

## Chapter 170

### LIABILITY OF THE VILLAGE IN CERTAIN ACTIONS

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[HISTORY: Amended 9/4/2001; Local Law #3-2001]

§ 170-1. Civil Action for Highways.

No Civil action shall be maintained against the Village of Windsor (hereinafter referred to as “the Village”) or the Superintendent of Public Works of the Village, or against any improvement district in the Village for damages or injuries to a person or property sustained by reason of any street, highway, bridge, culvert, highway marking, sidewalk, crosswalk, sign or device, or any other 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 Village, or any property owned, operated or maintained by any improvement district, was actually given to the Village Clerk or the Village Superintendent of Public Works, 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 Village or any property owned by any improvement district in the Village unless written notice thereof, specifying the particular place, was actually given to the Village Clerk or the Superintendent of Public Works 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.

**§ 170-2. Civil Action for sidewalks.**

No civil action will be maintained against the Village and/or the Village Superintendent of Public Works for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Village 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 Village or the Village Superintendent of Public Works 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 Village Clerk or the Superintendent of Public Works 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.

**§ 170-3. Written notice.**

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

**§ 170-4. Record Keeping.**

The Village Clerk shall keep an index record, in a separate book, of all written notices which the Village 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 Village highway, bridge, culvert or a sidewalk, or any other property owned by the Village, or by any improvement district, which record shall state the date of the receipt of, 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 Village Clerk, upon receipt of such written notice, shall immediately and in writing notify the Village Superintendent of Public Works of the receipt of such notice.

**§ 170-5. Statute of limitations.**

Nothing contained in this law shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these causes of action, but, on the contrary, 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 Village, its officers and employees, and/or any of its improvement districts any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

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§ 170-5            LIABILITY OF THE VILLAGE IN CERTAIN ACTIONS            § 170-6

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 such 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.

**§ 170-6. Effective date.**

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

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