ORDINANCE 2020-09

AN ORDINANCE TO CREATE A SECTION OF THE MUNICIPAL CODE OF THE VILLAGE OF HOBART, BROWN COUNTY, WISCONSIN, SPECIFICALLY SECTION 38 (VILLAGE PARTICIPATION IN IMPROVEMENTS ON PRIVATE PROPERTY) OF ARTICLE III (STORMWATER MANAGEMENT UTILITY) OF CHAPTER 150 (EROSION CONTROL AND STORMWATER MANAGEMENT)

Purpose: The purpose of this Ordinance is to create a procedure to govern the possible participation of the Village’s Stormwater Fund in stormwater improvements on private property within the Village.

The Village Board of the Village of Hobart, Brown County, Wisconsin, does ordain as follows:

Section 1. Section 38 (Village Participation in Improvements on Private Property) of Article III (Stormwater Management Utility) of Chapter 150 (Erosion Control and Stormwater Management), of the Municipal Code of the Village of Hobart, is hereby created to read as follows:

§ 150-38. Village Participation in Improvements on Private Property

A. Purpose and Intent. The Village of Hobart’s Stormwater Utility may participate in stormwater improvement projects on private property within the Village of Hobart if certain criteria and determinations as described below are fulfilled, and the financial condition of the Utility is conducive to funding such projects.

B. Ineligibility. Stormwater improvements on private property, to be funded partially or in full by the Village, will not be considered eligible for funding from the Storm Water Utility if any of the following conditions are not met:

(1) If Stormwater Management Plan, as prescribed in Sections § 150-8 and § 150-9 above, is not complied with on the property where the improvements are requested to be made, as determined by the Director of Public Works, the Director of Planning and Code Compliance and/or the Village Engineer. The absence of a Stormwater Management Plan for a property where improvements are requested to be made shall not be considered a cause for ineligibility.

(2) If a Stormwater Management Plan, as prescribed in Sections § 150-8 and § 150-9 above, has been approved for multiple properties, and a request for improvements to be funded by the Village, but any property owner affected by the request has made alterations which create or enhance a stormwater problem, as determined by the Director of Public Works, the Director of Planning and Code Compliance and/or the Village Engineer.

(3) If the Village is not granted easements for a stormwater improvement project prior to the commencement of the property.
(4) If the stormwater conditions do not create a health or public safety issue, or has created any damage to private property, as determined by the Director of Public Works, the Director of Planning and Code Compliance and/or the Village Engineer.

(5) If the Village’s Stormwater Utility is not financially able to fund the requested improvements, as determined by the Village Administrator.

C. Development of Stormwater Improvement Plan. The Director of Public Works, the Director of Planning and Code Compliance and/or the Village Engineer shall formulate a plan to install a stormwater improvement on private property, whether partially or in full, if the project has been determined to be eligible for Village funding from the Stormwater Utility, as prescribed above.

(1) Any plan must clearly delineate which portion of the proposed improvement is on public and private property.

(2) Any plan must include a determinate of any properties that will be affected by the improvement or has created or enhanced the stormwater issue.

(3) Any proposed improvement that is projected to cost less than $10,000 may be approved by the Village Administrator and the Director of Public Works.

(4) Any proposed improvement that is projected to cost more than $10,000 must receive final approval by the Village Board, following a review and recommendation by the Public Works and Utilities Advisory Committee.

D. Funding of Improvements.

(1) The Village will pay for fifty (50) percent of any stormwater improvement project on private property. The remaining fifty percent shall be allocated as follows:

(a) Single property. If the improvements are to be made on one or more parcels, owned by the same individual or entity, the remaining fifty (50) percent of the project costs must be paid by the individual or entity, either in full upon completion or within a five-year period, with annual equal payments, with the property owner signing a payment schedule agreement.

   1. Failure to pay the balance in full within the five-year period will result in the placement of the unpaid balance on the tax roll by the Village.

(b) Multiple properties. If the improvements are to be made on one or more parcels, owned by the different individuals or entities, the remaining fifty (50) percent of the project costs will be allocated on a percentage basis based on the square footage of the parcels affected by or contributing to stormwater improvement.

   1. Payment of the allocated costs may be made either in full upon completion or within a five-year period, with annual equal payments, with the property owner signing a payment schedule agreement. Each affected property owner must agree to and sign a cost-sharing agreement prior to commencement of the stormwater improvements. Failure of any of the affected property owners to participate in the cost-sharing agreement shall result in the cancellation of the stormwater improvement project or the implementation of special
assessments for the purpose of applying the costs of the proposed improvement to individual properties.

2. Failure to pay the balance in full within the five-year period will result in the placement of the unpaid balance on the tax roll by the Village.

(2) Special assessment and charges. In addition to any other method of charging for Stormwater Management Utility costs, the Village Board may by resolution collect special assessments on property in a limited and determinable area for special benefits conferred upon property pursuant to Wis. Stat. § 66.0703. The failure to pay such special assessments may result in a lien on the property enforced pursuant to Wis. Stat. § 66.0703(13).

(3) The Village will not pay any property owner or entity for the granting of any easement needed to undertake a stormwater improvement project or the maintenance following the installation of said improvements.

E. Miscellaneous Provisions.

(1) Prior to the commencement of a stormwater improvement project on private property, the property owner must do the following:

(a) Identify and clearly mark all property pins on the affected property.
(b) Identify and clearly mark any private utilities, such as, but not limited to, underground sprinkler systems, underground electric pet fences, etc. The Village shall not be liable for any damage to said private utilities if they have not clearly identified and marked prior to the commencement of the project.
(c) Remove any above-ground structures and appurtenances as requested by the Village or the entity performing the stormwater improvement project. The Village shall not be liable for any damage to said above-ground structures and appurtenances if they have not been removed, as requested, prior to the commencement of the project.

(2) The Village shall not be responsible for, and will not provide funding, for any relocation or temporary removal of any public utilities prior to the commencement of or during the installation of any stormwater improvement on private property. The responsibility for said removal or relocation shall be borne in its entirety by the affected property owner.

(3) Any modification, alteration or adulteration of a stormwater improvement project, as prescribed in this Section, following the installation of said project, without approval of the Director of Public Works and the Director of Planning and Code Compliance, by any owner of a property where said improvement is made, or by the owner of any property which has been affected by the improvement, will make any future corrections, improvements, alterations, modifications, or enhancements of the original improvement ineligible for Village funding, as prescribed in this Section.

F. Appeals. Any appeal of a project plan as prescribed in subsection C above, or denied as prescribed in subsection B above, must be filed, in writing, with the Village Clerk-Treasurer. Failure to file a timely appeal, within 30 days of the improvement plan as prescribed in subsection C above, or the denial of a requested improvement as prescribed in subsection B above, waives all rights to challenge such determinations and findings by the Village.
(1) The Public Works and Utilities Advisory Committee shall hold a hearing of the appeal within 45 days of said appeal being filed. The Committee shall file a recommendation on the appeal with the Village Board at the conclusion of the hearing.

(2) The Village Board shall hold a hearing on the appeal within 45 days of the recommendation being filed by the Public Works and Utilities Advisory Committee and make a final determination on the appeal.

**Section 2:** Any Ordinance or parts thereof, inconsistent herewith are hereby repealed.

**Section 3.** This Ordinance shall be published as required by law after passage by the Village Board.

Passed and approved this _____________, 2020.

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Richard Heidel, Village President

Attest:

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Aaron Kramer, Village Administrator

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I, Erica Berger, am the Village Clerk-Treasurer of the Village of Hobart, Brown County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Village Board.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on _____________ 2020.

(Seal)

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Erica Berger, Village Clerk-Treasurer