

Prior Written Notice of Defect Procedure

Municipalities are protected from liability through prior notice of defect requirements when injuries occur on a street, highway, sidewalk, crosswalk, bridge, or culvert. Prior written notice statutes provide that to maintain a cause of action against a municipality for a defect in roads, for example, the municipality must receive prior written notice of the defect and a opportunity to correct the defective condition within a “reasonable” time after the receipt of such notice. What is “reasonable” will depend on the facts and circumstances of the particular situation. **Notice of the defective condition must be in writing and given to the Town Clerk.** Any notice of defect given to municipal departments other than the Clerk does not comply with the statutory notice requirements. The Town Clerk will keep a record of all written notices of defect indexed according to the location of the alleged defective, unsafe, dangerous, or obstructed condition, or the location of accumulated snow or ice.

The record must state the:

- Date and time of receipt of the notice;
- Type of defect and its location;
- Name and address of the person from whom the notice is received;
- Follow-up procedure (who, when and how);
- The date, time and method of repair;
- If no action was needed, the reasons why must be clearly stated;
- If the repair could not be done immediately, other corrective action (warning or restriction) taken to protect the public must be noted;
- Accurate recording of follow-up activity;

A copy of the written notice of complaint will be forwarded to the Highway Department for immediate action. The original notice is pended in the Clerks office for follow-up.

The Clerk will send copies of notices of defect to the Town Board.

The Town Highway Superintendent will:

- Inspect the location and assess the conditions;
- Have immediate repairs of small defects made;
- Have temporary repairs suitable to correct the condition when time is needed to purchase supplies, or when weather or other urgent jobs cause a delay;
- Restrict pedestrian traffic in the area when repair can’t begin immediately;
- Advise Clerk of the date, time and method of repair in writing;

We will adhere to our written notice policy and complainants are to be advised that notice must be made in writing pursuant to the law and that we will not accept notice in any other manner.

A form for providing written notice of a defect is attached and all follow-up action including date, time and method of repair must be noted on this form.

**Written Notice of a Defect
Town Clerk
Town of Augusta
185 N. Main St. Oriskany Falls, NY 13425**

This notice form has been prepared to allow for complaints and observation of defects to be forwarded to the Highway Superintendent, so that corrective action can be taken.

Date _____ Time _____

Does the complaint or defect require emergency action

Yes _____ No _____

Location _____

Detailed Description

Submitted by:

Printed Name

Address

Phone #

Received by Town Office on _____ by _____
Date Staff Name

Corrective Action on _____ by _____
Date Employee & Division