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## **City of Waukesha Sidewalk Maintenance Assessment Study**

September 1, 2022

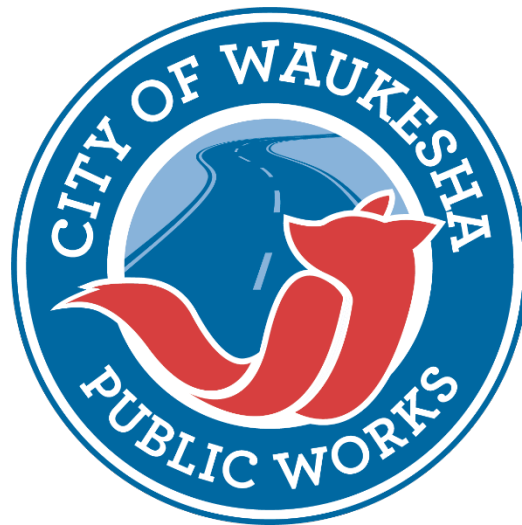


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## Executive Summary

A referral was made to the Board of Public Works for staff to complete a study of the current city-wide sidewalk maintenance program, and the policy of assessing adjacent property owners for the replacement of condemned criteria sidewalk. The purpose of this study was to execute a comprehensive review of the sidewalk maintenance program including the potential impacts of a change in funding source for condemned criteria sidewalk.

The city-wide sidewalk maintenance program completes replacement of tree-damaged and condemned criteria sidewalk in a specific area of the city each year. The tree-damaged areas of sidewalk replacement are funded through the City's Community Investment Program (CIP) and the condemned sidewalk replacement is currently assessed to the adjacent property owner based on state statute and City policy. The size of the coverage area for this program is primarily based on allocated funding levels for tree damaged sidewalk replacement with the condemned sidewalk being replaced in the same coverage area. Tree damaged sidewalk has historically been funded in the range of \$100,000 to \$500,000 annually, with the higher allocation occurring in the last 2 years. Over the last 7 years, the condemned sidewalk replacement amount has ranged from \$20,000 to \$100,000 with that cost being directly billed to the adjacent property owners.

In order to complete the invoicing/billing for condemned criteria sidewalk to the adjacent property owners, a high level of staff time is required to meet the mailing and notice requirements of the state statute, as well as, creating individual invoices for each impacted property. It is estimated that 160 to 180 hours of staff time across multiple departments is utilized to complete the process of billing for condemned sidewalk replacement annually. This number of staff time hours results in an approximate yearly cost of \$7,300 to \$8,200.

After the comprehensive review of the sidewalk maintenance program, it is recommended to change the funding source of the condemned criteria sidewalk to be City funded in conjunction with the sidewalk maintenance program and other CIP projects that include sidewalk replacement. The contributing factors of this recommendation were staff time commitment and cost, efficiency of CIP project delivery, and relative project cost.

## Project Background

Ald. Cory Payne made a referral to the Board of Public Works to review the practice of assessing condemned sidewalk replacement costs to adjacent property owners. The following discussion occurred at the July 7, 2022, Board of Public Works meeting:

*Referral from Ald. Cory Payne to review the practice for charging condemned sidewalk replacement costs. Prefer to have him explain it, however, Alex Damien talked with him briefly about what he is looking for. Alex Damien stated that it has been a long-term policy and practice and encompasses ordinances and state statutes that would have to be looked at and reviewed to see what would have to be adjusted. If you support this, ask staff to review and report back the consequences and to make a recommendation for the financial impact and policy recommendation. Ald. Pieper asked if staff has an idea what is billed out. Alex Damien responded that it varies from year- to-year, it could range from \$20,000 to \$100,000 - not huge cost given the overall budget but it's mostly the policy and practice.*

*Ald. Pieper motioned for staff to look into the financial implications of the particulars of this referral and report back when the information is available. Focus on existing sidewalk that needs to be replaced. Kevin Reilly added to look at the existing sidewalk - and implications for different homeowners, looking at highest and lowest assessment included.*

The above-mentioned motion carried unanimously for staff to investigate the financial practice and implications of the particulars of this referral. This study will provide background on the existing City policy regarding sidewalk maintenance, investigate the implications of a potential policy adjustment, and make a recommendation based on this investigation.

## Current Sidewalk Maintenance Approach

Each year the City completes a city wide Concrete Sidewalk Replacement project that has been approved in the Community Investment Program (CIP). Bids are received for this project through the standard City bidding process and contain unit bid pricing for 4-Inch concrete sidewalk and 6-Inch Concrete sidewalk. At the current allocated funding levels allocated to tree damage sidewalk replacement, the city wide concrete sidewalk replacement program focuses on one general area of the City, working in a clockwise fashion to complete the city wide coverage. Each year an inspection is completed of the existing concrete sidewalk in the areas that are to be covered by the replacement program to locate sidewalk that meets one of two criteria; condition of condemnation or damaged by a City street tree.

### *Condemned Walk Criteria*

The Board of Public Works previously approved the following criteria to determine what sidewalk is in need of repair:

- 1) *Sidewalks must be repaired if any of the following conditions exist:*
  - a. *A differential in elevation between any two adjoining pieces of sidewalk of more than one (1) inch.*
  - b. *A cracked sidewalk if pieces are missing.*

- c. *A settled or damaged sidewalk that crosses a driveway where a paved drive approach has been ordered by the property owner.*
- d. *A settled sidewalk of more than two (2) inches. The depth of settlement will be determined by measuring from a line set parallel to street on adjacent unsettled walk to the lowest point of settled walk.*
- 2) *Any sidewalk can be repaired or replaced if requested by the property owner.*
- 3) *All sidewalks brought to the attention of the City through complaints shall be repaired if they meet the criteria established in Section 1 of above.*

*Approved by B.P.W. February 28, 1991*

Figure 1 shows an example of condemnable criteria sidewalk.



*Figure 1: Condemned Criteria Sidewalk (Cracked with Pieces Missing)*

#### *Tree Damaged Sidewalk*

Tree damaged sidewalk is any walk damaged to a point of condemnable criteria (see above) which is directly adjacent to and the result of a City owned street tree. City owned trees are typically located in the terrace area between the roadway curb and gutter and the concrete sidewalk, and their root systems can cause adjacent sidewalk sections to displace or crack due to soil movement and tree growth. Figure 2 provides an example of tree damaged sidewalk with a temporary asphalt ramp that is placed in the interim before the sidewalk can be replaced.



Figure 2: Tree Damaged Sidewalk Example

### Financial Responsibility

The current sidewalk maintenance policy follows Wisconsin State Statute 66.0907(3):

(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).

Note: Sub-sections (e) and (f) were omitted.

Any sidewalk deemed condemnable is charged to the adjacent property owner. A notice is provided 20 days in advance of the work to allow for the property owner to hire their own contractor if desired. The condemned sidewalk is then replaced with the City's city wide sidewalk project, and the property owner is billed for the expense. The exception to this rule is for tree-damaged sidewalk criteria locations; all city owned tree-damaged sidewalk replacement work is not billed to the adjacent property owner.

*Funding History*

The city-wide sidewalk maintenance program is funded through the yearly CIP budget, with the highest percentage of allocated dollars covering the cost of tree damaged sidewalk. Below is a summary of the project costs for condemned and tree-damaged sidewalk from 2015 to 2022 (Note that the 2022 project is still in progress and those numbers are projected at this time):

Year	Condemned Walk Amount (\$)	Tree Damaged Walk Amount (\$)	Budget Amount (\$)
2015	\$94,514.48	\$205,062.25	\$200,000.00
2016	\$99,492.87	\$147,544.51	\$150,000.00
2017	\$53,869.29	\$147,939.03	\$150,000.00
2018	\$62,075.90	\$142,999.77	\$100,000.00
2019	\$32,103.95	\$332,999.17	\$300,000.00
2020	\$21,112.00	\$400,000.00	\$400,000.00
2021	\$54,338.51	\$496,494.65	\$500,000.00
2022	\$33,424.60	\$500,000.00	\$500,000.00

*Table 1: City Wide Sidewalk Replacement Project Cost Totals, 2015-2022*

As shown above in Table 1, funding levels for tree damaged sidewalk have varied. Prior to 2019 tree damaged sidewalk funding was \$150,000 (2016-2018) and since then, an increase in funding has been approved in the City budget. The dollar amount for condemned sidewalk that is billed to adjacent property owners varies each year, characteristically between \$10,000 and \$100,000. The variance in these values is directly related to the condition of sidewalk in the area the program is addressing each year. Table 2 shows a breakdown of the highest, lowest, and average assessments applied to individual properties from 2015-2020. The 2021 sidewalk program invoicing is still currently in progress.

Year	Lowest Assessment (\$)	Highest Assessment (\$)	Average Assessment (\$)
2015	\$26.91	\$2,239.95	\$413.20
2016	\$44.20	\$1,689.80	\$417.60
2017	\$17.00	\$1,393.37	\$373.30
2018	\$26.90	\$2,940.00	\$591.90
2019	\$58.13	\$2,074.07	\$582.22
2020	\$140.28	\$4,914.64	\$569.99

*Table 2: Individual Property Assessment Statistics, 2019-2020*

### Systematic City Coverage

At the current allocated funding levels, the city wide concrete sidewalk replacement program focuses on one general area of the City, working in a clockwise fashion to complete the city wide coverage over time. Within the target area, both tree damaged sidewalk and condemned sidewalk are replaced each year. The size of the area covered each calendar year varies based on the condition of sidewalk, and Table 2 shows a breakdown of total sidewalk areas and location within the City. If the 2022 funding level was maintained, it is estimated to take 3-5 years to complete sidewalk maintenance around the entire City limits. If funding levels were reduced to pre-2019 amounts, it would take approximately 10-15 years. Figure 1 shows a map of the locations completed by the sidewalk maintenance program for years 2015 to 2021. As part of the program, property owners within the City can request sidewalk work be completed at their cost, even if that work occurs outside of the target area for that year.

Year	Condemned Sidewalk Area Replaced (SF)	Tree Damaged Sidewalk Area Replaced (SF)	Location (Aldermanic Districts)
2015	14,540	31,548	4,13,15
2016	15,330	22,734	4,5,13,14
2017	8,162	22,415	2,3,5
2018	8,868	20,428	4,5,14
2019	4,259	41,224	4,5
2020	975	50,000	2,4,15
2021	14,833	56,302	1,2,3

Table 3: City Wide Sidewalk Replacement Areas, 2019-2021

### Staff Time Commitment

The current sidewalk maintenance program requires a significant level of staff time across multiple departments; DPW/Engineering, Clerk/Treasurer, and Finance. While staff time is directly related to the amount of condemned sidewalk replaced in a calendar year, the level of effort to complete numerous notice mailings, invoices, and tax bill assessments (if applicable) is immense. There were 85 total invoices generated in 2019, and 54 invoices generated in 2020. It is estimated that 160 to 180 staff hours are utilized to complete the billing requirements of the sidewalk maintenance program on a yearly basis. This number of staff time hours results in an approximate yearly cost of \$7,300 to \$8,200.

### Sidewalk Replacement Integration with other CIP Projects

On a yearly basis, other concrete sidewalk is replaced in conjunction with CIP projects for roadway reconstruction and resurfacing, sanitary sewer relay and maintenance, and flood mitigation projects. Under these projects, spot locations of sidewalk are replaced, including, ADA curb ramp upgrades, areas impacted by sewer lateral work, sidewalk adjacent to driveway aprons, sidewalk impacted by storm sewer installation, etc. All of this sidewalk replacement is covered within the overall cost of the CIP project. In the past 2 years (2020 and 2021), tree damaged sidewalk has also been replaced in conjunction with roadway reconstruction and resurfacing projects. Historically, condemned sidewalk is also replaced with other CIP projects and is billed to the adjacent property owners following the requirements of the State Statute and City sidewalk repair policy.



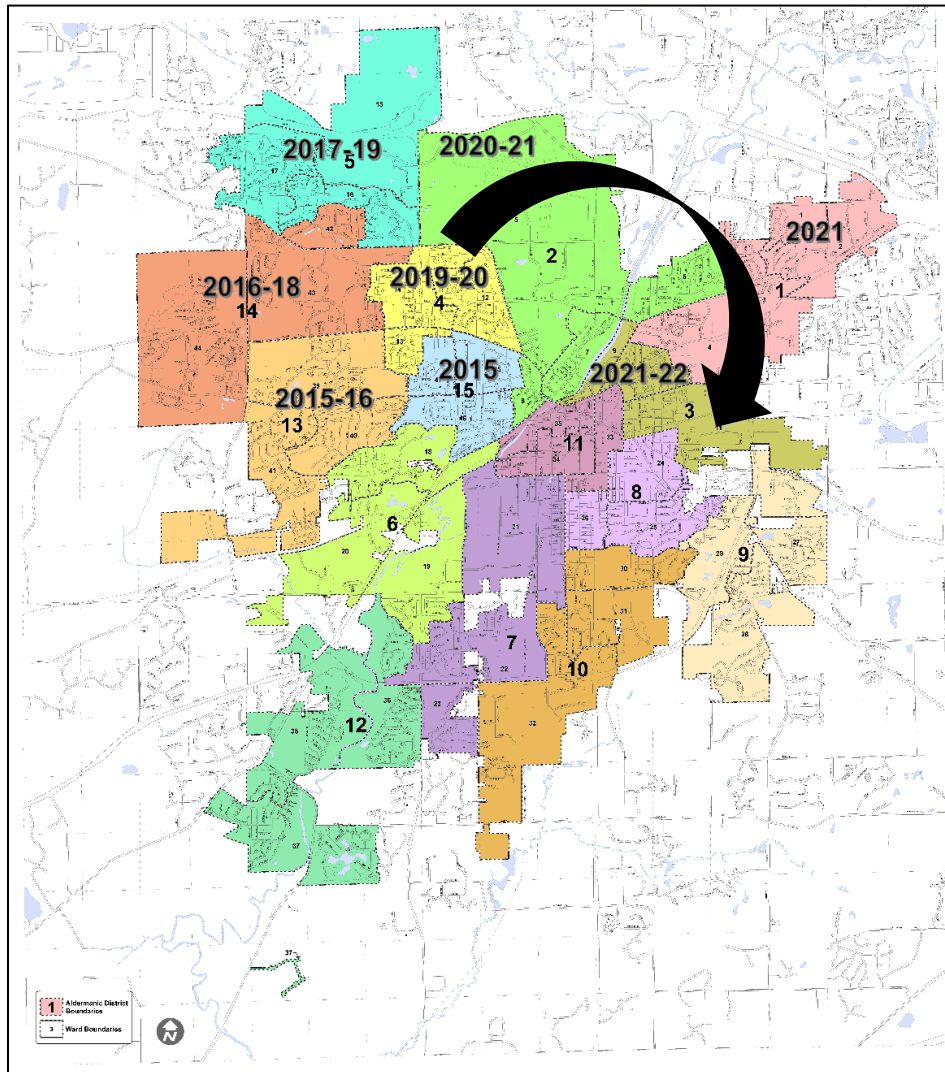


Figure 3: Current Sidewalk Maintenance Program Map for years 2015 to 2021.

## Consequences of Change in Condemned Walk Billing Policy

Per the referral discussed at the July 7, 2022 Board of Public Works Meeting, adjustment to the current sidewalk maintenance billing policy would produce changes in multiple aspects of City operation and staff workload. The purpose of this study was to look at what impacts a change in policy would have. While City staff did look at as many aspects as possible, there may be additional impacts outside of what is foreseen at this time.

### *Financial Responsibility*

Wisconsin State Statute 66.0907(6) allows sidewalk repair to occur at the City's expense as directed by Common Council:

- (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.*

If desired, a City ordinance within the Sidewalk section could be established that allows City funds to cover the maintenance/repair of condemnable criteria sidewalk in addition to any tree damaged sidewalk as part of the yearly maintenance program. The average yearly assessed value from 2019 to 2021 was \$42,864.08. While this value will vary each year, it would be estimated a change in policy would require a yearly commitment of \$50,000 to \$75,000 to replace condemnable criterial sidewalk.

### *Condemned Sidewalk Determination/Tracking*

If City funds were to be utilized for condemned sidewalk replacement and tree damaged sidewalk replacement, designation between the two would not need to occur. The sidewalk maintenance program could efficiently replace both categories of sidewalk in conjunction, without the additional tracking and categorizing per property.

### *Yearly Coverage Area*

Even with a policy change in place, the city wide sidewalk maintenance program would still require completing work in only part of the City in a given year. Due to the type of work, and production rate of removing and replacing spot sections of sidewalk, it would not be feasible to cover the entire area of the City in one calendar year. The systematic approach through the Aldermanic Districts in a clockwise fashion has produced a successful program and could continue as such regardless of the funding source for condemned sidewalk. If a policy change was put in place for the payment of condemned sidewalk, it should be considered that any property owner requested sidewalk replacement outside of the yearly coverage area would still remain the responsibility of the adjacent property owner. This would create a fair approach for properties receiving replacement of condemned sidewalk at the City's expense.

With the recent funding level increases for the sidewalk replacement program in 2021 and 2022, the amount of sidewalk being replaced has reached the maximum that can be completed within one calendar year. While a change in funding source policy will greatly impact City staff time commitment (see upcoming sections), there is still a limit to the amount of sidewalk that can be replaced by one contract each year. After an internal review by Engineering staff, the maximum amount of sidewalk that can be replaced each year is likely \$600,000 to \$700,000. A change in funding policy would eliminate the notice timeline requirement, allowing the project to start earlier in the construction season and thus more square footage of sidewalk being able to be replaced.

### *Staff Time Savings*

The current yearly sidewalk maintenance program requires a significant level of staff time to complete billing of adjacent property owners. A policy change of eliminating the need to bill adjacent property owners for sidewalk replacement would greatly reduce the burden of this effort across multiple departments. The invoicing requirement alone is a multi-week commitment for DPW/Engineering staff to provide accurate measurements, costs, and background data required for invoicing. Staff time would also be saved by eliminating the need for tracking different notice letters for types of sidewalk replacement, and more efficient construction project management. A single review of the scheduled program area would be completed to identify tree damaged and condemnable criteria locations with comparison to the program's allocated budget. The overall staff time savings could be used to better serve other mandatory tasks across all departments.

### *Integration with other CIP Projects*

A policy change to the funding source of condemnable criteria would have minor implications to other CIP projects for roadway reconstruction/resurfacing, sanitary sewer relay, and flood mitigation projects. Condemned sidewalk replacement would continue to occur along the limits of these types of projects in addition to replacement of tree damaged sidewalk areas. The funding of the additional sidewalk replacement could be covered by the individual project accounts and not from the funding amount allocated to the sidewalk maintenance program.

An additional option could be added to a policy change in conjunction with full roadway reconstruction projects. In lieu of completing spot replacement of sidewalk on roadway reconstruction projects, all sidewalk could be replaced at the cost of the project. Historically, after upgrading ADA curb ramps, replacing tree damaged and condemned sidewalk, and sidewalk impacted by underground utility work, on average 40% or less sidewalk is left remaining. If all sidewalk was replaced with full reconstruction type roadway projects, cost savings could be achieved and would establish a fresh starting point for the sidewalk that matches the roadway and other infrastructure. Increased costs within each of these projects would occur and is estimated to be \$8,000 to \$10,000 per block of roadway reconstruction. In comparison, the typical cost of roadway reconstruction cost per block is \$175,000 to \$300,000. The additional cost for sidewalk would be marginal to the amount already being invested into the roadway infrastructure.

### *Public Perception*

While the potential impacts above were based on statistics, finances, and direct staff knowledge, other public perception impacts are possible. A policy change to a City funded approach on sidewalk maintenance would likely cause a negative reaction to those property owners who were recently or will be billed for sidewalk replacement costs. While this could be mitigated with the idea that any future sidewalk replacement a property may have would fall under the new funding policy, it is expected to have some negative public response.

## Staff Recommendation

After a thorough review of the current sidewalk maintenance program finances and staff time commitment for a given calendar year, it is recommended to make a policy change in concurrence with Ald. Corey Payne's original referral. The recommendation would be to have a City Ordinance initiated at the Board of Public Works stating that sidewalk which falls under condemnable criteria shall be City funded and replaced in conjunction with the yearly sidewalk maintenance program. The condemnable criteria should be updated with revised or eliminated language of sections (2) and (3) from the 1991 approved language. For consistency and clarity, the written ordinance shall include that new sidewalk installation cost remain the responsibility of the adjacent property owner. Whether included in the written policy or not, replacing all sidewalk in conjunction with full roadway reconstruction projects is recommended as well.

The recommendation above is primarily based on the amount of staff time required to notify, bill, and coordinate differing funding responsibility of sidewalk on a yearly basis. While there is a monetary cost commitment associated with this recommendation, City staff time could be better spent serving other needs of City residents. A change in funding responsibility policy would allow for more efficient and effective staff time, following the City's Mission Statement:

### **City of Waukesha Mission Statement**

*We are dedicated to enhancing the community's quality of life through efficient, effective, and responsive government.*

#### *New Sidewalk Construction*

This study exclusively investigated the maintenance of existing sidewalk regarding the City's yearly maintenance program and other CIP projects. The installation of new sidewalk cost was not studied per the original referral request discussion at the Board of Public Works. New sidewalk installation currently is the responsibility of the adjacent property owner.