

**ORDINANCE 2017-0213**

**AN ORDINANCE OF THE TOWN OF ANTHONY, TEXAS REGULATING  
SIDEWALK CONSTRUCTION AND MAINTENANCE.**

**WHEREAS**, the GOVERNING BODY did hold a duly noticed Public Hearing;  
and

**WHEREAS**, the GOVERNING BODY did consider testimony from staff and the  
public before reaching its decision; and

**WHEREAS**, pursuant to the statutory authority granted to the GOVERNING  
BODY as a municipality under Texas Local Government Code Section 51.001, the  
GOVERNING BODY may adopt, publish, amend, or repeal an ordinance, rule, or police  
regulation that: (1) is for the good government, peace, or order of the municipality or for  
the trade and commerce of the municipality; and (2) is necessary or proper for carrying  
out a power granted by law to the municipality or to an office or department of the  
municipality; and

**WHEREAS**, pursuant to the statutory authority granted to the municipality as a  
Type A General-Law Municipality under Texas Local Government Code Section 51.012,  
the municipality may adopt an ordinance, act, law, or regulation, not inconsistent with  
state law, that is necessary for the government, interest, welfare, or good order of the  
municipality as a body politic; and

**WHEREAS**, the GOVERNING BODY does make the following finding:

1. That it is in the best interest of the municipality and the safety and  
protection of its inhabitants to regulate the construction and maintenance of the  
municipality's sidewalks.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF  
ANTHONY, TEXAS:** that in consideration of the aforementioned findings and  
testimony, it hereby ordains that it does hereby regulate the construction and maintenance  
of the Town's sidewalks as follows:

**Section 1. AUTHORITY AND PURPOSE.**

**AUTHORITY:** This Ordinance is adopted pursuant to the enabling provisions of  
Texas Local Government Code Section 51.001 and Section 51.012.

**PURPOSE:** The purpose of this ordinance is to regulate the construction and  
maintenance of the Town's sidewalks for: (1) the protection and safety of the Town's  
inhabitants and vehicular and pedestrian traffic, (2) the orderly flow of vehicular and

pedestrian traffic, and (3) the aesthetic standardization and beautification of sidewalk construction and maintenance.

## **Section 2. SIDEWALK CONSTRUCTION AND MAINTENANCE.**

### **Section 1: Sidewalk and curb permit required.**

- a. Except as otherwise provided in this Code, no person shall construct, alter or repair any sidewalk or curb or change the grade thereof within the town's right-of-way without a permit. A permit under this chapter shall not be required for sidewalk and/or curb construction, alteration or repair that is included in a permit issued. Permits under this section shall be issued only by the building official or permit official. The building official or permit official may suspend a permit for noncompliance with the requirements of this chapter. The building official or permit official shall provide notice of suspension of the permit to the permittee, at which time the permittee shall cease the work allowed under the permit and shall not resume work until authorized to do so by the building official or permit official. Any person aggrieved by the decision concerning the issuance, denial, revocation or suspension of a permit issued under this chapter may appeal such decision to the town council or planning and zoning commission.
- b. No person shall cut or alter any sidewalk or curb, whether for the purpose of vehicular access to property or otherwise without permission of the building official or permit official, and in accordance with specifications prescribed by him or her. In granting or refusing such permission the building official or permit official shall consider and be guided by the need for the proposed cut or alteration, the amount of traffic at the location in question, and the hazards likely to be created. Any person aggrieved by the decision of the building official or permit official may appeal to the town council or planning and zoning commission.
- c. The building official or permit official will issue sidewalk permits and will enforce the requirements of this chapter for all properties. The mayor and his or her designees, including but not limited to the code enforcement division and the director of the town building department and his or her designees, will enforce the requirements of this chapter for streets, alleys and other paved portions of street rights-of-way.

### **Section 2: Sidewalk permits and fees.**

- a) No person shall construct a sidewalk within the town limits without first obtaining a sidewalk construction permit issued in accordance with this title. No permit is required if the sidewalk is covered by a valid building permit or is part of a street improvement plan.



- b) Permits issued pursuant to this chapter shall be valid for six months from the date of issuance.
- c) An applicant requesting a sidewalk construction permit shall be responsible for contacting a "one call" notification system servicing the area and will be required to furnish written verification confirming that such a "one call" has been made as part of the application for permit. A sidewalk construction permit issued under this chapter may be denied for the failure of the applicant to contact a "one call" notification system servicing the area and to provide a verification number confirming that such a "one call" notification system has been contacted by the applicant. This requirement however, shall create no duty, express or implied, on the part of the town to verify that such a "one call" has been made by the applicant.
- d) The standard fee for a sidewalk permit shall be established by Town Council Resolution. A reinspection fee, the amount of which is to be established by Town Council Resolution, will be assessed for each reinspection. The fee for a permit to construct a sidewalk, as required through order of the town following a determination by the building official or permit official as provided shall be waived.

**Section 3: Maintenance of sidewalks, curbs and gutters—Abutting property owner's duty.**

- a. It shall be the duty of the owner of property abutting on any public street containing a sidewalk, curb or gutter to keep such sidewalk, curb or gutter in good repair.
- b. When the building official or permit official or his or her designee or member of the code enforcement division finds that any such sidewalk, curb or gutter is in hazardous condition because of need of repairs or faulty construction, he or she may notify the owner of the abutting property to make such repairs or changes as may be necessary to put the sidewalk, curb or gutter in safe condition. If the owner fails to make such repairs or changes within a reasonable time given in the notice, he or she shall be deemed guilty of a misdemeanor and punished by a fine not exceeding five hundred dollars.
- c. If the owner fails to comply with the notice, the town council may authorize the work to be done by town forces or by contract, and may, after notice and an opportunity to be heard, assess the actual cost of the repairs against the abutting property and its owner. The ordinance of the town council making the assessment shall be recorded in the county clerk's office and the assessment shall then constitute a first and prior lien against the property from the date the improvements are ordered, and shall be a personal liability and charge against the owner of the property.

- d. Notice to the owner may be given in person or by mail, or may be given to any agent authorized by the owner to collect the rents or make repairs on the property.
- e. The owner of property abutting on any public street containing a sidewalk, curb or gutter that has become defective and has resulted in causing damage or injury as a result of such defective condition shall be primarily liable in damages for any loss or damage sustained as a result of such defective condition. The town 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.

**Section 3. EFFECTIVE DATE.**

This ordinance shall be effective as provided by law.

**Section 4. PROPER NOTICE & MEETING.**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code 551.

**PASSED, ADOPTED AND APPROVED THIS 27 DAY OF FEBRUARY, 2017.**

**APPROVED:**



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**Martin Lerma**  
**Mayor**

**ATTEST:**



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**Cynthia Ramirez**  
**Town Clerk**

{SEAL}



**ROLL CALL VOTE:**

**Mayor Pro-Tem Benjamin Romero**

**Councilor Jose Garcia**

**Councilor Shawn Weeks**

**Councilor Joanna Rivera**

**Councilor Eddie Chavez**

yes  
yes  
yes  
yes  
yes