



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## OFFICE OF THE CITY ATTORNEY


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### MEMORANDUM

TO: Planning Commission

FROM: Joel P. Landeen, Assistant City Attorney 

DATE: 6-20-06

RE: Amended Subdivision Sidewalk Ordinance

The Council Development Committee has recommended that the subdivision regulations dealing with the construction of sidewalks be amended so that they more accurately reflect how sidewalks for the majority of lots within new subdivisions are actually installed. Currently Section 16.16.090 of the RCMC requires that all sidewalks within a subdivision be installed by the developer/subdivider. The reality is that the majority of developers/subdividers include a provision in the sales agreements for their lots passing the responsibility for actually installing the sidewalks on to the buyer/builder. They do this so that the sidewalks are not damaged during development of the individual lots. The problem caused by the present situation is that final acceptance of the public improvements and the start of the warranty period cannot occur until all of the sidewalks are in place. This means that the developer/subdivider has installed streets and sewers etc. that are fully completed and in use by the public, in some cases for an extended period of time, prior to the warranty period beginning on these improvements. The Committee recommended that the ordinance be changed to more accurately reflect what is actually occurring. The goal of the amendment is to not hold up final acceptance for the majority of the public improvements based on the sidewalks being incomplete, yet still provide a mechanism to ensure that the sidewalks are installed.

The amended ordinance will now tie completion of the vast majority of sidewalks within a subdivision to the issuance of a certificate of occupancy. If a residence is occupied without the sidewalks being completed or a certificate of occupancy being issued the City will have several avenues that it can pursue to have the sidewalks installed. The City can order in the sidewalks and assess the property for their cost. The City can require that any builder that failed to meet

their obligation post a bond for the sidewalk on any future project they work on until they rectify the situation. The City can also bring a failure of a licensed residential contractor to meet their obligations in front of the Residential Contractor Board for potential action against their license. The Committee felt that the proposed ordinance amendment was the best way to balance the need to get final acceptance of subdivision improvements with the need to ensure that sidewalks are installed.