

LOCAL LAW NO.1 OF 2014

**A LOCAL LAW ADDING CHAPTER 68
TO THE CORINTH TOWN CODE REQUIRING
NOTICES OF DEFECT AS A CONDITION PRECEDENT TO SUIT**

BE IT ENACTED BY THE CORINTH TOWN BOARD AS FOLLOWS:

**ARTICLE 1. Chapter 68 of the Corinth Town Code, entitled "DEFECTIVE
AND DANGEROUS CONDITIONS" is added as follows:**

Chapter 68: DEFECTIVE AND DANGEROUS CONDITIONS

§ 68-1. Legislative Intent; Statutory Authorization.

- A. It is the intent of this section to require that a notice of defect be filed with the Corinth Town Clerk so that the Town may be placed on actual notice of any dangerous conditions and therefore be more capable of replacing and/or repairing defective Town property, thereby increasing the Town's capacity to protect lives, property and the public welfare.
- B. This section is enacted pursuant to the powers granted to the Town by virtue of Municipal Home Rule Law § 10.

§ 68-2. Notice of Defect to be Filed with Town Clerk.

- A. No cause of action shall accrue or be maintained against the Town, Town Highway Superintendent or any other Town officers, agents or employees, for damages or injuries to any person or property sustained in consequence of any defect within the purview of this Chapter, unless a written notice of defect is first filed with the Town Clerk and, within a reasonable time thereafter, the Town fails or neglects to repair the defect or remove the obstruction.
- B. The filing of a notice of defect is a condition precedent to suit, but doing so does not relieve a potential claimant from filing or serving any other notices required by law.

§ 68-3. Conditions Subject to this Chapter.

This provision concerns any unsafe, dangerous or obstructed condition of any street, highway, bridge, culvert, sidewalk or crosswalk, or of the existence of a dangerous accumulation of snow or ice on any such street, highway, bridge, culvert, sidewalk or crosswalk.

§ 68-4. Records of Notices to be Maintained.

- A. The Town Clerk shall keep an indexed record, in a separate book, of all written notices received claiming the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice or snow upon any Town street, highway, bridge, culvert, sidewalk or crosswalk, which record shall state the date of 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. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.
- C. The Town Clerk shall distribute to the Town Supervisor and Town Highway Superintendent all notices of defect received within 7 calendar days of receipt.

§ 68-5. Form of Notice; Service.

- A. The notice of defect shall state that it is a notice of defect, the name and address of the complainant, the specific nature of the defective condition and the exact location of the defective condition.
- B. The notice of defect shall be signed by the complainant and be verified.
- C. The notice shall be served on the Town by either delivering a letter thereof personally to the Town Clerk or by certified or registered mail addressed to the Town Clerk.

§ 68-6. Liability of the Town.

- A. This section shall not create new or additional liability for the Town where there was no specific existing duty on the part of the Town to repair or replace the defective or dangerous condition.
- B. Nothing in this section shall be deemed to preclude the Town Board or Town Highway Superintendent from making a determination that no remedial or corrective action is either necessary, appropriate or justified for a condition for which a notice of defect has been filed.

ARTICLE 2. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

ARTICLE 3. All Local Laws or ordinances or parts of Local Laws or ordinances in conflict with any part of this Local law are hereby repealed.

ARTICLE 4. This Local Law shall take effect upon filing in the office of the New York State Department of State.