

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1995**

No. 64

Introduced by Council Members Spigner, the Speaker (Council Member Vallone), Malave-Dilan, Leffler, Pagan, Watkins, White, Dear, Eisland, Albanese, Freed and McCaffrey; also Council Members Fields, Pinkett, Povman and Ruiz.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the recovery of expenses by the city for repairing or reinstalling sidewalks and the repeal of subdivision o of section 19-152 of such code in relation thereto.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 19-152 of the administrative code of the city of New York, as amended by chapter 813 of the laws of 1992, is amended to read as follows:

a. The owner of any real property, at his or her own cost and expense, shall (1) install, construct, repave, reconstruct and repair the sidewalk flags, in front of or abutting such property, including but not limited to the intersection quadrant for corner property, and (2) fence any vacant lot or lots, fill any sunken lot or lots and/or cut down any raised lots comprising part of all of such property whenever the commissioner of the department shall so order or direct. [Based upon risk or hazard assessment criteria, the] *The commissioner shall so order or direct the owner to reinstall, construct, repave or repair a defective sidewalk flag in front of or abutting such property, including but not limited to the intersection quadrant for corner property or fence any vacant lot or lots, fill any sunken lot or lots and/or cut down any raised lots comprising part or all of such property after an inspection of such real property by a departmental inspector. [Before conducting inspections, the department shall establish standard criteria for inspection to determine sidewalk flag defects based upon risk or hazard assessment criteria.] The commissioner shall not direct the owner to reinstall, reconstruct, repave or repair a sidewalk flag [existing at legal grade] which was damaged by the city, its agents or any contractor employed by the city during the course of a city capital construction project. The commissioner shall direct the owner to install, reinstall, construct, reconstruct, repave or repair only those sidewalk flags which contain a substantial defect. For the purposes of this subdivision, a substantial defect shall include any of the following:*

- 1. where one or more sidewalk flags is missing or where the sidewalk was never built;*
- 2. one or more sidewalk flag(s) are cracked to such an extent that one or more pieces of the flag(s) may be loosened or readily removed;*

3. an undermined sidewalk flag below which there is a visible void or a loose sidewalk flag that rocks or seesaws;

4. a trip hazard, where the vertical grade differential between adjacent sidewalk flags is greater than or equal to one half inch or where a sidewalk flag contains one or more surface defects of one inch or greater in all horizontal directions and is one half inch or more in depth;

5. improper slope, which shall mean (i) a flag that does not drain toward the curb and retains water, (ii) flag(s) that must be replaced to provide for adequate drainage or (iii) a cross slope exceeding established standards;

6. hardware defects which shall mean (i) hardware or other appurtenances not flush within 1/2" of the sidewalk surface or (ii) cellar doors that deflect greater than one inch when walked on, are not skid resistant or are otherwise in a dangerous or unsafe condition;

7. a defect involving structural integrity, which shall mean a flag that has a common joint, which is not an expansion joint, with a defective flag and has a crack that meets such common joint and one other joint;

8. non-compliance with DOT specifications for sidewalk construction; and

9. patchwork which shall mean (i) less than full-depth repairs to all or part of the surface area of broken, cracked or chipped flag(s) or (ii) flag(s) which are partially or wholly constructed with asphalt or other unapproved non-concrete material; except that, patchwork resulting from the installation of canopy poles, meters, light poles, signs and bus stop shelters shall not be subject to the provisions of this subdivision unless the patchwork constitutes a substantial defect as set forth in paragraphs (1) through (8) of this subdivision.

§2. Section 19-152 of the administrative code of the city of New York is amended by adding thereto a new subdivision a-1 to follow subdivision a and to read as follows:

a-1. An owner of real property shall bear the cost for repairing, repaving, installing, reinstalling, constructing or reconstructing any sidewalk flag in front of or abutting his or her property, including but not limited to the intersection quadrant for corner property, deemed to have a substantial defect which is discovered in the course of a city capital construction project or pursuant to the department's prior notification program, wherein the department receives notification of a defective sidewalk flag(s) by any member of the general public or by an employee of the department. However, with respect to substantial defects identified pursuant to the prior notification program, the sidewalk must be deemed to be a hazard prior to the issuance of a violation for any substantial defect contained in subdivision a of this section for any sidewalk flag on such sidewalk. For purposes of this subdivision, a hazard shall exist on any sidewalk where there is any of the following:

1. one or more sidewalk flags is missing or the sidewalk was never built;
2. one or more sidewalk flag(s) is cracked to such an extent that one or more pieces of the flag(s) may be loosened or readily removed;
3. an undermined sidewalk flag below which there is a visible void;
4. a loose sidewalk flag that rocks or seesaws;
5. a vertical grade differential between adjacent sidewalk flags greater than or equal to one half inch or a sidewalk flag which contains one or more surface defects of one inch or greater in all horizontal directions and is one half inch or more in depth; or
6. cellar doors that deflect greater than one inch when walked on, are not skid resistant or are otherwise in a dangerous or unsafe condition.

§3. The first sentence of subdivision c of section 19-152 of the administrative code of the city of New York is amended to read as follows:

c. Whenever the department shall determine that a sidewalk flag should be installed, constructed, [or] reconstructed, or repaved, [based upon risk or hazard assessment criteria] or that a vacant lot should be fenced, or a sunken lot filled or a raised lot cut down, it may order the owner of the property abutting on such sidewalk flag or the owner of such vacant, sunken or raised lot by issuing a violation order to perform such work.

§4. Subdivision o of section 19-152 of the administrative code of the city of New York is REPEALED.

§5. This local law shall take effect immediately and shall apply to work required by notices or orders issued on or after the effective date of this law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on July 18, 1995, and approved by the Mayor on August 4, 1995.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 64 of 1995, Council Int. No. 354-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on July 18, 1995: 45 for, 0 against.

Was approved by the Mayor on August 4, 1995.

Was returned to the City Clerk on August 7, 1995.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel