

POTHOLE / ROAD DEFECT REPORTING PROCEDURE

Massachusetts General Law (MGL Chapter 84, Section 15) provides that cities and towns in the commonwealth are liable for property damage and personal injuries caused by defects or lack of repair in roadways. This includes potholes.

Under Massachusetts General Law, a municipality is required to repair a road defect within a "reasonable" period of time following notification. Although there is no specific time frame within which the defect must be repaired, to protect your municipality from pothole claims, it is extremely important that a system be set up so that the highway department can be notified and can respond quickly. The following information should be obtained by anyone receiving notice of a pothole/road defect complaint.

- Date and Time of Report
- The location of the pothole/road defect (give street number or landmarks)
- The name of the individual reporting the pothole.
- Employee taking the call.
- Action Taken

The Department of Public Works (DPW) should keep these "Pothole/Road Defect Complaint Logs" (copy attached). All departments receiving calls should direct reports to the DPW. If a report comes in when the DPW is closed, the receiving Department should take the information and forward it to the DPW as soon as possible.

Maintaining a simple log of complaints and actions taken to repair them, educating all employees who operate town owned vehicles in the pothole /road defect reporting process, daily contact among departments to see if any pothole/road defect complaints have been received, and the use of "pothole patrol" trucks are other ways for municipalities to "keep ahead of the game".

In order to handle initial claims resulting from potholes/ road defects some towns have chosen to notify claimants of the municipality's responsibility under Chapter 84, Section 15.

Potholes/ road defects may be a fact of life in New England but by implementing a few preventative steps your municipality can protect itself against unwanted claims and insure the safety of its roads.

Participation in this program qualifies members for MIIA Rewards credit. This program has been designated for 1% credit off the municipalities FY08 general liability premium. In order to receive this credit, members must submit monthly Pothole/ Road Defect Logs from October 2006 to June 2007 to MIIA Loss Control, One Winthrop Square, Boston, MA 02110.

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