

RESOLUTION 04-18137

A RESOLUTION AMENDING THE CITY OF BILLINGS RESOLUTION  
NO. 99-17447-- A RESOLUTION ADOPTING THE CITY OF BILLINGS POLICY FOR  
CONSTRUCTION AND REPAIR OF CURB, GUTTER AND SIDEWALKS

WHEREAS, the City of Billings desires to construct and maintain a safe and efficient street network, including the installation and maintenance of curb, gutter and sidewalk, and

WHEREAS, a comprehensive policy is desired by residents of the City of Billings, particularly those affected by the annual curb, gutter and sidewalk programs, and

WHEREAS, the Billings City Council has completed a comprehensive review of policies relating to the annual curb, gutter and sidewalk program, and

WHEREAS, the Billings City Council has affirmed that public infrastructure improvements should be completed in conjunction with the development process and in accordance with the City of Billings Site Development Ordinance, and

WHEREAS, the safety of school children and other pedestrians is a concern properly addressed by the City of Billings, and

WHEREAS, streets within the City of Billings not previously constructed to a full maintainable standard, including the installation of curb, gutter and sidewalk should be upgraded on an ongoing basis, and

WHEREAS, curb, gutter and sidewalk improvements, once installed, need to be subject to a regular maintenance program;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS,  
MONTANA:

**Enforcement of Article 6-1200, BMCC (Site Development Ordinance)  
Through the Developer Related Program**

1. The Developer Related Program is used to enforce unfulfilled requirements for the installation of curb, gutter, sidewalk and other related improvements in conjunction with the issuance of Building Permits. The Site Development Ordinance (Article 6-1200 BMCC) is used to establish the requirements.
2. A Waiver of the Right to Protest the installation of improvements in the future may be accepted on a case by case basis by the City Engineer's office based upon an evaluation of technical merit. A staff report will be made to the City Council on at least an annual basis to provide a listing of Waivers requested and/or approved during the most recent reporting period.
3. The requirement for installation of the sidewalk component of missing improvements shall be reviewed in accordance with the attached flow chart titled "Policy for the Installation of Missing Sidewalks in Conjunction with Development," by reference made a part hereof.
4. Individual developers may elect to pursue a variance from the requirement to install some or all of the missing improvements. The variance procedure is described within the Site Development Ordinance.
5. The costs associated with the construction of improvements under the Developer Related Program represent the cost of development and are not generally subject to the subsidies available for other curb, gutter and sidewalk programs. This does not, however, limit developers from pursuing offsetting funding sources available to others.

**Installation of Sidewalks Along Elementary School Walking Routes  
Through the School Route Sidewalk Program**

This program has been used to prioritize, implement and assist with the funding of missing sidewalks along school walking routes to each of the elementary schools within the city. The policy for implementation and prioritization of these walking routes is as follows:

1. Missing sidewalks are generally prioritized in accordance with the 1992 consultant study of school walking routes, prepared by HNB Consulting Engineers.
2. Community Transportation Enhancement Program (CTEP) funding will be pursued and used to offset one half of new sidewalk installation cost.
3. For arterial streets, no direct property assessments to residential properties (duplex or lesser density). Non-residential properties assessed for the full cost of curb and gutter and one half of the sidewalk cost.
4. For non-arterial streets, assess full cost of new curb and gutter construction and one half cost of new sidewalk construction to fronting properties for all property classes.
5. Repair any defective curb, gutter and sidewalk within the project area in conjunction with the installation of school route sidewalks. Assess for repair costs according to City policy in effect at the time of construction.
6. No direct assessments for alley approach construction/reconstruction or handicap access facilities at intersections.
7. In recognition of the vast amount of missing sidewalk and of the possible end of the CTEP program, property owners not participating in one of the initial program phases have no guarantee of the CTEP subsidy in the future. Similarly, property owners on the side of the street opposite a school route program would have no guarantee of a subsidy for the installation of sidewalks on their side of the street at a later date.
8. The School Route Sidewalk Program shall be coordinated with other street reconstruction projects.
9. The School Route Program shall be reviewed annually.
10. The implementation of school walking routes in priority order is as follows:
  - a. Arterial and collector streets regardless of walking route priority.
  - b. Group I sidewalks regardless of street functional classification.
  - c. All other sidewalks by neighborhood petition.
  - d. The City Engineer's office shall maintain an on-going, proactive discussion, including presentations to school PTA's, other school groups, neighborhood groups, and others about the program and the availability of CTEP funding.

### **Installation of New or Missing Curb, Gutter and Sidewalk Improvements in Established Neighborhoods**

For this program, curb, gutter, and sidewalk, together with corresponding street improvements are completed within those areas of the city where the work has not previously been addressed.

1. The City Engineer's office shall periodically recommend infill improvements to the City Council based on one or more of the following:
  - a. Neighborhood request.
  - b. Staff recommendations.
  - c. Coordination with other projects.
  - d. Subdivision Improvements Agreement requirements
  - e. Majority of project area covered by Waivers of Protest.
  - f. Other public interest.
2. As a general guideline for infill projects, sidewalks will be required as a component of the project along all arterial and collector streets. Missing sidewalks along local streets within established neighborhoods would be installed by neighborhood petition.
3. Improvement costs are assessed to fronting property owners with subsidies provided through various sources as available on a project by project basis as follows:

- a. Arterial and collector over-width costs.
- b. Storm drain upgrading.
- c. Community Development Block Grant Program.
- d. Multi-year financing through the sale of sidewalk bonds.
- e. Other sources of offset funding as may become available from time to time.

## Repair and Maintenance of Existing Curb, Gutter and Sidewalk Improvements

These projects provide for the ongoing maintenance of curb, gutter and sidewalk previously constructed. The general policy for repair and maintenance programs is as follows:

1. The City Engineer's office shall periodically recommend repair and maintenance programs based upon:
  - a. Complaints.
  - b. Staff recommendations.
  - c. Property owner requests.
2. The policy statement for defective sidewalk, curb, gutter and driveways shall be used as a base line for the inventory of work recommended for repair, followed by discussions with individual property owners. Specifically, the defective sidewalk policy statement shall be liberally construed to allow individual property owners the opportunity to attempt temporary sidewalk repairs short of full removal and replacement at their own risk, particularly when the property is not within a comprehensive neighborhood improvement area. The attached "Defective Sidewalk, Curb, Gutter, Driveways Policy Statement" is by reference made a part hereof.
3. Construction costs are assessed directly to the fronting property owners with subsidies offered through various sources as follows:
  - a. Corner lot subsidy for residential properties (the property owner shall be assessed for the shortest lot frontage of corner lots). The subsidy shall come from the City's Gas Tax Fund. Residential properties are defined as single-family residence or duplexes.
  - b. Storm drain improvements/adjustments
  - c. Excess street restoration costs (in general, street reconstruction beyond three feet in width for streets previously constructed to a maintainable standard).
  - d. Community Development Block Grant Program.
  - e. Multi-year financing through the sale of sidewalk bonds.
  - f. The cost of curb and gutter repair is paid by the City using revenues derived from Street Maintenance Districts. The use of Street Maintenance District revenues for curb and gutter repair is limited to City projects within the annual work program of the Public Works Department, including the Miscellaneous Sidewalk Program or other similar repair and maintenance programs, coordination with the PAVER and School Route Program. Funding is not generally adequate to address individual spot requests from individual property owners.

EFFECTIVE DATE. That this Resolution shall be in full force and effect from and after its passage and approval.

APPROVED by the City Council of the City of Billings, Montana, on the 14<sup>th</sup> day of June, 2004



ATTEST:

BY: Marita Herold  
 Marita Herold, CMC, City Clerk

CITY OF BILLINGS

BY: Charles F. Tooley  
 Charles F. Tooley, Mayor