

VILLAGE OF COLUMBIAVILLE

ORDINANCE AMENDING THE SIDEWALK ORDINANCE

SNOW REMOVAL ENFORCEMENT

ORDINANCE NUMBER 230.1


An Ordinance to Amend Section 12 of the Village of Columbiaville Sidewalk Ordinance Number 230 adopted on the 7th day of June, 1983, as to enforcement of snow removal requirements.

THE VILLAGE OF COLUMBIAVILLE ORDAINS:


The following amended ordinance section repeals and replaces the former Section 12 of Ordinance Number 230:

Section 12. The owner or occupant of any lot or premises is responsible for removing all snow and ice from the sidewalk in front or adjacent to such lot or premises within sixteen (16) hours after the accumulation of snow or ice. The owner or occupant of any lot or premises who fails to remove all snow and ice in accordance with this Section shall be liable for any and all losses to the Village or damages to person or property of others caused by such failure. Furthermore, if the owner or occupant fails to remove the snow and ice in accordance with this Section, the Village may cause the removal to be performed at the expense of the owner or occupant and may cause the amount of expenses incurred, together with a penalty of ten (10%) percent to be levied by them as a special assessment upon the lot or premises adjacent to the sidewalk. This special assessment and any interest shall constitute a lien on the premises and shall be a debt of the owner or occupant assessed, and in the case of delinquency, it may be collected as delinquent village property taxes or by a suit against the person responsible.

The undersigned President and Clerk of the Village of Columbiaville hereby certify that this amendment was duly adopted by the Columbiaville Village Council on or about the 17 day of JANUARY, 2011 and was published in the L.A. View on the 3rd day of February, 2011. This Ordinance becomes effective twenty (20) days after said date of adoption.



THOMAS WOOD, Village President



DENISE DUPACK, Village Clerk

LAW OFFICES

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December 22, 2010

Columbiaville Village Council
c/o Denise Dupack, Clerk
4605 Pine Street
P.O. Box 100
Columbiaville, MI 48421

Re: Snow and Ice Removal from Sidewalks

Dear Village Council:

Pursuant to your request, I have researched the applicable statutes regarding the Village's ability to charge for removing snow and ice from sidewalks and then applying that bill on the Village Tax Roll.

The Village's Sidewalk Ordinance No. 230 provides in section 12 for the removal of snow and ice within sixteen (16) hours after accumulation. It further states that the homeowner will be liable to the village for all damage to person or property caused by the failure of the owner to remove the snow or ice.

Michigan statute (MCL 67.9) provides that the Council has the power to require owners or occupants of property to remove all snow and ice from the sidewalks in front of or adjacent to the lot and premise. If an owner or occupant fails to keep the sidewalk free of snow and ice, the Council may remove the snow and ice "at the expense of the owner or occupant, and may cause the amount of the expenses incurred, together with a penalty of 10 percent (10%) to be levied by them as a special assessment upon the lot or premises adjacent to and abutting the sidewalk." MCL 67.10. Once a special assessment is confirmed and levied, "the full amount of the assessment and the interest thereon shall constitute a lien on the premises subject thereto and that amount shall be a debt of the person to whom assessed until paid and, in the case of delinquency, may be collected as delinquent village property taxes or by a suit against the person." MCL 68.33.

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VLG OF COLUMBIAVILLE

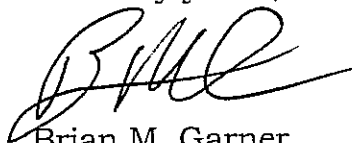
Columbiaville Village Council
c/o Denise Dupack, Clerk
December 22, 2010
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In light of this statute, it is our opinion that the Village can apply the cost of the snow removal to the tax roll for the property to which it is adjacent when the bill is delinquent. The Village also has the ability to file a civil suit against the owner or occupant of a premise and, "collect the amount, together with the penalty in a civil action, together with costs of the suit." MCL 67.10.

Please let us know if you would like us to update the Ordinance to include the statutory authorization for collection on the tax roll.

If you have any questions about anything stated in this opinion letter, please do not hesitate to contact our office.

Sincerely yours,

A handwritten signature in black ink, appearing to read "B.M.G.", with a long horizontal flourish extending to the right.

Brian M. Garner

BMG/lnh

AN ORDINANCE TO PROVIDE FOR THE CONSTRUCTION, MAINTENANCE, AND
PAYMENT OF BUILDING, MAINTAINING, AND REPAIRING OF SIDEWALKS AND
FOR THE REMOVAL OF SNOW AND ICE IN THE VILLAGE OF COLUMBIAVILLE

At a regular meeting of the Village Council of the Village of Columbiaville held on Tuesday, June 7, 1983, at 7:00 p.m. at the Columbiaville Village Hall, Councilman Blue introduced the following Ordinance and moved its adoption; the motion was supported by

Councilwoman Simms:

THE VILLAGE OF COLUMBIAVILLE ORDAINS:

Section 1. DEFINITION. The term sidewalk or sidewalks as used herein shall mean a slab of concrete, parallel with a street, abutting, adjoining or in any public street or alley, in the Village of Columbiaville, and include that portion traversing any driveway.

Section 2. PERMITS REQUIRED. No public sidewalk shall be repaired or installed by any person without first having a written permit from the Village.

Section 3. APPLICATION FORMS. Applications for a sidewalk repair or installation permit shall be made on forms furnished by the Village.

Section 4. PAYMENT FOR CONSTRUCTION OR REPAIR OF SIDEWALKS: OWNER REQUEST. Whenever an owner files an application for the construction or repair of a sidewalk, the Superintendent of Public Works shall cause an estimate of the cost thereof to be made within fifteen (15) days, and shall notify the owner of his share of the cost, which shall be fifty percent (50%). The Village shall bear the remaining share of fifty percent (50%) of such cost of construction or repair. If the owner desires the Village to construct or repair the sidewalk, the owner shall have fifteen (15) days from the date of such notification to deposit his share of such cost with the Village Clerk, who after the receipt of such deposit shall notify the Superintendent of Public Works. The Village Council shall then, if desired, appropriate an equal sum from the general fund, and after such appropriation the Clerk shall issue a permit and the Superintendent of Public Works shall undertake and complete such construction or repair within the next

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sixty (60) days if feasible weather permits.

If the owner desires to construct or repair the sidewalk himself, he shall so advise the Village Clerk within fifteen (15) days of his notification of the cost by the Village. The Village Council shall then, if it desires, appropriate one-half the estimated cost of such construction or repair from the general fund, and the Clerk shall issue the owner a permit to construct or repair said sidewalk. A permit shall expire for work not started within thirty (30) days or completed within sixty (60) days after the issuance of the permit. In the event that the cost of such construction or repair is less than estimated by the Village, the difference in savings of cost shall be divided equally between the Village and the owner thereof. In the event that the cost of such construction or repair is more than estimated by the Village, the owner shall bear the entire difference. The Clerk shall pay the Village's share upon certification by the Superintendent of Public Works that the sidewalk has been properly constructed.

Section 5. PAYMENT FOR CONSTRUCTION OR REPAIR OF SIDEWALKS: VILLAGE

REQUEST. It shall be the duty of the Superintendent of Public Works to annually inspect the sidewalks within the Village and to make a recommendation to the Village Council as to where new sidewalks should be constructed and what old sidewalks should be repaired, and he shall also include the estimated cost of such constructions and repairs. Thereafter the Village Council shall decide on the construction and repair of sidewalks, and shall include an appropriation therefore in the general fund. The Village may, at its discretion, through the

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Superintendent of Public Works notify the owners of sidewalks that such repairs are needed to put the sidewalks in good order, and each such owner shall, within sixty (60) days of such notification, under the supervision of the Superintendent of Public Works, complete the repairs as specified in said notice. The Village shall pay one-half (½) of its estimated cost of repairs if the requested repairs are properly completed within sixty (60) days of such notification. If the Village Superintendent of Public Works determines that the condition of said sidewalk is such that immediate repair is necessary to protect the public, he may dispense with said notice. If no payment is received within said thirty (30) days, the cost of construction or repair plus a charge for collection of ten percent (10%) of the same shall be assessed against the property which is adjacent to or abuts said sidewalk and the Village Clerk shall notify the Village Assessor who shall assess the costs, expenses and collection fee upon the property abutting or adjacent to said sidewalk and such assessment shall be a lien upon said property and shall be collected according to law in the same manner as other Village taxes, including interest.

Section 6. SPECIFICATIONS. All sidewalks constructed hereafter shall be constructed in accordance with the specifications and dimensions contained in the construction permit and which shall be defined from time to time by Resolution of the Village of Columbiaville Council.

Section 7. VARIANCE FROM STANDARDS. The Superintendent of Public Works may authorize variances from standard sidewalk provisions where no curb exists

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or when unusual topographical conditions, nature of existing construction, or similar factors would make adherence to standard provisions unreasonable.

Section 8. GRADES AND LINE REQUIRED. No sidewalk shall be installed unless a grade and line are established therefore. If no grades or lines are available, sidewalks may be installed, but they shall be removed, modified, or replaced to conform to grades and lines when established by the Village at the sole cost of the property owner abutting said sidewalk.

Section 9. CONSTRUCTION STANDARDS. Sidewalks shall be constructed in accordance with details and specifications as established by the Village Council.

Section 10. INSPECTION OF WORK. All work shall be subject to inspection by the Village, during construction and upon completion. The Superintendent of Public Works shall be notified by the permittee after forms are set and no concrete shall be poured or further construction started until approved by the Superintendent of Public Works.

Section 11. REPAIR OF SIDEWALK BY ABUTTING OWNERS: FAILURE TO REPAIR: LIABILITY OF OWNER. All owners with property abutting and fronting upon any plaza, street, or alley within the corporate limits of the Village are required to keep the public sidewalks immediately abutting their property in good order and reasonably safe condition and repair. Each such owner shall be liable to the Village for all losses to the Village or recoveries from the Village for damages to person or property of others caused by his failure or that of his lessee to repair and keep in good order and reasonably safe condition and repair all such sidewalks abutting and fronting his property upon any plaza, street, or alley within the corporate limits of the Village.

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Repealed
1-17-2011

~~Amended~~
1/17/2011

Section 12. SNOW AND ICE REMOVAL. It is hereby declared to be the responsibility of each owner and occupant of any lot or premises to remove all snow and ice from the sidewalk in front or adjacent to such lot and premises within sixteen (16) hours after the accumulation of said snow and ice. Each such owner or occupant shall be liable to the Village for all losses to the Village or recoveries from the Village for damages to person or property of others caused by the failure of such owner or occupant to so remove all snow and ice accumulations in accordance with this Section.

REPEALED

Section 13. PENALTY. Any person who shall fail to comply with any of the provisions of this Ordinance shall upon conviction thereof, be subject to a fine of not more than \$100.00 or imprisonment in jail for a period of ninety (90) days, or both.

Section 14. SEPARABILITY OF ORDINANCE. This ordinance is declared to be separable. Should any Section or part of a Section of this Ordinance be found invalid, void or unconstitutional by any Court or tribunal of competent jurisdiction, such findings shall only affect that said Section. Validity or constitutionality of any other Section of this Ordinance shall not be affected by said findings.

Section 15. REPEAL OF INCONSISTENT ORDINANCES. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 16. EFFECTIVE DATE. This ordinance shall become effective on the 27th day of June, 1983.

AYES: Blue, LaDuke, Simms and Wood

NAYS: None

ABSENT: Olson and Worvie

Motion carried and Ordinance adopted.

The undersigned President and Clerk of the Village of Columbiaville hereby certify that this Ordinance was duly adopted on the 7th day of June, 1983, by the Council of the Village of Columbiaville, and was published in the Millington Herald/Lakeville Aerial on the 14th day of June, 1983.



Richard L. Traver, Village President



E. Irene Traver, Village Clerk

SIDEWALK SPECIFICATIONS RESOLUTIONS

The following resolution was introduced by Blue, who moved it's adoption; the motion was supported by Wood:

WHEREAS, SECTION 6: SPECIFICATIONS, of the Ordinance to Provide for the Construction, Maintenance and Payment of Building, Maintaining, and Repairing of Sidewalks and for the Removal of Snow and Ice in the Village of Columbiaville, adopted June 7, 1983, requires that specifications be established by resolution of the Village Council;

NOW THEREFORE, BE IT RESOLVED, that all sidewalks hereafter constructed shall be in accordance with the following specifications and dimenstions:

- A. Minimum width: 4 feet
- B. Beginning distance from property line: 1 foot
- C. Grade: to follow a line sloping up and away from the top of the curb at a slope of 1/4" per foot.
- D. Thickness - general: 3-1/2" of cement.
- E. Thickness - at driveways: 6" of cement.
- F. Cross Markings: Every 4 feet.
- G. Concrete Mixture: 5 sack concrete.

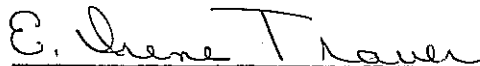
AYES: Blue, LaDuke, Simms, and Wood.

NAYS: None.

ABSENT: Olson and Worvie.

MOTION CARRIED AND RESOLUTION ADOPTED.

I hereby certify that the foregoing Resolution was duly adopted by the Columbiaville Village Council on the 7th day of June, 1983, at the regular meeting at 7:00 p.m. at the Columbiaville Village Hall.



E. Irene Traver, Village Clerk