

## **Ordinance 1309**

AN ORDINANCE OF THE CITY OF HILLSBORO, KANSAS REPEALLING AND REPLACING ORDINANCE 818 CITY OF HILLSBORO, KANSAS, REGULATING SIDEWALKS WITHIN THE CITY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HILLSBORO, KANSAS

EXISTING ORDINANCE 818 OF THE CITY OF HILLSBORO, KANSAS, IS HEREBY REPEALED IN, FULL IT BEING THE INTENT OF THE GOVERNING BODY THAT THIS ORDINANCE SUPERSEDES IT. ORDINANCE 1309 CODE OF THE CITY OF HILLSBORO, KANSAS, IS HEREBY ENACTED AND SHALL READ AS FOLLOWS:

Section 1. PERMIT REQUIRED. It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the governing body and a permit issued for such work by the city clerk.

Section 2. SIDEWALK GRADE. Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city clerk shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade. (K.S.A. 12-1801, K.S.A. 12-1807)

Section 3. SAME; SPECIFICATIONS. Hereafter all sidewalks shall be of single- course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the city clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk except as provided by this ordinance.

Section 4. SAME; PETITION. When a petition signed by no fewer than 10 citizens owning real estate in the city requesting construction of a sidewalk is filed with the city clerk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803)

Section 5. SAME; CONDEMNATION, RECONSTRUCTION. When any sidewalk, in the opinion of the governing body, become inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such sidewalk and providing for the construction of a new sidewalk in the place of the walk condemned. (K.S.A. 12-1804)

Section 6. NOTICE; PUBLICATION. The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication one time in the official city paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract. (K.S.A. 12-1805)

Section 7. RIGHT OF ABUTTING OWNER. Nothing in this ordinance shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806)

Section 8. REPAIRS BY OWNER OR CITY. It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808)

Section 9. PERFORMANCE, STATUTORY BOND. In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in Section 6 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of Kansas, and for all contracts exceeding \$1,000 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished.

Section 10. OBSTRUCTING SIDEWALKS. It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implements, tools, merchandise, goods, containers, benches, display or show cases, on any sidewalks or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object. Willful violation of this section shall be and constitute a class C misdemeanor.

Section 11. DUTY OF OCCUPANT TO KEEP SIDEWALKS CLEAN. It shall be the duty of the occupancy of any lot or piece of ground in the city against which any sidewalk abuts to keep the

sidewalk clean and free from dirt, snow, ice or weeds, and in case there be no actual occupant of the lot or piece of ground then the owner thereof shall be required to assume this duty. Willful violation of this section shall be and constitute a class C misdemeanor.

Section 12. RIDE OR DRIVE BICYCLE, MOTORCYCLE, OR SPECIAL PURPOSE VEHICLE PROHIBITED. It shall be unlawful for any person to drive or ride upon any motorcycle, special purpose vehicle, or bicycle upon any sidewalk in the city. Willful violation of this section shall be and constitute a class C misdemeanor.

Section 13. EXCEPTIONS.

- (a) The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body.
- (b) Merchants in the area zoned C-1 Central Business District, may utilize for display of merchandise for sale or seating all the sidewalk fronting or adjoining their business, other than a strip beginning at the back of the curb extending ten feet away from the curb towards the merchants property. The City assumes no responsibility for the items on display, irrespective of whether the loss occurs through accident, collision, vandalism, theft or otherwise. To exercise this exception merchants must:
  - a. Procure and maintain liability insurance, naming the City of Hillsboro as an additional insured in the amount of \$500,000.
  - b. Placement of an items for sale or seating shall not obstruct the use of any crosswalk or wheelchair ramp.
  - c. Any damage to the public sidewalk resulting from placement of items for sale or seating shall be corrected by the merchant at their own expense and per specifications of the City.
  - d. Unless expressly authorized by the street supervisor and building inspector, no pavement shall be broken, no sidewalk surface disturbed, and no permanent fixture of any kind installed in or on the sidewalk area.
  - e. Items displayed for sale are not to include liquor, tobacco, firearms, munitions or any article which a minor is prohibited by law from purchasing, or any material restricted by the fire code from direct access or

handling by the public.

- f. All seating or items displayed for sale must be removed any time the chief of police, fire chief, street supervisor, water supervisor, or electric and sewer supervisor determines that a clear sidewalk is needed and request removal for use of travel or transportation, street cleaning or maintenance, street utility work, water utility work, electric utility work, sewer utility work, a crowd control event or parade, or an emergency.

This ordinance shall take effect and be in full force and effect immediately following its adoption and publication as provided by law.

PASSED THIS 7<sup>th</sup> DAY OF July 2020

/s/

LOU THURSTON, MAYOR

ATTEST:

/s/

JANICE K. MEISINGER, CITY CLERK