



# MEMORANDUM

Office of the City Attorney

Registar No. 002471

Phone: 334-5011/Fax 334-2229  
Box 46

TO: Mayor and City Commission

DATE: December 9, 2002  
SECOND READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-02-23

An ordinance of the City of Gainesville, Florida, amending the Land Development Code, relating to sidewalk requirements along public and private streets; amending Section 30-23, adding a definition; amending Section 30-160(d)(34) and Section 30-160(e)(18), providing that sidewalks meet the requirements of the Land Development Code; amending Section 30-188(e)(1), requiring new subdivisions in the Industrial, Agriculture, Airport Services, Conservation and Public Services districts to provide sidewalk only on arterial and collector streets; amending Section 30-188(e)(5), clarifying the effective date; amending Section 30-338, by requiring sidewalks for all lots and buildings except as provided or modified; providing for the dedication of property for sidewalks, and the criteria for modifications; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

---

Recommendation: The City Commission adopt the proposed Ordinance.

## COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

Currently, the Code does not authorize staff or the reviewing board to make modifications to the requirement to provide sidewalks along all abutting streets, public or private. Current Planning Staff has encountered a number of situations where the provision of sidewalks under the present regulation has become an issue due to the complications that one would encounter installing sidewalks in a particular situation. The reviewing board has relieved some petitioners of the code requirements, and some petitioners have occupied new development with a temporary certificate of occupancy with the hope of relief from the requirements of the sidewalk ordinance. The sidewalk regulations currently apply to arterial, collector and local streets.

The City of Gainesville Land Development Code regarding the sidewalk ordinance should be amended to address the following:

1. The submittal requirement, Sec. 30-160, was amended to require sidewalks subject to Sec. 30-338.

**Legistar No. 002471**

2. Sec. 30-338 was amended to create a new subparagraph addressing sidewalks, including a purpose clause, explanation of where sidewalks are required and criteria that the reviewing board or staff could use to make modifications.
3. The code would be amended so that new subdivisions in the industrial, agriculture, airport services, conservation and public services districts would be required to provide sidewalks only on arterial and collector streets.

The City Plan Board reviewed the petition and recommended approval.

Public notice was published in the Gainesville Sun on April 2, 2002. The Plan Board held a public hearing April 18, 2002. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 23TCH-02 PB. Plan Board vote 5-0.

Fiscal Note: None

Prepared and  
Submitted by:

  
\_\_\_\_\_  
Marion J. Radson,  
City Attorney

MJR:WM:sw

PASSED ON FIRST READING BY A VOTE OF 4-0.

**D R A F T**

11-13-02

ORDINANCE NO. \_\_\_\_\_  
0-02-23

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

**An ordinance of the City of Gainesville, Florida, amending the Land Development Code, relating to sidewalk requirements along public and private streets; amending Section 30-23, adding a definition; amending Section 30-160(d)(34) and Section 30-160(e)(18), providing that sidewalks meet the requirements of the Land Development Code; amending Section 30-188(e)(1), requiring new subdivisions in the Industrial, Agriculture, Airport Services, Conservation and Public Services districts to provide sidewalk only on arterial and collector streets; amending Section 30-188(e)(5), clarifying the effective date; amending Section 30-338, by requiring sidewalks for all lots and buildings except as provided or modified; providing for the dedication of property for sidewalks, and the criteria for modifications; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

**WHEREAS**, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

**WHEREAS**, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on April 18, 2002; and

**WHEREAS**, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

**WHEREAS**, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION**

1 **OF THE CITY OF GAINESVILLE, FLORIDA:**

2 **Section 1.** Section. 30-23, Land Development Code of the City of Gainesville, is  
3 amended by creating and adding the following definition as follows:

4 **Section 30-23. Definitions.**

5 Loop street(s) means a small green area surrounded by a driveway, providing  
6 vehicular access to several buildings, performing the same function as a cul-de-sac but  
7 creating a socially useful space.

8 **Section 2.** Subsection 30-160(d)(34), Land Development Code of the City of  
9 Gainesville, is amended to read as follows:

10 **Sec. 30-160. Submittal requirements.**

11 (d) *Preliminary development plan.* Each preliminary development plan shall include  
12 the following:

13 (34) Sidewalk(s) that meet the requirement of Sec. 30-338. Sidewalks, on all  
14 streets, on both sides, and at least five feet wide. Sidewalks not required on cul-  
15 de-sac or dead-end or loop less than 100 feet long. Sidewalk required on at least  
16 one side of street on cul-de-sac or dead-end or loop from 100 to 250 feet long, and  
17 for a project in which the closest lots to a connecting street on a cul-de-sac or dead  
18 end are at least 1,000 feet from the street it stems from. Sidewalks on both sides  
19 on cul-de-sac or dead-end or loop greater than 250 feet long.

20 **Section 3.** Subsection 30-160(e)(18), Land Development Code of the City of  
21 Gainesville, is amended to read as follows:

22 **Sec. 30-160. Submittal requirements.**

# D R A F T

11-12-02

- 1 (e) *Final development plan.* Each final development plan shall include the following:
- 2 (18) Sidewalk(s) that meet the requirement of Sec. 30-338. ~~Sidewalks, on all~~
- 3 ~~streets, on both sides, and at least five feet wide. Sidewalks not required on cul-~~
- 4 ~~de-sac or dead end or loop less than 100 feet long. Sidewalk required on at least~~
- 5 ~~one side of street on cul-de-sac or dead end or loop from 100 to 250 feet long, and~~
- 6 ~~for a project in which the closest lots to a connecting street on a cul-de-sac or dead~~
- 7 ~~end are at least 1,000 feet from the street it stems from. Sidewalks on both sides~~
- 8 ~~on cul-de-sac or dead end or loop greater than 250 feet long.~~

9 **Section 4.** Subsections 30-188(e)(1) and (e)5, Land Development Code of the

10 City of Gainesville, are amended to read as follows:

11 **Sec. 30-188. Required improvements.**

- 12 (e) Sidewalks and shared use bicycle paths.
- 13 (1) Sidewalks are required on both sides of all streets at least 5 feet in width,
- 14 except that subdivisions in the Industrial, Agriculture, Conservation, Airport
- 15 Services and Public Services zoning districts are only required to provide
- 16 sidewalks on arterial and collector streets, as designated by the City Manager.
- 17 However, no sidewalk is required on a cul-de-sac or dead end or loop street(s) if
- 18 the cul-de-sac, ~~or~~ dead end or loop street(s) is less than 100 feet long. A
- 19 sSidewalk is required on at least one side of the street on a cul-de-sac or dead end
- 20 or loop street(s) that is ~~from~~ between 100 to and 250 feet long. Illustrations are
- 21 shown below. Sidewalks shall be at least five feet in wide and maintain a clear
- 22 width of at least five feet. Whenever a sidewalk intersects with a curbed street,

**D R A F T**

11-12-02

1 ramps shall be installed to facilitate access to the sidewalks by wheelchairs.

2 Ramps and sidewalks shall be constructed in accordance with the Design Manual.

3 For a project in which the closest lots to a connecting street on a cul-de-sac or  
4 dead end are at least 1,000 feet from the street it stems from, sidewalks are  
5 required on at least one side of the street up to the lot nearest to the connecting  
6 street.

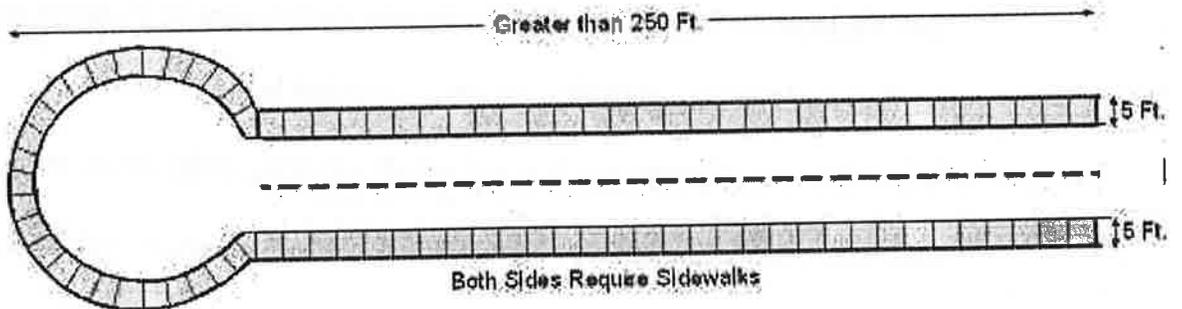
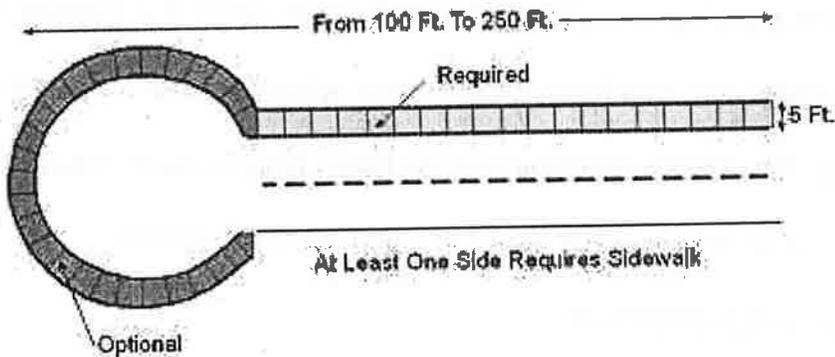
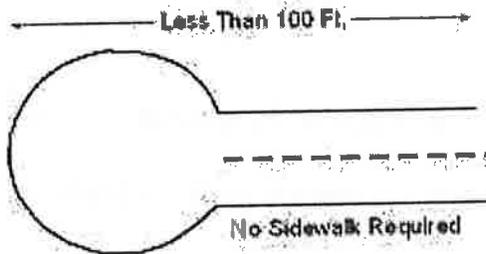
7 (5) Sidewalk construction in accordance with this section shall be required for  
8 each individual lot in a subdivision created after September 11, 2000, adoption of  
9 ~~Ordinance No. 990853~~, prior to being issued a certificate of occupancy.

10  
11 **LINES INTENTIONALLY LEFT BLANK**

# DRAFT

Cul-De-Sacs

11-12-02



1

2

1 Section 5. New subsections 6(a) through 6(h), inclusive, are created and added to

2 Section 30-338, Land Development Code, to read as follows:

3 **Sec. 30-338. General lot and building requirements.**

4 The following lot and building requirements shall apply in all zoning districts:

5 (6) Sidewalks.

6 (a) Intent. The intent of this section is to enable pedestrian activity  
7 throughout the city, especially as a means to promote pedestrian and bus trips,  
8 pedestrian safety and accessibility. Sidewalks are required in conjunction with  
9 development orders in every zoning district. This shall apply to all development  
10 orders issued after September 11, 2000 in every zoning district, and on any parcel  
11 or lot where a roadway is existing adjacent to the proposed development or where  
12 there is a reasonable likelihood of mass transit service or a pedestrian need for  
13 sidewalks. Sidewalk(s) are required on all public and private streets, on both  
14 sides, except as specifically excluded or modified by this section.

15 (b) General requirements.

16 Where sidewalks are continuous, except for isolated lots or plots, in connection  
17 with the issuance of building permits, the city shall require an owner of an isolated  
18 lot or plot to provide sidewalks, except as provided below.

19 Sidewalks shall be constructed, if not already existing, along the street frontage of  
20 a lot which is being developed for a permitted use, except no sidewalks are  
21 required for:

- 22 1. additions or renovations to, or new construction of single family  
23 homes on lots platted prior to January 1, 2003, unless a new single family

# D R A F T

11-12-02

1 home is proposed to be built on a lot where there is a sidewalk on the  
2 adjacent lot frontages.

3 2. the addition or new construction of 500 square feet or less of gross  
4 floor area on any property or any paving of fewer than 5 parking spaces or  
5 equivalent area.

6 3. on alleys providing a secondary access to a lot of record.

7 (c) Cul-de-sac or dead-end loop street(s) requirements.

8 A sidewalk is required on at least one side of a street on a cul-de-sac or dead-end  
9 loop street(s) from 100 to 250 feet long, except as provided below. Sidewalks are  
10 required on both sides on cul-de-sac or dead-end or loop street(s) greater than 250  
11 feet long. For a project in which the closest lots to a connecting street are at least  
12 1000 feet from the street it stems from, sidewalks are required on at least one side  
13 of the street up to the lot nearest the connecting street. Illustrations are shown  
14 below.

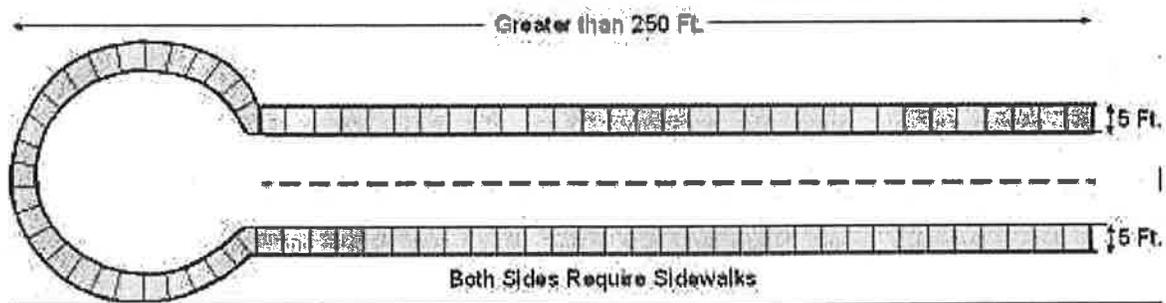
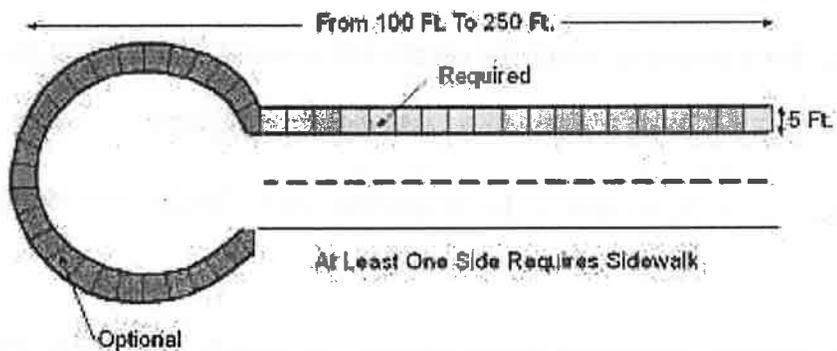
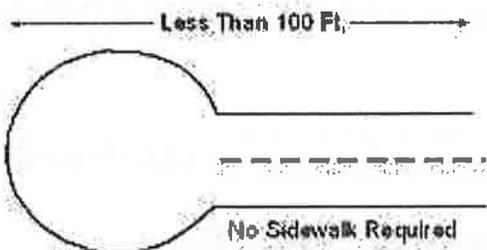
15 Exception: Sidewalks are not required on a cul-de-sac or dead-end or loop  
16 street(s) less than 100 feet long.

17

# DRAFT

Cul-De-Sacs

11-12-02



1

# D R A F T

11-12-02

1 (d) Special Area Plan. Sidewalks shall meet the specific requirements of any  
2 special area plans any provisions of this Code to the contrary notwithstanding.

3 (e) Responsibility for construction. The installation of sidewalks is the  
4 responsibility of the developer/owner and the sidewalks shall be installed prior to  
5 the issuance of a certificate of occupancy by the city. For a phased development,  
6 sidewalk(s) shall be completed to serve any area for which a certificate of  
7 occupancy or any temporary occupancy is required. The developer/owner shall  
8 only be responsible for the sidewalk on the same side of the street(s) on which the  
9 approved plan is adjacent, except as specifically modified by paragraph (h) below.

10 (f) Design standard. Sidewalk(s) and ramp(s) shall be constructed in  
11 accordance with the City of Gainesville Public Works' Design Manual.

12 Whenever a sidewalk intersects a curbed street, ramps shall be installed to  
13 facilitate handicap access.

14 (g) Dedication. From time to time, an amendment to an existing developed  
15 area may require the installation of a sidewalk, however, inadequate right-of-way  
16 may exist to such extent that a developer/owner cannot install a sidewalk. In this  
17 event the City shall require the developer/owner to dedicate sufficient right-of-  
18 way to install proper sidewalk areas along all boundaries of the proposed  
19 development abutting public streets, or provide an easement to the homeowners  
20 association or condominium, as applicable, for additional common area for the  
21 sidewalk. The dedication of sufficient right-of-way for sidewalk improvements  
22 must be necessary to serve the development or reduce the impact of the  
23 development on the City's transportation system, and must, in all instances, meet

1 the “essential nexus” and “rough proportionality” requirements established by the  
2 United States Supreme Court in the cases of Nollan v. California Costal  
3 Commission and Dolan v. City of Tigard.

4 (h) Modifications. The appropriate reviewing board (“board”), City Manager  
5 or designee (hereinafter “City Manager”) where no board approval is required,  
6 may approve modifications from the terms of this section. The board or City  
7 Manager, may determine the appropriate location and/or termination of  
8 sidewalk(s), determine that dedication of right-of-way meets the required  
9 obligation, or determine that a portion of a sidewalk may be narrowed, as may be  
10 consistent with State accessibility requirements, or any combination of the above,  
11 as follows:

12 The board or City Manager shall require the petitioner to provide  
13 information in the form of reports, maps, diagrams and similar material to support  
14 their request for modification. The board or City Manager, shall make their  
15 determination based on the following criteria:

16 The conditions and circumstances, which do not result from the actions of  
17 the developer, warrant modification of the sidewalk requirements. In reaching its  
18 decision, the board or City Manager shall apply the following standards:

- 19 i. the need to relocate utilities that must be moved solely in order to
- 20 facilitate the construction of sidewalk;
- 21 ii. construction or redesign of stormwater management facilities;
- 22 iii. insufficient building setbacks;
- 23 iv. a substantial lack of right-of-way;

**D R A F T**

11-12-02

- 1 v. protection of heritage and champion trees;
- 2 vi. excessive slope or other topographic or geological features;
- 3 vii. existing and expected future isolation of the subject parcel;
- 4 viii. sidewalks are not permitted by state or local agencies with
- 5 jurisdiction over the subject right-of-way.

6 **Section 6.** It is the intention of the City Commission that the provisions of  
 7 Sections 1 through 5 of this ordinance shall become and be made a part of the Code of  
 8 Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of  
 9 this Ordinance may be renumbered or relettered in order to accomplish such intentions.

10 **Section 7.** If any section, sentence, clause or phrase of this ordinance is held to be  
 11 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall  
 12 in no way affect the validity of the remaining portions of this ordinance.

13 **Section 8.** All ordinances, or parts of ordinances, in conflict herewith are to the  
 14 extent of such conflict hereby repealed.

15 **Section 9.** This ordinance shall become effective immediately upon final  
 16 adoption.

17 **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2002.

18 \_\_\_\_\_  
 19 THOMAS D. BUSSING, MAYOR

20  
 21 ATTEST: Approved as to form and legality

22  
 23 \_\_\_\_\_  
 24 KURT M. LANNON MARION J. RADSON  
 25 CLERK OF THE COMMISSION CITY ATTORNEY

26 This Ordinance passed on first reading this \_\_\_\_ day \_\_\_\_\_, 2002.

27 This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2002.

# City of Gainesville

## Inter-Office Communication

Planning Division  
X5022, FAX x2282, Station 11

### Item No. 3

**TO:** City Plan Board **DATE:** April 18, 2002  
**FROM:** Planning Division Staff  
**SUBJECT:** Petition 23TCH-02 PB, City Plan Board. An amendment to the City of Gainesville Land Development Code to provide a purpose clause and revise development standards regarding the installation of sidewalks.

### Recommendation

Staff recommends approval of Petition 23TCH-02 PB.

### Explanation

Currently, the Code does not authorize staff or the reviewing board to make modifications to the requirement to provide sidewalks along all abutting streets, public or private. Current Planning Staff has encountered a number of situations where the provision of sidewalks under the present regulation has become an issue due to the complications that one would encounter installing sidewalks in a particular situation. The reviewing board has relieved some petitioners of the code requirements, and some petitioners have occupied new development with a temporary certificate of occupancy with the hope of relief from the requirements of the sidewalk ordinance. The sidewalk regulations currently apply to arterial, collector and local streets.

The following are some of the situations that have been encountered.

#### **Ditches/ Stormwater Structures:**

1. *Tomlinson Motors, North Main Street.* A sidewalk was required on NE 31<sup>st</sup> Avenue. The existing situation was a non-curb and gutter road and a ditch along NE 31<sup>st</sup> Avenue. In order to place sidewalk in this location, the petitioner would either need to pipe the stormwater system and close the ditch or provide additional ROW/easement with a foot bridge to have the sidewalk on the north side of the ditch.
2. *Affordable Storage, 1100 South Main Street.* A sidewalk was required on SW 11th Place. This street is closed when it reaches the adjacent property, Ridgeway Truss. Southwest 11th Place is a substandard street, of minimal width and non-curb and gutter road. There is a spillway at the edge of the ROW directly in front of the property which precluded sidewalk development for the total frontage.

#### **Isolated pieces of sidewalk:**

3. *Open Door Ministries, 601 NE 19th Street.* This property fronted two public streets, both non-curb and gutter. The church is located in a residential neighborhood. There is little likelihood of additional development to complete a sidewalk system in that area since the surrounding properties are single-family. Additionally, completing the sidewalk along NE 20th Street to the property line would involve moving utility poles. The sidewalk would end at the beginning of a driveway culvert,

City Plan Board  
Petition 23TCH-02 PB  
April 18, 2002

posing a hazard to the pedestrian. The Board approved a sidewalk that stopped approximately 20 feet short of the property line so that utility relocation and the culvert would be avoided.

4. *Pepsi Distributorship, Northwest Industrial Park.* The project is located on the last lot to be developed in the Northwest Industrial Park, at the end of a cul-de-sac. This will be the only sidewalk in the area.
5. *ExacTech is located in the Northwest Commercial Park.* There are no sidewalks. The petitioner will be required to install sidewalks along all street frontage.
6. *FDOT* will not permit a sidewalk to be placed in FDOT right-of-way unless it will connect to other sidewalks.

**Draft revisions to the sidewalk ordinance:**

The sidewalk ordinance amendment shown in the attached memo addresses the following:

1. The submittal requirement, Sec. 30-160, was amended to require sidewalks subject to Sec. 30-338.
2. Sec. 30-338 was amended to create a new paragraph addressing sidewalks, including a purpose clause, explanation of where sidewalks are required and criteria that the reviewing board or staff could use to make modifications.
3. The revised language will not require sidewalks as a component of a development plan in the industrial, agriculture, airport services, conservation and public services districts unless there is existing sidewalk in the area.
4. The code would be amended so that new subdivisions in the industrial, agriculture, airport services, conservation and public services districts would be required to provide sidewalks only on arterial and collector streets.

Respectfully submitted,



Ralph Hilliard  
Planning Manager

RH:CRM  
attachment

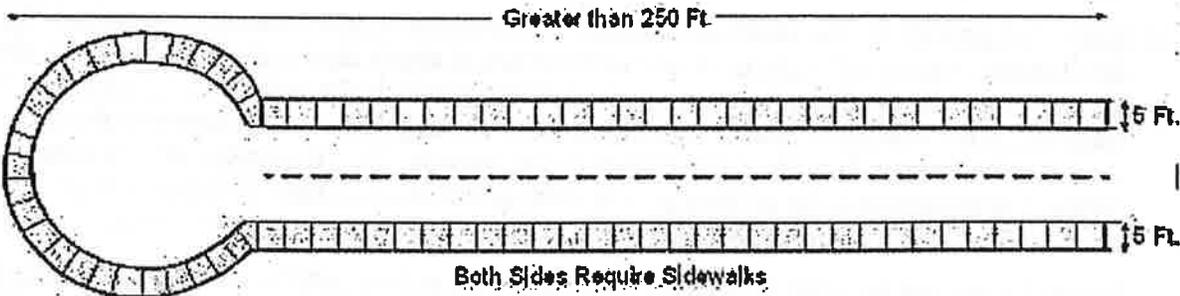
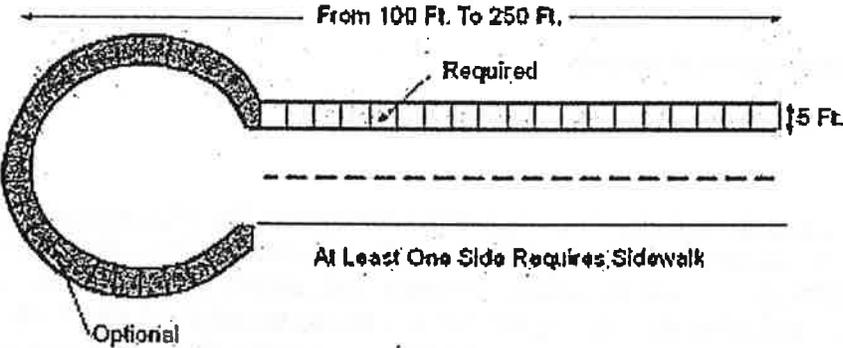
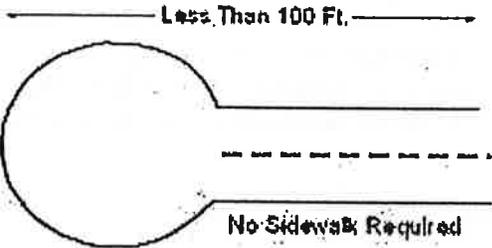
## Sidewalk Ordinance Proposed Revisions

### Amend Subdivisions Section 30-188(e):

- k. Sidewalks are required on both sides of all streets ~~on both sides, and~~ at least 5 feet wide, except that subdivisions in Industrial, Agriculture, Conservation, Airport Services and Public Services zoning districts may only be required to provide sidewalk on arterial and collector streets. ~~No~~ sidewalks ~~not~~ is required on cul-de-sac or dead end or loop streets if the cul-de-sac or dead end is less than 100 feet long. Sidewalk is required on at least one side of the street on cul-de-sac or dead end or loop streets that are from between 100 to and 250 feet long. Sidewalk shall be at least five feet wide and maintain a clear width of at least five feet. Whenever a sidewalk intersects with a curbed street, ramps shall be installed to facilitate wheel chairs. Ramps and sidewalks shall be constructed in accordance with the Design Manual. For a project in which the closest lots to a connecting street on a cul-de-sac or dead end are at least 1,000 feet from the street it stem from, sidewalks are required on at least one side of the street up to the lot nearest to the connecting street.

Any sidewalk required as delineated above may be installed as part of the subdivision improvements or may be delayed until the associated lot is developed. A note shall be placed on all final plats indicating that the property owner is responsible for the installation of sidewalk. This shall apply to all plats adopted after \_\_\_\_\_ (date).

### Cul-De-Sacs



**Amend Sec. 30-160 and 30-338 to be consistent with subdivision requirements.**

**Sec. 30-160**

(d) *Preliminary development plan.* Each preliminary development plan shall include the following:

- (34) ~~Sidewalk(s) that meet the requirements of Sec. 30-338. Sidewalks, on all streets, on both sides, and at least five feet wide. Sidewalks not required on cul-de-sac or dead end or loop less than 100 feet long. Sidewalk required on at least one side of street on cul-de-sac or dead end or loop from 100 to 250 feet long, and for a project in which the closest lots to a connecting street on a cul-de-sac or dead end are at least 1,000 feet from the street it stems from. Sidewalks on both sides on cul-de-sac or dead end or loop greater than 250 feet long.~~

(e) *Final development plan.* Each final development plan shall include the following:

- (18) ~~Sidewalk(s) that meet the requirements of Sec. 30-338. Sidewalks, on all streets, on both sides, and at least five feet wide. Sidewalks not required on cul-de-sac or dead end or loop less than 100 feet long. Sidewalk required on at least one side of street on cul-de-sac or dead end or loop from 100 to 250 feet long, and for a project in which the closest lots to a connecting street on a cul-de-sac or dead end are at least 1,000 feet from the street it stems from. Sidewalks on both sides on cul-de-sac or dead end or loop greater than 250 feet long.~~

**Sec. 30-338. General lot and building requirements.**

The following lot and building requirements shall apply in all zoning districts:

(6) Sidewalks.

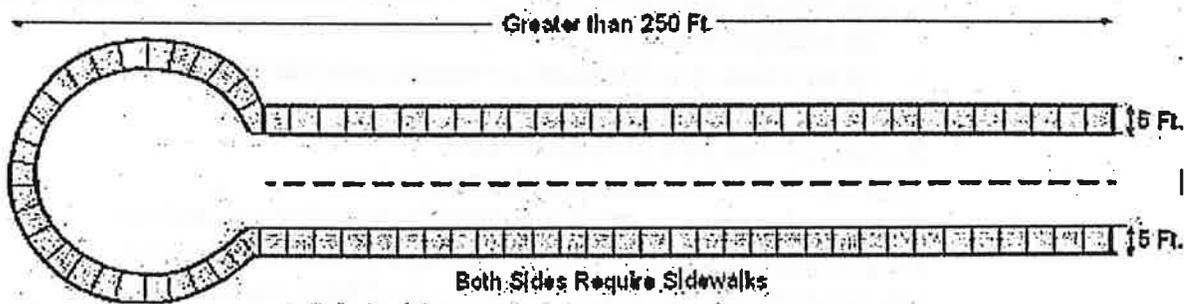
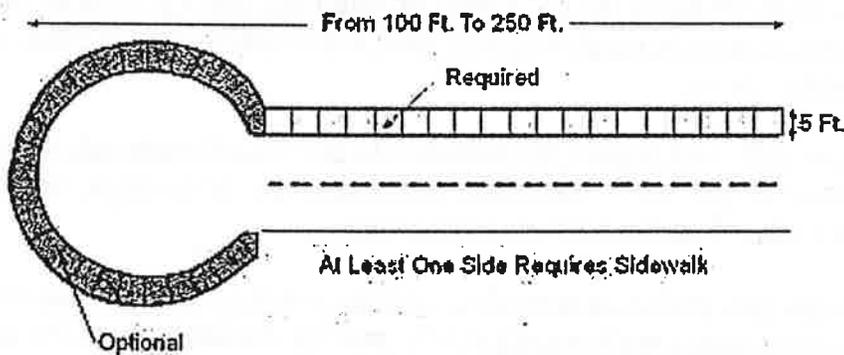
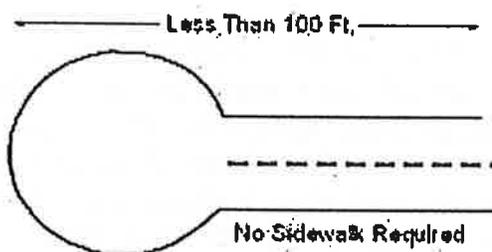
(a) The intent of this section is to enable pedestrian activity throughout the city, especially as a means to promote pedestrian and bus trips, pedestrian safety and accessibility. Sidewalks are required in the multi-family residential, office, business and mixed use, corporate park, educational services and medical services zoning districts and on any parcel or lot where sidewalk is existing adjacent to the proposed development or where there is a reasonable expectation of bus service or pedestrian need for sidewalk. Sidewalk(s) are required on all public and private streets, on both sides, except as specifically excluded or modified by this section.

(b) Sidewalks parallel to the street on which the development has frontage is required for all development, except additions to or new construction of single family homes on existing platted lots adopted prior to (date), however any new single family home built on a lot where there is sidewalk on the adjacent frontages shall be required to install sidewalk. De-minimus development shall also be exempt from the requirements of this section. For the purpose of this section, de-minimus development is the addition or new construction of 500 square feet or less of gross floor area on any property or any paving of fewer than 5 parking spaces or equivalent area.

Sidewalks are not required on cul-de-sac or dead end or loop streets less than 100 feet long. Sidewalk is required on at least one side of street on cul-de-sac or dead end or loop from 100 to 250 feet long. Sidewalks are required on both sides on cul-de-sac or dead end or loop streets greater than 250 feet long. For a project in which the closest lots to a connecting street are at least 1000 feet from the street it stems from, sidewalks are required on at least one side of the street up to the lot nearest the connecting street. Sidewalks are not required on alleys providing a secondary access to a lot of record. Notwithstanding the above, sidewalk requirements within

any special area plan, that addresses sidewalk location and/or includes design specifications shall take precedence.

### Cul-De-Sacs



- (c) The installation of sidewalks is the responsibility of the developer and the sidewalks shall be installed prior to the issuance of a certificate of occupancy by the city. For a phased development, sidewalk(s) shall be completed to serve any area for which a certificate of occupancy or any temporary occupancy is granted. The developer shall only be responsible for the sidewalk on the same side of the street(s) on which the approved plan is abutting, except as specifically modified by paragraph (d) below. Sidewalk(s) and ramp(s) shall be constructed in accordance with the Design Manual. Whenever a sidewalk intersects a curbed street, ramps shall be installed to facilitate access to the sidewalk by wheelchairs.
- (d) Where an amendment to an existing developed site requires installation of sidewalk, and inadequate right-of-way exists for such sidewalk, the property owner must dedicate or provide easement, or other conveyance of property rights as may be acceptable to the city attorney, to provide proper sidewalk areas along all boundaries of such property abutting public streets or providing easement for additional common area for private street. The developer is responsible for constructing sidewalks and associated ramps.
- (e) The appropriate reviewing board, or city manager or designee, where no board approval is required, may approve modifications from the terms of this section where such modifications are consistent with the intent of this section and are not contrary to the public interest. In this situation, the appropriate reviewing board or city manager, or designee, may determine the appropriate location and termination of sidewalk, determine that dedication of ROW meets the obligation, or determine that a portion of sidewalk may be narrowed, as may be consistent with State accessibility requirements, or any combination of the above.
1. The board or staff shall require the petitioner to provide adequate information on which to make the decision. The board or city manager, or designee, shall make their determination based on the following conditions:
- a. That conditions and circumstances, which do not result from the actions of the developer or recent predecessors in title, warrant modification of the sidewalk requirements. Consideration shall be given but not limited to such issues as:
    - i. the need to relocate utilities that must be moved solely in order to facilitate the construction of sidewalk;
    - ii. construction or redesign of stormwater management facilities;
    - iii. insufficient building setbacks;
    - iv. a significant lack of right-of-way;
    - v. protection of heritage and champion trees;
    - vi. excessive slope or other topographic or geological features;
    - vii. existing and expected future isolation of the subject parcel;
    - viii. not permitted by FDOT by policy for FDOT right-of-way.
- (f) Appeal of a staff decision shall be in accordance with Section 354(h).

3. Petition 23TCH-02 PB

City Plan Board. Amend the City of Gainesville Land Development Code to provide a purpose clause and revise development standards regarding the installation of sidewalks.

Ms. Carolyn Morgan was recognized. Ms. Morgan explained that the sidewalk ordinance had been in effect for some time and a number of issues had arisen with regard to the review of sidewalk installation. She discussed the scenarios where it was difficult, if not impossible, to install a sidewalk. She presented slides showing those areas. She discussed the proposed changes to the text of the ordinance. Ms. Morgan offered to answer any questions from the board.

Mr. Rwebyogo suggested that the petition was reactive to problems that have arisen with petitions. He asked if staff could consider all the possible scenarios that could cause problems in the future and include them in the ordinance.

Ms. Morgan noted that, while the ordinance listed eight special circumstances where sidewalks would not be required, they were not limited to only those points. She explained that the plan was for a pedestrian oriented community, but there were situations where sidewalks were not feasible.

Mr. Hilliard indicated that he believed the language was flexible enough to give the reviewing boards the ability to make decisions.

Mr. Gold indicated that he supported the petition.

Mr. Pearce noted that there were areas where right-of-way was minimal and a sidewalk might not be installed by Public Works because of the minimum five-foot width.

Ms. Morgan pointed out that Section 30-338(d) made provisions for dedication of easement by property owners in situations of minimal right-of-way.

There was discussion of the requirements for cul-de-sac and dead end streets and how they were measured.

Chair Polshek asked if there was any way to require that new sidewalks use green materials.

Ms. Morgan explained that addressing materials would have to be done in the Public Works Design Manual rather than the Code.

Chair Polshek opened the floor to public comment.

Ms. Dian Deevey was recognized. Ms. Deevey expressed concerns about live oak trees in the rights-of-way. She noted that, while heritage and champion trees are protected, others are not.

Chair Polshek requested that staff address the protection of trees.

Ms. Morgan explained that provisions had been proposed in the petition wherein the City Manager, designee, or appropriate reviewing board could approve modifications to protect trees.

Chair Polshek closed the floor to public comment.

Motion By: Mr. Guy	Seconded By: Mr. Gold
Moved to: Approve Petition 23TCH-02 PB.	Upon Vote: Motion Carried 5-0 Ayes: Gold, Guy, Pearce, Rwebyogo, Polshek

