

**TOWN OF NORTH EAST
TOWN CLERK'S OFFICE
19 N. Maple Ave, P.O. Box 516
Millerton, NY 12546
518-789-3300 Ext 603
518-789-3399 Fax**

August 18, 2016

Town of North East Planning Board
P.O. Box 516
Millerton, NY 12546

RE: Local Law # 2 and Local Law # 4

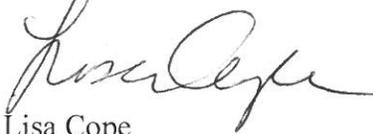
Dear Planning Board Members:

The Town Board is asking you to review the attached two local laws of which public hearing have been scheduled for September 8, 2016.

If you have any comments you would like the Town Board to consider on these local laws please provide them by September 1, 2016.

If you should have any questions regarding this matter please feel free to contact me at 518-789-3300 ext. 603.

Sincerely,



Lisa Cope
North East Town Clerk

Emailed on August 18, 2016

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.

Town of North East

Local Law No. 2 of the year 2016

A local law to provide for the codification of the local laws, ordinances and certain resolutions of the Town of North East into a Municipal Code to be designated the "Code of the Town of North East."

**Be it enacted by the Town Board of the Town of North East as follows:
(SEE ATTACHED)**

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

ARTICLE I
Adoption of Code

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of North East, as codified by General Code, and consisting of Chapters 1 through 180, together with an Appendix, shall be known collectively as the "Code of the Town of North East," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the Code of the Town of North East to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number and/or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read. The intent of this local law is also to modify, amend and clarify certain sections of the Town Code which the Town Board has determined require such modification, amendment and clarification.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the 1979 Code and local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such 1979 Code, local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of North East, and it is the intention of said Town Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of the 1979 Code and former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repealer.

- A. Repeal of inconsistent enactments. Except as provided in § 1-4, Enactments saved from repeal; matters not affected, below, all local laws and ordinances, or parts of such local laws or ordinances, inconsistent with the provisions contained in the Code adopted by this local law are hereby repealed as of the adoption and filing of this local law as set forth in § 1-13; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Town of North East which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.
- B. Repeal of specific enactments. The Town Board of the Town of North East has determined that the following local laws and/or ordinances are no longer in effect and hereby specifically repeals the following legislation:
 - (1) An ordinance adopted July 13, 1967, regulating racetracks (Ch. 76 of the 1979 Code).

- (2) Local Law No. 1-1971 (Ch. 15 of the 1979 Code), regarding adoption of local laws.
- (3) Local Law No. 5-1985 (Ch. 90 of the 1979 Code), regarding storage of toxic and hazardous substances.
- (4) A resolution adopted April 12, 1990, restricting smoking in Town buildings (Ch. 79 of the 1979 Code).

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of North East prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of North East or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of North East.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of North East.
- E. Any local law or ordinance of the Town of North East providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of North East or any portion thereof.
- F. Any local law or ordinance of the Town of North East appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of North East or other instruments or evidence of the Town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.

- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for Town employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Town.
- N. Any local law or ordinance adopted subsequent to December 10, 2015.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of North East and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of North East by impressing thereon the Seal of the Town of North East, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the “Code of the Town of North East” or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be published as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

§ 1-8. Code to be kept up-to-date.

It shall be the duty of the Town Clerk to keep up-to-date the certified copy of the book containing the Code of the Town of North East required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the

Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Town Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code; supplementation.

Copies of the Code, or any chapter or portion of it, may be purchased from the Town Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-10. Penalties for tampering with Code.

Any person who alters or tampers with the Code of the Town of North East in any manner whatsoever which will cause the legislation of the Town of North East to be misrepresented thereby, or who violates any other provision of this local law, shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 1-11. Changes in previously adopted legislation; new provisions.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of North East, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the amendments and/or additions as set forth in Schedule A, attached hereto and made a part hereof, are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of North East, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

**Town of North East
Code Adoption Local Law**

**Schedule A
Specific Revisions at Time of Adoption of Code**

Nomenclature.

Throughout the Code, the following terms will be updated as follows: "Building Inspector" is changed to "Code Enforcement Officer."

Chapter 55, Officers and Employees.

Article I, Defense and Indemnification.

A. Section 55-3A is amended to read as follows:

The duties to defend or indemnify and save harmless provided in this article shall be contingent upon delivery to the Town Attorney or Attorney to the Town or, if neither, to the Supervisor of the original or a copy of any summons, complaint, process, notice, demand or pleading within 10 days after he/she is served with such document; and the full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the Town based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the Town provide for his/her defense pursuant to this article, unless the employee shall state in writing that a defense is not requested.

B. Former § 9-3B of the 1979 Code, regarding duty to indemnify and save harmless, is repealed.

Article II, Code of Ethics.

Section 55-8D is amended to change "gift valued over \$75" to "gift valued at \$75 or more."

Chapter 79, Bingo and Games of Chance.

Article I, Bingo.

Article I is amended in its entirety to read as follows:

§ 79-1. Conduct of bingo authorized.

It shall be lawful for any authorized organization, as defined in § 476 of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the Town of North East, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law.

Chapter 86, Dogs.

- A. Section 86-12C(3) is amended as indicated:

“Such other remedy as may be warranted by the circumstances in such case including the imposition of a civil penalty in accordance with § 86-16 of this chapter.”

- B. In § 86-13F “§ 324 of the Agriculture and Markets Law” is changed to “§ 374 of the Agriculture and Markets Law.”

Chapter 92, Fees and Expenses.

Article I, Reimbursement of Professional Fees.

- Section 92-3A(4) is added to read as follows:

In lieu of the process set forth in § 92-3A(1) through (3) above, the Board may come to an agreement with the applicant for the establishment of the escrow account based on recommendations of the professional consultants.

Chapter 95, Flood Damage Prevention.

- A. Section 95-10 is amended to change “Zoning Enforcement Officer” to “Code Enforcement Officer.”
- B. Section 95-11B is amended to read as follows:

Fees. All applications for a floodplain development permit shall be accompanied by an application fee in an amount set from time to time by the Town Board fee schedule. In addition, the applicant shall be responsible for reimbursing the Town of North East for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

Chapter 101, Garbage, Rubbish and Refuse.

Original §§ 60-2, 60-3 and 60-5A of the 1979 Code are repealed.

Chapter 110, Junk Cars.

In § 110-2 the definition of “enforcement officer” is amended to read as follows:

ENFORCEMENT OFFICER -- The Town Code Enforcement Officer.

Chapter 155, Taxation.**Article I, Senior Citizens Exemption.**

Section 155-2A is amended to read as follows:

- A. *Real property owned by one or more persons, each of whom is 65 years of age or older, or real property owned by husband and wife, one of whom is 65 years of age or over, shall be exempt from taxation pursuant to the terms and conditions of § 467 of the Real Property Tax Law in accordance with the following schedule:*

<i>Annual Income</i>	<i>Percentage of Assessed Valuation Exempt from Taxation</i>
<i>\$29,000 or less</i>	<i>50%</i>
<i>\$29,000.01 to \$29,999.99</i>	<i>45%</i>
<i>\$30,000 to \$30,999.99</i>	<i>40%</i>
<i>\$31,000 to \$31,999.99</i>	<i>35%</i>
<i>\$32,000 to \$32,899.99</i>	<i>30%</i>
<i>\$32,900 to \$33,799.99</i>	<i>25%</i>
<i>\$33,800 to \$34,699.99</i>	<i>20%</i>
<i>\$34,700 to \$35,599.99</i>	<i>15%</i>
<i>\$35,600 to \$36,499.99</i>	<i>10%</i>
<i>\$36,500 to \$37,399.99</i>	<i>5%</i>
<i>\$37,400 or more</i>	<i>No exemption</i>

Article IV, Cold War Veterans Exemption.

In §§ 155-10, the definition of “latest state equalization rate,” and 155-12D “State Board” is changed to “Commissioner of Taxation and Finance.”

Chapter 180, Zoning.

- A. This chapter is amended to change “zoning permit” to “building permit” throughout.
- B. Section 180-5, Definitions:
- (1) The former definition of “automobile wreckingyards and/or automobile graveyards” is repealed.
 - (2) In Subsection B(2) of the definition of “building, accessory use of” “three square feet” is changed to “two square feet.”

- (3) The definition of “building or structure, nonconforming” is amended to read as follows:

BUILDING OR STRUCTURE, NONCONFORMING – An established building or structure lawfully existing prior to and at the time of the adoption of this chapter or any amendment thereto which, because of its inherent nature of construction, does not conform to and with the provisions of this chapter for the district in which it is located.

- (4) The term “certificate of compliance” is revised to “certificate of use.”

- (5) The definition of “family” is amended to read as follows:

FAMILY – One or more persons who live together in one dwelling unit and maintain a common household, which may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption and may also include domestic servants and gratuitous guests. This definition does not intend to prohibit group homes and/or community living arrangements that are determined to be protected by the Federal Fair Housing Law, provided such facilities are licensed and permitted under the authority of the appropriate state department or agency.

- (6) The definition of “floodplain” is amended to read as follows:

FLOODPLAIN -- The areas of special flood hazard for the Town of North East, as identified and defined on the Federal Emergency Management Agency's Flood Insurance Rate Map, effective May 2, 2012.

- C. Section 180-11B is amended to read as follows:

Space and area regulations. No building or structure shall be hereinafter erected, nor shall any existing building or structure be altered, enlarged or moved, nor shall any lot, yard, lot width, open space, loading or parking space required in relation to any building or structure or use be encroached upon or reduced in any manner, not in conformity with the lot area, lot area per dwelling unit or establishment, lot coverage, open space and building bulk regulations, yard requirements and other space and area regulations designated herein, for the district in which it is located.

- D. The permitted use table in § 180-14A is amended to delete the entry for “logging camp.”
- E. The special permit use table in § 180-14C is amended to add an entry for “shooting preserve.”
- F. The special permit use tables in §§ 180-20D, 180-21D and 180-23D are amended to delete the entry for “farmers’ market.”
- G. Section 180-28 is amended to read as follows:

Reimbursable costs incurred by the Board of Appeals for private consultation fees or other extraordinary expense in connection with the review of a special use permit application shall be charged to the applicant as set forth in Chapter 92, Article I, Reimbursement of Professional Fees. Such reimbursable costs shall be in addition to the required application fee. Maximum amounts for such reimbursable costs by project type

and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board. Said fee schedule shall include the requirement that an escrow account be established upon the Board of Appeal's receipt of the application to cover the anticipated costs of such consultant review and other expenses.

H. Section 180-34B(1) is amended to read as follows:

(1) Meeting with applicant; notification of abutters.

(a) Upon receipt of the application, the Planning Board shall notify the applicant, in writing, of the place, date and time of the meeting of the Planning Board at which the application is to be considered and request the applicant's presence to discuss the application.

(b) The Secretary of the Planning Board shall provide notice of the application to the owners of all property abutting that held by the applicant and all other owners within 200 feet of the land involved in such application. Notice shall be mailed at least 10 calendar days prior to the meeting, with compliance with the notification procedure certified to by the Secretary or other designated Town employee.

[1] The Town shall charge the applicant either a flat rate or a stated amount per notice for satisfying this requirement.

[2] The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.

[3] Provided that there has been substantial compliance with these provisions, the failure to give notice to the abutting owners in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with the application.

I. Section 180-34B(3) is amended to change "within 45 days" to "within 62 days."

J. Section 180-35A(6) is amended to change "6 NYCRR 366" to "6 NYCRR 371."

K. Original § 98-27F, requiring the applicant to provide evidence of notice to abutting property owners, is repealed.

L. Sections 180-40J(2)(a) and 180-47A(2)(a) are amended to delete specific fee amounts and to replace with the wording "as set forth by the Town Board fee schedule."

M. In § 180-47D(7) "Zoning Inspector" is changed to "Code Enforcement Officer."

N. In § 180-54B "special exception" is changed to "special permit."

O. Section 180-55B(1)(i) is amended to read as follows:

(i) All temporary signs shall be removed in a certain time period.

P. Section 180-55C(3)(b) is amended to read as follows:

(3) The sign area shall be based on the sum of the individual areas of the smallest geometric shape or combination of geometric shapes capable of encompassing the perimeters of the individual elements comprising the sign, but not including any supporting framework or bracing.

Q. Section 180-70F is amended to read as follows:

Consultant fees. The Zoning Board may, in its discretion, retain the services of independent consultants of its own choosing to assist in the review and determination of the application. All costs to the Town for these consultants shall be reimbursed to the Town by the applicant as set forth in Chapter 92, Article I, Reimbursement of Professional Fees. These costs shall be charged to the applicant in accordance with a schedule of fees adopted by the Town Board, which schedule shall contain a reasonable limitation on the total amount of fees which can be charged to the applicant. The Zoning Board may require the applicant to fund an account which the Town may draw on to ensure reimbursement of those fees.

R. Section 180-83A(11) is added as follows:

(11) To enforce the provisions of Chapter 95, Flood Damage Prevention; and . . .

S. Section 180-87A(2) is amended to change “Code Enforcement Officer or Zoning Enforcement Officer” to “Code Enforcement Officer.”

T. Section 180-89A is amended to read as follows:

Certificate of use required. A certificate of use shall be required for any change of use or institution of new use for which a building permit is required, and for any use, building or structure for which a special use permit and/or site plan approval has been issued by the Planning Board and/or Zoning Board of Appeals. A certificate of use shall also be required for any structure or building, or portion thereof, for which a certificate of occupancy is required under this chapter.

U. In §§ 180-91 and 180-96B and C “Pine Plains” is revised to “the Town of North East.”

V. Section 180-94 is amended to change “Code Enforcement Officer and ZEO” to “Code Enforcement Officer.”

W. Section 180-95A is amended to change “Code Enforcement Officer and ZEO” to “Code Enforcement Officer.”

X. Section 180-100B(2) is amended to read as follows:

(2) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that for each and every permitted use under the zoning regulations for the particular district where the property is located the applicable regulations and restrictions imposed by this chapter have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals compliance with each of the following criteria:

(a) That under the applicable regulations and restrictions imposed by this chapter, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

(Complete the certification in the paragraph that applies to the filing of this local law and strikeout 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. _____ of 20____ of the (County) (City) (Town) (Village) of _____ was duly passed by the (Name of Legislative Body) _____ on _____ 20____, in accordance with the applicable provisions of law.

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 (Name of Legislative Body) _____ on _____ 20____, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) _____ and was deemed duly adopted 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 (Name of Legislative Body) _____ on _____ 20____, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) _____ on _____ 20____. 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 (Name of Legislative Body) _____ on _____ 20____, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) _____ 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.

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

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 _____, above.

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

(Seal)

Date: _____