

DISTRIBUTION LIST

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Edmond Theobald, Trustee
Ronald Cronk, Trustee
William Brazill, Trustee
John Champagne, Trustee
Steven Primo, Attorney
Thomas Petterelli, DPW Superintendent
Janet Stanley, Justice
Richard J. Greene, Codes Enforcement Officer
Chief Pat Flannery
Town of Manlius
Village of Fayetteville
Donna DeSiato, Superintendent ESM School District
Manlius Historical Society
Minoa Library
John Regan

September 10, 2007

**PUBLIC HEARING
LOCAL LAW #6 FOR
2007**

Upon due notice to all members of the Village Board, a Public Hearing was held on Monday, September 10, 2007 at 7:15 p.m. at the Municipal Building, 240 N. Main Street, Minoa, NY. The purpose is to consider the enactment of Local Law #6 for 2007 relating to the amendment of Chapter 136, currently entitled "Sidewalks", Sections 136-1 through 136-8, of the Village of Minoa Municipal Code.

PRESENT: Mayor Donovan
Trustee Cronk
Trustee Brazill
Trustee Champagne
Trustee Theobald
Attorney Primo
Clerk Snider

ALSO Thomas Petterelli, Richard Greene, John Sears and Terry
PRESENT: McCarthy

**PROOF OF
PUBLICATION**

Mayor Donovan called the Public Hearing to order at 7:15 p.m. for Local Law #6 for 2007 amending, supplementing and repealing parts of Chapter 136 of the Village of Minoa Municipal Code.

A motion was made by Trustee Brazil and seconded by Trustee Champagne agreeing to waive the reading of the Proof of Publication of Public Hearing. All in favor. Motion carried.

**PUBLIC HEARING
LOCAL LAW #6 FOR
2007**

Local Law #6 for 2007 was proposed as follows:
Village of Minoa

Local Law No. Six (6) of the year 2007.

Section 1. Chapter 136, Article III, entitled "Sidewalks," of the Code of the Village of Minoa shall be renamed "Sidewalk and General Property Maintenance."

Section 2. Chapter 136, Article IV, entitled "Weeds and Grass," shall be deleted in its entirety.

Section 3. Chapter 136, Article V, entitled "Penalties" shall be renamed as Article IV and Section §136-20 of Article V shall be renamed as §136-18 of Article IV.

Section 4. Article III, Section 136-14 of the Code of the Village of Minoa shall be deleted in its entirety and replaced with the following language:

§136-14. Standards of Maintenance of Sidewalks, and General Property Maintenance.

- A. No Owner or Occupant of any real property in the Village of Minoa shall permit or allow any of their real property to become encumbered with rubbish, trash, brush, poisonous shrubs or weeds of any kind, nor of grass nor similar lawn growth in excess of six inches. All such persons shall cut, trim, remove, destroy or spray with herbicides, as appropriate, such brush, grass or similar lawn growth, or trash, rubbish or weeds. The foregoing subsection also applies to sidewalks and street right of way areas in front of their real property and to other any area fronting their real property between the property line of an adjacent public highway or sidewalk and the pavement edge of the road. This subsection shall not apply to land under cultivation or naturally wooded or undeveloped areas which are not less than 200 feet distant from any occupied building or residence or public street or sidewalk.
- B. No Owner or Occupant of any real property in the Village of Minoa shall permit or allow to be permitted the accumulation of ice and snow on the sidewalks in front of their respective property during the wintertime. All such persons shall remove all such snow and/or ice from the sidewalks in front of his or her respective property during the wintertime and, when ice cannot be removed, to cover the same with salt, sand or similar material in such a manner as to enable one to walk thereon with safety.
- C. No Owner or Occupant of any real property in the Village of Minoa shall cause, suffer or allow poison ivy, ragweed or other poisonous plants or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed or other poisonous weed shall extend upon, overhang or border any public place, street or sidewalk or allow seeds, pollen or other poisonous particles or emanations therefrom the air into any public place in the Village of Minoa.
- D. All Owners and Occupants of real property in the Village of Minoa shall maintain the exterior of every structure or accessory structure including fences, in good repair, and all surfaces thereof shall be kept painted and finished where necessary for purposes of preservation and appearance. The same shall be maintained free of any graffiti. It shall also be free of any conditions causing or tending to cause danger, damage or injury to persons or property. The standard to which same shall be maintained is that it shall reflect a reasonable level of repair and maintenance consistent with the character of the local area and neighborhood. The foregoing maintenance and repair standards and the provisions of this §136-14(D) notwithstanding, compliance with any objective standards established by applicable laws, rules or regulations of Onondaga County, New York State or the Village of Minoa shall be conclusively deemed as compliance with this §136-14(D).
- E. All Owners and Occupants of real property in the Village of Minoa shall ensure that ground surface hazards or unsanitary conditions such as holes, excavations, breaks, projections, objections and excretion of pets and other animals on paths,

walks, driveways, parking lots and parking areas and other parts of the premises which are accessible to and used by persons on the premises shall be filled and repaired, and walks and steps replaced and other conditions removed where necessary to eliminate hazards or unsanitary conditions and any Illicit Discharge Local Law prior or hereafter adopted by the Village.

- F. All Owners and Occupants of real property in the Village of Minoa shall ensure that surface and subsurface waters of every kind, type and size (including, but not limited to, swimming pools, sump pump drains, or drainage and detention basins and ponds, man-made or otherwise) shall be maintained, controlled and when drained, in such a manner as to prevent damage to on-site and adjacent buildings and structures and to prevent the occurrence or continuance of stagnant waters causing offensive odors, growths, or appearances. Gutters, culverts, catch basins, drain inlets, stormwater sewers and sanitary sewers or other satisfactory drainage systems shall be provided and utilized where necessary, appropriate, and as permitted by the Village of Minoa, or other governmental entity having jurisdiction over same. In no case, except where expressly permitted by the Village of Minoa or as part of an established natural drainage flow, shall waters from any rain, storm or surface water drainage systems, or as a result of grading activities, be allowed to pool or settle on or flow over adjoining properties including any public sidewalks, streets, rights of way or other public property. The foregoing shall be in addition to and separate from any requirements under Chapter 135 of the Village Code relating to Stormwater Management and Erosion and Sediment Control.
- G. All Owners and Occupants of real property in the Village of Minoa shall ensure that all structures and premises subject to this chapter shall be kept free of all the following conditions: dead and dying trees, limbs or other natural growths which, by reason of rotting or deteriorating conditions or storm damage and weathering, constitute a hazard to persons in the vicinity thereof, including adjacent properties; trees shall be kept pruned and trimmed to prevent such conditions; loose and overhanging objects and accumulations of ice and snow which, by reasons of location above ground level, constitute a danger of falling on persons in the vicinity thereof.
- H. All Owners and Occupants of real property in the Village of Minoa shall ensure that no motor vehicle or trailer, owned, possessed by or registered to them, that is inoperable, unregistered or uninspected, or such registration or inspection has expired, or is without valid and current license plates affixed to them shall be parked or placed on the premises or the public sidewalks, streets or ways contiguous to or fronting such real property nor shall otherwise (except as permitted by the Zoning Code of the Village of Minoa or as an established non-conforming use as determined by the Zoning Board of Appeals) be parked or placed in a front, rear or side yard of such real property, as such terms are defined in the Village of Minoa Zoning Code.
- I. All Owners and/or Occupants of real property in the Village of Minoa shall ensure that in addition to the foregoing specific standards, no other condition shall exist on such property which constitutes a nuisance. The term "nuisance" shall be held to embrace public nuisance, as known at common law or in equity jurisprudence; i.e., condition(s) dangerous to human life or detrimental to health; any building or erection, or part or cellar thereof, if overcrowded with occupants, or not provided with adequate ingress and egress to and from the same or the apartments thereof, or if not sufficiently supported, ventilated, sewered, drained, cleaned or lighted in reference to its intended or actual use; and/or if rendering the air or human food or drink, thereon or on adjacent or nearby premises unsafe or unwholesome due to such condition(s).

Section 5. Section 136-15 of Article III of Chapter 136 of the Code of the Village of Minoa shall be renumbered as Section 136-16 and a new Section 136-15 is hereby enacted to provide as follows:

§136-15. NonCompliance

- A. If the provisions of this Article are not complied with, the Village Clerk, at the direction of the Mayor or any Trustee, Superintendent of Public Works or the Codes Enforcement Officer, only after consultation with the Codes Enforcement Officer or Village Attorney, shall serve notice upon the Owner or Occupant of any such real property to comply with the provisions of this article, and, if no such person can be found, by posting the notice on the premises and mailing via registered and certified mail, with or without return receipt request, a copy of the notice to the premises, or to the Owner or Occupant of the premises, as shown on the current tax roll for Village taxes. Such Notice shall specify the place, manner and time within which such work shall be commenced and completed. The time for commencement shall not be less than five (5) days and the time for completion shall be reasonably based on the type of work required and length of time it shall take to complete if prosecuted in an expedited fashion. The time for removal with respect to ice and snow shall be not less than eight hours.
- B. **Emergency or Exigent Situations:** The foregoing notwithstanding, where the violation or conditions existing on the premises or lands are of such a nature as to constitute an immediate threat to human health or safety unless abated without delay the Village may order the Owner and/or Occupant to correct the violation or condition forthwith and upon failure to do so, the condition may be abated pursuant to and subject to the provisions of this Chapter. Such order may be by notice as provided herein or by other documented means reasonably intended to immediately communicate the urgency of the situation such as via email, telephone, facsimile or verbal communications. In addition, any other remedies set forth in other provisions of the Village of Minoa Code or under New York State law shall be available.
- C. **Repeat Offenses:** Where the premises were subject to a previous proceeding under §136-15(A) relative to the same or similar, related or resultant violation or condition within 120 days prior to the occurrence or recurrence of the violation or condition subject of the instant proceeding, then the Village may cause the violation to be abated or order the Owner to correct the violation or condition within a period of time not to exceed three (3) days and upon failure to do so, the condition may be abated pursuant and subject to the provisions of this Chapter. In addition, any other remedies set for in other provisions of the Village of Minoa Code or under New York State law shall be available.
- D. **Failure to Comply:** Whenever a notice or notices referred to in the previous §§136-15(A), (B) and (C) hereof has or have been served in the manner required under §136-15(A), requiring such Owner or Occupants of the respective lots or parcel of land to correct the failure of general property maintenance compliance, as required at §§136-14 (A) – (H), and if such owner or owners shall neglect or fail to comply with the requirements of such notice or notices within the time provided herein, the Mayor, Superintendent of Public Works or Code Enforcement Officer may authorize the work to be done.
- E. **Reimbursement of Costs; Assessment Upon Real Property:** Upon review by and a finding of the Village Board that the provisions of this Chapter 136, including in particular §§136-15(A) and (D) hereof, have not been complied with or satisfied, and in the case of §136-15(B) that a bona-fide emergency or exigent condition existed, the Village Board may adopt a resolution authorizing that the costs incurred by the Village in performance of the work be paid for out of general Village funds appropriated by the Village Board for such purpose. The Village shall be reimbursed for the cost of the work performed by direction of the Village Board, plus a service charge of 30% thereof to cover the cost of supervision and administration, and for any penalties assessed under Article IV, Section 136-18 hereof by assessment and levy upon the lots or parcels of land wherein such work was performed and supervised/administered, and the expenses so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be

collected in the same manner and at the same time as other Village charges. In particular, in the event of a violation of §147-7, 8, or 9 of the Village Code, the cost of any towing, flat-bed or similar removal, plus 30% administrative costs shall be assessed in the foregoing manner upon the real property of any Owner or Occupant deemed to be the owner, registered person or person otherwise using such vehicle.

- F. Filing of Notice of Intent to Levy: Whenever the Village has ordered the reimbursement for the costs of the work performed or services rendered as hereinabove provided in §136-15(E) by assessment and levy upon the lot or parcels of lands whereon such work was performed or such services rendered, the Village Clerk may cause a notice of intent to levy such costs and expenses against said lots or parcels of land in a form approved by the Resolution of the Village Board from time to time hereinafter, to be recorded in the records of the Onondaga County Clerk's Office in order that such notice shall be indexed against the said premises or parcels of land as notice to subsequent transferees or other acquiring any interest in said lots or parcels of land of the intention by the Village to assess and levy the amount of such expenses upon said lots or parcels of land. Any recorded fees of the Onondaga County Clerk shall be included in the costs and expenses assessed and levied upon such lots or parcels. The failure of the Village Clerk to record such notice of intent to levy shall not, however, affect or impair the validity of any lien or assessment of such costs and expenses later imposed against such lots or parcels of land, the owner(s) hereof or any subsequent transferees or others acquiring any interest in such lots or parcels of land.
- G. Additional Rights/Remedies: In addition to and separate from any of the foregoing standards, enforcement procedures and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this local law and which are/is determined to be a threat to public health, safety, and welfare is hereby deemed a nuisance, and as such may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken as provided for under applicable law. This remedy shall be in addition to and separate from the remedies otherwise provided for hereunder.

Section 6. A new Section 136-17 is added to Article III of Chapter 136 of the Code of the Village of Minoa and is hereby enacted to provide as follows:

§136-17. Interference with Mayor, Superintendent, Code Enforcement Officer, Agents or Employees.

It shall be unlawful for any person to resist, obstruct or interfere with the Code Enforcement Officer, Superintendent of Public Works or any other officer, contractor or agent or employee of the Village during the performance of such work as set forth in §136-15(D) hereof.

Section 7. A new Chapter 136, Article V, entitled "Definitions" shall be added the Code of the Village of Minoa.

Section 8. A new Section 136-19 is added to such new Article V of Chapter 136 of the Code of the Village of Minoa and is hereby enacted to provide as follows:

§136-19. Definitions.

For purposes of this Chapter 136, the term:

"Occupant" shall mean any tenant, licensee, border, squatter, occupant, or other person in partial or entire possession and control of the real property and/or improvements regardless of whether or not by contract, express permission, consent, knowledge or otherwise.

“Owner” shall include:

- A. The Owner of real property as defined under §1-14 of the Village Code.
- B. The owner of real property immediately fronting on a portion of any sidewalk, highway, street or road right of way or other public premises owned by the Village, County or Town and maintained or controlled by the Owner of the Village of Minoa adjacent or contiguous to the Owner’s real property and located between such sidewalk, highway, street or road right of way or other public premises owned by the Village, County or Town and maintained or controlled by the Owner, upon which portion any order pursuant to this Chapter is subject to.
- C. Any other person or entity who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or shall have possession, charge, care or control of any dwelling unit as owner or as executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained. Any person who is a lessee, sublessee or assignee of any part or all of any lease, property, dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the premises or portion of the premises, leased sublet or assigned by said lessee, sublessee or assignee.
- D. Contract not to alter responsibilities – The respective obligations and responsibilities of the Owner on one hand and any Occupant or other person described at §136-19(C) on the other shall not be altered or affected by any agreement or contract by and between any of the aforesaid or between them and other parties which allocates or reduces such liability or expenses. In particular, it is the intent of this local law that Occupants, be as responsible and liable as an Owner for the maintenance, repair and condition of the real property.

“Person” shall mean any individual, society, club, firm, partnership, corporation, limited liability company, trust, other entity or an association of persons and the singular number shall include the plural number.

“Rubbish”

- A. Shall include the following:
 1. Lumber, junk, trash, debris, building materials, mounds or dirt or any other deleterious materials.
 2. Any abandoned, discarded or unused objects or equipment, such as automobile parts, furniture, stoves, refrigerators, freezers, cans, containers or vehicle tires.
 3. Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or gas or attract rodents, vermin or other disease-carrying pests, animals or insects.
 4. Any unsanitary matter or materials.
 5. Trash, rubbish, garbage and weeds, as said terms are defined in Chapter 132, Solid Waste, of the Code of the Village of Minoa.
 6. Tree trimmings, brush or shrubbery trimmings, trees, brush or shrubbery or portions thereof severed from their roots or uprooted trees, brush or shrubbery.
- B. However, for purposes of this article, the term "Rubbish" shall not include any of the foregoing if stored in containers or plastic container bags conforming to the

requirements of Chapter 132, Solid Waste, of the Code of the Village of Minoa or tied in bundles conforming to the requirements of said Chapter 132, or any landscaping materials temporarily assembled or stored for pickup or use subject to any applicable Village Code or other legal requirements.

“Structure” shall mean an assembly of materials forming a construction framed of component structural parts, which exists for any occupancy or use.

Section 6. ILLEGALITY/SEVERABILITY.

If any part of this local law or the application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation or the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances. Further, in adjudging such invalid provision, the court shall attempt to modify same to a provision which is not invalid and which best achieves the intent of the invalid provision.

Section 7. EFFECTIVE DATE.

This Local Law shall take effect immediately upon its filing in the office of the Secretary of State.

PUBLIC COMMENTS

Attorney Primo described Local Law #6 for 2007 and said he had included changes requested by Richard Greene, Codes Enforcement Officer. He said the law was written in a form that the lay person could understand and included a catchall for public nuisance issues.

Trustee Champagne had questions pertaining to the following sections:

- §136-14, D – Trustee Champagne expressed concern that owners who prefer the natural look for fences and do not paint them, will be penalized. He said many residents place up kickboards for their children who play soccer and does not want that to be perceived as graffiti. Attorney Primo said that it was a good question and if the property meets and complies with the New York State and Onondaga County Code, it supersedes the Village Code and should not be an issue. Attorney Primo said this local law addresses potential code enforcement problems that can be directly addressed by complaint with the Clerk’s Office and a notice can be sent out.
- §136-14, F - Trustee Champagne said there could be problems with neighbors pumping out pools or their sump pump into a neighbors lawn and Attorney Primo said the proposed law would not address natural drainage flows, but would address deliberate drainage issues. Richard Greene, Codes Enforcement Officer, said there are areas where water is currently allowed to run across properties and some do not have drainage easements. Attorney Primo said he would adjust the sentence to include “unless expressly permitted by the Village of Minoa or the part of an established naturally drainage flow.” Trustee Champagne said he has water drainage problems on his own lot and would like to see it adjusted.
- §136-14, H – Trustee Champagne asked how it would affect homeowners with corner lots and the parking of unregistered and disabled vehicles. Attorney Primo said the corner lot property would be treated as two front yards.
- §136-15 – Trustee Champagne expressed concern that eight (8) hours was not enough time for the removal of ice for many residents. Attorney Primo said the current code allows for eight (8) hours for ice removal from the sidewalks and the DPW currently manages the sidewalks, but it is ultimately the homeowners responsibility.

- §136-19 – Trustee Champagne asked for clarification of “rubbish” building material and asked if it would interfere with landscaping or grading work. Attorney Primo said it shouldn’t be a problem and Mayor Donovan said if there were any questions they would be handled by the Codes Enforcement Officer. Attorney Primo said he could add references to the exclusions pertaining to landscaping to eliminate issues.

Mayor Donovan recognized Terry McCarthy of 302 Helfer Lane, who asked for clarification of the present regulations pertaining to a sump pump going into a neighbor’s backyard.

Attorney Primo said there was no present law on the books and it would be a civil action, but this law would include it in the books. Attorney Primo said if it were to happen now, he would have to take them to small claims court, but with the new law it would allow the Codes Enforcement Officer or the Clerk’s Office to send out a letter to force the change.

Thomas Petterelli said generally the DPW will find a source for the sump pump to dump into and isn’t aware of any current problems, as he usually receives the call first and they provide the outlet for them to tie into.

Mayor Donovan recognized John Sears of 103 S. Main Street. Mr. Sears expressed that the DPW had previously flushed the hydrants, which resulted in water running directly into his lower apartment. Mr. Petterelli and Attorney Primo said the Village leases the water system to OCWA to maintain the system and the Village will no longer be flushing the hydrants. Attorney Primo said all issues with future water problems should be directed to OCWA. Mr. Sears said that he would direct future concerns to OCWA and the Village of Minoa.

Mr. Greene said §136-14, D should stand alone as its own paragraph and Attorney Primo said to move it as a qualifier for all paragraphs the Board would have to consider if it’s a higher standard than what is applied to County and State standards. Attorney Primo said the qualifier is included due to subjective interpretation and is hesitant to make it a qualifier.

Mr. Greene said §136-14, H, recently had a situation with the Town of Manlius Police with regard to an unlicensed vehicle on the street. He said the Police will not ticket an unregistered or unlicensed vehicle on the street and they refused to do it, because there isn’t a law on the books that allows for it. Mr. Greene said that unless the vehicle was illegally parked, they cannot ticket the vehicle. He said the Village should amend the parking laws or include it in this new local law, which would give Mr. Greene the authority to have the vehicle removed from the street.

Attorney Primo said the proposed law allows for holding the property owner responsible for curing the problem, but if they do not own the vehicle and it is removed they are not financially responsible for the vehicle.

Mr. Greene said that maybe the Village should change the parking regulations which will not permit the parking of unregistered and unlicensed vehicles and then have them towed. Attorney Primo said he would include the original language back into the law, which states that unregistered, unlicensed or inoperable vehicles be towed, but cannot be charged to the landlord.

Trustee Brazill asked if it would be easier to amend the parking and Attorney Primo said parking is street specific and the proposed law will address all streets, thus giving the Town of Manlius Police a provision in the Code to ticket the vehicles. Mr. Greene said he believes it will be enforceable.

Mr. Greene expressed concern that the Local Law # 6 for 2007 gives the Trustees the power to decide if there are problems and then giving the Clerk the power to write a letter to the homeowner. He feels there should be a consensus among the Trustees that they discuss problems with the Codes Enforcement Officer to make sure that mistakes

aren't being made.

Mayor Donovan agreed that problems should be discussed with and addressed by the Codes Enforcement Officer or Attorney Primo.

Mr. Sears asked what initiated the proposed local law and Mayor Donovan said the Village Code update is a result of complaints made by residents. Mayor Donovan said that as the times change, the laws need to be reviewed and addressed.

**PUBLIC HEARING
CLOSED**

A motion was made by Trustee Brazill and seconded by Trustee Champagne to adjourn the Public Hearing for Local Law #6 for 2007 at 7:59 p.m. All in favor. Motion carried.

Respectfully submitted,

Suzanne M. Snider
Village Clerk