

Local Law Filing

New York State Department of State
Division of Corporations
State Records and Uniform Commercial Code
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Albany, NY 12231-0001
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(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

of New Square

FILED
STATE RECORDS

DEC 07 2016

Local Law No. 2 of the year 2016

DEPARTMENT OF STATE

A local law Assessments for Removal of Obstructions and Moving
and Resetting Poles and Wires

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

County City Town Village

of New Square as follows:

Section I. A new local law entitled "Assessments for the Removal of Obstructions and Moving and Resetting Poles and Wires," to read as follows:

§1. Legislative Findings

The Board of Trustees hereby finds and determines that the maintenance of obstruction free Village highways and right-of-ways is a matter of great importance to the health, safety and general welfare of the residents of the Village.

The Board of Trustees further finds and determines that, when such an obstruction exists and the property owner, upon notice as provided herein, fails to remove such obstruction in a timely and responsible manner, that it is in the interests of the health, safety and general welfare of the residents of the Village for the Village to cause or contract for such obstruction to be removed and/or for such poles to be moved and reset, and that all costs associated therewith, including the costs of compliance with the provisions of this local law, are to be assessed against the owner of such property and collected in accordance with the provisions

of this local law.

The Board of Trustees further finds and determines that wherever there shall exist an "obstruction", as that term is used and defined in N.Y. Highway Law § 319(1), that the duties of each owner or occupant of land situate along the highway or right-of-way, along with all telephone, telegraph, electric railway, cable television, and other electrical companies shall be consistent with the duties expressed in N.Y. Highway Law § 319(2).

§2. Notice and Procedures for Removal of Obstructions

Obstructions, within the meaning of this local law, shall have the same meaning and shall include the same obstructions as specified in New York Highway Law § 319(1).

It shall be the duty of each owner or occupant of lands situate along the highway, to remove all obstructions within the bounds of the highway, which have been placed there, either by themselves or by their consent. It shall be the duty of all telephone, telegraph, electric railway and other electrical companies, to remove and reset telephone, telegraph, trolley and other poles and the wires connected therewith, when the same constitutes obstructions to the use of the highway by the traveling public. If temporary obstructions such as trees, lumber, wood, logs, machinery, vehicles and similar obstructions are not removed within forty-eight hours after the service of notice, personally or by mail as provided herein, upon such owner or occupant, requesting the same to be done, the Village Clerk shall remove, or cause to be removed, such obstruction. And if permanent obstructions, including among others, telegraph, telephone, trolley, electric and other poles and the wires connected therewith, are not moved and reset within thirty days, the Village Clerk shall move and reset, or cause to have moved and reset, such poles and wires. The expenses thereby incurred, including the costs of compliance with the provisions of this local law, shall be paid for in the first instance out of moneys levied and collected and available therefor, and the amount thereof shall be charged against such owner, occupant or company; and levied and collected, as herein provided.

§3. Notice and Procedure for Assessment of Removal Expenses

In assessing the costs of obstruction removal pursuant to §2, the Village Clerk, as provided for in New York Village Law § 22-2200, shall publish in the official newspaper and serve upon each land owner, personally or by mail, at least ten days before the hearing, a notice of the assessment, and that at a specified time and place a hearing will be had to review and complete same, and that said assessment can be examined by any person interested therein at the office of the

village clerk during usual business hours, prior to such hearing. At the time and place so specified, the Board of Trustees shall hear the parties interested, and shall thereupon complete the assessment, stating therein, the name of each owner, occupant or company, and the amount assessed against him or it. Such Board of Trustees shall certify such assessment and shall cause the amount stated therein to be levied against such owner, occupant or company and any uncollected tax shall be a lien upon the land affected. The amount so levied shall be collected as provided herein, and shall be applied in reimbursing the fund from which such cost was defrayed.

The Village may make assessment pursuant to this local law for any obstruction heretofore removed, but not assessed, provided the notice requirements of §2 have been substantially complied with by the village.

§4. Appeals

Any owner, occupant or company deeming himself aggrieved as a result of an assessment made pursuant to this local law may, within 15 days of the certification of such assessment by the Board of Trustees, apply to a court of record for an order of certiorari to review said assessment. The assessment shall be deemed final and conclusive unless such an application be made within such fifteen days.

§5. Collection of Assessments

All assessment levied pursuant to this local law shall be collected as provided in New York Village Law § 5-518.

§6. Authorization

The assessment of costs for the removal of obstruction from Village highways and right-of-ways, subject to compliance with the provisions of this local law, is hereby authorized pursuant to New York Municipal Home Rule Law § 10(1)(ii)(a)(6) and (11), and New York Village Law § 4-412. A similar local law was upheld in *Orange & Rockland Utils. v. Vill. of Kiryas Joel*, 3 Misc. 3d 201(2004).

Section II.

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 or 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 the application thereof to other persons or circumstances, and the Board of Trustees of the Village of Kiryas Joel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision be apparent.

Section III.

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

Section IV.

This Local Law shall take effect immediately.

(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 2016 of the ~~(County)~~(City)(Village) of New Square was duly passed by the Board of Trustees on April 25, 2016, 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 thereon at the (general)(special)(annual) election held on _____ 20__ in accordance with the applicable provisions of law.
(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 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.

(Seal)

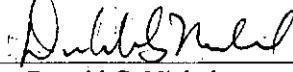

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
David Breuer, Village Clerk
Date: May 5, 2016

(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 ORANGE

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.

JACOBOWITZ AND GUBITS, LLP

By: 
Signature Donald G. Nichol

Attorneys for the Village
Title

Village of New Square

Date: May 2, 2016