VILLAGE OF ALLEGANY, NEW YORK

LOCAL LAW # 3 1989

A Local Law to Amend Article II, Section 3 of the General Municipal

 Code of the Village of Allegany, New York

BE IT ENACTED by the Board of Trustees of the Village of Allegany, New York, as follows:

SECTION 1.

Article II, Section 3, entitled “Sidewalks, of the General Municipal Code of the Village of Allegany” is hereby amended and restated to read as follows:

Section 3. Sidewalks:

A) The Board of Trustees shall have the power to cause sidewalks on the streets and highways in the Village to be constructed and cause them to be altered, repaired, cleaned or to otherwise improve the space between the outside limits of the street and the curb or improved portion of the street and to determine and prescribe the manner of doing the same and the materials to be used thereon, and the quality of such materials, and direct that the whole or any improvement or work be then assessed upon the property deemed benefited, or that the whole or part thereof be charged to the Village at large and the remainder, if any, assessed to the property deemed benefited to owner or occupant and be collected in the same manner as other taxes are collected by virtue of this act and the same shall be a lien on said land or lot. Such expense assessed against the land deemed benefit may be recovered by action brought against such owner or occupant. Whenever the Board of Trustees shall determine to require such improvement to be made, a notice thereof shall be served on such owner or occupant or the Board of Trustees may cause to be published once in the official paper a copy of the resolution requiring such improvement to be made, starting a period of time of at least twenty (20) days in which such improvement is required to be made, and if such improvement is not made within the required time, the Board of Trustees may make the same, and the expense thereof payable by the owners or occupants and shall also be lien upon said lands or lots. In the event that the owners or occupants elect to make the improvements upon receiving the notice from the Village as provided in this section, the owner shall notify the Village of his election before the improvement is commenced, and the Village shall be obligated to oversee the construction in order that the improvement meets Village specifications.

B) Notwithstanding the provisions of Section (A), the expense assessed any owner or occupant of Real Property pursuant to this Article shall not include the following:

 (1) The expense of installing that portion of a sidewalk exceeding a width of ten (10) feet.

 (2) The expense of installing curbs or curb cuts when such work is caused to be done pursuant to this Article.

 (3) The expense of ornamentation with trees when such work is caused to be undertaken pursuant of this Article.

 (4) The expense of constructing superstructure(s) over streams or streambeds.

 In the event that owners or occupants shall, within the required time and at their own cost and expense, elect to undertake and make the improvement which the Board of Trustees has caused to be required pursuant to this Article, the expense incurred by the owner or occupant for that portion greater than ten (10) feet of sidewalk, curbs, curb cuts, or superstructures over streams and streambeds, shall be reimbursed to the owner and paid by from the General Fund of the Village.

(C) After such expense shall be determined and ascertained, the Board of Trustees shall make or cause to make an assessment, and the roll thereof shall contain the name of the owner or occupant if known to the Board of Trustees, a brief description of the property sufficient for identification, and the amount of the expense, and thereupon, for the purpose of making any such assessment or improvement, the Village Clerk shall proceed in the same manner as prescribed for making sewer assessments except as herein modified.

(D) If bonds are to be issued to finance such improvements, the assessments which are to be levied for the purpose of paying the expense of such improvements shall be payable in three (3) annual equal installments with the option and privilege to such owner or occupant to pay the whole of such taxes so assessed without interest within thirty (30) days from the time of the completion of such assessment roll. Such option or privilege may also be exercised at the time when any installment becomes due, provided that such owner or owners pay in addition the whole amount of interest that would accrue if such owner or owners paid the whole of such assessments in equal annual installments.

 **Repair and Maintenance of Sidewalks**

(A) It shall be the duty of every owner of any premises or parcel of land abutting on any public street to keep the sidewalk in front of the same in good order and repair.

(B) It is the privilege, and on notice from the Department of Public Works, it shall be the duty of any owner of any premises or parcel of land within the Village to repair and/or reconstruct the sidewalk in front of the premises or parcel between the street line and the curb or improved portion of the street.

(C) In the event the work shall be ordered by the Village, the Director of the Department of Public Works shall notify the owner of any premises or parcel of land in front of which such work shall be required to be done, that if the same is not done by the owner within thirty (30) days, the same shall be done by the Village and the expense thereof shall be assessed upon said premises. This notice shall also notify the owner that he may, within the said thirty (30) days, provide the Director of Public Works a written statement specifying why such work should not be done, is not needed, or can reasonably be delayed. The Director of Public Works shall investigate and make a written final determination including findings of fact and conclusions as to whether such work shall be required. All notices by the Village to the landowner shall be served personally or by mailing the same in the manner prescribed for the mailing of notices and the mailing of taxes due by the Village Clerk (Village Tax Collector).

(D) In case any such work shall not be done within the time specified, the Department of Public Works may cause such work to be done; and the full expense thereof shall be charged against and a lien assessed, upon such premises. Notwithstanding the provisions of this section, the expense assessed for such repairs and reconstruction shall not include the following:

 (1) The expense of installing that portion of a sidewalk exceeding a width of ten (10) feet.

 (2) The expense of installing curbs or curb cuts when such work is caused to be done pursuant to this Article.

 (3) The expense of ornamentation with trees when such work is caused to be undertaken pursuant to this Article.

 (4) The expense of repairing or reconstructing the superstructures over streams or streambeds.

(E) Whenever the relocation of any installed sidewalks meeting Village standards is necessitated because of the construction or a widening of pavement on any street or because of any other reason, request or demand by the Village, the cost or expense therefore shall be paid solely by the Village from the General Fund; and no part of such cost or expense shall be assessed against the premises upon which or abutting which the sidewalk lies.

(F) If the Village undertakes the ordered work utilizing bonded funds, the cost of the reconstruction or repair to be repaid by the landowner shall be payable in equal annual installments over the duration of the bond, not to exceed a three year period with interest charged at the bonded interest, not to exceed six percent (6%) per annum. If general funds of the Village are utilized owners of property shall, or if bonded funds are utilized, owners of property may pay the whole of such improvements so assessed in the same manner as Village taxes.

Thereafter, the option to prepay may be exercised at the time when any installment becomes due provided that such owner pay, in addition, the whole amount of interest that would accrue if such owner paid the whole of such assessments in equal annual installments.

(G) If the owner of any lands the grade or level of which is above the established grade of the sidewalk in front of his lands shall neglect or refuse to protect such land and to grade such land so as to prevent dirt, earth, stones or other material from falling or being washed upon the sidewalk of such lands, for twenty (20) days after service upon him of notice, the Director of Public Works shall cause such work to be done in the same manner as hereinbefore provided.

(H) Sidewalk, within the meaning of this section, shall be that portion of a street outside of the roadway used, or set aside, for the use of pedestrians.

(I) Street, within the meaning of this section, shall be the entire area conveyed, acquired or dedicated to public use and passage. The word “street” shall include in its meaning the words “avenue”, “alley”, “drive”, “place”, or any other words used to designate the public thoroughfare as above defined.

(J) Section 3 of Article II of the General Municipal Code of the Village of Allegany shall be repealed as of the effective date of this Local Law.

SECTION II.

 Effective Date. This Local Law shall take effect in accordance with the provisions of Section 27 of the Municipal Home Rule Law, upon filing with the Office of the Secretary of State of the State of New York.