



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
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Legislation Text

File #: 2024-1813

Amend UDC Chapter 171 – Streets and Sidewalks: Submitted by CITY OF FAYETTEVILLE STAFF. The request is to amend §171.13 – Property Owner To Construct Sidewalk or Contribute Cost of Sidewalk. The proposed code change would coordinate with the proposed new §166.28 – Permit-Ready Building Design Program development standards and adjust the calculation for payment of sidewalk fee-in-lieu.

AN ORDINANCE TO AMEND §171.13 PROPERTY OWNER TO CONSTRUCT SIDEWALK OR CONTRIBUTE COST OF SIDEWALK OF THE UNIFIED DEVELOPMENT CODE TO PROVIDE FOR CHANGES ASSOCIATED WITH THE PERMIT-READY BUILDING DESIGN PROGRAM, AND TO ADJUST THE CALCULATION FOR PAYMENT OF FEES IN LIEU OF SIDEWALK CONSTRUCTION

WHEREAS, at the meeting of the Fayetteville City Council on March 5, 2024, staff presented a proposed new §166.28 – **Permit-Ready Building Design Program**; and

WHEREAS, staff has identified an opportunity to more closely coordinate the proposed new Permit-Ready Building Design Program with §171.13 – **Property Owner To Construct Sidewalk or Contribute Cost of Sidewalk**; and

WHEREAS, the proposed amendment to § 171.13 will change the amount of the fee in lieu for all projects city-wide from \$5.00 per square foot to an amount established by the City Engineer based on actual construction costs, and will also provide permit-ready building projects the option of constructing sidewalk or paying a fee in lieu of construction without requiring a variance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 171.13 **Property Owner To Construct Sidewalk Or Contribute Cost Of Sidewalk** and enacts a new § 171.13 **Property Owner To Construct Sidewalk Or Contribute Cost Of Sidewalk** as shown in Exhibit A attached hereto.



MEETING OF MARCH 19, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Britin Bostick, Long Range Planning/Special Projects Manager

SUBJECT: **Amend UDC Chapter 171 – Streets and Sidewalks: Submitted by CITY OF FAYETTEVILLE STAFF. The request is to amend §171.13 – Property Owner To Construct Sidewalk or Contribute Cost of Sidewalk. The proposed code change would coordinate with the proposed new §166.28 – Permit-Ready Building Design Program development standards and adjust the calculation for payment of sidewalk fee-in-lieu.**

RECOMMENDATION:

City staff recommends approval of an amendment to the Unified Development Code amending §171.13, Property Owner To Construct Sidewalk or Contribute Cost of Sidewalk, to coordinate with the proposed new §166.28 – Permit-Ready Building Design Program development standards and adjust the calculation for payment of sidewalk fee-in-lieu.

BACKGROUND:

At the meeting of the Fayetteville City Council on March 5, 2024 staff presented a proposed new §166.28 – Permit-Ready Building Design Program development standards to facilitate implementation of the Permit-Ready Building Design Program. Among the standards proposed was the option to contribute to cost of sidewalk by paying a fee in lieu of construction without requiring a waiver from the City Engineer. Staff noted to the Council that since the item and the Planning Commission’s recommendation was presented at the prior week’s agenda session, staff had identified an opportunity to more closely coordinate the proposed new §166.28 with the current §171.13 – Property Owner To Construct Sidewalk or Contribute Cost of Sidewalk. Staff provided the proposed edits to both sections to the Council, but only §166.28 could be considered due to State statutory constraints on ordinances only containing one subject and that being clearly expressed in its title. The Council left the proposed ordinance on first reading to allow staff to submit a second item for the proposed amendment to §171.13.

DISCUSSION:

The purpose of this amendment is to amend §171.13 – Property Owner To Construct Sidewalk or Contribute Cost of Sidewalk to coordinate with the proposed §166.28 – Permit-Ready Building Design Program development standards and to change the calculation of the fee-in-lieu to be paid for sidewalk construction from \$5 per square foot to an amount established by the City Engineer and based on current construction costs, as determined by a yearly bid for construction, Arkansas Department of Transportation published weighted averages, or similar data. Other proposed edits include changing the fee-in-lieu option from a waiver to an administrative variance and extending the time in which funds must be spent from one to seven years, which is consistent with both state statute and §158, Bonds and Guarantees, of the Unified Development

Mailing address:

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Code.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A - 171.13 (#4), 171.13 Strikethrough Version (#5)

171.13 Property Owner To Construct Sidewalk Or Contribute Cost Of Sidewalk

- (A) *Requirement.* The owner of any property abutting a public street or highway for which a sidewalk is required by the city's Master Street Plan shall construct a sidewalk in accordance with this chapter, along said street or highway upon the receipt of notice issued at the time a building permit is issued.
- (1) The property owner shall construct the sidewalk in accordance with the specifications provided in the Minimum Street Standards.
 - (2) The property owner may request a waiver-variance to §171.13(A)(1) requiring sidewalk construction. The City Engineer shall review the following factors to determine whether or not to grant a waiver-the variance to allow payment of a fee in lieu of sidewalk construction:
 - (a) Pedestrian traffic generators such as parks and schools in the area.
 - (b) The existence of a sidewalk network in the area.
 - (c) The density of current and future development in the area.
 - (d) The amount of pedestrian traffic likely to be generated by the proposed development.
 - (e) Whether the terrain is such that a sidewalk is physically practical and feasible, and the extent to which trees, ground cover and natural areas would be adversely impacted by the construction of the sidewalk.
 - (f) The overall need for a sidewalk to be constructed on the lot.
 - (3) A project being constructed pursuant to § 166.28 Permit-Ready Building Design Program shall have the option to pay a fee in lieu of constructing the sidewalk without receiving a variance.
 - (34) If the City Engineer grants the waiver-variance to construct a sidewalk, the owner shall have an option to construct the sidewalk, or to contribute money in lieu of construction as set forth below:
 - (a) The amount of money in lieu of construction to be dedicated shall be determined based upon the rough proportionality of the impact of the development upon the sidewalk infrastructure needs near the development including consideration of the persons served by the development and approximate pedestrian trip generation rates of the development.
 - (b) Unless the developer presents evidence that the number of persons served by the development and the pedestrian trip generation rates of the development justify a reduced contribution in lieu of the construction of sidewalks, all developments shall make a cash contribution in lieu of the construction of the sidewalk in an amount established by the City Engineer and based on current construction costs, as determined by a yearly bid for construction, Arkansas Department of Transportation published weighted averages, or similar data, at a rate of \$5.00 per square foot of the sidewalk that normally would have been required. The amount per square foot shall be reviewed by the City Council at least every five (5) years.
 - (c) Contribution in lieu of construction of sidewalks shall be paid or construction of the sidewalks shall be completed before receiving final plat approval, or issuance of a certificate of occupancy.
 - (d) Contributions must be expended within one (1) year seven (7) years to build a sidewalk close enough to serve the project being constructed.
 - (e) If the owner voluntarily consents in writing, the contributions may be used to construct sidewalk projects where most needed as determined by the City Engineer.
 - (45) An owner/builder may appeal the City Engineer's refusal to grant a waiver-variance or the administrator's determination of the amount of contribution in lieu of construction to the Planning Commission pursuant to §155.06(D).
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(B) *Application of Provisions.* The provisions of this section shall only apply to the following property:

- (1) *New Structure.* On which a new structure is being built.
- (2) *Existing Residential Structure.* On which an existing residential structure is being modified so as to increase the number of dwelling units located therein or to change the use of the nonresidential use.
- (3) *Parking Lot/Garage.* On which a parking lot, or parking garage having a minimum capacity of five (5) automobiles is constructed.
- (4) *Building Additions.* Additions of 2,500 square feet or larger.
- (5) *Conditional Use.* Any development which requires conditional use approval.

(Code 1965, §18-31; Ord. No. 2653, 8-5-80; Ord. No. 2780, 11-17-81; Ord. No. 2917, 5-3-83; Ord. No. 3113, 9-3-85; Code 1991, §98.66; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4311, 5-1-01; Ord. No. 4387, 4-16-02; Ord. No. 5789, Repealed & Replaced Chp. 171, 8-4-15; Ord. No. 6350, §7(Exh. F), 8-18-20)