

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 Duanesburg

FILED
STATE RECORDS

NOV 01 2011

DEPARTMENT OF STATE

Local Law No. 1 of the year 2011

A local law A LOCAL LAW REQUIRING PRIOR WRITTEN NOTICE OF DEFECTS AND/OR
(Insert Title)
ACCUMULATION OF SNOW AND ICE BEFORE MAINTAINING ANY ACTION AGAINST
THE TOWN OF DUANESBURG ITS OFFICERS, AGENTS OR EMPLOYEES FOR
INJURIES ARISING OUT OF SUCH DEFECTS OR ACCUMULATION OF SNOW AND ICE

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

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Duanesburg as follows:

See attached

(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. 1 of 2011 of
the ~~(County)(City)~~(Town)(Village) of Duanesburg was duly passed by the
Duanesburg Town Board on October 13, 2011, in accordance with the applicable
(Name of Legislative Body)
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 _____ 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
(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.


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

(Seal)

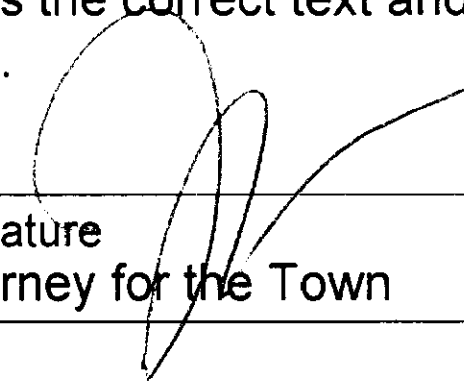
Date:

10-27-11

(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 Schenectady

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
Attorney for the Town
Title

~~County~~

~~City~~ of Duanesburg
Town

~~Village~~

Date:

10-13-11

TOWN OF DUANESBURG

Local Law No. 1 of the Year 2011

A LOCAL LAW REQUIRING PRIOR WRITTEN NOTICE OF DEFECTS AND/OR ACCUMULATION OF SNOW AND ICE BEFORE MAINTAINING ANY ACTION AGAINST THE TOWN OF DUANESBURG, ITS OFFICERS, AGENTS OR EMPLOYEES FOR INJURIES ARISING OUT OF SUCH DEFECTS OR ACCUMULATION OF SNOW AND ICE.

BE IT ENACTED by the Town Board of the Town of Duanesburg as follows:

SECTION 1. TITLE

This Local Law shall be known as the “Notice of Defects Local Law” of the Town of Duanesburg.

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority of Chapter 677 of the Laws of 1941, as amended and renumbered, constituting Chapter 62 of the Consolidated Laws of the State of New York, Section 65-a of the Town Law, requiring written notice to towns of defective, unsafe, dangerous or obstructed conditions of highways, bridges and culverts, pursuant to the authority of Chapter 843 of the Laws of 1932, as amended, constituting Chapter 36-A of the Consolidated Laws of the State of New York, Section 10 of the Municipal Home Rule Law, authorizing towns to enact, amend and repeal ordinances, rules and regulations by local law, and pursuant to the authority of Chapter 843 of the Consolidated Laws of the State of New York, Section 22 of the Municipal Home Rule Law, authorizing towns to adopt local laws superseding any provision of a state statute. This Local Law is intended to supersede Section 65-a of the Town Law.

SECTION 3. PURPOSE

It is the intention of the Town Board of the Town of Duanesburg to protect the health and safety of the community by requiring actual written notice of defective and hazardous conditions existing on Town-owned or maintained properties, including properties owned or maintained by an improvement or special district. The receipt of actual written notice will enhance the Town’s ability to remedy dangerous conditions

on all properties under the management and care of Town personnel in an expeditious and safe manner.

SECTION 4. DEFINITIONS

As used in this Local Law, the following terms shall have the meanings indicated:

TOWN:

The Town of Duanesburg or any of its boards, committees, commissions or agencies, whether operated or funded solely by the Town of Dunesburg or jointly with one or more other municipalities.

TOWN AGENCY:

Any Town administrative advisory board, committee, commission, planning board, zoning board of appeals or other agency thereof.

TOWN BOARD MEMBER, TOWN OFFICER OR TOWN EMPLOYEE:

Any elected or appointed officer and any employee of the Town, whether paid or not, including members of any Town Agency. For purposes of this Local Law, no person shall be deemed a Town Board Member, Town Officer or Town Employee solely by reason of being a volunteer fireman or civil defense volunteer or being employed by the Town as a result of a contractual agreement.

SECTION 5. WRITTEN NOTIFICATION OF DEFECTS, SNOW, ICE AND OBSTRUCTIONS; CAUSES OF ACTION

5.1 No civil action shall be maintained against the Town, any Town Agency, Town Board Member, Town Officer or Town Employee, and no civil action shall be maintained against an improvement or special district within the Town, for damages or injuries to person or property sustained in consequence of any highway, bridge, culvert, street, sidewalk, crosswalk, street marking, sign or device, park, playground, parking area, building, structure, utility or any other property owned, operated or maintained by the Town or owned, operated or maintained by any improvement or special district therein being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of the specific location and nature of such defective, unsafe, out of repair, dangerous or obstructed condition, by a person with first-hand knowledge was actually given to the Town Clerk or the Town Superintendent of Highways in accordance with Section 7 of this Local Law and there was thereafter a failure or neglect within a reasonable time to repair or remove the defect, danger or obstruction complained of. In no event shall the Town, any Town Agency, Town Board

Member, Town Officer or Town Employee, or any improvement or special district, be liable for damage or injury to persons or property in the absence of such prior written notice. Constructive notice shall not be applicable or valid.

5.2 No civil action shall be maintained against the Town, any Town Agency, Town Board Member, Town Officer or Town Employee, and no civil action shall be maintained against an improvement or special district within the Town, for damages or injuries to person or property sustained in consequence of the existence of snow or ice upon any highway, bridge, culvert, street, sidewalk, crosswalk, street marking, sign or device, park, playground, parking area, building, structure, utility or any other property owned, operated or maintained by the Town or any improvement or special district, unless written notice thereof by a person with first-hand knowledge, specifying the particular place and defect, was actually given to the Town Clerk or Town Superintendent of Highways in accordance with Section 7 of this Local Law 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. In no event shall the Town, any Town Agency, Town Board Member, Town Officer or Town Employee, or any improvement or special district, be liable for damage or injury to persons or property in the absence of such prior written notice. Constructive notice shall not be applicable or valid.

5.3 Exception: Notwithstanding Subsections 5.1 and 5.2 herein, the Town, any Town Agency, Town Board Member, Town Officer or Town Employee, and an improvement or special district within the Town, shall not be liable for damages or injuries to person or property from defects on Town owned, controlled or maintained highways or streets sustained between the fifteenth day of November and the first day of May.

SECTION 6. DUTIES OF SUPERINTENDENT OF HIGHWAYS AND TOWN CLERK

The Town Superintendent of Highways shall transmit, in writing, all notices of defect received by him or her pursuant to this Local Law to the Town Clerk within five (5) working days of receipt. The Town Clerk shall cause all written notices received pursuant to this Local Law to be presented to the Town Board within five days of the receipt thereof or at the next succeeding Town Board meeting, whichever shall be sooner. The Town Clerk shall keep an indexed record, in a separate book, of all written notices received pursuant to this Local Law. Such record shall contain the date of receipt of such 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 by location of the alleged defect or obstruction. A record of such notices shall be preserved for a period of five (5) years of the date of receipt by the Town Clerk.

SECTION 7. SERVICE OF WRITTEN NOTICE; CONTENTS

Written notice of defect shall be served upon the Superintendent of Highways and/or Town Clerk by personal delivery or by registered, certified or regular mail. Such notice shall be made by a person with first-hand knowledge of the condition, defect or obstruction specified in the notice and shall identify, with particularity, the specific nature and location of each condition, defect or obstruction. In order to be valid, the notice of defect must be actually received by the Superintendent of Highways and/or Town Clerk as specified herein. Service of such notice upon a person other than as authorized in this article shall invalidate the notice.

SECTION 8. CONSTRUUAL OF PROVISIONS

Unless stated herein, nothing contained in this Local Law shall be held to repeal or modify or waive any existing requirement or statute of limitations but, on the contrary, shall be held to be additional requirements to the rights to maintain such action. Nothing contained herein shall be held to modify any existing rule of law relative to the question of contributory negligence or to impose upon the Town, its Agencies, Board Members, Officers and Employees and/or any of its improvement or special districts any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

SECTION 9. SEVERABILITY CLAUSE

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof involved in the controversy in which such judgment shall have been rendered.

SECTION 10. PRONOUNS AND PLURALS

Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural, and vice versa.

SECTION 11. EFFECTIVE DATE

This Local Law shall take effect immediately upon its filing with the Secretary of State.