

**WHEREAS**, the Town of Chemung Town Board wishes to adopt a local law to require written notices for any unsafe defects related to highways, bridges, culverts, signage, sidewalks or other related Town owned property to minimize the liability of such conditions that may be unknown; and

**WHEREAS**, this proposed Local Law No. 3 of 2024, WRITTEN NOTICE REQUIRED FOR DEFECTS, thereof in its final form having been upon the desks of members of the Board for at least seven (7) calendar days, exclusive of Sunday, prior to this day, and a public hearing having been duly held on July 9, 2020 before the Town of Chemung Town Board upon public notice provided by law, and the said proposed local law having been read in its final form at this meeting; and

**BE IT FURTHER RESOLVED**, the Town Board of the Town of Chemung, County of Chemung, State of New York hereby schedules a public hearing for March 13, 2024 at 7 p.m. or as soon thereafter as can be heard, to receive public comment for Local Law No. 3 of 2024, Written Notice Required for Defects, at the Town of Chemung Town Hall located at 48 Rotary Road Extension, Chemung, N.Y. 14825 as set forth herein:

## **LOCAL LAW NO. 3 OF 2024**

### **WRITTEN NOTICE REQUIRED FOR DEFECTS**

**Section 1.** No civil action shall be maintained against the Town of Chemung (hereinafter referred to as “the Town”) or the Town Superintendent of Highways or against any improvement district in the Town for damages or injuries to person or property sustained by reason of any highway, bridge, culvert, highway marking sign, or device, street, sidewalk, crosswalk, or any other property owned, operated, or maintained by an improvement district or the Town therein being defective, out of repair, unsafe, dangerous, or obstructed unless written notice of such defective, unsafe, dangerous, or obstructive condition of such highway, bridge, culvert, highway marking sign, or device, street, sidewalk, crosswalk, or any other property owned or operated or maintained improvement district or the Town, was actually given to the Town Clerk or the Town

Highway Superintendent and there was a failure or neglect within a reasonable time after the giving of such notice to remove the defect, danger, or obstruction complained of.

No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, street, sidewalk, crosswalk, 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 or the Town Superintendent of Highways 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.

**Section 2.** No civil action will be maintained against the Town or the Town Superintendent of Highways for damages or injuries to person 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 and/or maintained by the Town or the Town Superintendent of Highways or the Town 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 or the Town Superintendent of Highways 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.

**Section 3.** The Superintendent of Highways shall transmit in writing to the Town Clerk, within ten (10) days after receipt of all written notices received by him pursuant to this law.

**Section 4.** The Town Clerk shall keep a record 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, sidewalk, crosswalk, street, or any other property owned by the Town or by any improvement district. The record shall reflect 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 Town Clerk, upon receipt of such written notice, shall immediately and in writing

notify the Town Superintendent of Highways of the receipt of such notice. The record of each notice shall be preserved by the Town Clerk for a period of five (5) years after the date it is received.

**Section 5.** Nothing contained in this Local 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 question of contributory negligence, nor to impose upon the Town, 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.

**Section 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 provision not been included.

**Section 7.** This Local Law shall take effect upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF CHEMUNG.