

WEST BOUNTIFUL CITY

ORDINANCE #379-16

AN ORDINANCE REPEALING AND REPLACING 12.04.020 OF THE WEST BOUNTIFUL CITY CODE REGARDING THE RESPONSIBILITY FOR REPAIR OF CERTAIN STREET IMPROVEMENTS

WHEREAS, Utah Code Annotated § 10-8-23, as amended, authorizes the City to regulate and control the use of sidewalks including requiring the property owner to keep the sidewalk free of obstructions; and,

WHEREAS, the West Bountiful Municipal Code section 12.04.020 requires that property owners pay the costs of repairs to abutting street improvements that have been damaged by act or omission; and,

WHEREAS, the West Bountiful City Council finds the public interest is best served by repealing and replacing said section to clarify and improve the process for the repair of certain street improvements.

NOW, THEREFORE BE IT ORDAINED BY THE WEST BOUNTIFUL CITY COUNCIL THAT SECTION 12.04.020 OF THE WEST BOUNTIFUL MUNICIPAL CODE BE REPEALED AND REPLACED WITH THE ATTACHED EXHIBIT A.

This ordinance will become effective upon signing and posting.

Adopted this 20th day of September, 2016.

By:


Ken Romney, Mayor

Voting by the City Council:	<u>Aye</u>	<u>Nay</u>
Councilmember Ahlstrom	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Bruhn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Enquist	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Preece	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Attest:


Cathy Brightwell, City Recorder



12.04.020 Responsibility For Repair Of Certain Street Improvements

- A. **Purpose:** This section is enacted for the purpose of promoting the health, safety and welfare of the inhabitants of the city by keeping sidewalks, curb, gutters, drive approaches and appurtenances in safe, usable condition.
- B. **Definitions**
1. "Deteriorated improvement" means any sidewalk, curb, gutter, or driveway approach ordinarily used by the general public that is heaved, cracked, spalled or broken as described in this section. The following conditions constitute deteriorated improvements:
 - i. Vertical separations equal to one-half inch ($\frac{1}{2}$ ") or more;
 - ii. Horizontal separations equal to one-half inch ($\frac{1}{2}$ ") or more;
 - iii. Holes or depressions equal to one-half inch ($\frac{1}{2}$ ") or more;
 - iv. Spalling over fifty (50) percent or more of a single square or panel of sidewalk with one or more depressions equal to one-half inch ($\frac{1}{2}$ ") or more;
 - v. A single square or panel of sidewalk with three or more significant cracks;
 - vi. A sidewalk with any part of it missing to the full depth;
 - vii. A deviation from the staked or constructed grade equal to three-fourths inch ($\frac{3}{4}$ ") or more;
 - viii. A sidewalk covered in whole or in part with weeds or other plants, tree branches, garbage, junk, rubbish, debris, solid waste, bird or animal droppings or any other nuisance, obstruction or hazard that makes or tends to make pedestrian travel either dangerous or impractical.
 2. "Extraordinary repairs" mean repairs of deteriorated improvements that are the result of the act or omission of any person, or when the removal of a tree or tree roots is necessary to complete the repairs.
 3. "Ordinary repairs" mean repairs of deteriorated improvements that are the result of normal wear and tear.
 4. "Notice of repairs" or "notice" means a notice of needed extraordinary repairs given to a property owner under Section 12.04.020.E.
- C. **Duty of abutting property owners:** Each owner of real property abutting or fronting upon any street, highway or alley within the city shall have a duty to repair and maintain in good condition all public curbs, curb ramps, gutters, driveway approaches, and sidewalks across or immediately abutting the owner's property.
- D. **Inspections:** The city, through the department of public works, may inspect the condition of the public curbs, curb ramps, gutters, driveway approaches, and sidewalks to determine any defects or needed repairs.
- E. **Notice of extraordinary repairs:** The city may send notice of needed extraordinary repairs of deteriorated improvements to the owner of the abutting property as shown on the records of the county recorder. The notice shall (1) specify the defect and the needed repairs, (2) set forth the owner's options to repair, (3) provide the owner with an estimated cost of repair, and

(4) state the deadline for completing the repairs. Such deadline shall be sixty (60) days from the date of the notice. The notice shall specifically advise the property owner of the owner's obligations under this section and right of appeal.

F. Extraordinary repairs, options and costs: After notice is given to a property owner, extraordinary repairs of the deteriorated improvements abutting the property shall be accomplished as follows:

1. If the property is used as a single-family residence, the owner may employ a contractor or act as contractor to make the required repair. The repair must be made according to city specifications, to the satisfaction of the city engineer, after the owner has first obtained a permit for the work. The work shall be completed within sixty (60) days after the owner receives the notice of repairs. The owner's election to proceed under this subsection shall be voluntary and the repair costs shall not be deemed an assessment by the city.
2. If the property is used as a single-family residence, the owner may elect to have the city assume fifty percent (50%) of the estimated cost of repair under an approved written agreement; provided, that this agreement shall not apply to the repair of a driveway approach or to any needed removal of trees or tree roots, which shall be at the owner's sole expense. The owner may elect to perform the repair or employ a contractor to perform the repair. In that event: (a) the city must approve the estimated cost of repair before the work is commenced, and will reimburse the owner the amount specified in the written agreement; and (b) the requirements of subsection 1, above, for permitting and completion of the work will apply. If the owner elects to have the city perform the repair, the owner will pay the city fifty percent (50%) of the estimated cost of repair under the written agreement.
3. If the property is used as a multiple-family dwelling or business or for any use other than a single-family residence, the owner shall pay one hundred percent (100%) of the cost of repair. At the owner's option, the repair may be performed by the owner or the owner's contractor or may be performed by the city. If performed by the owner or the owner's contractor, the work will be done to city specifications, to the satisfaction of the city engineer, after the owner first obtains the necessary permit, and shall be completed within sixty (60) days after the owner receives the notice of repairs. If the repair is performed by the city, the owner shall pay the city one hundred percent (100%) of the estimated cost of repair before the work commences.
4. When the owner of a single-family residence has a combined family income at or below the levels established by the Department of Housing and Urban Development in its "Income Limits for Housing and Community Development, Section 8 Program for Salt Lake City and Ogden, Utah SMSA," as amended from time to time, the cost of the entire repair may be paid by the city, subject to the availability of funds budgeted by the city for this purpose. The burden rests with the owner to show that the owner qualifies for this exception.
5. The owner shall notify the city of the option selected for performance and payment of the repair within ten calendar days after receiving the notice of repairs.

6. This section shall not preclude the city from paying some or all of the cost of repair of deteriorated improvements adjacent to property used as a single-family residence under special conditions, such as the city receiving a grant for repairs or a low-income abatement.
- G. **Ordinary Repairs:** When after inspection by the public works department, the city determines that a deteriorated improvement abutting a property requires ordinary repairs, the city will complete the repairs at no cost to the owner; provided, that the timing for completion of the repairs will be subject to annual budgets and the city's discretion.
- H. **Repair by the city—Lien:** In the event the property owner fails to complete the repairs within the time specified in the notice of repairs or appeal the notice as provided in this section, the city may make the repairs with the implied consent of the owner. The cost of such repairs, or of any other repairs under this section for which the owner has failed to reimburse the city as required, shall constitute a lien against the real property. This remedy shall be in addition to any other remedy the city may have under applicable law.
- I. **Appeal:** Any property owner who receives a notice of repairs has the right to appeal the notice to the city council as provided in Chapter 2.64. The time for completion of the repairs will be stayed pending the city council's decision on the appeal.