

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 of Rushford
Town _____
Village _____

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
OCT 29 2003

MISCELLANEOUS
& STATE RECORDS

Local Law No. 1 of the year 2003

A local law Providing for Written Notification of Defects and Obstructions on Town Highways, Bridges, Streets, Sidewalks, Crosswalks and Culverts in the Town of Rushford
(Insert Title)

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

County _____
City of Rushford as follows
Town _____
Village _____

Section 1. No civil actions shall be maintained against the Town or Town Superintendent of Highways, nor other employees or officers thereof acting in such capacity, for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous, or obstructed condition of such highway, bridge, street, sidewalk, crosswalk or culvert was actually given to the Town Clerk or Town Superintendent of Highways, and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of.

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 highway, bridge, street, sidewalk, crosswalk or culvert, unless written notice thereof specifying the particular place was actually given to the Town Clerk or Town Superintendent of Highways and there was 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 2. The written notice hereunder shall contain at least the following information:

- A. Name and mailing address of the person giving notice.
- B. A precise statement as to the nature and extent of any defective, unsafe, dangerous, or obstructed condition or the existence of snow or ice upon any highway, bridge, street, sidewalk, crosswalk, or culvert within the Town of Rushford.

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

(1)

C. The approximate date that such condition first became known to the person giving the notice.

D. The exact location of such condition, giving wherever possible reference to a street address or addresses, utility pole numbers or such other geographic reference as will aid the town in properly locating such condition.

Section 3. The Town Superintendent of Highways shall transmit in writing to the Town Clerk within ten days after the receipt thereof all written notices received pursuant to this local law and subdivision 2 of section 65-a of the Town Law. The Town Clerk shall cause all written notices received pursuant to this local law and subdivision of section 65-a of the Town Law, to be presented to the Town Board within ten days of the receipt thereof or at the next succeeding Town Board meeting whichever shall be sooner.

Section 4. This local law shall supersede in its application to the Town of Rushford subdivisions 1 and 3 of section 65-a of the Town Law.

Section 5. The Town Clerk shall keep an index record, in a separate book, 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 sidewalk, or any other property owned by the Town, or by any improvement district, which record shall state the date of the 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 said notice shall be preserved for a period of five (5) years from the date it is received. The Town Clerk, upon receipt of such a written notice shall immediately, and in writing, notify the Superintendent of Highways of the Town of the receipt of said notice.

Section 6. Nothing contained in this local law shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these causes of action, but, on the contrary, shall be held to be additional requirements to the rights to maintain said actions, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the Town, its officers and employees, or any of its improvement districts, any greater duty or obligation than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

Section 7. If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudged finally by a court of competent jurisdiction to be invalid, said judgment shall not affect, impair or invalidate the remainder of this local law but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof directly involved in the controversy or action in which said judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had said provisions not been included.

Section 8. Local Law No. 1 of 1985 is hereby repealed in its entirety.

Section 9. This local law shall take effect immediately upon filing in the office of the Secretary of State.

(1-A)

(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 2003 of the ~~(County)(City)(Town)(Village)~~ of Rushford was duly passed by the Town Board on October 20, 2003, 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)
(Name of Legislative body)
(repassed after disapproval) by the _____ and was deemed duly
(Elective Chief Executive Officer*)
adopted 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 _____ on 20__, and was (approved)(not approved)
(Name of Legislative body)
(repassed after disapproval) by the _____ on 20__.
(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)
(Name of Legislative body)
(repassed after disapproval) by the _____ on 20__. Such local
(Elective Chief Executive Officer*)

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.

Rita M. Hunt

~~Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body~~ RITA M. HUNT

(Seal)

Date: October 24, 2003

(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 ALLEGANY

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.

David T. Pullen

Signature **David T. Pullen**

Town Attorney

Title

County

City

of Rushford

Town

Village

Date: October 27, 2003