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*Robert A. ...*

City Attorney's Office

## OAKLAND CITY COUNCIL

ORDINANCE NO. 18688 C.M.S.

INTRODUCED BY VICE MAYOR LARRY E. REID

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**ORDINANCE APPROVING A 60-DAY SUSPENSION OF ENFORCEMENT OF OAKLAND SIDEWALK REPAIR ORDINANCE NO. 13549 C.M.S. AND REQUEST FOR TWO (2) REPORTS**

**WHEREAS**, on July 9, 2019, City Council adopted Ordinance No. 13549 C.M.S. (the "Oakland Sidewalk Repair Ordinance"); and

**WHEREAS**, while the Oakland Department of Transportation (the Department) is responsible for the maintenance of Oakland's roadways, per the California Streets and Highways Code private property owners are responsible for maintaining their abutting sidewalks; and

**WHEREAS**, the City must work with property owners to achieve the safety and access benefits of sidewalks that are in a state of good repair; and

**WHEREAS**, in May of 2019, the Department presented the Sidewalk Certification program which required sidewalk inspection and repair upon title transfer for real property and the Department was assigned responsibility for its administration; and

**WHEREAS**, the Sidewalk Certification program has significant merit and has demonstrated increased numbers of permitted sidewalk repairs in the City of Oakland; and

**WHEREAS**, the implementation by the Department of the Sidewalk Certification program has in some instances caused uncertainty among home buyers, sellers and their real estate agents; and

**WHEREAS**, homeowners and real estate professionals have reported delays in receiving information from the City on the location of official trees; and

**WHEREAS**, it is important to determine whether a city owned tree is responsible for sidewalk damage; and

**WHEREAS**, at the February 11<sup>th</sup>, 2020, Public Works Committee, testimony was provided that implementation of the Sidewalk Certification program has caused hardship in some cases; and

**WHEREAS**, at its February 11<sup>th</sup> meeting, the Public Works Committee by a majority consensus determined that the Department could benefit from a suspension of enforcement of the

Sidewalk Certification program to allow the Department additional time to work with stakeholders to improve and streamline the process; and

**WHEREAS**, This action is exempt from the California Environmental Quality Act ("CEQA") under the following, each as a separate and independent basis, including but not limited to, the following: CEQA Guidelines §15301 (c) (Existing Facilities), §15303 (New Construction or Conversion of Small Structures), §15061(b)(3) (no significant effect on the environment), and §15183 (projects consistent with a community plan, general plan, or zoning).

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1: 60 Day Suspension of Sidewalk Repair Ordinance**

Enforcement of Oakland City Council Ordinance No. 13549 C.M.S. is hereby suspended for 60 days.

**SECTION 2: Reports Requested From City Administrator**

The City Administrator is requested to bring the following two (2) reports to the Public Works Committee or the City Council within 50-days of final adoption of this Ordinance:

- (a) a report providing the status of the citywide tree database, which includes, but is not limited to, a timeline of when the database will be fully operational; and
- (b) a report explaining the streamlining and procedural modifications that will be made to improve the Department's implementation of the Sidewalk Certification program, which includes information regarding additional stakeholder engagement and feedback.

**SECTION 3. Exemption From The California Environmental Quality Act.**

This action is exempt from the California Environmental Quality Act ("CEQA") under the following, each as a separate and independent basis, including but not limited to, the following: CEQA Guidelines §15301 (c) (Existing Facilities), §15303 (New Construction or Conversion of Small Structures), §15061(b)(3) (no significant effect on the environment), and §15183 (projects consistent with a community plan, general plan, or zoning).

**SECTION 4. CEQA Finding and Determination**

The City Council has independently reviewed and considered this environmental determination and finds and determines that the action complies with CEQA.

**SECTION 5. Severability.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 6. Effective Date.**

This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN ← 8

NOES - 0

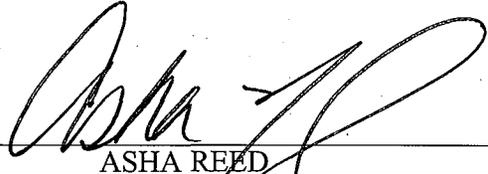
ABSENT - 0

ABSTENTION - 0

**Introduction Date**

**OCT 20 2020**

ATTEST:



ASHA REED

Acting City Clerk and Clerk of the Council of the City of Oakland, California

Doc#2983634v2

**NOTICE AND DIGEST**

**ORDINANCE (1) APPROVING A 60-DAY SUSPENSION OF ENFORCEMENT OF OAKLAND SIDEWALK REPAIR ORDINANCE NO. 13549 C.M.S. AND A COUNCIL REQUEST FOR TWO (2) REPORTS, AND (3) CERTIFYING CEQA EXEMPTION FINDINGS**

An Ordinance has been prepared that will (1) suspend for 60-days the enforcement of Oakland Sidewalk Repair Ordinance No. 13549 C.M.S., (2) that requests two (2) reports from the City Administrator, and (3) that certifies CEQA Exemption Findings For The Suspension Ordinance.