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ARTICLE 5

DANGEROUS STRUCTURES

SIDEWALK OBSTRUCTIONS

SEC. 3-5.00 SIDEWALK OBSTRUCTIONS PROHIBITED. 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. The provisions hereof shall not apply to items placed on the sidewalk or roadway under the circumstances hereinafter provided.

SEC. 3-5.01 GOODS IN TRANSIT. Goods, wares, merchandise or containers may be allowed on the outer one-third (1/3) of the sidewalk for not to exceed one (1) hour while in the actual course of receipt, delivery or removal.

SEC. 3-5.02 CONSTRUCTION MATERIALS, BARRICADES AND DEBRIS BOXES. Materials used in the construction or repair of any building or structure may be placed on the sidewalk or roadway fronting said building or structure provided that necessary pedestrian walkways, barricades, and warning signs are provided; the construction activity does not cease for any period of seven days or longer; and that material stacks and stockpiles are protected so that no portion of the material can be washed into the storm drainage system. Debris boxes may be placed in a legal parking space fronting said building or structure without permit for a period not to exceed seven days provided that the debris box is six feet wide or less and that a flashing warning light is placed on the edge of the box nearest to and facing the adjacent traffic lane. If a debris box is to be placed in the street for a period exceeding seven days, a permit subject to the approval of the Director of Public Works is required. Said permit shall be applied for and issued in accordance with and subject to the provisions of Article 2, Chapter 7 of this code dealing with "Disturbance of Streets," in addition to the special provisions herein provided.

SEC. 3-5.03 ORNAMENTAL TREES AND SHRUBS. Ornamental trees, shrubs, and flowers, when placed in containers, may be placed on any sidewalk adjacent to the curb when approved by the Director of Public Works.

SEC. 3-5.04 POLES, HYDRANTS, SIGNS. Poles, fire and police boxes, lamp posts, street signs, parking signs, directional signs, informational signs or warning signs, parking meters, drinking fountains, fire hydrants, flag poles or standards, decorations for public events, mail collection boxes, sidewalk clocks, barber poles, bus shelters and benches, litter containers, and any other similar installations may be placed upon any public sidewalk or roadway within the public right-of-way. However, any such facilities not owned by the City of Hayward must be approved by the Director of Public Works. The Director of Public Works is authorized to approve an encroachment permit for such private facilities only under the following circumstances:

- a. Permittee must be a public utility, public agency, church, general hospital, school, social service agency, or other non-profit or charitable organization or institution performing a needed public service.
- b. The permit may be issued where, in the opinion of the Director of Public Works, the proposed installation does not represent a potential traffic or pedestrian safety hazard,

and is consistent with the visual harmony of the adjacent area.

- c. A minimum clear width of 36" shall be maintained in the sidewalk area.
- d. No permit shall be issued unless the owner and/or occupant of all properties adjoining the public right-of-way at the proposed installation has been notified of and been given an opportunity to comment on the proposed installation.
- e. Permittee shall release and hold harmless the City from any and all damages that may result from loss or damage to permittee's facility due to accident or vandalism, and shall indemnify the City and provide insurance in an amount approved by the City Attorney for any loss or liability caused by such installation.

SEC. 3-5.05 PUBLIC TELEPHONES. PERMITS THEREFOR. The Director of Public Works is authorized to issue permits from time to time to any person or agency furnishing telephone service to the general public within the City of Hayward for the installation and maintenance of public telephones and the standards and appurtenances therefor on public ways and places within the City of Hayward when he or she finds that public policy and purpose are served thereby. The Director of Public Works shall approve the number and location of such public telephones and shall impose such other conditions as he or she finds proper so as to best serve the public interest. The Director of Public Works shall fix such fees or other amounts, if any, to be paid for installation and maintenance of each such public telephone as he or she deems reasonable and proper.

SEC. 3-5.06 SAME. PROVISIONS IN PERMITS. Permits issued pursuant to above Section 3-5.05 shall include the following provisions:

- a. Permittee shall maintain the public telephones and any associated booths and standards and appurtenances therefor in good repair and safe and slightly condition at permittee's expense and to the satisfaction of the Director of Public Works.
- b. Permittee shall hold harmless and defend the City of Hayward and its officers, employees, and agents from any and all losses, claims, or judgments for damages to any person or property arising from the installation, maintenance, or presence of the public telephones.
- c. The permit shall be revocable on 30 days' prior written notice to permittee from the Director of Public Works, in which event permittee shall at its own expense remove the public telephone or telephones installed pursuant to the permit and shall restore the public way or place as nearly as practicable to its condition prior to such installation.
- d. The permit shall be a grant of permission only and shall not obligate permittee to maintain a public telephone at any particular location. Permittee may at any time remove any public telephone installed pursuant to this permit. Upon such removal, permittee shall restore the public way or place as nearly as practicable to its condition prior to such installation."

SEC. 3-5.07 NEWSPAPER RACKS AND NEWSPAPERS. Newspapers and newspaper racks may be placed on any sidewalk at locations in accordance with the provisions of Chapter 3, Article 10 of the Hayward Municipal Code.

SEC. 3-5.08 VENDING MACHINES. Vending machines may be placed on any sidewalk, provided, however, said machines do not extend onto the sidewalk area more than twelve (12) inches from the property line measured at right angles.

SEC. 3-5.09 TABLES FOR REGISTRATION OF VOTERS. Tables for the registration of voters may be placed on any sidewalk at locations approved by and under such conditions as may be imposed by the Chief of Police.

SEC. 3-5.10 TEMPORARY USE OF SIDEWALK OR ROADWAY. The City Council is hereby authorized to grant the temporary use of any sidewalk or roadway for any purpose at such locations and under such conditions it deems appropriate. The City Manager is hereby authorized to grant the temporary use and/or closure of any sidewalk or roadway for the purpose of a parade, footrace, street fair, carnival, block party, motion picture production, or similar use at such locations and under such conditions he or she deems appropriate with the exception of those uses which take place in the Downtown Redevelopment Project Area having a duration of greater than 72 hours. Roadway and sidewalk closures may be authorized where the City Council or the City Manager deems it necessary for the safety and protection of persons who are to use that portion of the roadway and sidewalk during the temporary closing.

SEC. 3-5.11 PAINTING OR MARKING SIDEWALK.

- a. It shall be unlawful for any person to write, paint, mark, deface, or draw upon any sidewalk or roadway without first having obtained a permit therefor from the Director of Public Works.
- b. Notwithstanding subsection (a), the owner of a single- family residence may initially place and thereafter maintain the street number of the residence on the vertical portion of the curb facing in front of the residence in the manner and form required by the building regulations of the City.

SEC. 3-5.12 SIDEWALK OBSTRUCTION A PUBLIC NUISANCE. Anything placed or permitted to remain upon any sidewalk or roadway, in violation of the provisions hereof, is hereby declared to be a public nuisance, and in addition to other remedies provided by law, the Chief of Police is hereby authorized and empowered to abate the same by removing the obstruction.

SEC. 3-5.13 USE OF SIDEWALKS FOR OUTDOOR DINING, SALES, OR FOOD PREPARATION. The City Manager is hereby authorized to grant the temporary use of any sidewalk for the purpose of outdoor dining, sales, or food preparation at such locations and under such conditions he or she deems appropriate. At a minimum, the City Manager shall require that applicants be subject to substantially the following requirements:

- (1) All portable tables, chairs, umbrellas, and trash receptacles are to be removed by 10:00 p.m. each evening and may not be replaced until 6:00 a.m.
- (2) A minimum of four feet of clearance in the sidewalk must be maintained at all times.
- (3) Permittee shall not play music that is audible on the sidewalk, whether by permitting a live performance or by the use of a radio or a recording of any kind, without the prior written approval of the City Manager.
- (4) At least one portable trash receptacle shall be provided for use by permittee's

customers at all times any table or chair is available for a customer's use.

- (5) Permittee shall maintain the facilities in good repair and in a safe and slightly condition at permittee's expense and to the satisfaction of the City Manager.
- (6) Permittee shall hold harmless, indemnify, and defend the City of Hayward and its officers, employees, and agents from any and all losses, claims, or judgments for damages to any person or property arising from the installation, maintenance, or presence of the facilities or out of the acts or omissions of permittee's lessees. Permittee shall obtain and maintain comprehensive general liability insurance covering any liability of permittee, permittee's lessees, the City of Hayward, and their officers, employees, and agents arising out of the use or occupation of the premises in an amount not less than one million dollars or such higher amount as is determined by the City Manager in consultation with the City Attorney to be necessary to protect the City against foreseeable risks for bodily and personal injury liability and property damage arising from activities contemplated by this permit; permittee shall furnish the City with proof of such insurance coverage in a form and manner that is satisfactory in all respects to City Attorney.
- (7) The permit shall be revocable on 30 days' prior written notice to permittee from the City Manager, in which event permittee, at its own expense, shall remove all facilities described herein and shall restore the public right-of-way as nearly as practicable to its condition prior to installation.
- (8) The permit shall be a grant of permission only and shall not obligate permittee to maintain such facilities at the location hereby approved. Permittee may at any time remove such facilities. Upon such removal, permittee shall restore the public right-of-way as nearly as practicable to its condition prior to installation.
- (9) The revocable permit shall not be effective for any assignee of permittee until the City Manager has received notice of the assignment and satisfactory evidence of compliance with paragraph 6 above.

SWIMMING POOLS

SEC. 3-5.50 HAZARD FOUND TO EXIST. The City Council finds that there are a large number of privately owned swimming pools within the City of Hayward and that maintenance of same without adequate protective measures constitutes a severe hazard to the safety of the citizens of Hayward, and particularly to small children.

SEC. 3-5.51 FENCING OF SWIMMING POOLS REQUIRED. Every person in possession of land within the City of Hayward upon which is situated a swimming pool or other outdoor body of water designed, constructed, and used for swimming, dipping, or immersion purposes, and having a depth in excess of two (2) feet, shall at all times maintain on the lot or premises upon which such pool or body of water is located, and completely surrounding such pool, body of water, or premises, a fence or wall not less than four and one-half (4-1/2) feet in height so that the swimming pool or body of water is completely enclosed by such fence or wall, or is enclosed in part by such fence or wall, and in part by a dwelling house or other permanent structure to which such fence or wall is connected.

Said fence or wall shall be constructed so as to prevent any person, including small children, from crawling or passing through, under or over the same except at gates therein.

SEC. 3-5.52 GATES. Every gate or door opening to a swimming pool enclosure, including gates or doors which provide access from breeze ways and garages, and other auxiliary structures, shall be equipped with a self-closing and self-latching device designed to keep, and capable of keeping, such door or gate securely closed at all times when not in actual use. Such latching shall be placed at least four (4) feet above the ground level or otherwise made inaccessible to small children, provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped.

SEC. 3-5.53 TIME FOR COMPLIANCE. The fencing required by these regulations shall be installed around all existing pools or bodies of water within ninety (90) days from and after the effective date of these regulations. No pool or other body of water, the construction of which is completed after the effective date of these regulations, shall be filled with water until the fencing required by the provisions hereof has been provided.