

Town of Andes

LOCAL LAW # 3 OF 2015

**A LOCAL LAW REQUIRING
PRIOR WRITTEN NOTICE OF DEFECTS**

BE IT ENACTED BY the Town Board of the Town of Andes, Delaware County, State of New York

Section 1:

NOTIFICATION OF DEFECTS

§ 1. Prior notice of dangerous conditions on highways, bridges and culverts.

No civil action shall be maintained against the Town of Andes, the Town Board of the Town of Andes, any individual Trustee of the Town of Andes, any officer, employee or agent of the Town of Andes for damages or injuries to person or property sustained by reason of any highway, bridge, culvert or any other property, either real or personal, of any type or description, owned by the Town of Andes 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 of Andes, or any property owned by any improvement district, was actually given to the Town Clerk of the Town of Andes and 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 of Andes unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town of Andes 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 receipt of such notice.

§ 2. Prior notice of dangerous conditions on sidewalks.

No civil action shall be maintained against the Town of Andes or the Town Board or the Town of Andes, any individual Trustee of the Town of Andes, any officer, employee or agent of the Town of Andes for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town of Andes 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 of Andes 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 of the Town of Andes 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.

§ 3. Index and record of notices.

The Town Clerk of the Town of Andes shall keep an index 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 in or upon, or of an accumulation of ice and snow upon, any Town highway, bridge, culvert or sidewalk or any other property described in § 1 owned by the Town of Andes or by any improvement district in the Town of Andes, 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 such notice shall be preserved for at least a period of ten (10) years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Department of Public Works of the Town of Andes of the receipt of such notice.

§ 4. Construction of these provisions.

Nothing contained in this chapter 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, this chapter 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 of law relative to the question of contributory negligence, nor to impose upon the Town of Andes, its Trustees, officers, agents and employees any greater duty or obligations than that it shall keep its streets and sidewalks fit for public use and travel.

Section 2.

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