

Sec. 118-11. Waiver

- a. General. Where the Planning Commission finds that undue hardships will result from strict compliance with a certain provision(s) of this Ordinance, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a waiver from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the waiver shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the Planning Commission shall not approve a waiver unless it shall make findings based upon the evidence presented to it in each specific case that:
 1. Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;
 2. Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; or an alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein;
 3. The waiver will not in any manner vary the provisions of the Zoning Ordinance or other ordinance(s) of the City.
- b. Zoning Variance. If a zoning variance is requested on a particular parcel of property, then it may be decided concurrently with the submittal and consideration of any request for a waiver from any provision of this Chapter.
- c. Zoning District Change. The Commission may consider a Master Plan or any type of plat simultaneously with a zoning district change application and may condition approval of a Master Plan or any type of plat upon final City Council approval of the zoning district change that would cause the Master Plan or plat to be consistent with the zoning.
- d. Conditions. In approving a waiver from any provision of this Chapter, the Planning Commission may require such conditions as will secure substantially the purposes described in this Chapter.
- e. Procedures:
 1. A petition for a waiver shall be submitted in writing to the Planning Department by the property owner or agent before the plat is submitted for the consideration of the Planning Commission. The petition for a waiver can be submitted with the application at any time before the "plat corrections due date" provided for on the approved Commission meeting calendar. The petition shall explain the purpose of the waiver, state fully the grounds for the waiver, and all of the facts relied upon by the petitioner.
 2. Waivers may be approved, disapproved or approved with conditions by the Planning Commission. All waivers for sidewalks approved and approved with conditions, including the approval of the escrowing funds for the construction of sidewalks on perimeter streets to be built at a later date as prescribed in section 118-49(c), will be forwarded to City Council for final approval.
 3. The findings of the Planning Commission, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Planning Commission meeting at which a waiver is considered, approved or disapproved.

Sec. 118-49. Sidewalks.

- a. *Requirement for installation.* Sidewalks shall be required, unless an exception is granted by the Planning Commission, in accordance with the following:
 1. On the subdivision or development side or sides of all major thoroughfares or arterial streets as indicated on the City's Thoroughfare Plan, or a major thoroughfare as determined by the Planning Commission, and on perimeter streets.
 2. On both sides of a street that serves as a local or collector street, except (i) no sidewalks are required along a local residential large-lot street section, as shown in this Chapter, where there is no parking on the street and where each lot has at least 100 feet of frontage, (ii) when a alternative pedestrian access plan is approved by the Planning Commission, and (iii) when an exception is granted by the Planning Commission.
 3. As deemed necessary by the Planning Commission in any area based on uniformity along the street and conformity with the surrounding area.
- b. *Installation.* Sidewalks shall be installed at the street front of lots, along the street side of corner lots, and as required on perimeter streets. Sidewalks shall be constructed in accordance with City standards and specifications at such time as the lot is improved unless otherwise determined by the Planning Commission. For instance, where there would be no building improvement to the area adjacent to the sidewalk.
- c. *Escrow.* With regard to sidewalks on perimeter streets, the Planning Commission, upon request of the applicant, may allow the applicant to deposit in escrow the cost of sidewalks, as approved by the City Engineer, for installation of sidewalks at a later date. The escrow money or letter of credit shall be deposited with the City prior to filing of the final plat.
- d. *Plat note.* A plat note shall be placed on the final plat indicating that sidewalks were required, upon which streets sidewalks were required and who is responsible for installation.
- e. *Location of Sidewalks.*
 1. Sidewalks shall usually be constructed in the right-of-way of the adjacent street, but may be in easements as approved by the Planning Commission. For instance, along TxDOT ROW where future improvements would damage the sidewalk or where the walk is not adjacent to a street.
 2. Sidewalks adjacent to single family or two family lots, along a local street, shall be placed in the right-of-way at least three feet from the curb or adjacent to the curb.
 3. All sidewalks adjacent to collector streets, arterial streets, or TxDOT highways shall be separated by at least 4 feet from the curb or edge of the shoulder.
- f. *Pedestrian and bikeways.* Pedestrian and bikeways, six feet in width, located in the right-of-way or in a public access easement, shall be dedicated and constructed where deemed necessary by the Planning Commission, to provide circulation or access to schools, playgrounds, parks, shopping centers, arterial streets and community facilities, or to provide pedestrian circulation within the subdivision. For instance, the Commission may require such pedestrian or bikeways between lots at the end of culs-de-sac. Pedestrian and bikeways shall be constructed by the developer with a surface approved by the Planning Commission. Such pedestrian and bikeways may be required along perimeter streets.
- g. *Sidewalk widths* shall be as follows:
 1. Along one or two family lots: four feet.
 2. Along multifamily or non-residential lots: six feet.

3. In front of a commercial or multifamily building(s) where there is less than a 10 foot building setback: 10 feet.
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- h. *Alternate pedestrian access plan.* Rather than requiring sidewalks on both sides of all streets within a subdivision, or along a perimeter street, the applicant may present for Commission approval an alternate plan showing pedestrian access within and to destinations outside the subdivision such as schools and shopping. Such a plan might provide for no sidewalks on cul-de-sac bubbles, on both sides of all streets, or where the street was wider than the minimum standards.