

LL 1985-001

WRITTEN NOTICE OF HIGHWAY DEFECTS

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Town Board of the Town of Amity, will conduct a public hearing pursuant to the provisions of Article 3 of the Municipal Home Rule Law of the State of New York, at the Town Hall, Town of Amity on January 21, 1985, at 5:00 P.M. in the afternoon on a local law to be proposed for adoption on January 21, 1985, by the Town Board, entitled as follows:

A local law providing that written notice of defective conditions of highways, sidewalks and other properties owned by the Town or an improvement district therein; and failure of the Town to remedy the same within a reasonable time after notice, are prerequisites to a civil action for damages arising out of said defective conditions.

Town of Amity

Sally Hanchett  
Town Clerk

SERRA & FOGARTY  
ATTORNEYS AND COUNSELORS AT LAW  
25 SCHUYLER STREET  
BELMONT, NEW YORK 14813

COUNSEL  
WESLEY J. SERRA  
PATRICIA K. FOGARTY

TELEPHONE 716 268-7603

April 22, 1985

Town of Amity  
1 Schuyler Street  
Belmont, New York

RE: Local Law 1-85

Dear Marion:

Enclosed please find receipt for filing for the above law.

Very truly yours,

SERRA & FOGARTY

*Patricia K. Fogarty*  
Patricia K. Fogarty

PKF:cg  
Enclosure

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(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 Amity  
~~Town~~  
~~Village~~

Local Law No. 1 of the year 19 85

**A local law** providing that written notice of defective conditions of highways, or an improvement district therein, and failure by the tow sidewalk and other properties owned by the town/to remedy the same within a reasonable time after notice, are prerequisites to a civil action for damages arising out of said defective conditions.

Be it enacted by the Town Board of the

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

Section 1. No civil action shall be maintained against the Town of Amity, (hereinafter referred to as "the Town") or the town 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, sidewalk, 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 therein, being defective, out of repair, unsafe, dangerous or obstructed unless written notice of said defective, unsafe, dangerous, or obstructed condition of said highway, sidewalk, 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 an improvement district, was actually given to the town clerk of the Town or the town superintendent of highways of the Town, and there was a failure or neglect within a reasonable time after the giving of said notice to repair or remove the defect, danger, or obstruction complained of. No such an 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 town clerk of the Town or the town superintendent of highways of the Town and there was a failure or neglect to cause said snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of said notice.

§ 2. No civil action shall be maintained against the Town of the town superintendent of highways of the Town for damages or injuries to person or property sustained by reason of any defect in the sidewalk of the Town or in consequence of the existence of snow or ice upon any of its sidewalks unless said sidewalk has been lawfully

corrective action with respect thereto as soon as practicable.

§ 4. The town 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 said notice shall be preserved for a period of five (5) years from the date it is received. The town clerk, upon receipt of such a written notice shall immediately, and in writing, notify the town superintendent of highways of the Town of the receipt of said notice.

§ 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 action, but, on the contrary, shall be held to be additional requirements to the rights to maintain said actions, 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, or any of its improvement districts, any greater duty or obligation than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

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

§ 7. This local law shall take effect immediately.



(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 85

County of Amity was duly passed by the Town Board  
of the Town of Village (Name of Legislative Body)

on January 21 1985 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 was duly passed by the (Name of Legislative Body)  
City of and was approved by the Elective Chief Executive Officer \*  
Town of not disapproved  
Village repassed after disapproval

on 19 and was approved by the 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 was duly passed by the (Name of Legislative Body)  
City of not disapproved  
Town of and was approved by the Elective Chief Executive Officer \*  
Village repassed after disapproval

on 19 and was approved by the 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 thereon at the special election held on 19, in accordance with the applicable 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 was duly passed by the (Name of Legislative Body).  
City of not disapproved  
Village and was approved by the Elective Chief Executive Officer \*

on 19 and was approved by the Elective Chief Executive Officer \*  
repassed after disapproval




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 special election held on ..... general election held on ..... 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 ..... above.

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

Date: January 21, 1985



(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 ALLEGANY

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.

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