

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

[History: Repealed and Recreated by Ord 2008-5; Amended by Ord 2016-5]

620.01 GENERAL PROVISIONS.

(1) Authority. This Chapter is adopted under the powers granted to the City by sec. 66.0907 Wisconsin Statutes and the powers of the City under general municipal law.

(2) Adoption by Reference of Sec. 66.0907 Wisconsin Statutes. To the extent not modified by this Chapter, all provisions of sec. 66.0907 of the Wisconsin Statutes setting forth and defining regulations with respect to sidewalks are hereby adopted and by reference made a part of this section as if fully set forth herein. Any violation of said 66.0907, Wis. Stats. occurring within the City of Richland Center is declared to constitute a violation of this Chapter.

(3) Definition. In this Chapter, the term sidewalk shall be deemed to refer to a pedestrian walkway located within the right of way of a city street parallel to the street.

620.02 SIDEWALK INSTALLATION AND DRIVEWAY OPENING PERMITS REQUIRED

(1) Sidewalk Installation Permits Required.

(a) Permit Requirement. No person shall hereafter lay, remove, replace or repair any public sidewalk within the City of Richland Center unless they either:

1. Have a contract directly with the City to do such sidewalk installation work , or
2. Have obtained a permit therefore from the City Clerk's Office at least five (5) days before work is commenced.

(b) Permit Fee. A fee of twenty dollars (\$20.00) shall be charged for such permit; the amount of such fee may be changed from time to time by resolution of the Common Council. The permit shall be issued upon application form provided by the city and shall contain such information as the name of the contractor or person doing the work, the name of the property owner and address where the work is to be done, and the estimated length of sidewalk to be installed.

(c) When Permit Required. Such permit shall be required for all installations of

sidewalk exceeding sixty (60) square feet in area or across the entire frontage of any property owned by any one (1) natural person or by spouses or by any one other legal entity.

(d) Exemption From Permit Requirement for Small Repairs. Notwithstanding the foregoing, no permit shall be necessary for repairs to existing sidewalks which repairs do not exceed sixty (60) square feet in area.

(2) Driveway Opening Permits Required. [Amended by Ord 2016-5]

(a) Requirement.

1. No person shall construct, reconstruct, alter or enlarge the opening of a driveway which opens onto the right-of-way of any public street or which crosses any sidewalk or any street curbing or which otherwise affords access from any lot or parcel of land onto the roadway of a public street without first obtaining a driveway permit from the Public Works Superintendent. No zoning permit for a new structure shall be issued until a driveway permit has been issued for any proposed driveway or enlargement of an existing driveway opening on the property.

2. The requirement of a driveway permit shall not apply to a driveway opening being constructed, reconstructed, altered or enlarged pursuant to a contract directly with the City as part of a public works project.

(b) Procedure, Conditions and Fee. The procedure, conditions and fee for securing a driveway permit shall be as set forth in Chapter 615.

620.03 RESPONSIBILITY FOR COSTS OF INSTALLATION OR REPAIR OF SIDEWALKS

(1) **Duty of Landowner to Install Required Sidewalks.** It shall be the duty of the owner of the real estate adjacent to any required public sidewalk to install such sidewalk to the standard specifications set forth in this Chapter and to perpetually maintain such sidewalk in safe condition for pedestrian traffic, free of holes, cracks, variations in surface level and any other conditions which make the sidewalk unsafe.

(2) Power of Common Council to Require Sidewalks. The Common Council shall have the power to determine the location of all required sidewalks in the City.

(3) Grandfather Clause. All sidewalks in existence on the effective date of this Chapter shall be deemed to have been required by the Common Council.

620.04 STANDARD SPECIFICATIONS FOR SIDEWALKS.

(1) General. Concrete sidewalk construction shall meet the specifications and provisions set forth in this section and shall be constructed in locations in line with existing sidewalks. In new subdivisions sidewalks shall be placed in line with the property line.

(2) Sub-grade. Sub-grade under a sidewalk shall be two (2) inches of sand fill, thoroughly and uniformly compacted and brought to the correct grade. Soft, porous and unsuitable sub-grade materials shall be removed and replaced with sand or other satisfactory material, and the sub-grade shall be thoroughly and uniformly compacted.

(3) Concrete. The minimum quantity of cement per cubic yard shall be six (6) bags of ninety-four (94) pounds each. Concrete shall be mixed for at least one (1) minute. Gravel shall be of good quality and washed. Concrete shall test three thousand (3,000) pounds compression in twenty-eight (28) days.

(4) Forming. Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing. While striking off and finishing the concrete the forms shall be securely fastened, staked, braced and held firmly to required line and shall be sufficiently tight to prevent leakage of concrete, and all forms shall remain in place for a minimum of twenty-four (24) hours after the concrete is poured.

(5) Jointing and Finishing. Soon after striking off and while the concrete is still workable, the surface shall be floated with a wood, cork or metal float or by a finishing machine. At all places where the sidewalk intersects another sidewalk or curb-line, a one-half (1/2) inch expansion joint shall be placed the full depth of the concrete. Transverse expansion joints of one-half (1/2) inch thick shall be installed every thirty (30) feet. Sidewalks shall be marked off to make five (5) foot sections and be at right angles to the parallel line of the sidewalk. Any new sidewalk adjoining an old sidewalk or a sidewalk which abuts curb and gutter shall have a one-half (1/2) thick full depth expansion joint where the new sidewalk meets the existing sidewalk or the curb and gutter.

(6) Slope. To provide adequate drainage, all sidewalks shall slope toward the curb at a minimum rate of one-fourth (1/4) inch per foot of width of sidewalk and shall not slope more than two (2) percent. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool. Sidewalks shall be constructed within the limits of the street right-of-way, and unless otherwise specifically indicated, as with replacing existing sidewalks, the edge of the sidewalk farthest from the street roadway shall be on the property line.

(7) Width and Thickness. All newly installed sidewalks shall be four (4) feet in width unless otherwise specified by the Public Works Committee. When replacing existing sidewalks the replacement sidewalk shall be replaced to the width of the adjoining sidewalks. Sidewalks in Residential zoning districts shall be not less than four (4) inches thick and sidewalks in Commercial or Industrial zoning districts shall be not less than five (5) inches thick, except within driveway approaches the minimum thickness shall be not less than six (6) inches thick in

all zoning districts.

(8) Driveway Approaches. The area of a driveway located between the curb and gutter line and the sidewalk, commonly referred to as the driveway approach, shall be constructed of poured concrete six (6) inches thick or of three (3) inches of asphalt over an eight (8) inch deep compacted gravel base.

(9) Finishing. The concrete shall be struck off true to grade, finished smooth and given a broom finish in transverse direction. Edges and joints shall be given a finish with a one-quarter (1/4) inch radius edging tool. Finishing operations shall be delayed until water on the surface has disappeared. No tool marks shall be left on exposed surfaces. In case of rain, the sidewalk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal temperatures for forty-eight (48) hours and in cold weather [below fifty (50) degrees F.] for ninety-six (96) hours.

(10) Lawn Replacement. When a contractor or landowner performs sidewalk installation or repair work in the City of Richland Center, the lawn abutting the sidewalk shall be returned to the condition it was in prior to commencement of the sidewalk work.

(11) Curb Ramping for Handicapped Access. Any person constructing new curbs or sidewalks or replacing curbs or sidewalks within five (5) feet of a legal crosswalk in any city street or connecting highway or at any other location designated by the Common Council shall comply with the standards for curb ramping set fourth in sec. 66.0909 Wisconsin Statutes.

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 1st 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 instalment 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.

(2) Determination. Requests for an extension of time will be considered by the Public Works Committee. If the committee determines that good cause has been shown and that the extension should be allowed, the Committee shall set the length of the extended time allowed to make the needed repairs.

620.07 SIDEWALK MAINTENANCE REQUIREMENT NOT TO BE DEEMED TO REQUIRE NEW SIDEWALK INSTALLATION WHERE NONE EXISTED PREVIOUSLY; RIGHTS OF COMMON COUNCIL TO REQUIRE NEW SIDEWALKS PRESERVED

(1) The foregoing provisions of this chapter shall not be deemed to require the installation of concrete sidewalks, concrete driveway openings onto public streets or highways or curbs and gutters in any area or abutting any lot where such improvements have not existed previously.

(2) Notwithstanding paragraph (1) above, the Common Council of the City of Richland Center does have and retains the right to direct or require, by ordinance or resolution, the installation of concrete sidewalks, concrete driveway openings onto public streets or highways, or curbs and gutters anywhere in the City of Richland Center at any time in the future, regardless of whether such sidewalks, concrete driveway openings or curb and gutter was previously required. This chapter shall not be construed as a bar to any such future action by the Common Council.

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Wisconsin Statutes

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).