



# CITY OF MANITOWOC

WISCONSIN, USA

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July 2, 2024

TO: Members of the Public Safety Committee

FROM: Eric Nycz, City Attorney

Re: Compulsory Construction of City Sidewalks

## Issue Presented

Multiple Alderpersons have been contacted by one or more city residents regarding compulsory construction of sidewalks in a neighborhood where sidewalks are not present. This Office was asked to provide an explanation of the procedure(s) required to be followed for the construction of compulsory sidewalks.

Please note that any property owner may apply for a permit to construct sidewalk adjacent to their property. (MMC 7.090(1)). This discussion is limited to requests for the City to compel property owners to construct sidewalk, or to have the City construct sidewalk and then assess the adjacent property owner(s).

## Applicable Law

MMC 7.090 – Grade and Construction of Sidewalks states in relevant part:

**(7) Sidewalks Compulsory.** Sidewalks shall be constructed on any portion of any side of any street:

- (a) Where the Board of Public Works determines a sidewalk is necessary for the public health and safety, the determination is approved by the Common Council, and the property owner is given notice to install pursuant to Wis. Stat. § [66.0907](#), as modified or amended from time to time.
- (b) Subject to the prerequisites of subsection (7)(a) of this section, sidewalks shall be installed where curb and gutter have been installed and one of the following conditions exists:
1. Fifty percent or more of the property by frontage on said side of the street in the block is improved with building improvements; or
  2. Fifty percent or more of the property owners by frontage on said side of the street in said block have installed sidewalks; or
  3. Eighteen months have expired after the issuance of a building permit to the owner of the property on any portion of any street; or
  4. Twelve months have expired since the installation of curb and gutter on the portion of the street abutting said property.

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This subsection (7)(b) shall not apply to property zoned and in actual use for agricultural, recreational or industrial purposes, but such property shall be subject to subsection (7)(a) of this section.

### **Discussion**

In order to compel the construction of sidewalks, the first step is that the Board of Public Works must “determine a sidewalk is necessary for the public health and safety...”

The Public Safety Committee has the authority to direct relevant City departments to gather data and prepare a recommendation as to the necessity of a sidewalk for the health and safety of the public. Therefore, when a request is made to make sidewalk construction compulsory in an area of the City, the Public Safety Committee has two options:

1. Place the Request on File, which is a simple indication that the Committee is not interested in pursuing additional information regarding making the construction of sidewalk in the area requested compulsory.
2. Direct staff to investigate the necessity of a sidewalk’s construction for the health and safety of the public, and refer the request to the Board of Public Works.

In the first option, that is the end of the matter. The second option would then have the Board of Public Works determine the necessity. Should the Board of Public Works determine sidewalk is not necessary, then the matter is concluded. If the Board of Public Works determines sidewalks are necessary, then the matter is brought before the Common Council, as sidewalk construction is not a revenue neutral matter and the MMC requires approval by the Common Council. The City would notify the affected property owners in the area if the matter was sent to the Common Council.

Please note that one or more of the current requesting citizens are confused as to the application of subsection 7(b), believing all that is required to compel sidewalk construction is one of the four listed conditions in that section. That is an incorrect reading of the MMC, as subsection 7(a) is a prerequisite to 7(b), and no action can be taken pursuant to 7(a) without the conditions of 7(a) already being met (i.e. – BPW determines the sidewalk is necessary and the Common Council approves compulsory construction).