

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 Day

Local Law No. 01 of the year 20 14

A local law establishing property owner liability
(Insert Title)
relating to Beaver Dams in the
Town of Day

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Day as follows:

(See attached)

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

(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. 01 of 2014 of the (County)(City)(Town)(Village) of Day was duly passed by the Town Board on March 10 2014, 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) (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) (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) (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.)

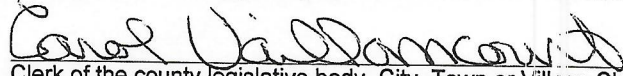
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(7) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 01 above.


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

Date: March 25, 2014

(Seal)

TOWN OF DAY

PROPOSED LOCAL LAW ESTABLISHING PROPERTY OWNER LIABILITY RELATING TO BEAVER DAMS IN THE TOWN OF DAY

BE IT ENACTED by the town board of the Town Of Day as follows:

1. Title and Authority. This Local Law shall be known as the Town of Day Beaver Dam Liability Local Law. It is adopted pursuant to Municipal Home Rule Law §10.

2. Intent. Flooding resulting from the failure of beaver dams or their impoundment of water can damage Town roads and other property owned by the Town. The cost of repair of this damage is typically borne by the Town. State statutes and regulations provide restrictions and permit requirements for activities related to beaver dams but do not mandate management. However, several methods are available to regulate the level and flow from beaver dam impoundments while maintaining the beavers' habitat. This Local Law is intended to ensure that property owners manage beaver dams located on their property to prevent damage to Town property from occurring and, if damage does occur, that the owner of the property where the beaver dam is located bears the cost of repair or replacement.

3. Beaver Dam Management Required. Property owners shall monitor and manage beaver dams located on their property to prevent flooding and other damage to Town property. All such management activities shall be undertaken after consultation with the New York State Department of Environmental Conservation and in compliance with applicable statutes, rules and regulations including, but not limited to, permit requirements. Non-lethal management practices are preferred and encouraged.

4. Abatement of Violation.

A. If the Town becomes aware of a beaver dam which it believes poses a threat to Town property in violation of this Local Law, an appropriate officer of the Town may, but is not required to, notify the property owner and order compliance with the provisions of this Local Law by written Notice of Violation to the property owner. Appropriate officers of the Town under this section shall include, but not be limited to, the Town Highway Superintendent, the Town Code Enforcement Officer or the Town Supervisor.

B. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation within 30 days of service of the Notice of Violation, then the Town may request the owner's permission for access to the property to take any and all measures reasonably necessary to abate the violation. The cost of implementing and maintaining such measures shall be the sole responsibility of the property Property Owner.

C. If refused access to the property, the Town may seek a warrant in a Court of competent jurisdiction for authorization to enter upon the property to determine whether a

violation has occurred. Upon determination that a violation has occurred, the Town may seek a Court order to take any and all measures reasonably necessary to abate the violation. The cost of implementing and maintaining such measures and the legal fees and costs of obtaining such Court Order shall be the sole responsibility of the property owner.

D. The Town does not assume any responsibility or duty for maintenance of beaver dams on private property by virtue of this Local Law. The Town has the discretion to maintain beaver dams which it believes to be in violation of this Local Law if the property owner fails to do so to prevent damage to Town highways or other Town property, but no cause of action shall exist against the Town for failure to exercise that discretion.

5. Liability for Damage. If any Town road or other Town property suffers damage as a result of a beaver dam for which the Town notified the property owner with a written Notice of Violation which violation was not abated within 30 days of its service whether by flooding due to dam failure or impoundment or any other cause, the owner of the property where the beaver dam is located shall be liable for the cost of repair or replacement of the damaged property. Service may be either in person, or by mailing by US First Class mail to the address for the property owner in the Town Assessor's office for delivery of real property tax bills. The Town shall bill the property owner for such cost, which amount shall be payable within 30 days. If the full amount is not paid within such time, the charge shall be assessed against the property on the next Town tax bill. Any costs imposed hereunder shall constitute a lien upon the real property where the beaver dam is located until paid in full.

6. Remedies Not Exclusive. The remedies listed in this Local Law are not exclusive of any other remedies available under any applicable federal, State or local laws, rules or regulations, and it is within the discretion of the Town to seek cumulative remedies.

7. Severability. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part hereof.

8. Effective Date. This Local Law shall take effect upon filing in the office of the New York State Secretary of State or as otherwise provided by law.