

ZONING TEXT AMENDMENT: SIDEWALK REQUIREMENTS (P22-46-ZTA)  
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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## PROJECT SUMMARY

- Project Name & Case #:
  - Sidewalk Requirements
  - P22-46-ZTA
- Applicant:
  - City of Hendersonville
- Articles Amended:
  - Section 6-12. - Sidewalks.
- Applicable Zoning District(s):
  - The standards for sidewalks applies to all zoning districts. The primary zoning districts impacted by the proposed amendments are:
    - PMH
    - R-40
    - R-20
    - R-15
    - R-10
    - R-6
    - PRD



### *Summary of Amendment Petition:*

*The City of Hendersonville is initiating a Zoning Text Amendment related to requirements for Sidewalks (Sec. 6-12.)*

*The amendment proposes to adjust the standards which determine if sidewalks are required to be constructed. The distance standard, for requiring sidewalk construction when a subject property is within a certain distance of a public amenity, would be reduced. The current distance triggering construction of sidewalks is applied to subject properties within 1.5 miles of specified public amenities. The proposal is to reduce the distance to .5 miles while expanding the list of what qualifies as a “sidewalk-triggering” public amenity. In all circumstances, expedited subdivisions, minor subdivisions, major subdivisions, CZDs and multi-family projects would be required to construct sidewalks under the proposed changes and in accordance with existing subdivision ordinance requirements.*

*The proposed revisions also clarify how measurements are determined and the fee-in-lieu process.*

## LEGISLATIVE COMMITTEE RECOMMENDATION

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The Legislative Committee of the Planning Board met to discuss this petition at their recurring meeting on Tuesday, May 17, 2022. Only one member, Neil Brown, was in attendance. Mr. Brown asked a series of questions in regards to various sections of the proposed text amendment. Mr. Brown was supportive of the changes as proposed.

### STAFF ANALYSIS

After additional legal review and consideration staff are recommending the following revisions:

#### **Sec. 6-12. Sidewalks.**

It is the intent of this section that sidewalks shall be provided in residential zoning districts on one side of every street and in nonresidential districts along both sides of the street.

Where sidewalks are required by this Section 6-12, s~~S~~idewalks shall be constructed from property line to property line within the street right-of-way, or, in the alternative, within areas set aside by dedication, or otherwise, in accordance with the city's sidewalks and driveway entrance standards.

For purposes of this section, distance is measured between closest points of the properties' boundaries, as the crow flies.

**6-12-1 Residential districts.** Sidewalks shall be required for new construction in areas zoned PRDCZD, PMH, R-40, R-40 ~~SUCZD~~, R-20, R-~~SU~~20CZD, R-15, R-15~~SUCZD~~, R-10, R-10~~SUCZD~~, R-6, R-6~~SUCZD~~, when one of the following conditions is present:

- a) When the property adjoins property with an existing sidewalk;
- b) When the property adjoins property for which a development approval, or other governmental approval (e.g. conditional zoning) has been issued requiring the construction of sidewalks;
- c) When an existing segment of sidewalk is within 400 feet of the property on the same side of the street;
- d) When the required sidewalk for a property described in Section 6-12-1(b) is within 400 feet of the property on the same side of the street;
- e) The development contains multi-family uses.
- f) When the property is within one ~~and one~~ half miles ~~linear traverse~~ of a public or private school, public or private hospital, public library, public safety station (e.g. police, fire, rescue), public transit stop or station, government building, courthouse, government administrative office building, public park, public greenway, or any of the foregoing contained within the a local government capital improvement plan (CIP).

In the case of corner lots, sidewalk requirements shall be met along both streets.

**6-12-1.1 Extraterritorial Jurisdiction.** Notwithstanding ~~the foregoing~~ subsections 6-12-1(a)-(e) above, ~~however,~~ within the city's area of extraterritorial jurisdiction sidewalks shall not be required in the following circumstances:

~~a) The platting of a minor subdivision as defined in the subdivision ordinance;~~

a) The construction of a single-family or two-family dwelling on previously platted property.

**6-12-1.2 Other Circumstances Requiring Sidewalks.** The city manager may require that a sidewalk be built across the street from the site of new construction when the following conditions exist:

- a) No sidewalk adjoins the site;
- b) A sidewalk exists on the other side of the street ~~in the vicinity~~ within 400 feet of the site; and
- c) There is no legal impediment to constructing the sidewalk on the other side of the street.

In cases where a sidewalk already exists on the opposite side of the street for the entire length of the city block where the subject property is located, and no sidewalk exists along the properties ~~adjacent~~ adjacent to the subject property, then a sidewalk is not required to be built along the frontage of the subject property.

**6-12-1.3 No sidewalks required.** No sidewalks shall be required in the following locations:

- a) Along freeways and interstate highways maintained by NCDOT. As used herein the terms "freeway" shall mean streets designated as a freeway on the Comprehensive Transportation Plan for French Broad River MPO, as amended.
- b) Along alleys and accessways to individual lots not served by a street; and
- c) Along gravel streets.

**6-12-2 Other districts.** In all other zoning district classifications sidewalks shall be required for new construction from property line to property line. In the case of corner lots, sidewalks shall be provided along both streets.

Furthermore, if the new construction is intended for a commercial, industrial, or institutional use, sidewalks shall be required to connect street sidewalks with any building entrances intended for public use.

**6-12-3 Payment of fee in lieu of construction of sidewalks.** In lieu of requiring construction of the sidewalks, ~~The~~ the city manager may allow the applicant to pay a fee of \$75.00\* per linear foot of sidewalk not constructed, which is hereby determined to be the cost of constructing sidewalks, into the City sidewalk fund ~~in lieu of requiring construction of the sidewalks~~ when one or more of the following conditions exist.

~~a) Construction of sidewalks will result in a hardship-~~

- a) An administrative decision is made determining that ~~C~~ construction of sidewalks will not result in useful pedestrian walkways due to one or more of the following:
  - 1) Topographical features will result in impractical design.
  - 2) The lack of ~~adjacent~~ right-of-way for the construction of future sidewalks on adjacent properties ~~construction.~~
- b) The sidewalk location is not identified as a short-term recommendation, long-term recommendation or is not included as part of the comprehensive recommended pedestrian network in the most recently adopted City of Hendersonville Pedestrian Plan.

\* In the event that the City of Hendersonville includes the fee for this Section 6-12-3 in the City's fee schedule, the fee as stated in the fee schedule shall be deemed to control.

As an alternative to a payment in lieu of the installation and construction of sidewalks or a portion thereof, the city manager may approve the applicant constructing an equivalent linear footage of sidewalk off site. The specific location for the sidewalk construction shall be at the city manager's discretion. The off-site sidewalk construction shall be completed, inspected and approved prior to a certificate of occupancy being issued.

COMPREHENSIVE PLAN CONSISTENCY	
Land Use & Development	Strategy LU-1.2. Enhance areas surrounding infill projects in order to incentivize and leverage the benefits of infill development. [CONSISTENT]
	Strategy LU-3.4. Promote fiscal responsibility for the City with the expansion of infrastructure and services. Action LU-3.4.1. Continue to require adequate public facilities for new development projects. Require developers to offset increased public costs when existing public infrastructure is inadequate [CONSISTENT]
	Strategy LU-3.6. - Update the Zoning Code to ensure conformance with the Comprehensive Plan. The Zoning Code is the City's primary regulatory tool in implementing the Comprehensive Plan. Amendments to the Zoning Code and Map will be necessary to reflect Comprehensive Plan recommendations and ensure orderly growth and development. [CONSISTENT]
Population & Housing	<b>Goal PH-3.</b> Promote safe and walkable neighborhoods. Action PH-3.1.2. Encourage public space design features that calm traffic and provide space for pedestrian gathering and circulation. Examples include sidewalks, bike lanes, village greens, narrow streets, traffic mini-circles, and curb extensions
	Strategy PH-3.2 - Encourage mixed land use patterns that place residents within walking distance of services.
Natural & Environmental Resources	<b>There are no Goals, Strategies, or Actions applicable to this petition.</b>
Cultural & Historic Resources	<b>There are no Goals, Strategies, or Actions applicable to this petition.</b>
Community Facilities	Strategy CF-1.3. Encourage location of community facilities in mixed-use community centers with excellent multimodal access.
	<b>Goal CF-6.</b> Encourage that a park and/or accessible open space are available within a <b>ten-minute</b> * walk of each neighborhood. * A ten-minute walk equates to 0.5 miles
	<b>Goal CF-7.</b> Link parks to neighborhoods in order to increase park utilization and supplement the park system
Water Resources	<b>There are no Goals, Strategies, or Actions applicable to this petition.</b>
Transportation & Circulation	<b>Goal TC-1.</b> Develop a multi-modal transportation system that encourages pedestrian and bicycle usage in order to promote pedestrian safety, reduce vehicle miles travelled and encourage community interaction
	Strategy TC-1.2. Identify and prioritize needed pedestrian connections within the community
	Action TC-1.4.1 Incorporate dead-end street sidewalk connection requirements into the Zoning and Subdivision Codes
	Strategy TC-4.2. Ensure that all bus stops are in locations that can be accessed safely and conveniently by pedestrians. Action TC-4.2.1 Make bus routes a priority for sidewalk improvements Action TC-4.2.2 Provide sidewalk connections from bus stops to neighborhoods and destinations.

The petition is found to be [consistent] with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

*The 2030 Comprehensive Plan calls for the City to continue to require adequate public facilities for new developments, to promote safe & walkable neighborhoods, to provide pedestrian connections to services and public facilities, and to develop a multi-modal transportation network.*

We [find] this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

*DRAFT [Rationale for Approval]*

- *The text amendment reduces the trigger for sidewalk construction for new developments to a ten-minute walk (0.5 miles).*
- *The text amendment ensures that additional public amenities are considered when determining if sidewalks are required as part of a new development.*
- *The text amendment aligns with requirements for sidewalks found in the Subdivision Ordinance .*
- *The text amendment ensures that multi-family developments will require sidewalks or a fee-in-lieu of sidewalks.*

*DRAFT [Rational for Denial]*

- *The text amendment limits sidewalk construction by reducing the trigger for new sidewalks to 0.5 miles from public amenities.*