ORDINANCE NO. 2259

AN ORDINANCE of the City of Kent, Washington, relating to sidewalks, curbs, gutters and driveways, providing for the construction, renewal or repair of the same; prescribing methods of accomplishing said construction, renewal or repair, including assessments against abutting properties; providing for public hearings on and appeals from assessments and assessment rolls; describing certain hazardous conditions along public rights-of-way and the liability of the abutting property owner for creating, maintaining or permitting said hazardous conditions; and providing penalties for violations of the ordinance.

Section 1. RESOLUTION AND NOTICE OF REQUIRED IMPROVEMENTS: Whenever in the judgment of the officer or department having the responsibility for the maintenance of streets and public places in the City, the public convenience or safety requires that a sidewalk, curb, gutter or driveway be constructed, renewed or repaired (hereinafter called the improvement) along either side of any street or other public place therein, said officer or department shall immediately report the fact to the City Council and if the Council shall deem the improvement necessary or convenient for the public convenience or safety, it shall by resolution order said improvement and shall cause a notice in writing to be served on the owner or each lot, block or parcel of land immediately abutting upon that portion and side of such street or public place where said improvement is to be constructed, requiring that such improvement be constructed in accordance with such resolution.

Section 2. NOTICE TO DESCRIBE PROPERTY, CONSTRUCTION: The resolution and notice provided for in the preceding section shall describe each lot, block or parcel of land immediately abutting on that portion of the street or other public place where said improvement is to be constructed, and shall specify the kind of improvement required, the method and material to be used in the construction, and shall contain an estimate of the cost thereof. The notice shall state that unless the improvement is constructed in compliance with the notice and within the time therein specified said improvement will be constructed by the City and the cost and expense thereof assessed against the property abutting thereon.
Section 3. NOTIFICATION AND PUBLICATION: If all or any portion of the cost of the improvement 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 the 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 of the city and a notice of the date of such 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, such mailing to be at least 10 days before the date fixed for such hearing. The hearing may be postponed from time to time to a definite date until the hearing is held. At the time of the 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.

Section 4. 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 Public Works Director or his or her designee 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 the date for hearing thereon and direct the clerk to give notice of such 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 of the City. The notice shall be mailed and first publication made at least 10 days before the hearing date. 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.

Section 5. 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.

Section 6. COLLECTION OF ASSESSMENTS: The assessment roll as affirmed or modified by the City Council shall be filed with the Supervisor of Treasury Accounting 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 30 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.

Section 7. NON-COMPLIANCE WITH NOTICE: HEARING: In case the notice provided for in Section 2 shall not be complied with within the time therein specified the officer or department having charge of the maintenance of the streets and public places in the City shall proceed to construct the improvement and shall report to the Council an assessment roll showing each lot, block or parcel of land immediately abutting upon said improvement, the name of the owner thereof if known, and the portion of the cost of such improvement to be assessed against each lot, block or parcel of land. The procedures for hearing and confirmation of assessment roll including procedures for notification, publication and appeal shall be identical with those set forth in Section 4 above.

Section 8. CHARGEABLE PROPERTY: For the purpose of this Ordinance all property having a frontage on the side or margin of any street or other public place shall be deemed abutting property and such property may be chargeable as provided in this
Ordinance, with all the costs of construction of any improvement between the margin of such street or other public place and the roadway lying in front of and adjacent to said property. The term "sidewalk" as used in this act shall be construed to mean and include any and all structures or forms of improvement included in the space between the street margin and roadway boundary and known as the "sidewalk area".

Section 9. HAZARDOUS CONDITIONS ON PUBLIC STREET RIGHT-OF-WAY: It shall be unlawful for the owner and/or any person occupying or having charge or control of any premises abutting upon any public street right-of-way or alley in the City to construct, place, cause, create, 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 between 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 cement, stub-toes, depressions within or between sidewalk joints.

B. Defective cement surfaces placed adjacent to the public sidewalk or defects at the juncture between said cement surfaces and said public sidewalks, including stub-toes or depressions at said junction.

C. Defects in sidewalks or public ways caused or contributed to by the roots of trees or similar growth or vegetation located either on 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 public sidewalks or rights-of-way.

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 street 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 street roadway and the abutting property line.

G. Defects consisting of foreign matter on the pub-
lic sidewalks, including but not limited to gravel, oil, grease, or any other foreign subject matter that might cause pedestrians using said sidewalk to fall, stumble or slip by reason of the existence of such foreign matter.

H. Defective handrails or fences or other similar structures within or immediately adjacent to said right-of-way area.

Section 10. PROPERTY OWNER LIABLE: In the event of any injury or damage to any person and/or property proximately caused by the defective, dangerous or hazardous condition of any sidewalk as hereinabove specified, or by the presence or accumulation of ice or snow thereon, or by lack of proper guards or railings on or along the property abutting on any public way, then the abutting property owner where such injury or damage occurs shall be liable therefore including liability to the City for all damage, injury, costs and disbursements including Court costs and attorney's fees, which the City may be required to pay or incur to any person injured or property damaged as aforesaid.

Whenever any public right-of-way in the City shall have been improved by the construction of a sidewalk along either side thereof, the duty and expense of the maintenance, cleaning, 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 (2) feet above the abutting property, shall be upon the owner of the directly abutting property provided, however, that if the difference in elevation is the result of a change in street grade occasioned by any city, county or state roadway construction, reconstruction or improvement project, then in that event said barrier shall be erected or installed as a part of such project and the cost thereof shall not be borne by the abutting owner. All such repairs shall be made after application for and issuance of a proper street excavation permit therefor, as required by law, and all of such work to be duly inspected and approved by the Public Works Department of the City.

Section 11. PERMIT REQUIRED: Any person desiring to change or relocate any sidewalk in front of and abutting their property shall make application in writing to the Department of Public Works of the City. Such application shall contain, among
others, the exact location of such proposed change or relocation, the location of any new sidewalk to be laid and the connections and locations of other sidewalks upon such street; no change or relocation of any sidewalk shall be made until the issuance of an appropriate permit therefor.

Section 12. PENALTY: Any person violating any of the provisions of this Ordinance, upon conviction thereof, be guilty of a misdemeanor and be punished by a fine in any sum not exceeding three hundred dollars ($300) or by imprisonment in the City Jail for a period not exceeding ninety (90) days or by both such fine and imprisonment.

Section 13. SEVERABILITY: If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 14. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

ATTEST:

ISABEL HOGAN, MAYOR

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

DONALD E. MIRK, CITY ATTORNEY

PASSED the __ day of December, 1980.
APPROVED the __ day of December, 1980.
PUBLISHED the __ day of December, 1980.

I hereby certify that this is a true copy of Ordinance No. 2259, passed by the City Council of the City of Kent, and approved by the Mayor of the City of Kent as hereon indicated.

MARIE JENSEN, CITY CLERK (SEAL)