

## **Chapter 163**

### **STREETS AND SIDEWALKS**

#### **GENERAL REFERENCES**

**Snowplowing — See Ch. 155.**

**Zoning — See Ch. 200.**

**Subdivision of land — See Ch. 167.**



## ARTICLE I

**Sidewalk Construction and Maintenance****[Adopted 1-3-1989 by L.L. No. 1-1989 (Ch. 16 of the 1974 Code)]****§ 163-1. Title.**

This article shall be known and may be cited as the “Sidewalk Law of the Village of Palmyra.”

**§ 163-2. Purpose.**

- A. The purposes of this article are set forth in general terms in enabling legislation contained in the Village Law. The provisions of this article shall be held to be the minimum requirements for the protection of the health, safety and welfare of the people at large, and are designed to encourage the establishment of reasonable standards for the physical environment.
- B. It is fundamental for the purpose of this article to recognize that sidewalks have been constructed in the Village for the safe use of the public at large and for the convenience of property owners and their guests, and that the public at large has the right to expect reasonable standards of maintenance and freedom of access to such sidewalks.
- C. This section, together with all provisions of the article, shall be considered when appraising the spirit of this article as a guide to its interpretation.

**§ 163-3. Definitions. [Amended 11-5-2004 by L.L. No. 1-2004]**

For purposes of this article, the following terms shall have the meaning indicated:

**HAZARDOUS SIDEWALK** — A sidewalk in which there is a difference in elevation of at least one inch at a joint or crack, in the slab or between slabs; or that portion of a sidewalk so badly spalled, broken or deteriorated as to present a tripping hazard. The existing surface shall be used in determining whether or not a sidewalk is hazardous.

**SIDEWALK** — Any walkway or pathway, whether or not paved, constructed within the Village right-of-way primarily for the use of pedestrians which is contiguous to a street as defined in Chapter 200, Zoning, of the Code of the Village of Palmyra.

**§ 163-4. Construction of new sidewalk. [Amended 11-5-2004 by L.L. No. 1-2004]**

- A. Where a sidewalk does not exist, the owner of property abutting the Village right-of-way may request construction of a sidewalk by the Village. The Village Board shall determine whether the Village shall construct such sidewalk in the interest of public safety and welfare. With the concurrence of the Village Board, a property owner may have a sidewalk constructed, within the Village right-of-way, provided:
  - (1) No sidewalk shall be constructed within four feet of the curbing or other recognized edge of a public roadway.
  - (2) Any sidewalk constructed shall have a minimum width of four feet.
  - (3) Any sidewalk constructed shall be of cement, consisting of a minimum of a

three inch base of crushed stone, tamped, plastic mesh with expansion joints. The concrete must be 4,000 PSI with a broom finish. The use of blacktop shall not be permitted. All sidewalks at street intersections must be handicap accessible.

- B. Nothing in this section shall be construed to prevent or in any way limit the right of the Village to construct a sidewalk of its own volition within the Village right-of-way.

**§ 163-5. Repair or replacement of existing sidewalk. [Amended 11-5-2004 by L.L. No. 1-2004]**

- A. It shall be the responsibility of the Village to repair or replace any hazardous sections of the sidewalk, and the cost of such replacement shall be borne in its entirety by the Village unless the hazardous sidewalk was made hazardous by the acts or negligence of the adjoining property owner, in which case the adjoining property owner shall be responsible for the cost of repair or replacement.
- B. Where a homeowner removes any or all of his/her sidewalk, for any reason, he/she is responsible to have that sidewalk replaced within a reasonable time or within 60 days (weather permitting). After the sidewalk is removed, the area, however, must be accessible to Village sidewalk equipment.

**§ 163-6. Snow and ice removal. [Amended 11-17-2003 by L.L. No. 2-2003; 11-5-2004 by L.L. No. 1-2004; 8-2-2010 by L.L. No. 3-2010; 3-20-2017 by L.L. No. 1-2017]**

- A. Purpose. The purpose of this section shall be to preserve the public peace and good order in the Village and to contribute to the public welfare, safety and good order of its people and to contribute to the safe conveyance of its people over the streets and sidewalks of the Village by establishing certain regulations for the removal of snow and ice from the streets and sidewalks of the Village that are consistent with the rights and privileges of other residents of the Village.
- B. Duty of the property owner and occupant. It shall be the duty of the owner and occupant, jointly, of every parcel of real estate adjoining a public sidewalk, whether the parcel of real estate is occupied by a structure or not, to keep such sidewalks adjoining such property free from snow and ice for the full paved width of such sidewalk.
- C. Time limit. Snow and ice shall be removed within 24 hours after the end of a snowfall. In addition, sidewalks in front of commercial establishments and commercial parking lots shall be kept free of snow and ice at all times between the hours of 9:00 a.m. and 5:00 p.m.
- D. Severe icing. In case snow and ice on any sidewalk shall be frozen so hard that it cannot be removed without injury to the sidewalk, it shall, within the time specified in Subsection C, be strewn and kept strewn with ashes, sand, or other suitable material, so as to be no longer dangerous to life and limb. As soon as practical thereafter, the sidewalk shall be completely cleared of snow, ice and other materials strewn thereon, as provided in this section.

- E. Complaints concerning a violation of this chapter shall be made in writing, sworn to by the complainant and filed with the Village Clerk, who in turn shall cause a notice to be provided as set forth in Subsection F herein.
- F. The owner, occupant or any person having control over any lot, land or property found in violation of this section shall be notified, in writing, only once in any given year for a particular violation. Subsequent violations of a similar nature at the same location during the same year shall be corrected by the Village or its agent without notice to the owner, occupant or person having control of said property. After initial notification, such owner, occupant or person having control of said property will be presumed to have been given sufficient notice of infraction for the entire season. Such notice shall set forth the nature of the complaint and shall direct the owner or occupant to remove the snow and ice from the public sidewalk. The notice required under this section shall be served upon the owner or his or her executor, legal representative, agent, lessee or any other person having a vested or contingent interest in such premises as shown by the records of the Town Assessor or of the Wayne County Clerk. Service shall be made either personally or, if not by personal service, by registered or certified mail, and by first-class mail addressed to the last known address, if any, of the owner, his or her executor, legal representative, agent, lessee or other person having a vested or contingent interest in such premises as aforesaid identified. If service is made by registered or certified mail, a copy of the notice shall be posted on the premises. The notice shall be in substantially the following form:

To the owner, occupant or person having charge of land known on the assessment roll of the Village of Palmyra located on the \_\_\_\_\_ side of \_\_\_\_\_ Street or Avenue; or house and lot number \_\_\_\_\_ located on the \_\_\_\_\_ side of \_\_\_\_\_ Street or Avenue.

Notice is hereby given that you have failed to remove snow and/or ice from the public sidewalk adjoining your property, pursuant to Chapter 163 of the Palmyra Village Code. Said snow and ice must be removed within three days from the date of notice, if this notice is personally served upon you, and five days from the date of this notice, if this notice is served upon you by registered or certified mail.

In case you fail or refuse to comply with this notice on or before the expiration of said three or five days from the date of this notice, as the case may be, the Village of Palmyra, acting through its duly authorized agents, servants, contractors, officers and employees, will enter upon your land and remove snow and ice. The expense incurred by the Village will be billed to you and, if not paid within 30 days, will be assessed against the above-described land and shall constitute a lien thereon and shall be added to the next real property tax levied against the property by the Village and collected as provided by law.

You will be notified in writing only once in any given year for a particular violation. Subsequent violations of a similar nature at the same location during the same year shall be corrected by the Village or its agent without notice to the owner, occupant or person having control of said property. After initial notification, such owner, occupant or person having control of said property will be presumed to have been given sufficient notice of infraction for the entire season.

- G. Collection of costs for removal by Village. The Clerk/Treasurer shall promptly

present to the owner or occupant of each parcel a bill for the removal of snow and ice as certified by the Village Clerk/Treasurer. If not paid within 30 days, the cost thereof shall be assessed against the property, added to its tax bill and become a lien thereon, collectible in the same manner as delinquent Village taxes.

- H. Snow, ice and water falling from buildings. The owners or occupants of buildings adjacent to public sidewalks shall take measures to protect the public from the falling snow, ice or water from such buildings.
- I. Placing of snow and ice on another's property. No person, firm, corporation, property owner or occupant shall remove snow or ice from any parcel of real estate and place it upon another parcel of real estate without the express permission of the owner of the parcel of real estate upon which the snow or ice is to be placed.
- J. Tort liability. Such owner or occupant and each of them shall be liable for any injury or damage by reason of omission, failure or negligence to keep such sidewalks adjoining such property free from snow and ice.

**§ 163-7. Removal by Village. [Added 11-5-2004 by L.L. No. 1-2004]**

Whenever the owner or occupant of every parcel of real estate adjoining a public sidewalk fails to remove the snow and ice from such sidewalk adjoining such property within the time specified in this article or within eight hours after notice by the Highway Superintendent or other representative of the Village of Palmyra to remove same, it shall be the duty of the Highway Superintendent or other representative to remove or cause to be removed said snow or ice from such sidewalk and notify the Village Clerk of the expense incurred by the amount of labor, equipment and materials used.

**§ 163-8. Cost of removal. [Added 11-5-2004 by L.L. No. 1-2004]**

The Village Clerk shall promptly present to the owner or occupant of each parcel a bill for the removal of snow and ice as certified by the Highway Superintendent or other representative of the Village of Palmyra. If not paid within 30 days, the cost thereof shall be assessed against the property and become a lien thereon, collectible in the same manner as delinquent Village real property taxes. If it becomes necessary to relevy the cost of snow and ice removal upon the owner's real property taxes, then, in that event, there shall also be an additional \$50 added to the relevy as an administrative fee.