AN ORDINANCE TO CLARIFY REQUIREMENTS FOR INSTALLATION OF SIDEWALKS BY AMENDING CHAPTER 12.08 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the City has adopted regulations governing sidewalk construction and repair in Chapter 12.08 of the Rapid City Municipal Code; and

WHEREAS, Section 12.08.030 mistakenly refers to the wrong section and should be amended to refer to Section 12.08.020 as the provision that requires public notice before City installs a sidewalk; and

WHEREAS, Ordinance 5410 passed by the Common Council in July 2008 amended provisions concerning sidewalk requirements; and

WHEREAS, Ordinance 5410 removed a provision that exempted property that is zoned Light Industrial or Heavy Industrial from the requirement to construct sidewalks; and

WHEREAS, the staff report accompanying Ordinance 5410 stated that this exemption was to be removed because exempting industrial areas from sidewalk requirements was not consistent with developing a continuous coordinated pedestrian network throughout the City; and

WHEREAS, Ordinance 5410 still retained language in Section 12.08.060.A that stated that sidewalks are required on all new or existing residential or commercial buildings; and

WHEREAS, the Common Council wishes to amend Section 12.08.060 of the Rapid City Municipal Code to clarify that the sidewalk requirements apply to all properties; and

WHEREAS, therefore, the City wishes to remove the reference to residential or commercial buildings in Section 12.08.060.A; and

WHEREAS, the Common Council wishes to remove the provision in Section 12.08.060.A.5 that provides that a waiver of right to protest shall be required prior to a building permit when the expansion is less than 20 percent; and

WHEREAS, the Common Council believes it to be in the best interests of the safety and general welfare of its citizens to amend Sections 12.08.030 and 12.08.060 to clarify regulations related to sidewalk construction within the City limits.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 12.08.030 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

12.08.030 Work by eCity.
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.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 12.08.040 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

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.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 12.08.050 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

12.08.050 Width.

A. The width of all sidewalks, except in the business 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.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 12.08.060 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

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 residential or commercial 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; or

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

4. When the Common Council, in its sole discretion, approves a variance from sidewalk requirements.

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 percent or more an existing structure or parking lot on the property, or to increase the occupant load by 20 percent or more. 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 percent, 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 two 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 provision 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 percent or more an existing structure or parking lot on the property, or to increase the occupant load by 20 percent. A waiver of right to protest shall be required prior to a building permit being granted to enlarge by less than 20 percent a structure or parking lot on the property or increase the occupant load by less than 20 percent. Nothing in this §Section shall limit the City Council's ability to order the installation of sidewalk in accordance with the provision of § 12.08.020.
BD. **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 reveals confirms that 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.

CE. **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 variance from the requirements of this section.

CITY OF RAPID CITY

________________________________________
Mayor

ATTEST

________________________________________
Finance Officer

(seal)

First Reading:
Second Reading:
Published:
Effective: