

Local Law Filing

(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 Town Village
(Select one:)

of SANTA CLARA

Local Law No. 2 of the year 2016

A local law requiring prior written notice of certain dangerous conditions
(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of SANTA CLARA as follows:

Section 1.

No civil action shall be maintained against the Town of Santa Clara (hereinafter the "Town") or the Town Superintendent of Highways, or against any Town improvement district, for damages or injuries to person or property (including those arising from the operation of snowmobiles, all-terrain vehicles, any other motor vehicles or bicycles) sustained by reason of any highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by the Town or a Town improvement district, being defective, out of repair, unsafe, dangerous or obstructed, unless prior written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, highway marking sign or device, or of any other such property, was actually given to the Town Clerk or the Town 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.

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, or any other property owned, operated or maintained by the Town or a Town improvement district, unless prior written notice thereof, specifying the particular place, was actually given to the Town Clerk or the Town 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.

(continued on pages 1-a and 1-b)

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

Section 2.

No civil action shall be maintained against the Town and/or the Town Superintendent of Highways 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 Town Superintendent of Highways 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 prior written notice thereof, specifying the particular place, was actually given to the Town Clerk or to the Town Superintendent of Highways 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 the receipt of such notice.

Section 3.

The Town Superintendent of Highways shall transmit in writing to the Town Clerk within five (5) days after the receipt thereof all written notices received by him/her pursuant to this law.

Section 4.

The Town Clerk shall keep an index record, in a separate book, of all written notices which said 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, operated or maintained by the Town or a Town 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 Town Superintendent of Highways of the receipt of such notice.

Section 5.

Nothing contained in this law shall be held to repeal, modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, to the contrary, shall be held to be additional requirements to the right 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 other part of this law shall for any reason be adjudged 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.

The provisions of this local law shall supercede, in their application to the Town of Santa Clara, subdivision 1 of section 65-a of the Town Law of the State of New York.

Section 8.

This Local Law shall become effective upon its being filed with the NYS Department 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. 2 of 2016 of the (County)(City)(Town)(Village) of Santa Clara was duly passed by the Town Board on 2016, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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)(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 _____ 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 electors 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____. 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 the electors at 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 the 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 Village Clerk or officer designated by local legislative body

Date: _____, 2016

(Seal)