

**TAKINGS IMPACT ASSESSMENT:
ADOPTION OF PROVISIONS TO ALLOW DEVELOPERS TO PAY A
SIDEWALK FEE INSTEAD OF INSTALLING A SIDEWALK**

This takings impact assessment is prepared using the series of questions in the Private Real Property Rights Preservation Act Guidelines (“Guidelines”) promulgated by the Attorney General’s Office under Chapter 2007 of the Texas Government Code (the “Act”). The proposed action is Travis County’s adoption of provisions that would allow developers to pay a sidewalk installation fee instead of actually constructing a sidewalk.

Guidelines Question 1: Is Travis County a governmental entity covered by the Act?

Yes.

Guidelines Question 2: Is the proposed action covered by the Act?

Yes.

Guidelines Questions 3 and 5: Does the proposed action result in a burden on private real property as that term is defined in the Act? How does it burden private real property?

Yes. The proposed action burdens private real property because it may cause some property owners to delay plans for developing their property. However, the proposed provisions will not cause the value of private real property to be reduced by 25% or more.

Guidelines Questions 4 and 6: What is the specific purpose of the proposed action? How does it benefit society?

Under current Section 82.202(q) of the Travis County Code:

- (1) If a proposed development project is located within the extraterritorial jurisdiction (“ETJ”) of a municipality other than the City of Austin, sidewalks are required in accordance with the layout and design requirements of the municipality or the applicable county regulations for sidewalks outside of the ETJ of any municipality, whichever are more stringent, but as a minimum must meet the requirements of the Americans with Disabilities Act and the American Concrete Institute.

- (2) If a proposed development project is outside the ETJ of all municipalities, a sidewalk layout plan must be submitted for County review. The

requirement for sidewalks will be determined by the County on a case-by-case basis and will be based upon development density, proximity to schools and other high pedestrian traffic generators, and anticipated volumes of vehicular traffic.

Under current Title 30, Austin-Travis County Subdivision Regulations, if a person proposes to subdivide property within the ETJ of the City of Austin, the person must install sidewalks in accordance with state and federal accessibility standards and the City of Austin's Transportation Criteria Manual, which generally requires sidewalks on both sides of a street, unless:

- (1) The platting board waives the sidewalk requirements based on criteria found in the Transportation Criteria Manual, or
- (2) The platting official approves the construction of a sidewalk on only one side of the road.

The City of Austin's Transportation Criteria Manual takes the following factors into account with respect to requests for variances from the sidewalk construction requirements:

- (1) Whether there are pedestrian generators (such as schools, parks, community centers, commercial uses, transit stops, churches, etc.) within a half mile of the development; and
- (2) Whether the proposed land use and density is conducive to pedestrian access.

The absence of curbs and gutters on a street is not in and of itself sufficient justification for the elimination of the sidewalk construction requirement.

Over the years, the County has received several requests for variances from the sidewalk construction requirements. Most of the requests for variances were for developments in rural areas that involve non-curb and gutter boundary streets and are not within the proximity of any pedestrian generators. Other requests for variances involved situations where the topography of the proposed sidewalk locations would have required high retaining walls and situations where applicants was seeking to re-subdivide lots that were on existing non-curb and gutter streets.

The purpose of the proposed changes is to allow an applicant, if certain criteria are met, to request to make a payment for sidewalk construction instead of actually installing a sidewalk. The County could then use these payments to install sidewalks and curb ramps in the same Commissioners Court precinct as the proposed development.

Guidelines Question 7: Will the proposed action constitute a taking?

Even if the amendments are not exempt, they do not constitute a taking. The amendments do not eliminate all viable uses of any private real property. The

amendments do not prohibit property owners from developing their property but would instead allow them the option, under certain circumstances, of requesting to pay a fee in lieu of having construct sidewalks.

Guidelines Question 8: Are there reasonable alternatives to the proposed action that would accomplish its purpose?

An alternative to the proposed procedures and requirements is:

- (1) To continue to not have an option for applicants to request to pay a fee in lieu of having to construct sidewalks, and
- (2) For applicants to have to request variances if they want a waiver from the current requirements for sidewalk construction.