

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 Davenport

FILED
STATE RECORDS

SEP 24 2019

DEPARTMENT OF STATE

Local Law No. 1 of the year 20¹⁹

A local law Providing for Written Notification of Defects and Obstructions on Town Highways, Bridges,
(Insert Title)
Streets, Sidewalks, Crosswalks, and Culverts or of Snow or Ice conditions of Highways and
Sidewalks and/or Other Property of the Town of Davenport or any of its Improvement
Districts

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

County City Town Village
(Select one.)

of Davenport

as follows:

Section 1:

No civil actions shall be maintained against the Town or the Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk, or culvert of any other property owned by the Town or any property owned by an 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, street, sidewalk, crosswalk, or culvert or any other property owned by the Town or any property owned by an improvement district therein was actually given to the Town Clerk or the Superintendent of Highways, and there was 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, or upon any other property owned by the Town or upon any property owned by an improvement district therein 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.

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

Section 2:

No civil actions shall be maintained against the Town or the Town Superintendent of Highways 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 or in consequence of the existence of snow or ice upon any sidewalk or crosswalk, unless such sidewalk or crosswalk has been constructed or is maintained by the Town of Davenport or the Superintendent of Highways of the Town of Davenport pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice 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 3:

The Town Superintendent of Highways shall transmit in writing to the Town Clerk within ten (10) 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 2 of Section 65-a of the Town Law to be presented to the Town Board within five (5) days of the receipt thereof or at the next succeeding Town Board meeting, whichever shall be sooner.

Section 4:

Pursuant to subdivision 4 of Section 65-a of Town Law, the Town Clerk shall keep an index record, in a separate book, of all written notices which are received regarding 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, street, sidewalk, crosswalk, or culvert, or any other property owned by the Town, or by an improvement district of the Town, 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. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous, or obstructed condition, or the location of the accumulation of snow or ice. The record of such notice shall be preserved for a period of ten (10) years from the date it is received. Other than notices received by the Town Clerk directly from the Town Superintendent of Highways, the Town Clerk shall immediately notify in writing the Town Superintendent of Highways of the receipt of such notice.

Section 5:

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 actions but, on the contrary, shall be held to be additional requirements to the right to maintain such action, 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, and/or any of its improvement districts, any greater duty or obligations than that it shall keep its highways,

bridges, streets, sidewalks, crosswalks, culverts and public places in a reasonably safe condition for public use and travel.

Section 6:

Local Law #2 of the year 1984, “a local law to provide for written notification of defects and obstructing on Town Highways, Bridges, Culverts, or Sidewalks” is hereby superseded by this local law and Local Law #2 of the year 1984 is hereby repealed.

Section 7:

Should any clause, sentence, phrase, paragraph, section, or provision of this Local Law be decided by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Law as a whole or any part thereof, other than the part so decided to be unconstitutional or valid.

Section 8:

This Local Law shall take effect immediately upon adoption and filing as required by the Laws of the State of New York.

(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 2019 of the (County)(City)(Town)(Village) of Town of Davenport was duly passed by the Town Board on September 17 2019, 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 adopted *(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 _____ 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 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 _____ above.

Linda J. Adam

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

Date: 09-18-19

(Seal)