

LOCAL LAW NO. 3-1985
CHAUTAUQUA COUNTY

A LOCAL LAW TO AMEND LOCAL LAW NUMBER 9-79
(RE: WRITTEN NOTIFICATION OF DEFECTS ON COUNTY ROADS & OTHER
PROPERTY IN COUNTY)

BE IT ENACTED, by the County Legislature of the County of Chautauqua as follows:

Section 1. Local Law Number 9-79 is hereby amended to read as follows:

§1. No civil action shall be maintained against the County of Chautauqua [or the Director of Public Works] for damages or injuries to person or property sustained [in consequence] by reason of any [street], highway, [road], bridge, or culvert, [sidewalk or crosswalk] being defective, out of repair, unsafe, dangerous or obstructed, [or in consequence of the existence of snow or ice thereon], unless written notice of [the] such defective, unsafe, dangerous or obstructed condition [or of the existence of such snow or ice], was actually given to the Clerk of the County Board of Legislators [and] or the Director of Public Works; 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 to cause the snow or ice to be removed, or the place otherwise 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 remediated 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 County Board of Legislators or the Director of Public Works 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.

§2. The Director of Public Works [Clerk of the County Board of Legislators] shall transmit to the Clerk of the County Board of Legislators [Director of Public Works] within ten days after the receipt thereof [immediately after the receipt of such written notice a copy of] such written notice.

§3. The Clerk of the County Board of Legislators [Director of Public Works] shall keep an indexed record, in a separate book, of all written notices which are received of the existence of such defective, unsafe, dangerous or obstructed condition, in or upon; or of an accumulation of ice or snow upon any county highway, bridge, or culvert, [such snow or ice], which record shall state the date of 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 each notice shall be preserved for a period of five years after the date it is received.

§4. Nothing herein contained shall be construed to relieve a claimant of the obligation to serve [send] a notice of claim as provided in Section 50-e of the General Municipal Law. Further, 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 classes of actions, but, on the contrary, shall be held to be additional requirements of the right to maintain such action.

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 judgement 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 judgement 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 provision not been included.

§5. This local law shall take effect on the date it is filed with the Secretary of State.

Section 2. This local law shall take effect upon filing with the Secretary of State.

(Note: New material underlined; old material in brackets.)

Adopted by Legislature: 3/13/85

R/C Vote: 22 Yes; 3 Absent

Public Hearing: 3/25/85

Adopted as LL 3-85