

## CHAPTER 620

### REGULATING INSTALLATION AND MAINTENANCE OF SIDEWALKS AND DRIVEWAY OPENINGS ONTO PUBLIC STREETS AND STANDARDIZING SPECIFICATIONS FOR CONCRETE SIDEWALKS, DRIVEWAY OPENINGS AND CURB AND GUTTER

#### **620.05 REQUIRED MAINTENANCE OF EXISTING SIDEWALKS**

**(1) Duty of Landowners to Maintain Sidewalks.** After a sidewalk which fronts on or abuts a public street or highway has been installed, it shall thereafter be the duty of the owner and of all succeeding owners of the property abutting to the front of or to the side of such sidewalk to maintain the sidewalk in such condition as to make it safe for pedestrian traffic. The following conditions are deemed to be conclusive evidence that a sidewalk is unsafe for pedestrian traffic:

- a. Any variation in elevation between one section of the sidewalk and an abutting section which exceeds 3/4 of an inch.
- b. Any area of the sidewalk where a portion of the concrete is missing or where a portion of the concrete has become loosened so it is no longer a solid portion of the sidewalk.

No person shall remove an existing sidewalk or any portion thereof (except preparatory to the replacement thereof immediately thereafter, as part of such replacement operation) unless prior to such removal the Common Council has, by ordinance or resolution, approved the removal without replacement of such sidewalk.

**(2) Repair or Replacement of Defective Sidewalks.** Pursuant to sec. 66.0907, Wisconsin Statutes, the Common Council may order at any time any property owner to repair or remove and replace any sidewalk which is unsafe, defective or insufficient with a sidewalk meeting the standards set forth herein. If the property owner shall fail to so repair or remove and replace such sidewalk within twenty (20) day after service of the notice provided in sec. 66.0907, Wisconsin Statutes, the Common Council shall have the Public Works Department or a contractor repair or reconstruct such sidewalk and the City Clerk shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land. If a life-threatening situation exists which is caused by a sidewalk in need of repair, the Public Works Committee shall direct the property owner to make repairs within seven (7) days. If the property owner shall fail to repair such sidewalk within the required period, the Public Works Committee shall have the Public Works Department or a contractor make the necessary repairs and the City Clerk shall enter the total cost thereof on the tax roll as a special tax against said parcel.

**(3) Actions of the City Upon Landowner's Failure to Maintain Sidewalks.**

**(a) Authority of the City to Order Sidewalk Replacement or Repairs.** The Public Works Superintendent may order any sidewalk which is found to be unsafe, defective or insufficient, to be repaired or removed and replaced with a sidewalk in conformity with the foregoing standards.

**(b) Notice.** A copy of the notice directing such repair or removal and replacement shall be served upon the owner or an agent of the owner of each lot or parcel of land in front of which such work is required.

**(c) Service of Notice.** Service of the notice may be made by any of the following methods:

1. Personal delivery upon the owner or the owner's agent if the owner is not a natural person.

2. Mailing by certified or registered mail to the property owner at the address shown in the most recent real estate tax records of the Richland County Treasurer for the owner of the property.

3. Publication in the official city newspaper as a class 1 notice under chapter 985 Wisconsin Statutes, together with mailing by 1<sup>st</sup> class mail if the name and mailing address of the owner can be readily ascertained. If such information cannot be readily ascertained, the mailing shall be to the name and mailing address of the owner at the address shown in the most recent real estate tax records of the Richland County Treasurer for the owner of the property.

**(d) Rights of City upon Failure of Owner to Make Required Repairs.** If the owner neglects for a period of twenty (20) days after such service of notice to lay, remove, replace or repair the sidewalk, or such longer period of time set forth in the notice as determined by the Public Works Committee of the Common Council, the City may cause such work to be done at the expense of the property owner. All work for construction of sidewalks shall be let by contract to the lowest responsible bidder, except as provided in sec. 62.15(1), Wis. Stats. **[Note: per 62.15(1) if total cost exceeds \$25,000 requires bids; if \$5,000 or more but less than \$25,000 requires publishing notice of proposed construction]**

**(e) Minor Repairs.** If the cost of repairs of any sidewalk in front of or to the side of any lot or parcel of land does not exceed the sum of \$100.00, the Public Works Committee may immediately repair such sidewalk without notice or may contract to have the work performed without the need to secure bids therefor, and may then charge the cost thereof to the owner of such lot or parcel of land as herein provided.

**(f) Expense.** The Public Works Superintendent shall keep an accurate account of the expenses of laying, removing and repairing sidewalks in front of each lot or parcel of land, whether the work is done by a contractor or by the public works department, and report the expenses to the City Clerk, who shall annually prepare a statement of the expenses so incurred in front of or to the side of each lot or parcel of land. The amount charged to each lot or parcel of land shall be entered by the City Clerk in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate.

**(g) Payment of Expense of Repairs in Installment Payments.** Any expense so incurred which exceeds one thousand dollars (\$1,000.00) may be paid in up to ten (10) annual installments, if permitted by the Public Works Committee of the Common Council, which shall be determined on a case by case basis, and upon such determination, the City Clerk shall prepare the expense statement to reflect the installment payment schedule. If annual installments for such expense are authorized, the City Clerk shall charge the amount to each lot or parcel of land and enter it on the tax roll as a special tax against such lot or parcel each year until all installments have been entered, and the amount shall be collected in all respects like other taxes upon real estate.

## **620.06 EXTENSIONS OF TIME TO MAKE REQUIRED SIDEWALK REPAIRS**

**(1) Requests for Extension.** A property owner may, for good cause, request an extension of time to make needed repairs to or installation of their sidewalk after they have received a notice from the City to make such repairs or installation.

**66.0907 Sidewalks.**

- (1) Part of street; obstructions.** Streets shall provide a right-of-way for vehicular traffic and, where the council requires, a sidewalk on either or both sides of the street. The sidewalk shall be for the use of persons on foot, and no person may encumber the sidewalk with boxes or other material. The sidewalk shall be kept clear for the use of persons on foot.
- (2) Grade.** If the grades of sidewalks are not specially fixed by ordinance, the sidewalks shall be laid to the established grade of the street.
- (3) Construction and repair.**
  - (a) Authority of council.** The council may by ordinance or resolution determine where sidewalks shall be constructed and establish the width, determine the material and prescribe the method of construction of standard sidewalks. The standard may be different for different streets. The council may order by ordinance or resolution sidewalks to be laid as provided in this subsection.
  - (b) Board of public works.** The board of public works may order any sidewalk which is unsafe, defective or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the standard fixed by the council.
  - (c) Notice.** A copy of the ordinance, resolution or order directing the laying, removal, replacement or repair of sidewalks shall be served upon the owner, or an agent, of each lot or parcel of land in front of which the work is ordered. The board of public works, or either the street commissioner or the city engineer if so requested by the council, may serve the notice. Service of the notice may be made by any of the following methods:
    - 1. Personal delivery.**
    - 2. Certified or registered mail.**
    - 3. Publication in the official newspaper as a class 1 notice, under ch. 985, together with mailing by 1st class mail if the name and mailing address of the owner or an agent can be readily ascertained.**
  - (d) Default of owner.** If the owner neglects for a period of 20 days after service of notice under par. (c) to lay, remove, replace or repair the sidewalk the city may cause the work to be done at the expense of the owner. All work for the construction of sidewalks shall be let by contract to the lowest responsible bidder except as provided in s. 62.15 (1).
  - (e) Minor repairs.** If the cost of repairs of any sidewalk in front of any lot or parcel of land does not exceed the sum of \$100, the board of public works, street commissioner or city engineer, if so required by the council, may immediately repair the sidewalk, without notice,

and charge the cost of the repair to the owner of the lot or parcel of land, as provided in this section.

**(f) Expense.** The board of public works shall keep an accurate account of the expenses of laying, removing and repairing sidewalks in front of each lot or parcel of land, whether the work is done by contract or otherwise, and report the expenses to the comptroller. The comptroller shall annually prepare a statement of the expense incurred in front of each lot or parcel of land and report the amount to the city clerk.

The amount charged to each lot or parcel of land shall be entered by the clerk in the tax roll as a special tax against the lot or parcel of land and collected like other taxes upon real estate.

The council by resolution or ordinance may provide that the expense incurred may be paid in up to 10 annual installments and the comptroller shall prepare the expense statement to reflect the installment payment schedule. If annual installments for sidewalk expenses are authorized, the city clerk shall charge the amount to each lot or parcel of land and enter it on the tax roll as a special tax against the lot or parcel each year until all installments have been entered, and the amount shall be collected like other taxes upon real estate.

The council may provide that the street commissioner or city engineer perform the duties imposed by this section on the board of public works.

**(5) Snow and ice.** The board of public works shall keep the sidewalks of the city clear of snow and ice in all cases where the owners or occupants of abutting lots fail to do so, and the expense of clearing in front of any lot or parcel of land shall be included in the statement to the comptroller required by sub. (3) (f), in the comptroller's statement to the city clerk and in the special tax to be levied. The city may also impose a fine or penalty for neglecting to keep sidewalks clear of snow and ice.

**(6) Repair at city expense.** The council may provide that sidewalks shall be kept in repair by and at the expense of the city or may direct that a certain proportion of the cost of construction, reconstruction or repair be paid by the city and the balance by abutting property owners.

**(7) Rules.** The council may by ordinance implement the provisions of this section, regulate the use of the sidewalks of the city and prevent their obstruction.

**(10) Application of section; definitions.** The provisions of this section do not apply to 1st class cities but apply to towns and villages, and when applied to towns and villages:

**(a) "Board of public works"** means the committee or officer designated to handle street or sidewalk matters.

**(b) "City" means town or village.**

**(c) "Comptroller" means clerk.**

**(d) "Council" means town board or village board.**

**History:** 1975 c. 172, 356, 421, 422; 1979 c. 32; 1983 a. 189, 532; 1991 a. 316; 1993 a. 490; 1999 a. 150 s. 542; Stats. 1999 s. 66.0907.

**A city cannot delegate its primary responsibility to maintain its sidewalks, nor delegate or limit its primary liability by ordinance. *Kobelinski v. Milwaukee & Suburban Transport Corp.* 56 Wis.2d 504, 202 N.W.2d 415 (1972).**

**The defendant property owners' failure to remove snow and ice from sidewalks in violation of a municipal ordinance did not constitute negligence per se. *Hagerty v. Village of Bruce*, 82 Wis.2d 208, 262 N.W.2d 102 (1978).**

**A city, exercising its police power, can impose a special tax on properties for the cost of installing a sidewalk on an adjacent city right-of-way without showing that the properties would be benefited. *Stehling v. City of Beaver Dam*, 114 Wis.2d 197, 336 N.W.2d 401 (Ct.App. 1983).**