

Chapter 18  
**STREETS AND SIDEWALKS<sup>1</sup>**

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- ' 18.2 Depositing, etc., glass, tacks, rubbish, etc., on streets or alleys prohibited; removal required
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- ' 18.10 REVOKED: Ord. No. 390 N.S., ' 4.
- ' 18.11 Permit and Inspections; fees.
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1 For state law as to authority of City relative to streets and sidewalks, see Gov. C., ' 40401. As to City streets generally, see Sts. & H. C., ' 1800 et seq. As to authority of City to prescribe requirements relative to maintenance of streets, see Sts. & H.C., ' 1921.

As to construction of sidewalks and curbs under Improvement Act of 1911, see Sts. & H.C., ' ' 5870 to 5894. As to Improvement Act of 1911, see Sts. & H.C., ' ' 5000 to 6794. As to Municipal Improvement Act of 1913, see Sts. & H.C., ' ' 10000 to 10609.

As to special gas tax street improvement fund, see ' ' 2.20 to 2.22 of this Code. As to erection of signs and banners over streets, see ' 3.2 of this Code.

As to use of roller skates, coasters, etc., on streets and sidewalks in business district, see ' 11.12. As to driving animals and vehicles on sidewalks, see ' 11.13. As to one-way streets, see ' 11.16. As to parking on sidewalks, see ' 11.49. As to streets in subdivisions, see ' ' 19.9 to 19.17.

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- ' 18.17 REVOKED: Ord. No. 417 N.S., ' 4.
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**ARTICLE I. IN GENERAL**

**SEC. 18.1 PERMIT REQUIRED TO DIG OR REMOVE ANY PORTION OF STREET OR SIDEWALK<sup>2</sup>**

No person shall dig or remove, or cause to be dug or removed, any portion of a roadway or sidewalk or any public street, lane, alley or place used as a street, lane, alley or public ground, without first obtaining a permit, in writing, from the superintendent of streets. (Ord. No. 2 N.S., 10/33)

**SEC. 18.2 DEPOSITING, ETC., GLASS, TACKS, RUBBISH, ETC., ON STREETS OR**

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2 As to excavations generally, see ' ' 18.14 to 18.20 of this Code.

**ALLEYS PROHIBITED; REMOVAL REQUIRED**

No person shall throw or deposit or permit or cause to be thrown or deposited any tacks, broken ware or glass, dirt, paper, sweepings, ashes, shavings, filthy water, offal, straw, wood, stones, earth, lime, manure, refuse matter or rubbish of any kind whatsoever into any street, lane, alley or public ground in the City. The person having control of premises from which any of the aforesaid articles shall be or may have been thrown or deposited, or owning or controlling any of the aforesaid articles so thrown or deposited in any street, lane, alley or public ground or place used as a street, lane, alley or public ground, shall remove the same therefrom within twenty-four hours after receiving knowledge of the violation. (Ord. No. 2 N.S., 10/33)

**SEC. 18.3      CLEANING, ETC. CLOTHES, VEHICLES, ETC. ON STREETS AND ALLEYS PROHIBITED**

No person shall clean, scale or wash any clothes, carriage, wagon or other vehicle, or any other thing tending to create a nuisance on any of the streets, lanes, alleys or public grounds of the City. (Ord. No. 2 N.S., 10/33)

**SEC. 18.4      DOORS IN SIDEWALKS**

Doors in sidewalks used to cover an opening for an elevator, stairway or chute must be kept in such a condition that they will not endanger persons or property. It shall be unlawful for any person owning or in charge or control of any doors in sidewalks used for covering entrances to elevators, stairways or chutes, or other openings in the sidewalk leading to the basement, to allow such doors to remain open, except when such elevator, stairway or chute is being used for loading or unloading or transferring of merchandise or material. (Ord. No. 199, N.S., 9/58)

**SEC. 18.5      DEFACING, ETC., SIDEWALKS AND CURBS**

No person shall cut, carve, hack, hew or otherwise injure or deface any bituminous, cement or other sidewalk or curb on any public street, alley or public place within the City. (Ord. No. 2, N.S., 10/33)

**SEC. 18.6      OBSTRUCTION OF GUTTERS; DIVERSION OF STORM WATER; CULVERTS EXCEPTED<sup>3</sup>**

It shall be unlawful for any person to construct or maintain, or to cause to be constructed or maintained in any gutter of any public street in the City, or to permit to remain in any such gutter in front of any property owned by such person or under his control, anything of either a temporary

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3      In connection with this section, see ' 12.14 of this Code.

or permanent character which shall wholly or partly obstruct or divert any storm water which shall flow or collect in such gutter, or which shall be likely to cause such obstruction or diversion; provided, however, that nothing in this chapter shall affect the maintenance or construction of culverts at street corners and street crossings under the supervision of the municipal authorities, or any gutter crossing authorized by the Council. (Ord. No. 2 N.S., 10/33)

**SEC. 18.7 FENCES<sup>4</sup> AND BUILDINGS NOT TO EXTEND OVER SIDEWALK OR STREET**

No person shall maintain, conduct or place, or cause to be constructed or placed on premises belonging to him, or in his possession, or under his control, any building or fence which shall extend over the line of the sidewalk or the street. (Ord. No. 2 N.S., 10/33)

**SEC. 18.8 PERMISSION REQUIRED TO ERECT TELEGRAPH, ETC., POLES**

No person shall erect or cause to be erected upon or in any public street, lane, alley, sidewalk, sidewalk area, or other public place within the City, any telegraph, telephone or electric light pole, or any pole for the suspension of electric telegraph, telephone, electric light or electric power wires or cables, without first having secured therefor the express permission of the Council. (Ord. No. 24 N.S., 5/10)

**SEC. 18.9 TREES,<sup>5</sup> WEEDS, ETC., NEAR STREETS AND SIDEWALKS**

The obstruction of the space between the street curb and the property line in front of any lot in the City in such a manner as to mar the appearance of such space, or interfere with or obstruct the use of the sidewalk, or menace the public safety in case of fire, by trees, overhanging branches of trees, weeds, grass or other vegetable growth, is hereby declared to be a public nuisance. (Ord. No. 52 N.S., 10/08)

**ARTICLE II. CONSTRUCTION OF SIDEWALKS,  
CURBS, GUTTERS, DRIVEWAYS AND PARKING AREAS BY PRIVATE CONTRACT<sup>6</sup>**

**SEC. 18.10 REVOKED: Ord. No. 390 N.S., 8/79**

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4 As to regulations for fences generally, see ' 17.4 of this Code.

5 As to cutting, mutilating, etc., trees, see ' 12.12 of this Code. As to trees obstructing sewers, see ' 12.13.

6 As to excavations generally, see ' 7.1 to 7.16 of this Code. As to permit to dig or remove portions of streets or sidewalks, see ' 18.1.

**SEC. 18.11 PERMIT AND INSPECTIONS; FEES**

It shall be unlawful for any person to construct or cause to be constructed in the City, by private contract, (other than a contract let by the City or permitted by resolution of the City Council) any concrete sidewalk, concrete driveway, curb or gutter or any other concrete or related construction whatsoever in the street area, without first obtaining from the superintendent of streets a permit, in writing, so to do. It shall be the duty of the superintendent of streets to cause an inspection to be made of such concrete sidewalks, driveways, curb or gutter or curb cut, or any concrete or other construction in the street area, to ascertain whether such work has been done in accordance with the provisions of this article, and the permit issued therefor, or in accordance with plans and specifications then on file in the office of the superintendent of streets. The superintendent of streets shall charge an inspection fee therefor based upon charges listed in Table 3-A as set forth in Section 5.2 of this Code. (Ord. No. 205 N.S., 1/59; Ord. No. 390 N.S., 8/79)

**SEC. 18.12 PERFORMANCE BOND REQUIREMENTS**

1. **Right-of-Way Bond.** Any contractor, person or entity desiring to perform any work within the street right-of-way, including the sidewalk and parking strip, must secure a street right-of-way bond, covering labor and materials and faithful performance, from the City to ensure that the City sidewalk, curb, gutter and/or street are returned to the condition required by the City.

2. **Failure of Improvements.** Should such work break, disintegrate or otherwise fail to comply with the provisions of this Chapter 18 or other provisions of the City Code, the Director of Public Works of the City shall notify the contractor, person or entity making the deposit of such break, disintegration or failure and set forth the location and amount of work to be repaired. Such contractor, person or entity shall, within ten working days from the date of the notice, make such needed repairs. If such repairs are not made within the designated time, such repairs may be made by the Superintendent of Streets and the cost of such repair shall be paid for from the deposit on hand with the City, demand being made for such costs by the Director of Public Works.

3. **Sidewalk Bond.** Before issuance of a permit involving the removal and replacement of any City sidewalk, the contractor, person or entity desiring such permit shall first secure a street right-of-way bond from the City in an amount to be set from time to time by Council resolution. The bond may be either in the form of a cash deposit or of a surety company bond in a form and with a bonding company acceptable to the Director of Public Works in the appropriate amount, or of an interest bearing deposit in the appropriate amount, which deposit would be assigned to the City in a form and with a depository acceptable to the Director of Public Works. The bond shall be retained by the City for a minimum of thirty (30) days following acceptance of the work by the City at its discretion for up to one year following acceptance of the work by the City.

4. **Street, Curb or Gutter Bond.** Before the issuance of a permit involving the removal of the street and/or the curb and/or gutter, the individual and/or contractor desiring such permit shall

first secure a street right-of-way bond from the City in an amount to be set from time to time by Council resolution. The bond may be in the form of either a cash deposit or of a surety company bond in a form and with a bonding company acceptable to the Director of Public Works in the appropriate amount, or of an interest bearing deposit in the appropriate amount, which deposit would be assigned to the City in a form and with a depository acceptable to the Director of Public Works. The bond shall be retained by the City for a minimum of one year following the acceptance of the work by the City, and may be retained by the City at its discretion for up to two years following acceptance of the work by the City.

5. Increase of Bond. At the discretion of the Director of Public Works, the minimum amount of bond or cash deposit set from time to time by City Council Resolution may be increased up to but not exceeding the maximum amount that shall also be set by City Council Resolution. (Ord. No. 205 N.S., 1/59; Ord. No. 390 N.S., 8/79; Ord. No. 407 N.S., 8/80; Ord. No. 447 N.S., 7/83; Ord. No. 504 N.S., 9/88)

**SEC. 18.13 SAME-PROCEDURE IF NOTICE IGNORED OR REPAIRS NOT COMPLETED**

If work is not commenced within ten days after such notice is given as provided in the preceding section and diligently and without interruption prosecuted to completion, the superintendent of streets shall proceed to cause such work to be done in the manner prescribed by the City Council. (Ord. No. 105 N.S., 8/42)

**ARTICLE III. EXCAVATIONS**

**SEC. 18.14 OTHER THAN PUBLIC UTILITY-STATEMENT TO BE FILED; DEPOSIT**

Whenever any person, other than a public utility, shall for any purpose desire to make an opening for the purpose of constructing a main line conduit and for laying pipe lines, such person shall first file with the superintendent of streets a statement, in writing, setting forth the exact location of the proposed opening, the surface dimensions thereof and the number of square feet within the surface, and each such statement shall be signed by the person, by or on behalf of whom the same is filed, and such person shall at the time of filing such statement and plat or diagram deposit with the superintendent of streets the sum of money equal to one dollar per square foot of surface which he proposes to open as shown by the statement or such other sum as the Council may fix and determine from time to time by resolution. (Ord. No. 2 N.S., 10/33; Ord. No. 87 N.S., 6/39; Ord. No. 206 N.S., 1/59)

**SEC. 18.15 SAME-MANNER OF REFILLING AND RESURFACING; COST**

When any opening shall have been completed, the refilling and resurfacing shall be done by the street department of the City and under the direction and supervision of the superintendent of

streets, and the cost of the refilling and resurfacing shall be charged to the person, but such charge and cost in any event shall not exceed the sum of twenty dollars. (Ord. No. 2 N.S., 10/33; Ord. No. 87 N.S., 6/39)

**SEC. 18.16 REFILLING AND RESURFACING TO BE COMPLETED WITHIN TEN DAYS: EXCEPTION**

In the event that any opening shall have been made as provided in this article and shall have been allowed to remain open for a period of more than ten days without special authority therefor from the Council, the superintendent of streets shall cause such opening to be filled and resurfaced and the cost therefor shall be charged to the person responsible for making such opening. (Ord. No. 2 N.S., 10/33; Ord. No. 87 N.S., 6/39; Ord. No. 206 N.S., 1/59)

**SEC. 18.17 REVOKED: Ord. No. 417 N.S., 3/81**

**SEC. 18.18 STATEMENT AND PLAT TO BE FILED WITH SUPERINTENDENT OF STREETS: PERMIT**

Whenever any person, including any public utility, shall for any purpose desire to make an opening in the surface of any street, avenue, lane, alley or public way in the City, such person or utility shall first file with the superintendent of streets a statement in writing signed by the person or utility by or on behalf of whom it is filed, setting forth the exact location of the proposed opening, the surface dimension thereof and the amount of surface area, together with a plat or diagram showing the form and location of such proposed opening and shall obtain a permit therefor prior to the commencement of any such work. (Ord. No. 206 N.S., 1/59)

**SEC. 18.19 REFILLING GENERALLY; RECOVERY OF COSTS WHEN REFILLING DONE BY CITY**

When the work requiring any such opening as provided in the preceding section, shall have been completed, the refilling of such opening shall be promptly done by the permittee, subject to the inspection and approval of the superintendent of streets. The resurfacing thereof, if the area is less than two hundred square feet, shall be done by the City and charged to the permittee at rates fixed by the superintendent of streets. If such area is two hundred square feet or more, such resurfacing shall be done by the permittee, subject to the inspection and approval of the superintendent of streets. The fee for inspections required herein shall be fixed by the superintendent of streets from time to time. (Ord. No. 206 N.S., 1/59)

**SEC. 18.20 DEPTH OF WATER AND GAS PIPES IN STREET**

The top of all water pipes and the top of all cables, wires and/or conduits and the top of all gas pipes, which are laid under the surface of any street or roadway of the City, must be at least

three feet (3') below the surface of such street or roadway; provided that the top of any cable, wire, pipe and/or conduit may be no less than 16 inches below the surface of the street or roadway based on the following conditions:

1. At all times the top of any such cable, wire, pipe and/or conduit must be at least the depth below the street or roadway required by the then current rules and regulations of the California Public Utilities Commission, and must fully comply with any other conditions and requirements of such rules and regulations; provided that if such rules and regulations set a minimum depth for the cable, wire, pipe and/or conduit in question, subject to a lesser depth if such lesser depth is provided by local law or regulations, then the minimum depth permitted by local law in the City shall be deemed to be 16 inches, provided the duct material itself, or additional top protection installed, is in conformance with the applicable Public Utilities Commission regulations.

2. The owner of such cable, wire, pipe and/or conduit must execute and deliver to the City a hold-harmless agreement with wording approved by the City, which agreement shall bind such owner to hold the City harmless and defend the City against any claims and actions whatsoever resulting from personal injury and/or property damage and/or any other type of damage caused by such cable, wire or conduit. Such hold-harmless agreement may be prepared in a blanket form to cover numerous cables, wires, pipes and/or conduits, if the entity involved is a public utility.

a. Such agreement shall provide that the owner of such cables, wires, pipes and/or conduits shall have the responsibility to physically remove or relocate them promptly upon the request of the City, whether such request is oral or written, in the event City deems such removal or relocation is required for a publicly funded project or for the public health, safety or welfare, all at the expense of owner, and City may require that such removal or relocation be done immediately if the situation so warrants. City shall have no liability whatsoever for any such expense of removal or relocation or any other costs or damages relating to such cables, wires, pipes and/or conduits so necessitated by such publicly funded projects or the public health, safety or welfare. In the case of a public utility operating pursuant to a franchise granted in accordance with the Franchise Act of 1937 (Public Utilities Code ' 6201 et seq.), the duty to relocate set forth in Public Utilities Code ' 6297 as provided or hereafter amended shall be deemed to satisfy the provisions of this Section 18.20.2.a.

b. If the owner of such cable, wire, pipe and/or conduit is not a public utility, City may require the owner to insure the City against any claims or actions set forth in subsection 2 above up to a maximum in damages of \$1,000,000.00, and to name City as an additional assured on any such insurance coverage.

c. In the case of a public utility operating pursuant to a franchise granted in accordance with the Franchise Act of 1937 (Public Utilities Code ' 6201 et seq.), the indemnity provision set forth in Public Utilities Code ' 6296 as in effect on

December 31, 1982, or as hereafter amended, provided that any such amendment shall be determined by the city attorney to be in keeping with the intent of this Code provision, shall be deemed to satisfy the requirements of this Section 18.20.2. (Ord. No. 2 N.S., 10/33; Ord. No. 445 N.S., 7/83)

**ARTICLE IV. OBSTRUCTION OF STREETS AND SIDEWALKS**

**SEC. 18.21 BARRICADES AND LIGHTS AROUND OBSTRUCTIONS**

Whenever any person shall erect or repair any building or other structure within the City and shall cause or permit any building materials, rubbish or other thing to be placed on any public street, lane, alley or sidewalk or other places in the City where people are accustomed to walk or ride and whenever any person shall be engaged in constructing any sewer or laying any gas, water or other pipe or conduit or making any excavation in and through any of the streets, lanes, alleys, high ways and sidewalks or other places in the City where people are accustomed to walk or ride, whether such work is authorized by the City or its agents or others, it shall be the duty of every such person to protect, with a sufficient number of lights, the materials, rubbish, goods, wares, merchandise, machinery, apparatus, heaps, excavations and other things caused or permitted by them to be or remain in or at any of the places in this section mentioned and in such manner as to enable the same to be distinctly seen by all passers-by and to maintain such lights from dusk until daylight during every night which any obstruction of the character in the section mentioned is allowed to remain in or at any such place, and every person who shall neglect the duty imposed by this section shall, in addition to the penalty imposed by Section 1.7, be liable for all damages to persons and to property growing out of such neglect. (Ord. No. 206 N.S., 1/59)

**SEC. 18.22 PROHIBITED GENERALLY**

It shall be unlawful for any person to place or cause to be placed anywhere upon any sidewalk or roadway, anything which shall obstruct, restrict or prevent the use of any portion of such sidewalk or roadway; provided, that this section shall not apply to the articles or things listed in section 18.16. (Ord. No. 199 N.S., 9/58)

**SEC. 18.23 EXCEPTIONS TO SECTION 18.22**

The following goods or articles are excepted from the provisions of Section 18.22:

- (a) Goods, wares, merchandise or containers may be allowed on the outer one-third of the sidewalk for not to exceed one hour while in the actual course of receipt, delivery or removal.
- (b) Materials used in the construction or repair of any building or structure,

together with the necessary pedestrian walkways, barricades and warning signs, when permission has been obtained from the proper City departments.

(c) Trees, shrubs and flowers with the necessary barricades when planted or maintained either by the City or by private parties under rules and regulations of the park department or authority of the Council expressed by resolution or ordinance.

(d) Poles, fire and police boxes, lampposts, parking, street directional or warning signs, drinking fountains, hydrants, flagpoles or standards, decorations for public events, sidewalk clocks, barber poles, refuse cans, book return receptacles, barriers and any other similar installation; provided, however, that any such installation belongs to the City or is authorized by this Code or other ordinance or resolution of the Council.

(e) Benches at such locations and in accordance with such rules and regulations as may be prescribed by the chief of police.

(f) Mailboxes and armed forces recruiting signs that are placed in such locations that they do not interfere with the normal use of the sidewalk by pedestrians.

(g) Newspapers and newspaper racks of a type and at locations approved by and under such conditions as may be imposed by the chief of police.

(h) Anything for temporary noncommercial use at such locations and such times as may be permitted by the police department under the following rules and regulations:

1. Any person desiring such permission shall make application therefor to the police department specifying the object or thing to be used, the proposed time and place and the purpose for which it is intended to be used, and such other information as may be required by the police department.

2. If there are no prior applications for such time and place and the use of such object or thing at such time or place will not create a traffic hazard, the permit may be issued. (Ord. No. 199 N.S., 9/58)

SEC. 18.24 USE OF STREETS AND SIDEWALKS BY LICENSED PEDDLERS OR VENDORS

Any properly licensed peddler or vendor may use the public streets and sidewalks of the City for the sale of goods, wares or merchandise; provided, that such peddlers or vendors, in the conduct of their business shall not stop, nor permit any vehicle used by them in the conduct of their business to stand in one place for more than five minutes at any one time. (Ord. No. 199 N.S., 9/58)

**SEC 18.25 VIOLATIONS DECLARED NUISANCE; REMOVAL BY POLICE**

Anything placed or permitted to remain upon any sidewalk or roadway in violation of Section 18.22 is hereby declared to constitute a nuisance and the police department is hereby authorized and empowered to abate such nuisance by removing the same to the office of the police department or the corporation yard of the City. (Ord. No. 199 N.S., 9/58)

**ARTICLE V. REQUIRED CONSTRUCTION AND REPAIR  
OF CITY SIDEWALKS AND DRIVEWAYS**

**SEC. 18.26 CONDITIONS APPLYING TO CONSTRUCTION OR REPAIR**

The following conditions applying to the requirements of construction and/or repair of sidewalks and driveways within the City as more specifically set forth in other Sections of this Article V of Chapter 18 of the City Code:

- a. When the real property is developed for any use.
- b. In conjunction with the issuance of any permit or aggregate of permits, within the year preceding the date of application, in the amount of \$5,000.00 or more on the real property.
- c. In conjunction with the sale of the real property.
- d. When the property owner of such real property becomes aware of an unsafe condition on such property.
- e. When property owner is notified by the City of an unsafe condition on such property.

**SEC. 18.27 WHEN CONSTRUCTION REQUIRED**

New sidewalks and/or driveways must be constructed if required by the superintendent of streets in the situations set forth in subparagraphs a, b, c, d, and/or e of Section 18.26 of this Code, at the expense of the property owner. (Ord. No. 397 N.S., 3/80)

**SEC. 18.28 CONDITIONS OF DAMAGE REQUIRING REPAIR OR REPLACEMENT**

In the event a sidewalk and/or driveway is damaged or deteriorated, such sidewalk and/or driveway may be required by the City to be repaired or replaced as follows:

a. If there is a vertical displacement of 3/4 of an inch or less of a sidewalk, such repair may be required by the City of the property owner whose property touches, abuts or comes closest to such sidewalk in question, in any of the situations set forth in subparagraphs a, b, c, d, and/or e of Section 18.26 of this Code, or of any person or entity, including utility companies and contractors, whose actions damage the sidewalk.

b. If there is vertical displacement of in excess of 3/4 of an inch of a sidewalk, or if in the opinion of the superintendent of streets any damage or displacement of the sidewalk creates an unsafe condition, then such sidewalk may be required by the City to be replaced by the property owner whose property touches, abuts, or comes closest to such sidewalk in question, in any of the situations set forth in subparagraphs a, b, c, d, and/or e of Section 18.26 of this Code, or by any person or entity, including utility companies and contractors, whose actions damage the sidewalk.

c. In the event a driveway has a vertical displacement of 3/4 of an inch or less at any point, such repair may be required by the City of the property owner whose property touches, abuts or comes closest to such driveway in question, in any of the situations set forth in subparagraphs a, b, c, d, and/or e of Section 18.26 of this Code, or of any person or entity, including utility companies and contractors, whose actions damage the driveway or driveway approach.

d. In the event a driveway has a vertical displacement of in excess of 3/4 of an inch at any point, or if in the opinion of the superintendent of streets any damage or displacement of the driveway creates an unsafe condition, then such driveway may be required by the City to be replaced by the property owner whose property touches, abuts or comes closest to such driveway in question, in any of the situations set forth in subparagraphs a, b, c, d, and/or of Section 18.26 of this Code, or by any person or entity, including public utility companies and contractors, whose actions damage the driveway. (Ord. 397 N.S., 3/80)

e. Any patching of vertical displacements with temporary or more permanent materials, whether such materials are asphalt, an asphalt-concrete mixture or otherwise, shall not be considered to remove such vertical displacements from the provisions of this section 18.28 of the Code. Only replacement of broken sections of sidewalk with concrete or other City-approved materials as durable as concrete in such a manner that the replaced section of sidewalk is on a level plane with the adjoining sections of sidewalk shall be considered sufficient to remove such displacements from the provisions of Section 18.28 of the Code. (Ord. No. 397 N.S, 3/80; Ord. No. 440 N.S., 4/83)

**SEC. 18.29 PROCEDURE FOR NOTICE TO REPAIR OR REPLACE**

Any repair, replacement and/or new construction of sidewalks and/or driveways shall be required in the following manner:

a. A written notice to repair, replace and/or provide new construction shall be prepared by the City, specifying what type of work is required, how it is to be done, the materials to be used, the location of the work, and when the work must be completed, and specifying the unsafe condition that affects the public safety, making such repair, replacement or new construction necessary.

b. Such written notice shall be delivered to the property owner or to the person or entity whose actions have caused the damage either by personal service or by mailing the notice postage prepaid to the last address on the records of the City of a property owner or to the address of the person or entity whose actions caused the damage, as the case may be.

c. In addition, a copy of such written notice shall be posted in a conspicuous place on the property in question by the City, and such posted notice must be not less than 8 inches by 10 inches in size.

d. The written notice shall state that the work must be commenced within two weeks of the date of the notice, and completed by the date indicated, and if it is not either commenced or completed as set forth in the notice, that the superintendent of streets may carry out the repair, replacement or new construction, and the cost of the same shall be a lien on the property.

e. The property owner or his agent may within the two week period set forth in Section 18.29(d) file a written appeal with the city clerk at City Hall, which appeal shall set forth any reasons why the property owner should be exempted from the requirements of Article V of Chapter 18 of the Code, and which appeal shall be set at the next City Council meeting that is at least seven (7) calendar days from the date the appeal is filed. The Council at the appeal hearing shall hear all testimony and review all documents submitted. In the event the Council determines that a special hardship would arise due to the enforcement of the requirements of Article V of Chapter 18 of the Code, then the Council may further place any conditions on such exemption that the Council may deem proper. If the appeal is denied, the property owner shall have an additional time added to the time for commencing and completing the work equal the date the appeal was denied. (Ord. No. 397 N.S., 3/80)

### SEC. 18.30 VIOLATIONS

If the work is not commenced or completed when required in the written notice under Section 18.29 hereof, the superintendent of streets may carry out such work, either by City staff or by contracting such work out to a private contractor, and the cost of such work, including labor and materials, shall be paid or become a lien against the real property in question, as follows:

a. A notice of the cost of the work shall be given in the same manner as provided in Section 18.29 hereof, and the date and time of a hearing before the Council shall be included in such notice, specifying that the question of placing a lien against the real property shall be considered by

the Council unless the cost of the work has been paid in full prior to the hearing.

b. At the hearing the Council shall consider the report of the superintendent of streets on the work performed, and any protests which may be filed, and shall decide whether the cost of the work or any part of it shall become an assessment and lien against the real property, and the decision of the Council shall be final.

c. In the event the Council determines all or any part of the cost of work becomes an assessment and lien against the real property, such assessment shall be collected as provided in Article 3 of Chapter 22 of the California Streets and Highways Code, commencing with Section 5625, as such Article 3 may be amended from time to time; provided that there shall be no limitation to sidewalk repair, but such provisions of Article 3 shall apply to all costs of work required under Article V of Chapter 18 of this Code and to the owners of real property to which such work applies. (Ord. No. 387 N.S., 6/79)

**SEC. 18.31 DRIVEWAYS**

The term "driveway" as used in Article V of Chapter 18 of the Code shall include all approaches, aprons or other portions of a driveway between the street and that edge of the sidewalk located furthest from the street. In no case shall the requirements of this Article V of Chapter 18 apply to any portion of a driveway located further from the street than the edge of the sidewalk located furthest from the street. (Ord. No. 387 N.S., 6/79)

**SEC. 18.32 ALTERNATIVE ACTION TO SECTION 18.30**

As an alternative to the provisions of Section 18.30, if the work is not commenced or completed when required in the written notice under Section 18.29 hereof, the City may prepare and record a written notice setting forth the address of the property, facts relating to the unsafe sidewalk and/or driveway, and a statement that the repairs must be completed as part of any transfer of the property, and that the owner of such property shall be liable for any personal injuries and/or property damage caused by such unsafe sidewalk and/or driveway. (Ord. No. 397, N.S., 3/80)

**SEC. 18.33 PRESERVATION OF SURVEYORS' MONUMENTS**

It shall be illegal to remove, damage or destroy any surveyor's monument located in a sidewalk or curb within the City without immediately replacing it with a monument of equal durability and visibility located in exactly the same location as the original surveyor's monument, as provided in Business and Professions Code ' 8771, as amended from time to time.

A licensed land surveyor or registered civil engineer shall file with the Alameda County Engineer a corner record for every survey corner as provided in Business and Professions Code ' 8773, providing a duplicate original to the City department of public works.

Where it is determined by City staff the "corner" or monument involved does not require the preparation of a "Record of Survey," "Corner Record" or similar filing as required by the referenced statute(s), a licensed land surveyor or registered civil engineer, authorized to practice land surveying, shall file with the City department of public works a reproducible plan or drawing showing the monument and its location in a manner and form approved by the department of public works. (Ord. No. 432 N.S., 11/82; Ord. No. 437, N.S., 2/83)

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