



CITY COUNCIL

AGENDA BILL # AB23-0069

City of Algona
200 Washington Blvd.
Algona, WA 98001

ITEM INFORMATION

SUBJECT: Sidewalk In-Lieu Fees	Agenda Date: April 10th, 2023		
	Department/Committee/Individual	Created	Reviewed
	Mayor		
	City Administrator		X
	City Attorney	X	X
	City Clerk		
	Finance Dept		
	PW/Utilities		X
	Planning Dept		
		Community Services	
Cost Impact:	Police Dept		
Fund Source:	Finance Committee		
Timeline: 1st review – 3/13/23	Planning Commission		
2 nd review – 3/27/23	Civil Service Committee		
3 rd review – 4/10/23			

Staff Contact: Russ Avery, Public Works Director

Attachments: Draft Ordinance

SUMMARY STATEMENT:

This ordinance allows developers to pay the City for the cost of sidewalk installation instead of installing the sidewalks themselves. This would provide the City the opportunity to decide where the sidewalks are needed and complete one street at a time systematically.

This is a new draft ordinance that Zach and Russ are working through.

COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION:

RECORD OF COUNCIL ACTION

Meeting Date:

Action:

Vote:

CITY OF ALGONA, WASHINGTON

ORDINANCE NO. 1219-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALGONA, WASHINGTON, AMENDING CHAPTER 12.05 AMC SIDEWALK, CURB AND GUTTER REQUIREMENTS; ALLOWING FOR PAYMENTS IN LIEU OF CONSTRUCTING CERTAIN FRONTAGE IMPROVEMENTS AS A CONDITION OF DEVELOPMENT APPROVAL; ESTABLISHING STANDARDS AND PROCEDURES THEREFOR; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has established regulations governing the construction of frontage improvements, including curbs, gutters and sidewalks, in connection with certain development activity within the City, and has codified such regulations at Chapter 12.05 AMC; and

WHEREAS, the City Council desires to update and amend Chapter 12.05 AMC to allow developers to remit a fee to the City in lieu of physically constructing required frontage improvements, and to make other clarifications regarding the applicable procedures and standards for requiring the construction of frontage improvements; and

WHEREAS, the amendments set forth in this ordinance will serve the public interest by facilitating the installation of new sidewalks, curbs and gutters within the City in an orderly, planned, and integrated manner, rather than on a fragmented, piecemeal basis;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALGONA DO ORDAIN AS FOLLOWS:

Section 1. Amendment of Chapter 12.05 AMC. Chapter 12.05 of the Algona Municipal Code is hereby amended to provide in its entirety as contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be

declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

**PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF THIS
_____ DAY OF _____ 2023.**

Troy Linnell, Mayor

ATTEST:

Jessica Griess, City Clerk

APPROVED AS TO FORM:

J. Zachary Lell
City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.: 1219-23
Date of Publication:

Exhibit A

Chapter 12.05 SIDEWALK, CURB AND GUTTER REQUIREMENTS

Sections:

12.05.010 Purpose.

12.05.020 Application of requirements.

12.05.030 Required improvements and dedication.

12.05.040 Fee in-lieu of sidewalks, curb and gutter construction; voluntary agreements.

12.05.010 Purpose.

The construction or funding of sidewalk, curb and gutter improvements is required in association with certain development construction within the city for enhanced pedestrian access and safety consistent with the city's comprehensive plan.

12.05.020 Application of requirements.

A. All development approvals and permits for development that creates or increases a demand for pedestrian access, including, but not limited to, zone reclassifications, divisions of land, conditional uses, variances, administrative permits, site development plans and permits for new structures or site improvements and permits for reconstruction or alteration of structures, except minor reconstruction or alteration, shall comply with this chapter. No such permit or approval shall be issued until plans demonstrating compliance with this chapter have been submitted and approved. No certificate of occupancy or final approval for such development shall be issued until: (i) the public works director has determined that the development is exempt; (ii) all required improvements are physically constructed complete; (iii) a fee in-lieu payment has been remitted to the city in accordance with AMC 12.05.040; or (iv) the city has received a performance bond in an amount sufficient, in the determination of the public works/planning director, to fund completion of all required improvements. "Minor reconstruction or alteration" as defined in this chapter, or other site improvements determined to be minor in character and not in conflict with the purpose of this chapter by the public works/planning director shall be exempt from the requirements of this chapter.

B. For the purpose of this chapter, "minor reconstruction" is defined as building improvements within any thirty-six-month period that cumulatively involve the demolition and reconstruction of less than forty percent of an existing structure, or are necessitated by damage to an existing structure by fire, flood or other natural disaster.

C. For the purpose of this chapter, "minor alteration" is defined as building improvements within any thirty-six-month period that result in a cumulative increase of the total floor area of a building or buildings on a site of less than forty percent.

D. For the purpose of this chapter, "public works director" is defined as the public works director or his/her designee.

12.05.030 Required improvements and dedication.

Prior to the issuance of any development approvals or permits subject to the provisions of this chapter, the public works director ~~or designee~~ shall make an individualized determine determination of the extent and type of any sidewalk, curb and gutter improvements required as part of the development proposal. The public works director ~~or designee~~ shall utilize the following in determining the requirement for and scope of the improvements:

- A. The comprehensive plan;
- B. The arterial street map;
- C. The public works construction standards; ~~and~~
- D. The functional, safety, efficiency and coordinated future expansion needs of the sidewalk system to serve pedestrian access.;
- E. Applicable state and federal legal standards, including without limitation applicable nexus and proportionality requirements; and
- F. Any other relevant factor.

Without limitation of the foregoing, the provisions of this chapter shall not apply where adequate sidewalks, curb and gutter already exist in relation to the proposed development.

12.05.040 Fee in-lieu of sidewalks, curb and gutter construction; voluntary agreements.

If approved by the public works director, an applicant for a development approval or permit may enter into a voluntary agreement with the city to allow a payment in-lieu of physically constructing any or all of the sidewalks, curb and gutter improvements otherwise required pursuant to this chapter.

A. Form and Execution Authority. A voluntary agreement under this section shall be in a form approved by the city attorney. The public works director is authorized to enter into and execute such voluntary agreements on behalf of the city.

B. Calculation for Payment in Lieu of Mitigation. The in-lieu of payment shall be based on the estimated cost of the sidewalks, curb and gutter improvements, and shall be calculated on a per-linear foot basis multiplied by the number of linear frontage feet of the subject property. The per-linear foot cost estimate shall be set by annual resolution of the city council, and may be adjusted by the council based on inflation, material and labor costs, and any other relevant factor. Provided, a development applicant may submit an independent cost estimate for the public works director's consideration, which the public works director shall in his/her discretion accept, accept in part, or reject.

C. Payment Provisions. The in-lieu of payment shall be subject to the following provisions:

1. The payment shall be received by the city prior to final development approval or permit issuance except as provided in this chapter;

2. The payment shall be held by the city in a reserve account used exclusively for the construction of public sidewalks, curbs and gutters within the city, including without limitation applicable costs of construction, administration, and design;

3. The payment shall be expended within five years of collection; and

4. Any payment not so expended shall be refunded with interest at the rate applied to judgments to the owner(s) of record of the subject property at the time of the refund; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

D. Appeal. Determinations by the public works director under this chapter shall be appealable by the development applicant in the same manner, and subject to the same timeframe, as applicable to appeals of the underlying development approval or permit.