

ORDINANCE #70

RELATIVE TO SIDEWALKS IN THE VILLAGE

THE VILLAGE OF SPRINGPORT ORDAINS:

Section I. CONSTRUCTION.

The Council may, whenever in its judgment it is necessary for public convenience and/or safety, decide to have sidewalks constructed in the streets of the Village and assess one-half of the construction cost to the property owner or owners abutting those sidewalks. This action shall be directed by resolution of Council.

Construction priorities are determined on the basis of the risk of personal injury accidents and associated liabilities. The rate of construction will be determined entirely by funding considerations. The priority levels divided into two construction categories are as follows:

NEW CONSTRUCTION

Priority:

1. Green Street, due to hazardous pedestrian conditions.

Specifically, the volume of traffic and traffic speeds combined with no street shoulders or curbs and gutters. This situation is confined to Green Street. Green Street also falls under Priority #2 in having no sidewalks at all.

2. Any street that does not have a continuous sidewalk down at least one side.

Section II. REPAIR; REPLACEMENT.

The Council may, whenever in its judgment it is deemed necessary, decide to have any sidewalk in the Village repaired or replaced and assess one-half of the construction cost to the property owner or owners abutting those sidewalks. Sidewalk replacement or repair actions shall be directed by resolution of Council.

Priority:

1. Sidewalk that fails the criteria for “water retention” defined on the adopted replacement criteria list.
2. Sidewalk that fails the criteria for “wobble” defined on the adopted replacement criteria list.
3. Sidewalk that fails the criteria for “toe stubber” on the adopted replacement criteria list.
4. Sidewalk that is missing from areas that previously had sidewalks.
 - A. A Council approved list of sidewalk replacement criteria will be maintained in the Village Office and up-dated as needed.
 - B. A Council approved sidewalk replacement plan will be maintained in the Village Office and up-dated as needed.

Section III.

PUBLIC NOTICE.

If upon it’s own initiative, the Village Council proposes to construct or repair a sidewalk in the Village, notice of such intention shall be published for two (2) weeks in a newspaper published in the Village, and a Public Hearing provided to hear objections by the landowners being billed or taxed for said construction. If one-half (1/2) of the affected landowners do object, then a two-thirds (2/3) vote of Council will be required to order the construction or repair.

Section IV.

CONSTRUCTION, REPAIR OR REPLACEMENT BY PROPERTY OWNER.

- A. Any property owner desiring to construct, repair or replace a sidewalk abutting the owner’s premises shall apply to the Council for permission to do so. The Council may approve, modify or reject the application at its discretion. If the application is approved, all costs associated with the construction, repair or replacement shall be the responsibility of the property owner.
- B. When new residential or commercial construction on previously undeveloped property occurs, the owner of the property will construct new sidewalks on the street right of way or rights of ways adjoining the property. The property developer will bear the entire cost of construction. Sections 4 and 5 of this Ordinance applies to this construction.

Section V.

SPECIFICATIONS.

All sidewalks constructed or caused to be constructed under the provisions of this ordinance shall be three (3) feet in width with the exceptions of the south side of West Main Street which will be five feet wide for school traffic and the One Hundred block of East Main Street which will be constructed to fit the available space between the building and the curb or as approved by Council. All sidewalks shall be four (4) inches thick for pedestrian traffic and six (6) inches thick where vehicular traffic crosses the sidewalk. Concrete shall be of a mix and type specified by concrete suppliers for sidewalk applications, built upon a suitable and properly compacted grade material and possess a smooth hard or broom finish.

Section VI.

RESPONSIBILITIES AND PROHIBITIONS.

- A. Any person, who shall damage or destroy any sidewalk in the Village both during and subsequent to construction, shall be liable to the Village for the cost of repair or replacement of that sidewalk and billed or assessed for said cost.
- B. All trees, shrubs and other vegetation growing along the property owner's side of a village sidewalk will be pruned and trimmed by the property owner, or their agent, so as not to intrude over the edge of the sidewalk and to maintain a clearance height of ten (10) feet above the sidewalk. If the property owner fails to keep the sidewalk free of vegetative obstruction, the Village will perform the trimming and pruning and bill or assess the property owner for the cost incurred.
- C. It shall be unlawful to enter or exit from any premises, by any vehicle over any sidewalk, except upon that section of the walk that has been constructed and provided for such ingress or egress. Any person damaging a sidewalk by this activity shall be liable to the Village for the cost of repair or replacement of that sidewalk and billed or assessed for said cost.

Section VII.DUTY TO CLEAR

- A. Unless exempted pursuant to Section VIII below, the owner or occupant of any property located within the Village of Springport shall clear accumulations of ice or snow from the public sidewalks

adjoining the property within 24 hours of the accumulation or placement of snow or ice on the sidewalks.

- B. The owner or occupant of any property located within the Village of Springport used for commercial purposes shall clear accumulations of ice or snow from the public sidewalks adjoining the property within 24 hours of the accumulation or placement of the snow or ice on the sidewalks.

Section VIII. EXEMPTION

The owner or occupant of any property located within the Village of Springport and used for residential purposes is exempt from the obligation to clear accumulations of ice and snow from the public sidewalks adjoining their property if the Village Manager or his designee determines that compliance with Section 7a above would result in a physical or economic hardship. A person may not claim such exemption in an enforcement proceeding under this Section unless the person has applied for and obtained the exemption from the Village Manager or his designee prior to the date of any violation of this Ordinance.

Section IX. MOTIVE OF VIOLATION AND ORDER TO ABATE.

Any person determined by the Village Manager or his designee to be in violation of Section 7 above shall be given notice of the violation and ordered to abate the violation, as follows:

- A. **Service of Notice and Order.** The notice and order may be served by any one of the following means:
1. In writing, by first class mail, addressed to the owner of the property at the last known address as shown by Village tax records. The Notice and Order shall at the same time also be mailed to the occupants of the property if different from the owner. If the Notice and order are served by mail, they shall be deemed received by the addressee three mail delivery days after deposit in the United States mail.
 2. In writing, posted at the property. The Notice and order shall be deemed to have been served to the owner and/or occupant, as applicable, at the time the Notice and order is posted at the property.

3. By providing the Notice and Order orally, either in person or by telephone. The oral Notice and order shall be deemed to have been served to the owner and/or occupant, as applicable, at the time the oral Notice and Order are given. Written confirmation of the oral Notice and order shall be mailed by the Village to the person served within 5 days of the oral Notice and Order, provided that the failure to do so shall not affect the person's obligation to comply with the oral Notice and Order and shall not constitute a defense to a violation of Section 7a.

B. Contents of Notice and Order. To the extent known by the Village, and as applicable under the circumstances, a notice and Order under this Ordinance shall include:

1. The date and time the notice was served.
 2. The name and address of the person (or persons) responsible for this violation.
 3. A description of the nature and location of the violation, and the provisions of this Ordinance violated.
 4. The minimum corrective actions required to abate the violation.
 5. A statement that the violation must be abated within 48 hours from the time of notice was served.
 6. An Order to abate the violation by the time specified in the Order, which shall be 48 hours from the time Notice and Order are deemed to have been received as provided by this Ordinance.
 7. The applicable fines or other consequences for failure to abate the violation by the time specified in the Notice and Order.
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8. A statement indicating that if the violation is not abated as ordered, then the Village may unilaterally act to abate the violation; that the costs to the Village of any action by the Village to abate the violation, plus an

administrative fee and any applicable fines, shall be a personal debt of the person to the Village which may be assessed by the Village as a lien against the property until paid; and that the refusal to allow the Village to abate an uncorrected violation shall constitute a separate and additional violation of this Ordinance.

- C. **Abatement required.** Any person served with a Notice and Order as provided by this Ordinance shall abate the violation as specified by the order.

Section X.

NONCOMPLIANCE WITH ORDER

- A. **Abatement by Village.** If a person is served with a Notice and Order fails or refuses to abate the violation as required by the order under this Ordinance within 48 hours of being notified of the violation, the Village or its authorized representatives may enter the property and take any reasonable actions necessary to remove the ice and snow from the sidewalks and abate the violation.

- B. **Cost of Abatement; Delinquent Payments; Lien.** The costs, including an administrative fee of \$25.00 as incurred by the Village in abating the violation shall be immediately due and payable to the Village by the owner of the property where the violation occurred. The Village shall notify the property owner that the costs are due and owing by certified mail (return receipt requested), addressed to the property owner's last known address as shown by Village tax records. If the costs are not paid in full within 30 days of mailing the notification, they shall be delinquent. The amount of the costs plus any administrative fee shall be certified by the treasurer to the assessor for inclusion upon the next Village tax roll. The amount included in the Village tax roll shall be a lien against

the property which may be enforced and discharge by the Village in the same manner as a tax lien. The costs of abatement, if any, recovered by the Village shall be in addition to any civil fines, damages, expenses, or costs payable to the Village as a result of a violation.

C. Abatement by Village Not Defense to Violation. The abatement by the Village of a violation of this Ordinance and subsequent recovery of abatement costs incurred by the Village shall not be a defense to any action by the Village against any person for the violation, including without limitation, any action by the Village to collect civil fines, damages, expenses or costs as authorized by law.

Section XI. MUNICIPAL CIVIL INFRACTION

A person who violates any provision of this Ordinance, including, without limitation, the failure or refusal to abate a violation following service of a Notice and Order, is responsible for a municipal civil infraction, subject to payment of a civil fine as follows:

Any person violating any provisions of this Ordinance shall be deemed responsible for a civil infraction. Penalties may be imposed as follows:

First Offense.....	\$50
First Repeat Offense.....	\$100
Second (or any subsequent) Repeat Offense.....	\$250

PLUS COSTS AND OTHER SANCTIONS.

Section XII. NUISANCE PER SE, INJUCTIVE RELIEF

A Violation of this Ordinance shall be deemed to be a nuisance per se. In addition to any other remedy available at law, the Village may bring an

action for an injunction or other process against a person, to restrain, prevent or abate any violation of this Ordinance.

Section XIII. SEVERABILITY.

If any section, paragraph, clause, phrase or part of this Ordinance is held invalid by any Court of competent jurisdiction, or by any agency, department or commission empowered by Statute for such purpose, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstances shall not be affected thereby.

Section XIV. REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed. Enactment of this ordinance rescinds and replaces any and all ordinances previously numbered seventy (70) in the Springport Village Code of Ordinances.

Section XV. EFFECTIVE DATE

This Ordinance shall take effect and be in force twenty (20) days after adoption and publication thereof.

EFFECTIVE DATE: _____ day of _____,2008

AMENDED the _____ day of _____,2008

Reviewed By:

Signed: _____
Jeremiah Newsome, Village President

Rosalee Terpening, Village Manager

Signed: _____
Marianna Sabados, Clerk

Stuart Saunders, Village Attorney