

No. 334, S.]

[Published June 29, 1961.

**CHAPTER 182**

AN ACT to amend 66.048 of the statutes, relating to viaducts in cities and villages.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

66.048 of the statutes is amended to read:

**66.048 VIADUCTS IN CITIES AND VILLAGES. (1) VIADUCTS, PRIVATE IN CITIES AND VILLAGES. The privilege of erecting a viaduct above**

a public street or alley, for the purpose of connecting buildings on each side thereof, may be granted by the city council *or village board* upon the written petition of the owners of all the frontage of the lots and lands abutting upon the portion thereof sought to be connected, and the owners of more than one-half of the frontage of the lots and lands abutting upon that portion of the remainder thereof which lies within 2,650 feet from the ends of the portion proposed to be so connected. Whenever any of the lots or lands aforesaid is owned by the state, or by a county, city or village, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, said petition may be signed by the governor, the chairman of the county board, the mayor of the city, the president of the board of trustees of the village, the guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent. Written notice stating when and where the petition will be acted upon, and describing the location of the proposed viaduct, shall be given by the city council *or village board* as follows: By posting copies thereof in 3 public places in said city *or village*, not less than 3 weeks before the day fixed for the hearing, and when possible, by the publication of said notice in the official or some other newspaper printed in said city *or village*, once a week for 3 successive weeks before said day.

(2) A viaduct in any city *or village* may be discontinued by the city council *or village board*, upon written petition of the owners of more than one-half of the frontage of the lots and lands abutting on the street approaching on each end of such viaduct, which lies within 2,650 feet from the ends of such viaduct. Whenever any of the lots or lands aforesaid is owned by the state, or by a county or city, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, said petition may be signed by the governor, the chairman of the county board, the mayor of the city, the guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent. Written notice stating when and where the petition will be acted upon, and stating what viaduct is proposed to be discontinued, shall be given by the city council *or village board* as follows: By posting copies thereof in 3 public places in said city *or village* not less than one year before the day fixed for the hearing and again not less than 20 nor more than 30 days before the date of such hearing, and when possible, by the publication of said notice in the official or some other newspaper printed in said city *or village*, once not less than one year before and once a week for 3 successive weeks before said day.

(3) LEASE OF SPACE BY CITIES AND VILLAGES. (a) Any city \* \* \* *or village may* lease space over any street, alley or other public place in the city *or village* which is more than 12 feet above the level of the street, alley or other public place for any term not exceeding 99 years to the person who owns the fee in the property on both sides of the portion of the street, alley or other public place to be so leased, whenever the governing body of the city *or village* is of the opinion that such place is not needed for street, alley or other public purpose, and that the public interest will be served by such leasing.

(b) The leasing of each space shall be authorized by ordinance. The ordinance shall set forth the proposed lease, the purpose for which the space may be used and the terms of the lease with reasonable certainty.

(c) The lease shall be signed on behalf of the city *or village* by the mayor *or village president* and shall be attested by the city *or village* clerk under the corporate seal. The lease shall also be executed by the lessee in such manner as necessary to bind him. After being duly executed and

acknowledged the lease shall be recorded in the office of the register of deeds of the county in which is located the leased premises.

(d) If, in the judgment of such governing body, the public interest requires that any building erected in the leased space be removed so that a street, alley or public place may be restored to its original condition, the lessor city *or village* may condemn the lessee's interest in the leased space by proceeding under ch. 32. After payment of such damages as may be fixed in the condemnation proceedings, the city *or village* may remove all buildings or other structures from the leased space and restore the buildings adjoining the leased space to their original condition.

Approved June 22, 1961.

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