

ARTICLE IX - SIDEWALK REGULATIONS

9.1 - PURPOSE

The purpose of this Article is to provide a comprehensive system of sidewalk regulation that will implement the policies of the city of Johnson City as identified in the Johnson City General Plan. Specifically, these policies seek to promote improved pedestrian safety and interaction, expanded opportunity for recreational walking and running activities, more cohesive neighborhoods, and easier access to shopping and other commercially related pursuits.

9.2 - REQUIREMENTS

9.2.1 LOCATION:

Sidewalks shall be required as specified by the following, except as provided by Subsection 9.2.2, Exceptions:

9.2.1.1 Sidewalks shall be constructed along the public street frontage, excluding limited access highway frontage, of all commercial, office, and multi-family residential developments.

9.2.1.2 Sidewalks shall be constructed along the collector and arterial public street frontages of all industrial developments.

9.2.1.3 Sidewalks shall be constructed whenever a new principal building is built or an existing principal building is renovated or expanded sufficiently to increase its value by twenty-five (25) percent before a Certificate of Occupancy may be issued.

9.2.2 EXCEPTIONS:

Under the following circumstances, exceptions to required construction of sidewalks under Subsection 9.2.1 are permitted.

9.2.2.1 Optional Fee in Lieu of Construction:

A. For required sidewalks under Subsection 9.2.1, the developer may choose to pay a fee in lieu of construction, except when one or more of the following circumstances exists:

1. The location is specified for sidewalks in the city's adopted Sidewalk Plan;
2. The location is within one thousand (1,000) feet of an existing sidewalk on the same side of the street;

- 3 The development is expected to generate significant numbers of pedestrians. Examples of such facilities include, but are not limited to schools, day-care centers, office buildings, churches, multi-family residential, and other residential facilities (i.e. group homes, nursing homes, and residential homes for the aged);
- 4 The development contains retail uses expected to attract customers from residences, retail areas, places of employment, or places of public assembly within fifteen hundred (1,500) feet of the development;
- 5 The development is within fifteen hundred (1,500) feet (street distance) of a regular Johnson City Transit stop; or
- 6 The development is within one-half mile (street distance) of an existing or proposed school.

- B. The developer shall be required to grade the location of the proposed future sidewalk, unless waived by the Public Works Director.
- C. The fee shall be calculated as a fixed amount per linear foot. This amount shall be established by the City Commission by resolution upon the recommendation of the Public Works Director and reviewed periodically.
- D. The fee shall be paid before a Certificate of Occupancy is issued.
- E. All funds collected in lieu of construction shall be in addition to all other sidewalk funding and shall be placed in a separate account to be used only for new sidewalk construction.

9.2.2.2 Street Construction Plan:

- A. When the adjoining public street does not have curbing and is scheduled for improvement within five years, as outlined in the Public Works Street Construction Plan, the developer shall pay a fee in lieu of construction.
- B. The fee shall be calculated as a fixed amount per linear foot. This amount shall be established by the City Commission by resolution upon the recommendation of the Public Works Director and reviewed periodically.
- C. The fee shall be paid before a Certificate of Occupancy is issued.

- D. The fee shall be held by the city's Finance Department in an interest-bearing escrow account to be used for sidewalk construction to be done at the time of street reconstruction. To cover the cost of inflation, all accrued interest shall be applied to the cost of sidewalk construction.

9.3 - SIDEWALK CONSTRUCTION AND DESIGN

9.3.1 CONSTRUCTION DETAILS:

9.3.1.1 Construction of sidewalks shall be in accordance with General Requirements & Standards of Design of the Subdivision Regulations.

9.3.1.2 The office of the City Engineer shall be responsible for inspection of sidewalks during construction. Completion of sidewalk construction shall be required, to the satisfaction of the City Engineer, before a Certificate of Occupancy may be issued.

9.3.1.3 Insufficient Right-of-Way:

A. When the sidewalk is to be built at the time of development and there is insufficient right-of-way for the sidewalk, the dedication of an additional width for a transportation and drainage easement shall be required. An easement agreement shall be entered into by the city and the property owner. The agreement, provided by the city's Staff Attorney, shall stipulate guaranteed public access in perpetuity and shall be recorded with the appropriate county Register of Deeds.

B. When the sidewalk is to be built after the time of development and the right-of-way width is less than the standard for that street's designation (minor, collector, or arterial), dedication of additional right-of-way to the width standard for that street, as measured from the center line, shall be required. Such right-of-way dedication shall be platted at the time of development and shall be approved by the Johnson City Regional Planning Commission. Said plat shall remain on file with the Planning Department and a copy shall be filed with the appropriate county Register of Deeds.

9.3.2 DESIGN DEVIATION:

9.3.2.1 In certain circumstances it may be desirable or necessary to adjust the standards for sidewalk construction to conform to the unique characteristics of a site. Economic benefit alone is not sufficient grounds

for deviation; unusual or exceptional topographic, physical, or natural conditions must be present to justify a design deviation.

- 9.3.2.2 Any deviation from established sidewalk design standards must be reviewed and approved by the City Engineer. If the City Engineer denies the deviation, the applicant may appeal to the Planning Commission for approval of the design deviation. The Planning Commission shall hear the appeal for design deviation and make its recommendation to the City Commission, which shall have final authority to grant or deny any design deviation.

9.4 VARIANCE PROCEDURE

- 9.4.1 A variance to the sidewalk regulations shall be granted only upon approval by the Board of Zoning Appeals provided that the decision of the Board of Zoning Appeals may be appealed to the proper court of jurisdiction either by the applicant or the city.
- 9.4.2 Prior to applying for a variance, the applicant shall make a bona fide attempt to identify and design an alternative method to provide for pedestrian access and movement, according to the provisions of Section 9.3.2 of the Johnson City Zoning Code.
- 9.4.3 The general procedures and powers authorized and stated in the Zoning Code, Article XV, Board of Zoning Appeals, shall apply to the Board of Zoning Appeals when considering sidewalk variances. Decisions of the Board must be based solely on the findings contained in the record.
- 9.4.4 In considering a sidewalk variance request, the Board of Zoning Appeals shall apply the following criteria, all of which must be satisfied before a variance may be granted. The burden of proof shall be on the applicant to demonstrate that the criteria are satisfied before a variance may be granted.
 - 9.4.4.1 A variance may be granted only where exceptional physical conditions (such as rock, extreme slope, or other natural or manmade obstacle) exist. Said condition must cause the installation of a standard sidewalk to be extremely difficult or prohibitively expensive. In considering this question, the Board of Zoning Appeals shall balance the present or future need for the sidewalk with the additional cost of installation.

- 9.4.4.2 Any variance granted under the provisions of this section shall be the minimum adjustment necessary, and every attempt shall be made to ensure that the needs of pedestrians are accommodated to the maximum extent possible.
- 9.4.4.3. The granting of a variance shall be in harmony with the general purpose and intent of the Zoning Code and the Sidewalk Element of the General Plan. No variance may be granted which is injurious to the neighborhood or detrimental to the public safety and welfare.