

COUNCIL ACTION FORM

SUBJECT: TEXT AMENDMENT TO CHAPTER 22 FOR DEFERRAL OF INFRASTRUCTURE

BACKGROUND:

The City established missing infrastructure improvement requirements in 2015 for new development and significant building additions. These new requirements were in response to concerns about extended delays in completing sections of infrastructure. Missing infrastructure includes requirements that right-of-way dedication, street paving, sidewalks, shared use paths, and street lights are present and in satisfactory condition or will be completed prior to completion of new buildings.

Requirements for missing infrastructure are tied to the issuance of building permits for principal buildings (Section 5.118 of the Ames Municipal Code (AMC)) and the standards for its installation and approval process by the Public Works Department are included within Section 22.31 of the AMC. The improvement standards are cross referenced to the City's requirements of the Subdivision Code found in Chapter 23 of the AMC.

Barilla requested the City Council authorize deferral of required infrastructure in unusual circumstances where coordination with future infrastructure is needed and it will not be done prior to completing a principal building on site. City Council authorized the City Attorney on September 11, 2018 to prepare a text amendment to address deferral concerns identified by Barilla and by staff.

Currently, the Public Works Director has limited discretion on approving alternative improvement designs and timing in relation to development of a site. The original requirements for the improvements and their timing for installation were established to ensure predictability in their completion, to minimize the administrative time spent on tracking deferrals, and closing gaps in the City's infrastructure. **The draft ordinance addresses three new circumstances for the Public Works Director to authorize deferral rather than require installation concurrent with the construction of a principal building.**

Section (5).a. THREE-YEAR TEMPORARY DEFERRAL WITH FINANCIAL SECURITY

In this option, a developer would provide financial security for the construction of the missing infrastructure, but would be allowed to defer implementation for up to three years upon approval by the Public Works Director. The three-year deferral would be similar to the timeframe allowed within the Subdivision Code for completing required improvements within three years of approval of a final plat. **The intent would only be to allow such a deferral when there are extenuating circumstances about completing the project concurrent with completing the principal building.**

Section(5).b PROVIDE CASH IN LIEU PAYMENT

This option would allow for the developer to provide financial security to the City for future improvements upon approval by the Public Works Director. This option would remove the obligation for the improvement from the property owner and require the City to implement the project in the future. This option would be available in limited circumstances where completing the missing infrastructure with a future City project is more appropriate. **With this option, the City would carry the long-term obligation of constructing the project. Allowing such a deferral would not be appropriate when existing improvements (such as connecting sidewalks) are located near the site and is only available in limited circumstances.**

SECTION (5).C. CITY S-GA ZONED LAND DEFERRAL

Currently, the standards do not directly address unique circumstances related to City-owned property. This language is intended to address unique conditions related to either shape, use, or authorized funding related to improvements on S-GA zoned property. **This option is not meant to waive requirements for completing missing segments of improvements when there are critical links and practicable.** For example, completing a sidewalk along Duff Avenue for Homewood Golf Course would be practicable and complete a missing link; however, constructing a sidewalk along 20th Street may not be desirable due to its closeness of play/safety and it is not a critical link due to no missing connections to other areas. Other circumstances could arise where large properties with small improvements trigger disproportional improvements that are not funded or the City has chosen to fund alternative improvements that are not on site.

ALTERNATIVES:

1. The City Council can approve the first reading of the proposed ordinance related to deferral of missing infrastructure.
2. The City Council can recommend alternative language for the proposed text amendment.
3. The City Council can request additional information and defer taking action.

CITY MANAGER'S RECOMMENDED ACTION:

Barilla identified concerns on the timing of installation of missing infrastructure for private development. Staff has identified a similar issue for City-controlled properties due to the combination of unique property sizes, uses, and capital improvement programming (CIP). **Staff believes that with limited application of the proposed changes, the ordinance continues to serve its original intent by expecting closure of gaps while allowing for limited opportunities to defer improvements subject to approval by the Public Works Director.**

Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1 which is approve new options for deferral of infrastructure.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING A NEW SECTION 22.31(5) AND RENUMBERING THE CURRENT SECTION 22.31(5) TO 22.31(6) THEREOF, FOR THE PURPOSE OF ESTABLISHING DEFERRAL OPTIONS FOR INSTALLING INFRASTRUCTURE; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by enacting a new Section as follows:

“Sec. 22.31. INFRASTRUCTURE REQUIRED

...

(5) Deferral Options. In limited circumstances a building permit may be issued without completion of the final infrastructure improvements if one of the following infrastructure-deferral options is approved by the Public Works Director:

- (a) Three-year temporary deferral with financial security. A developer may provide financial security in the form of cash, letter of credit, or bond for the missing infrastructure, and be allowed to defer implementation for up to three years with approval of the Public Works Director. This option is only available when there are extenuating circumstances related to project coordination with City plans for improvements making it impractical to complete the infrastructure concurrent with completing the principal building.
- (b) Cash payment for future improvements. A developer may provide cash payment to the City, which the City will use to construct the infrastructure in the future, subject to the City’s discretion on the timeline for completion. The developer would be relieved of the obligation for installing or constructing the infrastructure and the City would assume responsibility for installing or constructing the infrastructure. The Public Works Director will set the amount of the cash payment to cover costs of the infrastructure based upon and engineer’s estimate for the City to complete the work. This option is only available when there are extenuating circumstances making it premature or impractical to complete the infrastructure concurrent with completing the principal building and it would be appropriate for the City to integrate completion of the missing infrastructure as part of a planned improvement. This option is not allowed when existing improvements, such as connecting sidewalks, are located near the site and the City has no specific project planned for making other improvements.
- (c) For City owned property zoned S-GA the City shall strive to complete critical missing links with improvements to its property; however, the Public Works director may approve deferral of infrastructure in recognition of planned City improvements, unique circumstances related to shape or use of the property, or due to City Council authorization of funding for a project.”

Section Two. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Three. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk

John A. Haila, Mayor