

STATE OF TEXAS

AN ORDINANCE OF THE CITY COUNCIL OF SEGUIN, TEXAS, AMENDING THE SEGUIN CODE OF ORDINANCES, CHAPTER 90, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE III, SIDEWALKS AND CURBS, TO REDIFINE THE DUTIES AND RESPONSIBILITIES OF ABUTTING OWNERS; PROVIDING PENALTIES; PROVIDING FOR PUBLICATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND AUTHORIZING CITY STAFF TO PREPARE THIS ORDINANCE FOR SUBMISSION AS A SUPPLEMENT TO THE CODE OF ORDINANCES

WHEREAS, with the advent of the Americans with Disabilities Act the courts, and the Department of Justice, have been held municipalities responsible for the maintenance of sidewalks, at least to the extent that such maintenance is needed to provide accessible routes; and

WHEREAS, as a general rule sidewalk maintenance is generally greater in older, poorer, sections of a municipality where the abutting property owners are least able to provide the needed maintenance funds; and

WHEREAS, providing a useable network of sidewalks is a benefit to the entire community; and

WHEREAS, the City's present code provides that the abutting owner is solely responsible for sidewalk maintenance and that the city manager is directed to notify all owners whose sidewalks don't meet standards; and

WHEREAS, the proposed changes match current law while still making the owner responsible for not harming the sidewalks and keeping them free of grass, debris and other similar matter.

NOW THEREFOR BE IT ORDAINED by the City Council of Seguin, Texas:

SECTION 1. The Seguin Code of Ordinances, Chapter 90, Streets, Sidewalks, and Other Public Places, Article III, Sidewalks is amended (all other sections of Article III remain unchanged) as follows (underlining indicates added text, ~~striketrough~~ indicates deleted text):

Sec. 90-68. - Duty of ~~property~~ abutting owners, tenants or lessees to repair to keep maintained.

~~It shall be the duty of the property owner to repair any sidewalk or curb that runs in front, beside or behind their property that is in such defective condition that it is likely to cause personal injury to any person. It shall be repaired in accordance with this article.~~

a. It shall be unlawful for the owner, lessee, or tenant of any premises abutting on any sidewalk, curb or right-of-way to permit such sidewalk, curb, or right-of-way to become covered with solid waste, sand, dirt or leaves or to permit grass or weeds to grow on or extend over such sidewalk, curb or right-of-way. Trees overhanging a sidewalk, curb or right-of-way shall be kept trimmed to a minimum 8 foot height for egress. Grass and vegetation on median between the street and sidewalk shall be limited to a height of 12 inches.

b. Property owners shall be responsible for maintaining their driveway aprons, including the portion of the driveway apron that is integrated with the sidewalk.

c. During periods of constructions on abutting property, the owners, tenants or lessees shall also be responsible to keep all streets and sidewalks free of safety hazards to vehicles and pedestrian traffic.

Sec. 90-69. - ~~Notice to construct or repair~~ Duty of abutting owners, tenants or lessees regarding construction or injury.

(a) ~~Whenever any defect shall exist in any curb or sidewalk, it shall become the duty of the city manager to notify such property owner. This defect shall be repaired with two weeks of notification. Failure to repair upon notification will be considered a violation of this Code punishable as provided in section 1-14.~~ Public sidewalks shall not be removed or damaged. The owner, tenant or lessee shall be responsible for any damage to a sidewalk caused by the owner, tenant or lessee, or anyone working on their behalf. Failure by an owner, tenant or lessee to restore all streets and sidewalks damaged by construction within a reasonable time after other construction has been completed shall be unlawful.

(b). An owner, tenant, or lessee shall insure that during a cessation in construction or after completion of construction, and in order to avoid safety hazards to vehicles and pedestrian traffic, all affected street areas, curbs and sidewalks shall be restored by the contractor, or owner within a reasonable period of time.

(~~c~~) b Any person desiring to building or erect any curb, driveway, or sidewalk upon any right-of-way shall be required to have a city permit ~~per chapter 22, article IV of this Code.~~

SECTION 2. In accordance with Section 3.10 of the Seguin City Charter, this Ordinance shall become effective upon ten (10) days following passage on second reading and shall be published in a newspaper of general circulation.

SECTION 3. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

SECTION 4. City staff is authorized to prepare this Ordinance for submission as a supplement to the Seguin Code of Ordinances.

PASSED AND APPROVED on first reading this 15th day of December, 2015.

PASSED AND APPROVED on second reading this 5th day of January 2016.

DON KEIL, Mayor

ATTEST:

Thalia Stautzenberger, City Secretary