  
City Attorney

2019 JUN -6 PM 4:40

**OAKLAND CITY COUNCIL**  
**ORDINANCE No. 13548 C.M.S.**

**ORDINANCE REVISING OAKLAND MUNICIPAL CODE TITLE 12,  
CHAPTER 12.04 TO ADD OAKLAND MUNICIPAL CODE TITLE 12,  
CHAPTER 12.22 TO ESTABLISH PROPERTY OWNER  
RESPONSIBILITY AND LIABILITY FOR SIDEWALK SAFETY AND  
MAINTENANCE**

**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 1.**

Purpose and Intent. The purpose and intent of this Ordinance is to protect the health, welfare and safety of City of Oakland residents and guest to the City of Oakland by establishing regulations for the maintenance and repair of sidewalks consistent with the State Streets and Highways Code, and establishing joint liability for sidewalk related damages or injuries.

**Section 2.**

**Add Chapter 12.22 to Title 12 of the Oakland Municipal Code.** Chapter 12.22 is hereby added to the Oakland Municipal Code, and such Chapter shall read as follows:

12.22.010 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, the words and phrases used in this chapter are defined as follows:

A. "City" shall mean the City of Oakland.

B. "Owner" and "Property Owner" shall be deemed in accordance with Chapter 22 of Division 7, Part 1 of the California Streets and Highways Code, as the same is now in effect or may hereafter be amended.

C. "Sidewalk" shall be deemed to include sidewalks, walkways, driveways, curbs, bulkheads, retaining walls, gutters, such areas maintained as a park or parking strip in the area between the property line and the street line, and other works for the protection of any sidewalk or of such park or parking strip and any portion of a street between the curblineline and the adjacent property line, intended for the use of pedestrians.

#### 12.22.020 Maintenance and repair of sidewalks.

A. Anything in this chapter to the contrary notwithstanding, the maintenance and repair of sidewalk areas and the making, confirming and collecting of assessments for the cost and expenses of said maintenance and repair may be done and the proceedings therefore may be had and taken in accordance with this chapter and chapter 12.04 of this Code, which adopt the procedures provided for pursuant to Chapter 22 of Division 7, Part 3, of the Streets and Highways Code of the state as the same is now in effect or may hereafter be amended.

B. The owners of lots or portions of lots adjacent to, abutting or fronting on any portion of a sidewalk area between the property line of the lots and the street line, including parking strips, sidewalks, curbs and gutters, and persons in possession of such lots by virtue of any permit or right shall repair and maintain such sidewalk areas and pay the costs and expenses therefore, pursuant to the process provided for in chapter 12.04 of this Code, including a charge for the City of Oakland's costs of inspection, administration and abatement whenever the city awards a contract for such maintenance and repair and including the costs of collection of assessments for the costs of maintenance and repair or handling of any lien placed on the property due to failure of the property owner to promptly pay such assessments.

C. For the purposes of this chapter and chapter 12.04, maintenance and repair of sidewalk area shall include, but not be limited to, maintenance and repair of surfaces including grinding, removal and replacement of sidewalks, repair and maintenance of curb and gutters, removal and filling or replacement of parking strips, removal of weeds and/or debris, supervision and maintenance of signs allowed, tree root pruning and installing root barriers, trimming of shrubs and/or ground cover and trimming shrubs within the area between the property line of the adjacent property and the street pavement line, including parking strips and curbs, so that the sidewalk area will remain in a condition that is not dangerous to property or to persons using the sidewalk in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of said sidewalk area.

D. Notwithstanding the provisions of Section 5614 of the state Streets and Highways Code and chapter 12.04 of this Code, the Director of Public Works, or such other City

Official as may be designated by the City Administrator, may in his or her discretion, and for sufficient cause, extend the period within which required maintenance and repair of sidewalk areas must commence by a period of not to exceed ninety days from the time the notice referred to in said Section 5614 is given.

#### 12.22.040 Liability for injuries to public.

The property owner required by Section 12.22.020 and Chapter 22 of Division 7, Part 3, of the state Streets and Highways Code to maintain and repair the sidewalk area shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and nondangerous condition. If, as a result of the failure of any property owner to maintain the sidewalk area in a nondangerous condition, any person suffers injury or damage to person or property, the property owner shall be liable to such person for the resulting damages or injury. Any person who suffers injury or property damage as a result of the failure of the property owner to so maintain the sidewalks and sidewalk areas shall have a cause of action for such injury or property damage against such property owner. The City of Oakland, shall have a cause of action for indemnity against such property owner for any damages it may be required to pay as satisfaction of any judgment or settlement of any claim that results from such injury to persons or property as a legal result of the failure of the owner to maintain the sidewalks and-sidewalk areas in accordance with this Chapter.

#### 12.22.060 Advancement of costs of work.

The Director of Transportation, or such other City Official as may be designated by the City Administrator, pursuant to this chapter and chapter 12.04 of this Code, is authorized and empowered to and may advance from a revolving fund specifically created for such purpose, any sum or sums necessary to pay the cost of the work of repairing or constructing any sidewalk by a contractor awarded a contract to perform said work under the procedures set forth by the City Administrator, and may reimburse said revolving fund for the sum or sums so advanced from any assessment thereafter levied and collected.

#### 12.22.080 Notice of cost and hearing by council.

Upon the completion of the repairs or construction, the Director of Transportation, or such other City Official as may be designated by the City Administrator, shall cause notice of the cost of the repairs or construction to be given in the manner specified in chapter 12.04 of this Code, as the same is now in effect or may hereafter be amended, for the giving of notice to repair or construct. The notice shall specify the day, hour and place when the city council will hear and pass on the report of the costs of the repair, together with any written objections or protests which may be raised by any property owner liable to be assessed for the cost of such repair or construction and any other interested persons. The notice shall also describe the procedure to be followed for such written objections or protests. In no case, shall the hearing provided for in this section be sooner than ten days after giving of notice.

The City Council, on the day and hour fixed for hearing, shall hear and pass upon the report of the designated City Official, together with any written protests or objections, which have not been withdrawn prior to the hearing, from property owners liable to be assessed for the work of making such repair in accord with the procedure provided in chapter 12.04 of this Code and Chapter 22 of Division 7, Part 3 of the state Streets and Highways Code.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL - 9 2019

**PASSED BY THE FOLLOWING VOTE:**

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

NOES - 0

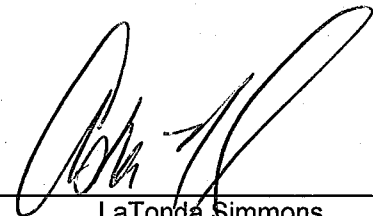
ABSENT - 0

ABSTENTION - 0

**Introduction Date**

**JUN 18 2019**

ATTEST:

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