

Chapter 35.87A RCW
PARKING AND BUSINESS IMPROVEMENT AREAS

Sections

- 35.87A.010 Authorized—Purposes—Special assessments.
- 35.87A.020 Definitions.
- 35.87A.030 Initiation petition or resolution—Contents.
- 35.87A.040 Resolution of intention to establish—Contents—Hearing.
- 35.87A.050 Notice of hearing.
- 35.87A.060 Hearings.
- 35.87A.070 Change of boundaries.
- 35.87A.075 Modification of boundaries.
- 35.87A.080 Special assessments—Legislative authority may make reasonable classifications—Assessments for separate purposes.
- 35.87A.090 Special assessments—Same basis or rate for classes not required—Factors as to parking facilities.
- 35.87A.100 Ordinance to establish—Adoption—Contents.
- 35.87A.110 Use of revenue—Contracts to administer operation of area.
- 35.87A.120 Use of assessment proceeds restricted.
- 35.87A.130 Collection of assessments.
- 35.87A.140 Changes in assessment rates.
- 35.87A.150 Benefit zones—Authorized—Rates.
- 35.87A.160 Benefit zones—Establishment, modification and disestablishment of area provisions and procedure to be followed.
- 35.87A.170 Exemption period for new businesses and projects.
- 35.87A.180 Disestablishment of area—Hearing.
- 35.87A.190 Disestablishment of area—Assets and liabilities.
- 35.87A.200 Bids required—Monetary amount.
- 35.87A.210 Computing cost of improvement for bid requirement.
- 35.87A.220 Existing laws not affected—Chapter supplemental—Purposes may be accomplished in conjunction with other methods.

Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 35.87A.010 Authorized—Purposes—Special assessments. To aid general economic development and neighborhood revitalization, and to facilitate the cooperation of merchants, businesses, and residential property owners which assists trade, economic viability, and liveability, the legislature hereby authorizes all counties and all incorporated cities and towns, including unclassified cities and towns operating under special charters:

(1) To establish, after a petition submitted by the operators responsible for sixty percent of the assessments by businesses and multifamily residential or mixed-use projects within the area, parking and business improvement areas, hereafter referred to as area or areas, for the following purposes:

(a) The acquisition, construction or maintenance of parking facilities for the benefit of the area;

(b) Decoration of any public place in the area;

(c) Sponsorship or promotion of public events which are to take place on or in public places in the area;

(d) Furnishing of music in any public place in the area;

(e) Providing professional management, planning, and promotion for the area, including the management and promotion of retail trade activities in the area;

(f) Providing maintenance and security for common, public areas; or

(g) Providing transportation services for the benefit of the area.

(2) (a) To levy special assessments on all businesses and multifamily residential or mixed-use projects within the area and specially benefited by a parking and business improvement area to pay in whole or in part the damages or costs incurred therein as provided in this chapter.

(b) A lodging business may, but is not required to, collect any special assessment amount from its guests in the form of a separately stated charge per night on the sale of lodging taxable by the state under chapter 82.08 RCW. Such charges must be separately stated from the room rate on the invoice, bill of sale, or similar document provided by the lodging business to the guest. A lodging business that collects a special assessment from its guests as authorized under this subsection (2)(b) is deemed to be collecting the assessment amount from its guests as agent for the jurisdiction levying the special assessment. Such per night charges are not part of the selling price under RCW 82.08.010 for state and local sales tax purposes, nor are they part of the gross proceeds of sales of the lodging business for purposes of state business and occupation taxes imposed under chapter 82.04 RCW. [2021 c 225 s 1; 2005 c 178 s 1; 2000 c 201 s 1; 1993 c 429 s 1; 1985 c 128 s 1; 1981 c 279 s 1; 1971 ex.s. c 45 s 1.]

Retroactive application—2021 c 225: "This act applies prospectively to any special assessment amounts collected by a lodging business as provided in section 1 of this act that are collected on or after May 10, 2021, as well as retroactively for any taxpayer who has been assessed taxes by the department of revenue prior to May 10, 2021, on any special assessment amounts collected by a lodging business as provided in section 1 of this act. Nothing in this act is intended to be construed to require or otherwise authorize a refund of taxes lawfully paid prior to May 10, 2021." [2021 c 225 s 4.]

Effective date—2021 c 225: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 10, 2021]." [2021 c 225 s 5.]

RCW 35.87A.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Business" means all types of business, including professions.

(2) "Legislative authority" means the legislative authority of any city or town including unclassified cities or towns operating under special charters or the legislative authority of any county.

(3) "Lodging business" means a person that furnishes lodging taxable by the state under chapter 82.08 RCW.

(4) "Multifamily residential or mixed-use project" means any building or buildings containing four or more residential units or a combination of residential and commercial units, whether title to the entire property is held in single or undivided ownership or title to individual units is held by owners who also, directly or indirectly through an association, own real property in common with the other unit owners.

(5) "Residential operator" means the owner or operator of a multifamily residential or mixed-use project if title is held in single or undivided ownership, or, if title is held in a form of common interest ownership, the association of unit owners, condominium association, homeowners' association, property owners' association, or residential cooperative corporation. [2021 c 225 s 2; 1993 c 429 s 2; 1971 ex.s. c 45 s 2.]

Retroactive application—Effective date—2021 c 225: See notes following RCW 35.87A.010.

RCW 35.87A.030 Initiation petition or resolution—Contents. For the purpose of establishing a parking and business improvement area, an initiation petition may be presented to the legislative authority having jurisdiction of the area in which the proposed parking and business improvement area is to be located or the legislative authority may by resolution initiate a parking and business improvement area. The initiation petition or resolution shall contain the following:

- (1) A description of the boundaries of the proposed area;
- (2) The proposed uses and projects to which the proposed special assessment revenues shall be put and the total estimated cost thereof;
- (3) The estimated rate of levy of special assessment with a proposed breakdown by class of business and multifamily residential or mixed-use project if such classification is to be used.

The initiating petition shall also contain the signatures of the persons who operate businesses and residential operators in the proposed area which would pay fifty percent of the proposed special assessments. [1993 c 429 s 3; 1971 ex.s. c 45 s 3.]

RCW 35.87A.040 Resolution of intention to establish—Contents—Hearing. The legislative authority, after receiving a valid initiation petition or after passage of an initiation resolution, shall adopt a resolution of intention to establish an area. The resolution shall state the time and place of a hearing to be held by the legislative authority to consider establishment of an area and shall restate all the information contained in the initiation petition or initiation resolution regarding boundaries, projects and uses, and estimated rates of assessment. [1971 ex.s. c 45 s 4.]

RCW 35.87A.050 Notice of hearing. Notice of a hearing held under the provisions of this chapter shall be given by:

- (1) One publication of the resolution of intention in a newspaper of general circulation in the city; and

(2) Mailing a complete copy of the resolution of intention to each business and multifamily residential or mixed-use project in the proposed, or established, area. Publication and mailing shall be completed at least ten days prior to the time of the hearing. [1993 c 429 s 4; 1971 ex.s. c 45 s 5.]

RCW 35.87A.060 Hearings. Whenever a hearing is held under this chapter, the legislative authority shall hear all protests and receive evidence for or against the proposed action. The legislative authority may continue the hearing from time to time. Proceedings shall terminate if protest is made by businesses and residential operators in the proposed area which would pay a majority of the proposed special assessments. [1993 c 429 s 5; 1971 ex.s. c 45 s 6.]

RCW 35.87A.070 Change of boundaries. If the legislative authority decides to change the boundaries of the proposed area, the hearing shall be continued to a time at least fifteen days after such decision and notice shall be given as prescribed in RCW 35.87A.050, showing the boundary amendments, but no resolution of intention is required. [1971 ex.s. c 45 s 7.]

RCW 35.87A.075 Modification of boundaries. (1) The legislative authority may modify the boundaries of a parking and business improvement area by ordinance, adopted after a hearing before the legislative authority. The legislative authority may modify an area either by expanding or reducing the existing boundaries. If the modification to the boundaries is to expand existing boundaries, the expansion area must be adjacent to an existing boundary. A modification to an existing boundary may occur no more than once per year and may not affect an area with a projected assessment fee greater than ten percent of the current assessment role for the existing area. If the modification of an area results in the boundary being expanded, the assessments for the new area shall be established pursuant to RCW 35.87A.080 and 35.87A.090 and any other applicable provision of this chapter.

(2) The legislative authority shall adopt a resolution of intention to modify the boundaries of an area at least fifteen days prior to the hearing required in subsection (1) of this section. The resolution shall specify the proposed modification and shall give the time and place of the hearing. Notice of the hearing shall be made in accordance with RCW 35.87A.050. [2002 c 69 s 1.]

RCW 35.87A.080 Special assessments—Legislative authority may make reasonable classifications—Assessments for separate purposes. For purposes of the special assessments to be imposed pursuant to this chapter, the legislative authority may make a reasonable classification of businesses and multifamily residential or mixed-use projects, giving consideration to various factors such as business and occupation taxes imposed, square footage of the business, number of employees, gross sales, or any other reasonable factor relating to the benefit received, including the degree of benefit received from parking. Whenever it is proposed that a parking and business

improvement area provide more than one of the purposes listed in RCW 35.87A.010, special assessments may be imposed in a manner that measures benefit from each of the separate purposes, or any combination of the separate purposes. Special assessments shall be imposed and collected annually, or on another basis specified in the ordinance establishing the parking and business improvement area. [1993 c 429 s 6; 1985 c 128 s 2; 1981 c 279 s 2; 1971 ex.s. c 45 s 8.]

RCW 35.87A.090 Special assessments—Same basis or rate for classes not required—Factors as to parking facilities. The special assessments need not be imposed on different classes of business and multifamily residential or mixed-use projects, as determined pursuant to RCW 35.87A.080, on the same basis or the same rate. The special assessments imposed for the purpose of the acquisition, construction or maintenance of parking facilities for the benefit of the area shall be imposed on the basis of benefit determined by the legislative authority after giving consideration to the total cost to be recovered from the businesses and multifamily residential or mixed-use projects upon which the special assessment is to be imposed, the total area within the boundaries of the parking and business improvement area, the assessed value of the land and improvements within the area, the total business volume generated within the area and within each business, and such other factors as the legislative authority may find and determine to be a reasonable measure of such benefit. [1993 c 429 s 7; 1971 ex.s. c 45 s 9.]

RCW 35.87A.100 Ordinance to establish—Adoption—Contents. If the legislative authority, following the hearing, decides to establish the proposed area, it shall adopt an ordinance to that effect. This ordinance shall contain the following information:

(1) The number, date and title of the resolution of intention pursuant to which it was adopted;

(2) The time and place the hearing was held concerning the formation of such area;

(3) The description of the boundaries of such area;

(4) A statement that the businesses and multifamily residential or mixed-use projects in the area established by the ordinance shall be subject to the provisions of the special assessments authorized by RCW 35.87A.010;

(5) The initial or additional rate or levy of special assessment to be imposed with a breakdown by classification of business and multifamily residential or mixed-use project, if such classification is used; and

(6) A statement that a parking and business improvement area has been established.

(7) The uses to which the special assessment revenue shall be put. Uses shall conform to the uses as declared in the initiation petition presented pursuant to RCW 35.87A.030. [1993 c 429 s 8; 1971 ex.s. c 45 s 10.]

RCW 35.87A.110 Use of revenue—Contracts to administer operation of area. The legislative authority of each city or town or county shall have sole discretion as to how the revenue derived from the

special assessments is to be used within the scope of the purposes; however, the legislative authority may appoint existing advisory boards or commissions to make recommendations as to its use, or the legislative authority may create a new advisory board or commission for the purpose.

The legislative authority may contract with a chamber of commerce or other similar business association operating primarily within the boundaries of the legislative authority to administer the operation of a parking and business improvement area, including any funds derived pursuant thereto: PROVIDED, That such administration must comply with all applicable provisions of law including this chapter, with all county, city, or town resolutions and ordinances, and with all regulations lawfully imposed by the state auditor or other state agencies. [1971 ex.s. c 45 s 11.]

RCW 35.87A.120 Use of assessment proceeds restricted. The special assessments levied hereunder must be for the purposes specified in the ordinances and the proceeds shall not be used for any other purpose. [1971 ex.s. c 45 s 12.]

RCW 35.87A.130 Collection of assessments. Collections of assessments imposed pursuant to this chapter shall be made at the same time and in the same manner as otherwise prescribed by Title 35 RCW or in such other manner as the legislative authority shall determine. [1971 ex.s. c 45 s 13.]

RCW 35.87A.140 Changes in assessment rates. Changes may be made in the rate or additional rate of special assessment as specified in the ordinance establishing the area, by ordinance adopted after a hearing before the legislative authority.

The legislative authority shall adopt a resolution of intention to change the rate or additional rate of special assessment at least fifteen days prior to the hearing required by this section. This resolution shall specify the proposed change and shall give the time and place of the hearing. Proceedings to change the rate or impose an additional rate of special assessments shall terminate if protest is made by businesses or multifamily residential or mixed-use projects in the proposed area which would pay a majority of the proposed increase or additional special assessments. [1993 c 429 s 9; 1971 ex.s. c 45 s 14.]

RCW 35.87A.150 Benefit zones—Authorized—Rates. The legislative authority may, for each of the purposes set out in RCW 35.87A.010, establish and modify one or more separate benefit zones based upon the degree of benefit derived from the purpose and may impose a different rate of special assessment within each such benefit zone. [1971 ex.s. c 45 s 15.]

RCW 35.87A.160 Benefit zones—Establishment, modification and disestablishment of area provisions and procedure to be followed. All provisions of this chapter applicable to establishment or

disestablishment of an area also apply to the establishment, modification, or disestablishment of benefit zones pursuant to *RCW 35.87A.150. The establishment or the modification of any such zone shall follow the same procedure as provided for the establishment of a parking and business improvement area and the disestablishment shall follow the same procedure as provided for disestablishment of an area. [1971 ex.s. c 45 s 16.]

***Reviser's note:** "RCW 35.87A.150" has been translated from "section 13 of this act," as the reference to section 13, herein codified as RCW 35.87A.130, was apparently erroneous.

RCW 35.87A.170 Exemption period for new businesses and projects. Businesses or multifamily residential or mixed-use projects established after the creation of an area within the area may be exempted from the special assessments imposed pursuant to this chapter for a period not exceeding one year from the date they commenced business in the area. [1993 c 429 s 10; 1971 ex.s. c 45 s 17.]

RCW 35.87A.180 Disestablishment of area—Hearing. The legislative authority may disestablish an area by ordinance after a hearing before the legislative authority. The legislative authority shall adopt a resolution of intention to disestablish the area at least fifteen days prior to the hearing required by this section. The resolution shall give the time and place of the hearing. [1971 ex.s. c 45 s 18.]

RCW 35.87A.190 Disestablishment of area—Assets and liabilities. Upon disestablishment of an area, any proceeds of the special assessments, or assets acquired with such proceeds, or liabilities incurred as a result of the formation of such area, shall be subject to disposition as the legislative authority shall determine: PROVIDED, HOWEVER, Any liabilities, either current or future, incurred as a result of action taken to accomplish the purposes of RCW 35.87A.010 shall not be an obligation of the general fund or any special fund of the city or town, but such liabilities shall be provided for entirely from available revenue generated from the projects or facilities authorized by RCW 35.87A.010 or from special assessments on the property specially benefited within the area. [1971 ex.s. c 45 s 19.]

RCW 35.87A.200 Bids required—Monetary amount. Any city or town or county authorized by this chapter to establish a parking improvement area shall call for competitive bids by appropriate public notice and award contracts, whenever the estimated cost of such work or improvement, including cost of materials, supplies and equipment, exceeds the sum of two thousand five hundred dollars. [1971 ex.s. c 45 s 20.]

RCW 35.87A.210 Computing cost of improvement for bid requirement. The cost of the improvement for the purposes of this chapter shall be aggregate of all amounts to be paid for the labor, materials and equipment on one continuous or inter-related project

where work is to be performed simultaneously or in near sequence. Breaking an improvement into small units for the purposes of avoiding the minimum dollar amount prescribed in RCW 35.87A.200 is contrary to public policy and is prohibited. [1971 ex.s. c 45 s 21.]

RCW 35.87A.220 Existing laws not affected—Chapter supplemental—Purposes may be accomplished in conjunction with other methods. This chapter providing for parking and business improvement areas shall not be deemed or construed to affect any existing act, or any part thereof, relating to special assessments or other powers of counties, cities and towns, but shall be supplemental thereto and concurrent therewith.

The purposes and functions of parking and business improvement areas as set forth by the provisions of this chapter may be accomplished in part by the establishment of an area pursuant to this chapter and in part by any other method otherwise provided by law, including provisions for local improvements. [1971 ex.s. c 45 s 22.]