

**VILLAGE OF SKANEATELES
DRAFT LOCAL LAW #1 OF 2019
A LOCAL LAW TO AMEND CHAPTER 183 (“STREETS AND SIDEWALKS”),
ARTICLE I (“GENERAL PROVISIONS”)
OF THE VILLAGE OF SKANEATELES**

BE IT ENACTED BY THE VILLAGE BOARD OF THE VILLAGE OF SKANEATELES:

Statement of Intent and Findings.

The Board of Trustees has determined that it is appropriate to authorize a benefit assessment program by which the Village of Skaneateles will establish a pleasant and safe network of sidewalks for the use, benefit and enjoyment of all members of the community, including children, the elderly and those with limited mobility.

Pursuant to Municipal Home Rule Law Section 10(1)(ii)(e)(2), the Village of Skaneateles is authorized to adopt a local law relating to the authorization, making, confirmation, and correction of benefit assessments for local improvements.

The Village Board of Trustees makes the following findings of fact:

- A. Residents, businesses, organizations and individual property owners beyond the abutting property owner are benefited by a comprehensive and high-quality network of sidewalks.
- B. Abutting property owners are better served by paying an annual assessment for the construction and repair of sidewalks near their property, rather than face unpredictable, large, lump-sum assessments for construction and repair of abutting sidewalks.
- C. Sidewalks are appropriately designated as a local improvement for which property owners may be assessed for the benefit the property receives, and such assessments are necessary to defray the cost of construction and maintenance of sidewalks in the Village.

Authority.

This Local Law is enacted pursuant to the authority of the Municipal Home Rule Law, section 10(1)(ii)(e)(2).

Text of Proposed Local Law.

I. Chapter 183 (“Streets and Sidewalks”), Article I (“General Provisions”), is hereby amended to read as follows (changes highlighted):

“§ 183-1. Purpose.

The purpose of this article shall be to establish and maintain a pleasant and safe network of sidewalks for the use, benefit and enjoyment of all people within the Village of Skaneateles.

§ 183-2. Assessment Formula.

A. Definitions – As used in this article, the following terms shall have the meanings indicated:

ANNUAL MAINTENANCE FEE --The annual maintenance fee for all Lots is seventy-five dollars (\$75.00).

COST OF PAST WORK--The sum paid for Past Work, in an amount not to exceed two hundred twenty-five dollars (\$225.00).

LOCAL IMPROVEMENT--Any public improvement or work, the expense of which is directed by the Village Board of Trustees to be assessed in whole or in part upon the property or properties deemed benefited.

LOT--Lot or parcel of land, as set forth by the current Village of Skaneateles Tax Maps on file with the Onondaga County Department of Assessment.

PAST WORK--Sidewalk Construction or Repair performed on a Lot located in and subject to assessments as part of this Chapter, and permitted by and performed pursuant to the 2017/2018 Village sidewalk improvement program.

SIDEWALK CONSTRUCTION OR REPAIR--Construction or repair of any public sidewalk intended for the use of pedestrians in a Village park or approximately following along the line of the street or streets upon which the Lot fronts, including but not limited to sidewalk curb cuts and curb accessibility ramps, and, other actions determined by the Director of Municipal Operations to be necessary to the construction or repair of said sidewalks, including but not limited to, any paving, earth work, drainage, and appurtenances, provided, however, that the construction or repair of driveway cuts or aprons is excluded.

B. Each Lot shall be assessed an annual maintenance fee for sidewalk construction or repair to be performed in the Village. A Lot's assessment under this Section shall be reduced by the Cost of Past Work as set forth herein.

C. A Lot is automatically eligible for a reduction for the Cost of Past Work for three (3) years from the effective date of this local law (“Reduction Period”). In each year of the Reduction Period for which an assessment, if any, is made pursuant to this Section, the Lot's Past Work Reduction shall be seventy-five dollars (\$75.00).

§ 183-3. Appeals and Reassessments.

- A. No action or proceeding to set aside, vacate, cancel or annul any assessment for a local improvement shall be maintained, except for total want of jurisdiction to levy and assess the same on the part of the officer, officers, board, or body authorized by law to make such levy or assessment or to order the improvement on account of which the levy or assessment was made. In the event that a court of competent jurisdiction finds such total want of jurisdiction, sections 183-1, 183-2, 183-3, 183-4 and 183-5 shall be deemed repealed, and the previous sidewalk improvement program shall automatically take effect.
- B. No action or proceedings shall be maintained to modify or reduce any assessment for a local improvement, except for fraud or substantial error by reason of which the amount of such assessment is in substantial excess of the amount which should have been lawfully levied or assessed.
- C. Any person or persons, jointly or severally, aggrieved by any determination of assessment for a local improvement pursuant to this Article may have the decision reviewed by the Supreme Court of New York in the manner provided in Article 78 of the Civil Practice Law and Rules.
- D. Whenever any assessments made under the provisions of this Article shall be set aside or shall be decided by any court having jurisdiction thereof to have been improperly or illegally made or whenever it be ascertained that the proceedings under which said assessment has been made shall be so far irregular and erroneous as to make the collection of such assessment illegal, then a reassessment shall be made with the same force and effect as if it had been an original assessment; provided, however, that in the event that no assessment is thereafter successfully levied, those properties affected shall be subject to the previous sidewalk improvement program.
- E. Nothing herein shall modify or abolish the duty of the owners of lands abutting any street, highway, alley or other public place in the Village to keep the sidewalks, approaches or street driveways adjoining such lands free and clear of and from snow, ice, and all other obstructions, nor shall anything herein modify or abolish the liability of such owner for any injury or damage caused by reason of omission, failure or negligence to keep such sidewalk free from snow, ice, or other obstructions, as provided in this Article.

§ 183-4. Construction or Repair of Sidewalks.

- A. The Director of Municipal Operations shall recommend, subject to amendment and approval by the Village Board of Trustees, a budget and a schedule of sidewalk construction or repair to be performed in the Village as part of the Village's budget for each fiscal year; provided, however, that the budget for the first fiscal year following the year of enactment of this Local Law shall be recommended and approved on such schedule as deemed practicable by the Director of Municipal Operations and the Village Board of Trustees. The Board of Trustees shall have the authority to include in such budget all or any portion of the cost for past sidewalk construction

or repair performed by the Village on a property located in and subject to assessments in the Village, so long as said cost has not been assessed upon the abutting property owner prior to the effective date of this Section. Such budget may include the issuing of, and payment of the maturing principal of and interest on, any obligation issued pursuant to the Local Finance Law for purposes of financing the construction or repair of sidewalks pursuant to this Article.

- B. Before the budget and schedule of work required by Subsection A hereof are given final approval by the Board of Trustees, the Village Clerk shall give notice by publication in the official Village newspaper of a public hearing thereon on a date specified, which date shall not be less than ten (10) days from the first publication. Before the date of public hearing, any person may file with the Village Clerk written objections to such budget or schedule of work or any part thereof, which objections shall be presented to the Board of Trustees before action shall be taken on such budget and schedule of work. At the time so appointed or at such other time to which it may adjourn for that purpose, the Board of Trustees may hear the allegations of any person interested who shall have filed such objections and may take proof in relation thereto. Such allegations and proofs shall be confined to the matters stated in such written objections. The Board of Trustees may thereupon alter, correct or amend any assessment as justice may require, by local law, after a public hearing. The amount of each local improvement benefit assessment shall be a lien upon the real property so assessed. Such assessments and, if required, any reassessments, shall be collected in the manner provide in the Village Code for the enforcement, levy and collection of Village taxes.
- C. The Director of Municipal Operations and Board of Trustees may include construction or repair of sidewalk curb cuts and curb accessibility ramps in the local improvements to be made in the Village. The Director of Municipal Operations or Board of Trustees shall not include construction or repair of driveway aprons, which shall remain the financial responsibility of the abutting property owner.
- D. Work performed in the Village pursuant to this Section shall be deemed a local improvement, and the Board of Trustees declares and finds that the Assessment Formula in section 183-2 assesses each property in proportion to the benefit received by that property from construction and repair of sidewalks in the Village, and that such assessments are necessary to defray the cost of construction and repair of sidewalks in the Village.
- E. Nothing herein shall be construed to modify or alter any power of the Village Planning Board or the Zoning Board of Appeals to require a property owner to bear the full cost of sidewalk construction or repair as part of the site plan review or subdivision process as set forth in the Village Code.

§ 183-5. Severability.

Severability is intended throughout and within the provisions of this Local Law. If any section, subsection, sentence, clause, phrase, or portion of this Local Law is held to be invalid or

unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Local Law.

§ 183-16. Placement of building materials in streets.

A. The Trustees of the Village shall be authorized to grant any person permission to place any building materials in any of the streets, alleys and public squares of the Village; such permission, however, shall not be for a longer period than three months nor authorize the obstruction of any part of the sidewalk, nor more than 1/2 of the carriageway of the street opposite the lot or place where the building is proposed to be erected.

B. Any such permission may be revoked by the Trustees at any time, and any person occupying any portion of said streets with building materials shall be held personally responsible for any damage that may arise therefrom.

§ 183-27. Duty to remove materials.

Every person to whom permission is granted as provided in § 183-16 shall cause all timber, building materials and rubbish arising therefrom to be removed from the street by the expiration of the time limited in such permission granted as aforesaid.

§ 183-38. Excavations.

A. No person shall excavate or dig in or through any pavement or street in the Village, or part of such pavement or street, or other pavement or terrace or sidewalk or any part thereof, nor shall any person relay or dig up or construct any sidewalk in the Village, except upon notice to, and except with the consent of, the Director of Public Works of the Village.

B. Any such excavation or digging or construction in any street of said Village, or relaying or constructing or repairing of any such sidewalk, shall be done under the supervision of said Director of Public Works, who shall take personal charge of said work, in order that no danger shall result to the traveling public and that the same shall be properly protected and speedily restored to a safe and proper condition.

§ 183-49. Damaging pavement or drain; obstructing repair work.

It shall be unlawful for any person to injure or tear up any pavement, sidewalk or crosswalk, drain or sewer, or any part thereof, or to dig any hole, ditch or drain in any street, pavement or sidewalk, without authority from the Village Board of Trustees, or to hinder or obstruct the making

or repairing of any pavement or sidewalk or crosswalk under any law or resolution of the Village Board of Trustees, or to hinder or obstruct any persons employed by the Village Board of Trustees or the person employed by them in making or repairing any public improvement or work ordered by the Trustees.

~~§ 183-5. Duty to maintain sidewalks in good state of repair.~~

~~It shall be the duty of the owner of property abutting upon a public sidewalk to maintain said sidewalk in a good state of repair and to repair any and all defects therein. If said owner shall fail, neglect or refuse to so maintain such sidewalk, the Village shall be authorized and empowered to do whatever work is necessary to place the sidewalk in satisfactory condition and to charge said abutting owner for the cost of such work.~~

§ 183-610. Duty to keep sidewalk clear of snow, dirt and obstructions.

A. Every owner or occupant of any house or other building, and every owner or person entitled to the possession of any vacant lot, and any person having the charge of any church or other public building in the Village, during the winter season and during the time the snow shall continue on the ground, within 12 hours after a snowfall, shall keep the sidewalk in front of such house, building or lot free from obstruction by snow, and shall also at all times keep such sidewalks clean and free from all dirt, filth and other obstructions or encumbrances.

B. No sidewalk shall be closed to pedestrian traffic or obstructed by repair and/or maintenance equipment. If repair and/or maintenance of a structure adjoining a sidewalk is necessary, the owner shall make provision to maintain the flow of pedestrian traffic on the adjoining sidewalk and shall protect the safety of those using the sidewalk by erecting a safety barrier and maintaining an enclosed passageway through the work area. A permit for the erection of a safety barrier and enclosed passageway shall be obtained from the Code Enforcement Officer upon presentation of an application and a suitable plan reflecting such detail as may be requested by the Code Enforcement Officer. An approved safety barrier and enclosed passageway shall not extend into or obstruct an adjoining public street.

C. Any violation of this section shall be enforceable in accordance with the provisions of Chapter 76, Building Construction, Article II, Administration, of the Village Code of the Village of Skaneateles.”

Effective Date: This local law is subject to permissive referendum. It shall take effect 31 days after its adoption.

Adopted: _____, 2019.

Motion by: Trustee _____

Seconded by: Trustee _____

Voting in Favor: Trustees _____

Voting in Opposition: _____