

ORDINANCE NO. 2337

AN ORDINANCE RELATING TO INSTALLATION OF SIDEWALKS WITHIN THE CITY OF DERBY, KANSAS AMENDING AND REPEALING SECTIONS 12.24.010, 12.24.020, 12.24.030, 12.24.040, 12.24.050, and 12.24.060 OF THE DERBY MUNICIPAL CODE AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR; AND FURTHER REPEALING SECTION 12.24.070 OF THE DERBY MUNICIPAL CODE AND RESERVING SAID SECTION NUMBER FOR FUTURE USE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS:

Section 1. Section 12.24.010 of the Derby Municipal Code is hereby amended to read as follows:

“12.24.010 - Criteria—Developed areas—New subdivisions.

In order to provide an adequate level of well-being and safety to pedestrian traffic within the city, the governing body deems it in the best interests of the citizens of the city to require the installation of sidewalks in accordance with the following criteria:

A. Installation of Sidewalks in Developed Areas.

1. Upon the recommendation of the City Engineer, sidewalks shall be installed (where sidewalks are not currently installed) on streets which carry the functional classification of collector or arterial. Sidewalks may be installed at other locations when valid petitions are submitted to the governing body and approved pursuant to K.S.A. 12-1803.
2. The location of the sidewalk shall generally be such that the outside edge of the sidewalk is at the right-of-way line unless an alternate location is determined by the City Engineer to be appropriate.
3. All sidewalks shall be constructed in accordance with standard plans and specifications as approved by the City Engineer.
4. It shall be the responsibility of property owners to remove any trees, shrubs, and other vegetation and landscaping located in the street right-of-way and to relocate mail boxes to locations approved by the U.S. Postal Service.

B. Installation of Sidewalks in New Subdivisions.

1. Sidewalks shall be required on both sides of all streets in new urban subdivisions and new subdivisions located within the Derby subdivision area of influence and at such other locations determined necessary by the City Engineer to avoid gaps or other deficiencies in the City's sidewalk system unless the requirement to install a sidewalk in the subdivision is waived by the City during the platting process.
2. The location of the sidewalk shall generally be such that the outside edge of the sidewalk is at the right-of-way line unless an alternate location is determined by the City Engineer to be appropriate.
3. All sidewalks shall be constructed in accordance with standard plans and specifications approved by the City Engineer.
4. Where termination of a required sidewalk at the property line of a development tract is likely to result in a gap in the sidewalk system, the City may reasonably require the sidewalk to be extended to an appropriate connection point with an existing or future sidewalk.”

Section 2. Section 12.24.020 of the Derby Municipal Code is hereby amended to read as follows:

“12.24.020 - Timing by petition or governing body resolution.

- A. At time of final plat approval, the developer shall petition the City Council to install all required sidewalks. Costs of sidewalk installation, including, but not limited to engineering design, construction, inspection and administration shall be assessed according to a formula determined by the City Council to all properties within the benefit district. The assessment period shall be consistent with the City's Public Improvement Finance Policy.
- B. Sidewalks shall be installed on each building lot prior to the time of issuance of the Certificate of Occupancy for any residence or business, unless the City Engineer determines that construction of such sidewalk should be required sooner or deferred to combine construction of the same with other similar construction work in the immediate area, in which case the responsible party shall furnish such guaranties as the City Engineer may require to assure construction of the required sidewalk.
- C. Sidewalks on a vacant lot adjoining or located between two occupied lots shall be constructed no later than three (3) years following the date listed on the final certificate of occupancy issued on any occupied lot adjoining said vacant lot unless the City Engineer determines that construction of such sidewalk should be deferred to combine construction of the same with other similar construction work in the immediate area, in which case the

responsible party shall furnish such guaranties as the City Engineer may require to assure construction of the required sidewalk.

- D. Sidewalks in the remainder of the subdivision shall be installed within the benefit district as determined by the City Council.”

Section 3. Section 12.24.030 of the Derby Municipal Code is hereby amended to read as follows:

“12.24.030 - Payment criteria by petition or governing body resolution.

- A. Should the council determine that sidewalks should be installed in specified areas, and no valid petition has been filed in accordance with state law, measures to install said sidewalk improvements shall be implemented in accordance with K.S.A. 12-6a01 *et seq.*, including the conduct of a public hearing, and an assessment of costs for engineering, design, administration, and construction of said sidewalks on a formula to be determined by the city council. Should the council issue bonds for the installation of said sidewalks, and the costs are assessed against property owners within a specified benefit district, the assessment period shall in no case exceed the period authorized by state law.”

Section 4. Section 12.24.040 of the Derby Municipal Code is hereby amended to read as follows:

“12.24.040 - Reconstruction of damaged or deteriorating sidewalks.

In accordance with K.S.A. 12-1808, it shall be the duty of the owner of the abutting property to keep the sidewalk in repair. Upon notice from the City, the owner shall have five days to initiate the necessary repairs to the sidewalk unless the notice provides additional time. If no repairs are made within the specified time, the city shall make the repairs or shall cause the repairs to be made in accordance with the City’s sidewalk repair program, and assess the costs of the repairs against the abutting property.”

Section 5. Section 12.24.050 of the Derby Municipal Code is hereby amended to read as follows:

“12.24.050 - Public hearing.

Any sidewalk project initiated by resolution of the governing body pursuant to K.S.A. 12-6a01 *et seq.* shall be subject to the provisions of K.S.A. 12-6a04 calling for the governing body to, by resolution, order a public hearing on the advisability of the proposed sidewalk improvement.”

Section 6. Section 12.24.060 of the Derby Municipal Code is hereby amended to read as follows:

“12.24.060 - Appeal.

- (a) Any person or organization aggrieved by any determination or order made under any provision of this chapter may file with the City Clerk a written notice of appeal of such determination or order to the City Council within twenty (20) business days of the decision from which the individual is appealing. The written appeal shall contain the name and address of the individual(s) appealing the order or determination and such appeal shall set forth with sufficient particularity the determination or order appealed from and the reasons why the same should be reviewed or changed. An aggrieved party shall have the right to be heard and to present evidence at the hearing set for such purpose.
- (b) Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council no later than forty-five (45) days from the date of the filing of the Notice of Appeal.
- (c) The City Council's decision shall be final and may be appealed to district court where allowed by state law."

Section 7. Section 12.24.070 of the Derby Municipal Code is hereby repealed. Section number 12.24.070 is hereby reserved for future use.

Section 8. Repeal

The existing provisions of sections 12.24.010, 12.24.020, 12.24.030, 12.24.040, 12.24.050, and 12.24.060 and 12.24.070 of the Derby Municipal Code are hereby repealed.

Section 9. All other provisions of the Municipal Code of the City of Derby, Kansas shall remain in full force and effect except as specifically amended herein. All other ordinances or parts of other ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

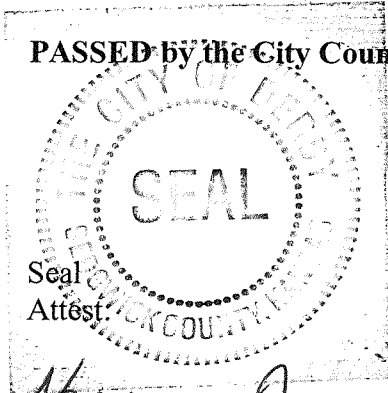
Section 10. Severability

Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

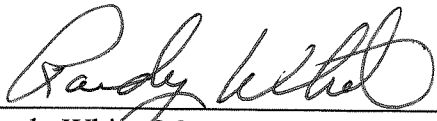
Section 11. Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication of the ordinance or a summary thereof once in the City's official newspaper as provided by State law.

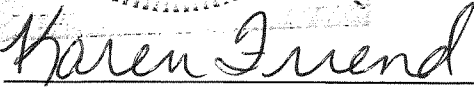
PASSED by the City Council this 28th day of November, 2017 and **SIGNED** by the Mayor.



Seal
Attest:



Randy White, Mayor



Karen Friend, City Clerk

Approved as to form:



Jacqueline R. Butler, City Attorney