

## ARTICLE 2

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## ARTICLE 2

### STREETS

#### DISTURBANCE OF STREETS

SEC. 7-2.00 DEFINITIONS. For the purposes 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.

SEC. 7-2.01 STREET CUT. Street cut shall mean the action of or the result of opening, tearing up, excavating, repairing, installing, adding to, removing, or otherwise altering any portion of any public roadway, street, thoroughfare, sidewalk, curb, gutter, or driveway, or any other such facility existing within a public right-of-way area for any purpose whatsoever.

SEC. 7-2.02 EMERGENCY STREET CUT. Emergency street cut shall mean any street cut which must be made to repair a defective or broken underground facility, the condition of which facility constitutes an evident and immediate hazard to life, health, or property, and it is impractical to secure a permit before work is commenced.

SEC. 7-2.03 UNDERGROUND FACILITY. Underground facility shall mean any pipe, conduit, tile, or other material installed within and below the surface of any public roadway, street, sidewalk, thoroughfare, or other place.

SEC. 7-2.04 MAJOR PROJECT. Major project shall mean the installation or replacement of any underground facility other than a service from an existing main to a single user.

SEC. 7-2.10 STREET CUTS. PERMIT REQUIRED. It shall be unlawful for any person other than officers, agents, contractors or employees of the City to make or cause to be made any street cut in the City of Hayward without having first obtained a permit therefor as herein provided. Any permit issued hereunder shall not be assignable to any other person.

SEC. 7-2.11 APPLICATION FOR PERMIT. Every application for a permit shall be made in writing upon forms furnished by the Director of Public Works, and applicant shall furnish thereon such information as is required by the Director of Public Works.

On major projects, if requested so to do by the Director of Public Works, applicant shall furnish plans and profiles in quadruplicate showing work to be done, location, limits of work, location of pavements, replacement types, together with such further information as the Director of Public Works may require.

If the street cut is to be made in a State highway, applicant shall also comply with all lawful regulations of the Division of Highways, Department of Public Works, State of California, and procure from such Division all necessary permits required therefor by the State of California.

SEC. 7-2.12 TIME OF ISSUANCE OF PERMIT. Permits required hereunder shall be secured at least two (2) working days prior to the time the work under such permit is proposed, except, however, where an emergency street cut is to be performed, applicant shall immediately give prior notice thereof to the Police Department, shall secure or make a reasonable effort to secure the

consent to such work from the Director of Public Works as soon as same is reasonably practicable, and shall make application for permit for such work on the next working day following.

SEC. 7-2.13 CONDITIONS OF PERMIT. The validity of any permit issued shall be subject to permittee's compliance with all general provisions hereof, as well as any special provisions specified therein. All permits issued hereunder shall imply that all underground facilities shall be of the quality, installed in the manner which may be prescribed or required by law. The issuance of a permit does not guarantee to permittee the exclusive use of any surface area occupied by permittee.

SEC. 7-2.14 PERMIT. EXTENSION OF COMPLETION DATE. The Director of Public Works shall specify on every permit issued hereunder a completion date for the work authorized.

The Director of Public Works may, for good cause, grant a written extension of time to permittee, which grant shall extend the validity of said permit to said extended time.

SEC. 7-2.15 DENIAL OF PERMIT. The Director of Public Works shall have the right to refuse a permit to any person who is in violation of or who has failed to comply with any provisions hereof in connection with the permit being applied for or any permit previously issued, except as provided otherwise herein.

SEC. 7-2.16 REVOCATION OF PERMIT. The Director of Public Works may for noncompliance with any of the provisions hereof revoke any permit granted hereunder.

SEC. 7-2.17 NOTICE OF COMMENCEMENT OF WORK. Permittee shall give notice to the Director of Public Works of the actual time of commencement of any work at least twenty-four (24) hours in advance. Similar notice shall be given to the Police Department if requested on the permit. When work on project ceases for any reason for a period of twenty-four (24) hours or more, permittee shall notify the Director of Public Works, and the Police Department when required, at least twenty-four (24) hours prior to recommencing said work.

SEC. 7-2.18 CONDUITS OF UTILITIES. MAPS OF LOCATIONS. Every person owning, using, controlling or having an interest in any pipe, conduit, duct, tunnel, or other subsurface installation in a public street or other public place, upon demand of the Director of Public Works shall file in the Office of the Director of Public Works within thirty (30) days after such demand, such map or set of maps as may be required to show in detail the exact location, size, description and date of installation of all mains, laterals, services and service pipes, and of all valves, pressure regulators, drips, manholes, handholes, transformer chambers or other appliances installed beneath the surface of such public streets or other public places.

It shall also be the duty of every such person, upon demand of the Director of Public Works, to file in the Office of the Director of Public Works within thirty (30) days after such demand, such corrected map or set of maps as may be required to show in detail new installations made since the last filing., provided, however, that if the map or set of maps filed with the Director of Public Works at the time a permit is issued is correct in every detail, such person may make a notation to that effect on said map or set of maps, and such map or set of maps shall constitute a compliance with this Section.

Each such map filed pursuant hereto shall be accompanied by a statement to the effect that the same correctly exhibits the details required by this Section to be shown thereon.

SEC. 7-2.19 ABANDONMENT OF FACILITIES. Whenever the use of any pipe, conduit, duct, tunnel or other structure located beneath the surface of any public street or other public place is abandoned, the person owning, using or controlling or having any interest therein shall, within thirty (30) days after such abandonment, either cap, plug, seal or remove the same and file with the City Engineer a map or set of maps correctly delineating in detail such abandoned facility. Whenever the City of Hayward abandons a public street without the reservation of an easement for any existing pipe, conduit, duct, tunnel or other structure, the owner, user or persons having an interest in said facility shall, within thirty (30) days, remove said facility from the abandoned street or public place in accordance with the directions of the City Engineer.

SEC. 7-2.20 GENERAL REQUIREMENTS IN PERFORMANCE OF WORK. All work shall be performed in a neat and workmanlike manner, and so programmed as to cause the minimum of interference with traffic and inconvenience to the public. Said work shall be coordinated whenever possible with other projects in the area to the end that public convenience is least impaired to the satisfaction of the Director of Public Works.

SEC. 7-2.21 SIDEWALK, DRIVEWAY, CURB AND GUTTER CUTS. SPECIFICATIONS. On all sidewalk, driveway, curb and gutter cuts, all work shall be performed in accordance with City of Hayward Standard Specifications, in addition to the following:

- a. Curb alignment shall be as established by the Director of Public Works at the time application for a permit is made, and shall be in the form and dimensions as detailed on City of Hayward, Engineering Division drawings.
- b. Sidewalks shall be a minimum of four (4) feet in width, placed adjacent to the property line and shall be in the form and to the dimensions as detailed on City of Hayward, Engineering Division drawings.
- c. Sidewalks in other than areas zoned residential, shall be of the size, width and alignment as specified by the Director of Public Works at time application for a permit is made.

SEC. 7-2.22 PUBLIC ACCESS. Permittee shall provide free and unobstructed access to all mail boxes, fire hydrants, water gates, valves, manholes, drainage structures, and other public service structures and property that may be required for emergency use. Permittee shall not remove such public service facilities and property or relocate same without proper coordination with the authorities charged with control and maintenance of same.

SEC. 7-2.23 TEMPORARY ACCESS AND RIGHTS OF WAY. Temporary roadways, driveways, walks, and rights of way for vehicles and pedestrians shall be constructed where required.

Temporary walkways shall be not less than four (4) feet in width and shall be designed for a uniform live load of one hundred fifty (150) pounds per square foot. Suitable ramps or stairs shall be provided with a handrail not less than three (3) feet high along each side, or with a railing on one side and a fence on the other, as the case may require. Said walkway around said street cut shall be located as close to the area formerly used for pedestrian travel as possible and shall have lights having an intensity of not less than one (1) foot candle power at floor level.

The permittee shall construct and maintain in good condition such detours, detour bridges, and temporary crossings for public use as are deemed necessary for the proper execution of the work, or when same are ordered by the Director of Public Works.

SEC. 7-2.24 TEMPORARY CLOSING OF PUBLIC WAYS. The Director of Public Works, or the Director's designee, may grant written permission to close, restrict access to, or cause to be closed for limited periods of time, for construction or maintenance work, City streets, sidewalks, driveway approaches, or other public areas not under the control of the State of California Department of Transportation, if in the Director's opinion, such closure or restriction is necessary for the safety, protection and/or convenience of construction or maintenance workers or the general public.

SEC. 7-2.25 PUBLIC SAFETY BARRICADES AND WARNINGS. Permittee shall provide and maintain during the performance of the work to insure public safety, such fences, barricades, warning and directional signals, flares, lights, watchmen, and flagmen as are, or may be required by law or regulation or as may be deemed necessary by the Director of Public Works.

SEC. 7-2.26 PROVISION FOR PUBLIC SAFETY BARRICADES AND WARNINGS BY CITY. LIABILITY FOR COSTS. In the event permittee fails to provide for the safety of the public in the manner provided in the foregoing Section, the Director of Public Works may provide whatever facilities are necessary, and charge permittee for the costs thereof.

Within thirty (30) days of receipt of a bill, permittee shall pay to City the actual cost of any safety facilities supplied by City, plus fifteen percent (15%) of said cost for administrative or overhead costs. Any safety facilities so supplied by City shall become the property of permittee upon payment therefor by permittee.

SEC. 7-2.27 COMPLIANCE WITH STATE SAFETY ORDERS AND APPLICABLE LAWS. Permittee shall obey and enforce all safety orders, rules, and recommendations of the Division of Industrial Safety of the State of California applicable to the work, and permittee shall comply with all applicable State and local laws, ordinances, codes and regulations.

SEC. 7-2.28 EMERGENCY INFORMATION. Permittee shall clearly paint on all barricades in letters not less than four (4) inches high emergency information consisting of the name and emergency telephone number of permittee, and permittee shall cause at least one such barricade to be erected at every job site until the work is complete and formally accepted by City.

SEC. 7-2.29 COMPLETION OF WORK BY CITY. LIABILITY FOR COSTS. If the work is unduly delayed by the permittee, and if the public interests reasonably so demand, the Director of Public Works shall have authority, upon written notice to the permittee, to complete the work or any portion thereof. The actual cost of such work by the City plus fifteen percent (15%) as an overhead charge shall be charged to and paid for by the permittee.

SEC. 7-2.30 BACKFILL. Permittee shall backfill all trenches and excavations in the following manner:

The trench or excavation shall be filled to not less than one (1) foot above the top of the pipe or other utility facility with fine material free from stones and lumps, selected from the excavation, and of such character as to be readily compacted around and under the pipe or other utility facility, or with an imported fine granular material wherever material from the excavation is not suitable.

The backfill material shall be thoroughly compacted around the pipe or other utility facility. Above the resultant level of this first operation, the trench or excavation shall be backfilled

to the subgrade of the pavement type to be replaced. The use of water shall not be permitted if the Director of Public Works determines that the soil will not readily drain and if the adjacent street may become damaged, or if the paving may be unduly delayed thereby. Excess water shall be evaporated before the next layer of earth or paving is placed.

All work shall be done in such a manner as to obtain a relative compaction of the entire backfill of not less than ninety percent (90%) as determined by the Impact or Field Compaction Test made as specified in Section 6, Article (g) Standard Specifications of the State of California, Department of Public Works, Division of Highways, dated January, 1949. If the excavation material will not give the required relative compaction, an imported granular material that will give said relative compaction shall be used.

In trenches or excavations in unpaved parking strips, the top six (6) inches of backfill shall be the original or similar suitable top soil.

The Director of Public Works, when he deems it necessary, shall cause tests of the type specified in this Section to be made.

SEC. 7-2.31 NOTICE OF COMPLETION OF BACKFILL. Except where the Director of Public Works requires the permittee to pave the street cut as hereinafter provided, upon completion of the backfill permittee shall notify the Director of Public Works of such completion on forms furnished by the Director of Public Works; and the Director of Public Works, upon receipt of such notice and upon inspection and approval of the work of permittee, shall cause the street cut to be paved.

SEC. 7-2.32 TEMPORARY REPAVING OF STREET CUTS. Temporary repaving of street cuts with an approved "cut-back" material shall be installed by permittee unless otherwise directed by the Director of Public Works. Said temporary paving shall be maintained by permittee until the street cut is permanently repaved.

SEC. 7-2.33 RESTORATION OF IMPROVEMENTS. Curbs, gutters, sidewalks, sewers, drains, structures and all other improvements damaged, disturbed or removed during the progress of the work shall be restored or replaced to as good or better condition as existed prior to work performed by permittee in accordance with Standard Specifications of the City of Hayward and to the satisfaction of the Director of Public Works.

SEC. 7-2.34 ALTERNATIVE METHODS AND MATERIALS. The Director of Public Works shall determine all questions concerning which alternative methods and materials may be used by permittee and the decision of the Director of Public Works concerning same shall be final.

SEC. 7-2.35 INSPECTION AND INSPECTION FEES. All work done by the permittee shall be inspected by the City and the permittee shall pay the City for such inspection.

Said inspection fees shall be established by a schedule prepared from time to time by the Director of Public Works. Inspection fees shall not exceed the estimated actual cost of inspection plus three percent (3%) for administration and overhead.

Said schedule shall be designated and referred to as Schedule of Standard Inspection Fees - Street Cuts, and shall not be effective until approved by the City Council and filed in the Office of the City Clerk.

All applicable inspection fees shall be paid at the time the permit is issued. In the event permittee requests inspections to be made at times other than normal working days or hours, additional fees equivalent to the actual cost of the inspector's time at one and one-half (1-1/2) times the established hourly rate shall be charged.

SEC. 7-2.36 STREET PAVING COSTS. The cost of all street paving work performed by City shall be paid by permittee.

Said paving costs shall be established by a schedule prepared from time to time by the Director of Public Works. Street paving costs shall not exceed the estimated actual cost of paving plus fifteen percent (15%) for administration and overhead.

Said schedule shall be designated and referred to as Schedule of Standard Paving Costs, and shall not be effective until approved by the City Council and filed in the Office of the City Clerk.

All applicable street paving costs shall be paid at the time the permit is issued. Public Utilities, and agencies of any federal, state, county, or other local government, who by past action, in the opinion of the Director of Public Works have demonstrated their reliability and competence, shall not be required to pay any street paving costs, and in lieu thereof shall pave or cause to be paved street cuts in accordance with Standard Specifications of the City of Hayward.

SEC. 7-2.37 MAJOR PROJECTS. WAIVER OF PAVING COSTS. In lieu of payment of street repaving costs, the Director of Public Works may, upon written request from a contractor of demonstrated reliability and experience, waive the payment of said costs on any street cut for a major project involving mainline extensions and permit said contractor to pave said street cuts in accordance with Standard Specifications of the City of Hayward.

SEC. 7-2.38 PAVEMENT. Street paving shall be in accordance with such conditions therefor as specified on the permit by the Director of Public Works, and shall be generally in accordance with the Standard Specifications and Standard Details for Public Works Construction of the City of Hayward.

SEC. 7-2.40 STREET MAINTENANCE. After completion of the Work, the permittee shall exercise reasonable care in inspecting for and immediately repairing and making good any injury or damage to the street resulting from defective work done under the permit. The obligation of permittee to inspect and repair work done under the permit shall continue for a period of one (1) year following completion of said work, or in the event of repairs thereto, one (1) year from the date of said repairs.

The permittee shall, upon notice from the Director of Public Works, immediately repair any injury or damage to the street occurring as a result of the work done under the permit.

In the event such repairs are not made by permittee within forty-eight (48) hours after notice, the Director of Public Works is hereby authorized to make such repairs and charge all costs plus fifteen percent (15%) to the permittee. By the acceptance of the permit, the permittee agrees to comply with the above.

SEC. 7-2.41 RESPONSIBILITY FOR ACCIDENTS. LIABILITY INSURANCE. Permittee shall be responsible for any and all claims and liabilities for damages proximately caused by any of the work herein permitted or proximately caused by permittee's failure to perform his obligations under the permit. In the event such claim or liability for damages

is made against or imposed upon the City, or any department, officer, or employee thereof, permittee shall, and by acceptance of the permit agrees to, defend, indemnify and hold them and each of them harmless from such claim or liability. Upon request of the Director of Public Works, the permittee shall take out such public liability insurance as the City Attorney may specify or require, provided, however, that the total of such insurance shall not exceed:

<u>TYPE</u>	<u>MAXIMUM AMOUNT</u>
Public Liability Insurance	
One Person	\$100,000.00
One Accident	\$300,000.00
Property Damage	\$ 50,000.00

SEC. 7-2.42 POSTING OF BOND. If permittee fails, in the opinion of the Director of Public Works, to comply with the provisions hereof or the conditions of his permit, said Director may refuse to grant and may withhold issuance of any subsequent permit to permittee until the latter has posted with the City a cash bond in the sum of Five Hundred Dollars (\$500.00), which bond or any part thereof shall be used as follows:

- a. To pay the actual costs of work completed by the Director of Public Works in connection with permit issued prior to or subsequent to the posting of said cash bond, and in addition fifteen percent (15%) of said costs for administrative or overhead costs.
- b. To pay the actual costs of work done by the Director of Public Works to repair or restore any public improvements damaged or destroyed by permittee during the course of any operations performed under the permit, and in addition fifteen percent (15%) of said costs for administrative or overhead costs.
- c. To pay the actual costs of all flares placed on or about permittee's work, plus fifteen percent (15%) of said costs for administrative or overhead costs, and the costs of the furnishing by City of any other safety barricades or warning in connection with permit issued prior to or subsequent to the posting of said cash bond.

SEC. 7-2.43 REFUNDS OF FEES AND COSTS. Permittee shall be entitled to refund in whole or in part, as the case may be, of standard paving costs or standard inspection fees paid to City pursuant hereto in the following cases:

- a. Where no work was done or attempted under permit issued, in which case the entire amount of fees and costs shall be refunded less any amounts attributable to inspection necessarily or reasonably made by the City in order to determine whether or not work had been done or attempted under said permit, or
- b. Where the sums deposited for costs or fees were in excess of the proper amounts due, in which case the excess only shall be refunded.

SEC. 7-2.44 REFUND OF CASH BOND. Permittee shall be entitled to refund in whole or in part, as the case may be, of any cash bond posted with City pursuant hereto when all work to be done by permittee under permit issued prior to or subsequent to posting of said bond has been completed by permittee and has been approved or completed by City, from which bond shall be first deducted all amounts due City under the terms of said bond and all amounts which may otherwise be due City pursuant hereto.

SEC. 7-2.45 PROCEDURE FOR REFUNDS. When permittee desires refund of standard paving costs, standard inspection fees, or cash bond, he shall make request for refund in writing to the Director of Public Works and shall furnish such information as the latter may require in order to make his determination. Upon receipt of such request, the Director of Public Works shall determine if permittee is entitled to refund and in what amount, and shall give his determination in writing to the Director of Finance, and the latter shall thereupon make refund of such portions of fees or costs or cash bond as have been determined by the Director of Public Works to be due permittee.

## STREET TREES

SEC. 7-2.50 PURPOSE. That it is for the best interests of the City of Hayward and the citizens and public thereof that a comprehensive plan for the planting and maintenance of trees and shrubs in public streets, and other public places within said City, be developed and established; and that the following provisions are adopted therefor, for the purpose of developing and providing such a plan.

SEC. 7-2.51 DEFINITIONS. For the purposes hereof, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their context that a different meaning is intended.

SEC. 7-2.52 PUBLIC STREET. DEFINED. The words "public street" shall include every way set apart for public travel or use in the City of Hayward, including the entire planting strip, sidewalk area, easements and rights of way.

SEC. 7-2.55 LANDSCAPE MAINTENANCE MANAGER. DUTIES. It shall be the duty of the Landscape Maintenance Manager, subject to the administrative direction of the Director of Public Works, to carry out and enforce the provisions hereof.

SEC. 7-2.56 OFFICIAL STREET TREE LIST. The Landscape Maintenance Manager, subject to the approval of the Director of Public Works, shall prepare an Official Street Tree List containing the botanical and common names of all trees and shrubs adaptable and suitable for planting in the varied widths and planting strip areas. Said list shall be on file in the Office of the City Clerk and in the office of the Department of Public Works and may be revised from time to time to include other suitable trees or to exclude trees which prove to be unsuitable.

All trees and shrubs hereafter planted in any public street or other public place shall conform to the Official Street Tree List.

SEC. 7-2.57 PERMISSION TO PLANT STREET TREES. It shall be unlawful for any person to plant or cause to be planted any tree or shrub in or upon any public street or other public place in the City of Hayward without first having obtained a written permit from the Landscape Maintenance Manager. Said permit shall specify the location and species of trees or shrubs to be planted and provide that the individual planting such tree shall be responsible for any damage caused by such planting.

SEC. 7-2.58 TRIMMING OR REMOVAL OF TREES. It shall be unlawful for any person to cut, prune, remove, injure, or interfere with any tree, shrub, plant, tree stake, or tree guard in or upon any public street or other public place in the City of Hayward without prior permission and approval from the Landscape Maintenance Manager. The Landscape Maintenance Manager is hereby authorized to grant such permission at his or her discretion and where necessary. No such permission granted shall be valid for a longer period than 30 days after its issuance. Any tree or shrub authorized to be removed shall be replaced by permittee with such tree or shrub conforming to the Official Street Tree List as the Landscape Maintenance Manager designates in such permit for removal.

SEC. 7-2.59 CARE AND REMOVAL OF TREES BY CITY. The Landscape Maintenance Manager shall trim, prune, and otherwise care for and maintain all trees and shrubs

conforming to the Official Street Tree List in or upon any public street or other public place in the City of Hayward.

Any tree or shrub in or upon a public street or other public place which is endangering or which in any way may endanger the security or usefulness of any public street or other public place shall be trimmed or removed by the Landscape Maintenance Manager so as to remedy such condition.

SEC. 7-2.60 DANGEROUS TREES ON PRIVATE PROPERTY A NUISANCE. SUMMARY POWERS TO REMOVE SAME. Any tree or shrub growing on private property which is endangering or in any way may endanger the security or usefulness of a public sewer, public street, or other public place is hereby declared to be a public nuisance and the Landscape Maintenance Manager shall notify the property owner and any occupant in writing that a tree or shrub is a public nuisance and should be trimmed or removed as the case may be. In the event the property owner or occupant fails to remove or trim such tree or shrub within 14 days after receipt of such notice, the Landscape Maintenance Manager may then remove or trim said tree or shrub and assess the cost against the property owner.

In the event of an emergency such trees or shrubs on private property may be trimmed or removed without the necessity of notifying the property owner or occupant as herein provided.

Nothing contained herein shall be deemed to impose any liability upon the City, its officers, or employees, nor to relieve the owner of any private property from the duty to keep any tree or shrub upon his property or under his control in such condition as to prevent it from constituting a public nuisance as herein provided.

SEC. 7-2.61 ABUSE OR MUTILATION OF STREET TREES. It shall be unlawful for any person to destroy or mutilate any tree, shrub, plant, tree stake or tree guard in any public street or other public place, or to attach or place any rope or wire (other than one used to support a young or broken tree), sign, poster, handbill or other things to or on any such tree, shrub or plant, or to cause or permit or allow any gaseous liquid or solid substance which is harmful to such tree, shrub or plant to come in contact with its roots or leaves.

SEC. 7-2.62 FREE ACCESS OF WATER AND AIR. It shall be unlawful for any person to place or maintain any stone, cement, or other solid substance so that it shall impede the free access of water or air to the roots of any tree, shrub, or plant in any public street or other public place without prior permission and approval from the Landscape Maintenance Manager.

SEC. 7-2.65 APPEALS. Any person aggrieved by any act or determination of the Landscape Maintenance Manager in the exercise of the authority herein granted may appeal in writing to the City Council within 10 days after receipt of such direction or order by filing a notice of appeal with the City Clerk stating in substance that the appeal is being made from such direction or order to the City Council.

The City Clerk shall notify the appellant and Landscape Maintenance Manager in writing of the time and place the City Council shall consider the appeal.

Upon completion of its consideration, the City Council may approve, modify, or reject, wholly or partly, the act or determination of the Landscape Maintenance Manager, and may make such decision or determination as the facts warrant, and its decision or determination shall be final and conclusive.

## MAINTENANCE AND REPAIR OF SIDEWALKS

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. 7-2.73 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 in 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 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 8 inches by 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 days nor more than 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 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 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.