

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(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.

FILED
STATE RECORDS

JUN 10 2010

~~COUNTY~~

~~CITY~~

Town

~~VILLAGE~~

of Farmersville

Local Law No. 1 of the year 2010

DEPARTMENT OF STATE

A local law entitled the "Driveway Permit Law" requiring a permit for the
(Insert Title)
installation of a driveway on Town Roads in the Town of Farmersville.

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

~~COUNTY~~

~~CITY~~

Town

~~VILLAGE~~

of Farmersville

as follows:

Please see attached pages (three total).

(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. 1 of 2010 of the ~~(County)(City)~~(Town)(Village) of Farmersville was duly passed by the Town Board on April 19 2010, 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. _____ 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 _____ and was deemed duly adopted on _____ 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 _____, above.

Susan E. Holmes

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body Susan E. Holmes, Town Clerk

(Seal)

Date: 4/19/2010

(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 Cattaraugus

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.

James I. McAuley
Signature James I. McAuley
Town Attorney

Title _____

~~XXXXXX~~
~~XXXXX~~ of Farmersville
Town
~~XXXXXX~~

Date: June 6, 2010

**TOWN OF FARMERSVILLE
DRIVEWAY PERMIT LAW**

Local Law 1 of the year 2010, a local law requiring the permit for the installation of a driveway on Town roads in the Town of Farmersville. Enacted by the Town Board of the Town of Farmersville as follows:

Section 1: Purpose and Intent

1. **WHEREAS**, real property owners have installed driveways that cross Town installed roadside drainage ditches
2. **WHEREAS**, some driveways have poorly installed culverts or make use of drain pipes that do not fulfill the standards laid down by the New York State Department of Transportation for water loadings, weight and the ability to carry the minimum ten (10) year storm frequency.

Section 2: Highway Superintendent Authority

1. Under the Highway Law, Article 7, Sections 140 (1), (2), (5), and (17) Town Highway Superintendent shall have the authority to require a driveway permit for the installation of driveway on Town roads in the Town of Farmersville.

Section 3: Permit Conditions

1. Drain pipes under roads or driveways shall be designed to withstand NYSDOT H-20 loadings and carry minimum ten (10) year storm frequency. Design of structures shall have calculations developed according to generally accepted standards and said design is to be approved by the Town Engineer and/or Highway Superintendent. The pipe shall be Corrugated Polyethylene Pipe (HDPE) with smooth interior meeting AASHTO M294 Type S with a minimum of fifteen (15)" diameter. All culvert ends are to be equipped for slope protection by means of end sections, beveled sections with grouted rip rap or concrete headwalls. The design of structures proposed for use as part of the drainage system shall be approved by the Town Engineer and/or Highway Superintendent.
2. Drain pipe shall be bedded four (4) inches below and to the spring line of the pipe with No. 1 stone.
3. Drain pipe shall be a minimum of thirty (30) feet long or longer if situation warrants.
4. The pipe installation shall be back filled with crusher run gravel (Maximum size particle two (2)"). Gravel shall be subject to approval of Highway Superintendent.

5. The driveway shall grade down from the edge of pavement (or traveled way) to a low point at the centerline of the culvert pipe.
 - a. The Town Building Code Enforcement Officer (BCEO) is to advise in writing the Town Highway Superintendent of any approved project, or construction wherein the BCEO has granted a permit, and where a driveway will need to be installed and/or the project will result in work performed in the Town ROW.
 - b. Site Plan Review – If more than one (1) acre of land is disturbed, as defined by the Federal Clean Water Act of 1973, with its amendments, as administered by the New York State Department of Environmental Conservation, a site plan must be provided, which is to be reviewed and approved by both the BCEO and the Town Highway Superintendent. The Highway Superintendent in such cases, is to make sure the site mitigation plan adopted is one that will not adversely affect any Town road's bordering on the premises applying for the permit

Section 4: Permits Required/Acknowledgements Required

1. No driveway culvert shall be installed in a Town of Farmersville highway right of way (ROW) without a valid permit signed by the Highway Superintendent.
2. This permit is to be required whether the driveway is temporary or permanent. There is no fee to be charged for the permit.
3. All applicants for a driveway permit will also be required to sign an acknowledgement that they will be working within the Town right of way and they will assume full responsibility for any damage of a Town Highway caused by negligent abuse of the government property by themselves or the contractors or sub-contractors.
4. All individuals or corporations, who intend to do any work or construction with a Town road ROW must fill out an acknowledgment for work within a Town Highway where the individuals, or corporations acknowledge that proper care must be taken to avoid damage to that Town Highway and that they assume full responsibility and financial liability for any damage to the Town road caused by negligent or careless use of that government property by themselves; then contractors and/or sub-contractors.
5. A copy of the permit and acknowledgment shall be provided to the Town Building Code Enforcement Officer.

Section 5: Duty of Care

1. The property owner is responsible for the cost and proper, safe installation of the culvert within the Tow ROW. Maintenance of the installation shall be the responsibility of the Property Owner for the first 90 days after approval of the installation by the Highway Superintendent. After 90 days the Town of Farmersville will assume maintenance responsibility for the culvert. Future repairs shall be done at the Town's expense, but future replacement is at the property owner's expense.

Section 6: Penalties

1. Failure to obey this law shall allow the Town Highway Superintendent under Article 7, Section 140 (13) to bring an action against the individual to perform the enforcement of the obligations under this law in any court of competent jurisdiction.
2. Any violation of this law shall be liable to a civil penalty or fine of not more than \$500.00 for each day (and a minimum of \$250) or part thereof during which time such violation continues. The civil penalties provided by this subsection shall be recoverable in an action installed by the Highway Superintendent in the Town of Farmersville Court, or any Court of Competent Jurisdiction. Failure to pay a court order shall result in the unpaid fine being relieved on the next annual Town tax bill against any real property the violator may have within the Town or a personal judgment may be sought against the violation for the unpaid fine, and the Town may turn the collection of this fine over to a collection agency.
3. Injunctive Relief-an action on proceeding may be instituted in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of this law in the Supreme Court or in any other court having the requisite jurisdiction.

Section 7: Severability Clause

1. If any such section of this local law shall be held unconstitutional, invalid, or ineffective, in while or in past, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

Section 8: Effective Date

1. This local law shall take place effective on file with the New York Department of State.