

# **Prior Written Notice Local Law**

## **Notice of Highway Defects**

Local Law #1 of the Year 2020

A local law providing for written notification of defects and obstructions on town highways, bridges, streets, sidewalks, crosswalks, and culverts in the Town of Fremont.

Be it enacted by the Town Board of the Town of Fremont

Section 1. No civil actions shall be maintained against the town or town superintendent of highways for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk, or culvert being defective, out of repair, unsafe, dangerous, or obstructed unless written notice of such defective, unsafe, dangerous, or obstructed condition of such highway, bridge, street, sidewalk, crosswalk, or culvert was actually given to the town clerk or town superintendent of highways, 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.

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, or culvert, unless written notice thereof, specifying the particular place, was actually given to the town clerk and the town superintendent of highways and there was 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.

Section 2. The town superintendent of highways shall transmit in writing to the town clerk within five days after the receipt thereof all written notices received pursuant to this local law and subdivision 2 of section 65-a of the Town Law. The town clerk shall cause all written notices received pursuant to this local law and subdivision 2 of section 65-a of the Town Law, to be presented to the town board within five days of the receipt thereof or at the next succeeding town board meeting, whichever shall be sooner.

Section 3. This local law shall supersede in its application to the Town of Fremont subdivisions I and 3 of section 65-a of the Town Law.

Section 4. This local law shall take effect immediately upon its filing in the office of the Secretary of State.

Please note that Town Law Section 65-a, Subdivision 4, requires the Town Clerk to keep a separate indexed record (by location) of all such notices received. In the event of litigation, the Town will be expected to demonstrate compliance with this provision.

- Such a local law must contain a requirement that any prior written notice of dangerous or defective conditions that is submitted pursuant to its terms must be transmitted to the Town Clerk and the Highway Superintendent.
- The locally adopted law must comply with the requirements for adoption of local laws generally, such as it must be filed with the Secretary of State.
- The Municipal Clerk must keep a separate indexed (according to location) record of all notices received pursuant to the prior written notice statute or superseding local law.