

ORDINANCE NO. _____, SERIES 2019

AN ORDINANCE REPEALING AND REPLACING SECTION 6.2.6 OF THE LOUISVILLE METRO LAND DEVELOPMENT CODE RELATING TO SIDEWALK FEE IN LIEU AND SIDEWALK WAIVERS (CASE NO. 19AMEND1002) (AMENDMENT BY SUBSTITUTION)(AS AMENDED).

SPONSORED BY: COUNCILWOMAN MADONNA FLOOD

WHEREAS, the Louisville Metro Planning Commission held a public hearing on these Land Development Code (“LDC”) amendments to the sidewalk fee in lieu provisions on February 7, 2019 and found that these amendments complied with the applicable policies of Plan 2040; and

WHEREAS, the proposed LDC amendments were presented by Planning Commission Staff at the Council’s Planning and Zoning Committee Meetings on March 12, 2019 and April 30, 2019 and additional amendments were adopted to be implemented; and

WHEREAS, the Council concurred with some of the recommendations of the Planning Commission but disagreed with others, therefore additional amendments are incorporated herein; and in and adopted the recommendations of the Planning Commission as set out in the Planning Commission’s minutes and record in Case No. 19AMEND1002 with additional amendments.

WHEREAS, the Council adopts the amendments as set forth herein.

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: LDC Section 6.2.6 is hereby repealed and replaced with the following:

6.2.6 Requirements for Specific Types of Streets and Alleys

- A. Minimum Requirements – New streets shall provide right-of-way and improvements specified in Tables 6.2.1 and 6.2.2, according to the functional class of the street and the form district in which it is located.
- B. Development activity that meets the thresholds in the form district for Street and Roadside Design and new streets shall provide sidewalks in accordance with Tables 6.2.1 and 6.2.2, subject to the following exceptions:
1. Sidewalks shall not be required on lots that are five acres or greater in area and developed for single family residential uses unless they connect with an existing sidewalk on one side of the property.
 2. Lots within approved major subdivisions in which the sidewalk(s) were waived as part of the subdivision approval for the applicable street frontage shall not be required to provide sidewalks.
- C. Methods of compliance:
1. Construct sidewalks in accordance with the applicable sections of the Land Development Code; ~~or the Developer may select one of the following two alternatives:~~
 2. Sidewalk reduction – The Director of Works and the Director of Planning or designees may allow a reduced sidewalk to be constructed where less than 50% of the street frontage is being developed. The reduction of the sidewalk requirement shall be based on the proportional cost of all infrastructure improvement for the proposed development. This reduction shall not exempt future development on the parcel from the construction of the remainder of the sidewalk;
or
 - ~~3~~a. Off-site construction – The Director of Works and the Director of Planning or designees may approve the construction of a sidewalk at an alternative location in the Metro Council district, with consultation of the Metro Council district representative, for a comparable sidewalk length that was required at the development site; or
 - ~~4~~b. Fee in Lieu of Construction – If one of the above methods of compliance cannot be met for the development site, the Director of Works and the Director of Planning or designees may allow the payment in lieu of sidewalk construction.
 - ai. The fee amount shall be calculated using the Metro Public Works active primary contract for new standard concrete sidewalk construction within that Council district multiplied by the area of sidewalk, plus a 30% contingency. The area of sidewalk shall be calculated as follows:

- ~~(a)~~i. Multi-family, non-residential, and major subdivision developments shall be calculated based on the area of sidewalks required to be constructed per the LDC.
- ~~(b)~~i. Single family residential property that is not part of a major subdivision plan shall be calculated based on the minimum lot frontage of the applicable zoning district or actual lot width, whichever is less.
- bii. All fees paid shall be used for sidewalk construction within the same Metro Council District. The sidewalk fee in lieu does not account for site constraints that may increase the cost of construction.
- ciii. Payment of a fee in lieu of sidewalk construction is an option available to developers that must be approved by the Director of Works and the Director of Planning or designees.
- div. A new fee in lieu or sidewalk shall not be required in the future for a street frontage in which a fee in lieu has already been approved and paid.

D. Sidewalk Waiver.

1. Applicability.

Any development site required to provide a sidewalk in accordance with applicable form district threshold tables of Chapter 5 of this code may submit an application for a sidewalk waiver in accordance with the submittal requirements of paragraph 2 below.

2. Review Process.

- a. Notice shall be given in accordance with the provisions of LDC waivers as listed in Chapter 11 of this code.
- b. The Planning Commission or designee or BOZA (only in conjunction with a review of a variance or conditional use permit request) shall review the waiver request in order to hear comments from concerned citizens and to review comments from Planning and Design Services staff and other agencies.
- c. The Planning Commission or designee or BOZA (only in conjunction with a review of a variance or conditional use permit request) may approve waivers or modifications of standards upon a finding that:
 - i. The waiver will not adversely affect adjacent property owners; and
 - ii. Granting of the waiver will result in a development in compliance with the Comprehensive Plan and the overall intent of this Land Development Code; and
 - iii. The applicant cannot reasonably comply with one of the listed methods of compliance (section 6.2.6.C.); and

iv. Strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

v. There are site constraints that make sidewalk construction impracticable or sidewalks do not exist in the area and there is not a likelihood for sidewalks to be constructed in the future, except for areas where sidewalks are recommended within a Planning Commission or legislatively adopted plan recommending sidewalk construction.

DE. Exceptions – The Director of Works may approve exceptions from the standards of Tables 6.2.1 and 6.2.2 where new development extends an established pattern of roadway design that has been shown to adequately serve the area’s transportation needs. The Planning Commission, with comments from the Director of Works, may approve deviations from the standards (reductions and exceedances) of Table 6.2.1 and Table 6.2.2.

SECTION II: Tables 6.2.1 and 6.2.2 remain as they currently are in the LDC.

SECTION III: This Ordinance shall take effect upon its passage and approval.

H. Stephen Ott
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O’Connell
Jefferson County Attorney

By: _____