Description: Sidewalk installation in adjacent streets is required prior to the issuance of a certificate of occupancy for a structure on the lot, as required by Section 12.08.060 of the Rapid City Municipal Code. Section 12.08.060.C of the Rapid City Municipal Code allows for a person to apply for a variance from the requirement to construct sidewalk from the City Council.

Procedure for requesting a sidewalk variance:

1. Prepare a written request addressed to the City Council for a variance from the requirements to install sidewalks. The written request shall include the following information:
   a. Name of person requesting sidewalk variance, affiliation to project (property owner, builder, etc.), phone number, and email address.
   b. Type of permit that requires the installation of sidewalk (single family residential building permit, commercial building permit, commercial building expansion, etc.), and the building permit number associated with the request if one has been issued.
   c. Adjacent streets that require sidewalk installation.
   d. Justification for not wanting to construction the sidewalk (topographic constraints, proximity to other existing sidewalks, type of street, right-of-way constraints, etc.).
   e. Distance to and location of the nearest existing sidewalks.
   f. Include the following statement “The variance request is submitted as allowed for by Section 12.08.060.C of the Rapid City Municipal Code.”

2. Submit the written request to the Engineering Services Department, Development Review Group at the above address or by email to EngineeringDevelopmentGroup@rcgov.org.

3. The request will be put on the next Public Works Committee Meeting Agenda for consideration. The Public Works Committee will make a recommendation to the City Council for approval or denial of the request. The City Council will consider the request at the next City Council meeting. A Staff member will contact the applicant to inform them of the dates of the meetings in which the request will be considered. A representative of the request is encouraged to attend the meetings in order to speak towards the request, and address any questions. The City Council will make the final determination about the request.

4. There is no fee associated with this request.
City Council  
300 Sixth Street  
Rapid City, SD 57701

**RE:** Variance from the Requirement to Install Sidewalk for Drainage Lot A of Avenue A Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota.

Honorable Council Members:

The purpose of this letter is to waive the requirement to install sidewalk adjacent to Sweetbriar Street as required by Section 12.08.060.C of the Rapid City Municipal Code. This request is being made by KTM Design Solutions, Inc. on behalf of DTH, LLC. as we are the Engineer of Record for the subdivision improvements which trigger the requirement.

The roadway adjacent to the developing property consists of a rural style street section, which does not support installation of sidewalk. Currently the portion of Sweetbriar Street having a rural street section is without sidewalk. The nearest sidewalk on Sweetbriar Street is located on an urbanized portion of the Twilight Drive and Sweetbriar Street intersection, approximately 1,300 feet south of the site. In addition, if constructed, it is highly unlikely that the sidewalk will conform to ADA requirements due to the rural street section.

This request is only being made for the portion of sidewalk located along Sweetbriar Street and west of Drainage Lot A.

The variance request is submitted as allowed for by Section 12.08.060.C of the Rapid City Municipal Code.

Thank you for your assistance in this matter.

Respectfully Submitted,  
KTM Design Solutions, Inc.

[Signature]

Kyle Hibbs, PE

enc. Site Map
Any owner of real property who shall fail to keep in repair the sidewalks in front or along the property if he or she resides thereon, or if he or she does not reside thereon, to repair the same forthwith when notified, shall be held liable to the city for any damage caused by the neglect.

(Ord. 5793 (part), 2012)

12.08.020 When required-Notice to property owners.

Whenever the Common Council shall deem it necessary to construct, rebuild or repair any sidewalk, it shall notify all owners by return receipt mail of lots adjoining the sidewalk to construct, rebuild or repair the same at their own expense within a time designated. The notice shall be in writing and either be served personally on each owner or by publication once each week for 2 consecutive weeks. It shall set forth the character of the work and the time within which it is to be done. The notice may be general as to the owners, but must be specific as to the description of the lots.

(Ord. 5793 (part), 2012)

12.08.030 Work by city.

If a sidewalk is not constructed, reconstructed or repaired in the manner and within the time prescribed in the notice given pursuant to § 12.08.020, the Common Council, by resolution, may cause the same to be done and the cost thereof assessed against the lots, plots or parcels of land fronting or abutting upon the sidewalk so constructed, reconstructed or repaired, as provided in SDCL Chapter 9-46.

(Ord. 6139 (part), 2016: Ord. 5793 (part), 2012)

12.08.040 Specifications.

The construction of sidewalks, whether done by the owner of the fronting or abutting property or by the city, direct or through a contractor, shall be according to the current editions of the City of Rapid City Standard Specifications for Public Works Construction and the Infrastructure Design Criteria Manual. All sidewalk construction and repair shall be of concrete or other material approved by the City Engineer.

(Ord. 6139 (part), 2016: Ord. 5793 (part), 2012)

12.08.050 Width.

A. The width of all sidewalks, except in the business district and portions of the urban commercial district described in subsection B. of this section, shall be a minimum of 4 feet on lane, place and local roads and a minimum of 5 feet on all other roads. Sidewalks shall be constructed in the right-of-way 1 foot from the property line abutting a street, unless otherwise directed or approved by the City Engineer. However, in any block in which the majority of the sidewalks have been constructed at a greater width, all newly constructed sidewalk shall be constructed at the same width as those existing sidewalks. Sidewalks to be constructed adjacent to the curb in accordance with the Infrastructure Design Criteria Manual (current edition) shall be a minimum of 5 feet in width for lane, place and local roads and a minimum of 6 feet for all other roads. Any proposed sidewalk to be constructed which will abut an existing wider sidewalk shall be constructed to provide a transition between the different widths as approved by the City Engineer.

B. In the business district which consists of the area between Rapid Street, Nikko Street, and Apolda Street on the north and Kansas City Street on the south and between East Boulevard and West Boulevard, sidewalks shall be constructed from the curb line to the property line. In the urban commercial district and public district, along pedestrian oriented streets as defined in § 17.04.542 sidewalks shall be constructed from the curb line to the property line.

(Ord. 6236 (part), 2018: Ord. 6139 (part), 2016: Ord. 6037 (part), 2015: Ord. 5793 (part), 2012)

12.08.060 New and existing developments.

A. Conformance with sidewalk requirements-exceptions. The construction of a permanent sidewalk fronting or abutting all
streets, highways and avenues shall be accomplished by the builder, owner or developer of all new or existing buildings within the city, except in the following circumstances:

1. When the Common Council, pursuant to Chapter 17.50 of this code, approves a planned unit development or planned residential development incorporating a sidewalk plan unique to the development;

2. When the lot has a frontage in excess of 200 feet per dwelling unit located on the lot and is in the general agricultural zoning district; however, if the lot abuts or is adjacent to a lot with existing sidewalk, this exception shall not apply;

3. When the property has frontage along an interstate highway, a sidewalk will not be required along the interstate;

B. Variances granted by Council. The Common Council, in its sole discretion, may approve a variance from sidewalk requirements.

1. Unless otherwise provided by the Common Council in approving the variance, a variance under this section remains valid only until such time as a building permit is sought to construct an additional structure or parking lot on the property, to enlarge by 20% or more an existing structure or parking lot on the property, or to increase the occupant load by 20% or more, except for in the urban commercial district where an enlargement shall be defined by a 40% increase in the square foot gross floor area of a building. If such a building permit is sought, then sidewalks must be provided or a new variance must be approved.

2. For the purposes of determining what constitutes an expansion or enlargement of 20%, or 40% if located within the urban commercial district, any additions or increases since the variance was granted are considered cumulatively.

3. If no work is completed or improvements made on the property within 2 years of receipt of a variance, or if the development plan submitted with the variance request is replaced or abandoned, then the variance expires.

4. The granting of a variance does not limit the City Council's ability to order the installation of sidewalk in accordance with the provisions of § 12.08.020.

C. All property with existing development on the effective date of these regulations which is not in compliance with the provisions of these regulations shall be considered nonconforming and allowed to continue until such time as a building permit is granted to construct a new structure or parking lot on the property, to enlarge by 20% or more an existing structure or parking lot on the property, or to increase the occupant load by 20% or more. For properties with existing development in the urban commercial district that are located along pedestrian oriented streets as defined in § 17.04.542, compliance with these regulations is required when a building permit is granted to construct a new structure or parking lot on the property, or to enlarge the square foot gross floor area of an existing structure or parking lot by 40% or more. Nothing in this section shall limit the City Council's ability to order the installation of sidewalk in accordance with the provisions of § 12.08.020.

D. Inspection prerequisite to certificate of occupancy-bond. No certificate of occupancy shall be issued nor shall a water meter be released until a final inspection by the Building Official confirms that the sidewalks were installed pursuant to this chapter, a variance was granted, or security in an amount equal to the estimated cost of construction of the sidewalk was provided, whereby the sidewalk will be constructed without cost to the city in the event of default by the builder, owner or developer of the property. All bonds and other methods of guarantee shall be approved by the City Attorney.

E. Application for variance. Any person aggrieved by any decision of the Building Official under this section may apply in writing to the Common Council for an exception from the requirements of this section.

(Ord. 6236 (part), 2018; Ord. 6139 (part), 2016; Ord. 5793 (part), 2012)
ATTACHMENT 2

B. **Lot dimensions.** Lot dimensions shall comply with the minimum standards of the city zoning ordinance. Where lots are more than double the minimum required area for the zoning district, the Director or City Council, as applicable, may require that the lots be arranged so as to allow further subdivision and the opening of future streets where necessary to serve the potential lots, all in compliance with the zoning ordinance and this chapter. Side lot lines shall be substantially perpendicular. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum setback from both streets, and allowing for cross-lot visibility for motorists on both intersecting streets.

C. **Access.** Each lot shall be provided with access to a public street or other access as provided by the Infrastructure Design Criteria Manual.

(Ord. 5772 (part), 2012: Ord. 2863 (part), 1991; prior Code Appendix B (Art. IV, § 6))

16.16.040 Streets.

A. The configuration, location and grade of all proposed streets shall be in accordance and with good land planning principles and shall meet the intent of the major street plan. Streets shall be provided in relation to existing and proposed streets, topographical conditions, public convenience and safety, in appropriate relation to the proposed uses of land to be served by the streets, and in relation to provision for gravity sanitary sewer service to all lots.

B. Where appropriate, proposed streets shall be extended to the boundary lines of the tract or parcel to be subdivided in order to ensure access to adjoining parcels of land. Property abutting a proposed subdivision shall not be left land-locked by such proposed subdivision. Unusable reserve strips controlling access to streets shall be prohibited.

C. Alleys may be required in commercial and industrial districts. The Director or City Council may waive this requirement where other provision is made for service access, such as off-street loading, unloading and parking consistent with ordinance requirements.

(Ord. 5772 (part), 2012: Ord. 3112 (part), 1994; prior code Appendix B (Art. IV, § 2(1))

16.16.050 Sidewalks.

The responsibility for constructing sidewalks shall be divided as follows:

A. The subdivider/developer will be responsible for constructing all corner ramps, sidewalk connecting the corner ramps along the radius and all sidewalks on lots which no building permit is anticipated (drainage lots, utility lots, other common lots, or lots within the city’s 3-mile plating jurisdiction).

B. All other sidewalks will be installed prior to the issuance of a certificate of occupancy for the structure on the lot.

(Ord. 5772 (part), 2012)

16.16.060 Street names.

Street names shall not be duplicated by spelling or sound, such that they may be confused with the names of existing streets. Street names are subject to the approval of the Emergency Communications Services Center.

(Ord. 5772 (part), 2012: prior code Appendix B (Art. IV, § 4(1))

16.16.070 Subdivision names.

Subdivision names shall not duplicated or be deceptively similar to any other subdivision name. Subdivision names are subject to the approval of the Pennington County Register of Deeds.

(Ord. 5772 (part), 2012: prior code Appendix B (Art. IV, § 4(2))

16.16.080 Easements.
Map Notes:

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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334.4 Feet

132 FEET OF SIDEWALK

131.85 ft

Total: 131.85 ft

03

Legend

Roads

- Interstate
- US highway
- SD highway
- County highway
- Main road
- Minor arterial
- Collector
- Ramp
- Paved road
- Unpaved road
- Trail
- Driveway
- Alley
- Unimproved road
- Airport Runway

- Not yet coded

Section Lines 0-25k

Tax Parcels

Lot Lines

- <Null>
- Lot Line
- Parcel Line
132 FEET OF SIDEWALK