

*Sample for 2004 App. 2004*

# 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.

County  
City of St. Johnsville.....  
Town  
Village

Local Law No. 1 Of 200~~4~~

An Enactment Pursuant To The Authority Of § 1-7 Of Local Law No. 1 Of 2004 To Amend Chapter 228, Entitled 'Streets And Sidewalks', Of The "Code Of The Village Of St. Johnsville"

.....  
.....

Be it enacted by the Village Board .....  
of the

County  
City of St. Johnsville .....  
Town  
Village

AS ATTACHED HERETO

(If additional space is needed, attach pages the same size as this sheet, and number each.

(1)

(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. 1 of 2006 of the (County) (City) (Town) (Village) of St. Johnsville by the Village Board on February 15, 2006 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the (County) (City) (Town) (Village) of ..... duly passed by the ..... on ..... 19..... and was (approved) (not approved) (repassed after disapproval) by the ..... and was deemed duly adopted on ..... 19..... in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the (County) (City) (Town) (Village) of ..... was duly passed by the ..... on ..... 19....., and was (approved) (not approved) (repassed after disapproval) by the ..... on ..... 19..... . Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on ..... 19..... in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the (County) (City) (Town) (Village) of ..... was duly passed by the ..... on ..... 19....., and was (approved) (not approved) (repassed after disapproval) by the ..... on ..... 19..... Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of ..... 19..... in accordance with the applicable provisions of law.

Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or, the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

local law 1

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19 ..... of the City of ..... having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on ..... , 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the County of ....., State of New York, having been submitted to the electors at the General Election of November ....., 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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.

(Seal)

\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

Date: February 15, 2006

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

STATE OF NEW YORK  
COUNTY OF MONTGOMERY

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.

Norman P. Mastromoro  
Signature

Village Attorney  
County  
City of St. Johnsville  
Town  
Village

Date: February 15, 2006

## Chapter 228

### STREETS AND SIDEWALKS

#### ARTICLE I

#### ENCROACHMENTS

##### § 228-1. Encroachments onto streets prohibited.

No person shall enter or come into or upon any of the streets of this Village with any porch, shed, steps, cellarways, or platforms.

##### § 228-2. Removal of unlawful encroachment.

Any shed, porch, steps, or cellarways, or platform now in the streets of this Village may be removed by a resolution of this Board, giving owner five days' notice to remove the same. If he or they shall fail to remove the same, they shall be subject to a penalty as hereafter set forth.

##### § 228-3. Awnings prohibited from dripping on sidewalk.

No person shall allow any awning to drip on the sidewalks.

##### § 228-4. Penalties for offenses.

Any person who shall violate any provision of this article shall be punishable as hereafter prescribed.

#### ARTICLE II

#### GENERAL REGULATIONS

##### § 228-5. Use of streets; cutting of trees.

It shall be unlawful for any person or persons within the Village of St. Johnsville, New York, to obstruct, encumber upon, or consent to, aid or abet, the obstruction, encumbrance or occupancy of any part of any street or other public grounds except so far as the same shall be necessary for the erection or repair of a building or grading or improvement of a lot, and only so long as it shall be necessary therefor, and only upon the written consent of the Mayor of the Village and the Board of Trustees; provided, however, that such written consent shall not be necessary for the loading and unloading of vehicles, as long as a passageway shall at all times be kept clear for travelers and pedestrians and provided also that all said obstructions including vehicles shall at all times be properly guarded and, during the night, properly lighted, for the safety and care of persons using the street or public grounds.

##### § 228-6. Excavations.

It shall be unlawful for any person or persons within the said Village of St. Johnsville, New York, to dig or cause to be dug into through or across or adjacent to any street or other public grounds, any trench, ditch, or other openings or excavations for any purpose without the written consent of the Mayor of the Village and the Board of Trustees and then only under the supervision of the Superintendent of Public Works or other proper Village officer, or authority. If the proposed excavation affects the streets or public grounds, the written consent above referred to may be given by the Mayor of the Village only after the person applying therefor has filed with the Clerk of the Village, an undertaking by one or more sureties that he will pay, upon demand, to the Village any damage caused by the applicant's failure to properly

restore the said street or public grounds to a safe and usable condition, not exceeding a sum specified in the undertaking which must be fixed by the Board of Trustees as sufficient to reimburse the Village.

**§ 228-7. Snow, ice and other substances.**

It shall be the duty of the owner or occupant of any premises to keep sidewalks, on or running along the street row adjoining the property, free and clear of excessively accumulated ice and snow for the users thereof and such owner or occupant shall be responsible for all necessary preventive and corrective maintenance to accomplish this result.

It shall be the further duty of the owner or occupant of any premises not to permit any snow or ice to accumulate excessively upon any buildings or artificial surface adjacent to any street or sidewalk, or to permit snow, ice or water to fall from such building or artificial surface upon any street or sidewalk and further not to permit the sidewalk and gutters in front of his or her property to be encumbered with rubbish or other improper substances.

It is the specific intent of this provision to establish liability for personal injuries or property damage proximately resulting from the failure to keep any sidewalk, building, artificial surface or gutter free and clear of accumulated ice and snow, or rubbish or improper substances, directly and solely upon any owner or occupant of premises who breaches the duties prescribed herein.

It is further specifically intended, pursuant to the authority granted under Municipal Home Rule Law 22 and General Municipal Law 50-e(4), that the within provision shall supersede Village Law 6-628.

**§ 228-7.1. Enforcement of snow, ice, rubbish and other improper substances violations.**

The Superintendent of Public Works, or his or her designated agent, shall have jurisdiction for recommending remedial action towards the removal of ice, snow, rubbish and other improper substances from sidewalks, buildings, artificial surfaces or gutters and upon personal observation of any such circumstance during the course of his or her regular duties shall file a written notice with the Village Clerk as herein described.

Notice from a member of the public regarding a sidewalk, building, artificial surface or gutter with apparently excessively accumulated snow, ice, rubbish or other improper substances shall be made in writing and filed with the Village Clerk who, together with any written notice received from the Superintendent of Public Works, shall index, maintain and present same pursuant to the requirements of Village Law 4-402(g) and, within seventy two (72) hours, provide a stamped copy of any indexed notice to the Superintendent of Public Works.

Based upon the receipt of a stamped copy of a written notice filed with the Village Clerk regarding an apparently defective sidewalk, the Superintendent of Public Works, or his or her designated agent, shall, within seventy two (72) hours, make a full inspection of such sidewalk and file a report with the Code Enforcement Officer and Village Clerk.

The Superintendent of Public Works, upon receipt of a stamped copy of a written notice filed with the Village Clerk, and after providing prior oral notice and opportunity reasonable under the circumstances to an owner or occupant of premises, shall clear, or direct the clearance of, a sidewalk, building, artificial surface or gutter of excessively accumulated snow, ice, rubbish or other improper substances.

**§ 228-7.2. Remedies for snow, ice and other substances violations.**

In addition to the penalties hereafter prescribed for any violation of this law, the Village shall be reimbursed for the cost of the removal work performed, or services rendered, by assessment against and collection from the premises where such work was performed, or services rendered, for so much of the

actual and complete cost as incurred upon and from such premises, in the manner provided for the assessment of the cost of public improvements by applicable law, together with interest as allowed by the Civil Practice Law and Rules for judgments.

**§ 228-8. Sidewalk requirements.**

It shall be the duty of the owner or occupant of any premises to keep sidewalks, on or running along the street row adjoining the property, in reasonably good and safe repair for users thereof, and such owner or occupant shall be responsible for all necessary preventive and corrective maintenance to accomplish this result.

It is the specific intent of this provision to establish liability for personal injuries or property damage proximately resulting from the failure to keep a sidewalk in reasonably good and safe repair directly and solely upon any owner or occupant of premises who breaches the duty prescribed herein.

It is further specifically intended, pursuant to the authority granted under Municipal Home Rule Law 22 and General Municipal Law 50-e(4), that the within provision shall supersede Village Law 6-628.

Except as may otherwise be hereafter provided, it shall be unlawful for any person or persons within the Village of St. Johnsville, New York, to construct any sidewalk except with the written consent of the Mayor and the Board of Trustees of said Village and then only under the supervision and in accordance with the direction of the said Board of Trustees or its duly appointed representative.

**§ 228-8.1. Sidewalk standards.**

A sidewalk that is not in accordance with the following standards shall constitute a defective sidewalk and a violation of the duty to repair hereinabove described, to wit:

- A. Unacceptable quality of sidewalk surface, including but not limited to holes, depressions, breaks, or projections.
- B. Ridges or gaps between adjoining sidewalk blocks.
- C. Differences in elevation of the surface or of adjoining sidewalk blocks.
- D. Peeling or crumbling of the surface of the sidewalk.
- E. Tilting of sidewalk or sidewalk blocks except in the case of handicap ramps, driveway approaches or other similar situations.
- F. Missing portions of surface.

The above shall be applicable regardless of the type of sidewalk that exists, whether flagstone, brick, concrete, blacktop or other prepared or manufactured material.

All defective sidewalks within the terms stated above are hereby declared to be a public nuisance.

**§ 228-8.2. Enforcement of sidewalk standard violations.**

The Superintendent of Public Works, or his or her designated agent, shall have jurisdiction for recommending remedial action towards placing a sidewalk surface in good repair and upon personal

observation of an apparently defective sidewalk during the course of his or her regular duties shall file a written notice with the Village Clerk as herein described.

Notice from a member of the public regarding an apparently defective sidewalk shall be made in writing and filed with the Village Clerk who, together with any written notice received from the Superintendent of Public Works, shall index, maintain and present same pursuant to the requirements of Village Law 4-402(g) and, within seventy two (72) hours, provide a stamped copy of any indexed notice to the Superintendent of Public Works.

Based upon the receipt of a stamped copy of a written notice filed with the Village Clerk regarding an apparently defective sidewalk, the Superintendent of Public Works, or his or her designated agent, shall, within seventy two (72) hours, make a full inspection of such sidewalk and file a report with the Code Enforcement Officer and Village Clerk.

If the report of the Superintendent of Public Works shall confirm the existence of a defective sidewalk as defined in this local law, the Code Enforcement Officer shall cause a notice to be served upon the owner or his or her executor, legal representative, or agent, either personally or by both certified, return receipt requested and regular first class prepaid mail, addressed to the last known address of the owner as said address is shown on the most current records of the Town of St. Johnsville Assessor. If the name of the owner, or current address, cannot be ascertained, notice shall be served by posting in a conspicuous place upon the subject premises with a notarized Affidavit of Service thereafter filed with the Village Clerk.

The notice from the Code Enforcement Officer shall contain the following:

- A. Description of the premises upon which the sidewalk is located.
- B. The statement of the particulars in which the sidewalk is defective.
- C. Designation of the area in which repair or replacement is to be made.
- D. An order that the repair or correction of the defective portion of the sidewalk shall commence within twenty one (21) days of personal service or within thirty (30) days of the service by mailing.
- E. A procedure to schedule a hearing before the Board of Trustees if the owner does not agree with the findings, or some other aspect of the determination, with such hearing to be scheduled not less than ten (10), nor more than twenty one (21), days from the date of service of the written notice.
- F. A statement that in the event of neglect or refusal to comply with the order to repair or replace the defective sidewalk, the Board of Trustees is authorized to provide, without any further prior notice, that the sidewalk be secured and repaired and that all the expenses thereof assessed against the land in which the sidewalk is located, including any related necessary or incidental expenses.

Upon good cause shown, the Code Enforcement Officer, in writing and prior to any hearing before the Board of Trustees, may extend time requirements upon reasonable terms and conditions.

**§ 228-8.3. Completing sidewalk repair or construction.**

The property owner is responsible for the quality of the finished sidewalk. The Code Enforcement Officer, or his designated agent, will inspect the project from time to time and may require the owner to remove and replace new construction that does not meet construction standards as set forth below and as may be modified from time to time.

Before engaging upon sidewalk repair or construction, the contractor, on behalf of the owner, must first obtain a permit from the Code Enforcement Officer or his designated agent. Permit applications shall be furnished by, and available from, either the Code Enforcement Officer or Village Clerk.

At the time of making application to the Village for a permit to construct, or repair, a sidewalk, the owner or contractor shall pay a fee in the amount designated for such matters in the comprehensive building permit fee schedule previously adopted by the Board of Trustees.

No permit shall be issued to a contractor until he has filed with the Code Enforcement Officer a certificate showing that he carries workmen's compensation insurance for all of his employees, together with such other insurance as the Code Enforcement Officer may by rule or regulation require.

No person shall commence to repair or reconstruct a sidewalk until final approval has been secured from the Code Enforcement Officer.

All replacement sidewalks shall be made of concrete.

All sidewalk repair, or construction, is to be performed in accordance with standards on file with the Village Clerk and as adopted by the Village Board upon recommendation of the Superintendent of Public Works, such standards to include:

- A. Minimum dimensions of width and depth of sidewalk blocks in residential and business areas.
- B. Excavation and sub-base requirement.
- C. Forming and reinforcement.
- D. Concrete mixture specifications.
- E. Fine and coarse aggregate specifications.
- F. Water quality.
- G. Mixing of concrete ingredients.
- H. Joints.
- I. Finishing.
- J. Protection of wet concrete.
- K. Construction safeguards.
- L. Any other matter or items that the Superintendent may deem necessary, appropriate, or desirable.



A copy of any permit issued in accordance with this local law, in the possession of the persons actually doing the work, shall be available for inspection by the Code Enforcement Officer, or his or her representative.

**§ 228-8.4. Remedies and penalties upon failure of sidewalk repair or construction.**

It shall be unlawful for any person, whether or not interested in the property affected by this local law, to hinder or obstruct the Code Enforcement Officer or any person acting on his behalf.

Sidewalk repair or replacement work performed by the Village because of the neglect, refusal or failure of the property owner to agree to the work, or upon the completion of work not meeting the standards herein, shall make such work ineligible for any Village sidewalk repair or construction reimbursement plan. The Village, without any notices or orders other than previously described herein, reserves the right to initiate, repair or replace sidewalk work because of the neglect, refusal or failure of, or unsatisfactory completion by, a property owner.

The remedies described herein may be in addition to any other remedies, penalties or actions that may be taken by the Village either as hereafter provided or as may otherwise be permitted by law.

The Village shall be reimbursed for the cost of the work performed, or services rendered, as provided in this law by assessment against and collection from the premises where such work was performed, or services rendered, for so much of the actual and complete cost as incurred upon and from such premises, in the manner provided for the assessment of the cost of public improvements by applicable law, together with interest as allowed by the Civil Practice Law and Rules for judgments.

**§ 228-8.5. Authority of Code Enforcement Officer and police officer.**

The Code Enforcement Officer is authorized to issue an Appearance Ticket as defined in Criminal Procedure Law 1.20(26) for the purpose of commencing the prosecution of any violation under this law in a court of competent jurisdiction. Nothing herein contained shall be construed to preclude any police officer of the Village of St. Johnsville to cite a person for a violation of any provision of the within law.

**§ 228-9. Ball playing; coasting; throwing snowballs.**

It shall be unlawful for any person or persons within the Village of St. Johnsville, New York, to play or aid or assist in playing any game of ball in or upon any street or public grounds or to coast, throw snowballs or participate in any amusement, game or practice of any kind upon the public streets or public grounds of the Village which might endanger persons or property, without the consent in writing of the Mayor and Board of Trustees.

**§ 228-10. Poles and posts; unobstructed views required.**

It shall be unlawful for any person or persons within the said Village of St. Johnsville, New York, to place, permit or allow any pole or post or sign or encumbrance of any material whatsoever in, on or over any street or public grounds without the consent of the Mayor and the Board of Trustees of the Village and further it shall be unlawful to maintain any such encumbrance near any street or public grounds in such a way that it obstructs a clear view along said street or public ground and into any intersecting street or public ground, without the consent in writing of the Mayor and Board of Trustees of the Village.

**§ 228-11. Vehicles with cleats.**

It shall be unlawful for any person or persons within the Village of St. Johnsville, New York, to use, operate, or cause to be used or operated upon any street or public grounds within the Village of St.

Johnsville any vehicle equipped with cleats or with sharp rims or other similar construction factors, liable to cut or to damage the said streets or public grounds.

**§ 228-12. Parades and concerts.**

It shall be unlawful for any person or persons within the Village of St. Johnsville, New York, to hold, take part in or conduct any parade or music concerts upon the street or public grounds of the Village without the consent in writing of the Mayor and the Board of Trustees of the Village.

**§ 228-13. Fees.**

The Board of Trustees shall, by resolution, establish fees from time to time for permits required by this Article.

**ARTICLE III**

**PENALTIES AND EFFECTIVE DATE**

**§ 228-14. Penalties for offenses.**

Any person or persons violating any provision of this local law shall be deemed to have committed a non-criminal offense "violation" as described in Penal Law 10(3) and, for each day that such violation continues to exist, be subjected to a fine not to exceed two hundred fifty (\$250.00) dollars, or a sentence of imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment, together with any surcharge applicable under law. Nothing herein, however, should be construed to prevent a court of competent jurisdiction from imposing an Adjournment in Contemplation of Dismissal, Unconditional Discharge or Conditional Discharge as those procedures are defined in the Criminal Procedure Law and Penal Law.

**§ 228-15. Effectiveness.**

This local law shall take effect immediately upon its filing with the Secretary of State.