



# MONROE CITY COUNCIL

## Agenda Bill No. 19-078

<b>SUBJECT:</b>	<b>Ordinance No. 008/2019, Amending MMC Title 12 re Sidewalk Maintenance; First Reading</b>
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<b>DATE:</b>	<b>DEPT:</b>	<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
04/09/2019	Public Works	Brad Feilberg	Brad Feilberg	<b>New Business #4</b>

**Discussion:** 03/05/2019, 03/19/2019, 04/09/2019

**First Reading:** 04/09/2019

- Attachments:**
1. Ordinance: Monroe Municipal Code Amendments Chapter 12.12 and Chapter 12.14
  2. RCW 35.68, 35.69, and 38.70

**REQUESTED ACTION:** Move to accept as first reading Ordinance No. 008/2019, amending Monroe Municipal Code Chapter 12.12, Sidewalk Construction and Maintenance; adopting Chapter 12.14, Sidewalk Maintenance; providing for severability; and establishing an effective date.

### POLICY CONSIDERATIONS

*City Council, exercising the police power set out in article 11, section 11 of the state constitution can set requirements for maintenance of right-of-ways and may adopt ordinances requiring abutting property owners to maintain sidewalks and keep them free of snow, ice, and fallen leaves.*

### DESCRIPTION/BACKGROUND

During the recent snow event some questions were raised regarding who is responsible for clearing snow and ice from sidewalks.

The City has typically referred to Section 6.04.050(A) of the Monroe Municipal Code which identifies “all ice not removed from public sidewalks, and all snow not removed from public sidewalks within twelve hours after it has ceased to fall thereon” as a public nuisance affecting safety.

Councilmember Cudaback has suggested that a specific requirement to remove snow would provide clarification as to the adjacent property owner’s responsibility.

Chapter 12.12, Sidewalk Construction and Maintenance, currently does not address sidewalk maintenance. In 1963 Ordinance 401 included the following text: “Section 3. Sidewalks responsibility of abutting property owners. Subject to other Sections herein set forth, all sidewalks shall be constructed, reconstructed, repaired and maintained by abutting property owners.” In 1995 Ordinance 1045 deleted Section 12.12.030 Maintenance from the Monroe Municipal Code.

At the March 19, 2019, meeting City Council discussed requiring snow removal by property owners; timeliness; accountability and liability; consequences for non-removal; exceptions; and discretionary enforcement. By consensus, Council requested staff to bring back proposed code amendments for further consideration.

In general, the City is not liable for a person's snow-related injury if it did not remove snow and ice from sidewalks. However, if the snow or ice has been on the sidewalk long enough to form into ridges, drifts, or hillocks the liability risk increases for the City.

In its decision of *Birdsall v Abrams* (2001) the Court of Appeals of Washington states: "Washington law is clear. Unless there is a statutory provision to the contrary, landowners have no duty to clear snow and ice from public sidewalks adjacent to their property. It is further stated that "ordinances of this kind do not create a cause for action for injured pedestrians against landowners."

The amendments contained in Attachment 1 are being proposed, including:

- Separating the code sections for sidewalk repair (fixing the concrete) and maintenance (clearing litter, leaves and snow).
- Adopting RCWs by reference (Attachment 2) on regarding sidewalk repairs.
- Establishing responsibility of adjacent property owner for sidewalk repairs as allowed by RCW (Attachment 2).
- Establishing responsibility of adjacent property owner or occupant for sidewalk maintenance. (Enforcement will continue to be through the City nuisance code (Chapter 6.04 MMC).

### **FISCAL IMPACTS**

Minimal: updating of online municipal code. Clarifies property owner have responsibility for maintenance and repair of abutting sidewalks as an "aid to the city in discharging its duty to the public." *Western Auto Supply Agency v. Phelan*, 104 F.2d 85, 87 (9th Cir.1939)

### **TIME CONSTRAINTS**

None.

### **ALTERNATIVES**

1. Do not adopt code amendment. Continue with current level of service (City does not clear sidewalks).
  - Con:
    - Uncertainty in responsibilities for clearing sidewalks.
2. Do not adopt code amendment. Increase level of service (City clears sidewalks in a manner similar to clearing streets)
  - Con:
    - Current staffing levels are insufficient to undertake this level of service without hiring contracted services.
  - Pro:
    - Sidewalks in high pedestrian travel areas are cleared sooner.

**CITY OF MONROE  
ORDINANCE NO. 008/2019**

AN ORDINANCE OF THE CITY OF MONROE,  
WASHINGTON, AMENDING MONROE MUNICIPAL CODE  
CHAPTER 12.12, SIDEWALK CONSTRUCTION AND  
MAINTENANCE; ADOPTING CHAPTER 12.14, SIDEWALK  
MAINTENANCE; PROVIDING FOR SEVERABILITY; AND  
ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the maintenance and repair of sidewalks is in the best interest of the City of Monroe; and

WHEREAS, the Monroe City Council determined it would be in the best interest of the City to effect the changes as provided below.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE DO ORDAIN AS FOLLOWS:

Section 1. Amendment of Chapter 12.12 MMC – Sidewalk Construction and Maintenance. Chapter 12.12 of the Monroe Municipal Code, is hereby amended as follows:

**Chapter 12.12  
SIDEWALK CONSTRUCTION AND ((MAINTENANCE))REPAIR**

Sections:

- 12.12.010 Standards of construction.
- 12.12.020 State law adopted by reference.
- 12.12.030 Sidewalks – Industrial, business and multifamily zones.
- 12.12.040 Abutting property owner responsible.**
- 12.12.050 Notification.**
- 12.12.060 Procedure to order construction or repair.**

**12.12.010 Standards of construction.**

All sidewalks hereafter constructed shall conform to the latest edition of the City of Monroe Public Works Design and Construction Standards. Location and grade of sidewalk shall be approved by the city engineer or designee.

**12.12.020 State law adopted by reference.**

Chapters 35.68, 35.69 and 35.70 RCW, inclusive, together with all amendments, extensions, additions thereto, or deletions therefrom, are by this reference adopted and incorporated herein.

**12.12.030 Sidewalks – Industrial, business and multifamily zones.**

A. A sidewalk or walkway shall be constructed on all public right-of-way frontages as a condition of a building permit issuance for any improvements on property zoned for business, industrial or multifamily uses. The sidewalk or walkway shall be constructed prior to the issuance of a certificate of occupancy.

B. This requirement of this section may be waived by the city council to the extent that the council determines that the improvements or change in use proposed by the property owner will not create any additional need for sidewalks or that the sidewalk requirement is disproportional to the needs created by the project as required by RCW 82.02.020 and constitutional requirements of nexus and proportionality.

C. In the event the property is used as a single-family residential use but is located in an area zoned for business, industrial, or multifamily uses, and said single-family use is changed and a certificate of occupancy is required prior to said new use, a sidewalk or walkway requirement shall comply with this chapter.

**12.12.040 Abutting property owner responsible.**

A. It shall be the responsibility of the owner of property abutting upon a public sidewalk to keep the sidewalk at all times in a safe condition, free of any and all defects.

B. Expense of repair to be borne by abutting property owner thereof. The burden and expense of constructing, maintaining and repairing sidewalks along the side of any street or other public place shall fall upon and be borne by the property directly abutting thereon as allowed by RCW 35.68, 35.69, and 35.70.

**12.12.050 Notification.**

A. It shall be the duty of an owner or occupier of property abutting a public sidewalk to notify in writing the city administrator or designee of any unsafe condition on a public sidewalk abutting the owner's or occupier's property. Such notice shall set forth the nature and location of the unsafe condition and a statement that the unsafe condition was not created by, caused by or contributed to by the abutting owner or occupier of abutting property. Such notice shall be submitted in writing to the city administrator or designee within forty-eight hours of discovery of the unsafe condition.

**12.12.060 Procedure to order construction or repair.**

A. If in the judgment of the city administrator or designee public convenience or safety requires that a sidewalk be constructed or repaired along either side of any street, the procedures contained in RCW 35.68, 35.69, and 38.70 shall be followed.

Section 2. Adoption of Chapter 12.14 MMC, Sidewalk Maintenance. Monroe Municipal Code Title 1, Public Improvements, is hereby amended by the addition of a new Chapter 12.14, Sidewalk Maintenance, in its entirety, as follows.

**Chapter 12.14**  
**SIDEWALK MAINTENANCE**

Sections:

12.14.010 Abutting property owner to maintain sidewalk.

12.14.020 Snow or ice – To be removed by noon.

**12.14.010 Abutting property owner to maintain sidewalk.**

A. It shall be the responsibility of the owner of property abutting upon a public sidewalk to maintain, including but not limited to the removal and disposal of debris, litter, vegetation, snow, and ice from, the sidewalk at all times.

B. The burden and expense of maintaining sidewalks along the side of any street or other public place shall fall upon and be borne by the property directly abutting thereon.

**12.14.020 Snow or ice**

The owner, agent, occupant, or person in charge of each property abutting upon a public sidewalk shall clean the sidewalk abutting such property of snow or ice to the width of said sidewalk and cause the same to be kept clean from snow and ice.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five days after the date of publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

First Reading: April 9, 2019  
Final Reading:  
Published:  
Effective:

CITY OF MONROE, WASHINGTON:

(SEAL)

\_\_\_\_\_  
Geoffrey Thomas, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Elizabeth M. Adkisson, MMC, City Clerk

\_\_\_\_\_  
J. Zachary Lell, City Attorney

## Chapter Listing

## Chapter 35.68 RCW

## SIDEWALKS, GUTTERS, CURBS, AND DRIVEWAYS—ALL CITIES AND TOWNS

## Sections

<b>35.68.010</b>	Authority conferred.
<b>35.68.020</b>	Resolution—Contents.
<b>35.68.030</b>	Resolution—Publication—Notice—Hearing.
<b>35.68.040</b>	"Sidewalk construction fund."
<b>35.68.050</b>	Assessment roll—Hearing—Notice—Confirmation—Appeal.
<b>35.68.060</b>	Method of payment of assessments.
<b>35.68.070</b>	Collection of assessments.
<b>35.68.075</b>	Curb ramps for persons with disabilities—Required—Standards and requirements.
<b>35.68.076</b>	Curb ramps for persons with disabilities—Model standards.
<b>35.68.080</b>	Construction of chapter.

## NOTES:

*Assessments and charges against state lands: Chapter 79.44 RCW.*

**35.68.010****Authority conferred.**

Any city or town, hereinafter referred to as city, is authorized to construct, reconstruct, and repair sidewalks, gutters and curbs along and driveways across sidewalks, which work is hereafter referred to as the improvement, and to pay the costs thereof from any available funds, or to require the abutting property owner to construct the improvement at the owner's own cost or expense, or, subject to the limitations in RCW 35.69.020 (2) and (3), to assess all or any portion of the costs thereof against the abutting property owner.

[ 1996 c 19 § 1; 1965 c 7 § 35.68.010. Prior: 1949 c 177 § 1; Rem. Supp. 1949 § 9332a.]

**35.68.020****Resolution—Contents.**

No such improvement shall be undertaken or required except pursuant to a resolution of the council or commission of the city or town, hereinafter referred to as the city council. The resolution shall state whether the cost of the improvement shall be borne by the city or whether all or a specified portion shall be borne by the city or whether all or a specified portion shall be borne by the abutting property owner; or whether the abutting owner is required to construct the improvement at his or her own cost and expense. If the abutting owner is required to construct the improvement the resolution shall specify the time within which the construction shall be commenced and completed; and further that if the improvement or construction is

not undertaken and completed within the time specified that the city will perform or complete the improvement and assess the cost against the abutting owner.

[ 2009 c 549 § 2117; 1965 c 7 § 35.68.020. Prior: 1949 c 177 § 2; Rem. Supp. 1949 § 9332b.]

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### **35.68.030**

#### **Resolution—Publication—Notice—Hearing.**

If all or any portion of the cost is to be assessed against the abutting property owner, or if the abutting property owner is required to construct the improvement, the resolution shall fix a time from and after its passage, and a place, for hearing on the resolution. The resolution shall be published for two consecutive weeks before the time of hearing in the official newspaper or regularly published official publication of the city or town and a notice of the date of the hearing shall be given each owner or reputed owner of the abutting property by mailing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer, at the address shown thereon a notice of the date of hearing, the mailing to be at least ten days before the date fixed for the hearing. If the publication and mailing is made as herein required, proof thereof by affidavit shall be filed with the city clerk, comptroller or auditor of the city before the hearing. The hearing may be postponed from time to time to a definite date until the hearing is held. At the time of hearing the council shall hear persons who appear for or against the improvement, and determine whether it will or will not proceed with the improvement and whether it will make any changes in the original plan, and what the changes shall be. This action may be taken by motion adopted in the usual manner.

[ 1985 c 469 § 37; 1965 c 7 § 35.68.030. Prior: 1949 c 177 § 3; Rem. Supp. 1949 § 9332c.]

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### **35.68.040**

#### **"Sidewalk construction fund."**

When all or any portion of the cost is to be assessed against the abutting property owner, the city council may create a "sidewalk construction fund No. . . ." to be numbered differently for each improvement; and with warrants drawn on this fund the cost of the respective improvements may be paid. The city may advance as a loan to the sidewalk construction fund from any available funds the amounts necessary to pay any costs of the improvement. When any assessments are made for the improvement, payments therefor shall be paid into the particular sidewalk improvement fund; and whenever any funds are available over the amounts necessary to pay outstanding warrants any advances or loans made to the fund shall be repaid. Whenever warrants are drawn on any such fund which are not paid for want of sufficient funds, they shall be so stamped and shall bear interest until called and paid at a rate established by the city council by resolution.

[ 1965 c 7 § 35.68.040. Prior: 1949 c 177 § 4; Rem. Supp. 1949 § 9332d.]

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### **35.68.050**

#### **Assessment roll—Hearing—Notice—Confirmation—Appeal.**

Where all or any portion of the costs are to be assessed against the abutting property, an assessment roll shall be prepared by the proper city official or by the city council which shall to the extent necessary be based on benefits and which shall describe the property assessed, the name of the owner, if

known, otherwise stating that the owner is unknown and fixing the amount of the assessment. The assessment roll shall be filed with the city clerk, and when so filed the council shall by resolution fix a date for hearing thereon and direct the clerk to give notice of the hearing and the time and place thereof. The notice of hearing shall be mailed to the person whose name appears on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown thereon, and shall be published before the date fixed for the hearing for two consecutive weeks in the official newspaper or regular official publication of the city. The notice shall be mailed and first publication made at least ten days before the hearing date. Proof of mailing and publication shall be made by affidavit and shall be filed with the city clerk before the date fixed for the hearing. Following the hearing the city council shall by ordinance affirm, modify, or reject or order recasting of the assessment roll. An appeal may be taken to the superior court from the ordinance confirming the assessment roll in the same manner as is provided for appeals from the assessment roll by chapters **35.43** to **35.54** RCW, inclusive, as now or hereafter amended.

[ **1985 c 469 § 38**; **1965 c 7 § 35.68.050**. Prior: **1949 c 177 § 5**; Rem. Supp. 1949 § 9332e.]

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### **35.68.060**

#### **Method of payment of assessments.**

The city council shall by resolution provide whether the full amount of the assessment shall be paid in one payment or whether it may be paid in installments and shall prescribe the time and amount of such payments; and if more than one payment is provided for, the city council may by resolution provide for interest on unpaid installments and fix the rate thereof.

[ **1965 c 7 § 35.68.060**. Prior: **1949 c 177 § 6**; Rem. Supp. 1949 § 9332f.]

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### **35.68.070**

#### **Collection of assessments.**

The assessment roll as affirmed or modified by the city council shall be filed with the city treasurer for collection, and the amount thereof including interest, if any, shall become a lien against the property described therein from the date of such filing. Whenever any payment on any assessment or installment is delinquent and unpaid for a period of thirty days or more the lien may be foreclosed in the same manner and with the same effect as is provided by chapters **35.43** to **35.54** RCW, inclusive; as now or hereafter amended. Whenever the deed is issued after the sale therein provided, the regularity, validity and correctness of the proceedings relating to such improvement and the assessment therefor shall be final and conclusive and no action shall thereafter be brought by or in behalf of any person to set aside said deed.

[ **1965 c 7 § 35.68.070**. Prior: **1949 c 177 § 7**; Rem. Supp. 1949 § 9332g.]

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### **35.68.075**

#### **Curb ramps for persons with disabilities—Required—Standards and requirements.**

(1) The standard for construction on any county road, or city or town street, for which curbs in combination with sidewalks, paths, or other pedestrian access ways are to be constructed, shall be not less than two ramps per lineal block on or near the crosswalks at intersections. Such ramps shall be at least thirty-six inches wide and so constructed as to allow reasonable access to the crosswalk for physically handicapped persons, without uniquely endangering blind persons.



(2) Standards set for curb ramping under subsection (1) of this section shall not apply to any curb existing upon enactment of this section but shall apply to all new curb construction and to all replacement curbs constructed at any point in a block which gives reasonable access to a crosswalk.

(3) Upon September 21, 1977, every ramp thereafter constructed under subsection (1) of this section, which serves one end of a crosswalk, shall be matched by another ramp at the other end of the crosswalk. However, no ramp shall be required at the other end of the crosswalk if there is no curb nor sidewalk at the other end of the crosswalk. Nor shall any matching ramp constructed pursuant to this subsection require a subsequent matching ramp.

[ 1989 c 173 § 1; 1977 ex.s. c 137 § 1; 1973 c 83 § 1.]

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### 35.68.076

#### **Curb ramps for persons with disabilities—Model standards.**

The department of enterprise services shall, pursuant to chapter 34.05 RCW, the Administrative Procedure Act, adopt several suggested model design, construction, or location standards to aid counties, cities, and towns in constructing curb ramps to allow reasonable access to the crosswalk for persons with physical disabilities without uniquely endangering blind persons. The department of enterprise services shall consult with persons with physical disabilities, blind persons, counties, cities, and the state building code council in adopting the suggested standards.

[ 2015 c 225 § 30; 1989 c 175 § 84; 1977 ex.s. c 137 § 2.]

#### **NOTES:**

**Effective date—1989 c 175:** See note following RCW 34.05.010.

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### 35.68.080

#### **Construction of chapter.**

This chapter is supplemental and additional to any and all other laws relating to construction, reconstruction, and repair of sidewalks, gutters, and curbs along driveways across sidewalks in cities and towns.

[ 1965 c 7 § 35.68.080. Prior: 1949 c 177 § 8; Rem. Supp. 1949 § 9332h.]

## Chapter Listing

### Chapter 35.69 RCW

## SIDEWALKS—CONSTRUCTION, RECONSTRUCTION IN FIRST AND SECOND-CLASS CITIES

### Sections

<b>35.69.010</b>	Definitions.
<b>35.69.020</b>	Resolution of necessity—Liability of abutting property—Reconstruction.
<b>35.69.030</b>	Notice to owners—Service—Contents—Assessment—Collection.
<b>35.69.040</b>	Abutting property defined.
<b>35.69.050</b>	Construction of chapter.

### NOTES:

*Assessments and charges against state lands: Chapter 79.44 RCW.*

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### 35.69.010

#### Definitions.

The term "street" as used herein includes boulevard, avenue, street, alley, way, lane, square or place.

The term "city" includes any city of the first or second class or any other city of equal population working under a special charter.

The term "sidewalk" includes any and all pedestrian structures or forms of improvement for pedestrians included in the space between the street margin, as defined by a curb or the edge of the traveled road surface, and the line where the public right-of-way meets the abutting property.

[ 1996 c 19 § 2; 1994 c 81 § 61; 1965 c 7 § 35.69.010. Prior: 1927 c 203 § 1; RRS § 9332-1.]

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### 35.69.020

#### Resolution of necessity—Liability of abutting property—Reconstruction.

(1) Whenever a portion, not longer than one block in length, of any street in any city is not improved by the construction of a sidewalk thereon, or the sidewalk thereon has become unfit or unsafe for purposes of public travel, and such street adjacent to both ends of said portion is so improved and in good repair, and the city council of such city by resolution finds that the improvement of such portion of such street by the construction or reconstruction of a sidewalk thereon is necessary for the public safety and convenience, the duty, burden, and expense of constructing or reconstructing such sidewalk shall devolve upon the property directly abutting upon such portion except as provided in subsections (2) and (3) of this section.

(2) An abutting property shall not be charged with any costs of construction or reconstruction under this chapter, or under chapter 35.68 or 35.70 RCW, in excess of fifty percent of the valuation of such abutting property, exclusive of improvements thereon, according to the valuation last placed upon it for purposes of general taxation.

(3) An abutting property shall not be charged with any costs of reconstruction under this chapter, or under chapter 35.68 or 35.70 RCW, if the reconstruction is required to correct deterioration of or damage to

the sidewalk that is the direct result of actions by the city or its agents or to correct deterioration of or damage to the sidewalk that is the direct result of the failure of the city to enforce its ordinances.

[ 1996 c 19 § 3; 1965 c 7 § 35.69.020. Prior: 1927 c 203 § 2; RRS § 9332-2.]

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### 35.69.030

#### Notice to owners—Service—Contents—Assessment—Collection.

Whenever the city council of any such city has adopted such resolution it shall cause a notice to be served on the owner of the property directly abutting on such portion of such street, instructing him or her to construct or reconstruct a sidewalk on such portion in accordance with the plans and specifications which shall be attached to such notice. The notice shall be deemed sufficiently served if delivered in person to the owner or if left at the home of such owner with a person of suitable age and discretion then resident therein, or with an agent of such owner, authorized to collect rentals on such property, or, if the owner is a nonresident of the state of Washington, by mailing a copy to his or her last known address, or if he or she is unknown or if his or her address is unknown, then by posting a copy in a conspicuous place at such portion of the street where the improvement is to be made. The notice shall specify a reasonable time within which such construction or reconstruction shall be made, and shall state that in case the owner fails to make the same within such time, the city will proceed to make it through the officer or department thereof charged with the inspection of sidewalks and that such officer or department will report to the city council, at a subsequent date, to be definitely stated in the notice, an assessment roll showing the lot or parcel of land directly abutting on such portion of the street so improved, the cost of the improvement, and the name of the owner, if known, and that the city council at the time stated in the notice or at the time or times to which the same may be adjourned, will hear any and all protests against the proposed assessment. Upon the expiration of the time fixed within which the owner is required to construct or reconstruct such sidewalk, if the owner has failed to perform such work, the city may proceed to perform it, and the officer or department of the city performing the work shall, within the time fixed in the notice, report to the city council an assessment roll showing the lot or parcel of land directly abutting on that portion of the street so improved, the cost of the work, and the name of the owner, if known. The city council shall, at the time in such notice designated, or at an adjourned time or times, assess the cost of such improvement against said property and shall fix the time and manner for payment thereof, which said assessment shall become a lien upon said property and shall be collected in the manner as is provided by law for collection of local improvements assessments under this title.

[ 2009 c 549 § 2118; 1965 c 7 § 35.69.030. Prior: 1927 c 203 § 3; RRS § 9332-3.]

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### 35.69.040

#### Abutting property defined.

For the purposes of this chapter all property having a frontage upon the sides or margins of any street shall be deemed to be abutting property, and such property shall be chargeable, as provided herein, for all costs of construction or reconstruction or any form of sidewalk improvement between the margin of said street and the roadway lying in front of and adjacent to said property.

[ 1965 c 7 § 35.69.040. Prior: 1927 c 203 § 4; RRS § 9332-4.]

**35.69.050****Construction of chapter.**

Nothing in this chapter shall be construed to limit or repeal any existing powers of cities with reference to the construction or reconstruction of sidewalks or the improvement or maintenance of streets, but the power and authority herein granted is to be exercised concurrent with or in extension of powers and authority now existing. The legislative authority of any city before exercising the powers and authority herein granted shall, by proper ordinance, provide for the application and enforcement of the same within the limitations herein specified.

[ **1965 c 7 § 35.69.050**. Prior: **1927 c 203 § 5**; RRS § 9332-5.]

## Chapter Listing

### Chapter 35.70 RCW

#### SIDEWALKS—CONSTRUCTION IN SECOND-CLASS CITIES AND TOWNS

##### Sections

<b>35.70.010</b>	Definitions.
<b>35.70.020</b>	Owners' responsibility.
<b>35.70.030</b>	Convenience and necessity reported by superintendent.
<b>35.70.040</b>	Council's resolution and notice—Adoption.
<b>35.70.050</b>	Council's resolution and notice—Contents.
<b>35.70.060</b>	Notice of resolution and order—Service.
<b>35.70.070</b>	Superintendent to construct and prepare assessment roll.
<b>35.70.080</b>	Hearing on assessment roll—Notice.
<b>35.70.090</b>	Lien of assessments and foreclosure.
<b>35.70.100</b>	Provisions of chapter not exclusive.

##### NOTES:

*Assessments and charges against state lands: Chapter 79.44 RCW.*

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#### **35.70.010** Definitions.

For the purposes of this chapter all property having a frontage on the side or margin of any street shall be deemed abutting property, and such property shall be chargeable, as provided in this chapter, with all costs of construction of any form of sidewalk improvement, between the margin of the street, as defined by a curb or the edge of the traveled road surface, and the line where the public right-of-way meets the abutting property, and the term sidewalk as used in this chapter shall be construed to mean and include any and all pedestrian structures or forms of improvement for pedestrians included in the space between the street margin, as defined by a curb or the edge of the traveled road surface, and the line where the public right-of-way meets the abutting property.

[ 1996 c 19 § 4; 1965 c 7 § 35.70.010. Prior: 1915 c 149 § 7; RRS § 9161.]

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#### **35.70.020** Owners' responsibility.

In all cities of the second class and towns the burden and expense of constructing sidewalks along the side of any street or other public place shall devolve upon and be borne by the property directly abutting thereon. The cost of reconstructing or repairing existing sidewalks may devolve upon the abutting property subject to the limitations in RCW 35.69.020 (2) and (3).

[ 1996 c 19 § 5; 1994 c 81 § 62; 1965 c 7 § 35.70.020. Prior: 1915 c 149 § 1; RRS § 9155.]

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### 35.70.030

#### Convenience and necessity reported by superintendent.

If in the judgment of the officer or department having superintendence of streets and public places, public convenience or safety requires that a sidewalk be constructed along either side of any street, he or she shall report the fact to the city or town council immediately.

[ 2009 c 549 § 2119; 1965 c 7 § 35.70.030. Prior: 1915 c 149 § 2, part; RRS § 9156, part.]

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### 35.70.040

#### Council's resolution and notice—Adoption.

If upon receiving a report from the proper officer, the city or town council deems the construction of the proposed sidewalk necessary or convenient for the public it shall by an appropriate resolution order the sidewalk constructed and shall cause a written notice to be served upon the owner of each parcel of land abutting upon that portion and side of the street where the sidewalk is constructed requiring him or her to construct the sidewalk in accordance with the resolution.

[ 2009 c 549 § 2120; 1965 c 7 § 35.70.040. Prior: 1915 c 149 § 2, part; RRS § 9156, part.]

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### 35.70.050

#### Council's resolution and notice—Contents.

The resolution and notice and order to construct a sidewalk shall:

- (1) Describe each parcel of land abutting upon that portion and side of the street where the sidewalk is ordered to be constructed,
- (2) Specify the kind of sidewalk required, its size and dimensions, the method and material to be used in construction,
- (3) Contain an estimate of the cost thereof, and
- (4) State that unless the sidewalk is constructed in compliance with the notice, and within a reasonable time therein specified, the city or town will construct the sidewalk and assess the cost and expense thereof against the abutting property described in the notice.

[ 1965 c 7 § 35.70.050. Prior: 1915 c 149 § 3; RRS § 9157.]

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### 35.70.060

#### Notice of resolution and order—Service.

The notice shall be served:

- (1) By delivering a copy to the owner or reputed owner of each parcel of land affected, or to the authorized agent of the owners, or
- (2) By leaving a copy thereof at the usual place of abode of the owner in the city or town with a person of suitable age and discretion residing therein, or
- (3) If the owner is a nonresident of the city or town and his or her place of residence is known by mailing a copy to the owner addressed to his or her last known place of residence, or

(4) If the place of residence of the owner is unknown or if the owner of any parcel of land affected is unknown, by publication in the official newspaper of the city or town once a week for two consecutive weeks. The notice shall specify a reasonable time within which the sidewalk shall be constructed which in the case of publication of the notice shall not be less than sixty days from the date of the first publication of such notice.

[ 2009 c 549 § 2121; 1985 c 469 § 36; 1965 c 7 § 35.70.060. Prior: 1915 c 149 § 4; RRS § 9158.]

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### **35.70.070**

#### **Superintendent to construct and prepare assessment roll.**

If the notice and order to construct a sidewalk is not complied with within the time therein specified, the officer or department having the superintendence of streets shall proceed to construct said sidewalk forthwith and shall report to the city or town council at its next regular meeting or as soon thereafter as is practicable an assessment roll showing each parcel of land abutting upon the sidewalk, the name of the owner thereof if known, and apportion the cost of said improvement to be assessed against each parcel of such land.

[ 1965 c 7 § 35.70.070. Prior: 1915 c 149 § 5, part; RRS § 9159, part.]

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### **35.70.080**

#### **Hearing on assessment roll—Notice.**

Thereupon the city or town council shall set a date for hearing any protests against the proposed assessment roll and shall cause a notice of the time and place of the hearing to be published once a week for two successive weeks in the official newspaper of the city or town, the date of the hearing to be not less than thirty days from the date of the first publication of the notice. At the hearing or at any adjournment thereof the council by ordinance shall assess the cost of constructing the sidewalk against the abutting property in accordance with the benefits thereto.

[ 1985 c 469 § 39; 1965 c 7 § 35.70.080. Prior: (i) 1915 c 149 § 5, part; RRS § 9159, part. (ii) 1915 c 149 § 6, part; RRS § 9160, part.]

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### **35.70.090**

#### **Lien of assessments and foreclosure.**

The assessments shall become a lien upon the respective parcels of land and shall be collected in the manner provided by law for the collection of local improvement assessments and shall bear interest at the rate of six percent per annum from the date of the approval of said assessment thereon.

[ 1965 c 7 § 35.70.090. Prior: 1915 c 149 § 6, part; RRS § 9160, part.]

#### **NOTES:**

*Collection and foreclosure of local improvement assessments: Chapters 35.49, 35.50 RCW.*

**35.70.100****Provisions of chapter not exclusive.**

This chapter shall not be construed as repealing or amending any provision relating to the improvement of streets or public places by special assessments commonly known as local improvement laws, but shall be considered as additional legislation and auxiliary thereto and the city or town council, of any city of the second class or town before exercising the authority herein granted may by ordinance provide for the application and enforcement of the provisions of this chapter within the limitations herein specified.

[ **1994 c 81 § 63**; **1965 c 7 § 35.70.100**. Prior: **1915 c 149 § 8**; RRS § 9162.]