

Local Law No. \_\_\_ of 2019

**A LOCAL LAW ENACTING §C22-18.1 OF THE CHARTER  
FOR THE CITY OF HUDSON**

**Section 1. Title.**

This local law shall be known as Local Law No. \_\_ for the year 2019.

**Section 2. Legislative Findings.**

The Common Council of the City of Hudson finds it to be in the best interest of the City to amend the City Charter to protect the health, safety and welfare of City residents and members of the public by clarifying the provisions regarding a landowner's duty to keep adjoining sidewalks in good repair and free and clear of snow, ice, and all other obstructions, confirm the landowner's liability for injuries or damages arising from the landowner's failure to do so, and clarify the provisions in the Charter permitting the City to repair any deficient sidewalks and assess the cost of same as a lien against the real property of the adjoining landowner.

**Section 3. Legislative Intent.**

It is the intent of the Common Council to enact §C22-18.1 of the Charter of the City of Hudson to set forth a landowner's responsibility to keep sidewalks abutting said landowner's property in good repair and free and clear of snow, ice, and all other obstructions, and set forth the process whereby the City of Hudson is authorized to remedy deficient sidewalks and assess the cost of same as a lien against the real property of the adjoining landowner.

**Section 4. Statement of Authority.**

This local law is authorized by the Municipal Home Rule Law (chapter 36-a of the Consolidated Laws of the State of New York) and the General City Law (chapter 21 of the Consolidated Laws of the State of New York).

**Section 5. Amendment to the Charter of the City of Hudson.**

The Charter for the City of Hudson, section §C22-18.1, is hereby amended as follows:

**§C22-18.1 Repair of Sidewalks. Collection of Costs.**

**A. Authority.**

- (1) The Commissioner of Public Works shall have jurisdiction over the construction, repair and maintenance of all sidewalks, approaches and street driveways abutting any of the streets, highways, alleys and public places in the City and shall have

power to make rules and regulations with respect thereto, relating to materials, grade, location, manner and method of construction, dimensions and all other matters in connection therewith, not inconsistent with the provisions of this section or Chapter 266 of the City Code.

- (2) The Commissioner of Public Works shall have the power to make rules and regulations regarding the removal of ice, snow, and other obstructions from sidewalks and to require the area, if any, between the sidewalk and curb to be kept in a safe condition and the grass on such area, if any, to be properly mowed, not inconsistent with the provisions of this section of Chapter 266 of the City Code.

**B. Duties of owner.**

- (1) The owner of lands abutting any such street, highway, alley or other public place in the City shall construct, repair and maintain the sidewalks, approaches or street driveways adjoining such lands and shall keep the same in a safe state of repair and free from defects and free and clear of and from snow, ice and all other obstructions, and the area, if any, between the sidewalk and curb in a safe condition and the grass thereon, if any, properly mowed. Such owner shall be liable for any injury or damage by reason of omission, failure or negligence to make, maintain or repair such sidewalk and keep it free from defects, snow, ice or other obstructions. Such owner shall also be liable for any violation or nonobservance of any ordinance or regulation relating to making, maintaining and repairing sidewalks, keeping them free from defects and removing snow, ice and other obstructions therefrom. Nothing herein contained shall be construed to prevent such owner, by lease or otherwise, from delegating to a tenant or occupant the duties and liabilities hereby imposed, but such delegation shall not relieve the owner of his/her primary duties and liabilities hereunder.
- (2) The construction and repair of such sidewalks, approaches, and street driveways shall be only upon application, in writing, to the Superintendent of Public Works, without expense to the City and in conformity with the rules and regulations of the Board.

**C. Failure to comply.**

- (1) The Superintendent of Public Works, by notice, given personally or by mail, may require the owner of any land adjoining a sidewalk, approach or street driveway to construct or repair such sidewalk, approach or street driveway in conformity with rules and regulations of the Commissioner of Public Works. In such notice, the Superintendent shall fix a reasonable deadline for the completion of such work, which deadline shall not be less than 60 days after the date of the notice. Upon the failure of the owner to complete such construction or repair within the time limit, the Superintendent of Public Works may cause such sidewalk, approach or street driveway to be constructed or repaired, either by contract or by the Department of

Public Works, at the expense of the owner, to be collected as set forth in Subsection **E**.

- (2) Nothing within this section shall prevent the Superintendent of Public Works from demanding or causing the immediate repair or replacement of a sidewalk, approach or street driveway if the failure to immediately repair or replace such sidewalk poses a significant public health or safety risk.
- (3) The Superintendent of Public Works may cause the removal of ice, snow or other obstruction from such sidewalk and may cause the area between the sidewalk and curb to be rendered in a safe condition and the grass thereon mowed, at the expense of the owner.

**D. Uniform sidewalk improvements; construction of new sidewalks on a street or part thereof.**

- (1) On petition of interested property owners or on its own motion, the Commissioner of Public Works may direct that new sidewalks and street driveways be laid on any street or part thereof pursuant to plans and specifications prepared and adopted by it. Before determining to make such improvement, the Commissioner shall hold a public hearing on such proposed improvement upon not less than five days' notice, given personally or by mail or by publication in the official newspaper. After such public hearing, the Commissioner may determine to make such improvement, either by contract or by delegation to the property owner(s), or by the City, under the direction of the Superintendent of Public Works.

**E. Assessments for sidewalk improvements.**

- (1) Notice of the determination of cost, apportionment and assessment of any sidewalk improvement carried out pursuant to Subsection **C** or **D** herein shall be given by the Superintendent of Public Works to the owner of the real property adjoining the sidewalk improvement against whom it is assessed by personal service, certified mail, or by affixing a copy of the notice to subject real property. Such determination shall finally and irrevocably fix the assessment unless the owner of the real property against whom it is assessed, within thirty (30) days after the date the Superintendent gave notice of such determination, shall apply to the Mayor for a hearing or unless the Mayor on its own motion shall re-determine the same. After such hearing, the Mayor shall give notice of its determination to the owner of the real property against whom the assessment is levied. The determination of the Mayor shall be reviewable for error, illegality, unconstitutionality or any other recognizable basis whatsoever by proceeding under Article 78 of the Civil Practice Law and Rules if application thereof is made to the Supreme Court within thirty (30) days after the filing of the Mayor's determination with the City Clerk.

- (2) Any expense incurred by the City pursuant to the provisions of this section **E** shall be billed to the adjoining property owner, together with an overhead fee of 25%. The bill shall be payable to the City Treasurer within 30 days of the billing date or, upon written request to the City Treasurer within 30 days of the billing date, shall be payable in no more than four annual installments. If any bill is not paid by November 1 of each year, the City Treasurer shall direct the City Assessor to, in the preparation of the next assessment roll, assess the amount of such amount as a lien and this amount shall be levied, collected and enforced in the same manner as taxes upon said property for City purposes are levied collected, and enforced, with the same penalties as the general City tax and as a part thereof, except that, in addition to the penalties provided for in the aforementioned provisions, interest shall accrue on any unpaid balance from the date of billing to the date of actual payment at 9% per annum or \$3 per month, whichever is greater.
- F.** Notwithstanding the provisions of this § C22-18.1, the provisions of §C34-3 regarding a landowner's duty to maintain adjoining sidewalks in good repair and free and clear of snow, ice, and all other obstructions, and the landowner's liability for injuries or damages arising from the landowner's failure to do so, shall continue to apply.
- G.** Those provisions of this § C22-18.1 compelling owner construction or repair of sidewalk shall not apply to lots or parcels located in a sidewalk improvement district and subject to an assessment for work performed in that district pursuant to § C22-18 of the Charter; provided, however, that those provisions of this § C22-18.1 regarding the abutting landowner's duty to maintain the sidewalks adjoining his or her property free and clear of snow, ice, and all other obstructions, and the landowner's liability for injuries or damages arising from the landowner's failure to do so, shall continue to apply to all lots in the City; provided further that this section and related provisions in the City Code shall continue to apply to the construction or repair of driveway cuts or aprons regardless of whether a lot or parcel is located in a district or is subject to such an assessment; and provided further that should a court of competent jurisdiction hold, or the City so concede, that § C22-18 of the Charter in its entirety or any district created by that section in particular is invalid or unconstitutional, or that any particular property within any district is not subject to that section, any property thereby determined not to be subject to sidewalk improvement district assessments pursuant to § C22-18 shall be subject to the provisions regarding sidewalk construction or repair set forth in this § C22-18.1.

### **Section 6. Severability.**

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined to its operation in said clause, sentence, paragraph, section or part of this Local Law.

**Section 7. Effective Date.**

This Local Law shall take effect immediately upon passage and filing with the Secretary of State.

Introduced \_\_\_\_\_

Seconded \_\_\_\_\_

Approved \_\_\_\_\_

Rick Rector, Mayor