ORDINANCE NO. 2018-01

AN ORDINANCE OF THE ALBANY CITY COUNCIL ESTABLISHING PROPERTY OWNER RESPONSIBILITY FOR SIDEWALK REPAIR

WHEREAS, Albany residents have identified safe, passable sidewalks as an important aspect of quality of life and a high priority for investment by the City to ensure that pedestrians, including individuals with disabilities that affect mobility, are able to move safely through the City without using cars; and

WHEREAS, the City of Albany—like all California cities—has faced decreasing revenues to make essential infrastructure investments, resulting in deferred maintenance to many public facilities, including sidewalks; and

WHEREAS, delaying maintenance and repairs to Albany’s sidewalks increases the replacement costs in the long-run, and the City is committed to repairing our deteriorating sidewalks before the costs become more expensive in the future; and

WHEREAS, repairing and upgrading Albany’s sidewalks and removing mobility obstacles improves opportunities for residents and visitors to safely use alternative modes of transit to get around the City to play, work, and shop; and

WHEREAS, the City of Albany acknowledges the benefits and value to the public health and welfare of reducing vehicle miles traveled within the community by improving pedestrian facilities; and

WHEREAS, in 2010, the City approved a Climate Action Plan that includes a vision for an interconnected transportation system and land use pattern that shifts travel from autos to walking, biking, and public transit; and
WHEREAS, Climate Action Plan Measure TL 1.3: calls for implementation of improvements to encourage walking in the community by eliminating obstacles such as deteriorated sidewalks; and

WHEREAS, in 2012, the City approved an Active Transportation Plan that includes a detailed strategy to encourage pedestrian travel throughout the City. A key part of this strategy is improving the safety and convenience of pedestrian facilities; and

WHEREAS, in April 2016, the City adopted an updated General Plan that includes a variety of policies that will lead to improvements to sidewalks; and

WHEREAS, General Plan Policy T-2.10 calls for the City to establish reliable and sustained funding sources to ensure maintenance of transportation facilities including sidewalks; and

WHEREAS, in light of the foregoing benefits and considerations, the City wishes to improve its commitment to repairing and improving pedestrian sidewalks; and

WHEREAS, the Albany City Council held a public hearing to discuss the proposed ordinance on February 20, 2018 and held a Second Reading on March 5, 2018, considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed ordinance; and

WHEREAS, following the close of the public hearing on February 20, 2018, the City council voted 5-0 to introduce for first reading the proposed ordinance;

WHEREAS, on March 5, 2018, the City Council received additional public comment, and voted to continue to a date uncertain action on second reading to allow for further public engagement.
NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: SECTION 14-1.7 ENTITLED "PROPERTY OWNER
RESPONSIBILITY FOR SIDEWALK REPAIR" IS HEREBY ADDED TO CHAPTER 14
OF THE ALBANY MUNICIPAL CODE, TO READ AS FOLLOWS:

a. General. Under Section 5610 of the California Streets and Highways Code and
Section 14-1.5 of this Code, property owners and persons in possession of property
are required to repair and maintain adjacent public sidewalks.

1. Sidewalk Compliance Certificate. The City Engineer or designee is
authorized to issue Sidewalk Compliance Certificates to property owners responsible for
adjacent public sidewalks. Certificates shall be issued upon a determination that the
condition of the sidewalk at the time of the application complies with adopted standards.

2. Title Transfer. Before completing a Title Transfer associated with a parcel,
either the transferor or transferee, as negotiated between them, shall obtain a Sidewalk
Compliance Certificate from the City of Albany, unless a Time Extension Certificate is
obtained. After the Title Transfer is complete, the transferee is solely responsible for
obtaining a Sidewalk Compliance Certificate. The requirement to obtain a Sidewalk
Compliance Certificate before Title Transfer in no way affects the legality of the transfer
of title in the underlying property transaction. As used in this section, the term Title
Transfer shall have the same meaning as set forth in Section 15-1.1 of this Code.

3. Construction and Remodeling. Whenever a property owner applies for a
building permit pursuant to the California Building Standards Code with a valuation that
exceeds the dollar amount specified in a resolution adopted by the City Council, the
property owner shall apply for a Sidewalk Compliance Certificate. Construction of
required repairs to the public sidewalk must be completed prior to final approval of
associated building construction.

b. Time Extension Certificates. If a Sidewalk Compliance Certificate cannot be
obtained before the Title Transfer, the transferor, transferee, or other interested party or parties
may obtain a Time Extension Certificate from the City of Albany. Time Extension Certificates are issued in connection with Title Transfer transactions only.

c. Exemption Certificates. A Property Owner may request an Exemption Certificate from the City Engineer or designee.

d. Common Interest Developments. Property owners within Common Interest Developments must obtain a Sidewalk Compliance Certificate.

e. Hardship or Infeasibility Exemption. A Property Owner who believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this Section, may apply for an exemption or reduction in requirements. In applying for an exemption, the burden is on the property owner to show hardship or infeasibility. The City Engineer shall review the information supplied by the property owner, and may request additional information from the property owner. The City Engineer shall make a recommendation to the City Manager or designee who shall have authority to make the final determination. If the City Manager or designee determines that it is a hardship or infeasible for the applicant to meet fully the requirements of this Chapter based on the information provided, the City Manager or designee shall require the maximum feasible repair.

f. Fees. The City may establish fees for administration of this Section. The Property Owner shall be responsible for paying any fees established by resolution of the City Council at the time of receipt of an application for a Sidewalk Compliance Certificate.

g. Enforcement. Any violation of any provision of this Section shall be deemed a public nuisance and a misdemeanor, but may be cited and prosecuted, in the discretion of the enforcing officer, as an infraction, and shall be punishable as set forth in Chapter 1.20 of this Code.
SECTION 2: PUBLICATION AND EFFECTIVE DATE.

This ordinance shall be posted at three public places within the City of Albany and shall become effective thirty days after the date of its posting.

PASSED AND ADOPTED by the City Council of the City of Albany at its meeting on the 2nd day of July, 2018, by the following vote:

AYES: Council members: Barnes, Maass, Nason, Rich, Mayor McQuaid

NOES: none

ABSENT: none

ABSTAIN: none

[Signature]

PEGGY MCQUAID, MAYOR
ORDINANCE NO. 2018-01

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,
the 2nd day of July, 2018 by the following votes:

AYES: Council Members Barnes, Maass, Nason, Pilch, Mayor McQuaid

NOES: none

ABSTAINED: none

ABSENT: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this
3rd day of July, 2018.

Eileen Harrington
DEPUTY CITY CLERK