

## **ARTICLE 31-100: HIGHWAY DEFECTS**

### **Section 31-101. Written Notice and Liability**

(a) No civil action shall be maintained against the Town of Busti, or the Superintendent of Highways of the Town, for damages or injuries to person or property, including those arising from the operation of bicycles and snowmobiles, sustained by reason of any highway, crosswalk, bridge, culvert, highway marking, sign, or device, or any other property owned, operated, or maintained by the Town 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, highway marking, sign, or device, or any other property owned, operated, or maintained by the Town was actually given to the Town Clerk or the Superintendent of Highways of the Town, 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.

(b) No civil action shall be maintained for damages or injuries to persons or property solely in consequence of the existence of snow or ice upon any highway, bridge, culvert, or any other property owned by the Town unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or the Superintendent of Highways of the Town, 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.

### **Section 31-105. Corrective Action**

The Superintendent of Highways of the Town shall transmit, in writing, to the Town Clerk within five (5) days after receipt thereof, all written notices received by him pursuant to this law, and he shall take any and all corrective action with respect thereto as soon as practicable.

### **Section 31-110. Record of Notice**

(a) The Town Clerk shall keep an indexed record, in a separate book, of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous, or obstructed condition, or of any accumulation of ice and snow, in or upon any Town highway, bridge, culvert, sidewalk, or any other property owned by the Town, or by any improvement district, 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.

(b) The record of such notice shall be preserved for a period of five (5) years from the date it is received.

(c) The Town Clerk, upon receipt of such written notice, shall immediately in writing notify the Town Superintendent of Highways of the receipt of such.

### **Section 31-115. Scope and Validity**

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

(b) If any clause, sentence, phrase, paragraph, or any part of this law shall for any reason be adjudged finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this law but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph, or part thereof directly involved in the controversy or action in which judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this section would have been adopted had any such provisions not been included.

ADOPTED 3/3/75