

Local Law Filing

New York State Department of State
99 Washington Ave, Albany, NY 12231

(Use this form to file 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
APR 11 2019
DEPARTMENT OF STATE**

County
City of Farmersville
Town
Village

Local Law No. 2 of the year 2019

A local law entitled, "A Local Law to Require Prior Written Notice of Town Property Defects"

Be it enacted by the Town Board of the

County
City of Farmersville as follows:
Town
Village

As set forth in the attached page(s).

(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. 2 of 2019 of the ~~(County)~~(City)(Town)(Village) of Farmersville was duly passed by the Town Board on March 18, 2019, 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 _____ on _____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 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 _____, as was (approved)(not approved)(repassed after disapproval) by the _____. 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 _____, 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 _____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 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 countywide 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 revisions 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 majority of the qualified elector 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 unit voting as 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, as was finally adopted in the manner indicated in paragraph 1, above.

(SEAL)

Clerk

Budget Holmes

Clerk of the County legislative body, City, Town or Village

Date: March 18, 2019

(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 WYOMING

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

[Signature]
Signature

Attorney
County
City of Farmersville
Town
Village

Date:

04/09/19

**TOWN OF FARMERSVILLE
A LOCAL LAW #2 OF 2019 ENTITLED,
“A LOCAL LAW TO REQUIRE
PRIOR WRITTEN NOTICE OF TOWN PROPERTY DEFECTS”**

BE IT ENACTED by the Town Board of the Town of Farmersville, Cattaraugus County, New York to adopt Local Law #2 of 2019 as follows:

SECTION I. STATUTORY AUTHORITY; TITLE

This local law is adopted pursuant to the authority of Municipal Home Rule Law of the State of New York and shall be known as “A Local Law to Require Prior Written Notice of Town Property Defects”.

SECTION II. PURPOSE

In New York much of the litigation or personal injury actions involving municipal sidewalks and roads includes the application of a prior written notice requirement. Prior written notification laws are a valid exercise of legislative authority and reflect a legislative judgment to modify the duty of care owed by the Town in order to address the worrisome problem of Town roads and sidewalk liability. This reflects an understanding that Town officials cannot be expected to be aware of every dangerous conditions of the sidewalks and roads, yet ensures that responsibility for repair will be imposed once served with written notice of that condition within a specific time frame.

SECTION III. LEGISLATIVE DECLARATION

Where claims for bodily injury or damage to property are asserted against the Town arising out of alleged defective conditions of property owned by or in the care, custody or control of the Town, adequate notice to the Town of any such conditions, if found to exist. Whether the Town has received actual or constructive notice of such alleged defective conditions is often a question of fact which can lead to uncertainty and possible unwarranted finding of liability against the Town. To assure that the Town received notice of an alleged defective condition and is able to respond in a prompt and reasonable manner, the Town Board considers it important that such prior notice be in writing. It is the purpose of this Chapter to require that notice of defective conditions of Town property be given to the Town by prior written notice actually received by the Town in order to provide for the safety, health, protection and general welfare of the persons and property in the Town of Farmersville.

SECTION IV. PERTAINING TO HIGHWAYS

No civil action shall be maintained against the Town of Farmersville or the town superintendent of highways of the Town, or against an improved district in the Town for bodily injury or wrongful death to person or damages to property (including those arising from the operation of

snowmobiles) sustained by reason of any highway, bridge, culvert, highway marking, sign or device, or any property owned, operated or maintained by the Town, or any property owned, operated or maintained by any improvement district therein, being defective, out of repair, unsafe, dangerous, or obstructed unless written notice of such defective, unsafe, dangerous, or obstructed condition of such highway, bridge, culvert, highway marking, sign or device or any other property owned, operated, or maintained by the Town, or any property owned, operated, or maintained by any improvement district, was actually given to the town clerk of the Town or the town superintendent of highways of the Town, and there was thereafter a failure or neglect within a reasonable time to repair or remove the defect, danger, or obstruction complained of; and no such action shall be maintained for bodily injury or wrongful death to person or damages to property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert, highway marking, sign or device, or any property owned, operated, or maintained by the Town, or any property owned, operated, or maintained by any improvement district in the Town unless written notice thereof, specifying the particular place, was actually given to the town clerk of the Town or the town superintendent of highways of the Town and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

SECTION V. PERTAINING TO SIDEWALKS

No civil action will be maintained against the Town and/or town superintendent of highways of the Town for bodily injury or wrongful death to person or damages to property sustained by reason of any defect in the sidewalks of the Town or in consequence of the existence of snow or snow upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the superintendent of highways for the Town pursuant to statute, nor shall any action be maintained for bodily injury or wrongful death to person or damages to property sustained by reason of such defect or in consequences of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the town clerk of the Town or the superintendent of highways for the Town and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

SECTION VI. TRANSMITTAL OF NOTICES TO CLERK/TREASURER; CORRECTIVE ACTION

The town superintendent of highways for the Town shall transmit, in writing, to the town clerk of the Town within five (5) days after receipt thereof, all written notices received by him pursuant to this law, and he shall take any and all corrective action with respect thereto as soon as practicable.

SECTION VII. RECORDKEEPING

The town clerk of the Town shall keep an accurate record of all written notices which the town clerk shall receive of the existence of a defective, unsafe, dangerous, or obstructed condition in or upon, or of an accumulation of ice and snow upon any town highway, bridge, culvert or a sidewalk, or any other property owned by the Town, or by any improvement district. The town clerk, upon receipt of such written notice, shall immediately and in writing notify the town superintendent of highways of the Town of the receipt of such notice.

SECTION VIII. ELECTRONIC SUBMISSION PROVISION

The use of any electronic means, such as but not limited to email, Facebook, phone, or other electronic media, which includes the submission of any attachments, photographs or documentation, does not constitute a valid notice of claim nor valid prior written notice as established under both New York State Law and this Local Law.

SECTION IX. SUPERSESION OF STATE LAW

This chapter shall supersede, in its application to the incorporated Town of Farmersville, §50-G of the New York State General Municipal Law.

SECTION XI. SEVERABILITY

If any part or provision of this local law, or the application thereof, to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this local law, or application thereof to other persons or circumstances, and the Town Board of the Town of Farmersville hereby declares that it would have passed this local law or the remainder thereof, had such invalid application or invalid provision been apparent.

SECTION XII. REPEAL

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

SECTION XIII. WHEN EFFECTIVE

This local law shall take effect immediately upon filing in the office of the Secretary of State in accordance with § 27 of the Municipal Home Rule Law of the State of New York.