

Ordinance No. 6236

**AN ORDINANCE TO AMEND CHAPTER 12.08 OF THE
RAPID CITY MUNICIPAL CODE TO ACCOMMODATE GOALS FOR PEDESTRIAN
ORIENTED STREETS IN THE URBAN COMMERCIAL DISTRICT**

WHEREAS, the City of Rapid City has adopted regulations pertaining to sidewalk construction and repair in Chapter 12.08 of the Rapid City Municipal Code (R.C.M.C.); and

WHEREAS, R.C.M.C.12.08.050 regulates the width of sidewalks; and

WHEREAS, R.C.M.C.12.08.050B establishes that sidewalks in the Central Business District, as defined by a specific boundary, shall be constructed from the curb line to the property line; and

WHEREAS, the Downtown Area Master Plan adopted by Council in October 2016 recommends wider sidewalks along Pedestrian Oriented Streets; and

WHEREAS, the existing boundary for the Central Business District as described in Section 12.08.050B does not encompass all Pedestrian Oriented Streets established in the Downtown Area Master Plan; and

WHEREAS, the Urban Commercial District is being created to implement development goals identified within the Downtown Area Master Plan; and

WHEREAS, the Common Council wishes to amend R.C.M.C. 12.08.050B to require wider sidewalks on all Pedestrian Oriented Streets in the Central Business District and the Urban Commercial District; and

WHEREAS, R.C.M.C. 12.08.060 regulates the expansion thresholds for when a development must comply with the regulations in Chapter 12 and requires compliance with the ordinance when an existing property is enlarged or expanded by 20 percent or more; and

WHEREAS, properties in the downtown area, including the proposed Urban Commercial District, are more likely to be constrained than the rest of the City; and

WHEREAS, the Common Council wishes to amend R.C.M.C. 12.08.060 to require existing properties within the Urban Commercial District to comply with the regulations in Chapter 12 when the gross floor area is expanded by 40 percent or more; and

WHEREAS, the Common Council believes the health, safety, and welfare of its citizens is advanced by amending Chapter 12.08 Sidewalk Construction to accommodate the new Urban Commercial District and to require wider sidewalks in the new zoning district.

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 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 Section 17.04.542 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 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. *Variations 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 Section 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. 6139 (part), 2016: Ord. 5793 (part), 2012)

CITY OF RAPID CITY

Mayor

ATTEST

Finance Officer

(seal)

First Reading:
Second Reading:
Published:
Effective: