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### **7-3-10: New Construction of Sidewalks; Improvements:**

- A. Purpose: The purpose of this section is to provide sidewalks in support of a multimodal transportation system that is functional for all users and consistent with the adopted comprehensive plan. The requirements establish responsibilities and standards for the construction, reconstruction and repair of sidewalks in the public rights-of-way. The health, welfare, and safety of the public require that adequate sidewalks meeting the requirements of this chapter be provided for the public convenience.
- B. Multimodal Transportation Plan: The city council shall adopt a multimodal transportation master plan (MTMP) to establish a network and locations for sidewalks and provide a strategy for implementing connectivity for all users. The MTMP shall be reviewed by city council no less than every ten (10) years and include a detailed and prioritized list of capital improvement projects, funding opportunities, and performance standards.
- C. New Construction Required:
  - 1. New sidewalk construction is required and the responsibility of the city when:
    - a. Included in an adopted capital improvement plan; or
    - b. As otherwise approved by city council.
  - 2. New sidewalk construction is required along the entire lot frontage abutting a public street and is the responsibility of the property owner when any one (1) or more of the following is applicable:
    - a. A permit for construction for any new building, regardless of zone, if:
      - (1) No sidewalks exist; and
      - (2) Total square foot construction cost over three (3) constructive years, as published by the International Code Council, latest edition, exceeds twenty-five percent (25%) of the value of any existing building(s), as determined by the final assessment notice of the calendar year, as published by Bonner County.
    - b. A permit for construction for any building addition, alteration, or repair, regardless of zone, if:
      - (1) No sidewalks exist;
      - (2) One or more lots abutting the lot has existing sidewalk; and
      - (3) Permit construction value over three (3) consecutive years, exceeds twenty-five percent (25%) of the value of any existing building(s), as determined by the final assessment notice of the calendar year, as published by Bonner County.
    - c. As otherwise required by city code.
- D. Replacement or Repair Required:
  - 1. Existing sidewalk replacement or repair is the responsibility of the city, when:
    - a. Included in an adopted capital improvement plan; or
    - b. As otherwise approved by city council.
  - 2. Existing sidewalk replacement or repair is the responsibility of the property owner, regardless of the zone, when:
    - a. A permit for construction for any new building, addition, alteration, or repair, regardless of zone, if:
      - (1) One or more lots abutting the lot has existing sidewalk; and

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- (2) Permit construction value over three (3) consecutive years, exceeds twenty-five percent (25%) of the value of any existing building(s), as determined by the final assessment notice of the calendar year, as published by Bonner County.
    - b. As ordered by city council resolution when any portion of any sidewalk does not meet the requirements of this chapter, the Americans with Disabilities Act (ADA) or is a hazard to the health, welfare, or safety of the public.
  - E. Administration:
    - 1. Except as provided otherwise in this chapter:
      - a. The city engineer may not approve a site plan unless sidewalks are shown on the site plan, if required by this chapter or the multimodal transportation master plan;
      - b. The city engineer, or his/her designee, shall determine whether the sidewalk meets the established design and construction standards;
      - c. Sidewalks shall be designed and constructed in accordance with the design and construction standards;
      - d. No permit shall be issued for construction, renovation, or remodeling of any building on such property unless the application for the permit provides for construction of sidewalks in accordance with this chapter;
      - e. All sidewalks are constructed, rebuilt, repaired, or replaced shall be constructed in accordance with the plans approved by the city;
      - f. When any sidewalk is constructed, rebuilt, replaced, or repaired, the person performing such work shall apply to the city to inspect it for acceptance in accordance with this chapter;
      - g. The building official may not issue a final certificate of completion or occupancy until a sidewalk required under this chapter is installed and accepted by the city;
      - h. A preliminary subdivision plan and a final plat shall indicate the location of sidewalks;
      - i. If the required sidewalk is not in the public right-of-way, the applicant for a permit or subdivision shall agree in writing that before a certificate of occupancy the applicant will grant to the city for use by the public a right-of-way dedication or easement for sidewalk purposes, in accordance with the design and construction standards.
  - F. Permit for Sidewalk Construction Required:
    - 1. Sidewalks may not be constructed, changed, altered, graded or sloped except upon written permission from the city.
    - 2. Such permit shall describe with particularity the portion of the sidewalk to be constructed or replaced and specify the conditions, changes and alterations permitted.
    - 3. Where an existing sidewalk is being replaced or repaired, temporary pedestrian detours shall be provided in accordance with the MUTCD and the portion of sidewalk being replaced or repaired shall be completed within thirty (30) days of permit issuance.
    - 4. The applicant shall pay a permit fee adopted by resolution.
  - G. Modifications:
    - 1. The city may issue a written modification to the requirements of this chapter when one (1) or more of the following conditions are met:

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- a. The city engineer determines that the requirements of this chapter are impractical because one (1) or more of the following criteria are met:
    - (1) The modification is necessary to eliminate or reduce impacts on existing drainage patterns;
    - (2) The installation of required improvements would likely cause unacceptable environmental impacts;
    - (3) Sufficient right-of-way cannot be provided;
    - (4) The topography would require the construction of a retaining wall more than two feet (2') high to accommodate the sidewalk; or
    - (5) The city has conflicting or inconsistent standards.
  - b. The permit for construction is required due to a casualty loss.
  - c. The property owner elects to pay a fee in lieu of construction as an alternative to meeting the construction requirements of this chapter.

H. Sidewalk Fee In Lieu of Construction:

- 1. A sidewalk fee in lieu of construction is required and shall be paid in full prior to issuance of a construction permit by the property owner abutting a public street when a modification has been authorized in accordance with this chapter, except in the event of a casualty loss, or as established in subsection H-2 below.
- 2. Development associated with subdivisions under Title 10, Chapter 1 is precluded from electing to pay a fee in lieu as an alternative to meeting the requirements of this chapter. Development associated with short plats under Title 10, Chapter 2, is eligible to pay a fee in lieu as an alternative to meeting the requirements of this chapter, at the discretion of the public works director.
- 3. The sidewalk fee in lieu amount shall be adopted annually by resolution.
- 4. A sidewalk fee in lieu collected under this section shall be placed in a dedicated fund and used solely for the purpose of constructing public sidewalks, pathways, ramps, or other pedestrian infrastructure within the same quarter section, as determined by the public land survey system.
- 5. A sidewalk fee in lieu collected under this section shall be spent within ten (10) years from the date fee is paid to the city. The owner of a property for which a fee in lieu was paid under this section may request a refund of any funds that remain unspent after the end of the ten (10)-year period. A refund request under this section must be submitted in writing, on a form provided by the city. The city may refund the fee to the applicant if it is not spent within ten (10) years of the date of its collection.
- 6. Payment of the sidewalk in-lieu fee shall be at the discretion of the public works director or city engineer.

(Ord. 1216, 7-15-2009; amd. Ord. 1370, 12-18-2019; Ord. No. 1415, § 1, 5-1-2024)