

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PFLUGERVILLE AMENDING TITLE XIII GENERAL OFFENSES, CHAPTER 130 OFFENSES AGAINST CITY REGULATIONS, SECTION 130.13 REPAIR OF DEFECTIVE SIDEWALKS; PROVIDING FOR A PENALTY AS A CLASS C MISDEMEANOR AND A FINE IN AN AMOUNT IN ACCORDANCE WITH CODE OF ORDINANCES, SECTION 10.99 GENERAL PENALTY, IN AN AMOUNT NOT TO EXCEED \$500.00; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Pflugerville, Texas is a home-rule City acting under its charter adopted by the electorate pursuant to Article IX, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the state has delegated to each municipality the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety and welfare of the public, subject to state law; and

WHEREAS, pursuant to its home rule charter, the City of Pflugerville has the control and jurisdiction of the public streets and other right-of-way of the City to ensure the health, safety, and welfare of the public; and,

WHEREAS, the City Council finds that there is a public necessity for the amendment of Section 130.13 Repair of Defective Sidewalks to correspond with current City of Pflugerville standard practices; and

WHEREAS, the City Council finds that the adoption of the proposed amendments to the Repair of Defective Sidewalks promotes the health, safety, and general welfare of the citizens of Pflugerville and facilitates the implementation of adequate provisions regarding right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendment to Municipal Code of Ordinances. The City of Pflugerville, Texas Code of Ordinances, Title XIII (“*GENERAL OFFENSES*”), Chapter 130 (“*Offenses Against City Regulations*”), Section 130.13 (“*Repair of Defective Sidewalks*”) is hereby amended by adding language that is underlined (underlined) and removing language that is struck through (~~struck through~~) as follows:

§ 130.13 REPAIR OF DEFECTIVE SIDEWALKS.

When a sidewalk, driveway, curb, gutter or appurtenance becomes defective, unsafe or hazardous, it shall be the duty of the owner of the abutting property to reconstruct or repair same ~~and the expense of such work shall be borne by the abutting property owner~~ however the City is not prohibited from making repairs when deemed necessary. When a sidewalk, driveway, curb, gutter, or appurtenance is found to be defective, unsafe or hazardous, the City Engineer, or his/her designee, ~~shall~~ may notify the owner of the abutting property to reconstruct or repair same. A permit may be required to make the repairs pursuant to Chapter 96 Right-of-Way Management of the Code of Ordinances. Any owner who fails to reconstruct or repair such defective, unsafe or hazardous condition within 30 days from the date of the written notice from the City Engineer, or his/her designee, to do so shall be guilty of a misdemeanor. (Ord. 24-69-4-21, passed 4-21-69; Ord. 1452-20-07-28, passed 7-28-20)

Section 3. Severability. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 4. Repealer. This ordinance shall be cumulative of all other ordinances of the City of Pflugerville, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Pflugerville except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Section 5. Penalty. A violation of this Ordinance shall be a Class C Misdemeanor with a fine amount not to exceed \$500.00, as provided in Section 10.99 of the City of Pflugerville Code of Ordinances.

Section 5. Conflicts and Savings. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and that the Code of Ordinances of the City of Pflugerville, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Section 6. Severability. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 7. Effective Date. This Ordinance will take effect immediately upon its adoption by the City Council and publication as required by law.

PASSED AND APPROVED this _____ day of _____, 2020.

CITY OF PFLUGERVILLE, TEXAS

By: _____
Victor Gonzales, Mayor

ATTEST:

Karen Thompson, City Secretary

APPROVED AS TO FORM:

Charles E. Zech, City Attorney
DENTON, NAVARRO, ROCHA, BERNAL & ZECH, P.C.