

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 _____

Local Law No. 3 of the year 20¹⁵

A local law Establishing the Niagara County Sheriff's Office Tow List and Procedures
(Insert Title)

Be it enacted by the Niagara County Legislature of the
(Name of Legislative Body)

☒ County ☐ City ☐ Town ☐ Village
(Select one:)

of Niagara as follows:

SEE ATTACHED

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

A Local Law of the County of Niagara, New York, which establishes the Niagara County Sheriff's Office Tow List and Procedures;

Be it enacted by the County Legislature of the County of Niagara as follows:

Section 1. Purpose:

The purpose of this Local Law is to establish a system to provide for the efficient and safe removal of disabled and abandoned vehicles in and adjacent to roadways within the county. Abandoned or disabled vehicles within roadways, right of ways, parking lots, and adjacent areas present a safety hazard to motorists and cause delays in traffic. County resident and motorists on roadways within the county sometimes find themselves, whether because of accident or mechanical failure, unable to remove their vehicles safely from the roadway or right of way. The Niagara County Sheriff's Office is often the first responder to automobile accidents or instances of broken down vehicles in the roadway. The Niagara County Sheriff's Office is also responsible for dispatching emergency personnel to such incidents throughout the County. Providing for timely, efficient, and safe removal of such vehicles is of vital public importance. This law is enacted pursuant to the authority of the Municipal Home Rule law.

Section 2. Definitions:

As used in this Local Law the following terms shall have the following meanings:

2.1 **Operator** - a person, partnership, or business entity that engages in the business of towing motor vehicles from one place to another.

2.2 **Driver** - a person who operates a tow truck on a public highway.

2.3 **Vehicle Storage Facility** - an area capable of storing vehicles where reasonable measures have been taken to prevent theft and/or damage to the vehicles. Such measures may include lighting, fencing, proximity to other businesses, security, etc.

2.4 **Qualified Applicant** - an Operator who owns or controls the equipment necessary to provide towing services and has filed an application with the Niagara County Sheriff's Office that has been found by the Sheriff's Office to meet all of the requirements of this Local Law.

2.5 **Service Call** - a call from the Niagara County Sheriff's Office to an Operator to respond to the scene of an accident, disabled or abandoned vehicle for any reason.

2.6 **Sheriff** - the Sheriff of the County of Niagara or a member of his staff that he shall designate.

Section 3. Zones:

3.1 The Sheriff shall divide the County into as many zones as he shall deem necessary and efficient to effectively carry out the purposes of this law.

3.2 The Sheriff shall create a geographic description of the area contained in each zone and shall assign each zone a number. When a zone is described as being bounded by a highway or roadway, the centerline of the highway or roadway shall be the boundary.

Section 4. Tow Lists:

4.1 The Sheriff shall determine the number of tow trucks necessary to provide towing services and respond to service calls consistent with the purposes of this law within each zone established.

4.2 Active Tow List The Sheriff shall then create an Active Tow List for each zone by filling the number of spaces he has determined are necessary with qualified applicants according to the following rules:

1.) Any qualified applicant who is currently an active participant on a tow list operated by the Sheriff on the date of the passage of this law shall be "grandfathered" and included on the Active Tow List or Lists corresponding to the list or lists the Operator is currently on.

2.) Qualified applicants who have submitted a complete application on or before a date to be determined by the Sheriff, but not less than three (3) months after the passage of this law, shall be selected randomly to fill any remaining spots in each zone.

4.3 Wait List - The Sheriff shall create a wait list for each zone as follows:

1.) All qualified applicants who have submitted complete applications on or before the date established by the Sheriff who were not randomly selected for the active tow list shall be randomly assigned a place on the wait list.

2.) Thereafter, any new qualified applicant who submits a complete application to the Niagara County Sheriff's Office shall be placed in the next position on the wait list. No Operator will be placed on the wait list until a complete application has been received by the Sheriff's Office and the Operator has been deemed a qualified applicant.

4.4 Filling vacancies on the active list: whenever there shall be a vacancy on the active tow list for any zone, the Sheriff shall notify the Operator first on the wait list for that zone. That Operator shall have fourteen (14) days to provide up to date proof of eligibility, including compliance with all matters contained in Sections 5 and 6 of this Local Law, and upon doing so, shall be placed on the active tow list.

4.5 Rotation of calls for service: The Sheriff shall establish a system for rotating calls for service to Operators on the active tow list for each zone. The Sheriff shall have the discretion to rotate by call, by shift, by month, or in any other manner that equitably distributes calls for service amongst those on the active tow list.

4.6 Placement on the active tow list shall not confer any right to be called for service calls. The owner of a disabled vehicle may request a particular tow truck company or a tow truck operator who participates in a motor club service of the owner's choosing. The Niagara County sheriff's Office will make reasonable efforts to accommodate such a request unless law enforcement needs dictate otherwise.

Section 5. Application:

5.1 Every Operator who wishes to be placed on a tow list for any zone must submit an application to the Niagara County Sheriff's Office on the form prescribed by the Sheriff.

The application must indicate what zone or zones the Operator wishes to be considered for.

The application must also include:

- 1.) Proof of insurance in accordance with section 6.1;
- 2.) Copies of registration and inspection for each tow truck operated by Operator;
- 3.) The address of each vehicle storage facility to which the Operator intends to tow vehicles.

5.2 Every Operator must submit his/her own application. No Operator may transfer his/her place on an active tow list or wait list to another Operator.

5.3 An Operator may apply to provide service to as many zones as it wishes, however, no Operator may apply to provide service to the same zone under more than one name. Multiple applications by Operators who have substantially the same equipment, or who operate out of substantially the same place of business, or who are controlled by substantially the same individuals, will be considered a single application by a single Operator.

Section 6. Regulations:

6.1 Insurance-Every Operator must maintain insurance of the type and in the amounts prescribed by the Niagara county Director of Risk Management or County Attorney's Office and provide proof of the same.

6.2 Every Operator must provide a certificate of insurance, naming "The County of Niagara, its agents, officers and employees" as additional insureds, to the Sheriff's Office with its application, quarterly thereafter, and at any time upon request.

6.3 Each Operator must provide that the Niagara County Sheriff's Office be notified directly by the insurance provider of any disruption in or cancellation of insurance.

6.4 Driver's Licenses-Each Operator shall keep a file containing current copies of the driver's license for every Driver in its employ and shall provide the same upon request. Such license shall be a commercial Class A, B or C license or a non-commercial class C license with a tow-truck endorsement.

6.5 Every Operator shall keep a file containing current proof of proper registration with the Department of Motor Vehicles for each of its tow trucks and provide the same upon request.

6.6 Every Operator shall keep a file containing proof of current NYS inspection for each of its tow trucks and provide the same upon request.

6.7 Each Operator shall have a vehicle storage facility, within 10 miles from the border of each zone it applies to serve, to which it will tow vehicles. No Operator shall tow vehicles to a more distant location absent the express request of the vehicle's owner.

6.8 Every Operator on an active tow list must respond to every service call of which they are notified and must arrive at the scene of the service call within thirty (30) minutes of contact by Niagara County Sheriff's Office communications.

6.9 No Operator shall charge for services in excess of the amounts prescribed by the schedule of fees to be issued by the Sheriff's Office from time to time.

6.10 A copy of the customer's itemized bill for every service call initiated by the Niagara County Sheriff's Office shall be provided to the Niagara County Sheriff's Office upon request. Such bills shall be maintained by the Operator for one year from the date of service.

6.11 Every Operator must comply with all laws and regulations of the United States, the State of New York, or other lawful body.

6.12 Every Operator must remove glass and any other dangerous substance from the roadway at every service call in accordance with vehicle and traffic law §1219 (c).

6.13 No Operator will display on any tow truck any marking that indicates an affiliation with the Niagara County Sheriff's Office.

6.14 Every tow truck and other equipment used by any Operator in any service call shall be kept and operated in a safe and responsible manner.

6.15 Every Operator must have a tow truck or trucks equipped with flashing lights and kept in good repair available at all times.

6.16 No Operator or driver shall respond to the scene of an accident, abandoned or disabled vehicle, nor shall any driver or Operator drive past such scene without first being called to respond by Niagara County Sheriff's Office communications.

6.17 Every Operator must provide the Niagara County Sheriff's Office with reliable phone numbers with which to contact them and must answer all calls to the number provided from Niagara County Sheriff's Office communications.

Section 7. Removal from list:

7.1 Any Operator on the active tow list for any zone may be removed by the Niagara County Sheriff or his designee from the active tow list for violating any section of this Local Law or general orders of the Sheriff's Office issued in accordance herewith. Upon removal pursuant to this section, the Operator's spot on the active tow list will be filled by the next Operator on the wait list.

7.2 If an Operator is on the active tow list for more than one zone, removal from the list pursuant to this section will result in removal from all active Tow lists.

7.3 If an Operator is removed from an active tow list pursuant to this section, the Operator shall be ineligible to re-apply for a period of six (6) months. Thereafter, the Operator may submit a new application to be considered by the Niagara County Sheriff's Office.

Section 8. Conflict with other laws:

8.1 This Local Law is not intended to supersede the authority of any city, village, or town to regulate the towing of abandoned or disabled vehicles within its territorial boundaries.

8.2 If the Niagara County Sheriff's Office is acting as an emergency responder or dispatcher within the territorial boundary of a city, village or town, which has established its own tow list, the Niagara County Sheriff's Office will make reasonable efforts to utilize the tow list of that city, village or town.

Section 9. Miscellaneous Provisions:

9.1 Nothing in this Local Law shall be construed as creating an employee/employer relationship between the County of Niagara and any Operator. Nothing in this law shall be construed as confirming an affirmative right on any person.

9.2 If any section or provision of this law should be declared invalid such shall not affect the validity of the law as a whole or any other part thereof.

9.3 This Local Law shall become effective upon filing with the Office of the Secretary 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. 3 of 2015 of the (County)(City)(Town)(Village) of Niagara was duly passed by the Niagara County Legislature on May 5 2015, 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.

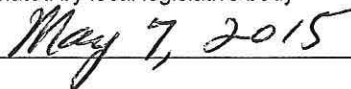
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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:



(Seal)

