



Metro Planning Commission Meeting of 5/28/2020

ATTACHMENT TO 5/28/20 MPC STAFF REPORT

STAFF REPORT FOR ITEM #27



Project No.	BL2019-9
Project Name	Sidewalk Contributions In-Lieu Of Construction
Council District	Countywide
School District	Countywide
Requested by	Councilmember Mary Carolyn Roberts
Staff Reviewer	Claxton
Staff Recommendation	<i>Approve with a substitute.</i>

APPLICANT REQUEST

An ordinance amending Section 17.20.120 of Title 17 of the Metropolitan Code pertaining to the provision of sidewalks.

RECOMMENDATION

Approve the ordinance with a substitute.

OVERVIEW

The contribution in lieu of construction is an important tool to support the sidewalk program. At question is where those funds should be deployed: within the current Pedestrian Benefit Zones or in a more limited geography, at the Council District level (proposed).

While staff has concerns with altering the current process as proposed, we acknowledge that the boundaries of the Pedestrian Benefit Zones need to be reevaluated and that it would be unproductive to do so prior to the upcoming redistricting process. We also find that an evaluation period that includes policy and performance goals, as well as additional data would improve Metro’s ability to assess the overall program. Therefore, we propose such an evaluation period and reporting requirement below. Based on past contribution levels, our expectation is that one outcome of the proposed change is that the in lieu program would be used to support much smaller projects at the District-level, rather than towards larger sidewalk programs that serve more people. (According to Public Works staff, generally lieu fund contributions alone do not usually constitute a sufficient investment amount to complete a larger sidewalk project). In general, both small and large projects can improve pedestrian infrastructure. However, these details should be confirmed in the Report’s analysis.

The in lieu program is only one piece of a much larger sidewalk program. As Metro continues to assess the role of the in lieu program in furthering the city’s goals, we should also continue to advance other priorities such as reducing project costs to ensure that funds go as far as possible in creating pedestrian-friendly neighborhoods and centers.

STAFF PROPOSED SUBSTITUTE

The staff recommendation would amend the current proposal as follows (new text shown underlined; deleted text shown with ~~striketrough~~):

Amend Subsection D of Section 17.20.120 of Title 17 of the Metropolitan Code pertaining to the provision of sidewalks as follows:



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- D. Contribution to the sidewalk fund for the council district as an alternative to sidewalk installation.
1. When a public sidewalk is required by subsection A, but installation is not required by subsection C of this section, the building permit applicant may make a financial contribution to the sidewalk fund for the council district in lieu of construction. The value of the contribution shall be the average linear foot sidewalk project cost, including new and repair projects, determined by July 1 of each year by the Department of Public Works' review of sidewalk projects contracted for or constructed by the Metropolitan Government. The contribution in-lieu of construction shall be no more than ~~two~~ three percent of the total construction value of the permit.
 2. Any such contributions received by the Metropolitan Government shall be assigned and designated for implementation of the strategic plan for sidewalks and bikeways, as approved by the Planning Commission. The applicant's payment shall be allocated within ten years of receipt of the payment within the same council district as the property to be developed; otherwise, the payment shall be refunded to the building permit applicant.
 3. Contribution to the pedestrian network as an alternative to sidewalk installation required under this section shall be received by the Department of Public Works, and written confirmation of the contribution shall be sent to the Department of Codes Administration prior to the issuance of a building permit.
 4. Establishment of an Evaluation Period, Preparation of Report, and Sunset Clause
 - a. Metro Public Works shall evaluate a pilot program, where funds are administered at a Council District level, through the end of June 2022.
 - b. In consultation with the Planning Department, Public Works shall prepare a report for the Metro Council within 2 months of the end of the evaluation period that summarizes its findings during the Evaluation Period and includes:
 1. The amount and use of contribution-in-lieu funds;
 2. A list of projects where in-lieu funds were used by District, including the service area and anticipated number of people served; and
 3. Performance-based metrics, included but not limited to safety and equity metrics, and a determination as to whether and to what extent the in-lieu program contributes to those metrics by Council District allocation.
 4. The report shall be submitted to the Planning Department for review prior to submittal to Metro Council.
 - c. The Pilot Program shall end on September 30, 2022. At such time the contributions in lieu shall be once again made to the established Pedestrian Benefit Zones.

PROPOSED AMENDMENT TO TITLE 17

The original proposed bill as filed would amend the Zoning Code by modifying Subsection D of Section 17.20.121 pertaining to the provisions of sidewalks by changing the geography to which contributions in lieu of construction of sidewalks are made. Currently, contributions in lieu are made to Pedestrian Benefit Zones. As proposed contributions would be made to council districts and would not include an evaluation period, performance metrics, or a sunset clause.



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POLICY CONTEXT

BL2019-9 would adjust contributions-in-lieu for sidewalks by changing the geographic area in which the contributions are spent from 16 Pedestrian Benefit Zones to the 35 Council Districts. Per Council Office, the current draft of the proposal inadvertently states the cap on the contribution in-lieu as 2% of that same value of the construction value of the permit. This is corrected in the substitute.

In recent years, the annual amount of G.O. bonds allocated for sidewalks has increased to \$30 million per year. Per the Council Subcommittee on Sidewalks, approximately two-thirds of G.O. bonds approved for sidewalks have been directed to building new sidewalks. The remaining one-third is used for sidewalk repair.

FY19 contributions in-lieu amounted to about \$3.6 million, or about 10% of the recent \$30 million annual sidewalk allocations in G.O. bonds. Benefit Zones ranged from contributing and expending no dollars to \$1.1 million in Zone 8. On average, contributions-in-lieu funded 36% of the total costs of the projects they supported.

Each in lieu fund contribution alone does not usually constitute a sufficient amount of money to complete a larger sidewalk project. Currently, at the end of each fiscal year, any contributions in-lieu collected within a Benefit Zone are allocated to ongoing sidewalk projects within the same Benefit Zone. This allows the majority funding source of the sidewalk program, general obligation bonds, to be redirected to other projects, allowing them to reach further than they would otherwise be able to. *Therefore, one potential result of this pilot may be that the in lieu fund can only support much smaller projects within the Districts that generate the funds.* Whether this is indeed the outcome and whether that result is an appropriate outcome, should be assessed during the Evaluation Period.

Additionally, the Benefit Zones should also be reassessed in light of the performance objectives of the sidewalk program. The Benefit Zones may no longer align well with sidewalk requirements and where the contribution-in-lieu option is available. The guidelines used to draw their boundaries should be reassessed to see if they meet the goals of the in-lieu program. Lastly, only 12 Council Districts are wholly contained within a single Benefit Zones, causing confusion and mistrust about how in-lieu contributions are used. Concurrently with the development of the Report, the Planning Department may develop a proposal for alternative boundaries for the Benefit Zones, which would need to be updated by separate ordinance. The appropriate time to evaluate and propose new boundaries for pedestrian benefit zones is following the Council redistricting process.

Background

Currently, sidewalks are required when building permits are issued based upon the land use, location within the county, extent of improvements, and condition or design of existing sidewalks. In some cases, the sidewalk requirement may be waived and a contribution made in lieu of constructing the sidewalk. Contributions in-lieu must be used within ten years of payment to implement the strategic plan for sidewalks and bikeways (currently, the Walk N Bike Master Plan). Projects funded by contributions in-lieu must be within the same Pedestrian Benefit Zone that the contribution was collected from. Map 1 shows the 16 Benefit Zones.



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Pedestrian Benefit Zones were established in an update to the Subdivision Regulations adopted in 2002. According to the regulations at that time:

Each zone represents, to the extent practicable, an area where pedestrian circulation can take place without traversing major barriers to movement such as interstate freeways and major federal highways that are, by definition, unsafe or unsuitable for pedestrian crossing.

In 2004, the option to contribute in-lieu of constructing a sidewalk and Pedestrian Benefit Zones were included in the zoning code. A major update to sidewalk requirements was adopted in 2017, expanding the requirements for new sidewalks to include many more one- and two-family permits and providing guidance aligned with NashvilleNext on when sidewalks were required and when contributions in-lieu were available as an option.

One underlying premise of the contributions in-lieu and Pedestrian Benefit Zones are that the contributions should not become a general revenue source for Metro Nashville. Section 17.20.120 requires that contributions in-lieu be spent on projects close in time (10 years), benefits (implementation of the strategic sidewalk and bikeway plan), and geography (the Pedestrian Benefit Zones).

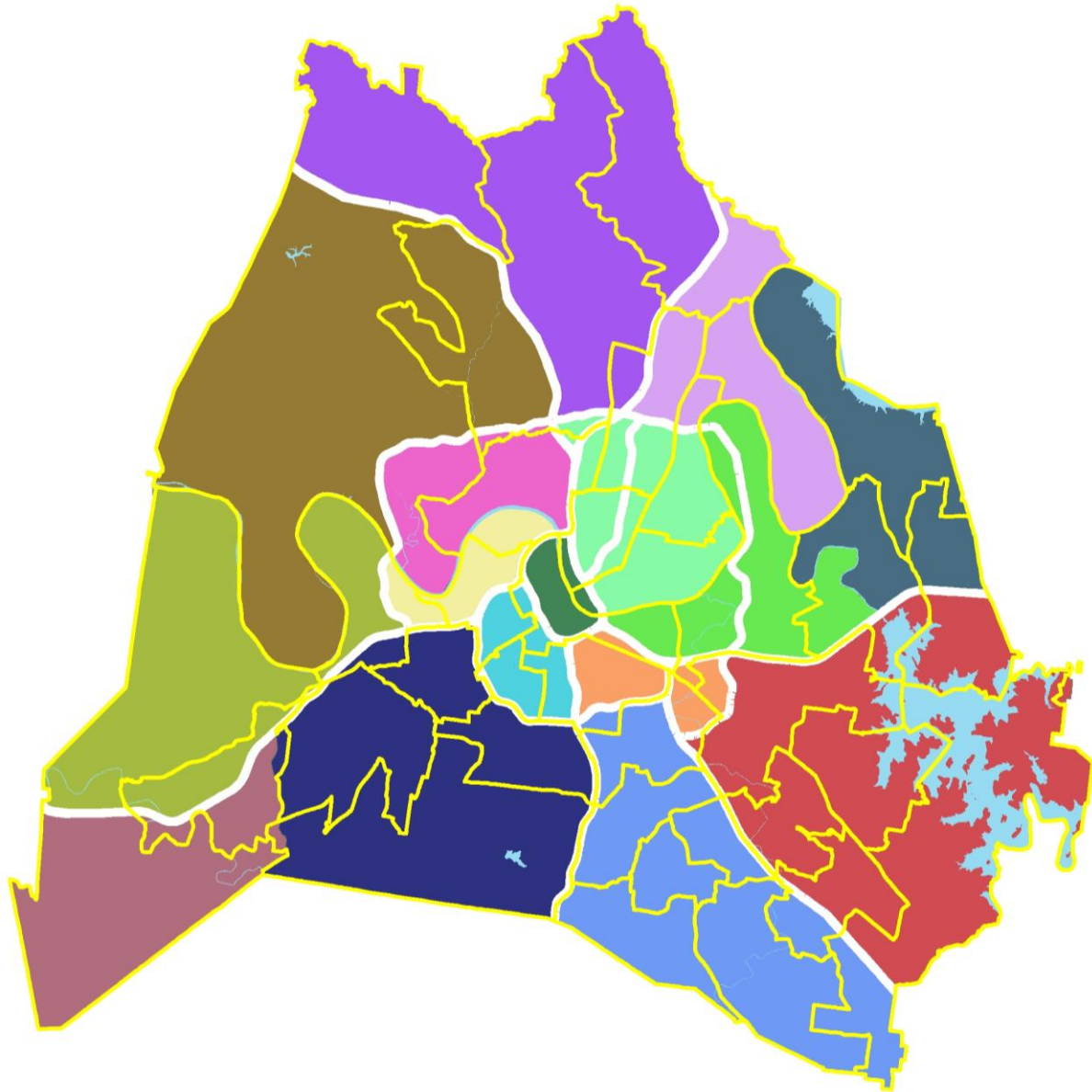
Walkability was a core focus of NashvilleNext. Creating walkable places available to people from all backgrounds across the County undergirded the Growth & Preservation Concept Map, supported by multiple Plan Elements. Following NashvilleNext, the Walk n Bike Master Plan laid out multiple critical strategies to creating the walkable places recommended by NashvilleNext. Walk n Bike identified 1,900 miles of sidewalks needed to complete the recommended pedestrian network. Among its tools was a priority system for new sidewalk segments. This system combined multiple factors to identify high need areas. Factors included:

- Safety (locations of pedestrian crashes and fatalities)
- Equity (Communities with high levels of poverty and unemployment, an aging population, and low levels of vehicle access)
- Demand (How much walking sidewalks support, based on access to transit, major corridors, and civic institutions, and expansion of the current sidewalk network)



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Map 1: Current Pedestrian Benefit Zones




Legend

 2011 Council Districts


Pedestrian Benefit Zones


 Antioch, Priest Lake

 Bordeaux

 Downtown, Germantown, Salemtown


 East Nashville, Parkwood

 Grassmere, Southeast Nashville, Cane Ridge

 Joelton, Beaman Park, Bells Bend


 Midtown


 Newsom Station, Whites Bend, Cockrill Bend

 North Nashville, Metro Center, Nations

 Old Hickory, Lakewood, Hermitage

 Paradise Ridge, Union Hill, Goodlettsville

 South Bellevue, Pasquo, South Harpeth

 South Nashville, North Mill Creek

 Spence Lane, Donelson

 West Nashville, Green Hills



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ANALYSIS

Metro rules require it to spend contributions in-lieu on pedestrian projects close to the source of the contributions. Further, the original rationale of the Benefit Zones was to keep contributions within areas that were not divided by features that were difficult to cross, such as rivers and freeways. In addition to proximity and connectivity, the following are additional policy areas that may be considered for the Report.

- Safety: Reducing pedestrian crashes and fatalities, and adding sidewalks where the most people are walking or likely to walk.
- Equity: Prioritizing sidewalks for disadvantaged communities or those most reliant on sidewalks.
- Unbuilt sidewalks: Contributions in-lieu could support expanding the sidewalk network in areas where it is missing.

Proximity and Connectivity

One of the core principles of the in-lieu option is that improvements supported by the contribution should be close to the site of the contribution. Closely related to proximity, another principle of the in-lieu option is that improvements supported by these contributions not be separated by unwalkable features, such as freeways or the Cumberland River.

The Report should assess whether investing by Council Districts supports projects that promote connectivity. Part of this assessment should review whether some freeway and river crossings are sufficiently safe and supported to be considered pedestrian accessible.

Safety

Improving the safety of Nashville's pedestrian environment is a priority of Walk n Bike. Focusing resources into high crash locations that lack infrastructure can help reduce pedestrian injuries and deaths. Preliminary review by Planning staff reflect that Council Districts differ substantially in the number of pedestrian crashes. However, it is unclear if high crash locations occur throughout all Districts. Moreover, it is unclear if the contributions in-lieu generated per District would be sufficient to improve unsafe areas in each District.

The Report should assess crash data and determine whether restricting spending contributions in-lieu only within Districts supports Metro's ability to target these funds on projects that improve pedestrian safety.

Equity

Walk n Bike uses four factors to represent Health Equity: poverty rate, unemployment rate, households without vehicles, and population over 65. These can be assessed, with a slight lag, at smaller geographics (Census Block Groups) to determine how the areas that make contributions compare to the areas that receive pedestrian improvements.

The Report should assess whether the District-based approach supports Metro's capacity to improve equitable investment within each of these categories.

However, it is important to note that the contribution in lieu of construction alone should not be solely responsible for equitable investment in pedestrian infrastructure – this should be a priority for



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the entire sidewalk program. Therefore, the Report should also examine Metro's overall investment in sidewalks and whether it is successfully addressing important system gaps in an equitable way.

Walk n Bike priority scores

The Walk n Bike priority score reflects a data-driven approach to combining strategic factors relating to areas that different potential sidewalk segments serve. It is intended to reflect the overall level of demand for and benefit from walking in different areas. While these scores do not reflect the difficulty or cost of constructing particular sidewalks or unusual features, Public Works generally prefers high scoring sidewalks over lowing scoring ones. Public Works should update and refine the priority measure to better reflect the overall strategic goals of Walk n Bike as well as more recent data.

The Report should assess whether spending by Council Districts supports goals for pedestrian infrastructure.

Unbuilt sidewalks

Much of the sidewalk program's spending is intended to add sidewalks where they do not now exist. Districts differ widely in their sidewalk needs, though all have substantial sidewalk gaps. Moreover, the level of need is extremely high compared to the relatively modest levels of funding amounts contributed in-lieu. Generally, Districts with the largest number of miles needed have lower scores on the Walk n Bike priority ratings, as well as fewer pedestrian crashes than Districts with fewer miles needed. This is due to the general correlation between population density, priority scores, and pedestrian crashes.

The Report should assess sidewalk needs by District, as well as whether any funds were used or could have been used to complete sidewalks.

SUMMARY

Staff recommends a two-phased approach to assessing the geography where in lieu of construction program should be deployed. First, we recommend a pilot that requires contributions in-lieu be spent within Council Districts during an Evaluation Period. In the second phase, as improvements to the sidewalk program are made, staff recommends revisiting this assessment one year after redistricting is complete. Using tracked spending on contributions in-lieu, staff will assess the effects of the change and whether they support broader city goals.

Additionally, concurrently with the submittal of the Report, the Planning Department should re-assess the boundaries of Benefit Zones to determine if they can be more closely aligned with Council Districts to minimize concerns that split Districts result in less sidewalk spending within Districts. Revised pedestrian zones would require separate Council action.

Summary recommendations

Establishment of an Evaluation Period and Pilot Program by Council District

Establish an Evaluation Period whereby Public Works shall pilot a program to distribute funds by Council District, to conclude with the end of the first Fiscal Year following redistricting in 2021.



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Preparation of a Report

At the conclusion of the Evaluation Period, Public Works shall submit to the Planning Department and Metro Council a Report regarding the amount and use of contribution-in-lieu funds by Council Districts during the Evaluation Period. The Report should include a list of projects where in-lieu funds were used by District, including the service area and anticipated number of people served.

Within the Report and in consultation with the Planning Department, Public Works shall identify performance-based Countywide safety and equity metrics and determine whether and to what extent the in-lieu program contributes to those metrics by Council District allocation.

RECOMMENDATION

Approve with a substitute ordinance.

Substitute Bill BL2019-8

WHEREAS, sidewalks are critical infrastructure, providing a wider variety of safe transportation options in a rapidly growing Nashville; and

WHEREAS, the Metropolitan Council enacted amendments to Title 17, the Zoning Code, by the adoption of Ordinance No. BL2016-493 whereby the locational criteria and types of development requiring new sidewalk construction were updated and Ordinance BL2019-1659 refining these criteria; and

WHEREAS, these Ordinances allowed a contribution in lieu of constructing a sidewalk in some circumstances; and

WHEREAS, contributions in-lieu are required to be spent within 10 years of when the contribution is made, to further the strategic sidewalk and bikeway plan, and close to the sit making the contribution; and

WHEREAS, these contributions are currently required to be spent within the same pedestrian benefit zone in which the contribution is made; and

WHEREAS, it is important that Public Works evaluate the in-lieu fee program, to conclude the evaluation at the end of June 2022; and

WHEREAS, the evaluation should include the amount and use of contribution-in-lieu funds; a list of projects where in-lieu funds were used by District; including the service area and anticipated number of people served; and performance-based Countywide safety and equity metrics and determine whether and to what extent the in-lieu program contributes to those metrics by Council District allocation; and

WHEREAS, the evaluation should consider reconfigured Pedestrian Benefit Zones to improve performance outcomes; and



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WHEREAS, the Planning Commission's report on this proposal includes discussion of potential metrics for this evaluation.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Subsection D of Section 17.20.120 of the Metropolitan Code of Laws is hereby amended by deleting it in its entirety and substituting in lieu thereof the following:

- D. Contribution to the sidewalk fund for the council district as an alternative to sidewalk installation.
1. -When a public sidewalk is required by subsection A, but installation is not required by subsection C of this section, the building permit applicant may make a financial contribution to the sidewalk fund for the council district in lieu of construction. The value of the contribution shall be the average linear foot sidewalk project cost, including new and repair projects, determined by July 1 of each year by the Department of Public Works' review of sidewalk projects contracted for or constructed by the Metropolitan Government. The contribution in-lieu of construction shall be no more than ~~two~~ three percent of the total construction value of the permit.
 2. Any such contributions received by the Metropolitan Government shall be assigned and designated for implementation of the strategic plan for sidewalks and bikeways, as approved by the Planning Commission. The applicant's payment shall be allocated within ten years of receipt of the payment within the same council district as the property to be developed; otherwise, the payment shall be refunded to the building permit applicant.
 3. Contribution to the pedestrian network as an alternative to sidewalk installation required under this section shall be received by the Department of Public Works, and written confirmation of the contribution shall be sent to the Department of Codes Administration prior to the issuance of a building permit.
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 - b. In consultation with the Planning Department, Public Works shall prepare a report for the Metro Council within 2 months of the end of the evaluation period that summarizes its findings during the Evaluation Period and includes:
 1. The amount and use of contribution-in-lieu funds;
 2. A list of projects where in-lieu funds were used by District, including the service area and anticipated number of people served; and
 3. Performance-based metrics, included but not limited to safety and equity metrics, and a determination as to whether and to what extent the in-lieu program contributes to those metrics by Council District allocation.
 4. The report shall be submitted to the Planning Department for review prior to submittal to Metro Council.
 - c. The Pilot Program shall end on September 30, 2022. At such time the contributions in lieu shall be once again made to the established Pedestrian Benefit Zones.



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Section 2. This Ordinance shall take effect from and after its final passage, and such change shall be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.