

(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

of ..... Niagara .....

Local Law No. .... 7 ..... of the year 20<sup>04</sup>..

A local law amending and consolidating those local laws of the County of  
(Insert Title)  
Niagara, which established the Niagara County Mutual Self-  
Insurance Plan

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

County  
~~CITY~~  
~~TOWN~~  
Village

of ..... Niagara ..... as follows:

**A LOCAL LAW AMENDING AND CONSOLIDATING THOSE  
LOCAL LAWS OF THE COUNTY OF NIAGARA, WHICH ESTABLISHED  
THE NIAGARA COUNTY MUTUAL SELF-INSURANCE PLAN**

Section 1. The County of Niagara, by Local Law, established a plan for self-insurance pursuant to Article 5 of the Worker’s Compensation Law of the State of New York. This plan of self-insurance is known as the Niagara County Mutual Self-Insurance Plan (hereinafter “MuSIP). Such MuSIP includes those municipalities, community colleges, and school districts who, by duly adopted resolution, have agreed to become participants, subject to all rights and responsibilities of the MuSIP. Such rights and responsibilities of the Participants in the MuSIP shall include, but not be limited to, the obligation to make all required payments and receive coverages as required by the WCL (Worker’s Compensation Law), VFBL (Volunteer Firefighter’s Benefit Law), and VAWBL (Volunteer Ambulance Worker’s Benefit Law) as specifically enumerated by those respective New York State statutes.

The MuSIP hereby established shall be administered by the appropriate designated committee of the Legislature of the County of Niagara, New York, a standing committee of the said Legislature, as heretofore and hereafter appointed by the Chairman of the Legislature pursuant to the rules of the said Legislature. The appropriate designated committee may, subject to the approval of the Legislature, employ such persons as may be deemed necessary for the operation of the plan or may contract for necessary actuarial or other expert or professional services. In administering the

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

plan, the legislative committee shall consider the recommendations of the plan's Ad Hoc Advisory Committee consisting of one representative from each of the plan's participants. The Ad Hoc Advisory Committee shall be governed by the organizational charter of the Ad Hoc Advisory Committee for MuSIP.

Section 2. Definitions.

MuSIP: Niagara County Mutual Self-Insurance Plan (also referred to as the "Plan").

Participant: The County of Niagara and any city, village, community college, school district or town within Niagara County that has so elected to participate in the MuSIP.

Section 3. Participation.

In addition to the County of Niagara, participation in the MuSIP shall be available to those cities, towns, villages, soil and water conservation district, city school districts, central school districts, and community colleges, located within Niagara County. Non-profit volunteer fire companies located within towns that are MuSIP participants and non-profit volunteer ambulance companies providing ambulance service to MuSIP participants shall also receive coverages under the WCL, VFBL and VAWBL

Section 4. Application for Admission.

Any municipal corporation, school district, or community college eligible to become a participant of this plan may apply to become a participant by filing with the Clerk of the Legislature for consideration by the County Legislature on or before the 15th day of July of any year, a certified copy of the resolution of its governing body electing to become a participant in this plan for the next calendar year of the operation of the plan. Upon receipt of the resolution, the Clerk of the Legislature shall forward a copy of the resolution to the plan's Admissions Committee for processing and approval. The Admissions Committee shall thereafter return a recommendation to the Niagara County Legislature for approval. The Admissions Committee shall consist of the Plan Administrator and at least five other participants including at least one representative from each of the following types of plan participants: a town with a village, a town without a village, a village, a school district, a community college and either a city or a soil and water conservation district (if a participant in the plan).

No application for admission shall be received from any prior participant of the Plan, who has previously withdrawn, until three (3) years have elapsed since such withdrawal and until the payment of all amounts owed upon withdrawal has been made.

Section 5. Cooperation.

All participants shall fully cooperate with the appropriate designated committee in the administration of the Plan, shall annually, within thirty (30) days of the close of each calendar year, and at such other times as the appropriate designated committee may require, submit such reports as

may be requested by any Plan committee, the Plan Administrator, or the designated third-party (TPA), and shall promptly furnish all pertinent information relative to any claim and aid in the investigation of any claim as requested by the appropriate designated committee, or their designee.

Section 6. Penalties.

For a violation of the provisions of the foregoing section or of the requirements of the Workers' Compensation Law, the appropriate designated committee may charge a penalty against any participant, which shall not exceed \$500, or the Legislature may upon resolution by a majority vote of the participants present and voting upon roll call, charge a penalty in excess of \$500 or expel such participant from the Plan upon sixty (60) days notice of coverage cancellation.

Section 7. Physical Examinations.

Every new permanent full-time employee and permanent part-time employee of any participant in the Plan from and after January 1, 2005, shall undergo a physical examination before undertaking any of the duties of his/her employment except in the case of any emergency in which case the participant employing such employee shall arrange for such physical examination at the earliest possible time after the undertaking of such duties. In addition, should any employee require any physical examination as a condition of his employment and/or participation in a volunteer fire company or volunteer ambulance company, then all such physical examinations shall be completed as a term and condition of being eligible for any benefits from the MuSIP. All costs associated with obtaining such physical examination(s) shall be the responsibility of the participant/employer.

Section 8. Minors.

The double penalties provided in Section 14-a of the Workers' Compensation Law for illegally hiring minors under 18 are the sole responsibility of the municipality/employer.

Section 9. Filing Reports.

All participants in the Plan (including volunteer fire and ambulance companies) shall cooperate fully with the MuSIP and its nominees, agents, servants, and employees in filing reports. The MuSIP, or the person designated by it to accept notifications with respect to accidents, shall be notified within three (3) days in the case of a reportable accident or injury or within one (1) day in the case of a fatality from the date of the accident or injury.

Section 10. Annual Apportionment of Costs for Operating Fund; Maximum Loss Limitation.

- A. The apportioned share of each participant shall be based one hundred (100%) percent on the loss percentile experience of each participant as it relates to the aggregate loss experience of the entire Pool Plan. The loss percentile experience of each participant in the Plan shall be calculated on the basis of the paid and reserved

losses of each participant in relation to the aggregate paid and reserved losses of the entire Plan, for the three (3) preceding years immediately prior to the year in which the budget estimate is presented, omitting the current year. Volunteer fire and ambulance losses shall be assessed based on Town(s) served.

- B. Should any participant's share as calculated pursuant to paragraph "A" above be less than \$1,000.00, then such participant's assessment shall be increased to the minimum annual assessment amount of \$1,000.00 per year per participant not including volunteer fire and ambulance companies. This is not intended to be a charge over and above the participant's annual assessment.
- C. There shall be a maximum loss limitation for a single accident or a single occurrence that may be used in the assessment calculation for a participant's annual experience charge. The maximum loss limitations that will apply to the various participants in the Plan are as follows:

(1) Villages	\$ 25,000
(2) School Districts, Community Colleges, Towns, Volunteer Fire Companies and Volunteer Ambulance Services	\$ 50,000
(3) Cities	\$300,000
(4) County of Niagara	\$300,000

Section 11. The Assessment of Each Participant Shall be Collected as Follows:

- A. The assessment share of each participant in the Plan shall be paid not later than thirty (30) days after the commencement of the participant's next fiscal year. For any assessment amount not paid within the time limit specified above, a penalty of one (1%) percent of the principal amount due shall be collected for each delinquent month or part of a month after the due date thereof.
- B. The amounts collected from each of the participants shall be paid over to the Niagara County Treasurer and by him credited to the Separate Account established for the Fund of the Self-Insured Pool Plan.

Section 12. Reserve.

A Self-Insurance Reserve Fund for the Pool Plan has been established. The maximum amount, which shall be in the Reserve Fund, shall not exceed \$1,000,000.

Section 13. Excess Workers' Compensation Insurance.

The Plan Administrator/Risk Manager, subject to the approval of the appropriate designated committee of the Legislature, may, on behalf of the Plan, purchase excess workers' compensation insurance. The cost of such insurance shall be an administrative expense of the Plan.

Section 14. Employers' Liability Insurance.

The Plan Administrator/Risk Manager may, on behalf of the Plan, purchase statutory employers' liability insurance. The cost of such insurance shall be the responsibility of the individual plan participants and shall be calculated based on each participant's total number of employees and volunteer fire and ambulance workers.

Section 15. Withdrawal.

Withdrawal from the MuSIP by a participant may be initiated by filing on or before the 1<sup>st</sup> day of October in any year, with the Chairman of the appropriate designated committee of the Niagara County Legislature and the Clerk of the Legislature, a certified copy of a resolution from its governing body electing to withdraw from the Plan at the end of the operating, current calendar year. Upon withdrawal, the withdrawing participant shall pay for its equitable share of the total outstanding liabilities of the Plan in either of the following two (2) manners:

- A. In a lump sum, within two months from the effective date of withdrawal, an equitable share of the total, outstanding liabilities of the MuSIP calculated as of the effective date of withdrawal. If the withdrawal fee is not totally paid within the time limit specified above, a penalty of one percent (1%) of the principal amount due shall be collected for each delinquent month or part of a month after the due date (March 1) thereof.

The withdrawing participant's equitable share of the total outstanding liabilities of the MuSIP shall be determined by an actuarial calculation of all anticipated costs, after such participant's withdrawal, to the MuSIP for any paid or unpaid losses of the withdrawing participant incurred while a participant in the MuSIP. Such anticipated costs shall include, but not be limited to, all payments on a claim, New York State assessments, and administrative costs.

- B. By the withdrawing participant entering into an agreement with the MuSIP, subject to the approval of the New York State Worker's Compensation Board, (authorized by Resolution adopted by majority vote of the withdrawing participant and Resolution adopted by majority vote of the Niagara County Legislature) upon the following terms and conditions:
  1. The withdrawing participant must provide proof to the MuSIP that it has become a "stand alone" municipal self-insurer as that term is defined and described under Article 4, Section 50 and all other pertinent statutory provisions of the Workers' Compensation Law of the State of New York with respect to all claims. In the event such withdrawing participant, with respect to all claims, has retained a third party administrator to handle all of its claims, then proof shall be provided to the MuSIP that the third party administrator is licensed pursuant to the Workers' Compensation Board to represent the withdrawing participant as a self-insured employer pursuant

to the Workers' Compensation Law. In addition, the withdrawing participant shall provide the MuSIP with a copy of the filing of its Notice of Election to be a self-insurer as may be necessary pursuant to the Workers' Compensation Law and all approvals obtained from the New York State Workers' Compensation Board pursuant to Article 4, Section 50 and all other pertinent provisions of the New York State Workers' Compensation Law which permits such withdrawing participant to be a "stand alone" municipal self-insurer.

2. The withdrawing participant shall make written request to the MuSIP that the MuSIP turn over to it or to its designated third-party administrator all of its open claims. The MuSIP, upon receiving written notice from the withdrawing participant to turn over the open claims to such withdrawing participant or its designated third-party administrator pursuant to an executed Agreement:
  - a) Shall file a Notice of Termination with the Workers' Compensation Board that the withdrawing participant's participation in the MuSIP has been terminated; and
  - b) Shall turn over to the withdrawing participant or its third party administrator the open claims together with all files, papers and other documents relating to the same, including files, if any, maintained by other departments of the County of Niagara and the attorneys retained by the County of Niagara to handle the open claims provided that a representative of the withdrawing participant or its third party administrator submit an acknowledgment of a list of all open claims and files turned over; and
  - c) May at its option or at any time it deems appropriate, after the time the open claims are delivered to the withdrawing participant or its third party administrator, send letters to any of the persons identified in paragraph (3) or other person seeking payment, involved or making inquiry with regard to the open claims for the purpose of advising that the withdrawing participant and its third party administrator, as the administrators, are now handling all said claims. In addition, should the County of Niagara receive any bills, correspondence or any other communications concerning any Workers' Compensation claim that has been turned over to such withdrawing participant or its third party administrator, the same shall be forwarded to such withdrawing participant or its third party administrator.

- d) At the time the open claims are turned over, a representative of the withdrawing participant or its third party administrator shall execute an acknowledgement of receipt of open claims.
3. Within ten (10) days of the time the open claims are turned over to the withdrawing participant or its third party administrator, the withdrawing participant shall, notify: (i) employees of the withdrawing participant who have made open claims, which are the subject of the agreement; (ii) attorney's representing such employees and other lay representatives who are appropriately licensed to represent claimants; (iii) primary and treating physicians and others providing medical assistance to said employees; as well as (iv) those other vendors who have a reasonable need for this information, such as a pharmacist providing prescriptions under contract with regard to the open claims, advising them of the following:
  - a) The withdrawing participant has become the municipal self-insurer for the withdrawing participant's open claims;
  - b) The name and address of the responsible third party administrator; and
  - c) Notifying appropriate parties that the County of Niagara has no further responsibility for handling or making payments with regard to the open claims together with such information that the withdrawing participant deems appropriate. The purpose of this notice shall be to advise the interested parties to constitute an agreement to pay any disputed claim or to provide an authorization for any treatment or service. The Administrator for the MuSIP shall be copied on all correspondence regarding the notices required herein.
4. It shall be understood and agreed that at such time as the MuSIP turns over all the open claims to the withdrawing participant or its third party administrator, in accordance with the terms hereof, the County of Niagara, the MuSIP and/or the administrator or any other officers or employees of the County shall have no further liability or responsibility to administer the open claims or any other Workers' Compensation claims of the withdrawing participant and/or to otherwise handle, process, pay, supervise, or otherwise manage the withdrawing participant's open claims.
5. The withdrawing participant, on behalf of itself, its officers, employees, agents, or other representatives, successors and assigns and any other claiming by, through or under it shall unconditionally waive, release, acquit and discharge the County of Niagara, the MuSIP, the Administrator of the MuSIP, County of Niagara officers and employees, their agents,

attorneys and any other representative of Niagara County from and against all claims, losses, costs and expenses, and liabilities, direct or indirect, arising from or otherwise relating to the handling, processing, administration, paying, or otherwise management of claims once the same are turned over to the withdrawing participant. In addition, the withdrawing participant shall defend, indemnify and hold harmless, the County of Niagara and the MuSIP from and against all claims, losses, costs and expenses, and liabilities (including without limitation attorney's fees) arising out of or otherwise resulting from:

- a) Liability for compensation owed on any claims which were previously processed and closed by the MuSIP, any open claims and all of those claims which have been incurred but not reported (IBNR);
  - b) Any and all costs of administration, management, handling, processing, or any other cost of whatsoever kind and nature, attributed to the claims, including, but not limited to assessments which have been incurred but not yet charged by the New York State Workers' Compensation Board;
  - c) Any and all costs of liability, administration, management handling, processing or any other costs of whatever kind and nature attributed to any claims under the MuSIP's Employers' Liability coverage.
  - d) Any act or omission by the withdrawing participant or its third party administrator with regard to the Administration of the claim;
  - e) Any breach or other default on the part of the withdrawing participant or any other person or entity for whom the withdrawing participant is responsible in connection with said Agreement;
  - f) Failure or refusal to pay any amounts that may become due or are determined by a government agency or court to be due and payable with regard to any of the claims.
6. Should the withdrawing participant fail to pay any claims or any other amount as required by such Agreement, and should the County of Niagara be required to pay such amount, then the County of Niagara shall become immediately entitled to payment of such amount, together with any and all costs incurred in the collection of such amounts. In the event that any amount is not paid by the withdrawing participant within ten (10) days of being notified thereof by the County of Niagara, then a one and one-half percent (1 ½%) penalty shall also become due and owing on such amount.



A penalty of one and one-half percent (1 ½%) per month of the principal amount due shall be owed by the withdrawing participant for each delinquent month or part of a month after the due date thereof. If any amount, including such penalty amount, shall not be paid within the time limit, the same shall be recovered by an action brought by the County of Niagara or such amount shall be certified by the Niagara County Treasurer to the Niagara County Legislature for inclusion in the next succeeding tax levy against property taxable by the withdrawing participant. Shall such action be necessary; the withdrawing participant shall be responsible for reasonable attorney fees and costs associated with such action. In the event that such withdrawing participant is not subject to a tax levy by Niagara County; then, as a condition of withdrawal, the withdrawing participant may be required to provide a letter of credit to insure payment for all of its claims upon such terms and conditions as shall be agreed upon between the withdrawing participant and Niagara County.

Notwithstanding the manner selected by the withdrawing participant, the withdrawing participant shall further agree, to pay the MuSIP any and all amounts for claims, administrative and other costs and expenses paid or incurred in the handling and/or administering of the withdrawing participant's Workers' Compensation claims for all periods prior to entering in to said agreement and all additional claims from the date of withdrawal to the time the same are turned over to the withdrawing participant, together with all assessments from the Workers' Compensation Board for assessments charged in subsequent years for indemnification payments made by the MuSIP for claims of the withdrawing participant.

In the event that a withdrawing participant contributes to coverage for Volunteer Ambulance Service the withdrawing participant must have a satisfactory agreement in place with said Volunteer Ambulance Service for continuation of payment of the Workers' Compensation cost attributable to said withdrawing participant. Withdrawing participants shall continue to be assessed by the MuSIP for these continuing costs and shall be responsible for those assessments unless alternative coverage has been obtained.

Section 16. Dispute Resolution.

In the event that any participant fails to make any payment required by this local law and/or fails to make payment upon withdrawal; then such participant shall be responsible to pay any and all costs, expenses, fees, disbursements or other charges, including attorney's fees for the collection of such amounts which are due and owing to the MuSIP from the participant.

Section 17. Effective Date.

This Local Law shall take effect January 1, 2005.

(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. \_\_\_\_\_7\_\_\_\_\_ of 2004 of the (County)(~~City~~)(~~Town~~)(~~Village~~) of \_\_\_\_\_Niagara\_\_\_\_\_ was duly passed by the \_\_\_\_\_Niagara County Legislature\_\_\_\_\_ on \_\_\_\_\_September 7 2004\_\_\_\_\_, 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 on \_\_\_\_\_ 20\_\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

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\_\_\_\_\_. 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.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

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.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

\* 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.)

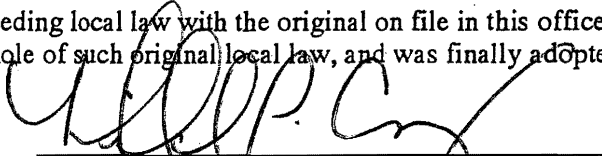
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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 \_\_\_\_\_<sup>1</sup>\_\_\_\_\_, above.

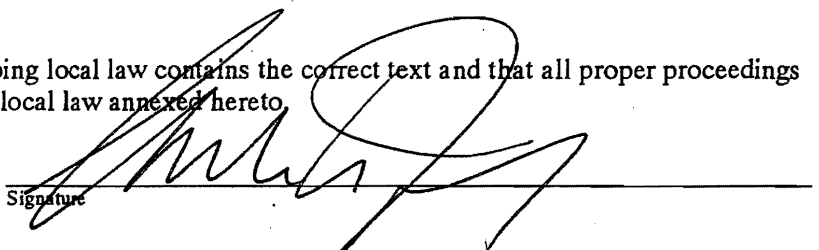
  
\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body  
Date: September 9, 2004

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF NIAGARA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
\_\_\_\_\_  
Niagara County Attorney  
Title

County  
~~XXXX~~ of Niagara  
~~TOWN~~  
~~VILLAGE~~

Date: SEPTEMBER 8, 2004