CHAPTER 7: CLAIMS AGAINST THE TOWN

§ 7.1 Written notice of defective condition required for injuries on highways and Town property

No civil action shall be maintained against the Town, or the Town Superintendent of Highways, or against any improvement district in the Town, for damages or injuries to person or property sustained by reason of any highway, bridge, culvert, or any other property owned by the Town, or any property owned by any improvement district, being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, or any other property owned by the Town, or any property owned by any improvement district, was actually given to the Town Clerk, or the Town Superintendent of Highways, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Town, or any property owned by any improvement district in the Town, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk, or the Town Superintendent of Highways, and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 7.2 Written notice of defective condition required for injuries on Town sidewalks

No civil action shall be maintained against the Town and/or the Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Town Superintendent of Highways pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or to the Town Superintendent of Highways and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 7.3 Duties of Town Superintendent of Highways pertaining to notices

The Town Superintendent of Highways shall transmit, in writing, to the Town Clerk, within ten days after receipt thereof, all written notices received by him or her pursuant to this law.

§ 7.4 Duties of Town Clerk pertaining to notices

The Town Clerk shall keep an indexed record in a separate book, of all written notices which he or she shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of

any accumulation of ice and snow upon any town highway, bridge, culvert or sidewalk, 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 each notice shall be preserved for a period of five years after the date it is received.

§ 7.5 Substitute notice inapplicable

There shall be no substitute for written notice as set forth in this chapter. Constructive notice is hereby expressly declared to be insufficient notice.

§ 7.6 Repeal of existing requirements not intended

Nothing contained in this law shall be held to repeal or modify or waive any existing requirement or statue of limitations which is applicable to these classes of actions but, on the contrary, shall be held to be additional requirements to the right to maintain such action, nor shall anything herein contained be held to modify any existing rule or law relative to the question of contributory negligence, nor to impose upon the Town and/or any of its improvement districts any greater duty or obligation that to keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

HISTORICAL NOTE

This Chapter was adopted by Local Law #1 of the year 1985 on March 26, 1985.