

CHAPTER 13

MUNICIPAL UTILITIES

(with amendments through 2-8-2018)

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13.01 MANAGEMENT. The West Baraboo Sewer and Water Utility shall be managed by the Village Board.

13.011 All charges for utility service shall be in accordance with tariffs currently on file with the Public Service Commission of Wisconsin.

13.02 RULES AND REGULATIONS.

(1) GENERAL. The rates and rules and regulations governing the operation of West Baraboo Sewer and Water Utility shall be those on file with and approved by the Wisconsin Public Service Commission. A violation of any such rules and regulations shall be a violation of this chapter.

(2) OPERATING RULES.

(a) All persons now receiving sewer and/or water service from the utility or who may hereafter make application therefor shall be considered as having agreed to be bound by all rules and regulations as filed with the Public Service Commission.

(b) The applicable provisions of Wis. Adm. Code PSC 185 relating to sewer and water service are hereby adopted by reference and made a part of these rules as if set forth in full. A violation of such rules shall constitute a violation of this section and shall be punishable as provided in sec. 13.12 of this chapter.

13.03 BILLING PRACTICE.

(1) BILLING PERIODS. Sewer service charges provided for in this chapter shall be included as separate items on the regular bill for water service and shall be payable quarterly in accordance with the existing rules and regulations of the Village Sewer and Water Department.

(2) PAYMENT. Sewer and water service charges shall be payable at the Village office or at any other officially designated location.

(3) PENALTY FOR LATE PAYMENT. Bills for sewer and water service charges levied and assessed in accordance with this chapter shall become due and payable within 20 days from and after the date of the bill. Bills paid after 20 days shall be subject to a 1.5% penalty.

13.04 JOINT LIABILITY FOR UTILITY BILLS. The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service to such premises and the service is furnished to the premises by the Village only upon the

condition that the owner of the premises, occupant and user of the services are jointly and severally liable therefor to the Village.

13.05 COLLECTION OF UTILITY BILLS IN ARREARS.

(1) AUTHORITY. All water and sewer service charges unpaid and in arrears on October 1 of each year shall be collected in accordance with the procedure hereinafter provided pursuant to the authority granted in S.S. 66.069 and 66.076, Wis. Stats., respectively.

(2) PROCEDURE.

(a) On or about October 1 of each year the Secretary of the West Baraboo Sewer and Water Utility shall furnish the Clerk-Treasurer a list of all unpaid utility bills, including penalties, which are in arrears.

(b) On October 15 of each year the Clerk-Treasurer shall mail a notice of such arrearages by first class mail to the occupant and to the owner of the premises receiving such utility service.

(c) In the event any such utility bill is not paid by November 1 thereafter, the Clerk-Treasurer shall add a penalty of 10%.

(d) In the event any such utility bill is not paid on or before November 15 thereafter, the Clerk-Treasurer, on November 16, shall place the amount of such arrearages, together with penalty, on the tax roll as a tax against the lot or parcel of real estate for which water and sewer services were provided.

13.06 OUTSIDE SEWER AND WATER SERVICE. No water or sewer service shall be extended outside the Village limits.

13.07 SEWER AND WATER MAIN EXTENSIONS.

(1) APPLICATION FOR. The owners of the property which is not served by Village sewer or water may apply to the Village Board for sewer and water main extensions. The Village Board shall determine the feasibility of such proposed extensions.

(2) CONSTRUCTION. The Village shall construct all sewer and water main extensions.

(3) COST OF CONSTRUCTION.

(a) If the property benefited by such extension is exclusively that of the requesting property owner or owners, the extension may be financed as follows:

1. The property owner or owners may pay the Village 100% of the estimated cost of the project prior to construction and final settlement shall be made immediately after construction is completed, or

2. The Village shall levy a special assessment for such extension and provide for installment payments, together with interest.

(b) If it is necessary to traverse other land, the requesting property owners may finance the cost of the benefit to their property as provided in par. (a) above and the Village shall levy a special assessment upon other benefiting properties. However, if the Village Board determines that the special assessment upon such other land shall be deferred, the requesting property owners shall pay to the Village the estimated amount of such deferred assessments prior to construction. The Village shall reimburse such payment when said deferred special assessments are activated.

13.08 CROSS CONNECTIONS.

(1) DEFINITIONS. A cross connection shall be defined as any physical connection or arrangement between 2 otherwise separate water systems, one of which contains potable water from the Village water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the 2 systems.

(2) PROHIBITED. No person shall establish or permit to be established, or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the Village may enter the supply or distribution system of the Village.

(3) DUTY TO INSPECT. It shall be the duty of the Village Board to cause inspections to be made of all properties serviced by the public water system where cross connections with the public water system is possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Village Board and as approved by the Wisconsin Department of Natural Resources.

(4) ENTRY FOR INSPECTION. Upon presentation of credentials, the representative of the Village Board shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the Village for cross connections. If entry is refused, such representative shall obtain a special inspection warrant under S. 66.122, Wis. Stats. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

(5) DISCONNECTION OF WATER SERVICE. The Director of Public Works is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Ch. 68, Wis. Stats., except as provided in sub. (6) below. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this section.

(6) EMERGENCY DISCONNECTION. If it is determined by the Director of Public Works that any cross connection constitutes an emergency endangering public health, safety or welfare and thereby requires immediate action, a written finding to that effect shall be filed with the Clerk-Treasurer and delivered to the customer's premises, and service shall be immediately discontinued. The customer shall have an opportunity for hearing under Ch. 68, Wis. Stats., within 10 days of such emergency discontinuance.

(7) STATE CODE ADOPTED BY REFERENCE. The Village adopts by reference the State Plumbing Code of Wisconsin, Wis. Adm. Code SPS Chapter 382. (Modified 8/9/2012)

13.09 PRIVATE WELL ABANDONMENT.

(1) DEFINITIONS

(a) "Village water system" means the Village of West Baraboo water utility system operated by the Village of West Baraboo Sewer and Water Utility as managed by the Village Board.

(b) "Noncomplying" means a well or pump installation which does not comply with the provisions of Ch. NR 812, Wisconsin Administrative Code, in effect at the time the well was constructed, a contamination source was installed, the pump was installed or work was done on either the well or pump installation.

(c) "Pump installation" means the pump and related equipment used for withdrawing water from a well including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

(d) "Unsafe" means a well or pump installation which produces water which is bacteriology contaminated or contaminated with substances in exceedance of the standards of Chs. NR 809 or 140, Wisconsin Administrative Code, or for which a Health Advisory has been issued by the Department of Natural Resources.

(e) "Unused" means a well or pump installation which is not in use or does not have a functional pumping system.

(f) "Well" means an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods for the purpose of obtaining groundwater for consumption or other use.

(g) "Well abandonment" means the filling and sealing of a well according to the provisions of Ch. NR 812, Wisconsin Administrative Code.

(2) APPLICATION OF STATE CODES. Wisconsin Adm. Code NR 812 is hereby adopted by reference and made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by said chapter shall be required or prohibited by this section. Any future amendments, revisions or modifications of NR 812 is incorporated herein and is intended to be made part of this section in order to protect the public health, safety and welfare by assuring that unused, unsafe or noncomplying wells or wells which may serve as conduits for contamination or wells which may be illegally cross-connected to the Village water system are properly abandoned.

(3) ABANDONMENT REQUIRED. All wells located on premises served by the Village water system shall be abandoned in accordance with the terms of this ordinance and Ch. NR 112 (Changed to 812 in 1994) Wisconsin Administrative Code, by December 31, 1993 or no later than 1 year from the date of connection to the Village water system whichever occurs last, unless a well operation permit has been obtained by the well owner from the Village Sewer and Water Utility.

(4) WELL OPERATION PERMIT. The Village Sewer and Water Utility may grant a permit to a private well owner to operate a well for a period not to exceed 5 years providing the conditions of this section are met. An owner may request renewal of a well operation permit by submitting information verifying that the conditions of this section are met. The Village Sewer and Water Utility, or its agent, may conduct inspections or have water quality tests conducted at

the applicant's expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the Village Clerk. The following conditions must be met for issuance or renewal of a well operation permit:

(a) The well and pump installation shall meet or shall be upgraded to meet the requirements of Ch. NR 812, Wisconsin Administrative Code,

(b) The well construction and pump installation shall have a history of producing bacteriologically safe water as evidenced by at least 2 samplings taken a minimum of 2 weeks apart. No exception to this condition may be made for unsafe wells, unless the Department of Natural Resources approves, in writing, the continued use of the well,

(c) There shall be no cross-connections between the well and pump installation and the Village water system, and

(d) The proposed use of the well and pump installation must be justified as being necessary in addition to or in lieu of water provided by the Village water system.

(5) **ABANDONMENT PROCEDURES.** All wells abandoned under the jurisdiction of this ordinance shall be abandoned according to the procedures and methods of Ch. NR 812, Wisconsin Administrative Code. All debris, pump, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment. The owner of the well, or the owner's agent, shall notify the Village Clerk at least 48 hours prior to commencement of any well abandonment activities. The abandonment of the well shall be observed by the water superintendent. An abandonment report form, supplied by the Department of Natural Resources, shall be submitted by the well owner to the Village Clerk and the Department of Natural Resources within 10 days of the completion of the well abandonment.

13.10 **DISCHARGE OF CLEAR WATER REGULATED.** No person shall discharge or cause to be discharged any storm water or clear water drains of any kind, including subsoil drains, building drains, tile drains, down spouts from roof gutters, surface drains, drains from any mechanical device, ditches, pipes, conduits, sump pumps or any other objects or things used for the purpose of collecting, conducting, transporting, diverting, draining or discharging clear waters into a sewer designed or designated as a sanitary sewer.

13.11. **SEWER CONNECTION.**

(1) **REQUIRED.** To assure the preservation of public health, comfort and safety, the Village Board, in accordance with S. 144.06, Wis. Stats., hereby requires that any building used

for human habitation and located adjacent to a Village sewer main, or in a block through which such a sewer main extends, to be connected with said sewer by means of direct laterals.

(2) PENALTY. Any person failing to comply for more than 10 days after notice in writing of their failure to make the appropriate connections shall be subject to a forfeiture of not less than \$10 nor more than \$200 for said violation. Each day of violation shall constitute a separate offense.

(3) CONNECTION BY VILLAGE. As an alternative to the penalty provided in sub. (2) above, the Village may cause the necessary connections to be made and the expense thereof shall be assessed as a special tax against the property in question. The owner may then, within 30 days after the completion of the work, file a written option with the Clerk-Treasurer stating that he cannot pay such amount in one sum and asking that it be levied in not to exceed 5 equal annual installments and that amount shall be so collected with interest at the current municipal rate per annum from the completion of the work, the unpaid balance to be a special tax lien.

13.12 USE OF WATER FACILITIES.

(1) PROHIBITED. Except as provided in sub. (2) below, it shall be unlawful for any person to open, injure or meddle with any hydrant, water main, tap, corporation stop, box, meter, or cover belonging to the West Baraboo Sewer and Water Utility without first having obtained proper authority therefore from the Director of Public Works.

(2) EXCEPTIONS. Subsection (1) above shall not apply to the use of the above described hydrants by any authorized employee of the Village or by members of the Fire Department performing official duties in accordance with Chapter 5.

13.13 SETBACK OF UTILITIES FROM VILLAGE SEWER AND WATER MAINS AND LATERALS. REGULATION OF UTILITY FACILITIES: PERMITS (Adopted January 13, 2011.)

(1) AUTHORITY. This ordinance is adopted pursuant to the authority granted by 47 U.S.C. 541, Wis. Stats. Chs. 61, 182 and 196 and Wis. Admin. Code Ch. PSC130.

(2) DEFINITIONS.

(a) BOARD. Board means the Village Board of the Village of West Baraboo.

(b) COMPANY. Company means a domestic corporation organized to do any of the following: to furnish telegraph, telecommunications, internet or video service or to transmit heat, power, or electric current to the public or for public purposes. A company includes an independent system operator, as defined in §196.485 (1) (d), an independent

transmission owner, as defined in §196.485 (1) (dm), a cooperative association organized under Wis. Stats., Ch 185 or Ch. 193 to furnish telegraph or telecommunications service to its members, an interim cable operator, as defined in §66.0420 (2) (n), or a video service provider, as defined in Wis. Stats. §66.0420 (2) (zg).

(c) **DIRECTOR.** Director means the Village of West Baraboo Director of Public Works.

(d) **EMERGENCY.** Emergency means extraordinary circumstances, whether caused by natural or other forces, in which interruption of essential services, such as gas, power, or electric current to existing customers is interrupted and where there is an imminent need for repair or maintenance of the facilities to protect the health and safety of existing customers or the general public such that application for a utility permit would be impractical.

(e) **ONE-CALL SYSTEM.** One-call system means the system established pursuant to §182.0175 (1m), Wis. Stats.

(f) **PRIVATE UTILITY FACILITIES.** Private utility facilities mean those portions of utility facilities that are owned by a person, other than a governmental unit and are located or are planned to be located on private property (including in easements located on private property). (Amended 2/8/2018; Ord. 18-01)

(g) **UTILITY FACILITIES.** Utility facilities include all pipes, pipelines, wires, cables, ducts, and appurtenances, regardless of the nature of the service for the transmission or distribution of their in-service application. The term includes but is not restricted to: telegraph, telecommunications, internet, data, video, electric and gas services facilities.

(h) **VILLAGE UTILITIES.** Village utilities means water and sanitary and storm sewer mains, laterals, and appurtenances owned by the Village of West Baraboo or Village of West Baraboo Water Sewer Utility.

(3) **FUTURE CONSTRUCTIONS PLANS.** Each company with utility facilities located within the Village shall submit its future construction or excavation work plans within sixty (60) days of the effective date of this ordinance. Each utility shall submit updated plans within sixty (60) days of any change in its future plans.

(4) **PRIVATE UTILITY FACILITIES; NOTICE.** No private utility facilities work shall be performed without 5-days advance written notice to the property owner and occupants. Where the property is not owner-occupied, notice to the owner shall be provided at the owner's residence or principal place of business. No private utility facilities work shall be performed on private property unless the company owns, leases, or has already acquired the easement rights necessary for the work authorized by the Utility Permit.

(5) **PERMANENT RELOCATION OF UTILITY FACILITIES.** The Village may require a company to permanently relocate its utility facilities in a Village right-of-way at the expense of the utility if there is an adequate health, safety, or public welfare justification for the requirement. The Village may not require a utility to permanently relocate utility facilities in a Village right-of-way at a company's expense substantially for the benefit of a person other than the Village.

(6) **UTILITY PERMIT REQUIRED; EXCAVATION; EMERGENCY.**

(a) **Permit required.** No company shall, without a permit, lay, place, locate or relocate any utility facilities within the Village.

(b) **Excavation.** No utility permit requiring excavation shall be granted between December 1 and March 15 unless the Director of Public Works determines such excavation is necessary. After receipt of a utility permit, no company shall commence excavation including cutting or opening the surface of any street or sidewalk without the Director's onsite approval after an inspection to determine that the location and manner of work are consistent with the permit or without obtaining a right-of-way excavation permit under section 8.02, if required by that section.

(c) **Emergency.** In the event of an emergency, a company may repair or maintain its utility facilities without a prior permit application or permit. If such emergency work is performed, the company shall apply for a utility permit by the end of the next business day setting forth the work that has been performed and that the company plans to perform in connection with the emergency.

(Amended 2/8/2018; Ord. 18-01)

(7) **PERMIT PROCEDURE.** Applications for utility permits shall be filed with the Director on such forms as prescribed by the Village. The Director may issue utility permits subject to reasonable conditions to minimize the impact on the right of the Village Sewer and Water Utility or the Village to construct, relocate, maintain, repair, replace or remove sanitary sewer, storm sewer, or water mains or laterals.

(a) **Map and Field Sketches.** The application shall be accompanied by a map indicating the company's right-of-way construction plans and field sketches in the format maintained by the utility for utility facilities that are the subject of the permit.

(b) **Certificate of Insurance.** The applicant or contractor who will perform the work shall file a Certificate of Insurance evidencing commercial general liability coverage in the amount of at least two million dollars (\$2,000,000), automobile liability insurance of at least one million dollars (\$1,000,000) and workers compensation insurance. The Certificate shall name the Village of West Baraboo as an additional insured. The company and, if the certificate is

issued to a contractor, the contractor shall provide 30-days notice to the Village upon cancellation or material change in the policy.

(c) Permit Fee. A utility permit fee shall be paid at the time of filing the application.

(d) Time for Action on Permit. The Village shall approve or deny a permit within 60 days after the receipt of a complete application, including the permit fee. If the Village fails to act within 60 days, the permit shall be deemed approved. If the Village denies a permit application, it shall provide the applicant with a written explanation of the reasons for denial at the time the municipality denies the application.

(8) RESTRICTIONS ON PLACEMENT:

(a) Clearance. All utility facilities shall be placed so as to provide adequate vertical and horizontal clearance between it and any Village utility facilities. Unless expressly authorized in the permit:

1. no utility facilities shall be located within five (5) feet of either side of Village Utility facilities; and

2. where above-ground utility facilities are to be placed within a Village right-of-way but not within the paved area of a street, no such facilities shall be located within two (2) feet of the closest edge of a curb. If no curb exists, no such facilities shall be located within two (2) feet of the paved surface of the street.

(b) In addition to the responsibilities imposed by §182.0175 (2m) and (2r), Wis. Stats., the permit holder shall be responsible for contacting the One-Call system and all other private utilities not participating in the One-Call system prior to commencement of work to determine the location of all other public or private utility facilities in or near the location where the permit holder's work will be performed.

(c) All work shall be performed without obstructing or closing all or any part of any Village streets unless specifically approved in writing by the Director. Work zone signing and barricading shall be in accordance with Part VI of the Manual on Uniform Traffic Control Devices.

(d) No excavation shall remain open overnight unless specifically approved by the Director in writing. All work areas shall be securely fenced off with safety fence to protect the public whenever the work area is to remain un-restored overnight. No driveway, either public or private, may remain closed overnight without the express written consent of the government which owns the property at issue or the owner of the private property.

(9) RESTORATION.

(a) In the case of any disturbance to pavement, sidewalk, landscaping, driveway, or any other surface or subsurface, the permit holder shall, at its own expense and in a manner approved by the Director, repair and replace such surface to as a good condition as before the work was commenced and in accordance with standards set by the Director consistent with the Village's customary practices.

(b) If the Director finds that the disturbed area has not been restored in the manner and to the quality approved by the Director, the Director may give notice to the permit holder stating the measures required to complete the restoration and setting a reasonable deadline for completion of the work. If the measures are not performed to the reasonable satisfaction of the Director by the deadline, the Village may undertake remedial restoration activities with the cost to be paid by the permit holder.

(c) Defective, substandard or ineffective restoration work.

1. Within one year of the completion of restoration work, if the Director finds that the work is substandard, defective, or ineffective, the Director may give written notice to the permit holder stating the measures required to complete the restoration and setting a reasonable deadline for completion of the work. If the measures are not performed to the reasonable satisfaction of the Director by the deadline, the Village may undertake remedial restoration activities with the cost to be paid by the permit holder.

2. Defective, substandard or ineffective restoration work includes by example but is not restricted to: subsidence of street or sidewalk repairs, cracking or separation of repairs from areas surrounding the disturbed areas, damage to areas surrounding the disturbed area, or, if due to the materials, the failure of seeding or sod to return the disturbed area to as good a condition as before the excavation work was commenced.

(d) The permit holder is liable to the Village for any charges, fees, or penalties incurred for violation of the terms of this section, including the terms of any utility permit, by any contractor, subcontractor, excavator, engineer or other person retained by the permit holder in connection with the construction, maintenance, repair, or restoration of utility facilities within the Village.

(e) The permit holder is liable to the Village for any charges, fees, or costs incurred by the Village for any work performed for the permit holder in accordance with this section by Village employees, or by any contractor, subcontractor, excavator, engineer or other person retained by the Village in connection with the construction, maintenance, repair, or restoration of utility facilities within the Village.

(10) APPEAL TO VILLAGE BOARD. Determinations made by the Director of Public Works may be appealed to the Village Board, and where, in the judgment of the Board it would be inappropriate due to special circumstances to apply literally the provisions of this subsection, the board may waive or modify such requirements or impose other conditions to the extent deemed just and proper so that substantial justice may be done and the public interest served. Except as provided in Chapter 15, this subsection shall not apply to the placement of sanitary sewer mains or laterals owned by the Village Sewer and Water Utility.

(11) ABANDONMENT. A company shall notify the Village of its intent to abandon utility facilities and shall provide a map, at the utilities expense, depicting the location of any facilities within the Village that the utility intends to abandon.

(12) FEES AND EXPENSES.

(a) The Village may charge any company installing, maintaining, repairing or removing utility facilities within the Village for functions undertaken by the Village to manage utility access to and use of rights-of-way and easements. The amount of the fees and charges shall not exceed the reasonable, actual expenses incurred by the Village.

(b) Application Fee. The Village may charge a fee at the time of the filing of an application for a utility permit for the following expenses:

(1) registering utilities, including the gathering and recording of information necessary to conduct business with a utility;

(2) issuing, processing, and verifying excavation or other utility permit applications, including supplemental applications;

(3) inspecting utility job sites and restoration projects;

(4) maintaining, supporting, protecting, or moving utility equipment during work in municipal rights-of-way; and

(5) maintaining databases relating to utility facilities within the Village.

(c) Where applicable, the Village may charge a company for expenses incurred for the following:

(1) undertaking restoration work inadequately performed by a utility after providing notice and the opportunity to correct the work;

(2) revoking utility permits; and

(3) scheduling and coordinating highway, street, and right-of-way work relevant to a utility permit.

(13) **PENALTIES.** Any company which performs work on utility facilities in violation of the terms of this section shall be subject to penalties as set forth in section 25.04. Each day that utility facilities work is performed, fails to be performed when required, or that the condition of utility facilities work continues to exist in violation of this section shall constitute a separate violation.

13.14 **PENALTY.** Any person who shall violate any provision of this chapter or any order, rule or regulation thereunder shall be subject to a penalty as provided in sec. 25.04 of this Code.