

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 Marshall

Local Law No. 4 of the year 2010

A local law for Sidewalk Maintenance and Repair
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Marshall

as follows:

*See attached sheets

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

(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. 4 of 2010 of the (County)(City)(Town)(Village) of Marshall was duly passed by the Town Board on 20 10, in accordance with the applicable provisions of law.

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. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20 _____, 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 _____ (Name of Legislative Body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) 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.

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 _____ (Name of Legislative Body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) 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.

* 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 1 above.

Diane C. Matteson

Oklahoma of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 12/30/10

(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 ONEIDA

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

Town Attorney

Title

County

City _____ of _____

Town _____

Marshall

Village

Date: _____

TOWN OF MARSHALL LOCAL LAW # 4-2010 FOR SIDEWALK MAINTENANCE AND REPAIR

1. PURPOSE.

The purpose of this Local Law is to promote the maintenance of safe and adequate sidewalks for pedestrian use by regulating the manner of constructions, reconstruction, repair and maintenance of sidewalks and the materials to be used in the grades and widths thereof in the Town of Marshall; and to prohibit any construction, reconstruction or repair which does not comply with such regulations and to provide guidelines for assuring the safety of such sidewalks and to delineate the responsibility of the Town of Marshall and the property owner.

2. DEFINITIONS.

As used in this Local Law, the following terms shall have the meanings indicated:

PROPERTY OWNER OR OWNERS- Anyone who holds title to the premises in fee simple or by life estate or remainder, and also any beneficial owner of the premises such as a contract vendee in possession, who had the duty to pay taxes on the premises.

SIDEWALK OR SIDEWALKS- Existing sidewalks, those presently under construction, if any, and any future sidewalks constructed after the date of the adoption of this Local Law which abut public highways in fact used by public.

TOWN- The Town of Marshall, Oneida County, New York.

3. DUTIES OF OWNERS.

It shall, in all cases, be the duty of the owner of every lot or piece of land in said town to keep the sidewalks adjoining the owner's lot or piece of land in good repair and to remove and clean away all snow and ice and other obstruction from such sidewalks. Failure to do so will result in the costs of any snow removal or repair done by the Town of Marshall to be assessed against the landowner, and further said landowner shall be liable in tort for any injuries to any person or property as a result of the landowner's failure to comply with this local law.

4. STANDARDS AND SPECIFICATIONS.

Quality of concrete, grade, thickness and width of sidewalks and other standards of construction and installation shall be determined by specifications adopted by the circumstances which may affect installation or cause a deviation from these specifications may

be approved on a case-by-case basis after investigation by the Town Superintendent of Highways.

5. UNSAFE SIDEWALKS; NOTICE TO REPAIR; APPEALS.

- A. Sidewalks shall be considered to be unsafe if, determination of the Town Code Enforcement Officer, they are so broken, cracked, lifted, spalled or scaled otherwise deficient to cause a clear and present danger to pedestrians. Upon such determination, the owner of the property where such sidewalk is located will be notified, in writing, by standard form of the need to repair or replace the sidewalk in question. Such notice shall specify the sidewalk or portions thereof, which require repair or replacement and contain a brief summary of the reason therefore. Such notice shall be served upon such owner by personal service or by certified mail, return receipt requested, addressed to the last known address as shown on the latest completed assessment roll of the Town of Marshall. If delivery of the certified mail is returned or unclaimed, then service shall be made by regular mail and shall be deemed complete five days after the date of mailing. The cost of such repair or replacement will be borne by the property owner.
- B. Upon delivery of the written notice, the property owner shall make every attempt to correct the deficiency noted within a reasonable time after delivery of the notice; in no event shall more than one year elapse between the delivery of the written notice and correction of the deficient or unsafe sidewalk. Absent inclement weather, repairs shall be completed within 90 days.
- C. If, within said one-year period, the sidewalks required to be repaired shall not have been repaired, then the Town Board may cause the same to be done at the expense of the property owner. If said expense, as determined by the Town, is not paid within thirty days after billing the property owner, such a charge shall be a lien upon the property benefited until paid and shall be added to the property owner's tax bill as an assessment as set forth in this article.
- D. Any property owner aggrieved by a determination to repair the sidewalk or any portion thereof as contained in the written notification of the same shall have a right to appeal such determination to the Town Board by delivering a written request for review of the determination to the Clerk within sixty days of delivery of said notification, which the Town Clerk shall thereupon transmit to the Town Board. Upon receipt of a timely request for review, the Town Board shall refer the matter to a person whom it shall designate for the purpose of hearing all evidence and arguments both against and in support of such determination. For this purpose, the person designated by the Town Board shall schedule a time and place for such a hearing and shall give or cause to be given adequate notice thereof to the property owner and to the Town Code Enforcement Officer. On such hearing, the formal rules of evidence shall not apply. Upon conclusion of such hearing, the person designated shall prepare and transmit to the Town Board a recommended decision based upon the evidence and the arguments

presented, either annulling, modifying or affirming the determination of the Town Code Enforcement Officer, together with a summary of the reasons therefore. Upon receipt of such recommended decision, the Town Board shall take the matter up at the next regularly scheduled Town Board meeting and shall accept, reject or modify said recommended decision. The determination of the Town Board so made shall be deemed final and binding upon the property owner and the Town Code Enforcement Officer.

6. NONCOMPLIANCE.

A. Owners of premises in the Town of Marshall, subject to this Local Law, must comply therewith and with any regulations, specifications and any order passed by the Town Board of the Town of Marshall pursuant to Town Law §200-a and 130, Subdivision 4. In the event that owner or occupant, as the case may be, fails to comply with this Local Law, the Sections of the Town Law set forth above, any regulations passed by the Town Board or the specifications or any orders of the Town Board pursuant thereto, the Town may cause construction, reconstruction, repair or removal of snow or other obstructions to be accomplished and audit and pay the expense of doing the same. If the owner or occupant in question does not reimburse the Town, the Town shall assess the expense thereof against the property benefited as a whole.

7. REQUIREMENT OF PRIOR NOTICE OF DEFECTS.

A. No civil action shall be maintained against the Town of Marshall for damages or injuries to person or property sustained by reason of any sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed unless:

- (1) Written notice of such defective, unsafe, dangerous or obstructed condition was received by the Clerk of the Town of Marshall; and
- (2) There was a failure or neglect within a reasonable time after giving of such notice to repair or remove the defect.

B. No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any sidewalk or crosswalk unless:

- (1) Written notice thereof, specifying the particular place, was actually received by the Clerk of the Town of Marshall;

C. The Clerk of the Town of Marshall shall keep an indexed record, in a separate book, of all written notices, which said Clerk shall receive pursuant to such Local Law of the existence of the defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice or snow upon any Town sidewalk or crosswalk, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is

received. The record of each notice shall be preserved for a period of five years after the date it is received.

8. This law shall take effect immediately upon filing with the Secretary of State.