

## CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

**Meeting Date:** October 23, 2023

**ITEM:** Ordinance Amendment, Amend Title 9 (Zoning) and Title 10 (Subdivision Regulations) to modify and establish requirements and regulations for pedestrian pathways along private streets and vehicle drive aisles - City Initiated – AO-006201-2023 ***P&Z Tabled Action at the October 9, 2023 Meeting***

### **RESOLUTION: Approval of Ordinance Amendment**

**Background:** Development Services Staff is initiating an amendment to the chapters and sections identified below in Title 9 (Zoning) and Title 10 (Subdivision Regulations) to modify and establish requirements and regulations for the provision of pedestrian pathways along private streets and vehicle drive aisles as currently regulated within City Code, and to clean up and clarify other aspects related to setbacks and waivers and deferrals.

Specifically, the following changes are proposed with this request:

- Title 9: Zoning
  - Chapter 2: *Zoning Rules and Definitions*, Section 2: *Definitions*, to add a definition for interior vehicular roadways.
  - Chapter 3: *General Zoning Provisions*, Section 11: *Sidewalks Required*, to establish requirements for the provision of sidewalks along private streets and interior development roadways.
  - Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C.3.c.(1): *Setbacks from private streets and drives*, to clarify the minimum required garage setback from vehicle drives.
  - Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C: Table 7.3 to amend the required setback distance from the perimeter of the development in medium and high-density zoning districts.
  - Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations*, Subsection C: *The Following Standards Shall Apply To Uses In The Medium Density Residential Zoning District*, Subsection 2: *Pedestrian Circulation*, to establish requirements for the provision of sidewalks and pedestrian circulation network and provide regulations to achieve adequate physical separation.
  - Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations*, Subsection D: *The Following Standards Shall Apply To Uses In The High Density Residential District*, Subsection 3: *Pedestrian Circulation*, to establish requirements for the provision of sidewalks and pedestrian circulation network and provide regulations to achieve adequate physical separation.
- Title 10: Subdivision Regulations
  - Chapter 3: *Design Standards and Required Improvements*, Section 2: *Improvements*, Subsection A: *Sidewalks And Crosswalks*, Subsection 1: *Sidewalks*, to establish requirements for the provision of sidewalks along private streets and interior vehicle drives.

## **Staff Review & Comment:**

- **Ordinance Amendment Intent:** In reviewing projects for multi-family developments, staff is running into issues with compliance with code provisions regarding pedestrian pathways and the code statement *“All sidewalks, walkways and paths, shall be located and designed to provide adequate physical separation from vehicles along all public and private streets and drives ...”*. When the streets and interior vehicle drives are private, sometimes a sidewalk is not being provided at all since code specifically says sidewalks required along public streets but did not specifically mention along private streets. If sidewalks were being provided along private streets and drives, the sidewalks are being located immediately adjacent to rolled curbs. Staff does not feel that this meets the intent to have “adequate physical separation of vehicles from pedestrians”. When staff requests that the sidewalks be moved back from the curb edge, we are told that they cannot do so for a variety of reasons, such as, no room within the site, it will require a complete redesign, loss of units, project won’t be feasible, etc.

At the June 19, 2023, Development & Planning City Council Subcommittee meeting the Picket Fence and Amare Vita projects were provided as examples for a discussion of sidewalk placement along private streets and interior vehicle drives. Staff suggested a code amendment to require sidewalks, a minimum of 5’ from the back of a standard 4” vertical curb, be provided along all private streets and interior vehicle drives. A corresponding code amendment was proposed to reduce the perimeter setback distance required to provide additional development area to accommodate pedestrian pathways setback from the curb edge and the potential increase in setback of the dwelling to provide minimum 25’ driveways from the sidewalk instead of roadway edge without impacting the number of units a developer might otherwise be able to implement within a site.

At the time of the Subcommittee meeting, staff was proposing a 5’ reduction of the perimeter if sidewalks were provided on one side of interior roadways; and a 10’ reduction in both the perimeter setback and a required buffer if sidewalks were provided on both sides of private roadways. The Subcommittee Members were in support of that being suggested as long as effective buffering was still being achieved.

Upon further internal discussion of this code amendment, Staff ultimately determined that since promoting walkability was a key goal of the recently updated comprehensive plan, just as is done with public streets, sidewalks should be required on both sides of a private street and interior vehicle roadways. Staff is still comfortable with reducing the perimeter setback distance required from the current 35’ to 30’; however, staff does not want to start reducing buffer widths which impacts the number of plants that can be provided without overcrowding the vegetation and potentially affecting growth patterns and survivability. To simplify the amendment, a 10’ reduction to perimeter setback and 5’ reduction in the minimum buffer width as indicated to the Subcommittee was removed from that being proposed. With the exception of the Picket Fences and Amare Vita developments, both of which were already being planned with sidewalks at the 5’ setback with a minimum 30’ perimeter setback, no other developments to which this proposed code amendment for the provision of sidewalks would apply are currently going through the City’s review and approval process. Just like all other adopted zoning code provisions, any new developments will need to abide by this proposed code amendment, if adopted by the City Council, and design their site such to provide a 30’ perimeter setback while providing sidewalks on both sides of private streets and interior vehicle drives.

- **Key Aspects of Proposed Amendment:** In addition to that discussed in the previous bullet, Staff is also proposing minor amendments that will clean up and/or clarify aspects for the following:
  - Removing the provision that the setback for a garage can be 10' or less. The 10' aspect adds confusion to what is necessary to park a vehicle on a driveway adjacent to a garage and only applies in specifically designed developments, typically when accessed from an alley. The 10' provision requires that the vehicle is parked parallel to the garage opening instead of perpendicular which is not the natural tendency and if not abided by results in part of the vehicle extending into adjacent drive aisles or over pedestrian pathways. Staff proposes removing this 10' driveway option in favor of confirming a driveway associated with a garage must be a minimum of 25' from the opening of the garage to the dwelling side edge of a sidewalk which accommodates the length of most vehicles.
  - Removing procedures indicating the City Council establish 'criteria and specific design standards' to assist in deciding whether to defer or waive sidewalk installation beyond the criteria or considerations already provided in the same section. Code already speaks to situations in which deferral or waiver may be considered, such as, lack of pedestrian pathway connectivity, topography challenges, and lack of establish road grades. The City Council's adoption of code and City Design Standards already establish the necessary criteria: as it is currently stated in code would suggest the Council is going to dictate criteria and specific design standards in conjunction with each waiver request, which has not been the process that has been utilized to date.
  - Remove a provision that allows front porches with medium and high-density structures to further reduce smaller designated building setbacks from private streets. The dwelling portion of a building (not garage) can already be as close as 15' to the roadway edge of a private street: staff does not believe allowing porches up to 8' into the 15' setback 'just because' is appropriate. As part of the intended zoning code update, the allowance for brownstones, townhomes and apartments at essentially the street edge is intended to be a development option, if and when context-based rationale exists, and a specific design intent and development pattern is trying to be achieved.
  - Clarify and modify formatting of the Medium and High-Density Multi-Family Zoning district bulk regulations table so they are easier to apply. To provide clarity to the language changes, Staff is including the strike-thru version of the changes to table 7.3 to the Commission and the City Council's first reading of the ordinance. To ensure codification of the desired table format, the amendment included in the City Council's second reading of the ordinance, and what will be sent to the codifier, will reflect a complete removal and replacement of Table 7.3 within the ordinance.

**Outstanding Issues:** There are no outstanding issues.

**Planning and Zoning Commission Action:**

Date: October 9, 2023

Vote: 6-0 for Approval with Commissioner Costa absent

Recommendation: Table the Amendment

Planning and Zoning Commission Discussion: Commissioner Crowley stated he believed it was excessive to require sidewalks on both sides of a public street, adding that he agreed with requiring a sidewalk on one side.

Commissioner Davis agreed, stating to require two sidewalks would hinder some development, and add a lot of cost to the developer.

Chair Conlin added that he was inclined to agree, and that one sidewalk in Glen Oaks seemed sufficient. He asked how this ordinance aligns with other communities. Associate Planner Brinkman responded that Staff had not compared with other communities, however this proposal was driven by complaints from residents in current developments who felt their areas were unsafe because they did not have a sidewalk, or it was a rolled curb with a sidewalk immediately adjacent to the street. (Summary of sidewalk requirements for other communities attached to this report.)

Commissioner Hatfield asked for clarification of a section on page three of the ordinance referring to a minimum of 25 feet from the street or sidewalk to front of a garage, with additional five feet sections to the sidewalk and street. He noted that he believed the numbers should be examined for consistency. Associate Planner Brinkman and Planner Marren agreed to review the section.

During the public hearing, Srijan Karim, 1225 28th Street, commented that he agreed that requiring sidewalks on both sides can be financially burdensome, however looking at it for accessibility, he believed two sidewalks is a better way to go.

After discussion, Commissioner Crowley stated he believe it would be best to table the item and provide comments to Staff. Commissioner Hatfield agreed. No comments were provided to staff.

Planning and Zoning Commission Action:

Date: October 23, 2023

Vote:

Recommendation:

City Council First Reading:

Date:

Vote:

**Recommendation:** Approve the Ordinance Amendment to City Code. In alignment with walkability goals stated in the recently adopted Comprehensive Plan, staff continues to recommend that sidewalks be provided on both sides of roadways, public or private; and that the sidewalks be setback from the roadway edge to provide a safer walking environment than either is walking in the roadway due to no sidewalks, or walking on a sidewalk immediately adjacent to the edge of the roadway, especially when a curb designed intended to allow vehicles to easily pass over it (i.e., rolled curb) is implemented as the 'barrier'.

**Lead Staff Member: Emani Brinkman**

**Approval Meeting Dates:**

Planning & Zoning Commission	October 9, 2023
Planning & Zoning Commission	October 23, 2023
City Council: First Reading	
City Council: Second Reading	
City Council: Third Reading	

**Staff Report Reviews**

Planning & Zoning Commission	<input checked="" type="checkbox"/> Development Coordinator/Director	<input checked="" type="checkbox"/> Legal Department
City Council	<input type="checkbox"/> Director <input type="checkbox"/> Appropriations/Finance	<input type="checkbox"/> Legal Department <input type="checkbox"/> Agenda Acceptance

**Publications**

Published In:	Des Moines Register Community Section
Date(s) Published	9/29/23
Date(s) of Mailed Notices	Not Required

**Council Subcommittee Review**

Subcommittee	Development & Planning
Date Reviewed	6/19/23 & 10/2/2023
Recommendation	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Split <input type="checkbox"/>

<b>City Research</b>		
<b>Community</b>	<b>Private Streets allowed?</b>	<b>Sidewalk Requirements Along Private Streets</b>
Altoona	Only mentions them in Mobile Home Zoning district & Regional Commercial Zoning district	<ul style="list-style-type: none"> <li>• Has setback requirements for residential sidewalks.</li> <li>• Waiver process available</li> </ul>
Ankeny	Private streets are allowed.	<ul style="list-style-type: none"> <li>• Require along private streets.</li> <li>• Sidewalks must be constructed in accordance with the City's standards.</li> </ul>
Clive	Allow private streets and are regulated the same as public streets.	<ul style="list-style-type: none"> <li>• Required along private streets for public use.</li> <li>• Must be a minimum of four feet (4') in width.</li> <li>• Waiver process available</li> </ul>
Des Moines	Private streets are discouraged.	<ul style="list-style-type: none"> <li>• Sidewalks are required</li> <li>• Sidewalks may be waived or alternate locations can be proposed</li> </ul>
Indianola	Private streets are discouraged.	<ul style="list-style-type: none"> <li>• Sidewalks are required</li> <li>• Minimum of four-foot wide concrete sidewalk along each lot frontage</li> <li>• Waiver process available</li> </ul>
Johnston	Private streets serving five or more dwellings or uses must be constructed to city standards	<ul style="list-style-type: none"> <li>• Sidewalks are required</li> <li>• The sidewalks shall be built according to the most current version of SUDAS as adopted by the City.</li> <li>• Waiver process available</li> </ul>

<b>City Research</b>		
<b>Community</b>	<b>Private Streets allowed?</b>	<b>Sidewalk Requirements Along Private Streets</b>
Urbandale	Mostly only allowed in PUDs	Must follow all requirements for a public street except does not need to have a setback from the street curb
Waukee	<p>The use of private streets shall be allowed if:</p> <ul style="list-style-type: none"> <li>• Built to Waukee Standard Specifications for public streets.</li> <li>• They are maintained by the property owners.</li> <li>• Design standards are determined by the City Engineer</li> <li>• A public ingress/egress easement is required</li> </ul>	Sidewalks should be installed on both sides of the private streets unless additional landscaping or open space is incorporated into the site in an amount approved by the City Council in relief of one sidewalk per street.
Windsor Heights	<p>The use of private streets shall be allowed if:</p> <ul style="list-style-type: none"> <li>• Built to Windsor Heights Standard Specifications for public streets.</li> <li>• They are maintained by the property owners</li> <li>• Design standards are determined by the City Engineer</li> <li>• A public ingress/egress easement is required</li> </ul>	Sidewalks should be installed on both sides of the private streets unless additional landscaping or open space is incorporated into the site in an amount approved by the City Council in relief of one sidewalk per street.

**A RESOLUTION OF THE PLANNING AND ZONING COMMISSION**  
**NO. PZC-23-052**

**WHEREAS**, pursuant to the provisions of Title 9, Zoning, and Title 10, Subdivision Regulations of the West Des Moines Municipal Code, staff requests approval of an Ordinance Amendment to the following chapters and sections identified below to modify and establish requirements and regulations for the provision of pedestrian pathways along private streets and vehicle drive aisles as currently regulated within City Code; and, to clean up and clarify other aspects related to setbacks and waivers and deferrals.

- Title 9: Zoning
  - Chapter 2: *Zoning Rules and Definitions*, Section 2: *Definitions*, to add a definition for interior vehicular roadways.
  - Chapter 3: *General Zoning Provisions*, Section 11: *Sidewalks Required*, to establish requirements for the provision of sidewalks along private streets and interior development roadways.
  - Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C.3.c.(1): *Setbacks from private streets and drives*, to clarify the minimum required garage setback from vehicle drives.
  - Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C: Table 7.3 to amend the required setback distance from the perimeter of the development in medium and high-density zoning districts.
  - Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations*, Subsection C: *The Following Standards Shall Apply To Uses In The Medium Density Residential Zoning District*, Subsection 2: *Pedestrian Circulation*, to establish requirements for the provision of sidewalks and pedestrian circulation network and provide regulations to achieve adequate physical separation.
  - Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations*, Subsection D: *The Following Standards Shall Apply To Uses In The High Density Residential District*, Subsection 3: *Pedestrian Circulation*, to establish requirements for the provision of sidewalks and pedestrian circulation network and provide regulations to achieve adequate physical separation.
- Title 10: Subdivision Regulations
  - Chapter 3: *Design Standards and Required Improvements*, Section 2: *Improvements*, Subsection A: *Sidewalks And Crosswalks*, Subsection 1: *Sidewalks*, to establish requirements for the provision of sidewalks along private streets and interior vehicle drives.

**WHEREAS**, the Ordinance Amendment request complies with the applicable provisions of Iowa Code Chapter 414, the Comprehensive Plan and City Code.

**NOW THEREFORE**, the Planning and Zoning Commission of the City of West Des Moines recommends the City Council approve the Ordinance Amendment (AO-006201-2023).

**PASSED AND ADOPTED** on October 23, 2023.

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Andrew Conlin, Chair  
Planning and Zoning Commission



I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Planning and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on October 23, 2023, by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:

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Recording Secretary

Prepared by: Emani Brinkman, City of West Des Moines, Development Services Dept., P.O. Box 65320,  
West Des Moines, IA 50265-3620, 515-222-3620  
When Recorded Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320

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## ORDINANCE NO.

### AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, TITLE 9 (ZONING), CHAPTER 2 (ZONING RULES AND DEFINITIONS), CHAPTER 3 (GENERAL ZONING PROVISIONS), CHAPTER 7 (SETBACK AND BULK DENSITY REGULATIONS), AND CHAPTER 10 (PERFORMANCE STANDARDS), AND TITLE 10 (SUBDIVISION REGULATIONS), CHAPTER 3 (DESIGN STANDARDS AND REQUIRED IMPROVEMENTS), PERTAINING TO ESTABLISHING REQUIREMENTS AND REGULATIONS FOR PEDESTRIAN PATHWAYS ALONG PRIVATE STREETS AND VEHICLE DRIVE AISLES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

**Section 1. Amendment.** Title 9: *Zoning*, Chapter 2: *Zoning Rules and Definitions*, Section 2: *Definitions* is hereby amended by inserting the text in bold italics in alphabetical order. All other items in current adopted section but not reflected below shall remain as is.

***INTERIOR VEHICULAR ROADWAYS: Public or private paths within a development or lot's boundary which provides vehicular access to the associated parking areas for any business, multi-family dwelling, or public use area: or which provides vehicular access to individual private driveways for single family dwellings.***

**Section 2. Amendment.** Title 9: *Zoning*, Chapter 3: *General Zoning Provisions*, Section 11: *Sidewalks Required* is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted section but not reflected below shall remain as is.

#### Sidewalks Required

- A. The intent and purpose of this section is to establish the regulations regarding the installation of public sidewalks and pathways in the City to ensure the orderly and harmonious development of a Citywide sidewalk system in existing and new developments in such a manner as to provide a comprehensive sidewalk system that will safeguard the public's health, safety and general welfare.
- B. Notwithstanding any other provisions of this Code, all dwellings, nonresidential buildings and uses, whether occupied or unoccupied, shall have, after adoption

hereof, a permanent sidewalk built for the entire width and/or length of the lot or lots upon which the dwelling, nonresidential building or use is located, and the sidewalk(s) shall be built for the entire width and/or length of all sides of any lot or lots which abut a public *or private* street *or roadway*.

1. **Public Sidewalks: Sidewalks and pathways along public streets shall be installed on both sides of a roadway in accordance with design standards as adopted by the city.**
  2. **Private Sidewalks:**
    - a. **Adjacent to Private Streets and Interior Vehicular Roadways: Sidewalks shall be installed on both sides of a private roadway or an interior vehicular roadway in accordance with design standards for public sidewalks except that said sidewalks shall be allowed to be located a minimum of five feet (5') from the edge of the roadway.**
    - b. **Adjacent to Parking: Sidewalks and pathways immediately adjacent to head-in parking are not required to be located five feet (5') from the curb edge; however, if the sidewalk or pathway is located immediately adjacent to the curb, said sidewalk width must be increased to a minimum of six feet (6') to accommodate vehicle bumper overhang while still providing a minimum of four feet (4') of clear pedestrian pathway.**
- C. At such time that eighty percent (80%) of a plat or subdivision is developed, the property owner(s) of any undeveloped parcels, upon written notification by the City, shall install the required sidewalk(s) on their property within one hundred twenty (120) days of the notification by the City. After expiration of the one hundred twenty (120) day period, the City may take any legal action necessary to proceed with the installation of the sidewalk(s) and assess the cost of the installation and any legal expenses, as allowed by law, as a lien against the property.
- D. In the event that no grade has been set or there is no curb and gutter on the street *or roadway* upon which the sidewalk(s) is to be placed, the Council may defer the sidewalk requirement on application of the affected property owner(s) and upon the affected property owner(s) signing an agreement to install such a sidewalk(s) within one hundred twenty (120) days after the property owner(s) has been notified that a curb and gutter has been installed and/or that the grade has been set. The agreement shall be verified and placed on record in the Office of the County Recorder of the applicable county, and shall be a covenant running with the land, and shall be binding upon the heirs, assigns, and successors of the property owner.
- E. At the discretion of the City Council, the installation of any required sidewalk(s) may be deferred or waived when an off street bike/pedestrian trail has been identified on the comprehensive plan or on the trail's master plan adjacent to the subject property. In the event that the sidewalk installation is deferred or waived, the property owner shall provide assurances, acceptable to the City, for the cost equivalent to the cost of installing the public sidewalk(s), that can be combined with other funding sources available to the City, for the installation of the off street bike/pedestrian trail.
- F. When the strict application of standards or requirements established by this section would cause substantial hardship or impose unreasonable restrictions regarding the installation of a sidewalk(s) because of natural or physical conditions or

limitations not created by the property owner, the City Council may grant such deferrals and/or waivers from these standards or requirements as may be necessary ~~pursuant to the following procedure~~. At such time when the conditions or limitations are eliminated, the property owner(s) will be required to install such sidewalk(s) within one hundred twenty (120) days after written notification by the City.

~~The applicant may request a waiver or deferral of the sidewalk installation requirement, which on any new development will be forwarded to the Planning and Zoning Commission for its review and recommendation to the City Council, and all requests will be presented to the City Council, who shall either approve, approve subject to conditions, or disapprove of the request based upon criteria adopted by the City Council.~~

~~The Council shall establish criteria and specific design standards to assist in considering applications for deferrals and/or waivers. All such criteria and specific design standards shall be established in such a way as to ensure the orderly and harmonious development of a Citywide sidewalk system in such a manner as will safeguard the public's health, safety and general welfare.~~

~~If the Council rejects the request, the Council will advise the applicant of any changes which are desired or that should have consideration before approval will be given. The applicant shall then submit the revised original for certification by the City Council. The City Council, in approving or disapproving any requests and in making requests for alterations or amendments to the request as presented, shall be governed by the general policies as set out by this ordinance and by the criteria and specific design standards established by the Council.~~

- G. Any waiver or deferral that is granted by the City Council shall be recorded by the City as a matter of public record at the Office of the County Recorder of the applicable county.
- H. The enforcement of this section shall be by special assessment pursuant to division IV of Iowa Code chapter 384.

**Section 3. Amendment.** Title 9: *Zoning*, Chapter 7: *Setback and Bulk Density Regulations*, Section 4: *Setback and Density Regulations*, Subsection C.3.c.(1): is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted section but not reflected below shall remain as is.

- (1) Unless otherwise noted, the minimum setback for attached or detached garages facing a ***public or private*** street or ***interior vehicular roadways drive*** measured perpendicularly from the garage opening to the closest point of the sidewalk or back of curb of the intersecting private street or ***interior vehicular roadways drive*** (whichever is more restrictive) shall be ***as follows: twenty five feet (25') or greater, except that, when the vehicle entrance for a garage faces an alley, the setback from the alley shall be a minimum of twenty feet (20') or as necessary to accommodate the parking of a vehicle on the driveway without the vehicle encroaching into the alley.***

~~(A) Twenty five feet (25') or greater., or~~

~~(B) Ten feet (10') or less.~~

- (2) Unless otherwise noted, the minimum setback for a residential structure shall be fifteen feet (15') from the interior edge of the ***sidewalk or the back of curb*** of an adjacent private street or ***interior vehicular roadways drive*** (***whichever is more restrictive***). This setback shall apply to all structures, including accessory or ancillary structures such as maintenance sheds, clubhouses or leasing offices.

**Section 4. Amendment.** Title 9: Zoning, Chapter 7: Setback and Bulk Density Regulations, Section 4: Setback and Density Regulations, Subsection C: Table 7.3 is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted section but not reflected below shall remain as is.

**TABLE 7.3**

Required Standards		RM	RH
Detached dwellings (detached townhomes): (no portion of a private lot may extend into a required perimeter setback; however, required buffers and/or streetscapes may overlap the perimeter setback.)			
<b><i>Perimeter Setbacks:</i></b>			
	Front yard setback <b><i>along all adjacent street frontages (not interior vehicular roadway)</i></b> <sup>1</sup>	30'	30'
	Rear yard setback ( <b><i>common lot or area: not within footprint lots</i></b> )	<del>30'</del> <b><i>35'</i></b>	<del>30'</del> <b><i>35'</i></b>
	Side yard setback ( <b><i>when adjacent to an interior vehicular roadway or another private lot</i></b> )	7'	7'
<b><i>Within footprint lots:</i></b>			
	Minimum setback from building foundation of all yards for footprint lot <sup>2</sup>	7'	7'
	Maximum setback from building foundation of one side or the rear yard of the footprint lot to accommodate additional yard or private outdoor living areas <sup>2,5</sup>	15'	15'
	Maximum setback from building foundation of all other yards for footprint lot <sup>2</sup>	10'	10'
	Minimum separation between principal buildings	14'	14'
	Minimum separation between accessory buildings or structures under 1,500 sq. ft. and all other buildings <sup>4</sup>	10'	10'
Attached dwelling building up to 2 stories, 4 units or less per building (townhomes, apartments or condominiums):			
	Minimum setback <sup>1</sup> : (no portion of a private lot may extend into a required perimeter setback; however, required buffers and/or streetscapes may overlap the perimeter setback.)		

	- From perimeter of development – <b>all sides, regardless of if abut a street</b>	30' <del>35'</del>	30' <del>35'</del>
<b>Interior to development / from interior vehicular roadway:</b>			
	Front and rear yard setbacks <b>of dwelling structure (not garage)</b> <sup>1</sup>	15'	15'
	<del>Internal to the development</del>	<del>15'</del>	<del>15'</del>
	- The minimum setback for garages facing a street or drive <b>is 25' as measured from dwelling side of the sidewalk or back of curb</b>	25'	25'
	Side yard setbacks <b>of dwelling structure (not garage)</b> <sup>2</sup>	7'	7'
	<del>Internal to the development</del>	<del>7'</del>	<del>7'</del>
<b>Within footprint lots:</b>			
	Minimum setback from building foundation of all yards for footprint lot <sup>2</sup>	7'	7'
	Maximum setback from building foundation of one side or the rear yard of the footprint lot to accommodate additional yard or private outdoor living areas <sup>2,5</sup>	15'	15'
	Maximum setback from building foundation of all other yards for footprint lot <sup>2</sup>	10'	10'
	Minimum separation between principal buildings	14'	14'
	Minimum separation between accessory buildings or structures under 1,500 sq. ft. and all other buildings <sup>4</sup>	10'	10'
Attached dwelling building up to 2 stories, more than 4 units per building –or– 3 stories or greater, 4 units or less per building (townhomes, apartments or condominiums):			
<b>Setbacks from perimeter of development (no portion of a private lot may extend into a required perimeter setback; however, required buffers and/or streetscapes may overlap the perimeter setback.)<sup>1,3</sup>:</b>			
	Front yard setback <sup>1,3</sup>	50'	50'
	<del>From perimeter of development (no portion of a private lot may extend into a required perimeter setback; however, required buffers and/or streetscapes may overlap the perimeter setback.)</del>		
	Rear and side yard setback <sup>3</sup> :	35'	35'
	<del>From perimeter of development</del>		
<b>Interior to development / from interior vehicular roadway:</b>			
	Front and rear yard setback <sup>1,3</sup>	20'	20'
	<del>Internal to the development</del>		

	- The minimum setback for garages facing a street or drive is 25 feet as measured from the dwelling side of the sidewalk or back of curb	25'	25'
	Side yard setback <sup>3</sup> :	10'	10'
	<del>Internal to the development</del>	10'	10'
<b>Within footprint lots<sup>2</sup>:</b>			
	Minimum setback from building foundation of all yards for footprint lot <sup>2</sup>	7'	7'
	Maximum setback from building foundation of one side or the rear yard of the footprint lot to accommodate additional yard or private outdoor living areas <sup>2,5</sup>	15'	15'
	Maximum setback from building foundation for all other yards of a footprint lot <sup>2</sup>	10'	10'
	Minimum separation between principal buildings	20'	20'
	Minimum separation between accessory buildings or structures under 1,500 sq. ft. and all other buildings <sup>4</sup>	20'	20'
Attached dwelling building 3 stories or greater, more than 4 units per building (townhomes, apartments or condominiums):			
<b>From perimeter of development<sup>1,3</sup>:</b>			
	Front yard setback <sup>1,3</sup>	60'	60'
-	<del>From perimeter of development</del>		
	Rear and side yard setback <sup>3</sup> :	35'	35'
-	<del>From perimeter of development</del>		
<b>Interior to development / from interior vehicular roadway:</b>			
	Front and rear yard setback <sup>1</sup>	30'	30'
-	<del>Internal to the development</del>		
	Side yard setback:	15'	15'
-	<del>Internal to the development</del>		
<b>Within footprint lots<sup>2</sup>:</b>			
	Minimum setback from building foundation for all yards of a footprint lot <sup>2</sup>	7'	7'
	Maximum setback from building foundation of one side or the rear yard of the footprint lot to accommodate additional yard or private outdoor living areas <sup>2,5</sup>	15'	15'

Maximum setback from building foundation for all other yards of a footprint lot <sup>2</sup>	10'	10'
Minimum separation between principal buildings	30'	30'
Minimum separation between accessory buildings or structures under 1,500 sq. ft. and all other buildings <sup>4</sup>	20'	20'

Notes:

1. ~~Open porches with a minimum depth of 6 feet are allowed to encroach up to 8 feet into the standard lot front yard setback (not footprint lots). Porches are not allowed to encroach into any perimeter setback.~~ ***Must abide by Zoning District Compatibility and Transitioning as provided in Chapter 5, Section 7.C within this title.***
2. Outdoor living areas associated with, and adjacent to the dwelling unit for footprint lots must be contained in the footprint lot and meet the following setback requirements:
  - a. Patios: set back a minimum of 1 foot from the footprint property line.
  - b. Decks that do not exceed 30 inches in height or open trellises: set back a minimum of 5 feet from footprint property line.
  - c. Structures that exceed 30 inches in height such as decks, porches and sunrooms: set back a minimum of 7 feet from footprint property line.
3. For any building over 3 stories, an additional 10 feet of building setback is required for every story over 3 stories.
4. Accessory buildings over 1,500 square feet must meet primary building setbacks and separations, including setbacks adjusted for primary building height.

**Section 5. Amendment.** Title 9: *Zoning*, Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations*, Subsection C: *The Following Standards Shall Apply To Uses In The Medium Density Residential Zoning District*, Subsection 2: *Pedestrian Circulation*, is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted section but not reflected below shall remain as is.

2. Pedestrian Circulation: Pedestrian circulation systems (sidewalks, walkways and paths) shall be located and designed to provide for circulation within the project to and from the dwelling units to anticipated destinations (i.e., management office, recreation facilities, playground, etc.) and to the public sidewalks and pathways adjacent to the project. All sidewalks, walkways and paths, shall be located and designed to provide adequate physical separation from vehicles along all public and private streets, ~~and drives~~ ***interior vehicular roadways, and within*** any parking area. ***Adequate physical separation from a street or roadway shall mean a minimum setback is provided as indicated in Section 9-3-11 of City Code when the curb of the street or interior vehicular roadway from which the sidewalk is setback is a vertical four inch (4") or greater standard barrier curb. Implementation of a mountable curb design (i.e., rolled or sloped curb) shall require the sidewalk setback from the curb to be increased to a distance consistent with that required for a "Local" designated public street. Except***



***along handicap parking stalls, all off-street parking areas shall be bounded by a vertical four inch (4") or greater standard barrier curb.***

**Section 6. Amendment.** Title 9: *Zoning*, Chapter 10: *Performance Standards*, Section 4: *Specific Use Regulations*, Subsection D: *The Following Standards Shall Apply To Uses In The High Density Residential Zoning District*, Subsection 3: *Pedestrian Circulation*, is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted section but not reflected below shall remain as is.

3. Pedestrian Circulation: Pedestrian circulation systems (sidewalks, walkways and paths) shall be located and designed to provide for circulation within the project to and from the dwelling units to anticipated destinations, such as the management office, recreation facilities, playground, etc., the public sidewalks and pathways adjacent to the project, and public transportation stops and transfer centers. All sidewalks, walkways and paths, shall be located and designed to provide adequate physical separation from vehicles along all public and private streets, ~~and drives~~ ***interior vehicular roadways, and within*** any parking area. ***Adequate physical separation from a street or roadway shall mean a minimum setback is provided as indicated in Section 9-3-11 of City Code when the curb of the street or interior vehicular roadway from which the sidewalk is setback is a vertical four inch (4") or greater standard barrier curb. Implementation of a mountable curb design (i.e., rolled or sloped curb) shall require the sidewalk setback from the curb to be increased to a distance consistent with that required for a "Local" designated public street. Except along handicap parking stalls, all off-street parking areas shall be bounded by a vertical four inch (4") or greater standard barrier curb.***

**Section 7. Amendment.** Title 10: *Subdivision Regulations*, Chapter 3: *Design Standards and Required Improvements*, Section 2: *Improvements*, Subsection A: *Sidewalks And Crosswalks*:, Subsection 1: *Sidewalks* is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted section but not reflected below shall remain as is.

1. Sidewalks:

- a. The intent and purpose of this section is to establish the regulations regarding the installation of ~~public~~ sidewalks and pathways in the City to ensure the orderly and harmonious development of a Citywide sidewalk system in existing and new developments in such a manner as to provide a comprehensive sidewalk system that will safeguard the public's health, safety and general welfare.
- b. Notwithstanding any other provisions of this Code, all dwellings, nonresidential buildings and uses, whether occupied or unoccupied, shall have, after adoption hereof, a permanent sidewalk built for the entire width and/or length of the lot or lots upon which the dwelling, nonresidential building or use is located, and the sidewalk(s) shall be built for the entire width and/or length of all sides of any lot or lots which abut a public ~~or private~~ street ~~or roadway~~.
  - (1) ***Public Sidewalks: Sidewalks and pathways along public streets shall be installed on both sides of a roadway in accordance with design standards as adopted by the city.***

(2) **Private Sidewalks:**

(a) **Adjacent to Private Streets and Interior Vehicular Roadways:** Sidewalks shall be installed on both sides of a private street or an interior vehicular roadway in accordance with design standards for public sidewalks except that said sidewalks shall be allowed to be located a minimum of five feet (5') from the edge of the roadway.

(b) **Adjacent to Parking:** Sidewalks and pathways immediately adjacent to head-in parking are not required to be located five feet (5') from the curb edge; however, if the sidewalk or pathway is located immediately adjacent to the curb, said sidewalk width must be increased to a minimum of six feet (6') to accommodate vehicle bumper overhang while still providing a minimum of four feet (4') of clear pedestrian pathway.

- c. At such time that eighty percent (80%) of a plat or subdivision is developed, the property owner(s) of any undeveloped parcels, upon written notification by the City, shall install the required sidewalk(s) on their property within one hundred twenty (120) days of the notification by the City. After expiration of the one hundred twenty (120) day period, the City may take any legal action necessary to proceed with the installation of the sidewalk(s) and assess the cost of the installation and any legal expenses, as allowed by law, as a lien against the property.
- d. In the event that no grade has been set or there is no curb and gutter on the street **or roadway** upon which the sidewalk(s) is to be placed, the Council may defer the sidewalk requirement on application of the affected property owner(s) and upon the affected property owner(s) signing an agreement to install such a sidewalk(s) within one hundred twenty (120) days after the property owner(s) has been notified that a curb and gutter has been installed and/or that the grade has been set. The agreement shall be verified and placed on record in the Office of the County Recorder of the applicable county, and shall be a covenant running with the land, and shall be binding upon the heirs, assigns, and successors of the property owner.
- e. At the discretion of the City Council, the installation of any required sidewalk(s) may be deferred or waived when an off street bike/pedestrian trail has been identified on the comprehensive plan or on the trail's master plan adjacent to the subject property. In the event that the sidewalk installation is deferred or waived, the property owner shall provide assurances, acceptable to the City, for the cost equivalent to the cost of installing the public sidewalk(s), that can be combined with other funding sources available to the City, for the installation of the off street bike/pedestrian trail.
- f. When the strict application of standards or requirements established by this section would cause substantial hardship or impose unreasonable restrictions regarding the installation of a sidewalk(s) because of natural or physical conditions or limitations not created by the property owner, the City Council may grant such deferrals and/or waivers from these standards or requirements as may be necessary pursuant to the following procedure. At such time when the conditions or limitations are eliminated, the property owner(s) will be required to install such

sidewalk(s) within one hundred twenty (120) days after written notification by the City.

~~The applicant may request a waiver or deferral of the sidewalk installation requirement, which on any new development will be forwarded to the Planning and Zoning Commission for its review and recommendation to the City Council, and all requests will be presented to the City Council, who shall either approve, approve subject to conditions, or disapprove of the request based upon criteria adopted by the City Council.~~

~~The Council shall establish criteria and specific design standards to assist in considering applications for deferrals and/or waivers. All such criteria and specific design standards shall be established in such a way as to ensure the orderly and harmonious development of a Citywide sidewalk system in such a manner as will safeguard the public's health, safety and general welfare.~~

~~If the Council rejects the request, the Council will advise the applicant of any changes which are desired or that should have consideration before approval will be given. The applicant shall then submit the revised original for certification by the City Council. The City Council, in approving or disapproving any requests and in making requests for alterations or amendments to the request as presented, shall be governed by the general policies as set out by this ordinance and by the criteria and specific design standards established by the Council.~~

- g. Any waiver or deferral that is granted by the City Council shall be recorded by the City as a matter of public record at the Office of the County Recorder of the applicable county.
- h. The enforcement of this section shall be by special assessment pursuant to division IV of Iowa Code chapter 384.

**Section 8. Repealer.** All ordinances of parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 9. Savings Clause.** If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**Section 10. Violations and Penalties.** Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Section 1 of the City Code of the City of West Des Moines, Iowa.

**Section 11. Other Remedies.** In addition to the provisions set out in Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

**Section 12. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

**Passed and approved by the City Council on November 20, 2023.**

\_\_\_\_\_  
Russ Trimble, Mayor

ATTEST:

\_\_\_\_\_  
Ryan Jacobson, City Clerk

The foregoing Ordinance No. \_\_\_\_\_ was adopted by the City Council for the City of West Des Moines, Iowa, on \_\_\_\_\_, 2023, and was published in the Des Moines Register on \_\_\_\_\_, 2023.