

BOROUGH OF MOSCOW, LACKAWANNA COUNTY, PENNSYLVANIA

ORDINANCE NUMBER 193 OF 2006

AN ORDINANCE OF THE BOROUGH OF MOSCOW, LACKAWANNA COUNTY, PENNSYLVANIA, REGULATING THE CONSTRUCTION AND REPAIR OF PUBLIC SIDEWALKS WITHIN THE PUBLIC RIGHT-OF-WAY; AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE AND PENALTIES FOR VIOLATION THEREOF.

Be it ordained by the Borough of Moscow, Lackawanna County, Pennsylvania, and hereby ordained by and with the authority of same, as follows:

ARTICLE I. NOTICE TO CONSTRUCT SIDEWALK

Whenever it shall be determined proper and necessary by the Borough Council that all new or replaced sidewalks shall be graded, constructed, paved, painted or curbed in any public highway of the Borough or adjacent to any public highway of the Borough, the Borough Council shall direct the Borough Engineer and/or Borough Building Inspector, by resolution at any public meeting of the Borough Council, after public hearing, to serve written notices upon the owners of property abutting on said public highways, requiring them to grade, construct, pave, paint or curb such sidewalks within ninety (90) days from the date of such notice. The notice shall specify the width of the sidewalk, whether the sidewalk is to be constructed within the public right-of-way or adjacent to the public right-of-way, the character of the same, whether of concrete or brick.

ARTICLE II. NOTICE TO REPAIR SIDEWALK

Whenever it shall be determined proper and necessary by the Borough Council that all new or replaced sidewalks shall be resurfaced, recurbed, repainted and repaired in any public highway of the Borough or adjacent to any public highway of the Borough, the Borough Engineer or Borough Building Inspector shall serve written notice, in person or by certified mail, upon the owners of property abutting on said public highways, requiring them to resurface, recurb, repaint or repair such sidewalks within ninety (90) days from the date of such notice unless it is determined by the Borough Engineer or Borough Building Inspector that such condition constitutes an emergency, in which case thirty (30) days notice shall be given. The notice shall specify the width of the sidewalk, whether the sidewalk is to be constructed within the public right-of-way or adjacent to the public right-of-way, the character of the same, whether concrete or brick.

ARTICLE III. SPECIFICATIONS

Whenever any sidewalk is constructed or delineated in a public highway of the borough or adjacent to any public highway of the Borough, either by voluntary action of an abutting property owner or pursuant to notice under Article I or Article II of this Ordinance, the said sidewalk shall be constructed or delineated in conformity with plans and specifications approved by the Borough Engineer or Borough Building Inspector and shall be subject to his inspection.

All sidewalk pavements shall be constructed or delineated in the location, to the width and of the material specified in the notice received by the property owner, or in case said sidewalk is constructed without notice the same shall be constructed or delineated in the location, to the width and of the materials in accordance with specifications submitted by the Borough Engineer or Borough Building Inspector upon application to him, and said sidewalks shall conform to the established grade of the street on which the same are laid, or to such grade as shall be fixed by the Borough Engineer or Borough Building Inspector.

ARTICLE IV. PERMIT REQUIRED FOR WORK IN SIDEWALK

It shall be unlawful for any person to tear up, destroy, remove, deface or excavate, or otherwise damage any sidewalk or curb in the public highways of the Borough or adjacent to any public highway in the Borough, except in accordance with permit duly issued by the Borough Engineer or Borough Building Inspector upon written application to him.

ARTICLE V. BOROUGH MAY DO WORK: COLLECTION OF COST

Upon the neglect of any property owner to comply with any of the requirements provided in this Ordinance, the Borough of Moscow may, after notice, cause the grading, paving, repair, curbing, and/or guttering to be done at the cost of such owner, and may collect the cost thereof plus ten (10) percent additional, together with all charges and expenses, from such owner, and may file a municipal claim therefor or collect the same by action at law.

All such notices shall be served, by personal delivery or by certified mail, upon the owner of the property to which the notice refers, if such owner is a resident of the Borough. If the owner is not a resident of the Borough, then the notice may be served by personal delivery or by certified mail, upon said owner or upon the agent or tenant of the owner, or upon the occupant of such premises. If the owner has no agent or tenant or there is no occupier of the premises, then the service shall be made by notice posted upon the premises.

ARTICLE VI. EMERGENCY REPAIRS TO SIDEWALKS

The Borough may make emergency repairs to any sidewalks, where, in the opinion of the Borough Engineer or Borough Building Inspector, a dangerous condition exists that can be repaired by an expenditure of not more than five hundred (\$500.00) dollars. Before any such repairs are made, a notice to make the repairs within forty-eight (48) hours shall be served upon the owner of the property by personal delivery or by certified mail. If the owner cannot be served within the County, notice may be served upon the agent of the owner or the party in possession, or if no agent or party in possession, the notice may be served by posting the same upon such premises. Upon completion of the work, the cost thereof shall be a charge against the property, and shall be a lien, until paid, upon the abutting property, provided a claim is filed in accordance with the law providing for municipal claims.

ARTICLE VII. ENFORCEMENT REMEDIES

Any person, firm or corporation who or which has violated or permitted the violation of any of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the municipality, pay a judgment of not more than three hundred (\$300.00) dollars plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof.

Provided, the Enforcement Officer or Building Inspector of the Borough of Moscow shall, within five (5) days of violation, issue a warning notice either by personal delivery, or certified mail, or by posting on the

property. In each case, the notice shall contain the Section violated, the location where the violation took place, the name(s) of the property owners, and any other facts that might pertain to the circumstances regarding the violation. The warning notice shall also contain instructions to the person, partnership, firm, association, or corporation responsible for such violation that if the violation is not corrected within thirty (30) days of the time on the warning notice, the Enforcement Officer or Building Inspector will issue a Notice of Violation directing that the violation be corrected within thirty (30) days of receipt of the Notice, with the appropriate penalty noted on the Notice. Failure to correct the violation within thirty (30) days of the receipt of the Violation Notice will result in subsequent notices and appropriate fines for each violation as noted above.

Should any provisions of this Ordinance be judicially determined to be unconstitutional or invalid, such determination shall not affect the validity of any of the other portions of this Ordinance.

All prior Ordinances or parts thereof which are inconsistent herewith are hereby repealed.

This Ordinance shall take effect immediately subsequent to the adoption hereof.

ORDAINED AND ENACTED INTO LAW by the Borough Council of Moscow in lawful session assembled, this 2nd day of January, 2007.

MOSCOW BOROUGH COUNCIL



ARTHUR PENCEK, PRESIDENT
MOSCOW BOROUGH COUNCIL

ATTEST:



CONSTANCE A SANKO, SECRETARY
MOSCOW BOROUGH

APPROVED THIS 2nd DAY OF
JANUARY, 2007.



DANIEL F. EDWARDS, MAYOR
MOSCOW BOROUGH