

**PRIOR WRITTEN NOTICE OF DEFECTIVE CONDITIONS
TOWN OF ROSEBOOM**

RESOLUTION ADOPTED: 1997

READOPTED: JANUARY 2017

Resolution 2017- 01(c)

SECTION 1:

Short Title and Application – This resolution shall be known as the Prior Written Notice of Defective Conditions of Property within the Town of Roseboom.

SECTION 2:

Policy Statement – Where claims for bodily injury or damage to property are asserted against the Town of Roseboom, arising out of alleged defective conditions of said property and roads owned by, or in the care, custody or control of the Town of Roseboom, adequate notice to the Town of Roseboom of any such conditions is of substantial importance to allow the Town of Roseboom the opportunity to investigate and correct any such conditions if found to exist. The Town Board considers it to be important that such prior notice be in writing. Whether the Town has received actual or constructive notice of such alleged defective conditions is often a question of fact which can lead to uncertainty and possible unwarranted finding of liability against the Town of Roseboom. It is the purpose of this resolution to require the notice of Defective Conditions of Town property be given to the Town before seeking damages.

SECTION 3:

Written Notice – No civil action shall be maintained against the Town of Roseboom, its officers or employees for personal injury, including death, or damages to property related to, caused by, resulting from or arising out of any property owned by the Town of Roseboom, or property in the care, custody or control of the Town of Roseboom being defective. The Town of Roseboom shall have been given written notice of the alleged condition complained of and shall have failed or neglected within a reasonable time to repair or remove the condition. This period is to be ten (10) days after the written notice is received.

SECTION 4:

Notice – The notice provided for this resolution shall be served by personnel service with the Town of Roseboom. (MAIL). The notice required by this resolution shall contain: a) full name and address of claimant; b) the particular property of the Town; c) the item claimed to be defective and/or damaged; d) the date the item was found defective; e) any statement that would help understand the location and item.

SECTION 5:

Record of Notice – Any Town Officer or employee who receives a notice of a defective or damaged condition shall hand deliver said notice to the Town Clerk, who will notify the Town Supervisor and the Highway Superintendent of receipt of such a notice.