

**INCORPORATED VILLAGE OF PLANDOME MANOR
PROPOSED LOCAL LAW NO. 2 OF 2019
CHAPTER 189. STREETS AND SIDEWALKS
PROVISIONS RELATING TO PRIVATE ROADS MAINTENANCE**

A local law to amend Chapter 189 of the Code of the Incorporated Village of Plandome Manor, entitled “Streets and Sidewalks,” to create a maintenance obligation on the part of the owners of private roads located within the Incorporated Village of Plandome Manor (hereinafter, the “Village”) and to authorize the Village Board to take corrective action to remedy violations of these provisions for the protection, order, safety, health and well-being of Village residents, with costs associated for such corrective action to be assessed against the property or properties at issue.

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Plandome Manor as follows:

Section 1. Legislative Intent.

- A. The Village Board of Trustees (“Trustees” or “Village Board”) hereby finds that certain private roads located within the Village have not been maintained to proper standards and specifications; and
- B. The Village Board recognizes the need to ensure that all roads within the Village (whether public or private) form a cohesive roads system, which remains passable and safe for travel in all regards for Village residents and for those visiting and traveling through the Village, as well as for emergency vehicles; and
- C. The Village Board further finds that, with respect to the private roads within the Village, that while there may be private roads associations created for the maintenance of the roads that are within their purview, some of these associations have not been able to achieve compliance among their respective membership, so as to maintain the private roads at issue.
- D. For these reasons, the Village Board finds that it is necessary to create a maintenance obligation on the part of the owners of private roads located within the Village and to authorize the Village Board to take corrective action to remedy violations of these provisions for the protection, order, safety, health and well-being of Village residents, with costs associated for such corrective action to be assessed against the property or properties at issue.
- E. The Village Board is authorized to adopt this Local Law, by virtue of its police power, which enables the Village Board to take action for the protection, order, conduct, safety, health and well-being of its residents, and to advance the public health, safety and welfare of its residents.
- F. The Village Board determines that this action is necessary in order to protect the public interest and welfare of the residents of the Village of Plandome Manor.

Section 2. Amendments.

Chapter 189 of the Village Code, entitled “Streets and Sidewalks” shall be amended to include the following provisions:

Section 1. Private Roads.

- a. Maintenance obligation. The owner or owners of a private road or private street within the Village shall be responsible for keeping same in good, passable, drive-able condition, free of obstructions, potholes or other types of damage which may render the particular private road or private street unsafe or hazardous for travel. Field appraisal would follow the standardized assessments as listed in the NYS DOT Pavement Conditions Assessment (vol. 2.0) which contains in Appendices D, E, F, G specific Pavement Condition Indexes and Pavement Distress Rating Warrants for determining evident roadway safety and serviceability, which would require surface repairs or replacement.
- b. In the event that a private road within the Village is not being maintained in accordance with subsection (a) above, the Village Roads Commissioner and/or the Village Building Inspector shall advise the Village Board of same.
- c. Upon receipt of such notice, the Village Board shall set a public hearing with respect to the condition of the road. The Village Board shall provide 10 days advanced notice of the public hearing by certified mail to the owner(s) of record of the road at issue, as well as to any roads association(s) of record.
- d. If after the public hearing with respect to same, the Village Board finds the condition of the road to be unsafe and/or to constitute a hazard to public safety, the Village Board shall have the right and power to remedy any unsafe or hazardous condition(s) on said private road, after giving thirty days’ notice by certified mail addressed to the owner of record of such lands and property at the address shown on the last preceding assessment roll, and provided that the hazardous or unsafe condition(s) of the private road or roads is not remedied by the property owner(s) within that timeframe.
- e. Where the hazardous or unsafe condition(s) are ultimately remedied by the Village, the cost thereof shall be assessed against such lands and property by the Village Treasurer.
- f. The costs to be assessed, shall include, but are not limited to those for inspections, engineering, planning, attorneys’ fees, publication, physical repair or construction and other costs incurred by the Village in connection with the completion of the necessary improvements.

- g. The Village Treasurer shall serve by certified mail upon the owner of such property at the same address a written notice stating that at a time and place specified therein, he or she will assess such cost against such property.
- h. Such notice shall be served at least eight days previous to the time specified therein.
- i. If directed against a corporation, notice may be served upon the corporation at its principal place of business, place of business upon an agent of the corporation within the Village, or upon the secretary of state.
- j. Notice served upon the secretary of state shall be served at least twelve (12) days previous to the time specified therein.
- k. At the time and place so specified, the Village Treasurer shall thereupon complete the assessment, stating therein the name of each owner and the amount so assessed, and shall present such assessment the Village Board.
- l. The Village Board shall certify such assessment and the Village Treasurer shall cause the amount stated therein to be levied against such property and any uncollected assessment shall become a lien upon the land affected.
- m. Such amount shall be levied and collected at the same time and in the same manner as other Village taxes, and shall be paid to the Village, to be applied in reimbursing the fund from which such cost was defrayed.

Section 3. Severability.

If any section or subsection, paragraph, clause, phrase or portion of this article shall be judged invalid or held unconstitutional by a court or competent jurisdiction, any judgment made thereby shall not affect the validity of this chapter as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

Section 4. When effective.

This Local Law shall take effect upon filing of this Local Law with the New York State Secretary of State.