

RESOLUTION OF THE CITY COUNCIL

No. 205

Effective ~~XXAPPROVED~~ April 9, 1999

WHEREAS, The City has spent approximately One Million Dollars (\$1,000,000.00) repairing sidewalks in 1994, and

WHEREAS, There are numerous other sidewalks which need repair or construction, and

WHEREAS, The City's financial condition does not permit the City to do as many sidewalk repairs as desired, and

WHEREAS, Other communities such as Pawtucket and Cranston require property owners to contribute to the cost of their sidewalks,

NOW, THEREFORE, BE IT RESOLVED, That the Director of Public Works and the City Solicitor are requested to study the feasibility of requiring property owners to pay Fifty Percent (50%) of the cost of installation of any sidewalk repairs or construction.

IN CITY COUNCIL
MAR 30 1999
READ AND PASSED

PRES.

CLERK

Effective without the Mayor's
Signature:

Michael R. Clement
City Clerk

THE COMMITTEE ON
Public Works
Recommends *Continue*
Barbara A. Carver
Clerk
7/23/98

THE COMMITTEE ON
PUBLIC WORKS
Approves Passage of
The Within Resolution
Barbara A. Carver
3/16/99 Clerk

IN CITY COUNCIL
APR 6 1995
FIRST READING
REFERRED TO COMMITTEE ON
FINANCE
Michael X. Clement
CLERK

THE COMMITTEE ON
FINANCE
Approves Passage of
The Within Resolution
Clara B. Bostwick
August 15, 1996 Clerk
*and referred to the
Public Works Director*

IN CITY COUNCIL
SEP 5 1996
FIRST READING
REFERRED TO COMMITTEE ON
PUBLIC WORKS
Michael X. Clement
CLERK

Councilwoman Sullivan

Michael R. Clement
City Clerk

Clerk of Council



Jean M. Angelone
First Deputy

Barbara A. Poirier
Second Deputy

**DEPARTMENT OF CITY CLERK
CITY HALL**

MEMORANDUM

DATE: September 10, 1996

TO: Irene Testa, Traffic Engineer

SUBJECT: THE ATTACHED RESOLUTION

CONSIDERED BY: Councilman Robert M. Clarkin, Chairman, Committee
on Public Works.

DISPOSITION: The accompanying resolution is referred to you for
study, report and recommendation and report back in
writing to the above-named committee as soon as
practical.

Barbara A. Poirier

SECOND DEPUTY CITY CLERK

NOTES TO DECISIONS

ANALYSIS

1. Retroactive application.
2. Duty to keep driftway open.

1. Retroactive Application.

The retroactive application of this section violates due process and is thus unconstitutional. See *O'Reilly v. Town of Gloucester*, 621 A.2d 697 (R.I. 1993).

2. Duty to Keep Driftway Open.

The duty of a town owed to a driftway is to locate, mark, and repair the driftway so that it is passable and available for use by "People" and "Carriages". *O'Reilly v. Town of Gloucester*, 621 A.2d 697 (R.I. 1993).

CHAPTER 7

SIDEWALKS

SECTION.

- 24-7-1. Power of towns to establish and regulate sidewalks.
- 24-7-2. Order to lay sidewalk — Notice and hearing.
- 24-7-3. Division of costs between town and landowners.
- 24-7-4. Collection of costs from landowners.
- 24-7-5. Appeal of assessment.

SECTION.

- 24-7-6. Judgment and costs on appeal.
- 24-7-7. Penalties for violation of regulations.
- 24-7-8. Sidewalks along state highways.
- 24-7-9. Permits for telephone booths and equipment — Exception.
- 24-7-10. Westerly exempt.
- 24-7-11. William J. George Steps.

24-7-1. Power of towns to establish and regulate sidewalks. — The town council of any town shall have the power to order sidewalks, including curbing of stone or other material, made and laid in and upon the streets and highways of the town, and may make ordinances and regulations relative to the altering or repairing thereof, to the use, maintenance, care, and cleaning of the sidewalks, to removing ice and snow therefrom, to the removal of posts, steps, and other obstructions therein, and to the maintenance and removal of awnings, signs, and other structures projecting over the sidewalks; provided, that the ordinances and regulations shall not be contrary to the laws of this state.

History of Section.

P.L. 1928, ch. 1224, § 1; G.L. 1938, ch. 348, § 1; G.L. 1956, § 24-7-1.

Reenactments. The 1997 Reenactment (P.L. 1997, ch. 326, § 1) substituted "over the sidewalks" for "over the same".

Cross References. Establishment of sidewalks in connection with grading of highway, § 24-3-24.

Improvements in connection with housing projects, § 45-25-24.

NOTES TO DECISIONS

1. Curb Cuts.

This section authorized city to require by ordinance that curb cuts be authorized by commissioner of public works, and such ordinance was constitutional where reasonably carried out and the commissioner's decisions

were subject to review. *Newman v. Mayor of Newport*, 73 R.I. 385, 57 A.2d 173 (1948).

Decision denying curb cuts was arbitrary and unreasonable where it limited landowner to one cut for access to lot fronting on three streets and in effect prevented use of the lot

Submitted
7/23/98

Steve Law

for an otherwise lawful purpose. *Newman v. Mayor of Newport*, 73 R.I. 385, 57 A.2d 173 (1948).

Collateral References. Driveways across sidewalk, power to regulate or prohibit. 73 A.L.R.2d 652.

Governmental liability for failure to reduce vegetation obscuring view at railroad crossing or street intersection. 22 A.L.R.4th 624.

Governmental tort liability for injury allegedly caused by sidewalk or street defect. 58 A.L.R.4th 1197.

Grade of sidewalk, right of abutting owner to change. 62 A.L.R. 401.

Municipal liability for injuries from rough or uneven accumulations of snow or ice on sidewalks. 39 A.L.R.2d 782.

Municipality's power to permit private owner to construct building or structure overhanging or crossing the air space above public street or sidewalk. 76 A.L.R.2d 896.

24-7-2. Order to lay sidewalk — Notice and hearing. —

Whenever the town council shall determine by its vote that a sidewalk shall be made and laid in and upon any street or highway in the town, they may order the sidewalk to be made and laid upon like notice to the abutting landowner, as is provided in § 24-3-23. At the same time and place named in the notice, the town council shall proceed to hear all the parties and to make and pass an order in reference to the making and laying of the sidewalk as they may think proper.

History of Section.

P.L. 1928, ch. 1224, § 2; G.L. 1938, ch. 348, § 2; G.L. 1956, § 24-7-2.

24-7-3. Division of costs between town and landowners. —

Whenever any sidewalk in and upon any street or highway shall be ordered made and laid as provided in § 24-7-2, the owners of the land abutting on the sidewalk shall pay one-half (½) the costs thereof to be set against their respective lands, and the town shall pay the balance of the costs thereof.

History of Section.

P.L. 1928, ch. 1224, § 3; G.L. 1938, ch. 348, § 3; G.L. 1956, § 24-7-3; P.L. 1997, ch. 326, § 58.

Reenactments. The 1997 Reenactment (P.L. 1997, ch. 326, § 1) substituted "as provided in § 24-7-2" for "as hereinbefore provided".

24-7-4. Collection of costs from landowners. —

Costs of the sidewalk shall be ascertained by the commissioner of highways for the town and shall be submitted by the commissioner to, and be approved by, the town council, and thereafter the commissioner of highways shall demand the costs from the abutting landowner, and if the owner shall neglect and refuse to pay the costs, the commissioner of highways shall certify the costs so ascertained and approved to the assessors of taxes for the town, and the assessors shall include the cost of making and laying the sidewalk in the next assessment of taxes for the town against the land or the owner thereof.

History of Section.

P.L. 1928, ch. 1224, § 4; G.L. 1956, § 24-7-

24-7-5. Appeal. owner shall deem any tax for the r § 24-7-4, the lan sions of law with

History of Section.

P.L. 1928, ch. 1224, § 5; G.L. 1956, § 24-7- § 58.

24-7-6. Judgment. ing from any ass sidewalk shall fa shall be adjudged the town may pr been taken, but reduced, the app shall collect from been found on ap

History of Section.

P.L. 1928, ch. 1224, § 6; G.L. 1956, § 24-7-

24-7-7. Penal. council may pres ordinances and amount of twent

History of Section.

P.L. 1928, ch. 1224, § 7; G.L. 1956, § 24-7-

24-7-8. Sidewalk. chapter shall be sidewalks and c state highways v highways shall b the director of ti feasibility, locati

History of Section.

P.L. 1928, ch. 1224, § 8; impl. am. P.L. 1956, § 24-7-8; P.L. 19 Reenactments. Th

History of Section.

P.L. 1928, ch. 1224, § 4; G.L. 1938, ch. 348, § 4; G.L. 1956, § 24-7-4.

24-7-5. Appeal of assessment. — Whenever any abutting landowner shall deem himself or herself aggrieved by the assessment of any tax for the making and laying of any sidewalk, as provided in § 24-7-4, the landowner may appeal therefrom, according to provisions of law with reference to appeals from town councils.

History of Section.

P.L. 1928, ch. 1224, § 5; G.L. 1938, ch. 348, § 5; G.L. 1956, § 24-7-5; P.L. 1997, ch. 326, § 58.

Reenactments. The 1997 Reenactment

(P.L. 1997, ch. 326, § 1) substituted "as provided in § 24-7-4" for "as hereinbefore provided".

24-7-6. Judgment and costs on appeal. — If the person appealing from any assessment of taxes for the making and laying of any sidewalk shall fail to have the taxes reduced on appeal, he or she shall be adjudged to pay the costs of suit, and the collector of taxes in the town may proceed to collect the taxes as if the appeal had not been taken, but if the appellant shall succeed in having the tax reduced, the appellant shall recover costs, and the collector of taxes shall collect from the appellant only so much of the tax as shall have been found on appeal to be due from the appellant.

History of Section.

P.L. 1928, ch. 1224, § 6; G.L. 1938, ch. 348, § 6; G.L. 1956, § 24-7-6.

24-7-7. Penalties for violation of regulations. — The town council may prescribe and impose penalties for the violation of the ordinances and regulations herein provided for not exceeding an amount of twenty dollars (\$20.00).

History of Section.

P.L. 1928, ch. 1224, § 7; G.L. 1938, ch. 348, § 7; G.L. 1956, § 24-7-7.

24-7-8. Sidewalks along state highways. — Nothing in this chapter shall be held to oust the state of jurisdiction over any such sidewalks and curbing as may be made, laid, or constructed upon state highways within a town, but no sidewalks or curbing on state highways shall be made, laid, or constructed without the approval of the director of transportation first being had and obtained as to the feasibility, location, type, and time of construction.

History of Section.

P.L. 1928, ch. 1224, § 8; G.L. 1938, ch. 348, § 8; impl. am. P.L. 1939, ch. 660, § 100; G.L. 1956, § 24-7-8; P.L. 1997, ch. 326, § 58.

(P.L. 1997, ch. 326, § 1) substituted "Nothing in this chapter" for "Nothing herein" at the beginning of the section.

Cross References. Sidewalks along state highways, § 24-8-6 et seq.

NOTES TO DECISIONS

1. Duty to Maintain.

Town had duty under § 24-5-1 to keep sidewalks along state highways in good re-

pair. *Child v. Greene*, 51 R.I. 477, 155 A. 664 (1931).

24-7-9. Permits for telephone booths and equipment — Exception. — In addition to all powers heretofore granted each city and town by charter or by the public laws of the state with respect to the maintenance and use of the sidewalks and the public highways and streets within the cities and towns, the city council of any city and the town council of any town is hereby empowered by ordinance to authorize the placing and maintenance of telephone booths, telephones, and their appurtenances within the limits of any sidewalk or public highway or street within the bounds of the city or town, and to designate a city or town official from time to time to issue permits therefor; and provided, further, that this section shall not apply to the placing and maintenance of the poles, wires, conduits, and other equipment of any telephone company within the limits of any sidewalk or public highway.

History of Section.

P.L. 1961, ch. 125, § 1.

24-7-10. Westerly exempt. — The provisions of this chapter shall not apply to the town of Westerly.

History of Section.

P.L. 1928, ch. 1224, § 10; P.L. 1930, ch. 1611, § 1; G.L. 1938, ch. 348, § 9; P.L. 1950,

ch. 2427, § 1; G.L. 1956, § 24-7-9; P.L. 1961, ch. 125, § 1.

24-7-11. William J. George Steps. — The Ocean Road steps at Matunuck Point in the town of South Kingstown shall be named and known as the "William J. George Steps".

History of Section.

P.L. 1991, ch. 389, § 1.

CHAPTER 8

CONSTRUCTION AND MAINTENANCE OF STATE ROADS

SECTION.

- 24-8-1. Annual report and recommendations — Roads on which expenditures made — Contracts.
- 24-8-1.1. Rhode Island highway system — Purpose.
- 24-8-1.2. Rhode Island highway system — Establishment.
- 24-8-1.3. Definitions.
- 24-8-1.4. Annual report and recommendations — Roads on which expenditures made — Contracts.

SECTION.

- 24-8-1.5. Turnback implementation plan.
- 24-8-1.6. Review.
- 24-8-1.7. Rules and regulations.
- 24-8-2, 24-8-3. [Repealed.]
- 24-8-4. Improvement, reconstruction, or widening of roads — Widening at town expense.
- 24-8-4.1. Highway workers.
- 24-8-5. [Repealed.]
- 24-8-6. Authority for sidewalks and curbs.

SECTION.

- 24-8-7. S.
- 24-8-8. S.
- 24-8-9. R
- 24-8-10. L
- 24-8-11. B
- 24-8-12. C
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History of

P.L. 1902
§ 3; P.L. 19
97, § 3; P.L.
ch. 74, § 3;
1, § 2; G.L.
§ 69.

Cross R.