

Chapter 12.05

SIDEWALK CONSTRUCTION, MAINTENANCE AND REPAIR

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12.05.010 **Purpose.** The purpose of this Chapter is to establish provisions for the uniform development, construction and maintenance of sidewalks, together with curbs, gutters, handicapped ramps and sidewalk improvements within the City. (Ord. 887, June 2011)

12.05.020 **Definitions.**

- A. "Abutting property" means all property having a frontage on a public street right-of-way.
- B. "Public right-of-way" means any publicly owned land set aside and dedicated for surface transportation purposes, including vehicular, bicycle and pedestrian transportation, whether improved or unimproved.
- C. "Sidewalk" means a walkway improved with concrete or other approved material located in the public right-of-way generally parallel to abutting property for pedestrian use. (Ord. 887, June 2011)

12.05.030 **Responsibility of Abutting Property Owner.** All abutting property owners are responsible for constructing and maintaining sidewalks, handicapped ramps, crosswalks, curbs, and gutters along the entire frontage of the abutting property in conformity with this Chapter, and the City's current adopted standard specifications.

The provisions of this section may be deferred by the Mayor or the Mayor's designee as provided in Section 12.05.120 below. Whenever a permit is granted for new construction within the City or to remodel, alter, reconstruct, or expand an existing building when such costs of the changes exceeds 50% of the assessed valuation of said building, such person shall also obtain a permit as provided under this Chapter for the

construction of the sidewalks, curbs and gutters on all sides of such property that may adjoin a public street. (Ord. 955, April 2016; Ord. 887, June 2011)

12.05.040 **Property Owner Liable for Maintenance and Repairs.** Whenever any public right-of-way within the City shall have been improved by the construction of a sidewalk along either side thereof, the duty and expense of the inspection, maintenance, cleaning, snow removal, repair, and renewal of said sidewalk, including the erection or maintenance of suitable barriers along the outer margin of said sidewalk where the same is elevated more than two feet above the abutting property, shall be upon the owner of the directly abutting property, and improvements shall be made by the owner in the manner provided by the Ordinance of the City, the laws of the State of Washington. (Ord. 887, June 2011)

12.05.050 **Hazardous Conditions.** It is unlawful for the owner and/or any person occupying or having control of any premises abutting upon any public street, right-of-way, or alley in the City, or to construct, place, maintain or permit to remain upon any part of said right-of-way located between the curb line, or, if there is no curb line, then the adjacent edge of the traveled portion of such right-of-way and the abutting property line, any condition, structure or object dangerous or hazardous to the use of said right-of-way by the members of the general public, including but not limited to the following conditions:

- A. Defective sidewalk surfaces, including but not limited to broken or cracked concrete, missing or removed concrete sidewalk panels, or depressions within or between sidewalk joints;
- B. Defective concrete surfaces placed adjacent to public sidewalks or defects in the juncture between said concrete surfaces and the public walks;
- C. Defects in sidewalks or public ways caused or contributed to by the roots of a tree or similar growth or vegetation located either on the private adjoining property or on the parking strip portion of any such street right-of-way;
- D. Defective conditions caused by tree limbs, foliage, brush or grass on or extending over such sidewalks or right-of-ways;
- E. Defective conditions on the parking strip area between the curb line and the sidewalk, or, if there is no curb line, then between the edge of the traveled portion of the right-of-way and the sidewalk and between the sidewalk and the abutting property line;
- F. Defects resulting from accumulation of ice and snow on public sidewalks or on the right-of-way between the curb line, or, if there is no curb line, then between the adjacent edge of the traveled portion of the right-of-way and the abutting property line;
- G. Defects consisting of foreign matter on the public sidewalks, including but not limited to gravel, oil, grease, or any other foreign subject matter that

may cause pedestrians using said sidewalks to fall, stumble or slip; or

- H. Defective handrails or fences or other similar structures within or immediately adjacent to said right-of-way area. (Ord. 887, June 2011)

12.05.060 **Notice to Repair Hazardous Sidewalk.** Whenever the City is notified that a hazardous condition exists, notice shall be sent to the legal owner of the abutting property. Said notice shall describe the location of the hazardous condition and state that the property owner must obtain a sidewalk permit and complete said repairs within a reasonable period not to exceed sixty (60) days. (Ord. 887, June 2011)

12.05.070 **Permit Required.**

- A. Before any person or entity commences to install, improve, modify, or relocate any public right-of-way within the City by the construction of sidewalks, handicapped ramps, crosswalks, curbs or gutters, or to do any work in or upon the public right-of-way whatsoever, the applicant must make an application in writing to the City. Such application shall contain:
 - 1. The exact location of such proposed construction, repair, change or relocation.
 - 2. The location of any new sidewalk to be laid and the connections and location of other sidewalks upon such street.
 - 3. Acknowledgement of such construction, repair, relocation or replacement of the sidewalk shall be in compliance with the standards sidewalk specifications as adopted by the City.
- B. No construction, repair, or relocation of any sidewalks shall be made until the issuance of a sidewalk permit. (Ord. 887, June 2011)

12.05.080 **Permit Fee.** The permit fee for a right-of-way permit shall be the minimum fee listed for a building permit under the Current City Fee Resolution. (Ord. 887, June 2011)

12.05.090 **Sidewalk Standards.**

- A. Residential sidewalks shall be five (5) feet in width inclusive of the curb and no less than four (4) inches in thickness of concrete aggregate material or such other material as approved by the Mayor or his designee.
- B. Commercial sidewalks shall be seven (7) feet in width inclusive of the curb with not less than four (4) inches of thickness of concrete aggregate materials or such other material as approved by the Mayor or his designee. The Mayor or his designee is authorized to permit the construction of commercial sidewalks at variance with the seven (7) foot standard, but in no case less than five (5) feet in width, under the following circumstances:
 - 1. Where existing conditions make compliance impractical.
 - 2. Where there is insufficient right-of-way available for full width

construction.

3. Where surrounding land uses may require an alternate standard.
4. Where unique design standards such as planting strips, vegetation, public signs or structures are incorporated. (Ord. 887, June 2011)

12.05.100 **New Construction - - Sidewalks and Curbs Required.** Except as provided in Section 12.05.110, whenever a permit is granted for new construction within the City, the person seeking to build such new construction shall at the same time a building permit is applied for, also obtain a permit for the construction of sidewalks, curbs and gutters as may be required under this Chapter for all sides of such property that may adjoin a public street. (Ord. 887, June 2011)

12.05.110 **Waiver of Sidewalk Construction Requirements.** A waiver of sidewalk construction requirements within any zoning district may be granted on a case by case basis by the City Engineer with approval of the Mayor, when consistent with the criteria below. The requesting property owner shall be required to sign an Improvement Waiver Agreement supplied by the City, which shall provide that at any point in the future, should the City Engineer decide that the subject property no longer meets any of the criteria below, the property owner must install said improvements. Upon determination by the City Engineer that improvements must be constructed, the City shall provide the owner or their successors in interest, notice requiring the construction of the sidewalk, curb and gutter. The owner shall have ninety (90) days after final decision of the Mayor, within which to construct the improvements in accordance with City's standards and specifications. The construction period may be extended by the Mayor or the Mayor's designee for an additional period of ninety (90) days upon good cause such as inclement weather or the unavailability of materials or services. If the owner fails to construct the improvements within such period, including any extensions, the City may authorize the work to be completed and any and all costs to the City shall become a lien against the property. The property owner shall record the waiver form with the Benton County Auditor and supply a copy to the City within 30 days of its execution.

Within any zoning district, the installation of curbs and gutters may be waived upon the finding that there is:

- A. Inadequate right-of-way width to permit pedestrian traffic.
- B. No demonstrated need for safe walking distance for students walking to and from school.
- C. Sidewalks are not consistent with the general development and character of the neighborhood.

Any waiver under this section shall at all times be subject to the requirements of RCW 35.68. (Ord. 963, September 2016; Ord. 887, June 2011)

12.05.120 **Temporary Deferral of Sidewalk Construction Requirements.**

Whenever it is determined by the Mayor, or the Mayor's designee, that it is not practical or possible due to inclement weather or other extenuating circumstances for the construction of a sidewalk, curb, and gutter to be completed prior to the occupancy of a new or remodeled building as provided in Section 12.05.030 above, the City may grant a ninety (90) day deferral to the requirements of this Section upon the deposit of \$1,000 in the form of cash or check deposited with the City. The security deposit shall be refunded upon satisfactory completion of the improvements and inspection by the City. Completed construction must pass all City inspections and meet all City standards. The ninety (90) day sidewalk construction deferral period may be extended for one (1) additional ninety (90) day period by the Mayor or the Mayor's designee upon good cause such as inclement weather or the unavailability of materials or services.

If the owner fails to construct the sidewalk after the ninety (90) day period, including any extensions, the City may authorize the work to be completed and shall apply the security deposit to the costs of the installation. The deposit shall be used by the City to pay the costs of completing the construction of the curb and sidewalk to meet City standards and to pass City inspection. The City does not warrant that the amount accepted as security necessarily will be sufficient to pay the full costs of construction by accepting the deposit. The owner shall sign an improvement deferral form provided by the City upon approval of the deferral request. By accepting the deposit, the City does not in any way waive any other remedies it may have to collect the costs of completing the construction. Costs to the City in excess of the deposit shall become a lien against the property. (Ord. 963, September 2016; Ord. 955, April 2016; Ord. 887, June 2011)

12.05.130 **Failure to Maintain Sidewalks.**

It shall be unlawful for any person after receiving notice from the City to fail to maintain, clean, repair, or renew such sidewalks pursuant to the obligations created in Section 12.05.040 above, or construct, alter, or relocate a sidewalk without a permit. A violation of this Section shall constitute a civil infraction carrying a maximum penalty as imposed in Section 1.16.010 of this Code. (Ord. 887, June 2011)

12.05.140 **Alternate Remedy.**

Whenever in the judgment of the City Engineer the public convenience or safety requires that a sidewalk be constructed, renewed, repaired, or relocated, along either side of any street, and the abutting property owner has not complied with the notice provided in Section 12.05.060 above, the City Engineer shall report the fact to the City Council and, if the City Council shall deem the improvement necessary or

convenient for the public convenience or safety, it may, as authorized by Chapter 35.68 RCW initiate by Resolution, other construction, repair, or relocation of a sidewalk with all or a portion of the expense of such construction, repair, or relocation of such sidewalk to be borne by the abutting property owner in accordance with the procedures established by such Chapter.

The procedure provided for this alternate remedy is accumulative to all other remedies for the improvements of sidewalks, streets, or public places as permitted by law. (Ord. 887, June 2011)