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OAKLAND

**OAKLAND CITY COUNCIL**

**DRAFT**  
City Attorney

2019 MAY 30 PM 5:30

**ORDINANCE No. \_\_\_\_\_ C.M.S.**

**ORDINANCE REVISING OAKLAND MUNICIPAL CODE TITLE 12,  
CHAPTER 12.04 TO ADD NEW REGULATIONS REQUIRING  
OAKLAND PROPERTY OWNERS TO INSPECT AND CERTIFY  
SIDEWALKS IN THE PUBLIC RIGHT-OF-WAY AT THE TIME OF  
PROPERTY TRANSFER**

**WHEREAS**, the timely maintenance and repair of damaged sidewalks is essential to protect the health, welfare and safety of Oakland residents, workers, and visitors; and

**WHEREAS**, an owner of property abutting a sidewalk is often in the best position to know of unsafe conditions in the sidewalk and to initiate repairs or notify the City of Oakland of the conditions; and

**WHEREAS**, the state Streets and Highways Code provides that owners of property abutting sidewalks have a duty to maintain those sidewalks; and

**WHEREAS**, the City of Oakland wishes to limit the City's liability exposure for injuries resulting from sidewalk defects; and

**WHEREAS**, the City of Oakland desires to establish a uniform practice consistent with the state Streets and Highways Code for maintenance and repair of sidewalks;

**WHEREAS**, the City of Oakland already requires the inspection of lower building sewer laterals at the time of property transfer, and desires to inspect and certify sidewalks in the public right-of-way at the time of property transfer; now, therefore,

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

Section 12.04.380 of Chapter 12 of the Oakland Municipal Code is added now to read:

**12.04.380 - Sidewalk inspection, replacement, and compliance certificates**

**1. Responsibility**

The property owner shall be responsible for inspecting sidewalks and curb ramps, obtaining all required permits, performing all necessary sidewalk and curb ramp repair or replacement, scheduling inspections, obtaining and filing with the City a compliance certificate for the entire sidewalk when one or more of the following events occurs:

A. Title Transfer. Prior to transferring title associated with the sale of any real property that contains any structure with a sidewalk. Title transfer means the sale or transfer of an entire real property estate or the fee interest in that real property estate and does not include the sale or transfer of partial interest, including a leasehold. In addition, the following shall not be included: (1) transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust, (2) transfers from one co-owner to one or more other co-owners, or from one or more co-owners into or from a revocable trust, if the trust is for the benefit of the grantor or grantors, (3) transfers made by a trustor to fund an inter vivos trust, (4) transfers made to a spouse, to a registered domestic partner as defined in Section 297 of the Family Code, or to a person or persons in the lineal line of consanguinity of one or more of the transferors, (5) transfers between spouses or registered domestic partners resulting from a decree of dissolution of marriage or domestic partnership, or a decree of legal separation or from a property settlement agreement incidental to a decree, (6) transfers from property owners to any financial institution as a result of a foreclosure or similar process.

B. Construction or Remodeling. Whenever a property owner applies for any permit or other approval needed for construction, remodeling, modification or alteration of any portion of lots adjacent to, abutting, or fronting any portion of a sidewalk area where the cost of the work is estimated to exceed \$100,000.00.

C. Unsafe Condition Becomes Known. When the property owner becomes aware of an unsafe sidewalk condition, or when the property owner is notified by the City of an unsafe sidewalk condition.

## 2. Inspections

A self-certification inspection shall be conducted by a contractor holding specified "A," "B," or "C-8" license and a current valid Oakland Business License. A complete copy of the inspection report and written confirmation by the inspector that any repairs or replacements recommended by the inspector have been completed shall be provided to the Department of Transportation.

## 3. Compliance Certificate

The self-certification inspection report and confirmation of completed repairs or replacement shall be a condition of the issuance of a final compliance certificate for the entire sidewalk. The final compliance certificate must be issued prior to the first close of escrow.

4. Enforcement

Within five years of issuance of the compliance certificate, property owners may be subject to random inspection by the City Inspector. Property owners who falsify the self-certification inspection report and have not performed all necessary sidewalk and curb ramp repair or replacement shall be subject to specified civil penalties and liens.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO  
AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California