

MAINTENANCE AND REPAIR OF SIDEWALKS¹

SEC. 7-2.70 FINDINGS AND DECLARATIONS.

In addition to and in accordance with the determination made and the authority granted by the State of California under Section 5600, et seq. of the Streets and Highways Code for costs of repair and maintenance of public sidewalks, the City Council hereby makes the following findings and declarations:

The damage to and disrepair of public sidewalks within the City of Hayward is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to endanger persons or property, and to interfere with the public convenience in the use of such sidewalk. Therefore, the existence of damaged and unrepaired sidewalks abutting private property within the City of Hayward is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of these regulations.

SEC. 7-2.71 DEFINITIONS.

For the purposes of this portion of this Article, certain words and phrases are defined and certain provisions are to be construed as herein set out, unless it shall be apparent from the context that a different meaning is intended.

- (a) 'Abate' shall mean to repair, replace, or otherwise remedy the condition in question by such means and in such manner and to such an extent as is necessary in the interest of the general health, safety, and welfare of the community as determined by the enforcement officer.
- (b) 'Enforcement officer' shall mean the employee or official appointed and designated by the City Manager to administer the provisions of this Article.
- (c) 'Premises' shall mean any lot or portion of lot fronting that portion of public sidewalk that is out of repair.
- (d) 'Responsible person' shall mean the owner of any premises, as ascertained from the last equalized assessment roll of the City, or as shown in the records of the office of the clerk, or any agent, lessee, or other person occupying or having charge or control of same.
- (e) 'Sidewalk' shall mean that description provided by California Streets and Highways Code, section 5600, et seq., and as may hereafter be changed or modified.

SEC. 7-2.72 - MAINTENANCE AND REPAIR OF SIDEWALKS

Pursuant to State of California under Section 5600, et seq. of the Streets and Highways Code, a Responsible Person shall have a duty to maintain in good repair and condition and abate, as necessary, any Sidewalk adjacent to the Premises. Furthermore, a Responsible Person required by this Chapter to maintain the Sidewalk shall owe a duty to members of the public to keep and maintain the Sidewalk in a safe and non-dangerous condition. If, as a result an Responsible Person's failure to maintain a Sidewalk in a safe and non-dangerous condition, any person suffers injury or damage to person or property, the Responsible Person shall be liable to such injured person for the resulting damages or injury.

¹Note(s)—(Added by Ordinance 01-02, adopted February 13, 2001)

SEC. 7-2.73 ABATEMENT NOTICE.

When any portion of the sidewalk is out of repair or pending reconstruction such that it endangers persons or property or interferes with the public convenience is the use of such sidewalk, the Enforcement Officer shall notify the owner or responsible person to repair the sidewalk.

SEC. 7-2.74 CONTENTS OF NOTICE.

- (a) The notice shall specify what work is required to be done, and how it is to be done, and what materials shall be used in the repair, and shall further specify that if the repair is not commenced within four (4) weeks after notice is given and diligently completed, the Enforcement Officer shall cause such repair to be made, and the cost of same shall be a lien on the property.
- (b) In accordance with its Sidewalk Rehabilitation Program, the City Council may determine from time to time that it is appropriate to fund a portion of sidewalk repairs and bill abutting Property Owners for a portion of the actual repair costs, which amount will be established by Council resolution. In that event, the notice shall contain the proportional amount to be paid by the Property Owner.

SEC. 7-2.75 MANNER OF GIVING NOTICE.

- (a) A copy of the notice provided for in Section 7-2.74 may be given by delivering a written notice personally to the Property Owner or to the Responsible Person, or by mailing, postage prepaid, to the Property Owner or to the Responsible Person, as ascertained from the last equalized assessment roll of the City, or as shown in the records of the office of the Clerk.
- (b) Immediately upon the mailing of the notice, the Enforcement Officer shall cause a copy thereof printed on a card of not less than eight (8) inches by ten (10) inches in size, to be posted in a conspicuous place on the property. In lieu of posting a copy of the mailed notice on the property as provided in this section, the Enforcement Officer may, not less than seven (7) days nor more than ten (10) days after the mailing of the first notice, mail an additional notice, postage prepaid, marked 'Second Notice,' to the person to whom the first notice was addressed.

SEC. 7-2.76 REPAIR.

If the repair is not commenced and diligently completed, as required by the notice, the Enforcement Officer shall forthwith cause the repair to be made of the sidewalk. Upon the written request of the Property Owner, the Enforcement Officer may cause the repair to be made to any other portion of the sidewalk fronting the property that is designated by the Property Owner. The cost of repair work done pursuant to such a request shall be a part of the cost of repairs for which subsequent notices are given, hearings held, and assessment and collection proceedings are conducted. The cost of repair shall be billed to the Property Owner and shall become due and payable thirty (30) days thereafter.

SEC. 7-2.77 ADMINISTRATIVE HEARING.

At the time fixed for the administrative hearing, if one is requested, the Enforcement Officer shall consider all relevant evidence, objections, or protests offered on behalf of the Property Owner or Responsible Person which tend to show why the expense of the repair should not be charged to the Property Owner or Responsible Person as a civil debt which may be constitute a lien against the property if not paid. The Enforcement Officer may also consider rebuttal evidence offered by the City. The hearing may be continued from time to time.

SEC. 7-2.78 REPORT OF REPAIRS AND COSTS.

The Enforcement Officer shall keep an account of the cost of repairs and embody an account in an annual report and assessment list to the City Council, which shall be filed with the City Clerk. The assessment list shall refer to each separate lot or parcel of land by a description that is sufficient to identify the lot or parcel together with the repairs that have been made, and the expense proposed to be assessed against each separate lot or parcel of land.

SEC. 7-2.79 NOTICE OF REPORT AND HEARING.

The City Clerk shall post a copy of the report and assessment list on the bulletin board designated for the posting of agendas for City Council meetings together with a notice of filing thereof and of the time and place when and where it will be submitted to the City Council for hearing and confirmation, notifying Property Owners that they may appear at such time and place and object to any matter contained therein, and notice of the report and hearing shall further be given in the same manner as the notice to repair.

SEC. 7-2.80 CONFIRMATION HEARING.

At the time and place fixed for receiving and considering the annual report, the City Council shall hear the same together with any objections which may be raised by any person liable to be assessed for the work of abating the nuisance, and the Enforcement Officer shall attend the meeting with his or her record thereof, and upon the hearing, the Council may make the modifications in the proposed assessments as it may deem necessary, after which the report and assessment list shall be confirmed by resolution.

SEC. 7-2.81 ASSESSMENT.

The cost of repair assessed by the City Council shall constitute a special assessment against the premises, and shall be a lien on the property, if not paid within five (5) days after its confirmation by the City Council.

SEC. 7-2.82 NOTICE OF LIEN.

The Enforcement Officer may file in the office of the Alameda County Recorder, a certificate in substantially the following form:

NOTICE OF LIEN

Pursuant to the authority vested in me by the Improvement Act of 1911, I did, on the _____ day of _____, 20__, cause the sidewalk, curb, or park or parking strip, bulkheads, retaining walls, or other works (as the case may be) in front of the real property hereinafter described, to be repaired and improved, and the City Council of the City of Hayward, on the _____ day of _____, 20__, by Resolution No. _____, assessed the cost of such repair upon the real property hereinafter described, and the same has not been paid nor any part thereof, and the City of Hayward claims a lien on said real property until the said sum, together with interest at the rate of _____ per cent per annum, from the date of confirmation of the assessment (_____, 20__), has been paid in full and discharged of record.

The real property hereinbefore mentioned and upon which a lien is claimed, is that certain piece or parcel of land lying and being in the City of Hayward, County of Alameda, State of California, and particularly described as follows:

(Description of property)

Dated this _____ day of _____, 20__.

Enforcement Officer

SEC. 7-2.83 COLLECTION ON TAX ROLL.

The amount of lien shall be collected at the same time and in the same manner as ordinary City taxes are collected, and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary City Taxes. All laws and ordinances applicable to the levy, collection and enforcement of City taxes are hereby made applicable to such special assessment and the lien of the assessment shall have priority of the taxes with which it is collected.