

PART II – GENERAL LEGISLATION

Chapter 221 – Streets, Sidewalks and Public Places – see also Ch. 200 – Sidewalks

[Amended and Adopted, December 27, 2012, as Chapter 221 of the Code]

Article I In General

Sections 221-1 – 221-19

[Adopted as G.O. 1930, and Local Law # 2 of 1978, and Ord. 5-14-1951, and Ord. of 6-30-60, and Res. of 5-26-69]

Article II Use of Streets, Sidewalks and Public Places

Sections 221-20 – 221-41

[Adopted as G.O. 1930, and Ord. of 8-14-33]

Article III Excavations

Sections 221-42 – 221-50

[Adopted Ord. of 12-7-60, and Ord. of 12-7-60]

Article IV Driveways [Amended by L.L. #3 of 2013]

Sections 221-51 – 221-55

Article V Possession of Open Containers

Sections 221-56 – 221-65

[Adopted as Local Law, April 24, 1995]

Article I – In General

Section 221-1 – Duty to keep sidewalk, gutter clean; failure to do so

(a) The occupant of each and every house or building fronting upon any street or alley, or the owner or the agent of the owner of any vacant lot fronting as aforesaid, shall at all times keep the sidewalk and gutter along the said premises clean and free from all rubbish and obstructions of all kinds, and shall also keep closely cut all grass and weeds along the sidewalk.

(b) Upon default or failure to comply with the provisions of this section, the board of trustees may cause such sidewalk and gutter to be kept clean and free from rubbish and obstructions or cause such grass and weeds to be cut and assess the expense thereof upon the adjoining land as provided by law. (G.O. 1930, No. 38)

Section 221-2 – Prevention of accumulation of snow, ice on buildings – The owners and occupants of all buildings adjacent to the street shall prevent the accumulation of ice, snow or water thereon so that the same shall be liable to fall from such buildings upon the street or sidewalk. (G.O. 1930, No. 39)

Section 221-3 – Regulation of snow plowing operations

(a) Purpose. The purpose of this section is to control and regulate the deposit of ice and snow upon the village sidewalks and fire hydrants during the course of snow plowing operations within the Village of Marcellus, other than by village public works personnel.

(b) Snow Plowing Procedure Prohibited. No person, firm or corporation or agent or employee thereof shall plow or shovel snow or ice during snow removal operations upon a village sidewalk or other public way for pedestrian access, or obstruct a village fire hydrant or fire lane with ice or snow.

(c) Violations and Penalty.

(1) Notice of violation. Any person found to be violating any provision of subsection (b) hereof shall be served by the village with a written notice stating the nature of the violation and providing a reasonable time limit for the removal of the snow and ice so deposited upon a village public sidewalk, public right-of-way or village fire hydrant. The offender shall, within the period of time stated in such notice, comply therewith.

(2) Continuing violations. Any person who shall continue any violations beyond the time limit established by the notice provided in paragraph (1) above shall be guilty of a violation and on conviction thereof shall be fined in an amount not exceeding twenty-five dollars (\$25.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(3) Liability. Any person violating any of the provisions of this section shall become liable to the village for any expense, loss or damage occasioned by the village by reason of such violation, including removal of said snow and ice by village personnel. (L. L. No. 2 of 1978 1-3)

Section 221-4 – New streets – Requirements generally – All new streets in the village shall be sixty (60) feet wide and must meet current specifications required by village law before a street is accepted and dedicated a sanitary sewer and water main must be provided. Sidewalks may be required at the option of the board of trustees (Ord. of 5-14-51).

Section 221-5 – Same – When draining basins required – In instances where surface water may make it necessary, leaching or draining basins will be required before the acceptance of a new street (Ord. of 5-14-51).

Section 221-6 – Same – Approval, Acceptance, Maintenance – All new streets shall be approved by the village board and when so approved, shall be accepted on behalf of the village for use as a public highway, and the village thereafter shall maintain said streets in the same manner as all other streets in the village (Ord. of 5-14-51).

Section 221-7 – Same – Failure to comply with conditions not prevent tax assessment – Failure on the part of any person to comply with any of the conditions for the acceptance of new streets shall not prevent the village board of trustees from assessing and levying taxes on any parcel of land, lot or subdivision described as such by map or deed, at the same rate as any other parcel, lot or subdivision within the village at the same time (Ord. of 5-14-51).

Section 221-8 – Actions for damage or injury due to defective, unsafe, etc., streets, etc.; notice of defects – No civil action shall be maintained against the village for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed unless previous to the occurrence resulting in such damages or injury, written notice of the defective, unsafe, dangerous or obstructed condition of said street, highway, bridge, culvert, sidewalk or crosswalk was actual given to the board of trustees or any member thereof, or the village clerk,

or the foreman of the highway department of the village and there was a failure or neglect within reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of (Ord. of 6-30-60).

State law reference-Negligence and malfeasance of public officer Gen. Mun. Law, 50.

Section 221-9 – Action for injury or damage caused by snow, ice on sidewalks, etc. – No civil action shall be maintained against the village solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk or street unless written notice thereof relating to the particular place was actually given to the foreman of the highway department of the village, or the village clerk, or the board of trustees and there was a failure or neglect to cause such snow or ice to be removed or the place otherwise made reasonably safe within a reasonable time after the receipt of such notice (Ord. of 6-30-60).

Section 221-10 – Permission to use or rename streets required before issuance of development permit for subdivision – Prior to the issuance of land development permits for subdivisions, application shall be made by the builder or developer to the Board of Trustees for permission to use or rename streets in the Village of Marcellus. The Board of Trustees, before any building permits are issued, shall check and clear with a master list of street names in the office of the Syracuse-Onondaga County Planning Agency for streets, roads, avenues, drives, lanes, circles or courts already in existence; and upon clearance for the use of the requested and designated name or names, the Board of Trustees shall authorize the Code Enforcement Officer to issue such permits as are required for development purposes (Res. of 5-26-69).

Sections 221-11 – 221-19 – Reserved

Article II – Use of Streets, Sidewalks and Public Places

Section 221-20 – Depositing, sweeping, throwing materials on streets, etc. – No person shall sweep, throw or deposit or cause to be deposited, swept or thrown, any material whatever into or upon any street, gutter, sidewalk or public ground within the village (G.O. 1930, No. 28).

Section 221-21 – Bonfires, burning of leaves prohibited in streets etc.

(a) No person shall make or cause to be made any bonfire in the streets, highways, parks or other public places in the village.

(b) No person shall burn leaves or cause any leaves to be burned in any of the streets, highways or public place of the village (Ord. of 8-14-33).

Section 221-22 – Playing ball in streets – No person shall play ball, either by throwing or catching, or by throwing and knocking, or in any other manner in any of the public streets, lanes or highways of the village (G.O. 1930, No. 21).

Section 221-23 – Coasting, sliding on sidewalks – No person shall coast or slide down or upon any sidewalk on any sled, sleigh, cart, coaster or board without permission from the mayor or a village policeman (G.O. 1930, No. 22).

Section 221-24 – Riding, leading, driving animals on sidewalks, terraces adjacent thereto – No person shall ride on horseback or in any wagon, carriage or cart, or lead or drive any horse, ox or cow, upon any of the sidewalks or upon a terrace between a sidewalk and highway of the village, except in necessarily crossing the same.

Section 221-25 – Driving vehicles on sidewalks; permitting vehicle to stand on sidewalk, crosswalk – No person shall drive any motor vehicle or other vehicle as defined in Article I of the Vehicle and Traffic Law upon the sidewalks of the village nor permit such motor vehicle or other vehicle to stand on any sidewalk or crosswalk in the village (G.O. 1930, No. 24).

Section 221-26 – Collecting, congregating in streets, etc.

(a) Prohibited. Persons shall not collect or congregate in bodies or crowds in or upon any of the streets, sidewalks, bridges or other public places of the village so as to obstruct the same or prevent the free and ready passage through or over said streets, sidewalks, bridges or other public places.

(b) Order to disperse. All persons being part of any crowd or assemblage collected, assembled or congregated upon any sidewalk, street, bridge or other public place in the village so as to obstruct, impede or interfere with the free passage in and along any such street, sidewalk, bridge or other public place, shall, upon being directed or commanded to do so by the mayor or any police officer of the village, immediately move on or disperse (G.O. 1930, Nos. 2, 7).

Section 221-27 – Parades, shows, exhibitions – No person shall be permitted to participate in, organize or conduct any parades, shows or exhibitions of any kind on the streets, sidewalks or other public places of the village except upon the written consent of the Village Board (G.O. 1930 No. 47).

Section 221-28 – Obstruction of streets, sidewalks with building materials

(a) Generally. No building materials shall be deposited in any street, highway or upon any sidewalk within the village.

(b) Exception. Building materials may be deposited in a street or highway or upon a sidewalk for the purpose of erecting or repairing any building upon a lot adjacent thereto provided a permit is obtained from the board of trustees which permit shall prescribe the terms

and conditions and the length of time during which such building materials may be so placed or deposited (G.O. 1930, No. 31).

Section 221-29 – Erection of poles, wires – No person shall erect any pole in the streets or public places of the village or extend any wire for telephone, telegraph, sign, electric or other purposes in or across any street or public place in the village without the permission of the board of trustees (G.O. 1930, No. 36).

Section 221.30 – Suspension of merchandise for exhibition prohibited – No person shall suspend, place or hang over any sidewalk or street within the village any goods, wares, merchandise or other thing for sale or exhibition (G.O. 1930, No. 30).

Section 221-31 – Laying of tile, etc., in streets, gutters – No person shall build or lay any tile or culvert in any public street, gutter or other public place without first having obtained written permission from a member of the board of trustees (G.O. 1930, No. 46).

Sections 221-32 – 221-41 – Reserved

Article III – Excavations, Sections 221-42 – 221-46

Section 221-42 – Permit required – No person shall make any excavation under any sidewalk or in and under a public highway in the village for any purpose without first obtaining an excavation permit as provided by this article.

Section 221-43 – Application for permit – Any person who shall plan to excavate under a sidewalk or in and under a public highway in the village for the purpose of alterations, modifications, repairing or installing sewer pipes, water pipes, gas pipes or for any other reason shall file an application in such form and manner as prescribed by the village board of trustees, stating the place of excavation, property owner, individual or corporation doing the proposed work, and a detailed description of the work to be performed. Such application shall be filed with the village clerk prior to commencing the work on such project (Ord. of 12-7-60, 1).

Section 221-44 – Permit fee required – Exception – The applicant for a permit issued pursuant to this article shall pay a fee as shall be determined by resolution of the Board of Trustees of the Village of Marcellus. Public utilities are excluded from the payment of the fee required by this section. (Ord. of 12-7-60, 2).

Section 221-45 – Issuance of permit – If the conditions prerequisite to the issuance of a permit required by this article have been complied with, the village clerk shall issue such permit in such form and manner as prescribed by the board of trustees (Ord. of 12-7-60, 3).

Section 221-46 – Restoration of surface after excavation – After completion of the work for which an excavation was made in any street or public place in the village, the excavation shall be backfilled and the surface restored to the same condition that existed at the time the excavation was made.

Section 221-47 – Section 221-50 – Reserved

Article IV – Driveways – beginning with the approval of the highway superintendent, a driveway permit issued by the Code Enforcement Officer shall be required before the installation or enlargement of a driveway in the Village of Marcellus

Section 221-51 – Driveways for one (1) and two (2) family dwellings – cannot cover more than 25% of the front yard, or cover 20% of the entire lot, or exceed sixteen (16) feet in width

Section 221-52 – Driveways for Multiple Dwellings or Commercial Properties – are subject to site plan review by the Village Planning Board

Section 221-53 – Variances – from these standards may be requested of the Zoning Board of Appeals

Section 221-54 – Section 221-55 – Reserved

Article V – Possession of Open Containers

Section 221-56 – Legislative Intent – The Village recognizes that the carrying of an open container of any alcoholic beverage must be adequately controlled for the following purposes:

1) The presence of intoxicated individuals on the street or public places is annoying and disturbing to workers, shoppers, merchants, churchgoers and owners and occupants of residential property in the Village.

2) An open container law will limit consumption to specific areas such as restaurants, bars and private residences and discourage drinking of alcoholic beverages in the streets and other public places.

3) An open container law will curtail potential problems in the streets and other open areas that may occur when groups of individuals have consumed an excessive amount of an alcoholic beverage in public places and may become disorderly.

4) An open container law as herein provided will assist in eliminating litter in public areas. It has been found that individuals who consume alcoholic beverages in public to an excess fail to properly dispose the container therefore. Furthermore, broken glass is dangerous to pedestrians and particularly children and automobiles when thrown on to public streets and sidewalks.

Section 221-57 – Definitions

1) Alcoholic beverage shall mean and include alcohol, liquor, spirits, wine, beer and very liquid or solid, patented or not, contained alcohol, spirits, wine or beer and capable of being consumed by a human being.

2) Public place shall mean a place to which the public or a substantial group of persons has access, including, but not limited to, any highway, street, road, sidewalk, lane, public parking lot, shopping area, playground, school property or any and all publicly owned land located within the Village, except that the definition of a public place shall not include the specific confines of those premises duly licensed for the sale and consumption of alcoholic beverages on the premises or within, and the Marcellus Park.

3) Public parking lot shall mean a parking area for one or more vehicles designed to be used by patrons of any commercial, industrial, professional or eleemosynary activity.

4) Container shall mean any bottle, can, glass, cup or similar article designed to hold or capable of holding a liquid.

5) Special event shall mean and include a fair, block party, or other community gathering at any public place.

Section 221-58 – Restrictions – Unless otherwise authorized and except as hereinafter provided, no person shall drink or consume an alcoholic beverage, or possess, with intent to drink or consume, an open container containing an alcoholic beverage in or on any public place, public parking lot, school property, cemetery or on private property without the invitation or permission of the owner. Possession of an open container containing an alcoholic beverage by any person shall create a rebuttable presumption that such person did intend to consume the contents thereof in violation of this section. This section shall not apply:

1) Within the specific confines of those premises duly licensed for the sale or consumption of alcoholic beverages on the premises or within; or

2) At a special event for which a special permit has been issued by the chief of police or his designee.

Section 221-59 – Permits for special events

1) At least five (5) business days prior to the proposed date of any special event, any person twenty-one (21) years of age or older may apply to the chief of police or his designee on his or her own behalf or on behalf of an organization for a permit to carry open container or containers of alcoholic beverages at a special event.

2) The application shall contain the following information: The name of the applicant and address and telephone number of each. If the applicant is an organization, the name and address of the organization and its officers.

3) The application shall describe the purpose of the special event, the date when it is proposed to be held, the approximate time when this special event will start and terminate, the approximate number of persons expected to attend the special event, and the location of the assembly area.

4) The application shall contain such other information as the chief of police or his designee may deem reasonably necessary.

5) No fee shall be required for said special event permit or application.

6) When the chief of police or his designee shall determine that the proposed special event is of such character, size, and location as to be appropriate to and in harmony with the surrounding area and that the public health, morals, safety, and general welfare of such neighborhood will not be endangered by the granting of such permit, he may issue a permit conditioned upon the applicant's written agreement to comply with the terms of such permit.

7) Upon a denial by the chief of police or his designees for an application made pursuant to section 11-50 hereof, the applicant may appeal the determination of the chief of police or his designee to the Village Board of Trustees.

8) The chief of police or his designee may waive the requirements of Section 11-50 hereof, where in his opinion, any irregularity or noncompliance would not endanger the public health, morals, safety, and general welfare of such neighborhood and where strict compliance would result in unreasonable hardship upon the applicant.

Section 221-60 – Penalties – Any person violating this chapter shall be guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250.00), or imprisonment not to exceed fifteen (15) days or both such fine and imprisonment, or to a civil penalty not exceeding five hundred dollars (\$500.00) to be recovered by the Village in a civil action.

Section 221-61 – Severability – Should any section or provision of this article be declared to be unconstitutional or invalid by a court of appropriate jurisdiction, such decision shall not affect the validity of the balance of this article.