

(2)

200504

ON MOTION OF MR. STOKER

RESOLUTION NO. 315

DIRECT PUBLIC HEARING
LOCAL LAW NO. 4 FOR THE YEAR 1982

WHEREAS, Local Law No. 4 for the year 1982 providing for written notice of defective, unsafe, dangerous or obstructed condition prior to maintenance of action against County of Cortland for injuries to persons or damages to property, now, therefore, be it

RESOLVED, that a public hearing upon said Local Law No. 4 for the year 1982 be held before this Legislature on September 22, 1982 at 7:30 p.m. in the Chamber of the County Legislature, Third Floor, County Office Building, Cortland, New York 13045, and be it further

RESOLVED, that the Clerk of this Legislature be and hereby is authorized and directed to publish notice of said meeting as required by the Municipal Home Rule Law.

STATE OF NEW YORK }
COUNTY OF CORTLAND } SS:

This is to certify that I, the undersigned, Clerk of the Cortland County Legislature of the County of Cortland have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was passed by the Cortland County Legislature, of said county on the _____ day of SEP 8 1982 and that the same is a correct and true transcript of such original resolution and of the whole thereof.

IN WITNESS WHEREOF I have hereunto set my hand and the official seal of the CORTLAND COUNTY LEGISLATURE, this

Day of SEP 8 1982
Richard L. Stevens
Clerk of the Cortland County Legislature



OFFICE OF COUNTY ATTORNEY
CORTLAND COUNTY
60 CENTRAL AVENUE, CORTLAND NY 13045
607-753-5095

JOHN L. BARDSLEY
COUNTY ATTORNEY

DAVID C. ALEXANDER
ASST. COUNTY ATTORNEY

FRANCIS J. CASULLO
ASST. COUNTY ATTORNEY

SHERRY DAVENPORT
PARALEGAL

TO: Scott Schrader, County Administrator

FROM: John L. Bardsley, County Attorney *JLB*

DATE: *October 13, 2004*

SUBJECT: Local Law: Amendment of Local Law #4 of 1982 (Notice of Defect)

Personnel

Enclosed is a copy of Local Law #4 of 1982 with recommended amendment noted therein (see cross out in text). I am submitting this recommendation based upon a previous memo to you in the personal injury case filed against the County by Sherman and Withey.

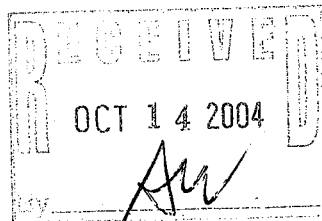
Please let me know how you would like me to proceed.

JLB/alh

Enclosure

cy: Scott E. Steve, Chairman of the Legislature
Paul Allen, Chairman, Highway Committee
Highway Department

*Rescind
Local Law*



*+
all other
local laws
or
resolutions
re:
=*

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

County
~~City~~ of CORTLAND
~~Town~~
~~Village~~
Local Law No. 4 of the year 19 82

A local law A Local Law requiring written notice of defective, unsafe, dangerous or obstructed condition prior to ~~General~~ maintenance of action against the County of Cortland for injuries to persons or damages to property.

Be it enacted by the COUNTY LEGISLATURE of the
(Name of Legislative Body)

County
~~City~~ of CORTLAND as follows:
~~Town~~
~~Village~~
Section 1

(a) No civil action shall be maintained against the County of Cortland or County Superintendent of Highways for damages or injuries to persons or property sustained by reason of any highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge or culvert was actually given to the Clerk of the Legislature or County Superintendent of Highways, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of, or the place made reasonably safe; or, in the absence of such notice, unless such defective, unsafe, dangerous or obstructed condition existed for so long a period that the same should have been discovered and remedied in the exercise of reasonable care and diligence; but 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 or culvert unless written notice thereof, specifying the particular place, was actually given to the Clerk of the Legislature or County Superintendent of Highways 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.

(b) The County Superintendent of Highways shall transmit in writing to the Clerk of the Legislature within ten (10) days after the receipt thereof all such written notices received by him.

(c) The Clerk of the Legislature shall keep an indexed record, in a separate book, of all such written notices, which he shall receive of the existence of a defective, unsafe, dangerous, or obstructed condition in or upon, or of an accumulation of ice or snow upon any County highway, bridge or culvert, which record shall state the date of receipt of the notice, the nature and location of the conditions stated to exist, and the name and address of the person from whom the notice is received. The record of each such notice shall be preserved for a period of five years after the date it is received.

(d) Any such claim provided for herein shall be made and served in compliance with Section 50-e of the General Municipal Law.

Section 2

Nothing herein contained shall be construed to relieve a claimant of the obligation to send a notice of claim as provided in General Municipal Law, Section 50-e.

Section 3

This Local Law shall become effective immediately after its final adoption.

(If additional space is needed, please attach sheets of the same size as this and number each)

(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.)

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
County
City
of the Town of _____ was duly passed by _____ (Name of Legislative Body)
Village
on _____ 19_____ in accordance with the applicable provisions of law.

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

2. I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
County
City
of the Town of _____ was duly passed by _____ (Name of Legislative Body)
Village
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.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____
County
City
of the Town of _____ was duly passed by the _____ (Name of Legislative Body)
Village
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
eable provisions of law.

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

4. I hereby certify that the local law annexed hereto, designated as local law No. 4 of 19 1982
County
of the ~~City~~ Cortland was duly passed by the Cortland County Legislature on
~~Town~~ Cortland (Name of Legislative Body)
~~Village~~
September 22, 19 82 and was approved by the Chairman on
~~XXXXXXXXXXXX~~ Chairman Elective Chief Executive Officer
September 22, 1982. 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
November 8, 19 82, 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 board of supervisors, 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.

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

~~5. 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 § 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 19 became operative.~~

~~(County local law concerning adoption of Charter.)~~

~~6. I hereby certify that the local law annexed hereto, designated as Local Law No. of 197 ... 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 paragraph⁴ above.

Richard F. Stevens

Clerk of the Board of Supervisors, City, Town or Village Clerk or Officer designated by Local Legislative Body

Date: November 8, 1982

(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 CORTLAND

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.

Edward R. Quinn
County Attorney

(Title of Officer)

County
~~XXX~~ of Cortland
~~XXX~~
~~XXXXXX~~

Dated: November 8, 1982

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

County
~~City~~ of CORTLAND
~~Town~~
Village

Local Law No. 4 of the year 19 82

A local law A Local Law requiring written notice of defective, unsafe, dangerous or obstructed condition prior to ~~commencement~~ maintenance of action against the County of Cortland for injuries to persons or damages to property.

of County Highways & / or other County Property

Be it enacted by the COUNTY LEGISLATURE of the
(Name of Legislative Body)

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

Section 1.

(a) No civil action shall be maintained against the County of Cortland or County Superintendent of Highways for damages or injuries to persons or property sustained by reason of any highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge or culvert was actually given to the Clerk of the Legislature or County Superintendent of Highways, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of, or the place made reasonably safe; ~~or, in the absence of such notice, unless such defective, unsafe, dangerous or obstructed condition existed for so long a period that the same should have been discovered and remedied in the exercise of reasonable care and diligence;~~ but 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 or culvert unless written notice thereof, specifying the particular place, was actually given to the Clerk of the Legislature or County Superintendent of Highways 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.

(b) The County Superintendent of Highways shall transmit in writing to the Clerk of the Legislature within ten (10) days after the receipt thereof all such written notices received by him.

(c) The Clerk of the Legislature shall keep an indexed record, in a separate book, of all such written notices, which he shall receive of the existence of a defective, unsafe, dangerous, or obstructed condition in or upon, or of an accumulation of ice or snow upon any County highway, bridge or culvert, which record shall state the date of receipt of the notice, the nature and location of the conditions stated to exist, and the name and address of the person from whom the notice is received. The record of each such notice shall be preserved for a period of five years after the date it is received.

(d) Any such claim provided for herein shall be made and served in compliance with Section 50-e of the General Municipal Law.

Section 2

Nothing herein contained shall be construed to relieve a claimant of the obligation to send a notice of claim as provided in General Municipal Law, Section 50-e.

Section 3

This Local Law shall become effective immediately after its final adoption.

(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.)

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by (Name of Legislative Body)
Village
on 19..... in accordance with the applicable provisions of law.

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

2. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by (Name of Legislative Body)
Village
on 19..... and was approved by the Elective Chief Executive Officer
not disapproved
repassed after disapproval
and was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the (Name of Legislative Body)
Village
on 19..... and was approved by the Elective Chief Executive Officer
not disapproved
repassed after disapproval
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
eable provisions of law.

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

4. I hereby certify that the local law annexed hereto, designated as local law No. 4 of 19 1982
County
City
of the Town of Cortland was duly passed by the Cortland County Legislature on
Village
September 22, 19 82 and was approved by the Chairman on
September 22, 1982
November 8, 19 82, 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 board of supervisors, 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.

ty local law concerning Charter revision proposed by petition.)

5. 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 19 became operative.

(County local law concerning adoption of Charter.)

6. I hereby certify that the local law annexed hereto, designated as Local Law No. of 197 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 4 above.

Richard F. Stevens

Clerk of the Board of Supervisors, City, Town or Village Clerk or Officer designated by Local Legislative Body

Date: November 8, 1982

(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 CORTLAND

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.

Edward R. Durkin
County Attorney

(Title of Officer)

County
~~City~~ of Cortland
~~Town~~
~~Village~~

Dated: November 8, 1982