

# Local Law Filing

New York STATE DEPARTMENT OF STATE  
41 STATE STREET, ALBANY, NY 12231

(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~~ of Baxter Estates  
~~Village~~

Bill 2 of 2025

Local Law 2 of the year 2025

*(Insert Title)*

A local law establishing new Chapter 123, "Liability of Village," to require prior written notice of defect as condition to liability of Village in certain actions

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

~~County~~  
~~City~~  
~~Town~~ of Baxter Estates  
~~Village~~

Section 1. **Legislative Findings.** The Board of Trustees of the Village of Baxter Estates has determined that the health, safety and welfare of the Village and its residents is served by amending the Village Code to include express provisions addressing the manner in which prior written notice of defects must be delivered to the Village in order to allow a cause of action to be commenced against the Village for personal injury or property damage alleged to result from the defective, out-of-repair, unsafe, dangerous or obstructed condition of a Village highway, street, crosswalk, bridge, culvert, street marking, sign or device or any other property owned, operated or maintained by the Village.

The Village is protected by the prior written notice of defect requirement applicable to all villages in the State of New York under New York State Village Law § 6-628. However, the New York Court of Appeals, in its 2024 decision in Calabrese v. The City of Albany, held that delivery of notice by email can suffice as effective notice if the applicable prior notice of defect law merely requires a prior written notice, without more specific direction as to the manner in which such notice must be served on the Village.

The Board of Trustees believes that clear direction as to the manner in which such a

notice is delivered to the Village is necessary in order to assure that the Village receives same in a manner that enables the Village to focus its attention and resources effectively, and to avoid the possibility that such a notice is lost among many other forms of written communication submitted to the Village from time to time, including, for example, email messages and social media posts.

The enactment of Village Code provisions establishing the manner in which such notices must be delivered to the Village in order to be effective will protect the Village, its residents and its taxpayers to the extent the law allows from exposure to personal injury and property damage tort claims, both by deterring the commencement of actions based on such claims and providing a cost-effective defense to any such actions that are commenced.

Section 2. **Authority.** This local law is adopted pursuant to New York State Municipal Home Rule Law § 10.

Section 3. **Creation of Chapter 123, “Liability of Village.”** The Village Code of the Village of Baxter Estates, is hereby amended by including a new Chapter 123, “Liability of Village,” to read in its entirety as follows:

“Chapter 123                   Liability of Village.

§ 123-1 Notice of Defects - Prior notice required. No civil action shall be maintained against the Village for damages or injuries to person or to property, including those arising from the operation of any mechanical or transportation device or equipment, sustained by reason of any highway, street, crosswalk, bridge, culvert, street marking, sign or device or any other property owned, operated or maintained by the Village being defective, out of repair, unsafe, dangerous or obstructed unless, before the occurrence resulting in such damages or injury, (a) notice of such defective, out-of-repair, unsafe, dangerous or obstructed condition of such highway, street, crosswalk, bridge, culvert, street marking, sign or device or any other property owned, operated or maintained by the Village was delivered to the Village Clerk at Village Hall located at 315 Main Street, Port Washington, New York 11050, in the form of a written physical hard copy, manually subscribed, and (b) the Village failed or neglected to repair or remove the defective, unsafe, dangerous or obstructed condition within a reasonable time after receiving such notice.

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, street, bridge, culvert or any other property owned by the Village, unless (a) notice thereof relating to the particular place was delivered to the Village Clerk at Village Hall located at 315 Main Street, Port Washington, New York 11050, in the form of a written physical hard copy, manually subscribed, and (b) the Village failed or neglected to cause such snow or ice to be removed or to otherwise reasonably make safe the place within a reasonable amount of time after receiving the notice. Notice of a defect submitted via email, the Village’s website, any service, website, or application the Village uses to allow the public to submit reports or service requests to the Village, comments on a social media page maintained by the Village, or any other electronic means does not satisfy the process and procedure for submitting written notices of defect required by this section.

§ 123-2 Record of Notices. The Village Clerk shall keep an index record, in a separate book, of all written notices that the Village Clerk shall receive of the existence of a defective, out-of-repair, unsafe, dangerous or obstructed condition in or upon any highway, street, crosswalk, bridge, culvert, street marking, sign or device or any other property owned, operated or maintained by the Village, or of any accumulation of snow or ice thereon, 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 years from the date it is received, and upon receipt of any notice, the Village Clerk shall notify the Mayor promptly.

§ 123-2 Interpretation. Nothing contained in this Chapter is intended or shall be deemed or held to repeal or modify or waive any existing requirement or statute of limitations that is applicable to the causes of action described in, and made subject to, this Chapter. To the contrary, the provisions hereof shall be additional conditions to the right to maintain any such action. Nothing herein contained is intended or shall be deemed or held to modify any existing rule of law relative to the question of contributory negligence or to impose upon the Village, its officers and employees, any greater duty or obligation than is otherwise presently imposed on the Village with respect to the maintenance of any highway, street, crosswalk, bridge, culvert, street marking, sign or device.”

Section 4. **Severability.** If a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision or part of this local law, or the application thereof to any person, firm or entity, or circumstance, is invalid or unconstitutional, then such court’s order or judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this local law, or in its application to such person, individual, firm or entity or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. **Effective Date.** This local law shall take effect immediately upon filing with the Secretary of State.