2004.

4. If future problems arise, the parties will address them as follows:

Complaints by Mr. Jurin—Mr. Jurin will contact Larry Padway, his representative at the mediation, who will speak with Claudia Skapik of the Homeowners' Association.

Complaints by other residents—residents will contact Claudia Skapik, who will speak with Larry Padway.

Larry Padway and Claudia Skapik will work together to resolve any problems. If their efforts are unsuccessful they may, by agreement, contact Vicki Laden in the City Attorney's Office, who will take any necessary steps to resolve the problem.

5. Danny Wan's office will continue its efforts, which include a planned meeting with residents in September, to develop a comprehensive, coordinated plan to address the problems with Underhills Road, including but not limited to sidewalk repair, repaving of the street, drainage and undergrounding of utilities. Underhills Road residents and Mr. Jurin will follow this agreement at least until the time that the City's comprehensive, coordinated plan is developed.
6. The City will notify all agencies of the existence of this agreement.
7. The City will meet with Underhills residents who have received notices to repair their sidewalks, either individually or as a group, to discuss both temporary and permanent solutions.

TO THE RESIDENTS OF UNDERHILLS ROAD
August 26, 2004
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As a result of the resolution of these issues at mediation, the City expects that everyone will cooperate to successfully implement this agreement. This office will provide a notice next week that can be used to inform residents, visitors and contractors of the parking restrictions set out in this agreement.

Very truly yours,

John A. Russo
City Attorney



By:

Vicki Laden
Supervising Deputy City Attorney

VAL:ke

Memorandum

To: Francine Larkrith-Thompson
From: FMA/Parking Enforcement Section
Date: May 3, 2004
Re: Parking Exemptions – Hillsborough Street

The purpose of this memorandum is to notify the Parking Enforcement Staff of a change in the enforcement of parking regulations on Hillsborough Street.

Effective, Tuesday, May 4, 2004, Francine Larkrith-Thompson, the Parking Manager of our division has directed that Hillsborough Street be exempted from all parking regulations except 10.40.020 O.M.C. (No Parking Red Zone).

Therefore, vehicles parked in the 601 block to 700 block of Hillsborough should only be cited for the 10.40.020 O.M.C. violation.

Hillsborough Street is on Beat 644. It is north of Brooklyn Avenue which is north of Lakeshore Ave.



LILLIE D. PARRISH
Parking Enforcement
Supervisor II

ATTACHMENT C
CITY OF OAKLAND
FINANCE AND MANAGEMENT AGENCY
PARKING DIVISION



Interoffice Memo

TO: All Parking Enforcement Technicians
FROM: Ronald Abernathy, Senior Parking Enforcement Supervisor II
CC: Noel Pinto, Parking Division Manager
DATE: February 26, 2010
SUBJECT: Enforcement Policy for 22502 Wrong Way Parking & 22500.F No Parking on Sidwalk

This memo is to remind staff of the previously discussed policy whereby Parking Control Officers must use the following indicators to write the CVC 22502 Wrong Way Parking and CVC 22500. F, No Parking Sidwalk violations on narrow streets throughout the City.

22502- Every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be stopped or parked with the right-hand wheels of such vehicle parallel with and within 18 inches of the right-hand curb, except that motorcycles shall be parked with at least one wheel or fender touching the right-hand curb. Where no curbs or barriers bound any roadway, right-hand parallel parking is required unless otherwise indicated.

Wrong Way Parking is not to be enforced on narrow streets as follows: With a width of 30 feet or less.

An enforceable street is defined as a street with a street median or a stripe down the middle of it, which extends the whole length of the block from end to.

22500.F - No Person shall stop, park or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or official traffic control device, on any portion of a sidewalk, or with the body of the vehicle extending over any portion of a sidewalk, except electronic carts when authorized by local ordinance, as specified in Section 21114.5. Lights, mirrors or devices that are required to be mounted upon a vehicle under this code may extend from the body of the vehicle over the sidewalk to distance of not more than 10 inches.

Scenario: If a vehicle is parked parallel on a narrow street with two wheels on the curb, in the direction of the flow of traffic, to allow enough clearance for an emergency vehicle or passenger vehicle to pass down the street Parking Enforcement we will not cite this vehicle for 22500.F. An enforceable street is defined as a street with a street median or a stripe down the middle of it.

If a vehicle has more than two wheels on the sidewalk then a violation of the CVC code 22500.F should be enforced,

If you have any questions or concerns regarding this issue please contact your shift Supervisor.

Thank you for your support and cooperation of this directive.

Ronald Abernathy
Parking Enforcement Unit
Senior Parking Enforcement Supervisor II