

ORDINANCE NO. _____

An ordinance amending Section 62.104 of the Los Angeles Municipal Code to return the repair and maintenance of Sidewalks, Driveway Approaches, Curb Returns and Curbs to property owners, to provide a fix and release program for the repair and maintenance of Sidewalks and to authorize a Sidewalk Repair Warranty and a Sidewalk Repair Incentive Program.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 62.104 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 62.104. REPAIRS TO SIDEWALKS, DRIVEWAY APPROACHES, CURB RETURNS AND CURBS.

(a) **Definitions.** The definitions provided in Section 62.00 of this Code along with the definitions contained in this subsection shall govern the construction, meaning and application of words and phrases used in this section.

(1) **“Board”** shall mean the Board of Public Works or its designee.

(2) **“Certificate of Sidewalk Compliance”** shall mean a certification issued by the Board that the Sidewalk on a Lot meets the applicable standards under the Americans with Disabilities Act (42 U.S.C. 12131, *et seq.*) as of the date of issuance.

(3) **“Commercial and Industrial Property”** shall mean a Lot that is not a Residential Property.

(4) **“Residential Property”** shall mean a Lot that is in an area zoned R5 or more restrictive, as determined by the sequence of zones set forth in Section 12.04(A) of this Code.

(5) **“Sidewalk Repair Incentive Program”** shall mean a limited reimbursement incentive program for the owner of a Lot who voluntarily undertakes Sidewalk repair work on the Lot prior to the issuance of a Certificate of Sidewalk Compliance.

(6) **“Sidewalk Repair Warranty”** shall mean a limited warranty during which time the City guarantees one repair of a Sidewalk, except in the case of damage caused by the owner of the Lot or a third party.

(b) **Responsibility for Maintenance.** The owner of a Lot shall maintain any Sidewalk, Driveway Approach, Curb Return or Curb on the Lot in such condition that the

Sidewalk, Driveway Approach, Curb Return or Curb will not endanger any Person or property passing thereon or violate the Americans with Disabilities Act.

(c) **Notice of Non-Compliance and Order to Repair.** Except as provided in Subsection (d), if the Board determines that a Sidewalk, Driveway Approach, Curb Return or Curb is in a condition that endangers a Person or property passing thereon or violates the Americans with Disabilities Act, the Board shall notify the owner of the Lot containing the Sidewalk, Driveway Approach, Curb Return or Curb to repair the Sidewalk, Driveway Approach, Curb Return or Curb. Notice to repair shall be given by posting a Notice of Non-Compliance and Order to Repair in a conspicuous place on the Lot and by mailing the notice to the owner of the Lot, at the last known address as indicated on the last equalized assessment rolls.

(1) **Content of Notice of Non-Compliance and Order to Repair.**

The Notice of Non-Compliance and Order to Repair shall: (a) identify the Sidewalk, Driveway Approach, Curb Return or Curb requiring repair; (b) contain a description of the required repair; (c) designate the materials to be used; and (d) specify the deadlines for commencing and completing the repair and provide that if the repair is not commenced and thereafter diligently prosecuted to completion, the Board shall be authorized to make such repair at the Lot owner's expense, and the cost of the repair shall be recorded as a lien on the Lot.

(2) **Time Required for Repair.** Within 30 days of the date of mailing the Notice of Non-Compliance and Order to Repair, or such longer time as the Board may allow, not to exceed 90 days, the owner of the Lot shall commence the specified repair in the manner and with the materials specified in the Notice of Non-Compliance and Order to Repair. All repair work performed pursuant to a Notice of Non-Compliance and Order to Repair shall be completed within 60 days of the date of issuance of the Notice, or such longer time as the Board may allow, not to exceed 120 days. No owner of a Lot receiving a Notice of Non-Compliance and Order to Repair shall fail to commence or complete the repair within the time specified or in the manner and with the materials specified.

(3) **Failure to Repair.** If the owner of a Lot receiving a Notice of Non-Compliance and Order to Repair fails to commence or complete the repair within the time specified, or in the manner and with the materials specified, the Board shall have the authority to perform, at the Lot owner's expense, the work required by the Notice of Non-Compliance and Order to Repair and any other preventative actions such as root pruning or tree removal to prevent additional damage.

(4) **Determination of Responsibility for Damage.** Whenever the Board determines that a Person has damaged a Sidewalk, Driveway Approach, Curb Return or Curb, all costs incurred by the City to repair the damage shall be a personal obligation of the Person responsible for the damage, recoverable by the City in an action before any court of competent jurisdiction. If the Person responsible is the owner of the Lot, then the costs incurred pursuant to this

section may be recorded as a lien on the Lot. The cost of the actual repair and preventative action, such as root pruning or tree removal to prevent additional damage, shall be recoverable along with an amount equal to 40 percent of the cost to perform the actual work, but not less than \$100, to cover the City's costs for administering any contract and supervising the work. In addition to this personal obligation or lien and all other remedies provided by law, if the Board determines that a Sidewalk, Driveway Approach, Curb Return or Curb is damaged to such an extent as to create a public nuisance, the City may collect any judgment, fee, cost or charge, including any permit fees, fines, late charges or interest, incurred in relation to the provisions of this section as provided in Los Angeles Administrative Code Sections 7.35.1 through 7.35.8.

(5) **Appeal to the Board.** An owner of a Lot disputing a determination by the Board in a Notice of Non-Compliance and Order to Repair may appeal the decision to the Board. Any such appeal must be in writing and received by the Board within 30 days of the date of mailing the Notice of Non-Compliance and Order to Repair. Further action on the Notice of Non-Compliance and Order to Repair shall be stayed pending the outcome of the appeal. The determination by the Board on appeal shall be final.

(d) **Limitations to Issuing Notice of Non-Compliance and Order to Repair a Damaged Sidewalk.** Except as provided in Subsection (f), a Notice of Non-Compliance and Order to Repair with respect to a damaged Sidewalk shall not be issued: (1) prior to the issuance of a Certificate of Sidewalk Compliance; or (2) during the Sidewalk Repair Warranty Period unless the repair is required to remedy damage caused by the owner of the Lot or a third party.

This limitation on the issuance of a Notice of Non-Compliance and Order to Repair with respect to a damaged Sidewalk shall not apply to any Sidewalk first constructed after the effective date of this section, or to any Sidewalk adjacent to a Lot owned by a governmental entity, including, but not limited to, the Federal Government, the State of California, any political or administrative subdivision of the Federal Government or State of California, and any county, city and county, municipal corporation other than the City of Los Angeles, irrigation district, transit district, school district, or other district established by law.

(e) **Sidewalk Repair Warranty Period.** Except as provided herein, the Sidewalk Repair Warranty Period shall be 20 years for Residential Property and five years for Commercial and Industrial Property commencing on the date the Board issues a Certificate of Sidewalk Compliance to the owner of the Lot. The Sidewalk Repair Warranty shall be deemed waived by the Lot owner if the Board grants the owner's request to keep any tree that the City otherwise would remove to protect the Sidewalk from ongoing or future damage. The Sidewalk Repair Warranty Period shall expire in advance of the warranty period upon any subsequent repair performed by the Board or its designee.

(f) **Cap on City Cost to Repair a Sidewalk.** Whenever the Board repairs a Sidewalk, including during the applicable Sidewalk Repair Warranty Period, the maximum repair cost to be incurred by the City shall be \$20,000 per Lot, adjusted annually in accordance with the Consumer Price Index. Prior to the commencement of any repair of a Sidewalk, including during the applicable Sidewalk Repair Warranty Period, if the Board estimates that the cost of repair exceeds the limit of this subsection, then the Board shall be authorized to issue a Notice of Non-Compliance and Order to Repair to the owner of the Lot in accordance with the provisions of Subsection (c) of this section. Any Notice of Non-Compliance and Order to Repair issued pursuant to this subsection shall also include the Board's estimated cost of repair and a statement that the City will reimburse the owner for the actual costs of the repair, up to the amount set forth in this subsection, upon the completion and inspection of the repair required in the Notice of Non-Compliance and Order to Repair. If the Board performs any of the work required by the Notice of Non-Compliance and Order to Repair pursuant to Subsection (c)(3) of this section, any actual repair cost in excess of the amount set forth in this subsection shall be recorded as a lien on the Lot.

(g) **Authorization for Sidewalk Repair Incentive Program.** The Board is authorized to administer a Sidewalk Repair Incentive Program to reimburse, in part, an owner of a Lot who voluntarily undertakes Sidewalk repair work subject to available funding allocated by the City Council for each fiscal year. Funds for the Sidewalk Repair Incentive Program shall be held in the Sidewalk and Curb Repair Fund. The qualifications for participation in the Sidewalk Repair Incentive Program shall be determined by the Board. The Board also shall set the applicable reimbursement rates for Residential and Commercial and Industrial Property and all other conditions for reimbursement. All applicable permit requirements under this Code shall apply to any Lot owner participating in the Sidewalk Repair Incentive Program. Any dispute regarding the eligibility of an owner to participate in the Sidewalk Repair Incentive Program, the reimbursement rate, or any condition imposed for reimbursement, shall be appealable to the Board, and the Board shall resolve the matter. The determination by the Board on appeal shall be final.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
EDWARD M. JORDAN
Assistant City Attorney

Date 8/18/2016

File No. 14-0163-S3