

CHAPTER 32

DRAINAGE DISTRICT REGULATIONS

- 32.01 Purpose**
- 32.02 Definitions**
- 32.03 Lands Subject to this Chapter**
- 32.04 Inspection of Drainage Districts**
- 32.05 Construction and Maintenance**
- 32.06 Cleaning of District Ditches**
- 32.07 Landowner Responsibilities**
- 32.08 Landowner Rights**
- 32.09 Penalties**

CHAPTER 32

DRAINAGE DISTRICT REGULATIONS

SECTION 32.01 Purpose.

- (a) **Purpose.** On September 11, 2007, by order of Dane County Drainage District No. 7, the management and control of a portion of the District 7 Drain was transferred from the District to the Village of Cross Plains. The purpose of this Chapter is to provide rules and regulations regarding the management of that portion of the Drainage District within the village boundaries, which is now managed by the Village, and other Drainage Districts that may be created by the Village in the future, to establish and collect fees to defray costs, to protect the public health, safety and general welfare, and to provide remedies and penalties for violations of this Chapter.
- (b) **Abrogation and Greater Restrictions.** It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, wherever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

SECTION 32.02 Definitions.

All Terms as set forth in this Chapter shall be defined as set forth in Chapter 88 of the Wisconsin Statutes and Chapter ATCP 48 of the Wisconsin Administrative Code as effective on September 11, 2007, and all subsequent amendments to those chapters thereto.

SECTION 32.03 Lands Subject to this Chapter.

The Village Board may, by Resolution, create one or more Drainage Districts to be governed by the terms and conditions set forth in this Chapter. Each Resolution in which a Drainage District is created, shall be adopted by a majority vote of the Village Board, and shall identify the Drainage District created by its legal description. Upon adoption, the Resolution creating the Drainage District shall be recorded with the Dane County Register of Deeds in order to provide all land owners within the District with notice that their property is subject to the terms and conditions of this Chapter.

SECTION 32.04 Inspection of Drainage Districts.

- (a) An employee of the Village, or other authorized agent of the Village, may enter any lands within a Drainage District to perform an inspection of a drain.

- (b) Before an employee or agent of the Village performs an inspection on private lands, the Village shall notify the landowner of the inspection. Notice may be given in person, by telephone, by mail or, if the landowner is not available, by posting notice at a conspicuous location at the entrance to the land. Notice under this section is adequate if given at any time prior to entry. The Notice shall inform landowners and land users that they may accompany the inspector and may submit comments related to the performance of the District Drainage system to the inspector.
- (c) An employee or authorized agent of the Village shall annually inspect every Drainage District. The inspection shall include an inspection of all district drains and district corridors, and shall determine all the following:
 - a. Whether the drains are being maintained in compliance with Chapter 88 of the Wisconsin Statutes and Chapter ATCP 48 of the Wisconsin Administrative Code.
 - b. Whether landowners are complying with the applicable requirements as set forth in Chapter 88 of the Wisconsin Statutes and Chapter ATCP 48 of the Wisconsin Administrative Code.
 - c. Whether, and to what extent, sedimentation has occurred in District Drains.
 - d. Whether any drains should be restored, altered or improved to ensure proper drainage, to reduce soil erosion or sedimentation problems.
 - e. Whether the drainage system is operating effectively to achieve the goals which have been specified for the Drainage District.
- (d) Within three (3) weeks after the occurrence of a storm that exceeds a twenty-five year, twenty-four hour rainfall event for Dane County (4.8 inches in 24 hours), an employee or agent of the Village shall inspect the District Drains and corridors affected by the storm to determine the nature and extent of any storm damage, and to determine whether repairs are necessary.
- (e) Upon request of the Village Board, the Village employee or agent that completed any inspection pursuant to this section shall provide a written report summarizing the results of its inspection including any comments received by landowners or land users that participated in the inspection.

SECTION 32.05 Construction and Maintenance.

- (a) An employee, or authorized agent of the Village, may do any of the following:
 - a. Enter onto any lands in a Drainage District in order to survey, design, construct, maintain, repair or restore a district drain or corridor.
 - b. Perform survey, construction, maintenance, repair and restoration operations on a District Drain or corridor, including operations requiring excavation or modification of private land.
- (b) Before an agent of the Village performs any survey design, construction or maintenance, repair or restoration operations on private land, the Village shall notify the landowner. Notice may be given in person, by telephone, by mail or if

the landowner is not available by posting notice at a conspicuous location at an entrance to the land. Notice under this section is adequate if given at any time prior to entry.

- (c) Before starting any construction, maintenance, repair or restoration operation under this Ordinance, the Village shall obtain from the appropriate government agencies all permits and approvals required for that operation.
- (d) Every District Drain shall be designed and constructed so that it is capable of removing the volume of water from a ten year, twenty-four hour rainfall event (4.2 inches in 24 hours) within forty-eight hours after that rainfall event.
- (e) Every District Drainage ditch shall be designed and constructed so that the ditch will remain stable when subjected to a ten year peak discharge under (d) above. A District Ditch is not required to contain the entire volume of water from the peak discharge. This stability standard shall include ditch beds, banks, and related structures such as culverts, bridges and inlets. The Village shall repair and maintain every District Ditch as necessary to restore and maintain the stability of that ditch.
- (f) Inlets to District Ditches whether from private or District Drains shall be designed and maintained to prevent soil erosion. Surface drainage entering a District Ditch shall be controlled by means of buffer strips, pipe inlets, drought spillways or other devices to prevent soil erosion and uncontrolled flow over ditch banks.

SECTION 32.06 Cleaning of District Ditches.

- (a) The Village shall remove sediment dams, windfalls, deadfalls, sandbars, beaver dams and other obstructions from District ditches as necessary. The Village shall also remove submerged vegetation from District ditches as necessary.
- (b) The Village shall control the growth of woody vegetation in District ditches and corridors to ensure effective drainage and effective access for inspection, maintenance and repair. The Village may control woody vegetation by mowing, hand cutting or pesticide application.
- (c) The Village shall take appropriate measures to minimize soil erosion and the movement of suspended solids into District Drains.
- (d) The Village shall maintain effective vegetative cover, or equally effective erosion control practices in every District ditch and corridor. When ditch banks are planted with vegetation to stabilize those banks, the plant variety or seed mixture shall be one of those listed in the United States Department of Agriculture Natural Resources Conservation Service Technical Guide, Critical Area Planting Standards. If construction or maintenance activities disturb the vegetative cover in a District Ditch or corridor, the Village shall promptly replant the disturbed area to restore an effective vegetative cover.

SECTION 32.07 Landowner Responsibilities.

- (a) A landowner shall notify the Village before undertaking any action, including any change in land use, that will do any of the following:
 - a. Alter the flow of water into or from a district drain.
 - b. Increase the amount of soil erosion or the movement of suspended solids to a District Drain.
 - c. Affect the operation of the Drainage District or the cost incurred by the district.
- (b) No landowner may remove lands from inclusion in a Drainage District without obtaining the approval of the Village.
- (c) No person may connect a private drain to a district drain or extend a private drain that is currently connected to a District Drain without approval by the Village.
- (d) Private drains that transport water to District Drains, whether from agricultural or non-agricultural lands, shall be designed, constructed and maintained to prevent soil erosion and to minimize the movement of suspended solids in the district drains. The Village may require that private drains carrying water from non-agricultural lands be designed according to the Village Erosion Control and Storm Water Management Control Ordinance and equipped with facilities such as settling ponds or detention basins to minimize excessive discharges of water or suspended solids into District Drains. If the private drain does not comply with this paragraph, the Village may refuse to permit any connection between the private drain and the District Drain, order that the private drain be modified to comply with this paragraph or order that the private drain be disconnected from the District Drain.
- (e) No person may obstruct or alter a District Drain without approval of the Village.

SECTION 32.08 Landowner Rights.

- (a) An owner of land in the Drainage District may file a written petition with the Village asking the Village to do any of the following:
 - a. Restore, repair, maintain or if necessary modify a District Drain in order to conform the drain to the cross section alignment or grade profile formerly established for that drain.
 - b. Remove an obstruction placed in a District Drain in violation of this Ordinance.
 - c. Correct a violation of this Chapter.
- (b) Within sixty (60) days after a landowner files a petition with the Village Board, the Village Board shall provide the landowner with a written response that describes and explains the action, if any, which the Village will take and response to the petition.

SECTION 32.09 Penalties.

Any person who places any unauthorized obstruction to the free flow of water, including any soil willfully deposited, in any drainage ditch, or any person who violates any provisions of this Chapter, shall be fined not more than \$100.00 per each day the violation is in place, and shall be liable to the Village for its costs and reasonable attorney fees for prosecution, and to all persons whose lands are injured by such obstruction or violation for all damages caused by the obstruction or violation.