

## CHAPTER 3

### Public Sidewalks Required

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
6-3-1	Definitions.	2001-13	11/21/2001
6-3-2	Application.	2001-13	11/21/2001
6-3-3	Construction of Sidewalks and Driveway Approaches.	2001-13	11/21/2001
6-3-4	Sidewalk Improvements Required.	2001-13	11/21/2001
6-3-5	Enforcement and Penalty.	2001-13	11/21/2001

#### **SEC. 6-3-1 DEFINITIONS.**

- (a) **“Sidewalk”** shall mean a walkway constructed within a street or highway right-of-way used or reserved for public pedestrian traffic or permitted personal transportation devices.
- (b) **“Urban Type Section”** shall mean a roadway with pavement, curb and gutter.
- (c) **“Lawn Park Walkway”** shall mean a Sidewalk, as defined above, intended to cross the right-of-way thereby connecting the road, curb, or roadway shoulder to the property line.

#### **SEC. 6-3-2 APPLICATION.**

In addition to the provisions set forth in this Chapter, this chapter shall apply to Sidewalks within a right-of-way of the Town of Caledonia and constructed after January 1, 2002, and to Sidewalks within a Racine County or State of Wisconsin right-of-way, constructed after January 1, 2002, and accepted by resolution of the Town Board.

#### **SEC. 6-3-3 CONSTRUCTION OF SIDEWALKS AND DRIVEWAY APPROACHES.**

- (a) **Specifications, Materials, and Dimension.**
  - (1) Materials, dimensions, and construction methods used shall be as per specifications on file at the office of the Town Engineer and approved by the Public Works Committee.
  - (2) Said specifications may provide the authority to the Town Engineer to modify the specifications to address special considerations of a particular project, including but not limited to variance in line and grade due to trees and other obstructions.

State Law Reference: Sec. 66.0907, Wis. Stats.

(b) **License, Bond, and Permit.**

(1) **License Required.** No person, party, firm or corporation shall construct, modify, destroy, remove or repair any Sidewalk or driveway approach in a public right-of-way without first obtaining a license to do so from the Town Engineer. The license fee shall be Sixty (\$60) Dollars for the first year and Twenty-five (\$25) Dollars for the annual renewal thereof. All fees shall be paid to the Town Clerk and all licenses shall expire on April 30<sup>th</sup> each year following the issuance thereof, unless renewed. An owner of property improved by a one-family home who resides therein or intends to reside therein in the future for a period of not less than one year may, by his/her own person, construct, modify, destroy, remove or repair a Sidewalk or driveway approach in the public right-of-way abutting the owner's property without a license but shall, nevertheless, be required to furnish an "owner's bond" as provided in subsection (2) below and obtain a permit as provided in subsection (4) below.

(2) **Bonds Required.**

a. **Contractor's Bond.** Every person, party, firm or corporation engaged in the business of constructing, modifying, destroying, removing or repairing Sidewalks or driveway approaches, before the issuance of the above license, shall give a surety bond to the Town of Caledonia in the penal sum of Ten Thousand (\$10,000) Dollars, which bond shall guarantee that all work is performed in accordance with this and other Ordinances of the Town of Caledonia, Racine County Code of Ordinances, and applicable rules and regulations of the State of Wisconsin. This bond shall indemnify the Town for any damage to or obstruction of its public rights-of-way, including but not limited to, its sanitary and storm sewers and water mains.

b. **Owner's Bond.**

1. **Surety Bond.** Any person constructing, modifying, destroying, removing or repairing a Sidewalk or driveway approach abutting his/her one-family home shall furnish a surety bond similar to the above, except that the bond shall be only in the penal sum of Two Thousand (\$2,000) Dollars. No surety bond is required when Sidewalk work involves less than one hundred (100) square feet of area and/or when driveway approach work involves less than twenty (20) square feet of area.

2. **Assessment in Lieu of Bond.** In lieu of a surety bond, the person(s), being the property owner of the abutting property, may sign a waiver rights of assessment and enter into any necessary agreement, as determined by Town Counsel, to provide that any costs that could be applied against an owner's bond may be placed as a special assessment on the abutting property.

c. **Costs Exceeding Bond.**

Every person, party, firm, or corporation must also pay any cost exceeding the limit of the bond and such costs may be placed as a special assessment against the property if not paid.

(3) **Insurance.** A condition of such license shall be the furnishing of a Certificate of Insurance, containing a provision that the Town Engineer must be notified thirty

(30) days in advance of the effective date of any termination or cancellation thereof, which Certificate shall indicate that there is, in full force and effect, a policy of public liability insurance and motor vehicle liability insurance for each motor vehicle used in conjunction with the licensed activity, issued by an insurance company licensed to do business in the State of Wisconsin, in an amount of not less than Three Hundred Thousand (\$300,000) Dollars protecting against claims involving death, personal injury or property damage.

(4) Permit Required.

a. **Sidewalk.** No person, party, firm or corporation shall construct, modify, demolish, remove or repair a particular Sidewalk within the Town, even if licensed to do so, without first receiving a sidewalk permit. A sidewalk permit may be issued by the Town Engineer to anyone having a license, bond, and insurance as herein required for the following fees:

1. New Sidewalk.

- (a) One lot not requiring line or grade - \$20.00.
- (b) One lot requiring determination of line or grade - \$35.00.
- (c) Lawn Park Walkway only.
  - i. 100 sq. ft. or less - \$15.00.
  - ii. Over 100 sq. ft. - \$20.00.

2. Sidewalk Repair or Mud Jacking.

- (a) For 25 sq. ft. to 100 sq. ft. - \$15.00.
- (b) Over 100 sq. ft. - \$20.00.

b. **Driveway Approach.** A permit to construct, modify, demolish or remove a driveway approach is hereby required and shall be obtained pursuant to Sec. 14-2-5 of the Code of Ordinances.

c. **Failure to Obtain a Permit.** If any sidewalk or driveway approach work is commenced prior to the issuance of a permit, the following shall apply.

- 1. A citation(s) may be issued, as provided for in Sec. 6-3-5.
- 2. If such work or request qualifies for a permit, the fee shall increase to three times the fee amount specified above.
- 3. If such work or request does not qualify for a permit, except as provided in 4. below, the work shall be removed and the right-of-way fully restored to its condition prior to the commencement of said work and a citation may be issued as provided for under Sec. 6-3-5.
- 4. Restoration may not be required if a separate permit is applied for within two weeks of a notice of violation and said permit is issued. The fee for such a permit shall increase to three times the fee amount specified above. Failure to complete the construction as therein permitted may lead to enforcement under Sec. 6-3-5 for the original infraction.

d. **Permit Expiration.** A permit issued under this section shall expire twelve (12) months from the date of issuance unless extended, in writing, by the Town Engineer.

(5) Suspension and Revocation of License or Permit. The Town Engineer, following notice and an opportunity to be heard, may suspend or revoke any license or permit of any holder thereof who violates this or any other relevant Town Ordinance,

County Ordinance, or State law, rule, regulation or any applicable and related order of the Town Engineer.

**SEC. 6-3-4 SIDEWALK IMPROVEMENTS REQUIRED.**

- (a) Sidewalks shall be constructed within public rights-of-way as required by and designated within approved Neighborhood Plans adopted by the Town Board, following a public hearing on the matter.
- (b) Sidewalks shall be incorporated within a neighborhood plan consistent with criteria to be adopted by the Town Board for the development of a Pedestrian Sidewalk System for the Town of Caledonia, with said system criteria to be determined in conjunction with a neighborhood planning process.
- (c) The Town Board may, in its discretion, at any time, order the construction of, repair of, or replacement of public Sidewalks when deemed necessary
- (d) to serve the public safety or convenience. The Town Board may require such work to be accomplished at the expense of the abutting property owner whether the property is improved by a building or not.
- (d) Notwithstanding any other penalties that may apply, the Town may withhold a Certificate of Occupancy from a property owner who fails to construct a sidewalk as required under Sections 6-3-4 (a), (b), or (c).
- (e) Costs for Sidewalk construction, repair or replacement may be placed upon the tax roll in accordance with the following procedure and Sec. 66.0907, Wis. Stats., or in the alternative, by special assessment or special charge in accordance with applicable state statutes.
  - (1) Written notice of the proposed construction, repair or replacement of a public Sidewalk shall be sent by certified or registered 1<sup>st</sup> Class mail to the last recorded address of the abutting property owner; or by publication in the official newspaper as a Class 1 notice along with mailing by 1<sup>st</sup> Class mail; or served upon the person of the abutting property owner.
  - (2) The abutting property owner shall, within twenty (20) days after service, request an opportunity to be heard before the Public Works Committee.
  - (3) The abutting property owner shall be permitted the opportunity to be heard before the Public Works Committee on the necessity for the proposed construction, repair or replacement within forty-five (45) days of his request to be heard. The abutting property owner shall be given the opportunity to appear, with or without counsel, to examine all written reports, to call witnesses, and to submit written reports. The findings of the Public Works Committee shall be reduced to writing and submitted to the Town Board for approval.
  - (4) The Town Board shall decide the necessity for the proposed construction, repair or replacement of public Sidewalks by Resolution after giving the abutting property owner the opportunity to be heard, and after reviewing the report of the Public Works Committee.
  - (5) If after this public hearing the Town Board approves the necessity for the proposed work or if the abutting property owner fails to complete the work and has not requested a public hearing, the Town may cause the work to be done at the expense

of the property owner. The Town Board must approve, by Resolution, the amount of the cost to be imposed upon the benefited property after the final determination of costs has been made. The expense for such work shall be charged against the abutting property owner pursuant to Sec. 66.0907(3)(f), Wis. Stats., as a special assessment pursuant to Sec. 66.0703, Wis. Stats., or as a special charge pursuant to Sec. 66.0627, Wis. Stats. Appeal from this final determination shall be pursuant to the procedures outlined in Sec. 66.0703 (12), Wis. Stats.

(f) **Sidewalks shall not be required in the following areas:**

- (1) Within the Town of Caledonia Industrial Park.
- (2) Within Industrial Parks of over twenty (20) acres upon application to the Town Board for an exemption and approval thereof, when and for so long as not deemed necessary.
- (3) Within a Planned Unit Development Overlay-PDO-District, upon application for an exemption to the Town Board and approval thereof.
- (4) In the public right-of-way abutting property owned by the Town of Caledonia.
- (5) Exemptions requested above may be granted for all or part of the area sought to be exempted, for a specified or unspecified period of time, or under any other condition deemed appropriate by the Town Board.

**SEC. 6-3-5 ENFORCEMENT AND PENALTY.**

- (a) **Enforcement.** Provisions of this Chapter shall be enforced by the Town Engineer and Police Department.
- (b) **Penalty.** In addition to the provisions set forth in this Chapter, any person, firm, or corporation which violates the provisions of this Chapter may be subject to a penalty as provided in Sec. 1-1-6 of the Code of Ordinances.