

**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 **0-0** to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance, 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 7<sup>th</sup>, 2022, and

**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.

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.

Sidewalks shall not be required in specific circumstance as outlined in the City’s Subdivision Ordinance.

**6-12-1 Residential districts.**

a) Sidewalks shall be required for new construction in areas zoned ~~PRDCZD~~, PMH, R-40, ~~R-40 SU~~, R-20, ~~R-20SU~~, R-15, ~~R-15SU~~, R-10, ~~R-10SU~~, R-6, ~~R-6SU~~, when one of the following conditions is present:

- a1) When the property adjoins property with an existing sidewalk or property associated with an approved development which involves the construction of sidewalks or trails;
- b2) When an existing segment of sidewalk or approved development involving the construction of sidewalks or trails is within 400 feet linear traverse of the property on the same side of the street;
- e3) When the property is within one ~~and one-half~~ miles linear traverse of a public amenity such as a school, hospital, library, police station, city hall, city operations building, bus stop or government building, public park, existing public trail/greenway or proposed public trail/greenway as identified in the City’s adopted long range planning documents (ex. Comprehensive Plan, Trails & Greenways Plan, Bicycle Plan, Pedestrian Plan, etc.).

b) Notwithstanding the foregoing, 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;~~
- b1) The construction of a single-family or two-family dwelling on previously platted property.

c) The city manager may require that a sidewalk be built across the street from the site of new construction when the following conditions exist:

- a1) No sidewalk adjoins the site;
- b2) A sidewalk exists on the other side of the street ~~in the vicinity~~ within a 400- foot linear traverse of the site; and
- e3) There is no legal impediment to constructing the sidewalk on the other side of the street.

d) 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.

e) For purposes of this section a linear traverse is measured by the most direct walking route from the subject property's parcel boundary which is located closest to the public amenity and the closest access point or entrance to the public amenity.

#### **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 multi-family residential, commercial, industrial, or institutional use, sidewalks shall be required to connect street sidewalks with any 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 the cost of constructing sidewalks, as determined by the City's engineering department, into the eCity sidewalk fund or City general fund, in cases where no sidewalk fund is established, 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~~
- b) An administrative decision is made determining that ~~C~~econstruction 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 sidewalk connections ~~construction.~~
- eb) The sidewalk location is not identified as a short-term recommendation, long-term recommendation or included as part of the comprehensive recommended pedestrian network in the most recently adopted City of Hendersonville Pedestrian Plan.

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 7<sup>th</sup> day of July, 2022.

Attest:

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Barbara G. Volk, Mayor, City of Hendersonville

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Angela L. Reece, City Clerk

Approved as to form:

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Angela S. Beeker, City Attorney