



Office of the City Attorney

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May 10, 2023

Memorandum

To: Board of Public Works
From: Brian Running, Alex Damien
Re: Ordinance, Cost of Construction and Replacement of Sidewalks

On July 7th, 2022, Alderman Cory Payne made a referral to the Board of Public Works to review the practice of assessing condemned sidewalk replacement costs to the abutting property owners, and Department of Public Works staff completed a full study of this policy by early September of 2022. The recommendation of this in-depth study was to make a policy change in concurrence with Ald. Payne's referral which transfers the cost of condemned sidewalk replacement from the abutting property owner to the City. The study also recommended an ordinance to establish this change in policy. The study was recommended for approval at the Board of Public Works on September 8, 2022 and received final approval at Common Council on September 20, 2022.

During discussions over the creation of the ordinance, the issue of property owners who refuse to give permission to enter onto their property to perform the replacement work came up. Sidewalks frequently abut the edge of the right of way, and in order to pour a sidewalk right up to the right of way line it's necessary to put forms beyond the right of way. Workers have to enter onto the property to set and strip the forms and to restore any required excavation. The City requests written permission from the property owners to do so.

It was determined that if a property owner refuses to give permission for the necessary work to be done, then the City should not bear the costs of sidewalk replacement and should instead follow the statutory procedure for charging the cost to the abutting property owner.

The attached draft ordinance includes those provisions. The Public Works Department requests approval of the draft and a recommendation to the Common Council.

City of Waukesha, Wisconsin

Ordinance No. 2023 - _____

**An Ordinance Creating Section 6.115 of the Waukesha Municipal Code,
Regarding the Cost of Construction and Replacement of Sidewalks**

The Common Council of the City of Waukesha do ordain as follows:

Section 1. Section 6.115 of the Waukesha Municipal Code is created to read in its entirety as follows:

6.115 Sidewalks; Cost to Construct and Replace.

- (1) The cost of the initial laying of sidewalks shall be charged to the abutting property owners as a special charge as defined in Wis. Stat. §74.01(4).
- (2) If the City determines that any existing sidewalk within City right-of-way requires replacement, then the cost of replacing such sidewalk shall be paid by the City, and shall not be charged to abutting property owners. However, if after the City determines that an existing sidewalk requires replacement the abutting property owner refuses to give written permission for the City or its contractors to enter upon the owner's property to the extent reasonably necessary to perform replacement of the sidewalk after the City has made a request to do so, then the City shall not pay the cost of replacing the sidewalk and shall instead follow the procedure in Wis. Stat. §66.0907(3)(b) through (f).
- (3) The cost of replacing sidewalks upon abutting property owners' request and not upon the City's determination shall be charged to the requesting abutting property owners as a special charge as defined in Wis. Stat. §74.01(4).
- (4) Special charges for the cost of sidewalk replacement may be paid in 10 annual installments, as provided in Wis. Stat. §66.0907(4)(f).

Section 2. All ordinances or resolutions inconsistent with this ordinance are hereby repealed.

Section 3. This ordinance shall be effective upon its publication.

Passed the _____ day of _____, 2023.

Shawn N. Reilly, Mayor

Attest: Gina L. Kozlik, City Clerk