



JAYWALKING

and the Elusive Unmarked Crosswalk



VERUS FORENSIC

Defining Jaywalking

Properly defining “jaywalking” is important for attorneys who are litigating collisions involving pedestrians. Defending a driver or public agency requires an understanding of the nuances of “jaywalking”; it can’t be assumed that the fault is easily transferred to a pedestrian because he or she was crossing outside of a marked crosswalk. The same goes for defending pedestrians in these cases, and a full understanding of what “jaywalking” is and is not needs to be established.

A survey of recent headlines reveals that “jaywalking” continues to be a commonly used term when pedestrians and motorists collide. “Jaywalking Georgia Mom Spared Prison Time.”¹ “Jaywalking Woman Hit and Killed.”² “Pedestrian Injured while Jaywalking on Highway 140.”³ “Phoenix High School Students Hit while Jaywalking.”⁴

The term “jaywalking” is clearly used to make a fast and forceful impression that the pedestrian was crossing in an illegal manner outside of a crosswalk. However, is this really a fair assessment?

The answer to this question requires that we evaluate several associated questions. Were these pedestrians simply crossing at a location without a crosswalk marked on the roadway? Is it always wrong to cross at such a location? Is it sometimes okay to cross? Must a crosswalk always be marked on the roadway? Are certain locations a crosswalk even without markings? A careful and critical evaluation of the Vehicle Code provides our answers and helps us to define what “jaywalking” truly is.

Upon consulting the California Vehicle Code (CVC), we might be surprised to find that there is no blanket prohibition against crossing roadways at locations without a crosswalk. In fact, CVC §21961

acknowledges that a local ordinance would be needed to prohibit pedestrians from crossing roadways at locations other than crosswalks. In addition, CVC §21954 requires pedestrians who cross at locations outside of a crosswalk to yield to vehicles that would present a dangerous conflict. Simply stated, barring a local ordinance, a pedestrian is free to cross the roadway, even between intersections, regardless of the presence of a crosswalk. However, this does not give a pedestrian free reign to cross wherever and whenever desired.

A couple of key provisions in the CVC place constraints on pedestrian movement. Most broadly, CVC §21950 specifies that even when in a crosswalk, a pedestrian has a duty of using due care for his safety. Therefore, pedestrians may not walk onto a roadway into the path of approaching vehicles even at locations where they have the legal right-of-way. More specifically, CVC §21955 prohibits pedestrian crossings at very specific locations, which leads us to the concept of “jaywalking.”

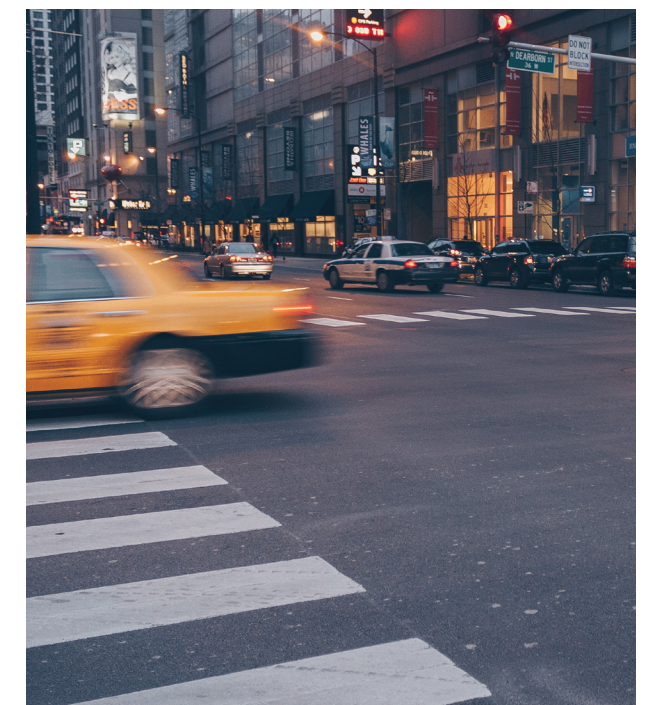


The term “jaywalking” is used in only one location in the CVC, and it is associated with pedestrians who violate CVC §21955. This section states, “Between adjacent intersections controlled by traffic control signal devices or by police officers, pedestrians shall not cross the roadway at any place except in a crosswalk.” CVC Appendix B identifies violation of this section as an infraction that is described as “jaywalking, between signal controlled intersections.” Three aspects of CVC §21955 must be properly understood to correctly apply its prohibition.

First, the prohibition applies between “intersections controlled by traffic signal devices or by police officers.” Simply stated, this section only applies between two intersections that are each controlled by red-yellow-green traffic signals or police officers. An intersection is not considered to be controlled when the traffic signals are dark, not actually operating due to a power outage, or other issue. In this case or any other lacking traffic signal control, police officers must be present and controlling traffic for the prohibition to apply.

Second, the controlled intersections must be adjacent to one another. This refers to intersections that are not separated by any other intervening intersections, which includes both streets and alleys.

Third, a pedestrian may cross between adjacent traffic signal or police-controlled intersections only within a crosswalk.



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The top portion of Figure 1 shows conditions with adjacent signalized intersections. Therefore, pedestrian crossings between these intersections must occur within a crosswalk. Only the crossing location shown in green is within a crosswalk, so crossings at the other two locations violate CVC §21955.

The middle portion of Figure 1 shows conditions when a street or alley is located between signalized intersections. As a result, pedestrian crossings are allowed at any location regardless of the presence of a crosswalk. In fact, the crossings do not even need to be perpendicular to the roadway.

The bottom portion of Figure 1 shows conditions with a signalized intersection but without an associated signal adjacent to it. Accordingly, pedestrians are free to cross at any location they deem appropriate.

Clearly, when “jaywalking” is viewed from a legal perspective, it is a much narrower term than when viewed from the perspective of society in general. “Jaywalking” is not simply crossing outside of a crosswalk. It is often perfectly legal to cross in locations without a crosswalk. Now, however, we need to complete our review by exploring what constitutes a crosswalk.

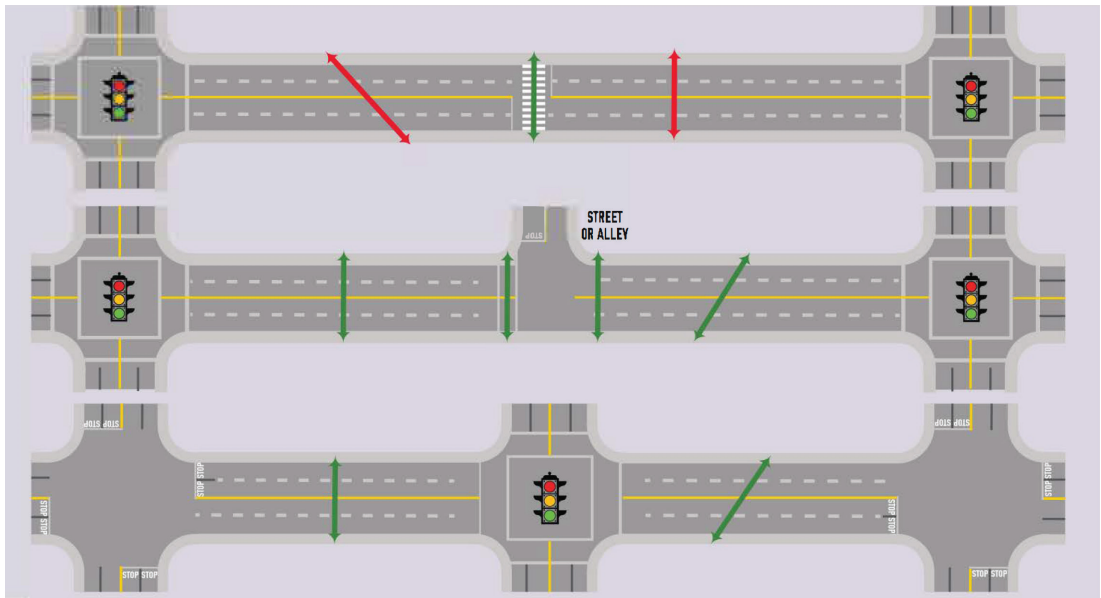


Figure 1: Application of CVC §21955 - Pedestrian crossing locations shown in red constitute an infraction of this section, and crossing locations shown in green would be permitted under its provisions.



Finding The Crosswalk

Many people find the proper identification of crosswalks to be somewhat elusive. This is understandable when we realize that there are both marked and unmarked crosswalks. It is even more understandable when the minutia of what defines a crosswalk is fully explored.

Crosswalks are defined in CVC §275, which states: “Crosswalk” is either:

- (a) That portion of a roadway included within the prolongation or connection of the boundary lines of sidewalks at intersections where the intersecting roadways meet at approximately right angles, except the prolongation of such lines from an alley across a street.
- (b) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Notwithstanding the foregoing provisions of this section, there shall not be a crosswalk where local authorities have placed signs indicating no crossing.

We will begin with CVC §275(b), which sets forth that any location marked on the pavement as a crosswalk is a crosswalk. This is regardless of the location’s relationship to an intersection. Accordingly, a crosswalk can be marked either at an intersection or mid-block. It is this provision that establishes the legitimacy of mid-block crosswalks.

As we move to CVC §275(a), the concept of the unmarked crosswalk is found. This concept begins with the premise that the location of an unmarked crosswalk must be at an intersection. There cannot be an unmarked midblock crosswalk. Further, the unmarked crosswalk is defined by the prolongation or connection of sidewalk areas. Consequently, there cannot be an unmarked crosswalk at an intersection between roadways without sidewalks. Next, the intersecting roadways must meet at approximately right angles and cannot include an alley (see CVC §110 for the definition of an alley). Lastly, signs can be posted, which eliminate an unmarked crosswalk where there otherwise would have been one. The appropriate sign is defined in the *California Manual on Uniform Traffic Control Devices* and is shown in Figure 2.



Figure 2: Standard pedestrian crossing prohibited sign.

Figure 3, below, illustrates the minutia in applying CVC §275 to identify unmarked crosswalks. Unmarked crosswalks are shown with dashed green lines.

The top portion of Figure 3 displays the effect of the presence of alleys on the location of unmarked crosswalks. The rightmost intersection includes an alley. As a result, the sidewalks along the alley are not prolonged as an unmarked crosswalk across the intersecting roadway.

However, the sidewalk along the intersecting roadway is prolonged across the alley. Each of the sidewalks at the leftmost intersection results in an unmarked crosswalk; a sidewalk is not required on both sides of the intersection since the sidewalk can be prolonged from a single side.

The middle portion of Figure 3 shows the effect of a skewed intersection. The unmarked crosswalk labeled “a” is angled to connect the sidewalks on either side of the intersection. This occurs in compliance with the provision that the crosswalk be located at the “connection of the boundary lines of sidewalks.”

In contrast, the unmarked crosswalk labeled “b” extends directly across without an angle because there is no sidewalk to connect to on one side of the intersection. This occurs in compliance with the provision that the crosswalk be located “within the prolongation ... of the boundary lines of sidewalks.”

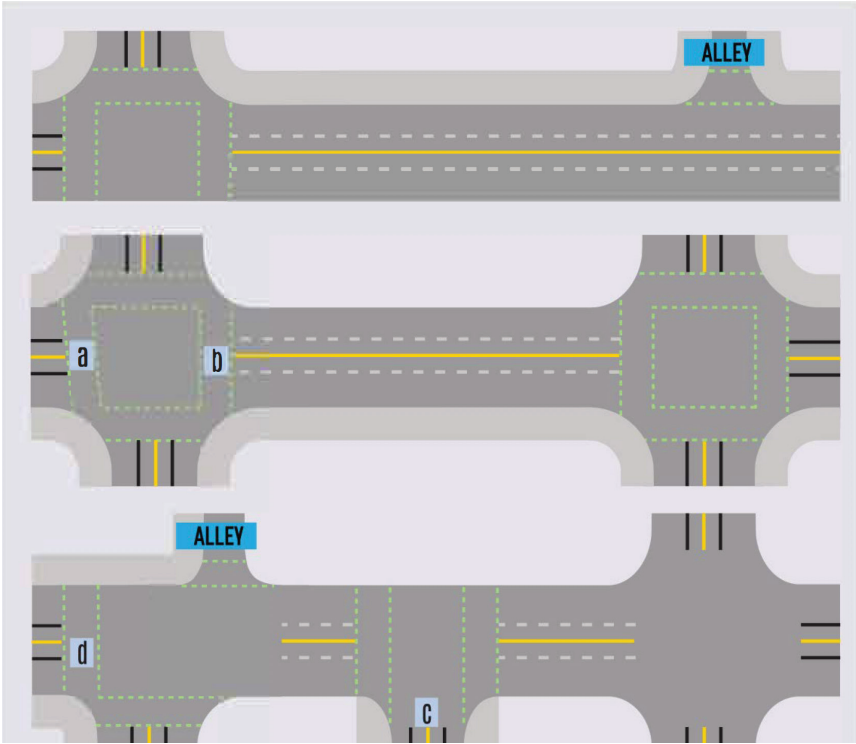


Figure 3: Illustrates the minutia in applying CVC§ 275(a) to identify unmarked crosswalks. Unmarked crosswalks are shown with dashed green lines.

The bottom portion of Figure 3 illustrates the effect of the lack of sidewalks and the presence of alleys. The rightmost intersection lacks sidewalks on any side of the intersection resulting in no unmarked crosswalks. The middle intersection has sidewalks which prolongate to form crosswalks vertically in the diagram; however, there is no sidewalk to prolongate horizontally, meaning that there is not an unmarked crosswalk at location “c”.

Finally, the leftmost intersection shows that the unmarked crosswalk labeled “d” does not angle because the sidewalk that it would connect with is associated with an alley; as such, the crosswalk is the straight prolongation of the sidewalk originating at the bottom of the diagram.

The above discussion illustrates the subtle variations in determining the presence and location of unmarked crosswalks. This is an important issue in evaluating collisions involving pedestrians because the right-of way changes depending upon whether they are crossing within a crosswalk or outside of one. When this is coupled with the foregoing discussion of “jaywalking,” we can conclude our exploration of these topics by answering our initial question.



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Conclusion

Is the common perspective on “jaywalking” really a fair assessment? No, it is not. Pedestrians need not cross in a marked crosswalk except under very specific circumstances. In fact, they may be crossing in a crosswalk that does not have any markings at all. Most often, pedestrians can cross at any location they perceive is appropriate as long as they do so without creating unsafe conflicts or violating the right-of-way provisions contained in the California Vehicle Code. In the end, we must admit that societal perspectives on “jaywalking” tend to give short shrift to pedestrians as they travel about in our auto-dominated culture.



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Matthew has qualified and testified at trial as a highway design and traffic engineering expert in courts within the State of California. In addition, he has provided deposition testimony and written declarations in support of clients’ motions before the court.

Performing technical evaluations of freeways, interchanges, local roadways, bikeways, and parking lots, he determines if these transportation elements have been reasonable and appropriately designed and operated. He focuses on educating attorneys and the trier of fact in basic transportation engineering concepts to enable them to effectively evaluate, execute, and decide the cases.



APPLICABLE CALIFORNIA VEHICLE CODE

CVC § 110 - “Alley” is any highway having a roadway not exceeding 25 feet in width which is primarily used for access to the rear or side entrances of abutting property; provided, that the City and County of San Francisco may designate by ordinance or resolution as an “alley” any highway having a roadway not exceeding 25 feet in width.

CVC § 275 “Crosswalk” is either: - (a) That portion of a roadway included within the prolongation or connection of the boundary lines of sidewalks at intersections where the intersecting roadways meet at approximately right angles, except the prolongation of such lines from an alley across a street. (b) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface. Notwithstanding the foregoing provisions of this section, there shall not be a crosswalk where local authorities have placed signs indicating no crossing.

CVC§ 21950 - (a) The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter. (b) This section does not relieve a pedestrian from the duty of using due care for his or her safety. No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard. No pedestrian may unnecessarily stop or delay traffic while in a marked or unmarked crosswalk. (c) The driver of a vehicle approaching a pedestrian within any marked or unmarked crosswalk shall exercise all due care and shall reduce the speed of the vehicle or take any other action relating to the operation of the vehicle as necessary to safeguard the safety of the pedestrian. (d) Subdivision (b) does not relieve a driver of a vehicle from the duty of exercising due care for the safety of any pedestrian within any marked crosswalk or within any unmarked crosswalk at an intersection.

CVC§ 21954 - (a) Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard. (b) The provisions of this section shall not relieve the driver of a vehicle from the duty to exercise due care for the safety of any pedestrian upon a roadway.

CVC§ 21955 - Between adjacent intersections controlled by traffic control signal devices or by police officers, pedestrians shall not cross the roadway at any place except in a crosswalk.

CVC§ 21961 - This chapter does not prevent local authorities from adopting ordinances prohibiting pedestrians from crossing roadways at other than crosswalks.

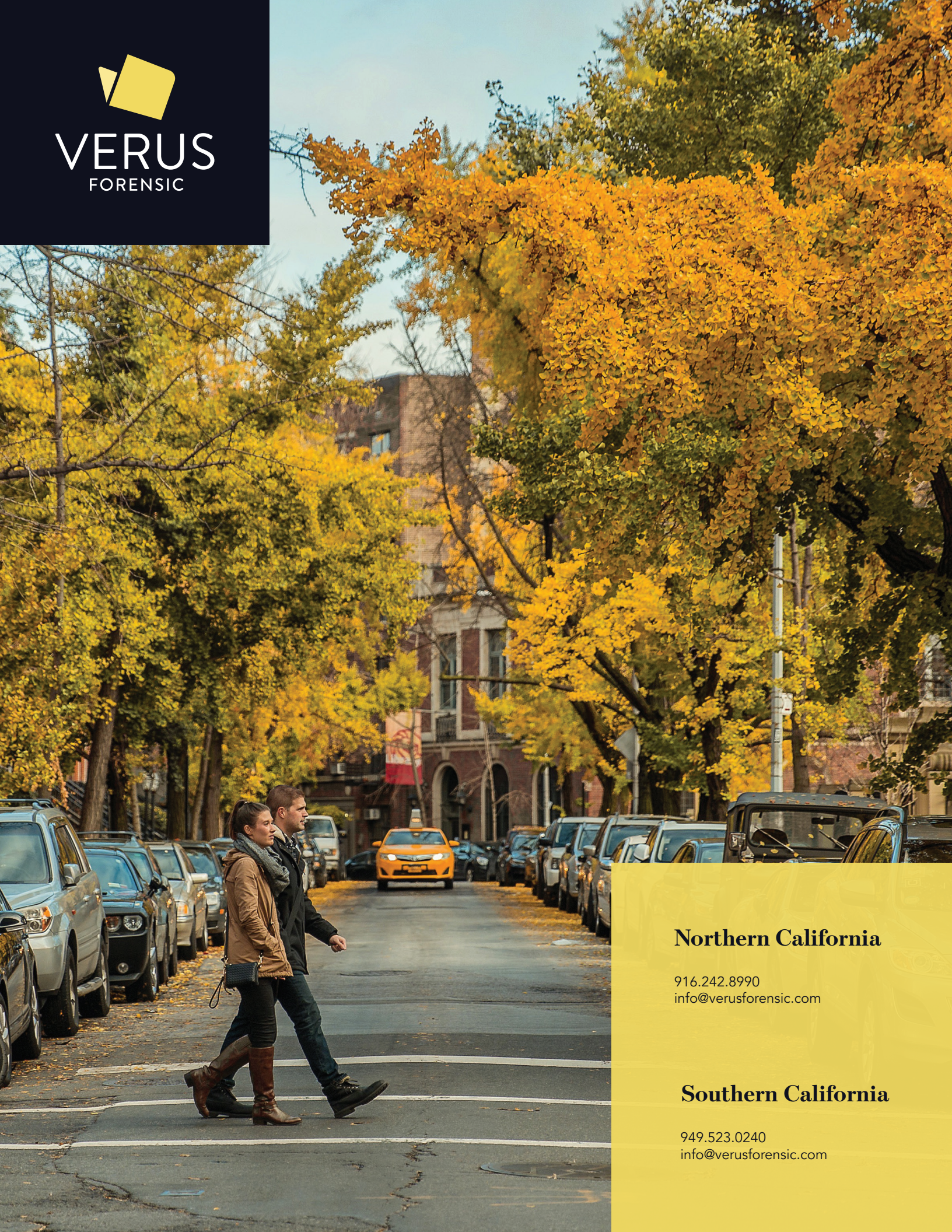
EXAMPLE LOCAL ORDINANCE

City of Long Beach Municipal Code §10.58.020
- City of Long Beach Municipal Code §10.58.020 - No pedestrian shall cross a roadway, other than by a crosswalk, in the central traffic district, or in any business district, except at intersections where pedestrian traffic is controlled by a scramble-system automatic signal.

City of Pasadena Municipal Code §10.32.020
- No pedestrian shall cross a roadway other than by a crosswalk in any business district.

REFERENCES

- ¹ **Wall Street Journal Law Blog**, July 27, 2011 [http://blogs.wsj.com/law/2011/07/27/jaywalking - georgia-mom-spared-prison-time]
- ² **Los Angeles Times**, October 29, 2010
- ³ **Merced Sun-Star**, August 17, 2011
- ⁴ **Tucson Citizen**, August 16, 2011



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