

TOWN OF PERU LOCAL LAW #1 OF 2021

A LOCAL LAW PROVIDING FOR PRIOR NOTIFICATION OF DEFECTS

BE IT ENACTED by the Peru Town Board as follows:

Section I: TITLE

This local law shall be known as the “Prior Notification of Defects Law”

Section II: It is the intention of the Peru Town Board to protect the health and safety of the community by requiring actual written notice of defective and hazardous conditions existing on town-owned or maintained properties. The receipt of actual written notice will enhance the town's ability to remedy dangerous conditions on all properties under the management and care of town personnel in an expeditious and safe manner.

Section III: Be it enacted by the Town Board of the Town of Peru that no civil action shall be maintained against any town or town superintendent of highways for damages or injuries to person or property sustained by reason of any highway, bridge 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 or culvert was actually given to the town clerk or town superintendent of highways, and that 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, nor 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 or culvert, unless written notice thereof, specifying the particular place, was actually given to the town clerk or 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 the receipt of such notice.

Section IV: No civil action shall be maintained against any town or town superintendent of highways for damages or injuries to person or property sustained by reason of any defect in its sidewalks or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the town or the superintendent of highways of 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 or to 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 V: The town superintendent of highways shall transmit in writing to the town clerk within ten days after the receipt thereof all written notices received by him pursuant to this section.

Section VI: The town clerk of each town shall keep an indexed record, in a separate book, of all written notices which he shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice or snow upon any town highway, bridge, culvert or sidewalk, 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. 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.

Section VII: It is the intent of the Town Board, pursuant to the Municipal Home Rule Law of the State of New York, to supersede such portions of § 65-a of the Town Law of the State of New York. This local law shall supersede in its application NYS Town law §65 a, sections 1 and 4.

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

Section IX: Rescission of Local Law #2 of 1979

Upon the effective date of this local law, Local Law #2 of 1979 of the Town of Peru shall be rescinded in its entirety.

Section X: Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

Adopted by the Peru Town Board on this _____ day of _____, 2021.

