

Local Law Filing

(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 Town Village
(Select one:)

of Plattsburgh

Local Law No. 1 of the year 2018

A local law amending Chapter 233 "Streets and Sidewalks", Article V "Removal of Snow and Ice on
(Insert Title)
Public Sidewalks", Sections 233.30 through 233.37 of the City Code of the City of
Plattsburgh.

Be it enacted by the Common Council of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Plattsburgh

as follows:

1. Chapter 233 "Streets and Sidewalks", Article V "Removal of Snow and Ice on Public Sidewalks", Sections 233.30 through 233.37 of the City Code of the City of Plattsburgh is hereby amended and restated in its entirety to read as follows:

ARTICLE V

Removal of Snow and Ice on Public Sidewalks

233-30 Purpose. The purpose of this article is to impose a duty on the owner of real property to remove or clear snow or ice from public sidewalks adjacent to the owner's property. When a property owner fails to comply with the requirements of this article, the sections below provide a procedure for the City to remove snow or ice and recover the cost from the property owner. In addition, the City may impose a fine and pursue other enforcement mechanisms. This article is also designed to secure safety and promote the public health and welfare and convenience of access for all pedestrians and residents in the City and is adopted, in part, pursuant to the authority of Section 20(24) of the General City Law and is therefore to be characterized as a "local zoning law" for purposes of authorizing service of process under Criminal Procedure Law Section 150.40.

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

233-31. Definitions. The following words have the following meanings.

“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.

“Sidewalk Median” means a strip of land lying between the edge of the sidewalk nearest the street and the edge of the street pavement.

“Remove” or “Clear” means to remove or clear dry or loose snow, or where not possible, to remove snow and ice with a hand operated snow removal device. When, due to weather conditions, it is not possible to remove snow or ice with a hand operated snow removal device, the sidewalk must be covered in sufficient quantity by a substance to prevent slippery conditions and insure safe passage by pedestrians.

“Snow or Ice Event” means a weather event—which includes snow, sleet, frozen rain, blowing snow, hail or other precipitation—as publically declared by a designated city official. The City’s activation of the parking-ban lights will be presumably, but not in all cases, provide additional public notice of a “snow or ice event”.

233-32. Duty to Remove Ice and Snow

It shall be the duty of the owner of a developed or vacant lot that adjoins a public sidewalk to remove or clear snow and ice from such public sidewalk within twenty-four hours after the end of a snow or ice event, as publically declared by a designated city official. Except as provided herein, the entire width of the sidewalk shall be cleared, edge to edge, creating conditions that allow safe pedestrian travel and preventing any accumulation of ice and/or snow, or impenetrable ice/snow that is not treated to prevent slipping.

233-33 Exceptions to Duty to Remove Ice and Snow

A. Where there is no sidewalk median, and the city plows deposit snow on a sidewalk with an average depth (along the length of the sidewalk) of more than twelve inches as a result of plowing the streets, the owner is exempt from removing such snow. The City will be responsible for removing the snow but the owner shall resume responsibility for proper sidewalk maintenance after its removal.

B. When, due to weather conditions, it is not possible to remove snow or ice with a hand operated snow removal device, the sidewalk must be covered in sufficient quantity by a substance to prevent slippery conditions and ensure safe passage by pedestrians.

C. The exception for snow removal as set forth above shall not relieve an owner of liability for injuries to pedestrians using such sidewalk.

D. Twenty-Four hours after a publically declared snow or ice event will trigger the duty to remove snow.

233-34. Owner Responsibility

The property owner has the sole legal obligation to remove snow and/or ice. If this duty is not performed, the property owner is liable for charges imposed by the City for removal of snow and/or ice. The property owner is not exempt from this duty, regardless of any agreement between property owner and occupant that assigns this responsibility to the occupant.

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

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. In addition, the owner of the property from which the snow is removed may be found liable for the acts of his or her employees, agents or contractors, who violate this section.

233.36 Removal by City-Charges to Owner

A. If an owner fails to remove snow and/or ice within twenty-four hours after the public announcement of the end of a Snow or Ice Event, and is not otherwise exempt from removal as set forth above, City employees or City designated independent contractors may, in his or her discretion, cause said snow and/or ice to be removed or cleared from said sidewalk, or treated as the situation may require, and the cost of which shall be charged to the owner of the property adjacent thereto, and, if unpaid within the time prescribed, shall be added to the tax bill assessing said property, which shall be and remain a lien against the property upon or adjacent to which the work is done and collected by the City from the owner of such property in the same manner as taxes are collected.

B. City employees, or City designated independent contractors, shall not be required to provide any additional notice to the property owner of their duty to remove, clear and/or treat the snow and/or ice prior to causing said removal or treatment of the adjacent sidewalk. However, upon removing or treating the snow and/or ice from the sidewalk, the City shall cause an Invoice Notice to be conspicuously posted on the property and shall send a copy of the Invoice Notice to the owner via first class mail to the property owner's address as listed on the City's real property tax records. The City employee, or City designated independent contractor shall maintain reasonable records of their work performed under this section.

C. Invoices for snow removal/treatment shall be due and payable in full within thirty days of the date of the invoice, and if not paid when due shall bear interest at 12% per annum until paid in full. Any such invoice that is past due may be levied against the owner's property in the same manner as unpaid sewer and water charges.

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

E. If an owner disputes an Invoice Notice for snow removal, based on a claimed factual error or administrative error, said owner may, within thirty days of the date of the Invoice Notice, send a written appeal to the Superintendent for the Department of Public Works who, upon receipt of said appeal, shall within fourteen days, respond in writing. The Superintendent's response to such an appeal shall apply a written policy and standards for appeal and potential waiver of charges as developed by the Superintendent for the Department of Public Works and approved by the Common Council.

F. If an owner disputes an Invoice Notice, because of age, infirmity, disability, or other reason not based on a factual error or administrative error, said owner may, within thirty days of the date of the Invoice Notice, send a written appeal to the Public Safety Committee of the Common Council who, upon receipt of said appeal, shall within fourteen days, respond in writing. The Public Safety Committee's response to such an appeal shall apply a written policy and standards for appeal and waiver of charges as developed by the Committee and approved by the Common Council.

233.37 Fine for Violation

A. In addition to the snow removal charges, as set forth in section 233.36, any owner or person who violates sections 233.32 and 233.35 of this article shall be guilty of a violation of the Code of the City of Plattsburgh, and upon conviction thereof, be subject to a fine.

B. The Housing Code Inspector or Officer of the City Police Department inspecting and reporting violations of section 233.32 and 233.35 of this chapter shall send notice of the violation and fine to the person or owner on record per the Assessor's files, at the address as on record per the Assessor's files, by registered or certified mail service. Within fourteen days from receipt of such notice, the person or owner may pay or cause to be paid to the City of Plattsburgh, through the Code Enforcement Office, as a penalty for and in full satisfaction of such violation the monetary sum as indicated by the notice of fine and violation. Such penalty shall be in addition to the cost of removal and administrative fee as set forth in section 233.36. The failure of the person or owner to make such fine payment may result in the issuance of an appearance ticket in Plattsburgh City Court, and upon conviction therein, the person or owner shall be guilty of violating the Code of the City of Plattsburgh and shall be subject to a fine.

C. If, before an appearance ticket is issued, because of a claimed factual error or administrative error, a person or owner who disputes a Notice of Violation and fine, may, within fourteen days from the receipt of such notice of violation and fine, send a written appeal to the Code Enforcement Office on notice to the Housing Code Inspector, who, upon receipt of said appeal, shall, within fourteen days, respond in writing. The Housing Code Inspector's response to an appeal shall apply a written policy and standards for appeal and waiver of fines and violation as developed by the Housing Code Inspector and approved by the Common Council.

D. If an owner disputes a Notice of Violation, because of age, infirmity, disability, or other reason not based on a factual error or administrative error, said owner may, within fourteen days of the date of the Notice of Violation, send a written appeal to the Public Safety Committee of the Common Council who, upon receipt of said appeal, shall within fourteen days, respond in writing. The Public Safety Committee's response to such an appeal shall apply a written policy and standards for appeal and waiver of charges as developed by the Committee and approved by the Common Council.

E. The Common Council shall by resolution adopt a fine structure for violations of section 233.32 and 233.35 of this article.

F. Because this article is adopted, in part, pursuant to the authority of Section 20(24) of the General City Law, it is to be characterized as a "local zoning law" for purposes of authorizing service of process of any appearance ticket under Criminal Procedure Law Section 150.40(2).

2. This Local Law shall take effect immediately upon approval by the Mayor and filing with the New York 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. 1 of 20 18 of the ~~(County)(City)(Town)(Village)~~ of Plattsburgh was duly passed by the Common Council on January 25 2018, and was (approved)(~~not approved~~) (repassed after disapproval) by the Mayor and was deemed duly adopted (Elective Chief Executive Officer*) on January 25 20 18, in accordance with the applicable provisions of law.

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____.
(Name of Legislative Body) (Elective Chief Executive Officer*)

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.

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.)

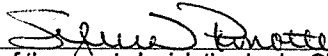
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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

Date: 1/25/2018

(Seal)