

Local Law Filing

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County
City
~~Town~~ of Plandome Heights
Village

Bill No. 1 of 2009

Local Law No. ____ of the year _____

(Insert Title)

A local law amending Section 110-6 of Chapter 110 of the Code of the Village of Plandome Heights to exclude (i) Curbing from Sidewalk Maintenance Obligations of Abutting Property Owners and Occupants and (ii) Sidewalks with Insufficient Curb Elevation Differential from Paved Roadway from Snow and Ice Removal Obligations of Abutting Property Owners and Occupants.

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

County
City
~~Town~~ of Plandome Heights
Village

Section 1. Legislative findings.

(a) The Board of Trustees finds that Section 110-6 of the Village Code, requiring property owners and occupants in the Village to maintain sidewalks in the abutting public right-of-way, should be amended to exclude curbing from such obligation. The Board of Trustees finds that such amendment will protect the health, safety and welfare of the Village and its residents by eliminating the piecemeal construction and replacement of curbing on public streets in the Village. As a practical matter, the construction of roads in areas within the Village that have sidewalks will

ordinarily include the installation of curbing when streets are installed and, if necessary, when they are repaired. By relieving abutting property owners and occupants of the obligation to maintain and repair curbing, the Village can insure that curbing of uniform design and quality will be installed and maintained throughout the Village.

(b) In addition, the Board finds that those provisions of Section 110-6 that require property owners and occupants to remove snow, ice and other frozen precipitation from the sidewalks in the abutting right-of-way should apply only in those areas of the Village where there is curbing that creates an elevation differential between the sidewalk and the paved roadway that serves as a physical barrier to guide snow plow vehicles, reducing or eliminating the possibility that such vehicles will push snow and ice back onto sidewalks. The Board finds that, where there is no intervening curb, or where curbing exists but creates only a de minimus elevation differential (an “Insufficient Curb Elevation Differential”), between sidewalk and paved roadway, snow plow operators tend to push snow, ice and frozen precipitation that has fallen in the street or roadways, or that has been shoveled off of sidewalks onto the public right-of-way, back onto, or right next to, sidewalks. The Board finds that efforts by the Village in the past to instruct its snow-removal contractors to avoid such occurrences have been unsuccessful, for practical reasons, including visibility during and after storms leaving accumulation on the ground, as well as plow operator turnover at the contractors.

(c) Furthermore, the Board finds that accumulation deposited or re-deposited by a snow plow on, or close to, sidewalks can create a rough, uneven and slippery surface, making it difficult for pedestrians to navigate sidewalks covered in this manner. Also, when the accumulations melt and then re-freeze, the result can be smooth, slippery, “black ice” or other hazardous conditions for pedestrians. Such melting is likely to occur during the daytime, creating hazardous conditions for pedestrians returning home on winter evenings, as re-freezing may occur after sundown. During the winter months, a pattern of daytime melting followed by evening and night-time re-freezing can develop, creating a continuing problem. The Board finds, based upon the experience of certain Village residents who have reported to the Board, that there is a substantially greater likelihood that snow plow vehicles will deposit mounds of plowed accumulation on or near sidewalks where there is Insufficient Curb Elevation Differential than in those areas of the Village where there is sufficient Curb Elevation Differential to guide snow plow operators. When this occurs, it may impair the ability of affected property owners and occupants to satisfy their obligations under Section 110-6.

(d) The Board has surveyed the Village streets and determined that the following streets or roads within the Village have Insufficient Curb Elevation Differential, and shall be referred to as the “Exempt Street Segments”: Bournedale Road North; between Plandome Road and Brookwold; Bournedale Road South, between Chester and Brookwold; Winthrope Road, between Bournedale Road North and Webster; Brookwold, between Bournedale Road North and Webster; Chester, between Bournedale

Road North and Webster. The Board finds that the Exempt Street Segments are among the least heavily trafficked streets within the Village, thereby minimizing any adverse impact upon the Village and its residents from excluding owners and occupants of parcels abutting Exempt Street Segments from the requirement under Section 110-6 to remove snow and ice from sidewalks that abut Exempt Street Segments.

Section 2. Section 110-6 of the Code of the Village of Plandome Heights is hereby amended to read in its entirety as follows:

“§110-6. Maintenance and Repair of Sidewalks; Removal of Snow, Ice and Obstructions from Sidewalks; Parking on Sidewalks Prohibited.

(a) Maintenance of Sidewalks. Every owner or occupant of real property within the Village shall maintain in good repair and safe condition the sidewalk abutting property within the Village that is owned or occupied by him, her or it. The Board of Trustees shall provide for the enforcement of this clause (a) of § 110-6 by resolution, and it shall regularly require the Village Clerk to identify the owners and occupants of properties within the Village with respect to which abutting sidewalks are in unsafe condition or disrepair. The Village Clerk shall deliver to each such owner or occupant thirty days’ prior written notice that said sidewalk is in unsafe condition or disrepair, notifying such owner or occupant that failure of such owner or occupant to correct such unsafe condition or disrepair within such thirty day period shall constitute a violation of Chapter 110 of the Village Code. Upon the failure of any such owner or occupant to correct the unsafe condition or disrepair identified in such notice within such thirty day period, the Board of Trustees may elect to cause such unsafe condition or disrepair to be corrected, and to assess the expense thereof upon the real property abutting the sidewalk so corrected or repaired, and the charge therefor shall constitute a lien and charge upon such real property until paid or otherwise satisfied or discharged, and same shall be collected by the Village Treasurer in the manner provided by law for the collection of delinquent taxes.

(b) Removal of Snow, Ice and Obstructions from Sidewalks. Except to the extent expressly provided in clause (c) of this Section 110-6, every owner and occupant of property located within the Village shall keep and maintain the sidewalks abutting such property in a clean condition, free and clear of all snow, ice, dirt, refuse, debris, rubbish and other obstructions, and in a safe condition for public travel. Without limiting the foregoing, every owner or occupant of property located within the Village shall, within twelve (12) hours after the cessation of any storm or weather event causing snow, ice or other frozen precipitation to be deposited upon any sidewalk abutting property within the Village owned by such owner or occupied by such occupant, remove or cause said snow or ice or other frozen precipitation to be removed or cleared entirely from the sidewalk abutting such property; provided, however, that the time between the hours 7:00

p.m. to 7:00 a.m. shall not be included in the period of twelve (12) hours referred to above.

(c) Notwithstanding any contrary provision contained in the preceding clause (b), owners and occupants of property located within the Village and having frontage upon the portions of Village streets identified below (collectively, “Exempt Street Segments”) shall have no obligation under said clause (b) to remove or cause to be removed snow, ice or other frozen precipitation deposited upon any sidewalk abutting any portion of an Exempt Street Segment. However, any owner or occupant of any parcel of real property with frontage upon both an Exempt Street Segment and any other Village street must comply with clause (b) as to any sidewalk abutting such parcel that does not abut an Exempt Street Segment. Nothing herein is intended or shall be deemed to excuse any owner or occupant of any parcel of real property with frontage upon an Exempt Street Segment from complying with all other provisions of this Section 110-6, and this Chapter 110, including without limitation, Section 110-7. Exempt Street Segments are the following: Bournedale Road North; between Plandome Road and Brookwold; Bournedale Road South, between Chester and Brookwold; Winthrope Road, between Bournedale Road North and Webster; Brookwold, between Bournedale Road North and Webster; Chester, between Bournedale Road North and Webster.

(d) Parking on Sidewalks. Parking of automobiles and all other types of motor vehicles on sidewalks within the Village is prohibited.”

Section 3. Effective Date. This local law shall take effect immediately.

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