

No. 775, A.]

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CHAPTER 382.

AN ACT to create section 959—35w of the statutes, relating to granting of privileges pertaining to streets by cities, towns and villages, and providing a penalty.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is added to the statutes a new section to read: Section 959—35w. 1. No special privilege for the obstruction or excavation of any kind or nature to be made beyond the lot line or within the limits of any street in front of the property owned by any person shall be granted unless an application shall be made by the owner of the property to the common council, village board or other legislative body. In case there be no lot line and a blue print shall accompany any such application, the common council, village board or other legislative body shall have the power to make such conditions as they may deem advisable.

2. The owner or applicant to whom any privilege shall be granted shall be primarily liable for any damages that may happen by reason of the granting of the same, whether such damages be to the person or to the property. Such special privilege shall be granted conditionally by the common council, village board or other legislative body; and whenever public necessity requires the removal of such obstruction or excavation the owner or applicant shall remove the same when so ordered by the state, the common council, village board or other legislative body or the commissioner of public works upon resolution duly passed by such common council or village board or other legislative body.

3. Whenever it is ordered that such obstruction shall be removed the person to whom the special privilege shall have been granted shall within ten days cause the same to be removed; and in case of the failure so to do the commissioner of public works or any official authorized by the common council, village board or other legislative board to do so shall immediately remove the same, and no rights shall accrue to the owner as against the city, town or village by reason of the tearing out of the same, nor by reason of the fact that the privilege was originally granted by the common council, village or town board or other legislative body. Whenever the granting of such privilege shall interfere in any way with the rights of third parties such third parties shall have a cause of action against the party receiving the privilege only.

4. No privilege shall be granted by the common council, village or town board, or other legislative body unless the application is accompanied by a bond, the amount of which to be determined by such common council, town or village board not to exceed ten thousand dollars, which bond shall run to the city, town or village and to such other parties who might be injured in any manner either to the person or to the property of such person. Whenever such special privilege shall be granted and accepted by the applicant it shall be a condition in such grant that the applicant waives all rights to contest in any manner the validity of this section and the amount of compensation to be charged.

5. The compensation to be charged for the granting of any special privilege shall be determined upon by a board consisting of the commissioner of public works, the city attorney and the mayor, and in case of villages and towns by the president and chairman of their respective boards. Such compensation shall be paid to the city treasurer or other officer who has charge of the funds, to be deposited with the general funds of the city before any work of any kind or nature is done.

6. Nothing in this section shall apply to temporary constructions, and excavations of not more than three months; provided, that permits are given for that length of time by the commissioner of public works or other official designated by the common council, village or town board to grant such permits. Nothing in this section shall apply to public service corporations, nor shall it apply to general ordinances which affect all the people; provided, that such public service corporations making temporary obstructions or excavations shall secure special permits from the commissioner of public works or other official designated by the common council, village or town boards, for such a length of time as may be determined by him to be necessary to perform such work; and they shall be liable for all accidents to persons and damages to real estate that may happen by reason of the granting of any such permits by the commissioner of public works or the person duly authorized by the common council, village or town board or other legislative body.

7. Any person causing any construction upon, over or under the streets, whether temporary or permanent, contrary to the provisions of this section shall be liable to a fine of not less than twenty-five dollars nor more than five hundred dollars, or to imprisonment in the county jail for not less than ten days nor more than six months, or to both such fine and imprisonment.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved June 2, 1913.