

ORDINANCE NO. 3886

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING
CHAPTER 13-04 AND CHAPTER 13-32 OF THE SANTA ROSA CITY CODE - DUTY OF
PROPERTY OWNER TO PUBLIC TO MAINTAIN SIDEWALK AREAS AND PARKING
STRIPS

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Findings and Purpose.

A. The owner of property adjacent to or fronting on a sidewalk or parking strip area is the party in the best position to discover any existing dangerous condition in the sidewalk or parking strip area.

B. It is the intent of the Council in amending Chapter 13-04 that the owner of property adjacent to or fronting on the sidewalks shall owe a duty to maintain the sidewalk areas in a safe condition to the members of the public using the sidewalk in a reasonable manner.

C. The Appellate Court decision in *Gonzales v. City of San Jose* (2004)125 Cal.App.4th 1127, held that a duty of care to the public on the part of the property owners to maintain the sidewalk and parking strip areas adjacent to their property in a non-dangerous condition, may be expressly imposed by a charter city ordinance.

Section 2. Chapter 13-04 of the Santa Rosa City Code is amended by deleting 13-04.280 and 13-04.290.

Section 3. Chapter 13-32 of the Santa Rosa City Code is amended to read as follows:

“ Chapter 13-32

PROPERTY OWNER SIDEWALK RESPONSIBILITY

Sections:

13-32.010 Trees - Property owner maintenance responsibility and duty to public; Liability

13-32.020 Maintenance and repair of sidewalks; Liability

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(A) The owner of a lot fronting on or adjacent to any portion of a street shall maintain any trees, shrubs, hedges or other landscaping along said street or within the street right-of-way adjacent to his or her property in such non-dangerous condition that the trees, shrubs, hedges or other landscaping will not interfere with the public convenience or safety in the use of the streets

and sidewalks. Said owners shall maintain such street trees so that there is a minimum eight-foot vertical pedestrian clearance from the top of the sidewalk and a minimum thirteen-foot vertical vehicular clearance from the top of the curb, to any part of a street tree.

(B) For purposes of this section, maintenance of trees, shrubs, hedges and other landscaping includes but is not limited to: deep root watering, root pruning, installing root barriers, clearance and structural trimming, fertilizing, pest control, and removal of branches, leaves and other debris.

(C) Property owners required by this section to maintain trees, shrubs, hedges and other landscaping shall owe a duty to members of the public using public streets and sidewalks to maintain such trees, shrubs, hedges or other landscaping in a safe and non-dangerous condition for users of the public streets and sidewalks.

(D) If any property owner fails to maintain any adjacent trees, shrubs, hedges or other landscaping in a non-dangerous condition as required by this section, and as a result any person suffers damage or injury to person or property, the property owner shall be liable to such person for the resulting damages or injury.

13-32.020 Maintenance and repair of sidewalks; Liability

(A) 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 section 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. In the event of any conflict between the provisions of Chapter 22 of Division 7, Part 3, of the Streets and Highways Code of the State and this section, the provisions of this section shall control.

(B) 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 a charge for the City's costs of inspection and administration whenever the City awards a contract for such maintenance and repair and including the costs of collection of assessments for the costs of maintenance and repair under subsection (A) of this section or handling of any lien placed on the property due to failure of the property owner to promptly pay such assessments, but excluding any contribution by the City.

(C) For the purpose of this section, 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 and the street pavement line, including parking strips and curbs, 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.

(D) Notwithstanding the provisions of Section 5614 of the State Streets and Highways Code, the Director of Public Works may in his or her discretion, and for sufficient cause, extend the period within which required maintenance and repair of sidewalk areas must commence by a

period of not to exceed seventy-four days from the time the notice referred to in Section 5614 is given.

(E) Property owners required by this Section to maintain and repair the sidewalk area shall owe a duty to members of the public using public streets and sidewalks to keep and maintain the sidewalk area in a safe and non-dangerous condition. If, as result of the failure of any property owner to maintain the sidewalk area in a non-dangerous condition as required by this Section, 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.”

Section 4. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date. This ordinance shall take effect on the 31st day after its adoption.

IN COUNCIL DULY PASSED AND ADOPTED this 29th day of July, 2008.

AYES: (6) Mayor Sawyer; Vice Mayor Gorin; Councilmembers Bender, Dean, Jacobi, Pierce

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST: Susan Stoneman, City Clerk APPROVED: John Sawyer, Mayor

APPROVED AS TO FORM:

Caroline Fowler, City Attorney