

Village of Penn Yan



on Keuka Lake

Mayor Leigh MacKerchar
Trustee Danny Condella
Trustee Teresa Hoban
Trustee Norman Koek
Trustee Kevin McCloud
Trustee Raymond Spencer
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NOTICE OF PUBLIC HEARING

VILLAGE OF PENN YAN

Proposed Local Law to Amend the Streets and Sidewalks Chapter of the Village Code.

Notice is hereby given that a Public Hearing by the Board of Trustees of the Village of Penn Yan, County of Yates, State of New York, will be held on the 20th day of July, 2021, at 6:05 p.m. upon the proposed Local Law.

The effect of this Local Law will be to provide an opportunity for property owners to enter into an agreement with the Village to pay for costs related to public or quasi-public sidewalk repairs and replacment.

The Village Hall is in compliance with accessibility standards of the Americans With Disabilities Act. Any person with a handicap wishing to attend and/or be heard at the public hearing should contact the Village Clerk's Office at least five (5) business days prior to the date of the public hearing to request any special needs.

All persons interested in this proposed Local Law will be heard by the Board of Trustees at the Public Hearing to be held as stated above. Copies of the proposed Local Law are available at the Office of the Clerk of the Village of Penn Yan, 111 Elm Street, Penn Yan, NY 14527 during regular business hours.

A copy of the proposed Local Law may also be examined on the Village website www.villageofpennyan.com.

Gary Meeks, Village Clerk/Treasurer
Village of Penn Yan

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Proposed Local Law M of 2021 Amending Chapter 174 of the Code of the Village of Penn Yan.

Be it enacted by the Board of Trustees of the Village of Penn Yan, in the County of Yates, as follows:

SECTION 1. SHORT TITLE

This Local Law shall be known as the “2020 Amendment to the “Streets and Sidewalks” Chapter of the Village Code Concerning Maintenances of Sidewalks in the Village.”

SECTION 2. LEGISLATIVE FINDINGS AND INTENT

The Board of Trustees determines that for purposes of public safety and uniformity of construction and condition of public and quasi-public sidewalks within regulations are appropriate.

SECTION 3. LEGISLATIVE AUTHORITY

This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

SECTION 4. PROVISIONS

The following Sections of Article I “Maintenance of Sidewalks” of Chapter 174 “Streets and Sidewalks” are amended to provide as follows:

Section 174-1. Duty of owner of property adjacent to public sidewalk or quasi-public sidewalk.

Any person(s) or entity owning property upon which or adjacent to which is located a public sidewalk or quasi-public sidewalk is obligated to keep such public sidewalk or quasi-public sidewalk in a clean condition. Such person(s) or entity shall remove or cause to be removed, to the extent reasonably possible, any accumulation of snow and/or ice on such sidewalk. In the event that such person(s) or entity shall not comply herewith, the Village of Penn Yan may cause such snow and/or ice to be removed. The expenses of removal by the Village shall be billed to the person(s) or entity owning the

property upon which or adjacent to which sidewalk from which such snow and/or ice was caused to be removed by the Village. Such bill shall be due thirty (30) days from the date issued. Non-payment by the due date shall result in such amount being imposed and collected against the property owned by such person(s) or entity in the same manner as provided by law for the collection of real property taxes.

§174-2. Maintenance of Sidewalks; Obligation to Maintain and Repair; Notice to Repair.

Any person(s) or entity owning property upon which or adjacent to which is located a public sidewalk or quasi-public sidewalk, is obligated to keep such sidewalk in good repair. In the event that such owner fails to keep such sidewalk in good repair, the Village Clerk shall notify said owner, in writing, by mail addressed to the owner's address as shown on the Village assessment rolls, requiring said owner to cause such sidewalk to be repaired or replaced in compliance with the specifications of this Article and that such repair or replacement be completed within sixty (60) days of the date of the notice to repair or replace. The property owner may, in the alternative, arrange with the Village to have the repairs or replacement performed by the Village pursuant to Section 174-6. of this Article. Upon failure of the owner to repair or replace the sidewalk within the prescribed time, the Village may perform such repair or replacement at the property owner's expense. The Village Clerk shall bill the property owner for the costs of such repair or replacement plus an additional fee equivalent to twenty (20%) percent of that cost as an administrative charge, which sum shall be due thirty (30) days from the date of the billing. Non-payment by the due date shall result in such amount being imposed and collected against the property owned by such person(s) or entity in the same manner as provided by law for the collection of real property taxes.

§174-3. Failure to pay; collection costs.

At the regularly scheduled meeting of the Board of Trustees in April each year, the Village Clerk shall submit to the Board of Trustees a report showing the names of owners who have failed to pay any bill rendered or adhere to any payment plan pursuant to this Article during the previous twelve (12) months, together with the amount of said unpaid bills or overdue sums pursuant to any payment agreement together with the added administrative fee applicable thereto. The Board Trustees upon receiving said report shall direct that said unpaid amounts be assessed against the real property of said owner which abuts the public street as of the following June 1, and said amounts shall become a lien against said real property at said time and shall be collected along with the current Village taxes.

§174-4. Construction requirements.

All new or replacement sidewalks shall be of concrete and conform to the specifications established by the Department of Public Works of the Village of Penn Yan.

§174-5. Removal by Village.

In the event that any public or quasi-public sidewalk is in need of repair or replacement, the owner of the real property upon which such sidewalk is located or to which such sidewalk is adjacent may make application, whether said application is voluntary or as a result of an order of the Board of Trustees of the Village of Penn Yan, at Village cost, to remove the existing sidewalk. Said application shall be in writing to the Village asking for said removal of the sidewalk and, in addition indemnifying the Village from any claim, demand or cause of action arising out of or relating to the removal of said sidewalk. A fee for the filing of said application may be established by the Village Board of Trustees. The application will be processed and acted upon in the chronological order in which they are receive, and the Village will perform these services only to the extent that the Village personnel, equipment, moneys and assets are available, and such availability will be at the sole discretion of the Board of Trustees of the Village of Penn Yan. During the removal and or portion thereof, hauling away of said sidewalks, the Village will maintain the subject area, but once the Village has performed this service, it will be the responsibility of the owner or adjacent owner to maintain the area in a safe manner until the completion of the installation of the new sidewalk, The Village will not remove or haul away any sidewalk or portion thereof, until the owner has agreed to replace them with new concrete sidewalk in accordance with the other requirements of this article, which agreement must be to replace them within a reasonable time, not to exceed fourteen (14) days from the completion of the Village services.

§174-6. Repair and replacement by Village.

As an alternative to the property owner repairing and/or replacing a sidewalk, any owner of real property situate in the Village of Penn Yan, New York, upon which or adjacent to which is located a public or quasi-public sidewalk may be eligible for sidewalk repair or replacement by the Village of Penn Yan pursuant to the following procedure:

A. The Village of Penn Yan, upon application by a property owner on a form promulgated by the Village may repair or replace sidewalks at a preestablished rate. The application shall include an indemnification clause, executed by the owners(s) of the real property upon which or adjacent to which the sidewalk is to be located, absolving the Village and its employees, officers and agents of liability for any claim, demand or cause of action arising out of or related to the repair or replacement of said sidewalk. The Village shall perform sidewalk repair and replacement services only to the extent that Village personnel, equipment and funds are available in any particular calendar year, the availability of which shall be determined in the sole discretion of the Board of Trustees of the Village of Penn Yan.

B. Applications for sidewalk replacement in any particular calendar year shall be filed with the Village Clerk no later than a date set by resolution duly adopted by the Board of Trustees each year. Such resolution shall also designate a date by which the Village Clerk shall notify applicants as to whether their application has been accepted, as well as a date by which payment shall be made by the property owner to the Village for sidewalk repair or replacement. Publication of notice of the program availability shall be

made no less than thirty (30) days prior to the deadline of submission of applications. The deadline set for payment to the Village Clerk for sidewalk repair or replacement shall be no less than thirty (30) days subsequent to notice of acceptance of the property owner for repair or replacement of this sidewalk for that calendar year. Any proposed payment plan for sidewalk repair or replacement for a particular property owner must first meet the following conditions:

1. There are no past due Village utility bills applicable to the subject property;
2. There are no past due Village, School or Town and County tax bills applicable to the subject property;
3. There are no existing code violations applicable to the subject property, other than pertaining to public or quasi-public sidewalks;
4. The payment plan provides that the full amount due for the sidewalk repair or replacement will be paid within twelve (12) months of the execution thereof;
5. The Board of Trustees, in its sole reasonable discretion, approves the payment plan;
6. The property owner(s) execute a payment plan agreement in a format and with content prescribed by the Board of Trustees.

C. Failure of the Board of Trustees to budget funds or to provide personnel and equipment for repair or replacement of sidewalks shall in no way excuse any property owner from properly maintaining, repairing, constructing or replacing sidewalks in accordance with any provision of the Code of the Village of Penn Yan.

D. The rate at which the Village of Penn Yan charges for sidewalk repair and/or replacement shall be established by resolution duly adopted by the Board of Trustees of the Village of Penn Yan, subsequent to public hearing on the issue upon five (5) days' notice thereof, published in a newspaper of general distribution in the Village of Penn Yan and posted upon the bulletin board at the Village Office Building. Any change in rate shall be made on or about November 15 each year.

E. Failure to comply with an executed payment plan agreement for a period in excess of thirty (30) days may result in the total sum due pursuant to the payment plan agreement being due plus an additional fee of twenty (20%) percent of the total amount due pursuant to that payment plan agreement, as an administrative fee being added to the amount due.

SECTION 5. SEVERABILITY.

In the event that a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 6. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State of the State of New York, subsequent to having been duly adopted by the Board of Trustees of the Village of Penn Yan.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only)

I hereby certify that the local law annexed hereto, designated as Local Law No. 8 of the year 2021, was duly passed by the Board of Trustees of the Village of Penn Yan on , in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Gary Meeks, Clerk/Treasurer

(SEAL)

Date: July , 2021

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality)

STATE OF NEW YORK)
COUNTY YATES) ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Edward J. Brockman, Village Attorney

Village of Penn Yan

Date: July , 2021