

## 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)

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**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.

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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 storm water 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. Eligibility. Stormwater improvements on private property, for which any portion will be funded by the Village are eligible for such Village funding only if all of the following conditions exist:

(1) If a Storm Water Management Plan, as prescribed in § 150-8 and § 150-9 above exist for the property, the property must be in compliance with that preexisting Plan, at the time of the request, as determined by the Director of Public Works. The absence of a Storm Water Management Plan for a property where improvements are requested to be made shall not be considered a cause for ineligibility.

(2) If a Storm Water Management Plan, as prescribed in § 150-8 and § 150-9 above, exist for multiple properties, all of these properties must be in compliance with that preexisting Plan at the time of the request. The absence of a Storm Water Management Plan for a property where improvements are requested to be made shall not be considered a cause for ineligibility.

(3) No person or entity making or benefiting from the request has contributed to the cause of the stormwater drainage problem, as determined by the Director of Public Works.

(4) The Village is granted, as no cost to the Village, all perpetual easements necessary for the construction and maintenance of the requested Storm Water Improvements.

(5) The storm water drainage problem which is the reason for the request, creates a health or public safety issue, creates a risk of damage to Village infrastructure, has a detrimental effect on the creation and maintenance of an uninterrupted Storm Water Management System throughout the entire Village or is otherwise warranted due to public necessity, convenience or welfare.

(6) The Village storm water utility is financially able to fund the requested project as determined by the Village Administrator.

C. Development of Stormwater Improvement Plan. The Director of Public Works shall formulate a plan to install a stormwater improvement on private property 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 identify 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, including all labor, materials, surveying, legal fees and engineering fees and everything else needed to complete the Project (Project Cost), may be approved by the Village Administrator and the Director of Public Works.

(4) Any proposed improvement for which the Project Cost 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 may pay up to fifty (50) percent of the Project Cost on private property. The remaining Project Cost 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 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, which the Village may record against the affected properties.

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 Project Costs will be allocated on a percentage basis based on the square footage of the parcels affected by the Project and contributing to the stormwater problem. The payments may be made either in full upon completion or within a five-year period, with annual equal payments, with the property owners

signing a payment schedule agreement, which the Village may record against the affected properties.

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 charges. In addition to any other methods of charging for Stormwater Management Utility costs, the Village Board may by resolution collect special charges 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 charges 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.

(4) The need for and the nature of maintenance of any stormwater improvements initiated pursuant to this § 150-38, shall be determined by the Director of Public Works. The cost of maintenance of the stormwater improvements under this § 150-38 shall be performed by the Village and the cost shall be paid under the same financial terms are prescribed under the original financing plan for the initial improvements. All properties participating in the future maintenance shall record the obligation on the property with the Brown County Register of Deeds.

#### E. Miscellaneous Provisions.

(1) Prior to the commencement of a stormwater improvement project on private property, the property owner or owners must do the following at their own expense, the cost of which shall not be considered part of the Project Cost:

(a) Identify and clearly mark all property pins on the affected properties.

(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 owners, and shall not be considered part of the Project Costs

(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, 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.

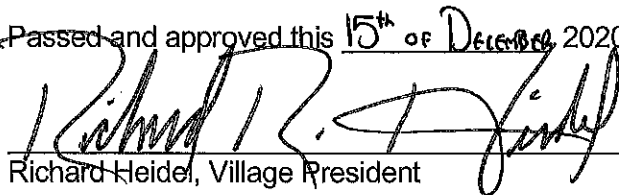
(1) The Public Works and Utilities Advisory Committee shall hold a hearing of the appeal within 45 days of said appeal being filed. The Committee shall file a recommendation on the appeal with the Village Board at the conclusion of the hearing.

(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 15<sup>th</sup> of December 2020.

  
Richard Heidel, Village President

Attest:

  
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 December 15, 2020.

(Seal)

  
Erica Berger, Village Clerk-Treasurer