

# CHAPTER 17 – SURFACE DRAINAGE MANAGEMENT

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### 17.1 INTENT.

The purpose of this Chapter is to provide for, and regulate the maintenance of, drains, drainage ditches and culverts in the Village and thereby promote the general welfare of the community and sound economic growth by: limiting and controlling soil erosion and preventing and controlling the adverse effects of storm water, controlling building sites, placement of structures and land uses, preserving ground cover and the scenic beauty of the Village and Lac La Belle Lake.

### 17.2 DRAINS.

- (1) Defined. For purposes of this Ordinance, a “drain” means any device for the drainage of water from land or protection of land from water including without limitation, any open ditch, channel, swale, creek, tiles or pipeline, whether natural or manmade.
- (2) Procedure for Establishment of Village Drains.
  - (a) In furtherance of the intent of this Ordinance, the Village Board may, with the aid of the Village Engineer and such other consultants, agents, and Village representatives as may be necessary:
    - (i) Design drains of sufficient capacity to adequately drain the lands proposed to be drained, including the preparation of detailed plans showing the grades of all drains and a map showing the proposed location of all drains;
    - (ii) Determine the benefits that will accrue to each parcel of land benefited;
    - (iii) Determine damages to such lands as will be damaged;
    - (iv) Estimate the cost of construction;
    - (v) Determine whether to assess all or any part of the costs of construction against the benefited lands in proportion to the benefits received by each;
    - (vi) Estimate the annual cost of maintenance and operation of the drainage system.
  - (b) General Provisions.

- (i) In laying out drains pursuant to this Ordinance, the Village Engineer shall locate, design, lay out and plan the drains in the manner that seems best to the Village Board to promote the public health or welfare and to drain or to protect the lands served by said drains with the least damage and greatest benefit to all of the affected lands. In determining the sufficiency of the depth and capacity of the drains, the Village Engineer shall consider whether other lands lie above and drain in the direction of, through and along the general course of the proposed drains.
  - (ii) In assessing benefits to any farm lands, the Village Engineer shall ascertain and consider the depth, quality and character of the surface and subsoils, the thoroughness of drainage, the difficulty of drainage, the uses to which the land when drained will be adapted, and all other material elements entering into the increase in the value of such land resulting from the proposed work.
  - (iii) If the damages to any land exceeds any assessment for cost of construction levied against such land the excess may be paid out of the assessment for cost of construction levied against all lands.
  - (iv) If navigable waters, wetlands, shorelands, or lands of similar type are affected by the proposed drainage, the Village shall obtain any permit necessary from the Wisconsin Department of Natural Resources in the manner provided by any applicable statute or administrative rule.
- (c) If, upon the completion of the village Engineer's Study, the Village Board determines that it shall use special assessments to pay for any portion of the work to be done, the Board shall adopt a preliminary resolution, and proceed in the manner specified, under Chapter 66 of the Wisconsin Statutes. The Village Board shall, in any event fix the time and place of the public hearing on the report and shall cause a Class I notice of the hearing to be published stating the nature of the proposed work or improvement, the general boundary lines of the proposed work or improvement, the general boundary lines of the proposed assessment district including, in the discretion of the Village Board, a small map thereof, the place and time at which the report may be inspected, and the place and time at which all persons interested, or their agents or attorneys, may appear before the Village Board and be heard concerning the matters contained in the preliminary resolution and the report. If special assessments are to be used, written notice shall also be given to persons affected as provided under Chapter 66 of the Wisconsin Statutes not less than ten (10) nor more than forty (40) days before the hearing.
- (d) At the hearing on the report the Village Board shall hear all objections to the report by any person who feels aggrieved.
  - (e) With regard to objections relating to assessment of benefits against or award of damages to specified lands, any evidence may be introduced with tends to establish

what assessments or awards would be equitable as compared with other similarly situated lands.

- (f) If the Village Board finds that the report requires modification or amendment, it shall modify or amend the report as the facts warrant.
- (g) Here access to private property for drains is required, the Village Board may, pursuant to the authority granted under Wis. Stat. § 61.34(3m), procure any and all property rights in lands or waters within the Village, including rights of access and use, negative or positive easements, restrictive covenants, covenants running with the land, scenic easements and any rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public. Said property rights may be obtained by the Village Board by gift, purchase or condemnation under Chapter 32 of the Wisconsin Statutes as revised from time-to-time.

### 17.3 MODIFICATION OF DRAINS, PERMIT REQUIRED.

- (1) No person shall construct, reconstruct, alter, obstruct, fill repair or install any drain or drainage structure in any drain in the Village without having first obtained a permit from the Village Engineer or designee. No permit shall be granted, however, unless the Village Engineer shall have first found that the proposed work will not:
  - (a) Substantially retard the flow of water, or;
  - (b) Adversely affect the public health, safety, or welfare.
- (2) Any person seeking a permit to alter or install a drainage structure; fill or obstruct any drain; or construct, reconstruct, alter, repair, or install any drainage structure in any drain, shall submit a written application to the Village Engineer containing all of the following information:
  - (a) The name and address of the applicant. If the applicant is a corporation, the application shall state the names and address of each officer;
  - (b) The location of the proposed work;
  - (c) Three (3) copies of the plans and specifications for the work which set forth the drainage area and design of structures or alterations; and
  - (d) Such additional information as the Village Engineer shall reasonably believe is necessary to determine if the proposed work is consistent with the intent of this Ordinance.
- (3) The fee for a permit issued under this Ordinance shall be one-hundred dollars (\$100.00) per lot and shall be paid prior to the processing of any application. Additionally, each applicant shall be responsible for all engineering and legal expenses incurred by the Village in reviewing and processing said application.

## 17.4 DRAIN OBSTRUCTIONS AND UNAUTHORIZED STRUCTURES AND MODIFICATIONS PROHIBITED.

- (1) In the event a drain is obstructed due to the negligence or deliberate action of a property owner without a permit, or, if any drainage structure is constructed, or reconstructed, altered, repaired, or installed without a permit in either a nature watercourse or a drain, the Village Engineer shall serve a written order on the property owner or person apparently in charge of the property demanding the removal of the obstruction or structure within a reasonable time, as specified within the written order. Any such order may be appealed to the Village Board within ten (10) calendar days of the date of the order. If an appeal is not received by the Village Clerk within such ten (10) days, the order shall be presumed final. Hearings conducted before the Board of Trustees shall be conducted in the manner specified for hearings before a board of appeals under Wis. Stat. § 62.23(7).
- (2) Any owner who fails, neglects, or refused to comply with a removal order after the appeal period has expired shall be subject to prosecution for violation of this Chapter and the Village Engineer shall, without undue delay, refer the matter to the Village Attorney's office for prosecution.
- (3) Any person who violates the provisions of this Ordinance shall, upon conviction, pay a forfeiture of not less than one-hundred fifty dollars (\$150.00) nor more than five-hundred dollars (\$500.00) for each violation in addition to the costs of prosecution. Each day of violation shall constitute a public nuisance and may be enforced by injunction. The Village may also pursue any other remedy available to it in law or equity in the event of violation of this Ordinance.

## 17.5 ENTRY ONTO LANDS.

Pursuant to Wis. Stats. § 88.87(3), agents of the Village may enter onto any property for the purpose of removing an obstruction in a drain which is in violation of Wis. Stats. § 88.87(3)(a) and which is causing flooding or damage to a Village highway. The reasonable cost of removal of an obstruction under this Ordinance shall be charged to the property owner by a Special Charge pursuant to Wis. Stats. § 66.60(16). In the event any Special Charge remains unpaid for more than thirty (30) days, a lien against the property shall be created in accordance with Wis. Stats. § 66.60(16).

## 17.6 PRESERVATION OF TOPOGRAPHY.

- (1) In order to protect the property from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would alter

the existing drainage or topography of any way so as to adversely affect the adjoining property and approval of the Village Board.

- (2) In no case shall any slope exceed the normal angel of slippage of the material involved, and all slopes shall be protected against erosion.

## 17.7 NO INTERFERENCE.

No person shall interfere with, or impede, a Village officer, employee, contractor, or agent in removing any obstruction.