

ORDINANCE NO. 3587

AN ORDINANCE AMENDING CHAPTER 17, STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES, ARTICLE IV, SIDEWALKS, OF THE BARTLESVILLE MUNICIPAL CODE CONCERNING THE CONSTRUCTION OF SIDEWALKS

WHEREAS, the City Council of the City of Bartlesville recognizes that a comprehensive, connected, and financially sustainable sidewalk network is a vital part of a multi modal transportation system that is essential for a healthy, vibrant, and sustainable community; and

WHEREAS, the City Council seeks to provide clarity and flexibility to residents and developers with regard to new sidewalk construction requirements in the city.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BARTLESVILLE, OKLAHOMA:

Section 1. Chapter 17, Streets, Sidewalks, and Other Public Places, Article IV, Sidewalks, of the Bartlesville Municipal Code, is hereby amended to include new sections, currently reserved, to read as follows:

Section 17-61. - Scope.

The construction activities discussed in this Article are construction projects and must receive special attention in the permitting process, due to their frequency of occurrence and specific design/construction requirements. All of the activities herein require a permit in addition to other permits provided by other applicable ordinances.

Section 17-62. - Sidewalks and driveways.

A. Definitions. Unless otherwise provided, for the purposes of this section, the following words and phrases shall have the meanings given herein:

Curb shall be construed to mean the raised paved structure along the edge of a street.

Driveway shall be construed to mean any vehicular entrance or exit connected to any street.

Public Sidewalk shall be construed to mean any paved walkway within the public right-of-way which is a public land parcel that includes the street and a strip of land on either side of the street. The right-of-way is typically owned and maintained by the city or local municipality. In addition, Public Sidewalks maybe located within easements that are designated for public use. An easement is a legal right to use another's land for a specific limited purpose. A sidewalk is made from various materials. Concrete, Bricks, Paving stone, Wood (used in boardwalks). Grass sidewalks refer to pathways where the original hard surface, such as concrete or asphalt, has been overgrown with grass and may need to brought into compliance with the above material standards.

- B. Permits.** No person shall construct or repair any sidewalk, driveway, or curb in City of Bartlesville street right-of-way without having first procured a permit.

Section 17-63. - Required sidewalks and fee-in-lieu option.

- A. Definitions.** Words and terms not defined in this section shall have the meanings given to them by the Subdivision Regulations and Zoning Regulations of the City of Bartlesville ("City"), other ordinances of the City, and statutes of the State of Oklahoma, all as amended from time to time, or by common and ordinary usage if not defined elsewhere. For the purposes of this Section, the following words, terms, and phrases shall have the meanings prescribed in this Section, unless otherwise expressly written:

Agent: A person authorized to act on behalf of another person or entity concerning a construction project.

Applicant: The owner of real property upon which a construction project is planned or has commenced, or an agent of such owner.

Arterial Street: A street designated as an arterial street on the Bartlesville Street Functional Classification and/or Trafficway Plan, and the Bartlesville Subdivision Regulations, including, but not limited to, principal arterials, major arterials, and minor arterials. It has a high volume of traffic and is not intended to be a residential street. An arterial provides connections with major state and interstate roadways and has a high potential for the location of significant community facilities as well as retail, commercial and industrial facilities.

Building Permit: Formal written permission by the City to perform construction, alteration, repair or related activities within the municipal limits of the City or within its jurisdictional control, as required by ordinance.

Certificate of Occupancy: A document issued by the City certifying that a building is in compliance with applicable building codes and other requirements, and indicating that the building is in a condition suitable for occupancy

Certificate of Compliance: A document issued by the City certifying that an accessory building that is not inhabited, or other structure or improvement, is in compliance with applicable building codes and other requirements, and indicating that it is in a condition suitable for its intended use.

City Limits: The outer boundary of the area lying within the territory of the City of Bartlesville.

Collector Street: A street that is either (i) designated as a collector street on the Bartlesville Street Functional Classification and/or Trafficway Plan, and the Bartlesville Subdivision Regulations, or (ii) intended to move traffic from local streets to arterial streets and highways, or from local roads to secondary arterials. It functions to conduct traffic between arterial streets and/or activity centers. It conducts traffic to an activity center or a higher classification street. It is a principal traffic artery within residential

areas and carries relatively high volume. A collector has potential for sustaining minor retail or other commercial establishments or their traffic along its route which will influence the traffic flow.

Construction Project: An organized undertaking at a specific location to complete pre-determined objectives for the planning, design, construction, repair, improvement or expansion of buildings or facilities, as detailed in construction plans, specifications and other related documents.

Curb and Gutter: The area abutting a street designed for the collection of stormwater runoff and providing a raised barrier for the safety of pedestrians and vehicular traffic.

Development(s): Buildings, facilities, improvements, or locations, whether planned, under construction or which are completed, which currently create pedestrian demand or which are likely to create pedestrian demand in the future.

Director: The Director of Community Development, or his or her designee.

Director of Engineering: The Director of the Engineering Department, or his or her designee.

Easement: An easement is a legal right allowing an entity to use a portion of another entity's property for a specified purpose, without owning it. This is often granted for utilities or public pathways like sidewalks.

Fee-in-Lieu: Payment of a fee rather than constructing required sidewalk(s) and sidewalk infrastructure which has been deferred in accordance with this Section.

Legacy Subdivisions: These refer to subdivisions within the city of Bartlesville that were designed, approved, and platted prior to the year 2000. Owing to the planning norms and infrastructure requirements of their time, many of these subdivisions did not incorporate sidewalks. As a result, they often lack the pedestrian pathways that newer developments typically include. These areas represent a unique challenge for urban planning, as they require retroactive integration into the modern, interconnected pedestrian infrastructure.

Local Street (Residential Street): A street, whether privately or publicly maintained, which provides access to each parcel of land within the residential neighborhood and within industrial areas, and in a manner that will discourage use by through traffic. The primary purpose is to conduct traffic to and from dwelling units to other streets within the street hierarchy. They should be planned so that future expansion will not require the conversion of local streets to collector or arterial street functions. Ingress and egress to residential properties should be provided only on local streets.

Mobility Scooter: An electrically powered scooter designed for people with restricted mobility, typically those who are elderly and/or disabled.

Minor Repair: Repair of existing sidewalk by filling, patching or sealing of cracks or spalling, or repair by grinding, beveling, or cutting to remedy differences in vertical grade of existing sidewalk such as upheavals, buckling, and settling.

Ordinance: A legislative act of the City Council of the City which has become effective in accordance with the Amended Charter of the City.

Owner: The person or entity having legal title to the real property upon which a construction project is planned, has commenced or is completed.

Pedestrian: A person traveling on foot (walking or running), or in an equivalent manner such as by means of a wheelchair or mobility scooter.

Pedestrian Circulation System: Improvements, whether public or private, including, but not limited to, sidewalks, parking lots, streets, paths, and trails, which provide connectivity and walkability between residential areas, businesses, schools, parks, and other pedestrian generators.

Sidewalk Infrastructure: Improvements designed and constructed for the purpose of pedestrian use and travel which includes, but is not limited to, sidewalks, curb cuts and ramps, and retaining walls necessary for sidewalk construction.

Zoning Clearance Certificate: Formal written permission by the City to perform construction or installation of an accessory building 200 square feet or less, wireless communication tower 50 feet in height or less, portable on-demand storage unit, fence (seven (7) feet or under), wall (four (4) feet or under), swimming pool less than 24 inches in depth, uncovered patio, RV/boat/trailer storage, or gravel parking area.

B. Required Sidewalks. Sidewalks are required to be installed on both sides of arterial streets, collector streets and also on both sides of residential (local) streets, except as set forth herein. The Director, or the Director's designee, may also require the installation of sidewalks in other locations when determined that such sidewalks will contribute to a logical and well-connected pedestrian circulation system prioritize and actively seek opportunities to integrate these disconnected pathways into the main sidewalk network, ensuring a logical, well-connected pedestrian circulation system.

1. When Sidewalks are Required. The sidewalk requirements of this subsection 17-63 B shall apply to all:

- a. Subdivision of land by platting
- b. Development for which a building permit, certificate of occupancy or certificate of compliance is required in Critical Sidewalk Areas;
- c. For any new streets or city refurbishment projects, thereby ensuring that sidewalks remain an integral part of any transportation project.

2. When Sidewalks are not Required:

- a. Sidewalks are not required in Legacy Subdivisions as long as there are not any existing sidewalks within the Legacy Subdivision that were constructed as part of the original development (excluding sidewalks installed by owners at their discretion) and not installed by the city.

3. Sidewalk Design and Construction Standards. The standards for sidewalk design and construction shall be the standards approved and adopted by the City's Engineering Department.

4. Removal of Sidewalks. Sidewalks may not be removed without the written approval of the City of Bartlesville.

5. Sidewalk Fee-in-Lieu Option.

- a. The primary goal of this option is to directly address the issue of 'orphaned sidewalks'—those stretches of pavement that exist in isolation, disconnected from the broader network. By collecting fees in lieu of immediate sidewalk construction, the city can pool resources and prioritize the development and maintenance of sidewalks in areas that experience significant pedestrian traffic. This approach not only fosters a more systematic and interconnected walking environment but also maximizes the safety and accessibility of key pedestrian routes throughout Bartlesville. An applicant may elect to pay a fee in lieu of constructing the sidewalk as required above, provided that the sidewalk location is **not** listed in the Critical Sidewalk Areas in subsection C below.
- b. If an applicant chooses to utilize the fee-in-lieu option for sidewalk construction, they must submit a request to the Street and Traffic Committee for review and approval. The committee should consider the following five criteria as part of their review process:
 - i. Long-term Urban Development Plans: The request should be evaluated against the city's long-term urban development plans to ensure alignment with future growth and changes.
 - ii. Impact on Pedestrian Safety and Accessibility: Assess how the absence of a sidewalk at the specific location would affect pedestrian safety and accessibility.
 - iii. Consistency with Surrounding Infrastructure: Evaluate how the proposed fee-in-lieu aligns with the existing infrastructure and planned developments in the area.
 - iv. Historical and Cultural Considerations: Consider any historical or cultural significance of the area that might be affected by the absence of a sidewalk.
 - v. Community Input and Needs: Consider the community and their needs, ensuring that the decision reflects the interests of the community.

C. Critical Sidewalk Areas. The following listed areas and locations within the City of Bartlesville are designated as "Critical Sidewalk Areas". Sidewalks are required to be constructed within Critical Sidewalk Areas. The Fee-in-Lieu option is not available and deferral of sidewalk construction and payment of a sidewalk fee-in-lieu will not be approved for a construction project within a Critical Sidewalk Area, unless otherwise permitted by this Section.

CRITICAL SIDEWALK AREAS:

1. Properties abutting or connecting to an existing sidewalk within 100 feet of the Construction Project.
2. Properties abutting arterial or collector streets and are within 100 feet of an existing sidewalk but that are not located within a Legacy Subdivision.
3. New subdivisions (Non Legacy Subdivisions) or replats of existing subdivisions.

H. Determination of Sidewalk Fees. The Director of Engineering, or his or her designee, shall review and calculate, at least annually, the average unit cost to the City with respect to sidewalk infrastructure constructed for the City and shall determine if the average unit costs of sidewalk infrastructure construction for fee-in-lieu purposes should be adjusted. The cost shall be placed in the cities Manual of Fee's each year.

I. Creation of Separate Fund; Use of Sidewalk Fees Collected. A separate fund or funds for fees-in-lieu collected shall be established and the funds so collected shall be accounted for based upon the fees-in-lieu collected. Fees-in-lieu may be used for any costs related to public sidewalk infrastructure expansion within the city.

J. Annual Report. The Community Development Department and Engineering Department shall provide an annual report to the City Council detailing the collection, investment and expenditure of fee-in-lieu funds.

K. Termination of Sidewalk Fees. The City may terminate the deferral of required sidewalk construction and the collection of fees-in-lieu when the system of public sidewalk infrastructure has been fully funded or developed and any expanded or modified development will have no additional impact on the public sidewalk infrastructure system.

Section 17-64. – Sidewalk Maintenance and Repairs

A. Maintenance of Public Sidewalks by abutting Property Owner. As abutting Property owners benefit directly from having well-maintained sidewalks as they provide safe access to their properties and can enhance curb appeal, the maintenance of public sidewalks shall be a public/private responsibility. Public sidewalks shall be repaired when there are gaps or displacement of concrete slabs greater than 1 inch, or when any part of the sidewalk becomes uneven or presents a tripping hazard.

- a. **Uneven or Tripping Hazard:** Any condition or defect in a public sidewalk or walkway that deviates significantly from a smooth and level surface, potentially endangering pedestrians by causing them to trip, fall, or stumble. This includes but is not limited to:

- i. **Height Differences:** Variation in the height of adjacent concrete slabs, pavers, or sections of the walkway that exceeds a certain threshold, typically defined by local ordinances or standards. For example, a height difference exceeding 1 inch is considered a tripping hazard.
 - ii. **Cracks and Gaps:** Cracks, gaps, or openings in the surface that are wide or deep enough to catch a person's foot or impede the normal flow of pedestrian traffic.
 - iii. **Protruding Objects:** Objects or debris on the surface of the walkway that extend above the general plane of the path and can cause pedestrians to trip. This could include raised tree roots, loose bricks or stones, or other obstructions.
 - iv. **Settlement or Erosion:** Areas where the sidewalk has settled or eroded, creating an uneven surface that disrupts the even flow of the walkway.
 - v. **Poorly Maintained Joints:** Faulty or deteriorating joints between concrete slabs that create gaps or height disparities.
 - vi. **Sudden Changes in Grade:** Sudden and significant changes in the slope or grade of the sidewalk that are not properly transitioned or marked.
- b. **Cost Repair Partnership.** A Cost Repair Partnership is a program or arrangement established by the city that allows abutting property owners to request financial assistance when the cost of repairing or maintaining a sidewalk exceeds a threshold set at \$500.00 as long as public funding is available. This partnership may involve cost-sharing or work-in-kind to help property owners address substantial repair expenses while ensuring the safety and integrity of public sidewalk.
- i. **Eligibility Assessment:** property owners interested in the Cost Repair Partnership program should begin by contacting the municipal authorities or relevant department responsible for sidewalk maintenance. They will assess the eligibility of the repair project based on predetermined criteria, including the cost threshold.
 - ii. **Documentation and Estimates:** property owners are required to provide documentation detailing the scope of the repair, repair cost estimates from two licensed contractors, and any other relevant information requested by the municipality.
 - iii. **Application Submission:** property owners must submit a formal application to the municipal department overseeing the Cost Repair Partnership program. This application includes:
 - 1. Property owner's contact information.
 - 2. Property details, including address and parcel number.
 - 3. A description of the repair work required.
 - 4. Cost estimates from contractors.
 - 5. Any supporting documentation requested by the municipality.
 - iv. **Review and Approval:** The city reviews the submitted application to determine eligibility and assess the merit of the request. They may consider factors such as the extent of the repair, the property owner's financial situation, and the impact on public safety and infrastructure integrity.

- v. **Financial Assistance Agreement:** If the application is approved, the city and property owner enter into a financial assistance agreement outlining the terms of the partnership. This agreement may detail the cost-sharing arrangement, the maximum financial aid provided, and the property owner's responsibilities.
- vi. **Repairs and Documentation:** The property owner proceeds with the necessary repairs, ensuring that the work adheres to municipal standards and regulations. Detailed records of the repair process, including invoices and receipts, should be maintained.
- vii. **Verification and Reimbursement:** After the repairs are completed, the municipality will verify the work's quality and compliance with the agreement's terms. Once verified, the property owner is reimbursed for the agreed-upon portion of the repair costs.
- viii. **Appeal of Denial of Cost Repair Partnership:** In the event that a sidewalk repair application is denied by the city, the applicant can follow an appeal process:
 1. Submission of Appeal: The applicant must submit a formal appeal in writing, detailing the reasons for contesting the decision.
 2. Appeal Review by Street and Traffic Committee:
 - a. Presentation of Evidence: The applicant will be required to present additional information or evidence supporting their appeal, such as documentation of financial hardship or the critical nature of the repair.
 - b. Final Decision: After reviewing the appeal and any presented evidence, the committee will make a final decision, which will be communicated to the applicant in writing.

B. Major Repairs of Public Sidewalks by the City: Substantial repairs to public sidewalks conducted by the city during routine road maintenance or at the city's discretion. These repairs are typical done due to the life of the sidewalk coming to an end. In addition, they may address extensive damage or hazards that require specialized attention beyond routine maintenance tasks, ensuring the safety and integrity of public walkways.

C. Emergency Repairs: An emergency repair is defined as a repair that is critically necessary to address immediate risks and shall be at the cost of the city. To qualify as an emergency, the repair should meet the following criteria:

- a. Safety Risk: Poses an immediate threat to public or individual safety.
- b. Health Hazard: Presents a significant risk to public health.
- c. Structural Integrity: Compromises the structural integrity of a facility or infrastructure.
- d. Operational Necessity: Essential for the continued operation of key services or functions.
- e. Prevention of Further Damage: Urgently needed to prevent further damage or escalating repair costs.

- D. Permit application fee waiver for minor repair.** The permit application fee for minor repair (as defined herein) of existing sidewalk shall be waived.

Section 17-65 – Enforcement

- A. Legal Requirement:** It is unlawful for anyone, including private property owners, abutting property owners, their agents, or representatives, to allow sidewalks or driveways on their Bartlesville property to deteriorate to a point where they endanger public safety and travel.
- a. **Responsibility for Repairs:** If a responsible property owner neglects to maintain a safe sidewalk or driveway and the Director becomes aware of the issue, the Director will assess the necessary repairs to eliminate safety hazards as outlined in Section 17-64.
 - b. **Notice and Deadline:** The property owner will then receive written notice, instructing them to repair the sidewalk or driveway within thirty (30) days.
 - c. **Consequences of Non-Compliance:** Failure to complete the required repairs within thirty (30) days after receiving the notice will result in the property owner, their agent, or representative being in violation of this article and Chapter 11 of the Bartlesville Municipal Code.
 - d. **Multiple Offenses:** Each day that the sidewalk or driveway remains unsafe after the thirty (30) days will be considered a separate offense and may lead to fines as specified in Chapter 11 of the Bartlesville Municipal Code.
- B. Enforcement Appeal:** For appeals related to the enforcement of the sidewalk ordinance through the Streets and Traffic Committee, the process could be as follows:
- a. **Formal Appeal Submission:** Individuals or entities wishing to appeal a decision must submit a formal written appeal to the Streets and Traffic Committee within ten (10) days of the notice of violation.
 - b. **Appeal Review Schedule:** The Committee schedules a review of the appeal, notifying the appellant of the date and time.
 - c. **Documentation and Evidence:** The appellant provides relevant documentation or evidence supporting their case, including any objections to the enforcement action.
 - d. **Hearing Session:** During a Committee meeting, the appellant is given the opportunity to present their case and any supporting arguments.
 - e. **Committee Deliberation and Decision:** After the presentation, the Committee deliberates and decides on the appeal. The committee must take the following five (5) items into conversation.
 - i. **Adherence to Ordinance Standards:** Assess whether the original enforcement decision accurately reflects the guidelines and standards outlined in the sidewalk ordinance.
 - ii. **Circumstances of Non-Compliance:** Understand the specific circumstances that led to the alleged non-compliance, considering any unique or mitigating factors.
 - iii. **Impact on Public Safety and Accessibility:** Evaluate how the situation affects public safety and pedestrian accessibility.
 - iv. **Appellant's Efforts to Comply:** Review any efforts or actions taken by the appellant to comply with the ordinance prior to and after the enforcement action.

- v. Precedents and Consistency: Consider similar past cases to ensure consistency in the application of the ordinance and fairness in decision-making.
- f. Communication of Decision: The decision, along with the rationale, is communicated to the appellant in writing.

Section 17-66 – Funding

- A. The city staff is directed to provide a formal recommendation to the City Council regarding the establishment of dedicated funds for sidewalk maintenance. The objective is to ensure the safety, accessibility, contestability, and long-term integrity of our public sidewalks while considering the financial sustainability of this initiative.

Section 2. Savings Clause, Conflict and Severability.

- a. Any ordinance inconsistent with the terms and provisions of this Ordinance is hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this Ordinance.
- b. In the event of a conflict between this Ordinance and any other provision of the Bartlesville Municipal Code or other local, county, or State law or regulation, the most stringent shall apply.
- c. Severability. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall not affect the validity of the remaining portions of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective ~~ninety~~^{ninety} (90) days from and after its passage and publication.

PASSED by the City Council and **APPROVED** by the Mayor of the City of Bartlesville, Oklahoma this 1st day of April, 2024.


VOTE:

MR. ROSZEL	<input checked="" type="radio"/> aye	no
MR. DORSEY	<input checked="" type="radio"/> aye	no
MS. ROANE	ABSENT	aye no
VICE MAYOR CURD	<input checked="" type="radio"/> aye	no
MAYOR COPELAND	<input checked="" type="radio"/> aye	no



Dale Copeland, Mayor

ATTEST:



City Clerk

