

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND ARTICLE VI – GENERAL PROVISIONS, SECTION 6-12. ‘SIDEWALKS’ OF THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO ADDRESS STANDARDS FOR REQUIRING SIDEWALK CONSTRUCTION OR FEE-IN-LIEU OF SIDEWALKS

WHEREAS, the City of Hendersonville’s Planning Board reviewed this petition for a zoning text amendment at its regular meeting on June 13, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance, and

WHEREAS, City Council took up this application at its regular meeting on July 7, 2022, and

WHEREAS, City Council has found that this text amendment is consistent with the City’s comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on July 7th, 2022,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Article VI – General Provisions, Section 6-12. ‘Sidewalks’ be amended as follows:

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, sidewalks 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-~~SU20CZD~~, 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 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 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.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7th day of July, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney