



Legislation Text

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Int. No. 1369

By Council Members Moya and Yeger

A Local Law to amend the administrative code of the city of New York, in relation to limiting the amount of sidewalk area that private property owners are responsible for maintaining

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 19-152 of title 19 of the administrative code of the city of New York, as amended by local law number 64 for the year 1995, 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 up to 30 feet from the property line, including but not limited to the intersection quadrant for corner property if such intersection quadrant is within 30 feet from such property line, and (2) 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 whenever the commissioner of the department shall so order or direct. The commissioner shall so order or direct the owner to reinstall, construct, reconstruct, repave or repair a defective sidewalk flag in front of or abutting such property up to 30 feet from the property line, including but not limited to the intersection quadrant for corner property if such intersection quadrant is within 30 feet from such property line, 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. The commissioner shall not direct the owner to reinstall, reconstruct, repave or repair a sidewalk flag 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 flag 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 [tht] 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. Subdivision a-1 of section 19-152 of title 19 of the administrative code of the city of New York, as

added by local law number 64 for the year 1995, is amended 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 up to 30 feet from the property line, including but not limited to the intersection quadrant for corner property if such intersection quadrant is within 30 feet from such property line, 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. Section 7-210 of title 7 of the administrative code of the city of New York, as added by local law number 49 for the year 2003, is amended to read as follows:

§ 7-210 Liability of real property owner for failure to maintain sidewalk in a reasonably safe condition.

a. It shall be the duty of the owner of real property abutting any sidewalk, including, but not limited to, the intersection quadrant for corner property, to maintain such sidewalk up to 30 feet from the property line in a reasonably safe condition.

b. Notwithstanding any other provision of law, the owner of real property abutting any sidewalk, including, but not limited to, the intersection quadrant for corner property, shall be liable for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain such sidewalk up to 30 feet from the property line in a reasonably safe condition. Failure to maintain such sidewalk in a reasonably safe condition shall include, but not be limited to, the negligent failure to install, construct, reconstruct, repave, repair or replace defective sidewalk flags and the negligent failure to remove snow, ice, dirt or other material from the sidewalk. This subdivision shall not apply to one-, two- or three- family residential real property that is (i) in whole or in part, owner occupied, and (ii) used exclusively for residential purposes.

c. Notwithstanding any other provision of law, the city shall not be liable for any injury to property or personal injury, including death, proximately caused by the failure to maintain sidewalks (other than sidewalks abutting one-, two- or three- family residential real property that is (i) in whole or in part, owner occupied, and (ii) used exclusively for residential purposes) abutting an owner's real property up to 30 feet from the property line in a reasonably safe condition. This subdivision shall not be construed to apply to the liability of the city as a property owner pursuant to subdivision b of this section.

d. Nothing in this section shall in any way affect the provisions of this chapter or of any other law or rule governing the manner in which an action or proceeding against the city is commenced, including any provisions requiring prior notice to the city of defective conditions.

§ 4. Section 7-211 of title 7 of the administrative code of the city of New York, as added by local law number 54 for the year 2003, is amended to read as follows:

§ 7-211 Personal injury and property damage liability insurance. An owner of real property, other than a public corporation as defined in section sixty-six of the general construction law or a state or federal agency or

instrumentality, to which subdivision b of section 7-210 of this code applies, shall be required to have a policy of personal injury and property damage liability insurance for such property for liability for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain the sidewalk abutting such property up to 30 feet from the property line in a reasonably safe condition. The city shall not be liable for any injury to property or personal injury, including death, as a result of the failure of an owner to comply with this section.

§ 5. This local law takes effect 120 days after it becomes law.

JEF
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