

ORDINANCE NO. 711

AN ORDINANCE OF THE GRASS VALLEY CITY COUNCIL
AMENDING CHAPTER 12.08 OF THE GRASS VALLEY MUNICIPAL CODE CONCERNING
THE MAINTENANCE, REPAIR, AND SAFETY OF PUBLIC SIDEWALKS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRASS VALLEY AS FOLLOWS:

SECTION 1. Chapter 12 of the Grass Valley Municipal Code is amended to add Section 12.08.005, which shall read as follows:

Section 12.08.005 Definitions

A. "Sidewalk Zone" shall mean the area between a private property line and the street line, which area may include, without limitation, the sidewalk itself, a planting strip, and any curbing which is integral to the sidewalk, bulkheads, retaining walls or other works for the protection of any sidewalk or planting strip. For the purpose of this definition, "street line" shall mean the outer lip of the curb gutter pan or if curb does not have a gutter pan the outer edge of the face of curb on the vehicle travel lane side. As utilized herein, the term "Sidewalk Zone" shall not include dirt pathways over completely unimproved areas.

B. "Owner" includes without limitation, the fee owner(s) of real property, or their agent(s).

SECTION 2. Section 12.08.040 of Chapter 12 of the Grass Valley Municipal Code is hereby repealed and replaced with the following:

Section 12.08.040 Duty of Property Owner to Repair and Maintain Sidewalk

As set forth in California Streets and Highways Code Section 5610, the Owner of real property adjacent to or fronting on any portion of a Sidewalk Zone shall repair and maintain such Sidewalk Zone in a safe and non-dangerous condition at the Owner's cost and expense. The Owner shall have the primary and exclusive duty to perform such repair and maintenance, whether or not the City has notified the Owner of the need for such repair or maintenance or has performed similar maintenance or repairs in the past. The duty to repair shall include the repair of damage caused by any force(s) including, without limitation, damage caused by trees planted within the public right of way or adjacent private property. Notwithstanding the foregoing, if the Owner believes that damage to the Sidewalk Zone has been caused by a tree planted by the City, the Owner shall so notify the City Engineer in writing and in the event that the City Engineer, or his designee, determines that all or a portion of the damage to the Sidewalk Zone was caused by a tree planted by the City, the City shall repair the damage to the Sidewalk Zone caused solely by the City planted tree, provided, however, that the City's repair of such damage does not alter or effect the provisions of Section 12.08.050 hereof.

Maintenance and repair of Sidewalk Zones shall include, but not be limited to, maintenance and repair of surfaces including grinding, replacement of sidewalks, repair and maintenance of curbs and gutters which are an integral part of the sidewalk, removal of weeds and/or debris, tree root pruning and installing root barriers, trimming of shrubs and/or ground cover.

SECTION 3. Section 12.08.050 of Chapter 12 of the Grass Valley Municipal Code is hereby repealed and replaced with the following:

Section 12.08.050 Liability for Injuries to Public

Any Owner required by Section 12.08.040 to repair and maintain any portion of a Sidewalk Zone shall owe a duty to members of the general public, including travelers on the Sidewalk Zone, to keep and maintain the Sidewalk Zone in a safe and non-dangerous condition. If any person suffers personal injury or damage to property, due to the failure of any Owner to maintain any Sidewalk Zone in a non-dangerous condition as required by Section 12.08.040, the Owner shall be liable to such person for the resulting injury and/or damages.

SECTION 4. Section 12.08.060 of Chapter 12 of the Grass Valley Municipal Code is hereby repealed and replaced with the following.

Section 12.08.060 Notice to Repair Sidewalk

A. When the City Engineer has actual knowledge that any portion of any Sidewalk Zone is so out of repair or is in such condition as to endanger persons or property passing thereon or as to interfere with the public use thereof, the City Engineer is authorized to notify the Owner in writing, to be delivered to such Owner, requiring such Owner to repair, reconstruct or improve forthwith, in accordance with City Construction Standards and to the extent as the City Engineer may determine, such that the Sidewalk Zone is restored to a safe and non-dangerous condition.

B. Within the time specified in the Notice to complete repairs, the Owner shall cause to commence such repair, reconstruction, maintenance, or improvement as identified in the notice, and shall diligently pursue to completion restoring the Sidewalk Zone to a safe and non-dangerous condition. The Owner shall obtain such permits as may be required by the City, including, without limitation, an encroachment permit, prior to undertaking or causing the repair of the Sidewalk Zone, provided, however, that the City Council hereby waives the encroachment permit fee in connection with the repair and maintenance of Sidewalk Zones.

As part of waiving the encroachment permit fee in connection with the repair and maintenance of Sidewalk Zones, the City shall upon request be provided City Standard plans for non-structural sidewalk repair/maintenance at no cost to the Owner; if required, the Owner shall hire an appropriate licensed contractor of their own choice; the cost of the repair shall be the sole responsibility of the Owner; and the City will perform an inspection as required ensuring that the repair/maintenance is done in accordance with City requirements at no expense to the Owner.

SECTION 5. Chapter 12 of the Grass Valley Municipal Code is hereby amended to add Section 12.08.063, which shall read as follows:

Section 12.08.063 Notice Method

Notice to repair may be given by delivering a written notice personally to the Owner of the property adjacent to the Sidewalk Zone or by mailing written notice, postage prepaid, to the Owner thereof at last known address as appears on the Nevada County Tax Rolls.

SECTION 6. Chapter 12 of the Grass Valley Municipal Code is hereby amended to add Section 12.08.065, which shall read as follows:

Section 12.08.065 Failure of Owner to Perform

Upon failure of the Owner of the property adjacent to the Sidewalk Zone to construct or repair the sidewalk after notice given pursuant to this Chapter, the City Engineer shall cause such repair, reconstruction or improvement to be made, and any and all costs necessarily expended by the City in making such repair, reconstruction, maintenance or improvement shall be reimbursed to the City.

In addition to any other remedy provided in the Grass Valley Municipal Code, the sum of all costs expended to repair the Sidewalk Zone by the City in accordance with the notice given to the Owner pursuant to this Chapter shall be charged against the property on which furnished and against the owner of record thereof and shall be a lien against the property where furnished, and any steps authorized by law may be taken by the City to enforce payment of such lien. No change of ownership or occupation shall in any way affect the application of this section. The City will attempt to collect costs from the Owner, if such attempts fail, the City Council may authorize the placement of such delinquent costs on the Nevada County tax roll.

SECTION 7. Section 12.08.070 of Chapter 12 of the Grass Valley Municipal Code is hereby amended to read as follows:

Section 12.08.070 Limitations on Requirement to Construct Sidewalks

A. The provisions of this chapter relating to construction of sidewalks shall only apply to property in residential use in blocks where the frontage of existing sidewalks, when added to the frontage of unimproved properties, constitutes more than fifty percent of the front footage of the block where the property is located. The City Engineer may, upon application of a property owner affected by the provisions in this section, waive and/or modify the requirements for installation of sidewalks because of unusual circumstances or hardship. Such decision of the City Engineer may be appealed to the City Council, consistent with the procedures established in the City's Improvement Standards.

B. The term "block" as used in this section means property facing one side of any street between an intersecting street and the next intersecting street or between an intersection street and the end of a street which terminates in other than an intersection. The term "unimproved property" means parcels of property not devoted by means of buildings or facilities to residential, commercial, or accessory uses.

C. The street and sidewalk dedication and construction provisions of this chapter shall not apply to building permits for additions and accessory buildings incidental to a residential building existing on a lot if such additions and accessory buildings have less than three hundred square feet as a total cumulative floor area.

SECTION 8. Section 12.08.080 of Chapter 12 of the Grass Valley Municipal Code is hereby repealed and replaced with the following:

Section 12.08.080 Failure to Comply with this Chapter

It shall be a violation of this Chapter for any Owner to fail to perform the duties and obligations established by Section 12.08.040 or to perform such duties and obligations in a negligent manner.

SECTION 9. Sections 12.08.090, 12.08.100, 12.08.110 of Chapter 12 of the Grass Valley Municipal Code are hereby repealed.

SECTION 10. SEVERABILITY

If any section of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other section

or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application and to this end the provisions of this Ordinance are severable.

SECTION 11. EFFECTIVE DATE

This Ordinance to amend Chapter 12.08 of the Grass Valley Municipal Code shall become effective on the Final Passage and Adoption by the City Council.

INTRODUCED and first read at a regular meeting of the City Council on the 27th day of October 2009.

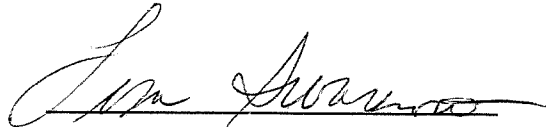
FINAL PASSAGE AND ADOPTION by the City Council of the City of Grass Valley was at a meeting thereof held on the 10th day of November, 2009, by the following vote:

AYES: *Vice Mayor Arbuckle, Council member Cookson, Miller, Poston & Mayor Swarthout*

NOES: *NONE*

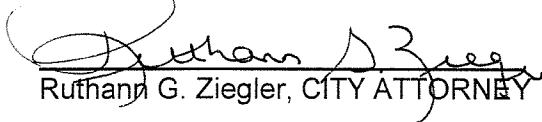
ABSENT: *NONE*

ABSTAIN: *NONE*



Lisa Swarthout, MAYOR

APPROVED AS TO FORM:



Ruthann G. Ziegler, CITY ATTORNEY

ATTEST:



Kristi K. Bashor, CITY CLERK