

## Chapter 12.16

### SIDEWALK REPAIR, MAINTENANCE OR REPLACEMENT

#### Sections:

- 12.16.000 Ordinance Construction**
- 12.16.010 Sidewalk defined.**
- 12.16.020 Purpose.**
- 12.16.025 Liability for Injuries to the Public.**
- 12.16.030 Applicability.**
- 12.16.040 Maintenance responsibility.**
- 12.16.050 Notice to Repair— Issuance.**
- 12.16.060 Notice to Repair— Service.**
- 12.16.070 Notice to Repair— Second Issuance.**
- 12.16.080 Notice to Repair— Specifications.**
- 12.16.090 Repair by City.**
- 12.16.100 Removed per Ord. 886**
- 12.16.110 Repair by owner.**
- 12.16.120 Work specifications.**
- 12.16.130 Cost of repair— Accounting.**
- 12.16.140 Cost of repair—Notice to owner.**
- 12.16.145 Sidewalk Repair Loan.**
- 12.16.150 Cost of repair—Report to Council.**
- 12.16.160 Hearing.**
- 12.16.170 Assessment of costs — Lien.**
- 12.16.180 Collection of costs.**
- 12.16.190 Refund.**
- 12.16.200 Size of work.**
- 12.16.210 Encroachment Permit required for work on public streets.**
- 12.16.220 Approval of work requiring permit.**
- 12.16.230 Permit specifications.**
- 12.16.240 Violation—Penalty.**

#### **12.16.000 Ordinance Construction**

Anything in this chapter to the contrary notwithstanding, the maintenance and repair of sidewalk areas and the making, confirming and collecting of assessments for the cost and expenses of said maintenance and repair may be done and the proceedings therefore may be had and taken in accordance with this part and the procedure therefore provided in Chapter 22 of Division 7, Part 3, of the Streets and Highways Code of the State as the same is now in effect or may hereafter be amended. It is the intent of the City Council that the provisions of this Chapter shall be interpreted in a manner which is consistent with Chapter 22 of Division 7, Part 3 of the Streets and Highways Code. In the event of any conflict between the provisions of said Chapter 22 of Division 7, Part 3, of the Streets and Highways Code of the State and this Chapter, the provisions of the Streets and Highways Code of the State shall control. (Ord. 886 § 1, 2019)

#### **12.16.010 Sidewalk defined.**

As used in this chapter, "sidewalk" means and includes in addition to its normal meaning a park or parking strip maintained in the area between the property line and the street line and also includes curbing, tree wells, bulkheads, retaining walls or other works for the protection of any sidewalk or of any such park or parking strip. (Ord. 169 § 1, 1965)

#### **12.16.020 Purpose.**

For the purposes of this part, maintenance and repair of sidewalk area shall include, but not be limited to, maintenance and repair of surfaces including grinding, removal and replacement of sidewalks, repair and maintenance of curb and gutters, removal and filling or replacement of parking strips, removal of weeds and/or debris, tree root pruning and installing root barriers, trimming of shrubs and/or ground cover and trimming shrubs within the area

between the property line of the adjacent property, so that the sidewalk area will remain in a condition that is not dangerous to property or to persons using the sidewalk in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of said sidewalk area. (Ord. 886 § 1, 2019)

**12.16.025 Liability for Injuries to the Public.**

The property owner required by Section 12.16.040 to maintain and repair the sidewalk area shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and non-dangerous condition. If, as a result of the failure of any property owner to maintain the sidewalk area in a non-dangerous condition as required by Section 12.16.020, any person suffers injury or damage to person or property, the property owner shall be liable to such person for the resulting damages or injury.

**12.16.030 Applicability.**

The provisions of this chapter shall only apply to maintenance, replacement and repair proceedings and shall not be used for the construction of new non-replacement improvements. "The Special Assessment Investigation, Limitation and Majority Protest Act of 1931" shall not apply to proceedings taken under this chapter. (Ord. 169 § 2, 1965)

**12.16.040 Maintenance responsibility.**

The owners of lots or portions of lots adjacent to or fronting on any portion of a sidewalk area between the property line of the lots and the street line, including parking strips, sidewalks, curbs and gutters, and persons in possession of such lots by virtue of any permit or right shall repair and maintain such sidewalk areas and pay the costs and expenses therefore, including any expense incurred by the City of Ripon to repair or maintain the sidewalk under sections

12.16.090 – 12.16.130. (Ord. 886 § 1, 2019)

**12.16.050 Notice to Repair—Issuance.**

When any portion of the sidewalk is out of repair or pending reconstruction and in condition to endanger persons or property or in condition to interfere with the public convenience in the use of such sidewalk, the City Engineer shall notify the owner or person in possession of the property fronting on that portion of such sidewalk so out of repair, to repair the sidewalk. (Ord. 169 § 5, 1965, Ord. 886 § 1, 2019)

**12.16.060 Notice to Repair—Service.**

Notice to repair may be given by delivering a written notice personally to the owner or to the person in possession of the property adjacent to the sidewalks so out of repair, or by mailing a postal card, postage prepaid, to the person in possession of such property, or to the owner thereof at his last known address as the same appears on the last equalized assessment rolls of such city or to the name and address of the person owning such property as shown in the records of the Office of the Clerk . (Ord. 169 § 6, 1965)

**12.16.070 Notice to Repair—Second Issuance**

After 7 days and no later than 10 day after mailing the first post card, another post card shall be mailed marked “Second Notice” in the same manner as the first notice issuance. (Ord. 886 § 1, 2019)

**12.16.080 Notice to Repair—Specifications.**

The notice shall particularly specify what work is required to be done, and how it is to be done, an estimated reimbursement of cost if City was to complete the work, and what materials shall be used in the repair and shall further specify

that if the repair is not commenced within fourteen days after notice is given to the satisfaction of the City Engineer, the City shall repair or maintain the sidewalk and the property owner shall be responsible to reimburse the City for those expenses. Notwithstanding the provisions of Section 5614 of the State Streets and Highways Code, the City Engineer may in his or her discretion, and for sufficient cause, extend the period within which required maintenance and repair of sidewalk areas must be completed by a period of not to exceed ninety days from the time the notice referred to in said Section 5614 is given. (Ord. 886 § 1, 2019)

**12.16.090 Repair by City.**

If the repair is not commenced and prosecuted to completion with due diligence, as required by the notice, the City Engineer shall forthwith repair the sidewalk either using City crews or a private contractor. (Ord. 169 § 9, 1965, Ord. 886 § 1, 2019)

**12.16.100 Removed per Ordinance 886.**

**12.16.110 Repair by owner.**

Any property owner shall have the right to have his or her sidewalk repaired at his or her own expense, provided the work is substantially completed prior to the City's crew or private contractor beginning repair of the sidewalk. (Ord. 169 § 11, 1965, Ord. 886 § 1, 2019)

**12.16.120 Work specifications.**

The work for improvement must, in all cases, be done under the direction and to the satisfaction of the City Engineer, and all materials used shall comply with the specifications and be to the satisfaction of the City Engineer. Sidewalk repairs shall be performed by completely removing and

replacing the defective sidewalk panels or with prior approval from the City Engineer, horizontal saw cutting. Concrete grinding is not allowed. Horizontal saw cutting is only allowed under the following conditions: 1) When one third (1/3) or less the total thickness of the sidewalk can be removed to eliminate the hazard. 2) ADA (Americans With Disabilities Act) path of travel requirements can be met. 3) When, if determined by the City Engineer, there is no obstruction (tree/shrub roots, vegetation, miscellaneous items) beneath the sidewalk directly causing the hazard to occur. (Ord. 169 § 12, 1965, Ord. 886 § 1, 2019)

**12.16.130 Cost of repair—Accounting.**

In the event that the sidewalk repair is made by the City, the City Engineer shall keep an account of the costs of repairing the sidewalk in front of or on each separate lot or parcel of land where the work is done. To this he or she shall add the incidental expenses and properly prorate these expenses over the separate lots. In the event that the sidewalk repair is made by a contractor with the City he or she shall keep an account of costs of repairing the sidewalk in front of or on each separate lot or parcel of land where the work is done and shall render a detailed accounting of costs to the City Engineer who shall investigate and approve the same. (Ord. 169 § 13, 1965, Ord. 886 § 1, 2019)

**12.16.140 Cost of repair—Notice to owner.**

Upon the completion of the repair the City Engineer shall compute the costs attributable to each lot or parcel of land from his records and the accounts of the contractor or contractors, and he shall then cause notice of the cost of repair and incidental expenses to be given in the manner specified in this chapter for the giving of notice to repair to the property owner. (Ord. 169 § 14, 1965, Ord. 886 § 1, 2019)

**12.16.145 Sidewalk Repair Loan.**

Upon the completion of the repair the City Engineer may recommend the City Council enter into a 6 month interest free loan with the property owner to pay for the cost of the repair. (Ord. 169 § 14, 1965)

**12.16.150 Cost of repair—Report to Council.**

If the property owner disputes the reimbursement of expenses or does not reimburse the City within 30 days of Notice to the owner, the City Engineer shall schedule a hearing with the City Council and prepare and file with the City Council a report specifying the repairs which have been made, the cost of the repairs and incidental expenses, a description of the real property in front of which the repairs have been made and the assessment against each lot or parcel of land proposed to be levied to pay the cost thereof. Any such report may include repairs to any number of parcels of property, whether contiguous to each other or not. (Ord. 169 § 15, 1965, Ord. 886 § 1, 2019)

**12.16.160 Hearing.**

Upon the day and hour fixed for the hearing the City Council shall hear and pass upon the report of the City Engineer, together with any objections or protests which may be raised by any of the property owners liable to be assessed for the work of making such repair and any other interested persons. Thereupon the City Council may make such revision, correction or modifications in the report as it may deem just, after which, by motion or resolution, the report as submitted, or as revised, corrected or modified, shall be confirmed. The City Council may adjourn the hearings from time to time for

a period not to exceed thirty days. The decision of the City Council on all protests and objections which may be made, shall be final and conclusive. (Ord. 169 § 16, 1965, Ord. 886 § 1, 2019)

**12.16.170 Assessment of costs – Lien.**

The cost of the repair and incidental expenses may be assessed by the City Council against the parcel of property fronting upon the sidewalk upon which such repair was made, and such cost so assessed, if not paid within ten days after its confirmation by the City Council, shall constitute a special 12.16.170

assessment against that parcel of property, and shall be a lien on the property for the amount thereof which lien shall continue until the assessment and all interest thereon is paid, or until it is discharged of record. (Ord. 169 § 17, 1965, Ord. 886 § 1, 2019)

**12.16.180 Collection of costs.**

Ten days after confirmation of the report a copy shall be turned over to the assessor and the City Clerk, whereupon it shall be the duty of the officer to add the amounts of the respective lots and parcels of land for municipal purposes; and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedures under foreclosure and sale in case of delinquency, as provided for ordinary municipal taxes. (Ord. 169 § 18 1965)

**12.16.190 Refund.**

All or any portion of the special assessment herein mentioned shall be canceled, or if collected, be refunded by the City on order of the City Council. If the Council finds and determines that such special assessment and/or penalty or costs were entered, charged or paid

more than once, through clerical error, or illegally, no order for cancellation or a refund under this section shall be made except upon a claim verified by the person against whose property the special assessment was levied and which was paid by him, or by his guardian or executor or administrator, and filed within one year after the date of confirmation of the assessment. (Ord. 169 § 19, 1965, Ord. 886 § 1, 2019)

**12.16.200 Size of work.**

The provisions of this chapter shall be applicable only to sidewalk and driveway work of less than two thousand five hundred square feet and curb and gutter work of less than five hundred linear feet. Work of greater magnitude shall not be governed by the provisions of this chapter. (Ord. 169 § 20, 1965)

**12.16.210 Encroachment Permit required for work on public streets.**

No person, company or corporation shall construct or repair or cause to be constructed or repaired by private contract any sidewalk, driveway, curb or gutter or any public right of way, within the City, without first having had and obtained an Encroachment Permit in writing to do the work. The Permit shall be on a form provided by the City Engineer. The Permit shall be obtained by the property owner, contractor or person under whose supervision the work will be done. The permittee shall be held responsible for the work. The applicant for the Permit shall furnish written evidence of the consent of the property owner or his agent. (Ord. 169 § 21, 1965, Ord. 886 § 1, 2019)

**12.16.220 Approval of work requiring permit.**

All work covered by a permit must be constructed and laid down subject to the

approval of the City Engineer or his or her designated representative and he or she shall have the authority to prescribe the quality of the material used therein and the manner in which the work shall be done. All work shall, be done in accordance with specifications approved by the City Engineer, and to the line, grade and width approved by the City Engineer. (Ord. 169 § 22, 1965, Ord. 886 § 1, 2019)

**12.16.230 Permit specifications.**

The permit shall specify the number of working days within which the work shall be completed. The work shall be commenced within thirty days of the granting of the permit and be prosecuted with diligence to completion. (Ord. 169 § 23, 1965)

**12.16.240 Violation—Penalty.**

Any person, company or corporation who violates any provisions of this chapter or fails to comply with any of the regulatory requirements thereof, shall be deemed guilty of a misdemeanor and punishable as provided in Chapter 1.08 of this code. (Ord. 169 § 24, 1965)

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