



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

February 16, 2006

Village of Dolgeville
41 North Main Street
Dolgeville, NY 13329

RE: Village of Dolgeville, Local Law 1, 2005, filed on 11/16/2005

To Whom It May Concern:

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,
Linda Lasch
Principal Clerk
State Records & Law Bureau
(518) 474-2755

LL:cb

ARTICLE I

SECTION 1. It shall be the duty of the owner of any premises to keep sidewalks, on or running along the street row adjoining the property, in reasonably good and safe repair for users thereof, and such owner shall be responsible for all necessary preventive and corrective maintenance to accomplish this result.

It is a specific intent of this local law to establish liability for personal injuries or property damage proximately resulting from the failure to keep a sidewalk in reasonably good and safe repair directly and solely upon any owner of premises who breaches the duty prescribed herein such that no civil action shall be maintained against the Village of Dolgeville.

It is further specifically intended, pursuant to the authority granted under Municipal Home Rule Law 22 and General Municipal Law 50-e(4), that this local law shall supersede Village Law 6-628.

All other local laws and ordinances inconsistent with the provisions of the within enactment are hereby deemed repealed.

SECTION 2. The following definitions shall apply and be used for reference purposes under this law:

- Curb Line. The point in the outer boundary of a street beyond which no vehicular traffic is intended regardless of whether designated by a continuous and evident physical barrier.
- Street. All public highways in the Village of Dolgeville including, but not limited to, avenues, boulevards, roads, alleys, lanes and viaducts.
- Sidewalk. Any portion of a street between the curb line and an adjacent property line intended for use by pedestrians and as further defined herein.
- Terrace. Any portion of a street between a curb line and sidewalk.
- Owner. The person, or entity, depicted in the office of an applicable county clerk as having record title to real property

SECTION 3. A sidewalk that is not in accordance with the following standards shall constitute a defective sidewalk and a violation of the duty to repair described in Section I herein, to wit:

- A. Unacceptable quality of sidewalk surface, including but not limited to holes, depressions, breaks, or projections.

- B. Ridges or gaps between adjoining sidewalk blocks.
- C. Differences in elevation of the surface or of adjoining sidewalk blocks.
- D. Peeling or crumbling of the surface of the sidewalk.
- E. Tilting of sidewalk or sidewalk blocks except in the case of handicap ramps, driveway approaches or other similar situations.
- F. Missing portions of surface.

The above shall be applicable regardless of the type of sidewalk that exists, whether flagstone, brick, concrete, blacktop or other prepared or manufactured material.

All defective sidewalks within the terms stated above are hereby declared to be a public nuisance.

ARTICLE II

SECTION 1. The Superintendent of Public Works, or his or her designated agent, shall have jurisdiction for recommending remedial action towards placing a sidewalk surface in good repair and upon personal observation of an apparently defective sidewalk during the course of his or her regular duties shall file a written notice as hereafter otherwise described under Section 2 herein.

SECTION 2. Notice from a member of the public regarding an apparently defective sidewalk shall be made in writing and filed with the Village Clerk who, together with any written notice received from the Superintendent of Public Works, shall index, maintain and present same pursuant to the requirements of Village Law 4-402(g) and, within seventy two (72) hours, provide a stamped copy of any indexed notice to the Superintendent of Public Works.

SECTION 3. Based upon the receipt of a stamped copy of a written notice filed with the Village Clerk regarding an apparently defective sidewalk, the Superintendent of Public Works, or his or her designated agent, shall, within seventy two (72) hours, make a full inspection of such sidewalk and file a report with the Code Enforcement Officer and Village Clerk.

SECTION 4. If the report of the Superintendent of Public Works shall confirm the existence of a defective sidewalk as defined in this local law, the Code Enforcement Officer shall cause a notice to be served upon the owner or his or her executor, legal representative, or agent, either personally or by both certified, return receipt requested and regular first class prepaid mail, addressed to the last known address of the owner as said address is shown on the most current records of the Town of Manheim Assessor. If the name of the owner, or current address, cannot be ascertained, notice

Officer or his designated agent. Permit applications shall be furnished by, and available from, either the Code Enforcement Officer or Village Clerk.

SECTION 3. At the time of making application to the Village for a permit to construct, or repair, a sidewalk, the owner or contractor shall pay a fee in the amount designated for such matters in the comprehensive building permit fee schedule previously adopted by the Board of Trustees.

SECTION 4. No permit shall be issued to a contractor until he has filed with the Code Enforcement Officer a certificate showing that he carries workmen's compensation insurance for all of his employees, together with such other insurance as the Code Enforcement Officer may by rule or regulation require.

SECTION 5. No person shall commence to repair or reconstruct a sidewalk until final approval has been secured from the Code Enforcement Officer.

SECTION 6. All replacement sidewalks shall be made of concrete.

SECTION 7. All sidewalk repair, or construction, is required, at a maximum, to be performed in accordance with the minimum standards established in New York State codes enacted for the following criteria, as applicable:

- A. Minimum dimensions of width and depth of sidewalk blocks in residential and business areas.
- B. Excavation and sub-base requirement.
- C. Forming and reinforcement.
- D. Concrete mixture specifications.
- E. Fine and coarse aggregate specifications.
- F. Water quality.
- G. Mixing of concrete ingredients.
- H. Joints.
- I. Finishing.
- J. Protection of wet concrete.
- K. Construction safeguards.

SECTION 8. A copy of any permit issued in accordance with this local law, in the possession of the persons actually doing the work, shall be available for inspection by the Code Enforcement Officer, or his or her representative.

ARTICLE IV

SECTION 1. It shall be unlawful for any person, whether or not interested in the property affected by this local law, to hinder or obstruct the Code Enforcement Officer or any person acting on his behalf.

SECTION 2. Sidewalk repair or replacement work performed by the Village because of the neglect, refusal or failure of the property owner to agree to the work, or upon the completion of work not meeting the standards herein, shall make such work ineligible for any Village sidewalk repair or construction reimbursement plan. The Village, without any notices or orders other than previously described herein, reserves the right to initiate, repair or replace sidewalk work because of the neglect, refusal or failure of, or unsatisfactory completion by, a property owner.

SECTION 3. Any person or persons violating any provision of this local law shall be deemed to have committed a non-criminal offense "violation" as described in Penal Law 10(3) and be subjected to a fine, such fine not to exceed two hundred fifty (\$250.00) dollars, or a sentence of imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment, together with any surcharge applicable under law. Nothing herein, however, should be construed to prevent a court of competent jurisdiction from imposing an Adjudgment in Contemplation of Dismissal, Unconditional Discharge or Conditional Discharge as those procedures are defined in the Criminal Procedure Law and Penal Law.

The penalties and procedures described herein may be in addition to any other remedies or actions that may be taken by the Village either as provided herein or as may otherwise be permitted by law.

SECTION 4. The Village shall be reimbursed for the cost of the work performed or services rendered as provided in this law by assessment against and collection from the lots or parcels of land where such work was performed or services rendered for so much of the actual and complete cost as incurred upon and from each lot or lots, in the manner provided for the assessment of the cost of public improvements by applicable law, together with interest as allowed by the Civil Practice Law and Rules for judgments.

ARTICLE V

The Code Enforcement Officer is authorized to issue an Appearance Ticket as defined in Criminal Procedure Law 1.20(26) for the purpose of commencing the prosecution of a violation hereunder in a court of competent jurisdiction.

ARTICLE VI

This local law shall take effect immediately upon its filing with the Secretary of the State of New York.