

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS AMENDING THE UNIFIED DEVELOPMENT CODE (UDC), SECTION 2.9 SUBDIVISION DEVELOPMENT AND SECTION 4.7 SUBDIVISION IMPROVEMENTS; PROVIDING A SEVERABILITY CLAUSE; AUTHORIZING CITY STAFF TO PREPARE THIS ORDINANCE FOR SUBMISSION AS A SUPPLEMENT TO THE CODE OF ORDINANCES; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, subdivision improvements in Seguin is regulated by the Unified Development Code in order to promote sound infrastructure development in the subdivision of land; and

**WHEREAS**, the Unified Development Code regulates when subdivision improvements are required and how they are constructed; and

**WHEREAS**, the City of Seguin is experiencing significant growth in rural areas; and

**WHEREAS**, the City of Seguin desires to extend the maintenance bond requirement for public infrastructure constructed with new development from one year to two years; and

**WHEREAS**, on April 12, 2022, after conducting a public hearing, the Planning and Zoning Commission voted to recommend to City Council that the amendments to Section 2.9 and Section 4.7 of the UDC as described herein be adopted.

**NOW THEREFORE BE IT ORDAINED** by the City Council of the City of Seguin, Texas, as follows:

**PART ONE.** Section 2.9 – Subdivision Development, of the Seguin Unified Development Code is hereby amended as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

**Sec. 2.9. Subdivision Development.**

**2.9.10. Subdivision Construction Plans – Submittal of plans through city acceptance of improvements.**

**G. Guarantee of Materials and Workmanship.**

1. The applicant or developer shall require of the construction contractors with whom he contracts and shall himself be responsible for guaranteeing that all materials required under this code and workmanship in connection with such improvements are free of defects for a period of ~~one~~ two years after acceptance of the improvements by the City Engineer and any other utility provider.
2. Prior to the acceptance of subdivision improvements or approval of private improvements for each phase a maintenance bond or other surety instrument shall be accepted by the City in compliance with the following:

a. Shall be in an amount equal to fifteen percent of the cost of improvements for the first two calendar years following acceptance of said improvements.

b. Shall cover all street, drainage and utility improvements. The construction value ~~or~~ and final pay ~~estimate~~ applications shall be provided to the City Engineer to support said warranty and maintenance bonds amounts.

c. Shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution.

d. In an instance where a maintenance bond or other surety instrument has been posted and defect or failure of any required improvement occurs within the period of coverage, the City may declare said bond or surety instrument to be in default and require that the improvements be repaired and replaced.

e. Whenever a defect or failure of any required improvement occurs within the period of coverage, the City shall require that a new maintenance bond or surety instrument be posted for a period of one full calendar year after the date of acceptance by the City of the corrected defect or failure sufficient to cover the corrected defect or failure.

f. In case of dispute, the Court of record shall be in Guadalupe County, Texas.

3. The City shall inspect all required improvements to ensure that construction is being accomplished in accordance with the plans and specifications approved by the City. The City shall have the right to inspect any construction work being performed to ensure that it is proceeding in accordance with the intent of the provisions of this chapter. Any change in design that is required during construction should be made by the licensed professional engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents. All revisions shall be approved by the City Engineer. If the City Engineer finds, upon inspection, that any of the required subdivision improvements have not been constructed in accordance with the plans and specifications approved by the City, then the developer shall be responsible for completing and correcting the deficiencies at the developer's expense.

4. The developer/applicant shall pay for testing services that verify conformance with the approved plans and specifications. All expenses for tests that fail to meet these specifications shall also be paid for by the developer.

5. Upon completion, inspection, and acceptance of the required utility improvements, utility provider(s) shall submit a letter to the City Engineer and the developer/applicant stating that all required utility improvements have been satisfactorily completed and accepted by the utility provider.

6. The City may withhold all City services and improvements of whatsoever nature, including the maintenance of streets and the furnishing of all other City services from any subdivision or property until all of the street, utility, storm drainage and other subdivision improvements are properly constructed according to the approved construction plans, and until such subdivision improvements are dedicated to and accepted by the City.

7. If the surety on any performance bond furnished by the applicant is declared bankrupt or becomes insolvent, its right to do business is terminated in the state, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within 20 business days thereafter, substitute another performance bond and surety, both of which must be acceptable to the City.

8. When all of the improvements are found to be constructed and completed in accordance with the approved plans and specifications and with the City's standards, and upon receipt of one set of "record drawing" plans, and a digital copy of all plans (in a format as determined by the City Engineer) the City Engineer shall accept such improvements for the City, subject to the guaranty of material and workmanship provisions in this section. The City Engineer may withhold approval for reasonable cause to include failure to construct subdivision improvements to code or City specifications, for violations of this Code, for failure to provide accurate or complete data as required by the City Engineer, or for failure to correct subdivision ~~subdivision~~ improvements which fail within two ~~a~~ years of their acceptance in accordance with this chapter.

**PART TWO.** Section 4.7 – Subdivision Improvements, of the Seguin Unified Development Code is hereby amended as follows (underlining indicates added text, ~~strike through~~ indicates deleted text):

#### **Sec. 4.7. Subdivision Improvements.**

**4.7.6. Maintenance of required improvements.** The owner or owners of the subdivision shall be responsible for the maintenance of all required improvements within said subdivision until such improvements are completed and accepted for maintenance by the City of Seguin. This shall include the maintenance and repair of all drainage and erosion control features and facilities on-site and off-site pertaining to the development, the daily cleanup of paved streets and of drainage areas impacted by on-site or off-site construction, the strict adherence of the site's stormwater pollution prevention plan (SWPPP, SW3P) and all state and federal requirements. Upon completion of the required improvements, the owner or owners of the subdivision shall request, in writing, acceptance for maintenance by the City of said improvements. Upon receipt of such request, the City Engineer shall inspect the required improvement and, if found to be in compliance with the approved engineering plans and specifications for said improvements, shall notify within five days, in writing, the subdivider of acceptance for maintenance by the City. Should the City Engineer find noncompliance with said plans and specifications, he shall notify within ten days, in writing, the subdivider of those deficiencies which must be corrected prior to acceptance for maintenance by the City of the required improvements. Prior to acceptance for maintenance of the completed improvements by the City, the subdivider shall file with the City Engineer either:

- A ~~one~~ two-year warranty bond executed by a corporate surety licensed in the State of Texas, warranting the improvements are free from defects in materials and workmanship; or
- A letter of credit in the amount of the cost of the improvements from a banking or other financial institution authorized to do business in the State of Texas, committing funds for the correction and repair of any defects in materials or workmanship for a period of ~~one~~ two years.

All drainage improvements constructed or installed shall be maintained in accordance with the following:

- Drainage improvements located in the public rights-of-way that have been accepted by the City will be maintained by the appropriate jurisdiction.
- All natural drainage channels, swales, etc., located on private property and which are publicly dedicated easements shall be maintained by the property owner. When such easements are shown on the subdivision plat, this exclusivity and restriction will be noted on the plat and included in the restrictive covenants. The use of drainage easements on private property shall be minimized as much as practical. Existing drainage between developed lots shall remain the responsibility of the affected property owners.

**PART THREE.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**PART FOUR.** City staff is authorized to prepare this Ordinance for submission as a supplement to the Seguin Code of Ordinances.

**PART FIVE.** This ordinance shall be published in a newspaper of general circulation.

**PART SIX.** This ordinance shall be effective upon ten (10) days following passage on second reading and shall be published in a newspaper of general circulation.

**PASSED AND APPROVED** on the first reading this 3rd day of May 2022.

**PASSED AND APPROVED AND ADOPTED** on the second reading this 24th day of May 2022.

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Donna Dodgen, Mayor

ATTEST:

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Naomi Manski  
City Secretary