

ORDINANCE NO. 250-21

AN ORDINANCE OF THE TOWN OF FARMINGTON, WASHINGTON, providing procedures for the maintenance, construction, and repair of sidewalks within the limits of the Town of Farmington.

BE IT ORDAINED by the Council of the Town of Farmington as follows:

**"1. Definitions. Unless the context clearly indicates otherwise, the words used in this chapter shall have the meanings given in this section.**

- A. **"Abutting property" includes all property having a frontage upon the margin of any street or other public place.**
- B. **"Sidewalk" includes any structure or form of street improvement in the space between the street margin and the roadway known as the sidewalk area.**
- C. **"Pedestrian hazard" shall mean a defect or obstruction which a reasonable person in the position of the property owner would believe to constitute a danger of injury to persons using the sidewalk with due regard for their own safety and well being.**

**2. Property Owner's Responsibility. It shall be the responsibility of the owner of the property abutting upon a public sidewalk to maintain such sidewalk at all times in a safe condition free of any and all obstructions or defects, including but not limited to, ice and snow.**

**3. Liability and Expense. (A) The burden and expense of constructing, maintaining, and repairing sidewalks along the side of any street or other public place shall devolve upon and be borne by the property directly abutting thereon.**

**(B) All property owners within the Town shall report, in writing, to the Public Works Superintendent, any pedestrian hazards within the sidewalk abutting or adjacent to their property.**

**(C) The Public Works Superintendent shall create and maintain, on an ongoing basis, a list of pedestrian hazards reported or otherwise known to him, and shall abate such hazards as soon as reasonably practicable, given the nature of the pedestrian hazard and available resources. The Public Works Superintendent shall prioritize his efforts to abate pedestrian hazards, according to available resources and the nature of the pedestrian hazard, on an**

annual basis.

(D) The Town or its delegated agents shall notify all record owners of abutting property of any claim for injury proximately caused by a pedestrian hazard within 60 days of the receipt of such claim. Such notification shall advise the abutting owner of the nature of claim filed by the claimant pursuant to RCW 4.96.020, and shall, in addition, offer such owner the opportunity to defend, adjust, or pay the claim.

(E) More than 30 days prior to trial, or arbitration or more than 14 days prior to payment of any claim for damages proximately caused by a pedestrian hazard, the Town shall notify the abutting owner of the pendency of trial, arbitration, or payment. Such notification shall advise the abutting owner of the right to attend and participate in such trial or arbitration, and the right to prevent the Town from making payment to an injured person by agreeing, in writing, 14 days in advance of the trial or arbitration, or three days in advance of the date of payment, to assume the entire defense of the claim.

(F) If the Town makes payment, by reason of judgment or settlement, for any claim for damages proximately caused by a pedestrian hazard, the Town has the right to indemnification by and from any abutting property owner who had actual knowledge of the condition constituting the pedestrian hazard, if (1) such abutting owner failed to notify the Town, as provided herein, of the pedestrian hazard and least 14 days prior to the injury for which claim is made, and (2) such failure to notify proximately caused the injuries complained of, and (3) the Town did not cause or create the pedestrian hazard, or have actual knowledge of the pedestrian hazard.

4. Report by Public Works Superintendent. If in the judgment of the Public Works Superintendent convenience or safety requires that a sidewalk be constructed or repaired along either side of any street, he shall report the fact to the Town Council in writing immediately.

5. Resolution - Notice. If upon receiving a report from the Public Works Superintendent the Town Council deems the construction of the proposed sidewalk or repair of such sidewalk necessary or convenient for the public, it shall by an appropriate resolution order such construction or repair 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 to be constructed or repaired requiring him to construct or repair the sidewalk in accordance with the resolution.

**6. Information Required.** The resolution and notice and order to construct or repair a sidewalk shall:

(A) Describe each parcel of land abutting upon that portion and side of the street where the sidewalk is ordered to be constructed or repaired;

(B) Specify the kind of sidewalk required, its size and dimensions, the method and material to be used in the construction or repair;

(C) Contain an estimate of the cost thereof; and

(D) State that unless the sidewalk is constructed in compliance with the notice and within a reasonable time therein specified, the Town will construct or repair the sidewalk and assess the cost and expenses thereof against the abutting property described in the notice.

**7. Serving Notice.** The notice shall be served:

(A) 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

(B) By leaving a copy thereof at the usual place of abode of such owner in the Town with a person of suitable age and discretion residing therein; or

(C) If the owner is a nonresident of the Town and his place of residence is known, by mailing a copy to the owner addressed to his last known place of residence; or

(D) 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 two weekly issues of the official newspaper of the Town. Such notice shall specify a reasonable time within which the sidewalk shall be constructed or repaired which, in the case of publication of the notice, shall be not less than 60 days from the date of first publication of such notice.

**8. Noncompliance - Apportionment of Cost.** If the notice and order to construct or repair a sidewalk is not complied with within the time therein specified, the Public Works Superintendent shall

proceed to construct or repair said sidewalk forthwith and shall report to the Town Council at its next regular meeting or as soon thereafter as 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 the improvement to be assessed against each parcel of such land.

9. Hearing. Thereupon the 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 for two successive weeks in the official newspaper of the Town, the date of the hearing to be not less than 30 days from the date of the first publication of the notice. At the hearing or at any adjournment thereof, the Town Council by ordinance shall assess the cost of construction or repairing the sidewalk against the abutting property in accordance with the benefits thereof.

10. Assessment Deemed Lien. 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 the assessment thereon.

11. Effect of Chapter. This chapter shall not be construed as repealing or amending any provision relating to the improvement of streets or public ways by special assessments commonly known as local improvement laws, but shall be considered as additional legislation and ancillary thereto."

2. This ordinance shall be in full force and effect five days after it, or a summary thereof, is published in the official newspaper of the Town of Farmington as required by law.

PASSED by the Town Council this 19<sup>th</sup> day of April, 2021.

Mayor



Attest:

  
Clerk

Approved as to form:



Eric Hanson, Town Attorney

Passed: April 19<sup>th</sup>, 2021

Published: May 20<sup>th</sup>, 2021

Effective date: May 25<sup>th</sup>, 2021