

TO: PLANNING COMMISSION

**THROUGH: LISA ANDERSON-OGILVIE, AICP
DEPUTY COMMUNITY DEVELOPMENT DIRECTOR AND PLANNING
ADMINISTRATOR**

**FROM: ROBERT CHANDLER, PHD, PE
PUBLIC WORKS DEPARTMENT ASSISTANT DIRECTOR**

**SUBJECT: ADDITIONAL INFORMATION REGARDING PROPOSED AMENDMENTS
TO SALEM REVISED CODE CHAPTER 77 (PERMITS AND STREET
IMPROVEMENTS), CHAPTER 78 (SIDEWALKS), CHAPTER 200 (URBAN
GROWTH MANAGEMENT), AND CHAPTER 803 (STREETS AND RIGHT-
OF-WAY IMPROVEMENTS)**

ISSUE

Should the Planning Commission recommend City Council approve proposed amendments to the Salem Revised Code (SRC) updating Chapter 77 (Permits and Street Improvements), Chapter 78 (Sidewalks), Chapter 200 (Urban Growth Management), and Chapter 803 (Streets and Right-of-Way Improvements) to address issues that have arisen based on experience with the code and based on feedback received from stakeholders involved in development projects?

RECOMMENDATION

Approve proposed amendments to the Salem Revised Code (SRC) updating Chapter 77 (Permits and Street Improvements), Chapter 78 (Sidewalks), Chapter 200 (Urban Growth Management), and Chapter 803 (Streets and Right-of-Way Improvements) to address issues that have arisen based on experience with the code and based on feedback received from stakeholders involved in development projects.

SUMMARY AND BACKGROUND

At the November 15, 2022, Planning Commission meeting, staff presented recommended amendments to Salem Revised Code (SRC) updating Chapter 77 (Permits and Street Improvements), Chapter 78 (Sidewalks), Chapter 200 (Urban Growth Management), and Chapter 803 (Streets and Right-of-Way Improvements).

The Planning Commission requested additional information regarding proposed amendments to SRC Chapter 200 relating to use of fee-in-lieu (FIL) payments. Staff recommendation is that SRC 200.405(d) be amended to allow greater flexibility for use of FIL payments to fund infrastructure projects. The current regulation allows the FIL funds to be used only at the precise location of the public improvement project where the project is required as a condition of development. The proposed amendment allows those funds to be used for any project of the same infrastructure system type. For example, a small partition on an under-improved local street could pay a FIL of construction for a small boundary street improvement, and then those funds could be used to construct a critical pedestrian safety improvement on a nearby arterial street.

At the hearing, the Planning Commission requested examples for how other communities use FIL payments. Specifically, regarding whether the funds are limited based on the neighborhood, ward, or area for which it was received or if the funds can be used community-wide as staff are recommending. Based on staff's research, there is no clear or consistent approach among local jurisdictions. Staff continues to recommend that SRC 200.405(d) be amended to allow greater flexibility for use of FIL payments to fund city-wide infrastructure projects.

FACTS AND FINDINGS

1. Examples: Fee-in-lieu of Construction of Certain Improvements

- a. **Sidewalks** – St. Helens and Warrenton accept FIL payments in lieu of construction of sidewalks. Their code stipulates that the FIL payment may be used anywhere within the city for sidewalk improvements.

In contrast, Bend has established that FIL for sidewalk construction may be allowed within the Woodriver Village subdivision, and the FIL funds may only be spent within the Woodriver Village subdivision.

- b. **Undergrounding Utilities** – Tigard established utility service areas in the city and calculate the fee by utility service area based upon the estimated cost to construct underground utilities within each service area. Code stipulates that all development that occurs within a utility service area shall pay a fee-in-lieu of undergrounding utilities if the development does not currently provide underground utilities. Tigard's code allows the funds collected in each service area to be used for undergrounding utilities within the city at large.
- c. **Inclusionary Housing** – Portland allows applicants to pay a fee-in-lieu in place of providing affordable units. The funds received through the Inclusionary Housing FIL do not have restrictions within the city and can be utilized city-wide.
- d. **Boundary Street Improvements** – The City of SeaTac allows a FIL to be paid for required boundary street improvements under certain conditions. One requirement is that the FIL payment can be used by SeaTac for an improvement within five years and within the same district for which the fee was paid. There are three large districts (north, central, and south) established by SeaTac for use of the funds.

Oregon City stipulates that FIL funds must be used in the exact area they were obtained for, similar to Salem's current code.

Grants Pass requires the FIL be placed in the City's Capital Project Fund and disbursed for costs associated with public improvements the City deems necessary. Alternatively, the FIL may be used to create a Local Improvement District or to complete a Local Government Improvement Project.

The City of Milwaukie requires that FIL funds collected must be used in the same neighborhood. For example, a local street may see a new duplex development and rather than construct sidewalks and new curb in front of the lot, the developer will pay a fee-in-lieu and those funds can be used towards a capital project to construct new ADA ramps on the collector street that runs through the same neighborhood.

2. Public Testimony

No public testimony was received for the proposed amendments at time of writing this staff report.

Attachments: A. Proposed Code Amendments

Prepared by: Laurel Christian, Development Services Planner II
Public Works Department

Sec. 77.160. Sidewalk improvement requirements.

- (a) ~~*Public Works Design Standards.* Construction of sidewalks conforming to the Public Works Design Standards shall be a condition of the issuance of any building permit for a development located on property lacking such sidewalks. As used in this section, the term "development" means the construction or enlargement of any building or structure requiring a building or occupancy permit under SRC chapter 56, but excluding building permits for improvements to existing single family or duplex dwelling unit structures under the following conditions:~~
- (1) ~~The existing single family or duplex dwelling unit structure is located on property abutting an unimproved street that lacks curbs;~~
 - (2) ~~The proposed development is less than a 50 percent enlargement of the existing floor area square footage of the structure, including an attached garage; and~~
 - (3) ~~The conversion of, or addition to, an existing single family detached dwelling to create a duplex, triplex, or quadplex when:~~
 - (A) ~~The existing single family detached dwelling is located on property abutting an unimproved street that lacks curbs; or~~
 - (B) ~~The proposed development is less than a 50 percent enlargement of the existing floor area square footage of the structure, including an attached garage.~~
- (b) ~~*Deferral, City required.* Construction of required sidewalks may be deferred at no cost where street improvements are anticipated or where no sidewalks are presently located within 150 feet and on the same side of the adjacent property.~~
- (c) ~~*Alternative street standard and enforcement.* Alternatives from and enforcement of the requirements of this section shall be as provided in SRC 803.065 and 78.300.~~

CONSTRUCTION OF TRAFFIC SIGNALS BY PRIVATE DEVELOPERS¹

Sec. 78.180. Requirements for new construction abutting improved streets.

- (a) ~~Except as otherwise provided by SRC 78.192, every property owner whose property abuts upon any street that has been improved with hard surface pavement and curbs, shall construct a sidewalk and replace non-conforming portions of existing sidewalk in conformance with the provisions of this chapter within 100 days from the completion of construction of any building located upon the property. For the purposes of this section, sidewalks shall be required along the entire length of the property abutting any improved street. As used in this section, the term "building" shall not include accessory buildings, as defined in SRC 111.005, in a residential zone.~~
- (b) ~~Whenever any property owner refuses to perform any duty imposed under this section, the Director shall issue a notice and order the property owner to satisfy such duty, and if the property owner fails to perform such duty within such time as the Director may have specified in the notice and order, then the Director shall proceed as provided in SRC 78.300.~~

¹State law reference(s)—Official traffic control devices, ORS 810.200.

Sec. 78.190. Construction plans to show sidewalks.

~~No building permit shall be granted for the construction of any building along any street that has been improved with hard surface pavement and curbs unless the construction plans provide for the construction of sidewalks as specified in this chapter.~~

Sec. 78.192. Deferral of sidewalk construction.

- ~~(a) A property owner may apply to the Director to enter into a deferral agreement with the City to defer the obligation to construct sidewalks as required by SRC 78.180 or required as a condition of land use approval under the following circumstances:~~
- ~~(1) In the case of all property other than industrial:~~
- ~~(A) The location of the sidewalk is not on a designated collector or arterial street in the Salem Transportation Systems Plan; and~~
- ~~(B) Less than one half of the required sidewalks on that side of the block are already constructed.~~
- ~~(2) In the case of industrial property:~~
- ~~(A) The frontage considered for deferral is not on a major pedestrian route to a school, shopping center, park, church, or other pedestrian traffic generator;~~
- ~~(B) The deferral of the sidewalk construction does not pose a threat to the welfare and safety of the public based upon a review of the pedestrian/vehicular traffic, the width and condition of the street, and of the on-street parking; and~~
- ~~(C) There is an adequate combination of pedestrian, bike and transit facilities for employees to reach the property safely without using a vehicle, except that the Director may waive this condition if the property owner can show that imposing this condition would create a hardship.~~
- ~~(b) Whenever a sidewalk construction has been deferred, the property owner shall, unless otherwise specified in the deferral agreement:~~
- ~~(1) Grade and slope the area to the future sidewalk grade;~~
- ~~(2) Avoid planting trees in the sidewalk area, or building fences, retaining walls, steps, or other impediments to the future sidewalk;~~
- ~~(3) Note on the plans for the development that a deferment has been granted but that sidewalk construction may be ordered by the Council at any time; and~~
- ~~(4) Record a copy of the deferral agreement in the deed records of the appropriate county.~~
- ~~(c) Sidewalk construction, which has been deferred pursuant to subsection (a) or (b) of this section, may be initiated at any time by the Director or by resolution of the Council.~~

200.005. Definitions

Development means:

- (a) The subdivision of land;
- (b) The construction of a planned unit development;

- (c) The establishment of a mobile home park;
- (d) The construction or structural alteration of a building or structure which will result in increased usage of a public facility; provided, however, that any such construction or structural alteration undertaken in connection with one of the following shall not be considered development for purposes of this chapter:
 - (1) Construction or alteration of ~~any~~ building or structure for any of ~~in~~ the following ~~land-uses classifications~~ under SRC chapter 400:
 - (A) Single family;
 - (B) Two family;
 - (C) Three family;
 - (D) Four family;
 - (E) Cottage cluster;
 - ~~(F)(C)~~ Basic utilities;
 - ~~(G)(D)~~ Wireless communication facilities.
 - (2) Any use established and conducted by the City.
 - (3) Construction or structural alteration of a building or structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions.
 - (4) Construction or structural alteration undertaken for purposes of adaptive reuse under SRC chapter 230, provided that such construction or structural alteration is for the purposes of adaptive reuse only.
 - (5) Construction or structural alteration of any building or structure in a complex, provided there is no cumulative increase in total floor area of all buildings and structures within the complex that exceeds 60 percent of the total floor area within any period of three consecutive years. Example: Construction or alteration would not be exempt from this chapter if the total floor area of existing buildings and structures in the complex = 100,000 square feet and cumulative new floor area = 61,000 square feet in the years 2010, 2011, and 2012. For the purposes of this subsection, the percent increase shall be based on the building square footage before the construction or structural alteration is started, or if the building or structure has been damaged and is being restored, before the damage occurred.

Sec. 200.020. - Urban Growth Preliminary Declaration required; term and fee.

- (a) Prior to subdivision plat approval for a residential or commercial subdivision, or application for a building permit for any development where no subdivision is contemplated, a developer shall first obtain an Urban Growth Preliminary Declaration if the development is within the urban growth area (UGA), or is within the urban service area (USA), but precedes city construction of required facilities that are shown in the adopted capital improvement plan, public facilities plan or comparable plan for the area of the development.
- (b) Prior to issuance of a building permit for a single family dwelling unit, two family dwelling unit, three family dwelling unit, four family dwelling unit, or cottage cluster ~~residence or duplex~~ in a subdivision subject to subsection (a) of this section, and prior to issuing a certificate of occupancy for any other development subject to subsection (a) of this section, the Building Official shall ascertain

that all required facilities identified in the Urban Growth Preliminary Declaration have been provided consistent with the UDC.

- (c) It shall be unlawful for any person to construct or commence construction of any single family dwelling unit, two family dwelling unit, three family dwelling unit, four family dwelling unit, or cottage cluster residence or duplex in a subdivision subject to subsection (a) of this section, or to occupy (except under a temporary occupancy certificate issued pursuant to UBC section 306(d) and subsection (d) of this section) any other development subject to subsection (a) of this section without first obtaining an Urban Growth Preliminary Declaration.
- (d) Notwithstanding the provisions of subsection (b) of this section, the Building Official may issue a temporary occupancy certificate as provided in UBC section 306(d) if the required facilities identified in the applicable Urban Growth Preliminary Declaration have been provided consistent with the UDC.
- (e) The fee for a Urban Growth Preliminary Declaration shall be as prescribed by resolution of the Council.

Sec. 200.050. Acquisition of property, easements and right-of-way.

- (a) The developer shall obtain all rights-of-way necessary for street improvements, easements for sewer, drainage and water lines, and fee title to property for parks, pumping stations and reservoirs needed to construct the required facilities identified in the Urban Growth Preliminary Declaration. If the developer is unable to acquire any necessary property, easements, or right-of-way after documented good faith attempts to negotiate and purchase the same, the developer shall prepare the legal descriptions thereof and transmit them to the City Attorney. The City Attorney shall refer the matter to the Council which shall, after public hearing, proceed to determine whether the developer made good faith attempts to acquire the property, easement or right-of-way, and whether to acquire the property, easement, or right-of-way through exercise of eminent domain. The hearing shall be conducted in the manner provided for quasi-judicial hearings in matters other than quasi-judicial land use matters.
- (b) The City Attorney and other city departments shall keep account of time and expenses incurred in acquiring the property, easements, and rights-of-way, including the amount of court costs and attorney fees awarded the other party by the court, and the developer shall pay all such expenses together with the amount of the judgment or settlement. In instances where the City and the developer have responsibility for acquiring abutting portions of right-of-way at the same time, the expenses delineated in this subsection shall be shared in proportion to the area acquired by each party.
- (c) Any settlement of a condemnation action must be concurred in by the developer; provided, however, the developer shall be bound by a final judgment rendered in any eminent domain action unless, within ten days of the verdict being rendered, the developer notifies the City Attorney, in writing, of the developer's intention to abandon the development. If the developer, at any time, decides to abandon the development, the developer shall pay to the City all costs incurred in preparing for and prosecuting the action, including any costs and attorney fees awarded the defendant in the action.
- (d) All property, easements, and rights-of-way acquired by the developer shall be acquired by the developer in the name of, and conveyed to, the City, free of all liens and encumbrances, no later than the time of recording of the final plat. If the property acquired by the developer is subject to an easement held by a public utility as that term is defined by SRC 35.010 or a federal, state, or local governmental entity, the Director may accept the conveyance if the City's planned uses of the encumbered area are consistent with the terms of the easement. This section does not affect the rights or obligation of the public utility under any franchise agreement entered into with the City

pursuant to SRC Chapter 35. If the City's planned uses of the encumbered area are not consistent with the terms of the easement, the applicant may request relief from the provisions of this subsection through a Class 2 adjustment, pursuant to SRC chapter 250. Notwithstanding SRC 250.005(d)(2), a Class 2 adjustment for relief pursuant to this subsection may be approved if the following criteria are met:

- (1) There are no feasible alternatives to relocate the planned City facilities that would eliminate the need to acquire the encumbered area;
- (2) The applicant has made good faith efforts to remove the encumbrance;
- (3) The Director determines that the likelihood that the City facilities will need to be modified or relocated is small, and the cost of such modification or relocation can be adequately mitigated; and
- (4) The easement holder has consented in writing to allow the City's planned use in the encumbered area, in a form acceptable to the City Attorney. At a minimum, the easement holder's consent shall provide a reasonable time for the City to relocate or modify the City's facilities to accommodate the easement.

200.405. Fee-In-Lieu of Construction Authorized.

(a) The Director may allow a Developer to ~~enter into an agreement with the City for the payment of pay a fee-in-lieu of making constructing a required public improvement required as a condition of a development approval,~~ when one or more of the following conditions is are met:

(1) The development approval only requires the construction of a portion of the public improvement; ~~and additional portions are required to be constructed in order to have an operational, fully functioning public improvement;~~ ~~(2)~~ ~~Construction of the additional portions of the public improvement will not or cannot occur simultaneously with the construction of the portion required as part of the condition of development approval; and because funding for other portions is unavailable at the time the developer would construct the developer's portion of the public improvement; or~~

~~(3)~~ Construction of only a portion of the public improvement would impede the construction of the additional portions or otherwise affect the physical integrity of the public improvement at a future date; or

(3) The public improvement is proposed for construction in the Five-Year Capital Improvement Program; or

(b) Notwithstanding any provision of SRC 200.400 through 200.420, construction of the public improvement shall be preferred over the payment of a fee-in-lieu.

(c) No building permits for any structures within the development site subject to the required public improvement condition of development approval will shall be issued until the fee-in-lieu of construction is paid.

(d) The Director of Finance shall deposit the fee-in-lieu into a trust and agency account. The fee-in-lieu shall only be used to fund construction of ~~the a public improvement project of the same infrastructure system type~~ (for example, but not limited to transportation, water, wastewater, stormwater) for which the fee was paid.

(e) For land divisions, the Director may allow a Developer to enter into an agreement to pay a fee-in-lieu of construction pursuant to the conditions of land use approval. The agreement shall ensure that payments are proportionally made with each development phase and that the entire fee-in-lieu amount will be paid in full upon completion of all development phases. The An agreement to pay a fee in lieu of construction shall be in a form approved by the City Attorney and recorded in the deed records of the

appropriate county. The agreement to pay a fee-in-lieu of construction shall not result in an assessment upon or lien against real property, and the fee-in-lieu collected by the City from a Developer are not taxes subject to the property tax limitations of Article XI, section 11(b) of the Oregon Constitution.

200.410. Fee-In-Lieu Amount.

(a) The fee-in-lieu of construction shall be based on the estimated cost of construction of the public improvement; shall reflect the proportional share of the cost of the public improvement benefitting the development; and shall be an amount equal to the estimated construction cost of the Developer's portion of the public improvement, calculated for the year when the Developer commences construction of the project, minus any systems development charge credits for which the Developer would be eligible if the public improvement had been constructed.

(b) Fee-in-lieu amounts, except for mitigation measures associated with a traffic impact or transportation planning rule analysis, shall be limited by the following proportionality constraints:

(1) For developments subject to Class 2 or Class 3 Site Plan Review pursuant to SRC 220.005, the fee-in-lieu amount for a required public improvement shall not exceed the amount of system development charges being assessed for the development for that same infrastructure type.

(2) For partition, subdivision, phased subdivision, and planned unit development approvals, the fee-in-lieu amount for a required public improvement shall not exceed the amount of system development charges being assessed for the development for that same infrastructure type, based on a full build-out of the approved development.

200.415. Payment of Fee-In-Lieu of Construction as Substantial ~~Compliance~~ Conformance. Payment of an approved fee-in-lieu of construction as provided in SRC 200.400 through 200.420 shall be considered substantial ~~compliance~~ conformance with the condition of land use approval requiring the construction of the public improvement.

803.005. Definitions.

Block means the properties abutting one side of a street:

- (a) Between two cross streets;
- (b) Between the city limits and the nearest cross street;
- (c) When there is only one cross street:
 - (1) Between a cross street and the dead end of a street;
 - (2) Between a cross street and a line projected from the centerline of an intersecting street, such as a "T" intersection;
- (d) When there are no cross streets, then the block shall be between the points 600 feet from the mid-point of the front property line for the property under consideration and along the street.

Boundary street means an existing street that abuts a ~~unit of land~~ development site.

Complex means a group of structures or other development that is functionally or conceptually integrated, regardless of the ownership of the development or underlying land.

~~Half street improvement means a 50 percent portion of the ultimate width of a street.~~

Public accessway means a walkway that provides pedestrian and bicycle passage either between two or more streets or from a street to a building or other destination, such as a park or transit stop.

Reasonably direct means either a route that does not deviate unnecessarily from a straight line, or a route that does not require a significant amount of out-of-direction travel by likely users.

Reserve block means a strip of land across the end of a street or alley at the boundary of a subdivision or partition, and dividing it from adjacent property, that is reserved to extend or widen the street in the future or to prohibit access to the street or alley from adjacent property. Reserve blocks are usually one foot in width and either deeded or dedicated to the City.

Safe and convenient bicycle and pedestrian routes means facilities and improvements which:

- (a) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or bicycle travel for short trips;
- (b) Provide a reasonably direct route of travel between destinations such as between a transit stop and a store; and
- (c) Meet travel needs of bicyclists and pedestrians considering destination and length of trip; and considering that the optimum trip length of pedestrians is generally one-fourth to one-half mile.

Streetscape improvement means an improvement to the development side of a boundary street with all or a portion of new curb improvements, in-kind curb replacement, new sidewalk improvements, replacement of non-conforming sidewalk panels and ramps, new street light installation, and new street tree planting.

~~Three-quarter street improvement means a half street improvement on the side abutting the development, plus a minimum 12-foot wide travel lane with shoulders and drainage ditches where needed on the opposite side.~~

~~Underimproved street means any public street, road, or right-of-way which lacks any of the following:~~

- ~~(a) Paving;~~
- ~~(b) Curbing;~~
- ~~(c) Bike lanes (where required);~~
- ~~(d) Sidewalks;~~
- ~~(e) Street lighting;~~
- ~~(f) Stormwater facilities; or~~
- ~~(g) Adequate right-of-way geometry or paving width, grade, or structural sections required under the Public Works Design Standards.~~

Walkway means a right-of-way or easement designated for the use of non-motorized vehicles and pedestrians.

Sec. 803.025. - Right-of-way and pavement widths.

- (a) Except as otherwise provided in this chapter, right-of-way width for streets and alleys shall conform to the standards set forth in Table 803-1.

TABLE 803-1. RIGHT-OF-WAY WIDTH		
Right-of-Way	Width	Limitations & Qualifications
Parkway	Min. 120 ft.	Applicable for up to 4 motor vehicle travel lanes.
	Min. 144 ft.	Applicable for greater than 4 motor vehicle travel lanes.
Major arterial	Min. 96 ft.	

Minor arterial	Min. 72 ft.	
Collector	Min. 60 ft.	
Local street	Min. 60 ft.	
Cul-de-sac	Min. 50 60 ft.	Applicable to the stem of the cul-de-sac.
	Min. 45 ft. radius	Applicable to the turnaround of the cul-de-sac.
Alley	Min. 10 ft.	
	Max. 20 ft.	

(b) Except as otherwise provided in this chapter, streets shall have an improved curb-to-curb pavement width as set forth in Table 803-2.

TABLE 803-2. PAVEMENT WIDTH		
Street Type	Width	Limitations & Qualifications
Parkway	Min. 80 ft.	
Major arterial	Min. 68 ft.	
Minor arterial	Min. 46 ft.	
Collector	Min. 34 ft.	Applicable to Type A collector.
	Min. 40 ft.	Applicable to Type B collector.
	Min. 34 ft.	Applicable to Type C collector.
Local Street	Min. 30 ft.	
Cul-de-sac	Min. 30 ft.	Applicable to the stem of the cul-de-sac.
	Min 38 ft. radius	Applicable to the turnaround of the cul-de-sac.

(c) Additional right-of-way, easements, and improvements may be required to accommodate the design and construction of street improvement projects due to steep slopes, soils, water features, wetlands, transit bus bays, and other physical constraints.

(d) Additional right-of-way and roadway improvements at the intersections of parkways, major arterial, minor arterial, and collector streets, and at intersections and access points for high traffic generators, including, but not limited to, shopping centers, schools, major recreational sites, and office complexes, may be required. The design of all intersections shall conform to the Public Works Design Standards.

(e) When an area within a subdivision is set aside for commercial or industrial uses, or where probable future conditions warrant, dedication and improvement of streets to greater widths than those provided in subsection (a) of this section may be required.

803.040. Boundary Streets

(a) General. Except as otherwise provided in this section, dedication of right-of-way for, and construction or improvement of, boundary streets of up to one-half of the right-of-way and improvement width specified in SRC 803.025 shall be required as a condition of approval for the following:

- (1) Subdivisions;
- (2) Partitions;
- (3) Planned unit developments;
- (4) Manufactured dwelling parks; and
- (5) The construction or enlargement of any building or structure located on property abutting a boundary street and that requires a building permit under SRC chapter 56.

~~(b) Three-quarter street improvement. If construction of a half-street improvement is insufficient to provide for a minimum of one 12-foot-wide travel lane in each direction or proper street grade, dedication of right-of-way for, and construction or improvement of, a three-quarter street improvement may be required.~~

~~(c) Additional right-of-way and improvements. Dedication and improvement of streets to greater widths than those provided in SRC 803.025 may be required when:~~

- ~~(1) An area within a subdivision is set aside for commercial or industrial uses, or where probable future conditions warrant.~~
- ~~(2) Topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right-of-way width or slope easements may be required to allow for all cut and fill slopes.~~
- ~~(3) Additional area is required for stormwater facilities located within the right-of-way.~~

~~(b)~~ Exceptions. – Boundary streets

~~(1)~~ Notwithstanding subsections (a) and ~~(b)~~ of this section, the dedication of right-of-way for, and construction or improvement of, boundary streets is not required in the following circumstances:

- ~~(1) Improvement of the boundary street abutting the property is a funded project in the Five-Year Capital Improvement Program;~~
- ~~(2A)~~ The construction of a new building or structure in a complex, if the new building or structure is less than 2,000 square feet. This exception shall be based on the extent of development existing on December 31, 1995;
- ~~(3B)~~ The enlargement of any building or structure, if the enlargement results in less than a 50 percent increase in gross building area. This exception shall be based on the extent of development existing on December 31, 1995;
- ~~(4C)~~ The construction, or enlargement of any building or structure to be used entirely for agriculture, the keeping of livestock and other animals, or animal services, as defined in SRC chapter 400, and which involve no retail sales; or
- ~~(5D)~~ The conversion of, or addition to, an existing single-family detached dwelling to create a duplex, triplex, or quadplex; or
- ~~(6E)~~ The construction, or enlargement of any building or structure that will generate less than 20 new vehicle trips per day according to the Institute of Transportation Engineers' Trip Generation Manual.

~~(2) Notwithstanding subsection (a) of this section, the construction or improvement of boundary streets is not required when the boundary street has a curb on the development side of the street; and the boundary street has sufficient paved width to accommodate two 12-foot-wide travel lanes.~~

~~(c) Additional right-of-way and improvements. Dedication and improvement of streets to greater widths than those provided in SRC 803.025 may be required when:~~

~~(1) An area within a subdivision is set aside for commercial or industrial uses, or where probable future conditions warrant.~~

~~(2) Topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional right of way width or slope easements may be required to allow for all cut and fill slopes.~~

~~(3) Additional area is required for stormwater facilities located within the right of way.~~

~~(dc) Streetscape Improvement.~~ Construction of streetscape improvements shall be required as a condition of approval for construction or enlargement of any building or structure located on property abutting a street and that requires a building permit under SRC chapter 56.

~~(ed) Exceptions – Streetscape.~~ Notwithstanding subsection (d) of this section, streetscape improvements are not required in the following circumstances:

(1) Construction or enlargement of an accessory building for one, two, three, four family residential use.

(2) Enlargement of an existing building that adds less than 500 square feet in gross floor area.

(3) Curb replacement is not required where existing curbs meet current standards or where the new or replaced sidewalk is located a minimum of 4 feet from the curb line.

(4) Sidewalk panel and ramp replacements are not required where existing sidewalks and ramps abutting the property meet current administrative rules prescribing sidewalk maintenance standards to ensure sidewalks remain in good repair and acceptable condition for safe use by the public pursuant to SRC 78.152(a).

(5) New streetlight installation is not required where existing streetlights abutting the property meet minimum spacing standards

(6) New street tree installation is not required where existing street trees abutting the property meet minimum spacing standards.

~~(fe) Improvement.~~

(1) All boundary street and streetscape improvements shall conform to this chapter and the Public Works Design Standards.

(2) The boundary street improvement shall be constructed on the development side of the boundary street up to a 50 percent portion of the ultimate width of the street as specified in SRC 803.025. The improvement shall be provided along the full length of the boundary street frontage.

(3) The maximum amount of street widening for a boundary-street improvement shall not exceed 17 feet on the development side, plus curb, gutters, sidewalks, bike lanes, stormwater facilities, street lights, street trees, and signing where appropriate. The minimum requirement for the opposite side of the centerline is a 12-foot-wide paved travel lane. The boundary street improvement shall be provided along the full length of the boundary street frontage.

(4) If construction only on the development side of the boundary street is insufficient to provide for a minimum of one 12-foot-wide travel lane in each direction or proper street grade, dedication of right-of-way for, and construction or improvement of improvements on the opposite side of the street may be required.

~~(5)~~ If development is proposed for only a portion of a development site or complex, the boundary street or streetscape improvement shall be the greater of provided as follows either:

(A) The actual street frontage of the phase being developed; or

(B) An improvement not exceeding the development area ratio multiplied by the total street frontage of the entire complex. The development area ratio means the area of the new development divided by the area of the entire development site or complex.

~~(A) Where the area of development exceeds 25 percent of the total development site or complex area, the street improvements shall be the greater of either the, or the percentage of street frontage equal to the percentage of area being developed.~~

(B) Where the area of development is equal to or less than 25 percent of the total development site or complex area, the street improvement shall be provided in accordance with the following formula:

(i) $\text{Frontage of Required Street Improvement} = \frac{\text{Proposed Area of Development}}{\text{Area of Undeveloped Site}} \times \text{Total Street Frontage of Entire Development Site or Complex}$.

(C) As used in this subsection, the term "area of development" means that area required for structures, setbacks, off-street parking, landscaping, and any special setbacks.

(gf) Fee-in-lieu of Street Improvement. The Director may allow payment of a fee-in-lieu of constructing all or part of a boundary street or streetscape improvement pursuant to SRC 200.400 through SRC 200.420.

803.070. Deferral of Construction of Certain Boundary Street Improvements.

(a) Applicant initiated deferral. An applicant may apply to defer the construction of boundary street the following improvements, upon filing an application and paying the application fee: ~~(1) Boundary streets.~~

~~(A) Construction of all or a portion of boundary street improvements may be deferred if:~~

~~(i1) The development site abuts a boundary street section, and the existing vertical or horizontal alignment for the street section neither meets nor can be constructed within the limits of the development site frontage in a manner that conforms to the Public Works Design Standards for future final street grades and alignment;~~

~~(ii1) The development site abuts a local street, the development site has less than 150 feet of frontage, and the use will generate 20 or less new vehicle trips per day; The development is a land division other than a one, two, three, or four-family residential subdivision.~~

~~(iii) The development site abuts a local street and there is no improved street section or street improvement deferral for the boundary street within 150 feet of the property corners of the development site; or~~

~~(iv2) Unusual or special conditions exist that, in the opinion of the Director, would warrant a deferral of all or a part of the improvement, and the improvement being deferred does not meet the criteria for fee-in-lieu of improvements pursuant to SRC 200.400 to SRC 200.420.~~

~~(2) Sidewalks.~~

~~(A) Construction of sidewalks may be deferred if:~~

~~(i) For property within all zones other than industrial and employment zones:~~

~~(aa) The sidewalk is not on a collector street or arterial street; and~~

~~(bb) Less than one half of the required sidewalks on the side of the block where the sidewalk is to be constructed have already been constructed.~~

~~(ii) For property within industrial and employment zones:~~

~~(aa) The sidewalk would not be part of a pedestrian route to a school, shopping center, park, church, or other pedestrian traffic generator, or identified in a local Safe Routes to School Plan as a facility in need of improvement; and~~

~~(bb) The deferral would not pose a threat to public safety and welfare, based upon review of pedestrian/vehicular traffic on the street, the width and condition of the street, and on-street parking.~~

~~(B) Unless otherwise provided in the deferral agreement, when sidewalk construction has been deferred, the property owner shall:~~

~~(i) Grade and slope the area to the future sidewalk grade;~~

~~(ii) Avoid planting trees in the sidewalk area, or building fences, retaining walls, steps, or other impediments to the future sidewalk; and~~

~~(iii) Note on the plans for the development that a deferment has been granted but that sidewalk construction may be ordered by the City at any time.~~

(b) City Required Deferral. The Director may require deferral of the construction of part or

all of one or more of the improvements identified in subsection (a) of this section at any time.

Deferral pursuant to this subsection shall be at no cost to the applicant.

(c) *Deferral Agreement.* When a deferral is allowed or required pursuant to ~~subsection (a) (1)~~ of this section, the applicant shall enter into a deferral agreement. The deferral agreement shall be in a form approved by the City Attorney, shall be filed in the deed records of the appropriate county, and shall provide that the required improvements will be constructed at such time as the Director determines or at such other time as may be specified by resolution of the City Council.

(d) *Notation on Plat.* The deferral of any improvements required as a condition of a land division shall be noted on the final plat.