

ORDINANCE NO. 31-2008

**AN ORDINANCE AMENDING CHAPTER 29, "STREETS AND SIDEWALKS," ARTICLE III, "SIDEWALK, DRIVEWAY, CURB AND GUTTER CONSTRUCTION AND REPAIR," DIVISION 1, "GENERALLY," SECTION 29-38, "DUTY OF ABUTTING PROPERTY OWNER TO REPAIR, MAINTAIN, ETC., SIDEWALKS, ETC" OF THE ABILENE CITY CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND CALLING A PUBLIC HEARING.**

**WHEREAS**, the City of Abilene recently passed a Sidewalk Master Plan that requires sidewalks to be built in new developments and redevelopments; and

**WHEREAS**, increasing the number of sidewalks in the City of Abilene will potentially lead to increased pedestrian traffic; and

**WHEREAS**, the Sidewalk Master Plan more specifically outlines the maintenance responsibilities of property owners abutting a sidewalk than Chapter 29, "Streets and Sidewalks" does;

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

**PART 1:** That Chapter 29, "Streets and Sidewalks," Article III, "Sidewalk, Driveway, Curb, and Gutter Construction and Repair," Division 1, "Generally," Section 29-38, "Duty of Abutting Property Owner to Repair, Maintain, etc., Sidewalks, etc." of the Abilene City Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

**PART 2:** That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**PASSED ON FIRST READING this 12<sup>th</sup> day of June, 2008.**

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 6<sup>th</sup> day of June, 2008, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 26th day of June, 2008, to permit the public to be heard.

**PASSED ON SECOND AND FINAL READING this 26th day of June 2008.**

ATTEST:

  
CITY SECRETARY

  
MAYOR

APPROVED:

  
CITY ATTORNEY

**Exhibit A**

**ORDINANCE NO. 31-2008**

**Amending CHAPTER 29, ARTICLE III, DIVISION 1, SECTION 29-38 “Duty of abutting property owner to repair, maintain, etc., sidewalks, etc.” to read as follows:**

**Sec. 29-38. Duty of Abutting Property Owner to Repair and Maintain Sidewalks, Sidewalk Amenities, Landscaping, Driveways and Curbs.**

- a) It shall be the duty of all persons owning real property within the city to keep any sidewalk, sidewalk amenities, landscaping, driveway or curb abutting their property in good repair. Whenever a sidewalk, sidewalk amenity, landscaping, driveway or curb shall become defective or dangerous, such owner shall reconstruct or repair the same at his expense.
- b) Each owner of real property shall keep the abutting sidewalks and sidewalk amenities free from snow, ice and other hazardous substance.
- c) The owner of property abutting on any public street containing a sidewalk, sidewalk amenity, landscaping, driveway or curb that has become defective and has resulted in causing damage or injury as a result of such defective or dangerous condition shall be solely liable in damages for any loss or damage sustained as a result of such defective condition. The City shall not be held as assuming any such liability by reason of inspection or reinspection authorized herein or by reason of the approval or disapproval of any construction made or not made in accordance with standards or specifications of this Chapter or other applicable provisions of this Code.