

Chapter 4

Storm Water and Surface Water Regulations

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Sec. 9-4-1 Necessity for Regulation.

- (a) The Village of Combined Locks finds that the management of storm water and other surface water discharge within and beyond the Fox River is a matter that affects the health, safety and welfare of the area, its citizens and businesses and others in the surrounding area. Failure to effectively manage storm water affects the sanitary sewer utility operations of the area by, among other things, increasing the likelihood of infiltration and inflow in the sanitary sewer. In addition, surface water runoff may create erosion of lands, threaten businesses and residences with water damage, and create sedimentation and other environmental damage in the Fox River. Those elements of the system, which provide for the collection of and disposal of storm water and regulation of groundwater, are of benefit and provide services to all property within the area.
- (b) The Village of Combined Locks further finds that those portions of the Village that are located within the Garner's Creek Basin are in need of such regulation. The regulations adopted by this Chapter are established in conformity with the contract that has established the Garner's Creek Communities Storm Water Utility Commission and are further adopted to uniformly regulate all properties within said basin.
- (c) The Village of Combined Locks further finds and determines in order to protect the health, safety and welfare of the public, it was necessary to establish a regulatory authority to effectuate uniform storm water and surface water management and further that the cost of operating and maintaining the storm water management system and financing necessary repairs, replacements, improvements and extension thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom and should be assessed to those properties in each community enjoying the benefit thereof.

Sec. 9-4-2 Regulations Applicable to Storm and Surface Water Within the Garner's Creek Basin Enacted.

- (a) **Regulations Adopted by Reference.** The Village of Combined Locks, for the benefit of those residents lying within the Garner's Creek Basin and in cooperation with the Town of Buchanan and the Town of Harrison, hereby enacts the following regulations applicable to all lands within the Garner's Creek Basin as defined, mapped and described by the Storm Water Management Services Ordinance passed by the Garner's Creek Communities Storm Water Utility Commission to be effective January 1, 1999 and incorporates and adopts by reference, as if set forth in full herein, all storm and surface water regulations contained in said ordinances as established and adopted and amended from time to time.
- (b) **Definitions.** For the purpose of this Chapter, and for the purposes of the Garner's Creek Storm Water Management Services Ordinance, the following definitions shall apply: words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense; the word "shall" is mandatory and not discretionary; the word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary:
- (1) **Equivalent Runoff Unit (ERU).** The statistical average horizontal impervious area of "single family homes" (single family and mobile homes) within the Garner's Creek Communities Storm Water Utility on the date of adoption of this Chapter. The horizontal impervious area includes, but is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks.
 - (2) **Impervious Area or Impervious Surface.** A horizontal surface, which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes, but is not limited to, semi-impervious surfaces such as compacted clay, as well as streets, roofs, sidewalks, parking lots and other similar surfaces.
 - (3) **Duplex Unit.** Any residential space identified for habitation by members of the same family attached to only one other residential space.
 - (4) **Dwelling Unit.** Any residential space identified for habitation by members of the same family. A dwelling unit includes, but is not limited to, all duplexes, apartments, residential condominiums and townhouse living units.
 - (5) **Multi-Family Unit.** Any residential space identified for habitation by members of different families attached to three (3) or more residential spaces.
 - (6) **Residential Property.** Any lot or parcel developed exclusively for residential purposes including, but not limited to, single family homes, manufactured homes, multi-family apartment buildings and condominiums.
 - (7) **Non-Residential Property.** Any developed lot or parcel not exclusively residential as defined herein, including, but not limited to, transient rentals (such as hotels and motels), commercial, industrial, institutional, governmental property and parking lots.

- (8) **Undeveloped Property.** Property which has not been altered from its natural state by the addition of any improvements such as a building, structure, impervious surface, change of grade or landscaping. For new construction, a property shall be considered developed pursuant to this Chapter:
- a. Upon issuance of a certificate of occupancy, or upon completion of construction or final inspection if no such certificate is issued; or
 - b. Where construction is at least fifty percent (50%) complete and construction is halted for a period of three (3) months.
- (9) **Agricultural Property.** Lands used for the planting, growing, cultivating, and harvesting of crops and/or trees; or grazing of livestock.
- (10) **District.** The properties within the boundaries of the Garner's Creek Communities Storm Water Utility.
- (11) **Area of Control.** The term "Area of Control" means the waterways within the District where the estimated peak at any given point is twenty percent (20%) or greater than the total estimated peak flow of the entire reach. The area of control extends upstream to the next property line, road or through the next upstream detention pond, whichever extends the area of control farthest upstream. Where a detention pond determines the farthest upstream point of the area of control, the inlet to the detention pond shall be deemed the end of the area of control, as shown on the Area of Control map adopted by the Commission. The width of the area of control shall include property within an area extending away from the waterway on both sides of the waterway beginning at the ordinary high water mark and extending for the distance designated for each segment of Garners Creek and its tributaries as specified below:
- a. **Seventy-Five (75) Feet Within The Following Described Area:**
 1. Garners Creek from the Fox River to the confluence of two (2) tributaries in the southeast quadrant of the interchange of CTH CE and CTH N.
 2. A tributary to Garners Creek from its confluence with Garners Creek to the confluence of two (2) tributaries to Garners Creek south of Buchanan Road and east of Skylark Lane.
 3. A tributary to Garners Creek from the confluence of two (2) tributaries in the southwest quadrant of the interchange of CTH CE and CTH N to Eisenhower Drive.
 4. A tributary to Garners Creek from the confluence of two (2) tributaries in the southeast quadrant of the interchange of CTH CE and CTH N to the confluence of two (2) tributaries to Garners Creek west of CTH N and north of CTH KK.
 - b. **Fifty (50) Feet Within The Following Described Area:**
 1. A tributary to Garners Creek from the confluence of two (2) tributaries to Garners Creek south of Buchanan Road and east of Skylark Lane to the City of Kaukauna border south of CTH CE.

2. A tributary to Garners Creek from the confluence of two (2) tributaries to Garners Creek south of Buchanan Road and east of Skylark Lane to Block Road.
3. A tributary to Garners Creek from the confluence of two (2) tributaries to Garners Creek west of CTH N and north of CTH KK to the confluence of two (2) tributaries to Garners Creek north of CTH KK and east of Main Street.
4. A tributary to Garners Creek from Eisenhower Drive to the City of Appleton border.
5. A tributary to Garners Creek from the confluence of two (2) tributaries to Garners Creek southwest of the intersection of Creekview Lane and Stoney Brook Road to the retention pond southeast of the interchange of STH 441 and CTH KK.

c. ***Thirty (30) Feet Within The Following Described Area:***

1. A tributary to Garners Creek from Block Road to the State Park Court retention pond west of CTH N and north of CTH KK.
2. A tributary to Garners Creek from its confluence with Garners Creek north of CTH CE and east of CTH N to CTH KK.
3. A tributary to Garners Creek from its confluence with a tributary to Garners Creek west of CTH N and north of CTH KK to the Van's Road retention pond.
4. A tributary to Garners Creek from the confluence of two (2) tributaries to Garners Creek north of CTH KK and east of Main Street to the confluence of two (2) tributaries to Garners Creek north of CTH KK and east of Noe Road.
5. A tributary to Garners Creek from the confluence of two (2) tributaries to Garners Creek south of CTH KK and east of Noe Road to Hearthstone Drive east of Crystal Court (commonly referred to as Crystal Creek).
6. A tributary to Garners Creek from the confluence of two (2) tributaries to Garners Creek south of CTH KK and east of Noe Road to Hearthstone Drive west of Noe Road.
7. A tributary to Garners Creek from the confluence of two (2) tributaries to Garners Creek north of CTH KK and east of Main Street to Coop Road south of CTH KK.

[**Note:** The area of control is shown on a map on file with the Garners Creek Communities Storm Water Utility and may be revised from time to time].

(c) **Additional Regulations.** The following regulations, in addition to being adopted above, are hereby adopted and set forth below:

(1) ***Surface Water Drainage.***

- a. Drainage requirements meeting the criteria within the Garner's Creek Storm Water Services Ordinance, Division 4 — "Design Criteria, Standards and

- Specifications" apply to subdivisions, certified survey maps, multi-family development and any non-residential development or additions within the basin.
- b. Permits will be required from the Garner's Creek Communities Storm Water Utility for properties described in Subsection (b)(2)a above.
 - c. The permit form shall be adopted by the Commission and shall contain instructions for the required submission of information necessary to allow for an engineering determination whether such permit should be issued and/or any required conditions (i.e., detention, etc.) necessary to meet the criteria set forth in Division 4 of the Storm Water Services Ordinance. No person shall submit information that the person knew or should have known through reasonable diligence was false or misleading.
 - d. Drainage plans meeting the requirements of the Storm Water Services Ordinance, Division 4 — "Design Criteria, Standards and Specifications" shall be submitted with the preliminary plat.
- (2) **Area of Control.**
- a. Permits will be required from the Garner's Creek Communities Storm Water Utility for any channel change, encroachment, filling, grading, excavating, or construction of any structure on properties within the area of control.
 - b. Existing structures within the area of control will be considered non-conforming structures and a permit will be required for any addition or alteration of these structures.
 - c. The permit form shall be adopted by the Commission and shall contain instructions for the required submission of information necessary to allow for an engineering determination as to whether such permit should be issued and/or any required conditions (i.e., detention, etc.) necessary to meet the criteria set forth in Division 4 of the Storm Water Services Ordinance. No person shall submit information that the person knew or should have known through reasonable diligence was false or misleading.
 - d. Drainage plans meeting the requirements of the Storm Water Services Ordinances, Division 4 — "Design Criteria, Standards and Specifications" shall be submitted with the preliminary plat.
- (3) **New Construction.**
- a. The property owner shall be responsible for completing the Storm Water Utility service application form before any building permit is issued, or a site plan review is conducted. The form shall be provided by the Secretary of the Commission or the Building Inspector with each application for a building permit or application for site plan review. Failure to submit a completed Storm Water Utility service application form or providing false information on said form, shall result in a penalty. No building permit shall be issued until the permit has been obtained from the Storm Water Utility.

- b. The owner shall also be liable for storm water charges, under this Chapter, for the improvement from the date construction of the improvement began.
- (4) **Permits.**
- a. The Village Building Inspector shall not issue a permit for the construction of any building or other structure within the Garner's Creek Basin unless or until a surface water permit has been obtained from the Garner's Creek Communities Storm Water Utility. Permits will be required for:
 - 1. Any work within the area of control.
 - 2. Any proposed subdivision or certified survey map within the District.
 - 3. Any alteration or addition to non-residential property.
 - 4. Any multi-family development.
 - 5. Any single family residential or duplex building permit.
 - b. When a person requests a building permit from the Town of Buchanan, Town of Harrison, or the Village of Combined Locks for properties within the District, the Building Inspector or Clerk shall inform that person that a permit will be required from the Garner's Creek Communities Storm Water Utility before any building permit may be issued.
 - c. The granting of a permit from the Garner's Creek Communities Storm Water Utility does not eliminate the requirements for permits from local government agencies, counties, Wisconsin Department of Natural Resources, or U.S. Army Corps of Engineers.
 - d. The Building Inspector of the Village shall forward a copy of any building permit to the offices of the Garner's Creek Communities Storm Water Utility within ten (10) days after said permit for any building or structure has been issued by said Building Inspector.

Sec. 9-4-3 Design Criteria, Standards and Specifications.

Design Criteria, Standards and Specifications established by the Garner's Creek Storm Water Utility Commission are hereby adopted and enforced as set forth in Division 4 of the Garner's Creek Communities Storm Water Utility Storm Water Management Services Ordinance. Unless prior authorization is given by the Garner's Creek Communities Storm Water Utility, those methods and criteria set forth in Division 4 shall be used in meeting the requirements of this Chapter.

Sec. 9-4-4 Assessments, Rates and Charges.

- (a) Assessments, rates and charges will be established by the Garner's Creek Communities Storm Water Utility setting a rate or charge on each parcel within the Garner's Creek Basin.

The Village of Combined Locks hereby adopts the rates as established by the Commission and the appeal and credit regulations established in conjunction with said assessments, rates, and charges. The Village annually shall pay to the Utility all sums as established by the record of charges from the Garner's Creek Storm Water Utility Commission to the Village.

- (b) The Village may, by special charge or assessment, or by other method, collect said sums from its residents for payment to the Commission. The Village shall, by resolution, establish the method of payment, the date of payment and establish a system and penalties for unpaid assessments. Appeals of assessments levied against any property may be taken as provided in Section 9-4-5, which also adopts the methods of appeal set forth in the Storm Water Services Ordinance.

Sec. 9-4-5 Method of Appeal of Assessments, Rates or Charges.

- (a) The Storm Water Utility charge may be appealed as follows:
- (1) A written appeal shall be filed with the individual community, sanitary district or utility district prior to the utility charge due date; or
 - (2) Within thirty (30) days of written appeal to the individual community, sanitary district or utility district, a written challenge to the storm water charge must be filed with the Secretary on behalf of, or by the customer, specifying all reasons for the challenge and the amount of the storm water charge the customer asserts is appropriate. Failure to file a challenge within thirty (30) days of payment waives all rights to later challenge the charge.
- (b) The Storm Water Utility Commission will determine whether the storm water charge is fair and reasonable or whether a refund is due the customer. The Storm Water Utility Commission will act during an open session, and will inform the customer in writing of its decision.
- (c) The customer has thirty (30) days from the decision of the Storm Water Utility Commission to file a written appeal to the Circuit Court.
- (d) If the Circuit Court determines that a refund is due the customer, the refund will be applied as a credit on the customer's next annual storm water billing, if the refund will not exceed the customer's next storm water billing, or will be refunded at the discretion of the Commission.

Sec. 9-4-6 Penalty Provisions.

- (a) Any person violating any provision of this Chapter may be prosecuted for said violation before the Municipal Court of the Village where such violation occurred or in the Circuit Court of the County where such violation occurred. Violations for failure to obtain permits or the submission of information or permits which is known to be false or misleading shall

be deemed to have occurred at the Commission's place of business in the Village of Combined Locks.

- (b) Any person violating any provision of this Chapter shall be required to forfeit not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) upon the first conviction and not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) upon the second and each subsequent violation occurring within one (1) year. Each day of a continuing violation shall constitute a separate offense.
- (c) In addition to the penalties set forth in Subsection (b), the Municipal Court shall require that the person pay the court costs of the proceeding and may further require payment of all actual costs necessary to return the drainage status to the condition existing before the violation.
- (d) Failure to pay any fine or cost imposed by the Court shall constitute contempt of the Court order punishable by incarceration in the County Jail until paid, but not to exceed thirty (30) days for each violation.