



# ORDINANCE

## Amending the Unified Development Ordinance

The Hillsborough Board of Commissioners ordains the following amendments:

### 6.17 SIDEWALKS AND PEDESTRIAN ACCESS

#### 6.17.1 PURPOSE AND INTENT

The regulations in this subsection are designed to advance identified goals and strategies found in the Town's adopted Comprehensive Sustainability Plan, and promote the public health, safety, and welfare by improving air quality and the quality of life for town residents and visitors. Providing sidewalks and other multi-modal travel methods adjacent to and within developments furthers the purposes for which these regulations are intended.

#### 6.17.2 APPLICABILITY

The requirements of this subsection apply to developments that are subject to the following review procedures:

- (a) Creation of New Lots/Division of Land involving a Conservation, Major or Special Subdivision,
- (b) Site Plan Review,
- (c) Special Use Permit, including their modification, or
- (d) Zoning Compliance Permit involving a non-residential change of use if required by subparagraph 7.3.3, *Nonconforming Characteristics of Non residentially Zoned Properties*.

#### 6.17.3 EXCEPTIONS TO SIDEWALK CONSTRUCTION REQUIREMENTS

**6.17.3.1** Sidewalk construction, payment in-lieu of sidewalk construction (pursuant to paragraph 6.17.5, *Sidewalk Payment In-lieu of Construction*), or a combination of the two, is required where:

- (a) the permit-issuing authority determines:
  - (1) the sidewalk will interfere with or disrupt drainage if constructed where required,
  - (2) construction is infeasible, impractical, or undesirable due to special circumstances including, but not limited to, topography, streams, or other environmental limitations such as the presence of regulatory floodplains and riparian buffers, or
  - (3) if constructed, the sidewalk will not provide any present or future public

safety benefit;

(b) the sidewalk will be provided as part of a Town or State scheduled and funded roadway project to be built within three years of the proposed development's approval; or

(c) an impending road widening project affecting the development is scheduled to begin within three years of the proposed development's approval.

#### **6.17.4 EXEMPTIONS FROM SIDEWALK CONSTRUCTION AND PAYMENT IN-LIEU REQUIREMENTS**

Sidewalk construction and/or payment in-lieu of construction is not required where:

(a) the development project:

1. does not front on, or lie between, a street segment(s) identified as "recommended" on the Comprehensive Sustainability Plan's Sidewalk System Map, and
2. no sidewalk or other pedestrian accessway exists, or is planned to be constructed, within 500 feet of the boundary of the land to be developed,

(b) only a change of use or occupancy will occur with no substantial site improvements required or proposed,

(c) only site grading and/or utility improvements are involved,

(d) vehicular access to lots or other development will be provided by alleys connecting to streets with existing sidewalks or streets that will be constructed with sidewalks as part of the proposed development,

(e) the sidewalk would be located within unimproved right-of-way not requiring improvement as part of the development, or

(f) the required sidewalk is committed as part of another development project's permit, provided the permit is still valid and unexpired.

#### **6.17.5 SIDEWALK PAYMENT IN-LIEU OF CONSTRUCTION**

**6.17.5.1** Where allowed by paragraph 6.17.3, *Exceptions to Sidewalk Construction Requirements*, the applicant shall make a payment to the Town in lieu of sidewalk construction. A combination of construction and payment in-lieu may be made when an applicant chooses to construct a portion of sidewalk instead of making a full in-lieu payment. Nothing in this paragraph shall prevent an applicant from constructing sidewalks instead of making an in-lieu payment.

**6.17.5.2** Payment shall be made to the Town at a rate set annually in the Town budget. Payment value shall equal the average linear foot of total sidewalk cost, including accessible ramps

and required shade tree installation, as determined by a professional engineer or other professional qualified to provide the estimate. The calculation shall include the time and material cost in place at the time of the request.

**6.17.5.3** Payment shall be made prior to (i) issuance of a Certificate of Occupancy, or (ii) release of any financial security held in association with the development project. Payments shall be deposited in the Town's sidewalk construction capital fund and used for sidewalk installation or repair within a 0.5-mile radius of the property for which the fee was collected.

**6.17.5.4** Acceptance of payment-in-lieu shall not remove the requirement for sidewalks under paragraph 6.17.2, *Applicability*, for future property development unless exempted under paragraph 6.17.4, *Exemptions from Sidewalk Construction and Payment In-lieu Requirements*.

## **6.17.6 DESIGN REQUIREMENTS**

**6.17.6.1** Sidewalks shall be provided for all new developments and shall:

- (a) be provided within street rights-of-way along all adjacent and perimeter public streets on which the development tract has frontage. Additional street right-of-way of a sufficient width to accommodate the required sidewalk shall be dedicated along the street frontage in cases where the existing right-of-way is not wide enough to accommodate a sidewalk;
- (b) be provided on both sides of all internal streets within a development;
- (c) align vertically and horizontally with abutting sidewalks;
- (d) connect via a direct link to primary building entrances;
- (e) within unsubdivided developments (e.g., attached dwelling projects), link buildings with other buildings, adjacent public streets, on-site activity centers such as parking areas, laundry facilities, and recreational areas and facilities,
- (f) accommodate sidewalk shade trees required by paragraph 6.17.11, *Sidewalk Shade Trees*,
- (g) avoid conflicts or obstruction with above-ground structures or trees, and
- (h) maintain required width around any existing or anticipated obstructing object in the sidewalk's path.

**6.17.6.2** During the development review process, reviewing agencies may designate areas where prior approval is required for any alteration to sidewalk locations. No other changes are permitted without the approval of all agencies that approved the original plans.

**6.17.6.3** The Public Works Manager may approve changes in sidewalk location for a maximum linear distance of 200 feet without the need for amended plans. The approved plans will be annotated to reflect any approved changes.

#### **6.17.7 CONSTRUCTION REQUIREMENTS**

Sidewalks shall be constructed:

- (a) behind curb and gutter or a roadside swale,
- (b) to meet standards found in Appendix A, *Street Construction Standards and Specifications*, of the Town Code of Ordinances and the Town's adopted Street Manual. NCDOT standards must be met for sidewalks constructed within state-maintained street rights-of-way,
- (c) to meet all applicable ADA (Americans with Disabilities Act) requirements,
- (d) of concrete with a width of at least five feet and thickness of at least five-inches (six-inches at driveway entrances), unless use of alternative materials is approved by the Public Works Manager,
- (e) with a constructed barrier wherever a sidewalk is located within five-feet of a retaining wall 30-inches or greater in height, or steep grades exceeding a 1:1 ratio, and
- (f) with sidewalk shade trees required by paragraph 6.17.11, *Sidewalk Shade Trees*.

#### **6.17.8 ENCROACHMENT AGREEMENTS REQUIRED FOR STATE-MAINTAINED STREETS**

Sidewalks constructed within State-maintained-street rights-of-way shall be subject to a three-party encroachment agreement between the developer, NCDOT and Town.

#### **6.17.9 ALTERNATIVE SIDEWALK PLANS**

The permit-issuing authority may approve alternative sidewalk plans where it is shown that the alternative provides equal or greater internal and external pedestrian circulation and connectivity through use of off-street trails or multi-use pathways connecting to sidewalks, off-street trails, or multi-use pathways on the perimeter of the development tract.

#### **6.17.10 ADDITIONAL MEANS OF PEDESTRIAN ACCESS**

- (a) Whenever the permit-issuing authority determines a means of pedestrian access is necessary to connect a residential development to schools, parks, open space, playgrounds, other streets or facilities, and access is not conveniently provided by sidewalks adjacent to the streets, the applicant may be required to provide an improved pedestrian accessway located within an easement of at least 10 feet in width to provide pedestrian access.
- (b) The pedestrian accessway must be either paved with concrete, asphalt, pervious pavement, gravel, or other suitable material approved by the permit-issuing authority. Gravel or other loose materials used for paving must be contained by framing to prevent

paving material wash-out.

(c) The accessway shall be owned and maintained by a property or homeowners' association.

#### 6.17.11 SIDEWALK SHADE TREES

**6.17.11.1** Shade trees shall be installed in front yards behind the sidewalk along all development street frontages and internal streets according to the following table. This requirement does not apply where non-residential buildings are built to within 10 feet of the street right-of-way or designed with front courtyards or other site features providing similar shading.

SIDEWALK SHADE TREE PLANTING REQUIREMENTS				
<i>Tree Size<sup>1</sup></i>	<i>Dbh at Planting (inches)<sup>2</sup></i>	<i>Minimum Height at Installation (feet)</i>	<i>Minimum Distance from Sidewalk (feet – sidewalk edge to tree center point)</i>	<i>Spacing (feet on center)<sup>3</sup></i>
Small	1.5	6	5	30
Large	3	10	10	40
<sup>1</sup> Refer to Town's recommended planting list for acceptable species. <sup>2</sup> Dbh (Diameter at breast height) is defined in Section 9, <i>Definitions</i> . <sup>3</sup> Permit-issuing authority may approve varied spacing if there are conflicts between utilities and tree placement provided required number of trees are provided.				

**6.17.11.2** Where shade trees are planted on the development property behind street rights-of-way, a minimum 10-foot wide, private tree easement shall be provided for the planting and maintenance of required trees. Tree easements must be shown on site plans and subdivision plats and subject to a tree easement, planting, and maintenance agreement to be recorded in the register of deeds office.

**6.17.11.3** Where non-residential buildings are built within 10 feet of a street right-of-way, shade trees shall be installed in "tree lawns" between the curb and sidewalk as follows:

TREE LAWN PLANTING REQUIREMENTS					
<i>Lawn Width (feet)</i>	<i>Tree Size<sup>1</sup></i>	<i>Dbh at Planting (inches)<sup>2</sup></i>	<i>Minimum Height at Installation (feet)</i>	<i>Minimum Distance from Sidewalk (feet - sidewalk edge to tree center point)</i>	<i>Spacing (feet on center)<sup>3</sup></i>
4 – 8	Small	1.5	6	2 - 2.5	30
≥8	Large	3	10	3.5	40
<sup>1</sup> Refer to Town's recommended planting list for acceptable species. <sup>2</sup> Dbh (Diameter at breast height) is defined in Section 9, <i>Definitions</i> . <sup>3</sup> Permit-issuing authority may approve varied spacing if there are conflicts between utilities and tree placement provided required number of trees are provided.					

**6.17.11.4** All shade tree planting areas and tree lawns shall be planted with grass, ground cover, or treated with other suitable cover material.

**6.17.11.5** The following table lists recommended distances to be maintained between planted trees

and various infrastructure and improvements:

<b>RECOMMENDED MINIMUM DISTANCE FROM INFRASTRUCTURE AND IMPROVEMENTS</b>	
<i>Use</i>	<i>Minimum Distance (feet)</i>
Back of curb/pavement	2
Catch basins	10
Driveways	10
Fire hydrants	10
Light poles	20
Manholes	10
Other trees	15 or 25 (depending on species)
Overhead and underground power distribution lines	½ average mature canopy width + 15 feet (measured from center of distribution corridor)
Sewer easements	Planting prohibited
Stop signs	30
Structures	10
Traffic signs (except Stop signs)	10
Utility boxes	3 feet sides and rear; 3 feet from doors
Water easements	Planting prohibited
Water meters	5
Water and sewer lines	Dependent on easement width; 10 feet where easement doesn't exist (measured from center of pipe)
All other services	10

The foregoing ordinance having been submitted to a vote, received the following vote and was duly adopted this 9<sup>th</sup> day of October in 2023.

Ayes:

Noes:

Absent or excused:

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Sarah E. Kimrey, Town Clerk