

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING THE CITY OF KYLE, TX CODE OF ORDINANCES; AMENDING CHAPTER 38 ARTICLE II. STREETS AND SIDEWALKS TO ADD A CLAUSE FOR MUNICIPALLY PROVIDED REPAIRS; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR OPEN MEETINGS; AND PROVIDING FOR SEVERABILITY.

Whereas, the City of Kyle desires to provide a safe place for pedestrians to travel along roadways; and,

Whereas, the City of Kyle has many miles of sidewalks within the city limits; and,

Whereas, an Ordinance was enacted by the City of Kyle in 1964 that required the owners of lots to maintain the sidewalk along their property; and,

Whereas, the City of Kyle has developed standards that encourages propagation of tree canopies in the city by requiring the planting of new trees for new development and in some instances requiring street trees; and,

Whereas, as the trees planted near sidewalks have matured, the root systems of these trees have caused premature damage and or heaving to the adjoining sidewalk; and,

Whereas, the City finds it equitable that it should relieve some of the burden to the adjoining property owner in facilitating repairs to sidewalks whether damaged by tree or not; and,

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

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Amendment of Chapter 38, Article II. Streets and Sidewalks Generally
Section 38-21. City of Kyle, Texas, Code of Ordinances is hereby amended insofar, and insofar only, as is herein set forth, and in no other respect whatsoever.

Sec. 38-21. - Maintenance of *sidewalks* on lots required.

- a) All persons owning lots in this city upon the streets shall keep the *sidewalks* around the same in good condition. In failing to do so he shall be fined in any sum not less than \$5.00 nor more than \$100.00.
- b) The City, at its sole discretion, may elect to facilitate the repair of any sidewalk within the City limits or authorized by agreement. The election of the City to facilitate such a repair does not remove the requirement upon the property owner

to properly maintain sidewalks and in no way absolves the property owner from liability.

Section 3. Amendment of Ordinances. The City of Kyle, Texas Code of Ordinances is hereby amended to the extent of any conflict or inconsistency herewith only and all ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the city, the terms and provisions of this Ordinance shall govern.

Section 4. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

Section 6. Severability. If any section, paragraph, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

PASSED AND APPROVED on First Reading this ____ day of _____, 2017.

FINALLY PASSED AND APPROVED on this ____ day of _____, 2017.

ATTEST:

THE CITY OF KYLE, TEXAS

Jennifer Vetrano, City Secretary

Todd Webster, Mayor