

(Please Use this Form for Filing your 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 WESTERLO  
Town  
~~Village~~

Local Law No. 1 of the year 19 86.

A local law for Prior Written Notice of Defective Conditions of Town....  
Property (Insert title)

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

~~County~~  
~~City~~ of WESTERLO  
Town  
~~Village~~ as follows:

SECTION 1. SHORT TITLE AND APPLICABILITY.

This local law shall be known as the prior written notice of defective conditions local law of the Town of Westerlo - 1986.

SECTION 2. 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 is of substantial importance to allow the town the opportunity to investigate and correct 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 receives notice of an alleged defective condition, and is able to respond in a prompt and reasonable manner, the town board considers it to

be important that such prior notice be in writing. It is the purpose of this local law 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 persons and property in the Town of Westerlo.

SECTION 3. PRIOR WRITTEN NOTICE REQUIRED.

No civil action shall be maintained against the town, its officers or employees for personal injury, including death, or damage to property related to, caused by, resulting from or arising out of any property owned by the town or property in the care, custody or control of the town being defective, out of repair, unsafe, dangerous or obstructed unless, prior to the occurrence of the injury or damage, the town shall have been given actual written notice of the alleged condition complained of and shall have failed or neglected within a reasonable time to repair or remove the condition.

SECTION 4. NOTICE: CONTENTS.

The notice required by this local law shall contain the following:

- a. The full name and address of the claimant;
- b. The particular property of the town and its location claimed to be defective, out of repair, unsafe, dangerous or obstructed;
- c. The time such condition was first observed or made known to the claimant;
- d. A statement of the particulars in which the property is defective, out of repair, unsafe, dangerous or obstructed.

SECTION 5. SERVICE OF NOTICE.

- a. The written notice provided for by this local law shall be served by personal service within the Town of Westerlo upon the Town Clerk or Town Supervisor and, in the case of highway property, upon the Town Superintendent of Highways.

b. Personal service may also be made by mailing such notice by certified or registered mail to the officials specified in this section at their respective town office addresses.

c. The claimant shall have the burden of proving service of the notice in compliance with this section in any civil action maintained against the town or any officer or employee thereof.

SECTION 6. RECORD OF NOTICE.

a. The town supervisor and superintendent of highways shall promptly transmit to the town clerk all written notices received by them pursuant to this section.

b. The town clerk shall keep a record in a separate book of all written notices received pursuant to this section.

SECTION 7. VALIDITY.

If any section, subdivision, paragraph or provision of this local law shall be adjudged to be invalid, such adjudication shall apply only to such portion expressly adjudged invalid and the remainder thereof shall in all respects be valid and effective.

SECTION 8. WHEN TO TAKE EFFECT.

This local law shall take effect immediately.

*Filed at NYS Dept. of State 2/10/86*

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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 19..86..  
~~County~~  
of the ~~City~~ ~~Town~~ of..... Westerlo..... was duly passed by the ..... Town Board .....  
~~Village~~ (Name of Legislative Body)  
on ..... February 4, ..... 19 86. in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,\* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19.....  
County  
of the City  
Town of ..... was duly passed by the .....  
Village (Name of Legislative Body)  
on ..... 19..... not disapproved  
and was approved by the .....  
repassed after disapproval Elective Chief Executive Officer \*  
and was deemed duly adopted on ..... 19....., 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 19.....  
County  
of the City  
Town of ..... was duly passed by the .....  
Village (Name of Legislative Body)  
on ..... 19..... not disapproved  
and was approved by the .....  
repassed after disapproval Elective Chief Executive Officer \*  
on ..... 19..... Such local law was submitted to the people by reason of a  
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting  
permissive general  
thereon at the special election held on ..... 19....., in accordance with the appli-  
annual  
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19.....  
County  
of the City  
Town of ..... was duly passed by the ..... on  
Village (Name of Legislative Body)  
..... 19..... not disapproved  
and was approved by the ..... on  
repassed after disapproval Elective Chief Executive Officer \*  
..... 19..... Such local law being subject to a permissive referendum and no  
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on  
..... 19....., 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 chairman of the county legislative body, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

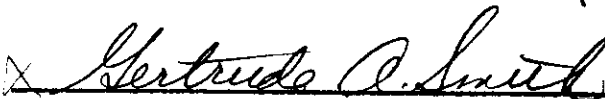
I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the <sup>special</sup> ~~general~~ election held on ..... 19 ..... 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 19..... of the County of ....., State of New York, having been submitted to the Electors at the General Election of November ....., 19 ....., 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 of 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 .....<sup>1</sup>..... above.

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

Date: February 6, 1986

(Seal)

(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 ....ALBANY.....

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.

  
.....  
Signature

.....  
Town Attorney  
.....  
Title

Date: February 6, 1986

County  
~~City~~ of Westerlo  
Town  
~~Village~~