

## **Chapter 110**

### **NOTICE OF DEFECTS**

**§ 110-1. Written notice of highway defects required for liability.**

**§ 110-2. Written notice of sidewalk defects required for liability.**

**§ 110-3. Transmission of notice by Superintendent of Highways; corrective action.**

**§ 110-4. Transmission of notice by Town Clerk; records.**

**§ 110-5. Supersession of statutory provisions.**

**§ 110-6. Interpretation.**

**[HISTORY: Adopted by the Town Board of the Town of Patterson 6-13-79 as L.L. No. 1-1979. (readopted 4-13-2005 by L.L. No. 9-2005) Amendments noted where applicable.]**

### **GENERAL REFERENCES**

**Sidewalks - See Ch. 131.**

**Streets - See Ch. 135.**

**§ 110-1. Written notice of highway defects required for liability.**

No civil action shall be maintained against the Town of Patterson, hereinafter referred to as the "town," or the Town Superintendent of Highways of the town, or against any improvement district in the town for damages or injuries to persons or property, including those arising from the operation of snowmobiles, sustained by reason of any highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the town, or any property owned, operated or maintained by any improvement district therein, 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, or any property owned, operated or maintained by any improvement district, was actually given to the Town Clerk of the town or the Town Superintendent of Highways of the town, 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 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 of the town or the Town 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.

**§ 110-2. Written notice of sidewalk defects required for liability.**

No civil action shall be maintained against the town and/or the Town Superintendent of Highways of the town for damages or injuries to persons 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 Superintendent of Highways of the town pursuant to statute, nor shall any action be maintained for damages or injuries to persons 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 or to the Town Superintendent of Highways of the town 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.

**§ 110-3. Transmission of notice by Superintendent of Highways; corrective action.**

The Town Superintendent of Highways shall transmit in writing to the Town Clerk within ten (10) days after the receipt thereof, all written notices received by him or her pursuant to this chapter and Subdivision 2 of § 65-a of the Town Law. The Superintendent of Highways of the town shall take any and all corrective action with respect thereto as soon as practicable.

**§ 110-4. Transmission of notice by Town Clerk; records.**

The Town Clerk of the town shall cause all written notices received by him or her pursuant to this chapter and Subdivision 2 of § 65-a of the Town Law, to be presented to the Town Board of the town within five (5) days of the receipt thereof or at the next succeeding Town Board meeting, whichever shall be sooner. The Town Clerk 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 a 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. The record of such notice shall be preserved for a period of five (5) years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Superintendent of Highways of the town of the receipt of such notice.

**§ 110-5. Supersession of statutory provisions.**

This chapter shall supersede in its application to the Town of Patterson, Putnam County, New York, Subdivisions 1 and 3 of § 65-a of the Town Law.

**§ 110-6. Interpretation.**

This chapter does not affect or impair any act done or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such law had not been effected.