

**CITY OF SOUTHGATE
CAMPBELL COUNTY, KENTUCKY
ORDINANCE NO. 15-11**

AN ORDINANCE AMENDING SECTION 93.19 OF THE CITY OF SOUTHGATE CODE OF ORDINANCES TO ESTABLISH A SIDEWALK REPAIR AND REPLACEMENT PROGRAM, DECLARE THAT EVERY PERSON OWNING LOTS OR REAL ESTATE FRONTING AND ABUTTING ANY SIDEWALK SHALL HAVE A DUTY TO MAINTAIN SAID SIDEWALK, PROVIDE FOR DUE PROCESS IN DETERMINING THAT A SIDEWALK IS IN DISREPAIR, PERMIT THE CITY TO UNDERTAKE SIDEWALK REPAIRS AND BILL THE COST THEREOF TO THE PROPERTY OWNER, AND PROVIDE THAT RECORDS OF THE PROPERTY VALUATION ADMINISTRATOR MAY BE RELIED UPON CONCLUSIVELY TO DETERMINE A PROPERTY OWNER'S LAST KNOWN ADDRESS.

WHEREAS, the City Council of the City of Southgate finds that sidewalks in a state of disrepair are contrary to the public welfare and endanger the health, safety, and welfare of residents and visitors; and

WHEREAS, the City Council further finds that sidewalks in a state of disrepair subject the City to potential liability; and

WHEREAS, a sidewalk inspection and replacement program is necessary to secure the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SOUTHGATE, CAMPBELL COUNTY, KENTUCKY, AS FOLLOWS:

SECTION I

That Section 93.19 of the City of Southgate Code of Ordinances is hereby amended to read as follows:

§ 93.19 REPAIR OF SIDEWALKS.

(A) ~~[Any property owner owning real estate within the city, including all new subdivision installations, which front or abut on a dedicated street within the city is ordered and directed to have constructed or to construct cement or concrete sidewalks. These shall be built in front of, alongside of, and in the rear of the property in accordance with the plans and specifications set forth in this chapter.]~~ It shall be the duty of every person owning lots or real estate abutting on any sidewalk in the City to maintain, at his or her own expense and in a suitable state of repair, the sidewalk, so far as it abuts upon his or her lots or real estate. Any property owner with improper or defective sidewalks now existing or laid abutting his or her property is ordered to repair or replace the sidewalks and to place them in good condition and repair. The [Building Inspector is] Mayor shall designate one or more City employees, who shall be authorized to direct, by written notice, that any property owner with defective or out-of-repair sidewalks repair them within a period of time set by ordinance.

(B) The following sidewalk conditions are determined to be contrary to the general welfare and require the sidewalk blocks in the conditions to be repaired or the condition to be alleviated, as directed by the City [~~Building Inspector~~]:

- (1) Any block having a crack or cracks in it more than five-eighth of an inch wide;
- (2) Adjoining blocks or portions thereof whose edges differ vertically by more than five-eighth of an inch;
- (3) Blocks that have holes in them five-eighth of an inch or more in diameter or are cracked or broken so that pieces are missing or loose;
- (4) Blocks have depression, reverse cross-slope (sloping away from the street), or below curb grade so as to impound mud or water;
- (5) Blocks having a cross-slope in excess of three-fourth of an inch vertical per one-foot horizontal;
- (6) Blocks that cause an abrupt change in the longitudinal grade of the sidewalk;
- (7) Blocks that are raveled, i.e., the surface is severely cracked; and
- (8) Blocks containing stumps, private sign, posts, or other unauthorized obstructions in the sidewalk space.

(C) Sidewalks will be inspected by [~~the~~] a designated City employee pursuant to a sidewalk plan approved [~~Building Inspector as prescribed~~] by City Council[~~s~~]. [~~Property owners will be notified~~] The City shall notify property owners in violation of division (B) in writing that repairs shall be [~~commenced within 30 days and~~] completed within 60 days of the date of the mailing of the notice to the last known address of the persons according to city records. Records of the Property Valuation Administrator may be relied upon conclusively to determine a person's last known address. Receipt of the notice will be presumed conclusively unless and until notification of a change of address of the owner is received by the city.

(D) Any person affected by a notice of a violation under division (C) above may contest the determination of a violation by filing a written notice of appeal with the City Clerk within 30 days of the date of mailing of the notice. The notice of appeal shall include a valid mailing address for the person filing. Within 30 days of receipt of the notice of appeal, the Mayor shall conduct an administrative hearing to determine whether one more sidewalk conditions listed in division (B) exist with respect to the sidewalk abutting the subject property. The City shall be required to prove the existence of a violation by a preponderance of the evidence. Within 15 days following the hearing, the Mayor shall issue written findings of fact and conclusions of law upholding, overruling, or modifying the notice of violation. The written findings of fact and conclusions of law shall be mailed to the person filing the appeal at the address provided in the notice of appeal. If the Mayor finds that a violation did exist, the property owner shall have 60 days from the date of mailing to make repairs. The Mayor's decision shall be final. Anyone aggrieved by that decision may file an appeal with the Campbell County Circuit Court within 30 days from the date of service of the Mayor's decision. Any appeal of the Mayor's decision shall not stay enforcement

of the decision, or collection of the amount owed unless, there is a specific Court Order signed by the Judge, directing a stay of further enforcement and collection.

~~[(D)]~~ (E) Within the time set forth in division (C) or (D) above, any person thereby affected shall commence and complete the sidewalk repairs in an orderly and workmanlike manner in accordance with applicable subdivision regulation for the installation of sidewalks and the cost of the repair shall be ~~[born]~~ borne by the persons responsible under division (A) above.

(E) Failure to Make Repairs.

(1) Upon failure of the persons responsible under division (A) to complete repair of the block of sidewalk or sidewalk area within the time specified herein, the City shall undertake, without further notification to the owner, to make repairs in order to bring the sidewalk into compliance with the provisions of this section at the expense of the owner or other responsible persons.

(2) Upon completion of the work by the City, the City shall notify and bill the responsible persons for costs incurred, plus an administration fee equal to 20% of the costs incurred. The amount billed shall bear interest at a rate of the current prime rate plus 2% per annum. If payment is made in full within 30 days of the date of the bill, interest shall be waived.

(3) If payment is not made in full, any unpaid amount, plus interest, shall be invoiced to the property owner on the city property tax bill for the subject property. Nothing in this section shall prohibit the city from filing a lien with respect to the subject property or pursuing a civil action for amounts owed as additional remedies. Pending judicial appeals shall not operate as a stay to the invoicing, collection, or lien, unless and until there is a specific Order of Stay entered by a Court of Law.

SECTION II

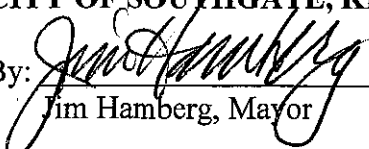
All ordinances or parts of ordinances that are in conflict with this Ordinance are hereby repealed to the extent of the conflict.

SECTION III

This Ordinance shall be signed by the Mayor, attested by the City Clerk, recorded, published and shall be in effect at the earliest time provided by law.

PASSED by the City Council of the City of Southgate, Campbell County, Kentucky, assembled in regular session.

CITY OF SOUTHGATE, KENTUCKY

By: 
Jim Hamberg, Mayor

ATTEST:

Brandi Barton

Brandi Barton, City Clerk

First Reading: 9/16/15

Second Reading: 10/7/15

Published: 10/15/15