

Chapter 90

BUILDINGS, NOTICE OF DEFECTS

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[HISTORY: Adopted by the Board of Trustees of the Village of Barker 3-13-2023 by L.L. No. 1-2023. Amendments noted where applicable.]

§ 90-1. Findings.

Where claims for bodily injury or damage to property are asserted against the Village of Barker arising out of alleged defective conditions of property owned by or in the care, custody or control of the Village, adequate notice to the Village of any such conditions, if found to exist, is necessary. Whether the Village 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 Village. To assure that the Village received notice of an alleged defective condition and is able to respond in a prompt and reasonable manner, the Village Board considers it important that such prior notice be in writing. It is the purpose of this chapter to require that notice of defective conditions of Village property be given to the Village by prior written notice actually received by the Village in order to provide for the safety, health, protection and general welfare of the persons and property of the Village of Barker.

§ 90-2. Liability of the Village in certain actions.

No civil action shall be maintained against the Village of Barker for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed or for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk, street, highway, bridge or culvert unless written notice of the defective, unsafe, dangerous or obstructed condition or of the existence of the snow or ice, relating to the particular place, was actually given to the Village Clerk and there was a failure or neglect within a reasonable time after the receipt of such notice to repair or remove the defect, danger or obstruction complained of, or to cause the snow or ice to be removed, or the place otherwise made reasonably safe.

§ 90-3. Civil action.

No civil action shall be maintained against the Village of Barker for injuries to person or property sustained in consequences of any property owned or maintained by the Village of Barker being out of repair, unsafe, dangerous or obstructed unless written notice of the out of repair, defective, unsafe, dangerous or obstructed condition actually given to the Village

Clerk, and there was a failure or neglect within a reasonable time after receipt of such notice to repair or remove the out of repair, defect, defective, unsafe, dangerous or obstructed condition after a reasonable time of such notice.

§ 90-4. Record.

The Village Clerk shall maintain a separate record of any and all written notice which shall be received pursuant to the provisions of this chapter.

§ 90-5. Electronic submissions.

Electronic submissions, including email, social media or any other electronic means shall not constitute a valid prior written notice as required pursuant to the terms of this chapter.

§ 90-6. Severability.

If any part or provision of this chapter, or the application thereof, to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgement shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this chapter, or application thereof to other persons or circumstances.