

# Local Law Filing

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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**

of Fenner

**Town**

**Village**

**Local Law No. LL2010-3 of the year 2010**

**A local law** to require prior written notice of certain dangerous conditions  
(Insert Title)

**Be it enacted by the** Town Board **of the**

**County**

**City**

of Fenner

**Town**

**Village**

**as follows:**

## Section 1

No civil action shall be maintained against the Town of Fenner (the "Town") or the Superintendent of Highways of the Town, or against any improvement district in the Town for damages or injuries to person or property (including those arising from the operation of snowmobiles) sustained by reason of any highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by any 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, culvert, highway marking, sign or device, or any other property owned, operated or maintained by the Town, or any property owned, operated or maintained by any improvement district, was actually given to the Clerk of the Town or the Superintendent of Highways of the Town, and that there was a failure or neglect within a reasonable time after the giving of such notice to

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

repair or remove the defect, danger or obstruction complained of, and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Town or any property owned by any improvement district in the Town unless written notice thereof, specifying the particular place, was actually given to the Clerk of the Town or the Superintendent of Highways of the Town 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.

## Section 2.

No civil action will be maintained against the Town and/or the Superintendent of Highways of the Town for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Superintendent of Highways of the Town 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 Clerk of the Town or to the Superintendent of Highways of the Town and there was a failure or neglect to remedy such defect, to remove such snow or ice, or to make the place otherwise reasonably safe within a reasonable time after receipt of such notice.

## Section 3.

The Superintendent of Highways of the Town shall transmit, in writing, to the Clerk of the Town, within five (5) days after the receipt thereof, all written notices received by him/her pursuant to this law, and he/she shall take any and all corrective action with respect thereto as soon as practicable.

## Section 4.

The Clerk of the Town 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 such notice shall be preserved for a period of five (5) years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Superintendent of Highways of the Town of the receipt of such notice.

## Section 5.

Nothing contained in this 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 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 streets, sidewalks and public places in a reasonably safe condition for public use and travel.

Section 6.

If any clause, sentence, phrase, paragraph or any part of this law shall for any reason be adjudged finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this 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 such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this law would have been adopted had any such provisions not been included.

Section 7.

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

**(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. \_\_\_\_\_ of 2010 of the  
~~(County)(City)(Town)(Village)~~ of Fenner was duly passed  
by the \_\_\_\_\_ On \_\_\_\_\_ 2010, 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)  
(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 elector 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\_\_\_\_\_.  
(Elective Chief Executive Officer\*)

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 electors of 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 such 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 Town~~ Clerk or officer designated by local legislative body

(Seal)

Date: \_\_\_\_\_

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Town Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF MADISON

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  Fenner   
Town  
Village

Date: \_\_\_\_\_