

---

ORDINANCE No. 2079  
AN ORDINANCE AMENDING SUBSECTION 12.22  
CONSTRUCTION STANDARDS ADOPTED

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Chapter 12.22 is hereby amended to read as follows:

**12.22.010 Appointment of administrator—Duties.**

- (a) The Public Works Director or designee shall be designated as the sidewalk administrator.
- (b) It shall be the responsibility of the sidewalk administrator to administer the provisions of this chapter. The sidewalk administrator shall determine that new sidewalks are laid where required, that existing sidewalks are repaired or replaced when required, and that all sidewalk construction is completed according to the requirements of this chapter.

(Ord. 1015 §2(part), 1983).

**12.22.020 Permit not required—Compliance with chapter.**

No permit is required for the construction or repair of sidewalks. However, any sidewalk installed or repaired must comply with all sections of this chapter. The property owner is required to return to the sidewalk administrator a "Notice of Owner's Intent Form" indicating the method of repair or replacement desired, within twenty days of receiving said notice from the sidewalk administrator. The form shall advise the property owner of the options which the city has available under the established sidewalk policy.

(Ord. 1015 §2(part), 1983).

**12.22.030 Specification for sidewalks.**

- (a) Placement of Sidewalks.
  - (1) All sidewalks shall be laid within the street right-of-way and shall be laid one foot from the property line, and shall be four to five feet in width unless otherwise specified in this chapter.
  - (2) The requirements of subsection (1) of this section shall not apply to:
    - (A) Main Street from the intersection of Fremont Street on the west and to the intersection of Wisconsin on the east;
    - (B) Center Street from the intersection of Whitewater Street on the east and the intersection of Fremont Street on the west;
    - (C) First Street from the intersection of Center Street on the south to North Street on the north;
    - (D) Second Street from the intersection of Whitewater Street on the south to North Street on the North;
    - (E) Fremont Street from the intersection of Whitewater Street on the south to Main Street on the north;

- 
- (F) Any other street specified by the common council. All sidewalks built or relaid on the described portions of these streets shall run from the line of the property to the curb.
- (b) Materials.
- (1) All sidewalks shall be constructed and repaired with portland cement concrete.
  - (2) The concrete used shall meet the following requirements:
    - (A) The minimum compressive strength of the concrete must not be less than three thousand pounds per square inch at twenty-eight days;
    - (B) The cement content of the concrete shall not be less than five and one-half bags per cubic yard;
    - (C) The concrete shall be air entrained;
    - (D) The water content shall not be more than five and one-half gallons per bag of cement;
    - (E) The sand and gravel aggregate shall be separate and shall be washed material;
    - (F) The concrete shall be consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing;
    - (G) All concrete work done after November 1st and before March 1st shall be protected against freezing for seventy-two hours;
    - (H) During cold weather a maximum of two pounds of calcium chloride per sack of cement may be added to accelerate the setting of the concrete;
    - (I) The concrete shall be cured for a minimum of three days using impervious plastic or paper, wet fabric, or a liquid impervious membrane; and
    - (J) All sidewalk shall be sealed per the sealer manufacturer's recommendation.
- (c) Preparation of Subgrade.
- (1) All sidewalk shall be placed on a minimum of three-inch compacted, granular subgrade material. Obstructions such as rocks, stumps, or sod shall be removed. Voids caused by the removal of obstructions shall be filled with gravel and thoroughly compacted to prevent future settlement.
  - (2) After forms are in place, the subgrade shall be tamped in its entirety to assure a solid and even surface.
  - (3) The subgrade shall be wetted down immediately prior to the placement of the concrete.
  - (4) The subgrade shall be accurately graded to assure a uniform thickness of concrete.
  - (5) Lot stakes are not to be disturbed during sidewalk construction or repair. One who disturbs a lot stake during sidewalk construction or repair shall be responsible for having the disturbed lot stake replaced by a surveyor and shall be subject to a penalty under Section 236.32 of the Wisconsin Statutes.
- (d) Formwork and finishing.
- (1) The elevation measured at the edge of the sidewalk nearest the property line shall not be less than two percent above the top of the adjacent curb. For all practical purposes the sidewalk shall be located at a higher elevation than the curb as stipulated above, and shall follow the uniformity of the curb and not the fluctuating lot elevations.
  - (2) Forms shall be set to obtain a minimum of four-foot wide sidewalk at a minimum thickness of four inches. Sidewalks across driveways shall be a minimum of six inches in thickness.

- 
- (3) Forms shall be securely staked and braced to prevent movement during the placement of concrete. Form rails shall be rigid and straight, and if wood, must be a minimum size of two inches by four inches (nominal). Forms shall be oiled and cleaned before each use.
  - (4) The transverse slope of the sidewalk shall not exceed one quarter inch per foot, sloping toward the public street.
  - (5) Dummy joints shall be installed either by sawing or grooving at approximately the same width of the sidewalk constructed at right angles to the centerline. Expansion joints shall be installed at a maximum of one hundred foot intervals.
  - (6) The edges of the sidewalk shall be rounded with an edger having a radius of one quarter inch.
  - (7) Form removal should be carefully done without damage to green concrete and shall not be done within twenty-four hours after the placing of the concrete.
  - (8) After forms are removed, the sidewalk edges shall be properly backfilled and graded.
  - (9) The seeding of the backfilled and graded areas shall be the responsibility of the property owner.
  - (e) The requirements of Section 66.616 of the Wisconsin Statutes are adopted by reference. The curb ramping requirements of Section 66.616 of the Wisconsin Statutes shall apply to all new curb and sidewalk construction and to all replacement curbs and sidewalks construction at locations considered to be legal crosswalks.
  - (f) Unless otherwise herein specified, all sidewalk shall be constructed in accordance with applicable provisions of the most current State of Wisconsin Standard Specifications for Highway and Structure Construction.
- (Ord. 1015 §2(part), 1983).

#### **12.22.040 Sidewalk repair and replacement—When required.**

- (a) The sidewalk administrator shall order any sidewalk which is unsafe, defective, or insufficient to be repaired or replaced so that said sidewalk meets the specifications set forth in this chapter.
- (b) Whenever the following sidewalk defects are found to exist by the sidewalk administrator, an appropriate order for the repair or replacement of the sidewalk shall be made:
  - (1) When a sidewalk has a three-quarter inch or greater height difference between blocks, it shall be required that the entire block which is out of alignment be replaced and realigned. Topping the lower slab with concrete or blacktop and/or using concrete or blacktop to ramp from the lower slab to the higher slab is not permitted.
  - (2) When a horizontal alignment variance of one inch per foot or greater exists the entire block which is out of alignment shall be required to be replaced or realigned.
  - (3) When one or more cracks exist in a block with openings which are of three-quarters of an inch or larger, it shall be required that the entire block be replaced.
  - (4) When the scaling or cracking of a block makes the block unsafe, the entire block shall be required to be replaced.
  - (5) When a block has a corner missing, and the size of the missing corner is less than six inches by six inches, the block may be repaired by patching unless the condition is repetitive on three or more blocks, in which case the blocks shall be replaced.
  - (6) When the height of a block causes isolated ponding of water, the entire block shall be required to be replaced or adjusted in elevation so that the ponding of water is eliminated.

- 
- (7) When the sidewalk has not been set to the required grade or line or does not comply with other specifications of this chapter, it shall be required to be repaired or replaced.
  - (c) When a portion of an old sidewalk is repaired or replaced and the original width of said sidewalk was less than or greater than four feet, the original width of the sidewalk shall prevail, provided that the original width is uniform within the entire block and also that less than all of the sidewalk on the entire block will be replaced.
  - (d) Although minor streets are not required to install new sidewalk where none had previously existed, they are required to maintain existing walk and to install new sidewalk in blocks in which there is sidewalk along fifty percent of the street frontage within the block. There are no provisions which allow removal of sidewalk unless a variance would be granted by the council.
- (Ord. 1015 §2(part), 1983).

### **12.22.050 New sidewalk construction—When required.**

- (a) Sidewalk shall be required on all major streets with the following exceptions:
  - (1) Sidewalk will not be required when the nature of the terrain creates insurmountable engineering problems.
  - (2) Sidewalk will not be required where there is insufficient right-of-way.
  - (3) Sidewalk will not be required if the installation would generate a safety hazard by encouraging pedestrian traffic in dangerous areas.
  - (4) Sidewalks will not be required along vacant land which extends to the city limits which is not situated between areas generating pedestrian traffic, and streets on which curb and gutter has not been installed.
- (b) Streets classified as minor streets with curbs and gutter, but without sidewalks, will not be required to have new sidewalks constructed unless those constituting the ownership of more than fifty percent of the property fronting along a given street sign a petition requesting that new sidewalk be installed on their street.
  - (1) In calculating the percentage of property owners who have signed the petition, only one signature shall be counted per tax parcel. Individuals or entities owning more than one tax parcel may sign separately for each tax parcel owned. The signature of all record owners of a tax parcel shall be required for the vote of that tax parcel to be counted.
  - (2) Sidewalks may not be installed on minor streets when one or more of the exceptions listed above are applicable.
- (c) Sidewalks may be required on minor streets or on streets which fall under one of the exceptions if it is determined that a severe pedestrian and/or traffic hazard exists.
- (d) The classification of streets is as follows:
  - (1) Major Streets.
    - (A) East and West Main Street;
    - (B) East Milwaukee Street, South Wisconsin Street to East Elkhorn Road;
    - (C) East and West North Street;
    - (D) East Newcomb Street;

- 
- (E) South Wisconsin Street, East Main Street to Beach Road;
  - (F) South Janesville Street;
  - (G) South Franklin Street, South Janesville Street to West Main Street;
  - (H) West Walworth Street, South Buckingham Boulevard to South Janesville Street;
  - (I) South Elizabeth Street;
  - (J) South Prince Street, West Walworth Avenue, to West Main Street;
  - (K) North Tratt Street;
  - (L) West Starin Road;
  - (M) North Fremont Street;
  - (N) North Prince Street, West Main Street to West Starin Road;
  - (O) North Prairie Street, West Main Street to Starin Road;
  - (P) South Whiton Street, West Walworth Avenue to West Main Street;
  - (Q) West Highland Street;
  - (R) West Center Street;
  - (S) West Whitewater Street;
  - (T) South Elkhorn Road;
  - (U) South Summit Street.

(2) Minor Streets. All other streets within the city limits not listed above.

(Ord. 1022 §1, 1983; Ord. 1015 §2(part), 1983).

#### **12.22.060 Owner responsibility for the construction of new sidewalk and for the replacement and repair of existing sidewalk—Noncompliance.**

- (a) Whenever the sidewalk administrator determines that the provisions in this chapter require the construction of new sidewalk or the repair or replacement of existing sidewalk, an order requiring that new sidewalk be constructed or that existing sidewalk be repaired or replaced shall be prepared. A copy of the order directing such construction, replacement or repairs shall be served upon the owner of each lot or parcel of land. The sidewalk administrator shall serve such notice. Service of the notice may be made by personal delivery, by certified or registered mail, or by publication in the Whitewater Register as a Class I notice under Chapter 985 of the Wisconsin Statutes, together with mailing by first class mail if the name and mailing address of the owner can be readily ascertained.
- (b) Whenever any such property owner who has been notified shall neglect for a period of twenty days after such notification to lay, remove or replace, or repair any such sidewalk, the sidewalk administrator may cause such work to be done at the expense of such owner. All work for the construction of new sidewalks and the replacement or repairing of existing sidewalks shall be bid following the City's Procurement Policy, or done by public works personnel employed by the City of Whitewater.
- (c) The sidewalk administrator shall serve the order, which is discussed in subsection (a) of this section, along with a "Notice of Owner's Intent Form." Said form shall state the options for the property owner. The property owner shall return the "Notice of Owner's Intent Form" to the sidewalk administrator within twenty days of receiving the notice and shall indicate on the notice the method of repair or replacement desired.

- 
- (d) Whenever a property owner elects to have the City of Whitewater personnel or contractor install, repair or replace their sidewalk, the property owner shall be required to sign a release form. The form shall be similar to the following:

CITY OF WHITEWATER  
SIDEWALK CONSTRUCTION RELEASE FORM

OWNER:

ADDRESS:

ESTIMATED COST: Length x Width x Estimated Cost = Preliminary Cost

If Applicable:      50% Cost

Final Estimated Cost to Property Owner:      Total Cost

The undersigned in electing to utilize the City of Whitewater personnel and/or its contractor for required sidewalk repair or installation hereby releases the City of Whitewater from any obligation for repair of sidewalk due to minor cracking or other minor problems which frequently occur with concrete construction. Work done by the City of Whitewater personnel or its contractor will be done according to ordinance specifications. The phrase "minor problems" above is intended to mean problems which do not affect the sidewalk's performance.

Property Owner's Signature

- (e) The City of Whitewater shall be responsible for the costs incurred to reconstruct curbs and sidewalk to comply with Section 66.616 of the Wisconsin Statutes when possible (Reference Curb Ramping for Handicap Accessibility).
- (f) The cost of the sidewalk construction and/or repair may be paid by the abutting property owner as follows:
- (1) The abutting property owner may elect to reimburse the city by paying the cost of said repair or construction within thirty days of being billed. No interest will be charged if paid within thirty days of the billing. If the cost of construction or repair is not paid within thirty days, it shall be entered by the city clerk on the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like taxes upon real estate. The amount so added to the tax roll shall include interest at the prevailing rate per month from the date that the individual was initially billed to December 31st of the year in which it is placed on the tax roll.
  - (2) Whenever the amount to be levied is in excess of five hundred dollars, the property owner may elect to pay over a three-year period and to have the city clerk enter said costs, together with interest at the prevailing interest rate on the tax roll, as a special assessment against such lot or a parcel of land.
  - (3) Where there is a replacement of sidewalk and there has been a previous assessment for sidewalk, a credit shall be given for the remaining useful life of the sidewalk. The useful life of the sidewalk for his purpose shall be twenty-five years.
  - (4) Unless changed by Resolution, the property owner is responsible for 50% of the estimated cost. If it is determined by the sidewalk administrator that the sidewalk to be replaced or repaired is due to a city terrace tree, the City shall pay 100% of the cost to replace or repair.

(Ord. 1015 §2(part), 1983).

### 12.22.070 Variance procedure.

- (a) No sidewalk shall be installed in such a manner so as to include a tree, utility pole or any other structure within the area of actual sidewalk construction, unless a variance has been granted by the council to permit such an intrusion into the sidewalk area.
  - (b) When the owners of more than fifty percent of the tax parcels along a given street sign a petition requesting a variance or an exception from the requirement of having sidewalk installed on their street, the sidewalk administrator shall submit said petition to the common council. Petitioners will be required to show just cause why sidewalks are not necessary above and beyond merely not wanting a sidewalk.
    - (1) In calculating the percentage of property owners who have signed the petition, only one signature shall be counted per tax parcel. Individuals or entities owning more than one tax parcel may sign separately for each tax parcel owned. The signature of all record owners of a tax parcel shall be required for the vote of that tax parcel to be counted.
    - (2) Those submitting said petition must do so within thirty days after receiving notification that sidewalk is required on their street.
  - (c) Individual property owners, upon receipt of an order from the sidewalk administrator, shall have the right to petition the council for a variance or exception from this chapter. Variances may be not requested by individual property owners by reason of merely not wanting sidewalk.
  - (d) All exceptions or variances from this chapter shall require a two-thirds vote of the council.
- (Ord. 1015 §2(part), 1983).

Ordinance introduced by Council Member \_\_\_\_\_, who moved its adoption.

Seconded by Council Member \_\_\_\_\_.

AYES:

NOES:

ABSENT:

ADOPTED:

---

John Weidl, City Manager

---

Karri Anderberg, City Clerk