

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~COUNTY~~

City of Plattsburgh

~~TOWN~~

~~VILLAGE~~

Local Law No. 11 of the year 2007

A local law REMOVAL OF SNOW AND ICE ON PUBLIC SIDEWALKS

(Insert Title)

Be it enacted by the Common Council of the

(Name of Legislative Body)

~~COUNTY~~

City of Plattsburgh as follows:

~~TOWN~~

~~Village~~

1. Purpose.

The purpose of this law is to implement the provisions of City Charter Article IV section C4-12 which imposes a duty on the owner or occupant of real property to clear snow or ice from public sidewalks adjacent to the owner or occupant's property.. The Charter properly provides that all city taxpayers should not pay for the lack of civic responsibility shown by a few. When a property owner or occupant fails to comply with the requirements of City law, this law provides a procedure for the City to remove snow or ice and recover the cost from the property owner. The purpose of this law is to effectively and fairly implement the duties imposed on by the City Charter.

2. Definitions. The following words have the following meanings:

“Occupant” means a person, including corporations, partnerships and other legal entities, who is in exclusive possession of a lot or parcel of land adjacent to a public sidewalk under a written or oral lease agreement.

“Owner” is the person identified as the owner of the premises on the real property tax records maintained by the Assessor of the City of Plattsburgh.

“Public Sidewalk” refers to the sidewalk lying parallel to a city street and beyond the edge of the pavement of such street whether located on private or public property, including intersecting sidewalks at street corners, and mid-block crosswalks.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

“Sidewalk Median” means a strip of land not less than twenty-four inches in width lying between the edge of the sidewalk nearest the street and the edge of the street pavement.

“Clear” means removal of dry or loose snow, or where not possible to remove snow or ice with a hand operated snow removal device due to weather conditions, covering such snow or ice by means of spreading a substance that prevents slippery conditions in sufficient quantity to insure safe passage by pedestrians.

3. Duty to Clear Snow and Ice

It shall be the duty of the owner of a developed or vacant lot that adjoins a public sidewalk to clear snow and ice from such public sidewalk within 24 hours after the end of a snow or ice storm. Except as provided herein, sidewalks shall be cleared to a minimum width of 3 feet or the entire width of the sidewalk if less than 3 feet.

4. Exceptions to Duty to Remove Snow and Ice.

A. Where there is no sidewalk median, and the public sidewalk is covered by snow and ice with an average depth (along the length of the sidewalk) of more than 12 inches as a result of plowing city streets, the owner shall not be liable for the cost of removing such snow and ice until it can be removed with a hand operated snow removal device such as a snow shovel or snow blower.

B. When snow or ice on a public sidewalk is frozen so that it cannot be cleared with a hand operated snow removal device, it shall be covered with a substance that prevents slippery conditions in sufficient quantity to insure safe passage by pedestrians and cleared as soon as it may be removed by means of a snow removal device.

C. The exception to liability for snow removal costs shall not relieve an owner or occupant of liability for injuries to pedestrians using such sidewalk.

5. Owner and Occupant Responsibility

An agreement between a property owner and occupant which makes the occupant responsible for clearing snow shall not relieve the property owner from the duty to clear snow from his property, or from liability for charges imposed by the City for clearing snow.

6. Removal by City-Notice to Owner

If an owner fails to clear or cover snow or ice, the City of Plattsburgh may cause the snow or ice to be cleared or covered by its employees or independent contractors and

recover the cost from the property owner in accordance with the following procedures:

A. 24 hours after a snow or ice storm ends, property owner who has failed to clear snow from public sidewalks shall be given written notice that if he fails to clear the snow or ice within the time specified in the notice, which shall be a minimum of 8 hours from the time notice is received, the City may clear the snow and ice and recover the cost from the owner.

B. Written notice may be given in the following ways:

1. by personal delivery to the owner.
2. by leaving a copy of the notice at the property with a person of suitable age and discretion and mailing a copy to the owner.
3. by leaving the notice at the entrance door of the premises, or other conspicuous place, and mailing a copy to the owner.
4. by mailing the notice to the owner.
5. notices sent by mail shall be presumed to have been received 5 days after the date they are mailed by first class mail addressed to the owner at the address listed on the City's real property tax records.

C. Notice given only once. If the property owner has been served with a notice to clear snow from his property previously, the City is not required to give notice following separate or subsequent snow storms as a condition of recovering snow clearance costs from the owner.

D. Who May Give Notice. Notice may be given by the Department of Public Works Department Head, Crew Supervisor or Maintenance Supervisor, any municipal code inspector, or any peace officer.

7. Collection of Snow Removal Costs; Levy of Unpaid Charges.

A. The Common Council shall by resolution adopt a schedule of charges for snow removal which shall include the cost of labor, equipment, administrative time and expenses .

B. An invoice for snow removal charges shall be sent to the property owner by first class mail to the property owner's address as listed on the City's real property tax records. Invoices shall be due and payable in full within 30 days of date of the invoice and if not paid when due shall bear interest at 12% per annum until paid.

C. An invoice that is past due may be levied against the owner's property in the same manner as unpaid water and sewer charges.

8. Depositing Snow in Streets and on Another Person's Property

A. No person shall deposit snow from his property, or a public sidewalk adjacent to his property, on a city street, or the property of another person.

B. The person who unlawfully deposits the snow shall be guilty of violating this section.

C. The owner of the property from which the snow is removed may be found liable for the acts of his employees or independent contractors who violate this section.

D. A violation of this section shall be an offense punishable by fine of not more than \$200 dollars.

E. This section may enforced by an appearance ticket issued by Department of Public Works Department Head, Crew Supervisor or Maintenance Supervisor, any municipal code inspector, or any peace officer.

9. Severability

Should any section, paragraph, sentence, clause or phrase of this local law be declared unconstitutional or invalid for any reason, the remainder of said local law shall not be affected thereby.

10. Effective Date

This local law shall take effect immediately upon approval by the Mayor and filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ 11 _____ of 2007... of the ~~(County)~~(City)~~(Town)~~(Village) of _____ Plattsburgh _____ was duly passed by the _____ Common Council _____ on 29 Nov. _____ 2007, and was (approved)~~(not approved)~~~~(repassed after disapproval)~~ by the _____ Mayor _____ and was deemed duly adopted on 3 December _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

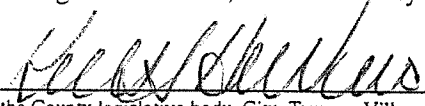
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph----2-----, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body Keith A. Herkalo


(Seal)

Date: 3 December 2007

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Clinton

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto:



Signature John E. Clute

Title Corporation Counsel

~~County~~
City of Plattsburgh
~~Town~~
~~Village~~

Date: 3 December 2007