

LOCAL LAW  
INTRODUCTORY NO. 5-26  
CHAUTAUQUA COUNTY

A LOCAL LAW AMENDING LOCAL LAW 4-09 PROVIDING FOR WRITTEN NOTICE OF  
DEFECTS AND OBSTRUCTIONS ON COUNTY OF CHAUTAUQUA PROPERTY AS A  
CONDITION PRECEDENT TO MAINTENANCE OF A CIVIL ACTION

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

1. Amendment of Local Law 4-09.

Local Law 4-09 of the County of Chautauqua is hereby amended by substitution to read as follows:

Section 1. The purpose of this local law is to update Local Law 9-1979 to clarify that the requirement of prior written notice as a condition for bringing civil actions against the County of Chautauqua also applies to sidewalks, crosswalks, parking lots, walkways, ramps, manholes, driveways, sewer infrastructure, curbs, and gutters. This local law also updates Local Law 9-1979 to reflect the renaming of the Department of Public Works to the Department of Public Facilities, and replaces references to the "Board of Legislators" with "County Legislature."

Section 2. No civil action shall be maintained against the County of Chautauqua for damages or injuries to person or property sustained by reason of any highway, sidewalk, crosswalk, parking lot, stairway, walkway, ramp, manhole, driveway, bridge, culvert, sewer infrastructure, curb, or gutter being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of such defective, unsafe, dangerous or obstructed condition was actually given to the Clerk of the County Legislature or the Director of Public Facilities; 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 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 and ice upon any highway, sidewalk, crosswalk, parking lot, stairway, walkway, ramp, manhole, driveway, bridge, culvert, sewer infrastructure, curb, or gutter unless written notice thereof, specifying the particular place, was actually given to the Clerk of the County Legislature or the Director of Public Facilities 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 3. The Director of Public Facilities shall transmit to the Clerk of the County Legislature within ten (10) days after the receipt thereof such written notice.

Section 4. The Clerk of the County Legislature 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 and snow upon any County highway, sidewalk, crosswalk, parking lot, stairway, walkway, ramp, manhole, driveway, bridge, culvert, sewer infrastructure, curb, or gutter, 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 according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.

Section 5. Nothing herein contained shall be construed to relieve a claimant of the obligation to serve 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 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 provision not been included.

Section 6. Local Law 9-79 of the County of Chautauqua, as amended, is hereby superseded by this local law as of the effective date of this local law, except as it relates to notices filed prior to the effective date of this local law, and except to the extent that any portion of this local law is for any reason adjudged by a court of competent jurisdiction to be invalid.

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

Sponsor: Legislator Chagnon