

*City of Edgerton, WI  
Monday, March 4, 2024*

## Chapter 366. Utilities

### Article IV. Sidewalk Utility

[Adopted 10-17-2022 by Ord. No. 22-06]

#### § 366-60. Purpose and necessity; authorization.

- A. Timely maintenance, construction and reconstruction of the City's public pedestrian transportation system ensures safe and efficient pedestrian travel throughout the City. A sound transportation system enhances livability, property values and economic vitality. A sidewalk utility provides a sustainable source of funds for the maintenance, construction and reconstruction of sidewalk and pedestrian-oriented infrastructure under the jurisdiction of the City of Edgerton.
- B. The City Council reviewed funding options for pedestrian transportation system funding, including a sidewalk utility, and determined that establishment of a sidewalk utility with fees based on frontage is the most appropriate method to provide the necessary funds. The City Council further concluded that a sidewalk utility is the most equitable means to apportion the cost of pedestrian transportation system improvements.
- C. In creating this article, the City is acting pursuant to authority granted by Chs. **61** and **66**, Wis. Stats., including but not limited to Wis. Stats., §§ 61.34 and 66.0621.
- D. The City Council shall review the sidewalk utility at least every five years to evaluate the success of the activities funded and the appropriateness of the rate structure. The first review shall occur by or before December 31, 2027.

#### § 366-61. Creation.

There is hereby created and established a Sidewalk Utility within the City of Edgerton, effective October 17, 2022. The entire operation, charge and management of the Sidewalk Utility are vested in the City Council, pursuant to applicable state law. The Director Public Works shall supervise and manage the Sidewalk Utility as directed by the Public Works Committee.

#### § 366-62. Authority.

The City, acting through the Sidewalk Utility, may, without limitation due to enumeration, acquire by gift, purchase, eminent domain, condemnation or otherwise, construct, lease, own, operate, maintain, improve, update, modify, extend, expand, replace, repair, manage, finance, borrow monies, assess and/or levy fees for such facilities, operations, maintenance and activities as are deemed, from time to time, by the City to be proper and reasonably necessary for a sidewalk system. These facilities may include, without limitation due to enumeration, sidewalks, ramps, retaining walls, multipurpose trails and such other facilities as will support a sidewalk management system.

#### § 366-63. Definitions; word usage.

For purposes of this article, the following definitions shall apply. Words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense; the word "shall" is mandatory and not discretionary; the word "may" is permissive.

**CHARGE**

The periodic or other fee imposed under this article for the rendering of sidewalk utility services by the City.

**DEVELOPED PROPERTY**

- A. A certificate of occupancy has been issued for a building or structure on the property or, if no certificate of occupancy has been issued, upon substantial completion of construction or final inspection;
- B. Construction of an improvement on the property is at least 50% completed and such construction has ceased for a period of at least three months, whether consecutive or not;
- C. Structures have not been constructed on the parcel but the improvements such as streets have been installed and the parcel could be sold for development without further division, but the parcel is not subject to a development agreement; or
- D. The property has public sidewalk installed.

**DIRECTOR**

The Director of Public Works or his/her designee.

**DUPLEX**

Any residential property having two dwelling units.

**DWELLING UNIT**

A room or group of rooms, designed or used as living quarters for one family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.

**EQUIVALENT UNIT or EU**

The basic unit by which a sidewalk charge is calculated under this article and is based upon the frontage as reasonably determined by the City. The term "EU" means the statistical average frontage of single-family homes within the City of Edgerton on the date of adoption of this article. One EU is established as 100 linear feet of frontage.

**FRONTAGE**

The side of a lot abutting on a public street(s) or way(s).

**MULTIUSE TRAIL**

Transportation infrastructure that serves pedestrians and nonmotorized vehicles including, but not limited to, in-line skates and electric or pedal bicycles.

**MULTIFAMILY UNIT**

Any residential property comprised of three or more dwelling units.

**NEW SIDEWALK**

The installation of sidewalk where no sidewalk was previously installed.

**NONRESIDENTIAL PROPERTY**

A lot or parcel of land, with improvements such as a building, structure, grading or substantial landscaping, which is not a residential property, excluding publicly owned rights-of-way, recreational trails, and publicly owned or privately owned railbeds utilized for railroad transportation. This term includes mobile home parks. This term includes mixed use parcels that contain dwelling units and nonresidential uses.

**PERSON**

Each and every property owner and includes, but is not limited to, natural persons, partnerships, corporations, limited-liability companies, limited-liability partnerships, joint ventures, and all other legal entities of whatever kind or nature.

**PUBLIC SIDEWALK or SIDEWALK**

A paved pathway for pedestrians that is publicly owned located in a public right-of-way easement, that is maintained by the adjacent property owner.

**RESIDENTIAL PROPERTY**

A lot or parcel of land developed exclusively for residential purposes, including single-family units, duplexes, and multifamily units. The term excludes transient rentals (such as motels and hotels) and mobile home parks.

**SIDEWALK UTILITY**

The City-owned-and-operated utility established under this article for the purpose of managing public sidewalk related improvements and property and imposing charges for the recovery of costs connected with such sidewalk management.

**SINGLE-FAMILY UNIT**

Any residential property consisting of one dwelling unit.

**UNDEVELOPED PROPERTY**

Real property that may have the following characteristics, but may have other traits that make it undevelopable: property that is not developed by the addition of an improvements such as a building, structure, impervious surface, grading, substantial landscaping; property that has not been platted for development; or property that cannot be developed due to constraints such as wetland. If the property has a public sidewalk, the parcel is considered developed and is subject to sidewalk utility charges.

## § 366-64. Income and revenue.

The Sidewalk Utility finances shall be accounted for in a separate Sidewalk Utility Enterprise Fund by the City. All income and revenues shall be retained by the Sidewalk Utility Enterprise Fund. The Sidewalk Utility shall prepare an annual budget, which may include all operation and maintenance costs, debt service and other costs related to the operation of the Sidewalk Utility. The annual budget is subject to approval by the City Council. The City shall require that adequate revenues are generated through user fees to provide for a balanced operating budget.

## § 366-65. Rates and charges.

- A. Every person shall pay the applicable Edgerton sidewalk charge when due for each property owned by that person.
- B. The basis for computation of the charge for sidewalk services to lots and parcels of land within the City is established under this section. The amount of charge to be imposed, the establishment of formulas for the calculation of charges, the creation of customer classifications for the imposition of charges, and changes in such charges, formulas and customer classifications shall be consistent with this article. All charges established pursuant to this article shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the City Clerk.
- C. Charges shall be imposed to recover all or a portion of the costs incurred by the Sidewalk Utility except for a portion of the construction of new sidewalk.
- D. The Sidewalk Utility shall pay 50% of the costs of the installation of new sidewalk. Costs for new sidewalks not paid by the Sidewalk Utility shall be paid for by the property owner.

## § 366-66. Billing.

The Sidewalk Utility billing schedule shall coincide with the billing schedule for the Edgerton Water Utility. Sidewalk Utility charges shall be due and payable to the City Treasurer at the same time that the Water Utility bills are payable. Sidewalk Utility charges shall be mailed to the designated utility bill recipient. This mailing shall not relieve the owner of the property from liability for rental property in the event the payment is not made as required by this article. The owner of the property served which is occupied by tenants shall have the right to examine collection records of the City for the purpose of determining whether such charges have been paid for by such tenants, provided that such examination shall be made at the office at which records are kept and during the hours that such office is open for business.

## § 366-67. Payment of charge; lien; penalty.

- A. Sidewalk utility charges shall be payable upon receipt, subject to the provisions of this section.
- B. Charges remaining unpaid for a period of 20 days or more from the date of the utility bill shall be assessed a late payment penalty charge. The amount of the late payment charge shall be 3% of the bill, except a minimum charge of \$0.30 shall apply. Late payment charges shall be applied to all customer classes and rate classifications. The Utility shall not waive any properly applied late payment charges. A late payment charge shall be applied only once to any given amount outstanding.
- C. If a charge and/or late penalty remains unpaid for a period of 20 days after the date of the utility bill, such charge and penalty shall become a lien upon the real property to which it applies, as provided in §§ 66.0821 and 66.0809, Wis. Stats., and other applicable provisions of the Wisconsin Statutes, as from time to time amended or renumbered.
- D. Delinquent charges, administrative charges, and penalties shall be automatically extended upon the next available tax roll as a delinquent tax against the real property, and all proceedings relating to the collection, return and sale of property for delinquent real estate taxes shall apply to such charges.

## § 366-68. Customer classifications.

- A. The City Council, from time to time, by budget adoption may establish classifications other than the customer classifications set forth in this article, as may be needed to provide a reasonable and fair distribution of the costs of the sidewalk utility to all users.
- B. For the purpose of imposing and collecting the charges imposed under this article, all lots and parcels of real property (land) in the City shall be classified into the following customer classifications:
  - (1) Residential, single-family unit.
  - (2) Residential, duplex.
  - (3) Residential, multifamily.
  - (4) Nonresidential.
  - (5) Undeveloped.
- C. The Director shall prepare and maintain an updated current list of all lots and parcels of real property (land) within the City of Edgerton and assign the appropriate customer classification to each lot and parcel. This list shall include the number of EUs assigned to each lot or parcel.

- D. The linear footage of frontage of the EU as of the date of adoption of this article is hereby established to be equivalent to 100 linear feet.
- E. The EU charges for the foregoing customer classifications shall be established as follows:
- (1) Residential, single-family unit: 1.0 EU.
  - (2) Residential, duplex: 0.5 EU per dwelling unit.
  - (3) Residential, multifamily: 0.25 EU per dwelling unit.
  - (4) Nonresidential with less than 100 linear feet of frontage: 1 EU.
  - (5) Nonresidential with 100 linear feet or more of frontage: one EU for each 100 linear feet of street frontage. (For example: a property having 220 feet of frontage would have an EU of 3.)
  - (6) Undeveloped: no sidewalk charge shall be assigned to undeveloped land.
  - (7) Residential, developed parcels with no frontage: in accordance with Subsection **E(1)** through **(3)** above.
  - (8) Nonresidential, developed parcels with no frontage: 1 EU for lots whose narrowest parcel side is less than 100 linear feet, and 1 EU for each 100 linear feet of the narrowest parcel side if that side is greater than 100 linear feet.
- F. The Director shall be responsible for determining the frontage based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photography, the property owner, tenant, or developer. The billing amount shall be updated by the Director in accordance with § **366-66**. Individual property owners may submit site and building surveys to the Director that help more accurately determine the total frontage.
- G. All unoccupied, developed parcels shall be subject to the sidewalk utility charges.

## § 366-69. Credits.

Credits may be available to individual nonresidential property owners. It shall be the burden of the nonresidential property owner to request such a credit and to demonstrate to a reasonable degree of certainty with evidence that a fee adjustment is warranted. All applications with an accompanying \$50 fee for credit shall be reviewed by the Director and the Director may reduce the measured frontage after taking into consideration the demonstrated justification. A denial or revocation of a credit may be appealed in accordance with § **366-70**.

## § 366-70. Appeal.

- A. The amount of a particular sidewalk utility charge, the determination of the EUs or EU credits may be appealed to the Public Works Committee by filing a written appeal with the City Clerk prior to the due date of the charge or within 30 days of payment. The written appeal shall specify all grounds for challenge to the amount of the charge and shall state the amount of charge that the appellant considers to be inappropriate. Failure to timely appeal waives all rights to later challenge the charge.
- B. In considering an appeal, the Public Works Committee shall determine whether the sidewalk utility charge is fair and reasonable under the particular facts and circumstances pertaining to that specific property and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The City Clerk shall notify the appellant in writing of his/her determination.
- C. The customer has 30 days from the date of the written decision of the Public Works Committee to file a written appeal with the City Council.

- D. If the Public Works Committee or City Council determines that a refund is due the customer, the refund will be applied as a credit towards the customer's next sidewalk billing charge, provided that the refund will not exceed the customer's next sidewalk billing charge, or it may be refunded in the form of a check at the discretion of the City Treasurer.

## § 366-71. Alternative method to collect sidewalk charges.

- A. The City Council hereby finds and determines that the Sidewalk Utility charges established under this article reasonably reflect the services rendered to real property and may be, and are hereby authorized to be, assessed, charged, levied, imposed and collected upon such property as a special charge in accord with all applicable Wisconsin Statutes.
- B. The mailing of the bill for sidewalk utility charges to a property owner shall serve as notice to the property owner that failure to pay the charges when due may result in the charges being levied upon the owner's applicable real property.
- C. In addition, the City may provide notice each October of any unpaid charges to the Sidewalk Utility and such charges, if not paid by November 15, may be placed upon the tax roll and collected in the manner provided by this article and/or the applicable provisions of the Wisconsin Statutes. The collection method provided in this section is in addition to the collection method provided for in this article.

## § 366-72. Severability; conflict with other provisions.

- A. In the event of any conflict between any provision set forth in this article and any other City ordinance, the competing provisions shall be harmonized to the fullest extent possible so as to facilitate the intent and proper effect of the separate areas of regulation.
- B. If any section or portion hereof shall be declared by a court of competent jurisdictions to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion hereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions hereof of this article. The remainder of this article shall remain in full force and effect.