

CHAPTER 12

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## **WATER UTILITY**

**12.1 MANAGEMENT OF THE WATER UTILITY.** The Sussex Village Board, hereinafter, "Board", as allowed by Section 66.0805(6), Wis. Stats., shall have charge of the operation of the water utility owned and operated by the Village of Sussex, hereinafter "Village" and shall have all of the powers and duties provided by SS 66.0805, Wis. Stats.

**12.2 EXTENSION OF WATER SERVICE BEYOND VILLAGE LIMITS.**

(1) **LIMIT OF SERVICE.** In order to provide adequate fire protection for persons and property within the Village, and to insure protection the public health and safety of the Village without placing an undue financial burden upon the Village taxpayers and to effectuate coordinating water department operation with other municipal public works activities and for the purpose of conserving the available water supply, it is determined that it is necessary to specifically limit the territory in unincorporated areas which the municipal water utility holds itself out to serve.

(2) No extension of water services outside the Village limits shall be made unless the requestor petitions for annexation to the Village and the extension of services will be of benefit to the Village.

(3) **RESERVATION OF RIGHT TO FURTHER LIMIT.** The Village reserves the right to further extend or limit such areas by subsequent action.

(4) **FILING WITH PSC.** The Village Clerk shall transmit a certified copy of this section to the State Public Service Commission.

**12.3 PENALTY.** Any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in §25.04 of this Municipal Code.

**Sections 12.4 - 12.19 Intentionally Left Blank (Reserved for Future Use)**

## **COMMUNITY WATER SYSTEM**

**12.20 CONTROL, FACILITIES AND OWNERSHIP.**

(1) **CONTROL OF COMMUNITY WATER SYSTEM.** The Village hereby creates and establishes a community water system for the Village. The management, operation and control of such water system are vested in the Board. All records, minutes and written proceeding thereof shall be kept and maintained by the Village Clerk; such Clerk shall also keep all financial records.

(2) **FACILITIES AND OWNERSHIP.** Such community water system shall consist of deep wells, storage tanks, distribution facilities, including fire hydrants, fountains and other facilities required in connection therewith. The Village shall have the power to lay mains through alleys, streets and public grounds of the Village, to construct and install power lines, to acquire and install required facilities and to do all such work as necessary or convenient in the management of the water system. The Village, or their officers, agents and employees shall have the right to enter upon any land to examine or supervise in the performance of their duties under this subchapter without liability therefore. The Board shall have the power to purchase for the Village all personal property necessary for construction of the water system or for any repair, remodeling or additions thereto.

(3) **CONDEMNATION OF REAL ESTATE.** Whenever any real estate or easements therein or use thereof shall, in the judgment of the Board, be necessary to the operation of the water system and, whenever

an agreement for purchase cannot be made with the owner thereof, the Board shall proceed with all necessary steps to take such real estate or easement by condemnation in accordance with State Statutes.

(4) TITLE TO REAL ESTATE AND PERSONALTY. All property, real, personal and mixed, acquired for construction of the water system, all plans, specifications, diagrams, papers, books and records connected therewith and all buildings, machinery and fixtures pertaining thereto shall be Village property.

**12.21 CONSUMER RULES AND REGULATION.** The rules, regulations and water rates of the water system of the Village set forth herein shall be considered a part of the contract with each person who is supplied with water through the water system. Such person by taking water or connection with such system shall be considered as expressing his assent and be bound thereby. Whenever any such rules and regulations or such conditions as the Board may hereafter adopt are violated, the water shall be shut off from the building or place of such violation, even though 2 or more parties are receiving water through the same pipe, and shall not be turned on again except by order of the Board after payment of all arrears, expenses and established charges of shutting off, turning on and such other terms as the Board may determine. These rules shall conform to the established rules and regulations of the State Public Service Commission or State Statutes applicable thereto. In case of such violation, such Commission may declare any payment made for the water by the party committing such violation to be forfeited. The Board has the right to change such rules, regulations and water rates from time to time as they may deem advisable and to make special rates and contracts in all proper cases, subject to the authority of the Wisconsin Public Service Commission.

**12.22 OPERATING RULES.**

(1) ESTABLISHMENT OF SERVICE.

(A) All persons who may hereafter receive water from the Village or who may hereafter make application therefore, shall be considered as having agreed to be bound by rules and regulations as filed with the Public Service Commission of Wisconsin.

(B) Application. Application for water service shall be made in writing on a form furnished by the Village. The application shall contain a legal description of the property to be served, including tax key number, name of applicant, use to be made of service and such other information as the Utility may require.

(C) Conditions for Service. Service shall be furnished only if:

1. Applicant has installed or agrees to install a service pipe from the water main in the street to the point of use laid not less than 6 feet below the surface of an established or proposed grade and according to the Utility's specifications,
2. Applicant pays required hookup charge and assessments, and
3. Premises have adequate piping beyond metering point.

(D) Multi-Unit Metering. The owner of a multi-unit dwelling has the option of being served by individual metered water service to each unit. The owner, by selecting this option, shall provide interior plumbing and meter settings to enable individual metered service to each unit and individual disconnection without affecting service to other units. Each meter and meter connection shall be a separate water utility customer for the purpose of the filed rules and regulations.

(E) Division of Water Service Prohibited. No division of the water service of any lot or parcel of land shall be made for extension and independent meterage of the supply to an adjoining lot or parcel of land. No division of a water supply service shall be made at the curb for separate supplies therefrom for 2 or more separate premises having frontage on any street or public service strip whether owned by the same or different parties.

(F) Approval May Be Withheld. The Board is hereby empowered to withhold approval of any application wherein full information of the purpose of such supply is not clearly set forth by the applicant property owner.

(2) SERVICE CONTRACT. The minimum service contract period shall be one year unless otherwise specified by special contract or in the applicable rate schedule. Where a customer at their request has been disconnected prior to expiration of their minimum contract period, where their account is not delinquent and where thereafter they request the reconnection of service, a reconnection charge in an amount as set forth by Resolution of the Village Board, payable in advance, shall be collected. The minimum contract period is renewed with each reconnection.

There shall be a reconnection charge for consumers whose services are disconnected because of nonpayment of bills when due, including disconnection for failure to comply with deposit or guarantee rules.

A person shall be considered as the same consumer provided the reconnection is required for the same premises by any member of the same family, or if a place of business, by any partner or employee of the same business.

(3) TURNING ON WATER. Water shall not be turned on for a consumer except by an authorized employee of the Utility. When a plumber has completed their work, they shall leave the water turned off. Such plumber may test their work; but when such testing is completed, they shall leave water shut off.

(4) STOP BOXES. The consumer shall protect the stop box on their property and shall keep the same free from dirt and other obstructions. The Utility shall not be liable for failure to locate stop box and shut off water in case of a leak on the consumer's premises.

(5) THAWING FROZEN SERVICES. Frozen services shall be thawed out by and at the expense of the Utility unless freezing was caused by contributory fault or negligence by the consumer such as reduction of grade, improperly installed consumer service pipe, etc.

Following freezing of a service, the Utility shall take such steps and issue such instructions as may be necessary to prevent refreezing. The charge for water shall be adjusted to allow a credit for water permitted to run as a result of Utility instructions.

(6) INSTALLATION OF METERS. Meters shall be furnished and placed by the Utility and shall not to be disconnected or tampered with by the consumer. All meters shall be so located that they are protected from obstructions and permit ready access thereto for reading, inspection and servicing, such location to be designated or approved by the Superintendent. All piping within the building shall be supplied by the consumer. Where additional meters are desired by the consumer, they shall pay for all piping and an additional amount sufficient to cover the cost of maintenance and depreciation, but not less than 25 cents per month.

(7) SERVICE PIPING FOR METER SETTINGS. Where a new customer whose service is to be metered installs the original service piping, where an existing metered customer changes their service piping for their own convenience or where an existing flat rate customer requests metering, the customer shall at their expense provide a suitable location and proper meter connections.

The Public Works Director, or their designee, shall be consulted as to the type and size of meter setting. Where it is possible to set meters in the basement or other suitable place within the building, a short nipple shall be inserted after the stop and waste cock, then a union, and another nipple and coupling of the

proper length. The nipple attached to the union and coupling shall be cut to a standard length provided by the plans of the Public Works Director, or designee (they may require a horizontal run of 18" in such pipe line) which may later be removed for the insertion of the meter into the supply line.

(8) REPAIRS TO METERS. Meters shall be repaired by the Utility. The cost of such repairs caused by ordinary wear and tear shall be borne by the Utility.

Repair of any damage caused by carelessness of the owner of the premises, their agents or tenants or from the negligence of any of them to properly secure and protect same, including any damage that may result from allowing a water meter to become frozen or to be injured from presence of hot water or steam in the  $\text{¥}$  the amount of loss by comparison with the use of the water during a like period, and the excess may be billed at the lowest step in the rates. However, if the consumer knew of the leak and failed to give proper attention to it, the Utility shall bill for the total consumption shown by the meter at regular rates.

(9) CHARGES FOR WATER WASTED DUE TO LEAKS. When the meter registers losses due to pipe leaks, the Utility shall determine whether the defect in the piping or equipment was known to the customer, or being known, they had used their best efforts to correct the conditions. If the Utility determines that the loss occurred with the consumer's knowledge, or having known about it they had tried to correct the condition, the Utility may determine as nearly as possible what is the amount of loss by comparison with the use of the water during a like period, and the excess may be billed at the lowest step in the rates. However, if the consumer knew of the leak and failed to give proper attention to it, the Utility shall bill for the total consumption shown by the meter at regular rates.

(10) FAILURE TO READ METERS. Where the Utility is unable to read a meter after 2 successive tries, that fact shall be indicated on the bill, the minimum charge applied and the difference adjusted when the meter is read again; the bill for the succeeding quarter shall be computed with the gallons in each block of the rate schedule doubled, and credit shall be given on that bill for the amount of the minimum bill paid the preceding month.

Only in unusual cases or when approval is obtained from the consumer shall more than 2 consecutive estimated bills be rendered where the billing period is 2 months or more.

If the meter fails to operate, the bill shall be based on average use during the corresponding quarter of the past year unless there is some reason why the use was not normal. If the average use cannot be properly employed, the bill shall be estimated by the best equitable method at the discretion of the Village Board.

(11) TEMPORARY METERED SUPPLY. An applicant for temporary water supply on a metered basis shall make a monetary deposit per the fee schedule adopted by the Board. The charge for setting the valve and furnishing and setting the meter may be less than the deposit, so a portion of the deposit may be available to pay for the water used at the scheduled rates. Such service shall be provided only during the normal working hours of Village Public Works employees.

Where no other supply is available, permission may be granted by the Utility to use a hydrant after such hydrant is equipped with a sprinkling valve. A charge per the fee schedule adopted by the Board shall be made for setting the valve or moving it; and a deposit shall be required for the hydrant wheel and reducer. No valve shall be placed, removed or moved except by an employee of the Utility. If the water is to be used through iron pipe connections, all such pipe installations shall have a swing joint to facilitate quick disconnection from the fire hydrant.

All monies deposited as security for payment of charges arising from the used temporary water

supply on a metered basis, or for the return of a sprinkling valve wheel or reducer, if the water is used on an unmetered basis, shall be refunded to the depositor on the termination of the use of water, the payment of all charges levied against the depositor and the undamaged return of the wheel and reducer.

(12) REPAIRS TO MAINS. The Utility reserves the right to shut off water in the mains temporarily to make repairs, alterations or additions to the plant or system. When the circumstances permit sufficient delay, the Utility shall give notification by newspaper publication or otherwise of the discontinuance of the supply. No rebate or damages shall be allowed to consumers for such temporary suspension of supply.

(13) HANDLING WATER MAINS AND SERVICE PIPES IN TRENCHES. Where excavating machines are used in digging, all water mains shall be maintained at the expense of the contractor. Contractors shall ascertain for themselves the existence and location of all service pipes. Where they are removed, cut or damaged in the construction, the contractor shall at their own expense cause them to be replaced or repaired at once. Such repair shall not cause water service to any consumer to be shut off more than six hours.

(14) SETTLING MAIN OR SERVICE TRENCHES. Trenches in streets shall be refilled with approved granular backfill in accordance with State highway specifications or Village specifications where more restrictive.

(15) RELIEF VALVES. On all closed systems (i.e., systems having a check valve, pressure regulator or reducing valve, water filter or softener) an effective pressure relief valve shall be installed either in the top tapping or the upper side tapping of the hot water tank, or on the hot water distributing pipe connection at the tank. A 1/2" drain pipe shall be connected to the relief valve for discharge on the floor or into a sink or open drain through an air gap. No stop valve shall be placed between the hot water tank and the relief valve or on the drain pipe.

(16) NO CLAIMS FOR DAMAGES. No person shall enter a claim for damages against the Village, the Utility or any officer thereof for damage to any pipe, fixture or appurtenances by reason of interrupted service, variation of pressure or for damage caused by turning off or turning on, whether wholly or partially, the water supply for the extension, alteration or repair of any water main or premises supply, or for the discontinuance of the premises water supply for violation of any rule or regulation of the Village. No claims shall be allowed against the Village on account of the interruption of the water supply caused by the breaking of pipes or machinery or by stoppage for repairs from fire or other emergency. No claims shall be allowed for any damage caused by the breakage of any pipe or machinery.

(17) PURITY OF SUPPLY NOT TO BE IMPAIRED BY CROSS CONNECTIONS.

(A) A cross connection shall be defined as any physical connection or arrangement between two otherwise separate 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 two systems.

(B) No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection or other interconnection 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, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Village and by the Wisconsin Department of Natural Resources in accordance with Section NR 811.09, Wisconsin Administrative Code.

(C) It shall be the duty of the Village to cause inspections to be made of all properties served by

the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Village and as approved by the Wisconsin Department of Natural Resources.

(D) Upon presentation of credentials, the representative of the Village 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 SS 66.0119(1) & (2), Wisconsin Statutes. 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.

(E) The Sussex Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this ordinance 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 Chapter 68, Wisconsin Statutes, except as provided in Section 6. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this ordinance.

(F) If it is determined by the Sussex Water Utility that a cross connection or an emergency endangers public health, safety or welfare and requires immediately action, and a written finding to that effect is filed with the Village Clerk and delivered to the customer's premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under Chapter 68, Wisconsin Statutes, within 10 days of such emergency discontinuance.

(G) The Village adopts by reference the State Plumbing Code of Wisconsin being Chapter ILHR 82, Wisconsin Administrative Code.

(H) This ordinance does not supersede the State Plumbing Code and Village Plumbing Code Chapter 15, but is supplementary to them and if any terms of the above laws conflict, the more restrictive provision shall apply.

(18) OPERATION OF VALVES AND HYDRANTS. Any person who shall, without authority of the Board, operate any valve connected with the street or supply mains, open any fire hydrant connected with the distribution system, except to extinguish fire, or who shall damage or impair the same shall be subject to a forfeiture as provided herein. Permits for use of hydrants to fill sprinkling carts apply only to hydrants designated for such use.

(19) INSPECTION OF PREMISES. Any officer or authorized employee of the Utility shall have the right of access during reasonable hours to any premises supplied with service, for inspection or enforcement of the Utility's rules and regulations. The Utility shall make a systematic inspection of all metered and unmetered water taps at least once every 3 years to check waste and unnecessary use of water.

(20) VACATION OF PREMISES. Before premises are to be vacated, the Utility shall be notified in writing, so it may remove the meter and shut off the water at the curb valve. The owner of the premises shall be liable to prosecution for any damage to Utility property by failing to notify the Utility of vacancy.

(21) TAP PERMITS. After water connections have been made to any building or upon any premises, no person shall have any tap or connection with the pipe upon such premises for alterations, extensions or attachments unless the person requesting such work shall have obtained and shall exhibit the proper permits therefor from the Utility. Any owner of a one-family home may perform work on their own premises' water

system without a licensed plumber if such homeowner advises the Utility when they make their application for the permit. All plumbing work, whether performed by a licensed plumber or homeowner, shall be subject to the State and local regulations regarding plumbing.

(22) CONSUMERS TO CONSERVE WATER. Consumers shall keep the hydrants, taps, water closets, urinals, baths or other fixtures allotted to their use closed except when obtaining water for use and shall be responsible for any damage or injury that may result to others from the improper use of such water.

(23) SURREPTITIOUS USE OF WATER. When the Utility has reasonable evidence that a consumer is obtaining their water supply, in whole or in part, by means of devices or methods used to stop or interfere with proper metering of the Utility service being delivered to the customer's equipment, the Utility reserves the right to estimate and present immediately a bill for service unmetered as a result of such interference. Such bill shall be payable subject to a 24-hour disconnection of service. When the Utility has disconnected the consumer's service for such reason, the Utility shall reconnect the consumer's service upon the following conditions:

(A) The consumer shall deposit with the Utility an amount sufficient to guarantee payment of their bills for utility service.

(B) The consumer shall pay the Utility for any damages to its equipment on the consumer's premises due to such stoppage or interference with its metering.

(C) The consumer shall agree to comply with reasonable requirements to protect the Utility against further loss.

(D) Said consumer shall, furthermore, be subject to a penalty as provided in 12.30 of this municipal code.

Sections 98.26 and 943.20, Wis. Stats., relating to water service are hereby adopted by reference and made a part of these rules.

(24) CONSUMER TO KEEP IN REPAIR. Consumers shall keep their own service pipes, stopcock and apparatus in good repair and protected from frost at their expense and shall prevent any unnecessary waste of water and overburdening of the system. All expenses related to bringing water into buildings or private premises and connection with the system shall be paid by the applicant. No charge shall be made for the services of the Village employee to direct where and how the mains shall be tapped and excavations made in the street for laying pipe.

(25) CONSUMERS' USE ONLY. No consumer shall, without permission from the Board, supply water to others, nor allow others to remove water from their premises or allow connections to the system on their premises.

(26) CONSUMER TO PERMIT INSPECTION. Each consumer shall permit the Village or its authorized agent, at any reasonable hour, to enter their premises or building to examine pipes, fixtures and the manner in which water is used and how drains operate. Such consumers shall answer all questions put to them relative to water consumption.

(27) TURNING ON SERVICES. Water shall not be turned on into any building or private service pipe without a written order of the authorized agent or employee of the Utility. Plumbers are hereby prohibited from turning water into any service pipe, except with permission of the Village or its agent. This rule shall not be construed to prevent any plumber from admitting water to test pipes. When the water has been turned off by order of the Utility or its agent, no consumer shall turn it on nor permit it to be turned on without written

permission of such Utility or agent thereof.

(28) EXCAVATIONS. In making excavations in streets or highways to lay service pipes or make repairs, the planks, paving and earth removed shall be deposited to cause the least inconvenience to the public and provide for passage of water along gutters.

No person shall leave any open excavation without barricades in any street or highway. At night, warning lights shall be maintained at such excavations.

In refilling the opening after the service pipes are laid, the earth shall be laid in layers of not more than 9" in depth with each layer thoroughly rammed or puddled to prevent settling. This work together with replacing sidewalks, ballast and paving, shall be done to make the street as good as before it was disturbed and to the Public Works Director's satisfaction.

(29) TAPPING MAINS. No person, except those with the Board's special permission or persons in the Village's service and approved by it, shall tap into mains or distribution pipes or insert stopcock or ferrules therein. The kind and size of connection with the mains shall be those specified in the permit or order from the Village.

Mains shall be tapped on side and not within 12" of the hub or another tap.

(30) The Board may from time to time by resolution restrict the sprinkling of laws, watering of gardens, washing of cars and other non-essential uses.

(31) BILLING AND PAYMENT.

(A) Billing. Billing for water service shall be on a quarterly basis with quarters ending March 31, June 30, September 30 and December 31. The property owner is held responsible for all water bills on the real estate they own. All water bills and notices relative to water service shall be addressed to the owner and mailed to the address of the premises referred to on such bill or notice.

(B) Failure to Receive Bill No Excuse. Reasonable care shall be exercised in proper delivery of water bills. Failure to receive a water bill shall not relieve any owner of responsibility for payment of a water bill within the prescribed period, nor exempt any person from any penalty imposed for delinquency in the payment thereof.

(32) PENALTY FOR POLLUTING WATER OR INJURING WATERWORKS. No person shall willfully pollute or otherwise injure any water supplied by the system in any tunnel, aqueduct, reservoir, pipe, etc.; to willfully injure or cause damage to the system, building, machinery or fixture pertaining thereto; to willfully and without authority of the Board impede or divert the flow of water in any tunnel, aqueduct, pipe, etc., belonging to such system; to willfully and without authority of the Board bore or otherwise cause to leak, any tunnel, aqueduct, reservoir, pipe, etc. used in the system to hold, convey or distribute water.

(33) DAMAGE RECOVERY. The Utility shall have the right to recover from any person any expense incurred by such Utility for repair or replacement of any water pipe, curb cock, gate valve, hydrant or valve box damaged in any manner by any person by reason of operation of any electrical system, performance of any work under their control or by negligence.

Owners or operators of motor vehicles shall be liable for the cost of repair of any hydrant damaged by such vehicle. The Utility or the Village shall not be responsible for the damage caused to the motor vehicle by reason of such accident.

**12.23 WATER SERVICE RATES.** Future rates and regulations shall be as established by the Board as approved by the Public Service Commission.

(1) **CHARGES TO BE LIEN ON REAL ESTATE.** All water services, charges and special assessments shall be a lien on the lot, part of a lot or real estate on which service is supplied or available for service. All charges accrued during the preceding year not paid by October 15th of the following year shall be certified to the Village Clerk and placed upon the real estate tax roll for collection as provided by State Statutes.

(2) **RESERVE CAPACITY ASSESSMENT.**

(A) There is hereby levied against each parcel of land serviceable by such water system, except vacant unimproved parcels, a charge according to the meter size of the user as specified in the Resolution of the Board establishing the Reserve Capacity Assessment. Said resolution may be modified, updates and or replaced from time to time by the Board as allowed by law.

Such unit charges for existing vacant parcels which are not divided before development shall be paid before a building permit is issued for construction on said parcels.

Such unit charges for existing vacant parcels that are divided either through certified survey or subdivision shall be paid by the owner of such parcels before the final plat or certified survey is executed by the proper officials of the Village or as provided by law.

(B) There is hereby levied against each vacant, unimproved parcel of land excepted in par. (A), except future main extensions which will subsequently be determined, which is hereafter improved to be capable of or require water service, a reserve capacity assessment based upon the user's meter size in accordance with rates set forth in par. (A), which sum shall be paid by the owner thereof to the Village when construction of the improvements on such parcel of land commences. Such payment shall be made before an occupancy permit is granted. Any part of such reserve capacity assessment which is unpaid after commencement of construction of said improvement shall bear interest at 10% per annum from date of commencement until paid, either voluntarily or through recourse to tax collection proceedings.

(C) If any reserve capacity assessment shall be made against a property under par. (A) or (B) and the owner thereof shall cause or be required to install a larger meter to serve the property, such owner shall pay an additional reserve capacity assessment equal to the difference between the initial charge and the larger equal to the difference between the initial charge and the larger charge required by the larger size of service based upon the unit charges specified in par. (A). The reserve capacity assessment shall be made and be a lien against the property served. If a water service larger than the initial installation is required, the additional cost shall be charged to the property serviced.

(D) The reserve capacity assessment shall not apply to properties already being served by water through the water trusts as they existed on January 1, 1976.

(3) **MANDATORY HOOKUP.**

(A) The owner of each parcel of land presently occupied and serviced or capable of being serviced by such water system shall be hooked up to the water system within 30 days after notification by the Village. If unoccupied, hookup shall be before occupancy. Such mandatory hookup shall apply to all buildings located within the Village capable of being served.

(B) The owner of each parcel of land required to hookup under par. (A) which is not hooked up to such water system, shall be in violation of this ordinance. In addition to forfeiture, they shall pay

the Village Treasurer upon billing therefor an amount equal to 95% of the minimum quarterly charge for water service of the required size to be collected in the event of nonpayment as a special assessment on the real estate tax bill pursuant to 66.60(16) Wis. Stats.

(4) MAINTENANCE OF SERVICES. All water services within the Village from the street main to the curb stop, including all controls between the same, shall be maintained by the Utility without expense to the property owner, except when damaged as a result of negligence or carelessness of the property owner, tenant or owner's agent, where they shall be repaired at the property owner's expense. All water services from the point of maintenance by the system to and throughout the premises shall be maintained free of defective conditions, by and at the expense of the property owner or occupant. If the property owner does not repair a leak between the curb stop and building within 24 hours, the water shall be shut off until the repair is made.

#### **12.24 WELL PERMIT/WELL ABANDONMENT ORDINANCE.**

(1) PURPOSE. To protect public health, safety and welfare, and to prevent contamination of groundwater by assuring that unused, unsafe or noncomplying wells, or wells which may act as conduits for contamination of groundwater, or wells which may be illegally cross-connected to the municipal water system, are properly abandoned.

(2) APPLICABILITY. This ordinance applies to all wells located on premises served by the Village municipal water system. Said private well receiving a permit shall only be used for sprinkling lawns, washing cars and other outside uses not involving human consumption.

(3) DEFINITIONS.

(A) Municipal water system. A community water system owned by a city, village, county, town, town sanitary district, public inland lake and rehabilitation district, municipal water district, utility district or a federal, state, county, or municipal owned institution for congregate care or correction, or a privately owned water utility serving the foregoing.

(B) Noncomplying. A well or pump installation which does not comply with s. NR 812.42, Wisconsin Administrative Code, Standards for Existing Installation, and which has not been granted a variance pursuant to s. NR 812.43, Wisconsin Administrative Code.

(C) Pump installation. 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. A well or pump installation which produces water which is bacteriologically contaminated or exceeds any of the drinking water standards of s. NR 812.06, Wisconsin Administrative Code, or for which a Health Advisory has been issued by the Department of Natural Resources.

(E) Unused. A well or pump installation which is not used or does not have a functional pumping system.

(F) Well. An excavation or opening into the ground made by digging, boring, drilling, driving, or other methods for the purpose of obtaining groundwater.

(G) Well Abandonment. The filling and sealing of a well according to the provisions of s. NR 812.26, Wisconsin Administrative Code.

(4) ABANDONMENT REQUIRED. All wells on premises served by the municipal water system shall be abandoned in accordance with the terms of the ordinance and Chapter NR 812, Wisconsin Administrative Code, by July 1, 1999 or no later than one (1) year from the date of connection to the municipal water system, unless a well operation permit has been obtained by the well owner from the Village.

(5) WELL OPERATION PERMIT. The Village shall grant a permit to a well owner to operate a well for a period not to exceed five (5) years providing the conditions of this section are met, commencing in 1999. An owner may renew a well operation permit by submitting information verifying that the conditions of this section are met. The Village, 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 of a well operation permit:

(A) The well and pump installation shall meet or shall be upgraded to meet the requirements of s. NR 812.42, Wisconsin Administrative Code, and have a functional pumping system.

(B) The well construction and pump installation shall have a history of producing bacteriologically safe water as evidenced by at least two (2) samples taken a minimum of two (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's pump installation and the municipal water system.

(D) The proposed use of the well and pump installation can be justified as reasonable in addition to water provided by the municipal water system. The well owner must demonstrate a need for continued use of the well and pump installation.

(E) On or before April 1 of the test year, owner shall apply to the Village for a permit for the continued operation of said private well on forms supplied by the Village, together with a fee as established by resolution of the Board from time to time to cover the Village's cost of administratively handling said application and tests.

(F) All private well testing performed by the property owner will be completed and the tests provided to the Village on or before July 1 of the test year.

(6) ABANDONMENT PROCEDURES.

(A) All wells abandoned under the jurisdiction of this ordinance or rule shall be abandoned according to the procedures and methods of s. NR 812.26, Wisconsin Administrative Code. All debris, pumps, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.

(B) The owner of the well, or the owner's agent, shall notify the Village at least 48 hours prior to commencement of any well abandonment activities. The abandonment of the well shall be observed by a representative of the Village, or its agent.

(C) 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 30 days of the completion of the well abandonment.

(7) PENALTIES. Any well owner violating any provision of this ordinance shall be subject to the

penalties described in Section 25.04 of the Village of Sussex Municipal Code. Each day of violation is a separate offense. If any person fails to comply with this ordinance for more than 30 days after receiving written notice of the violation, the municipality may impose a penalty and cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

#### **12.25 NEW PRIVATE WELLS.**

(1) **NEW WELLS WITHIN VILLAGE LIMITS.** The provision of Section 12.24(5), Village Code, shall apply only to those wells in existence prior to June 5, 1975, or those wells on property annexed to the Village after June 5, 1975, and no new private wells shall be allowed to be constructed within the Village after June 5, 1975 without written permission of the Village. Any wells constructed within the Village after June 5, 1975, not specifically permitted by the Village or by the Sussex Water Commission during its tenure, shall be, within 30 days of the effective date of this Ordinance, permanently abandoned as provided in 12.24(6) above.

(2) **PERMIT PROCEDURE FOR NEW WELLS.** New wells will be permitted to be constructed only under the following conditions:

(A) Said new well must be located in an area not capable of immediate service to municipal water; and,

(B) Owner or applicant applies to the Village and receives a permit for the construction of the new well; and

(C) The new well is constructed in complete conformity with State and Local regulations and codes. The owner of the new well, before it will be permitted to be put into human use and consumption, will furnish to the Village test results verified by a certified testing laboratory that said well water is bacteriologically safe. Thereafter all wells in the Village will be tested in accordance with this ordinance; and

(D) All new wells constructed within the Village limits will be permitted on the condition that the owner agrees that once municipal water is available to the property, said private well owner will immediately connect to municipal water and sever the private well, all in accordance with Section 12.24(5)(C) of the Village Code. It is the Village's intent that ultimately all property within the Village will be served by municipal water and that private wells permitted by the Village will only be used for non-potable purposes, once connection to the municipal water is made for the domestic supply.

(3) **PENALTIES.** In addition to the requirements provided above, any violation of this Ordinance shall be subject to Section 25.04 of the Village Code.

#### **12.26 WELL HEAD PROTECTION ORDINANCE (WHPO)**

(1) **PURPOSE AND AUTHORITY.** The residents of the Village depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Wellhead Protection Ordinance is to institute land use regulations and restrictions to protect the Village municipal water supply and well fields, and to promote the public health, safety and general welfare of the residents of the Village.

Statutory authority of the Village to enact these regulations was established by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective may 11, 1984), which specifically added groundwater protection to the statutory authorization for municipal planning and zoning to protect public health, safety and welfare.

(2) APPLICATION OF REGULATIONS.

(A) The regulations specified in this Wellhead Protection Ordinance shall apply to all lands that lie within the five year Time of Travel (TOT) or 1,200 feet minimum of each Village municipal well mentioned herein and are within the Village corporate limits.

(B) No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered and no development shall commence without full compliance with the terms of this ordinance and other applicable regulations.

(3) DEFINITIONS.

(A) Agricultural Activities. Agricultural activities include pesticide and/or fertilizer storage and use, septage and/or sludge spreading, animal waste landspreading, animal waste facilities and animal confinement facilities.

(B) Aquifer. A saturated, permeable geologic formation that contains and will yield significant quantities of water.

(C) Cone of Depression. This is the area where the water level is lowered by pumping.

(D) Five Year Time of Travel (TOT). The Five Year TOT is the recharge area upgradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater and potential contaminants will take five years to reach a pumping well(s). The Five Year TOT for the Village wells is estimated as a distance of 1,200 feet upgradient of the well.

(E) Groundwater Divide. Ridge in the water table, or potentiometric surface, from which groundwater moves away at right angles in both directions. Line of highest hydraulic head in the water table or potentiometric surface.

(F) Well Head Protection Area. Shall be defined to include the following areas:

1. Minimum separation distances specified in NR 811.12(4) (d)
2. A delineated area to be protected as calculated in part 5 of Well Head Protection Plan for each well.

(G) Natural Vegetation. Includes native trees, shrubs and prairie species and non-native plants, excluding lawns.

(H) Net Lot Area. Determined by subtracting the area of the building footprint, driveways and other impervious surfaces from the total lot area.

(I) Nonconforming Use. An existing lawful use of land, structure, building or accessory use which is not in conformity with the provisions of this ordinance.

(J) Recharge Area. Area in which water reaches the zone of saturation by surface infiltration and encompasses all areas or features that supply groundwater recharge to a well.

(K) Well Field. A piece of land used primarily for the purpose of locating wells to supply a municipal water system.

(4) WELL HEAD PROTECTION AREA. This consists of 2 separate areas:

Lands immediately surrounding the well. The limitations placed on this area are those specified in

the Administration Code under 12.26(4)(A).

Lands within the Well Head Protection Area of the well under 12.26(4)(B).

The Well Head Protection Area for Well No. 5 is shown in the attached Well Head Protection Plan Well No. 5 which is made part of this Chapter.

(A) Administrative Code Separation Distances.

1. Intent. The area to be protected are the lands immediately surrounding the well. These lands are subject to the most stringent land use and development restrictions because of their close proximity to the well and the corresponding high threat of contamination.
2. Separation Distances.
  - a. 50' between a well and a storm sewer main.
  - b. 200' between a well and any sanitary sewer main, lift station or single family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current AWWA 600 specifications. In no case may the separation distance between a well and a sanitary sewer main be less than 50.
  - c. 400' between a well and a septic tank receiving less than 8,000 gallons per day, a cemetery or a storm water drainage pond.
  - d. 600' between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Department of Industry, labor and Human Relations or its designated agent under s. ILHR 10.10.
  - e. 1,000' between a well and land application of municipal, commercial or industrial waste; industrial, commercial or municipal wastewater lagoons or storage structures; and septic tanks or soil absorption units receiving 8,000 gallons per day or more.
  - f. 1,200' between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, one time disposal or small demolition facility; sanitary landfill; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from the Department of Industry, Labor and Human Relations or its designated agent under s. ILHR 10.10; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

(B) Well Head Protection Area.

1. Intent. The primary area to be protected is the land within 1,200' of the Well, known as the Well Head Protection Area. These lands are subject to the most stringent land use and development restrictions because of their close proximity to the well and the corresponding high threat of contamination.
2. Permitted Uses. The following uses are permitted uses within Cone of Depression Area:
  - a. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use.
  - b. Playgrounds.
  - c. Wildlife areas.
  - d. Non motorized trails, such as biking, skiing, nature and fitness trails.
  - e. Residential uses.
  - f. Agricultural uses.

g. Commercial and/or industrial uses, except those listed as prohibited below.

3. Prohibited Uses. The following uses are prohibited uses within the Cone of Depression Areas:

- a. Septage and/or sludge spreading.
- b. Animal waste facilities.
- c. Gas stations.
- d. Vehicle repair establishments, including auto body repair.
- e. Printing shop.
- f. Bus or truck terminals.
- g. Landfills or waste disposal facilities.
- h. Non municipal wastewater treatment facilities.
- i. Non municipal spray wastewater facilities.
- j. Junk yards or auto salvage yards.
- k. Bulk fertilizer and pesticide facilities.
- l. Asphalt products manufacturing.
- m. Dry cleaning facilities.
- n. Salt storage.
- o. Electroplating.
- p. Exterminating shops.
- q. Paint and coating manufacturing.
- r. Hazardous and toxic materials storage and use.
- s. Hazardous and toxic waste facilities.
- t. Radioactive waste facilities.
- u. Tire and battery services.
- v. Garage and vehicular towing.
- w. Public and municipal maintenance garages.
- x. Underground storage tanks.
- y. Other similar uses that pose a threat to groundwater quality.
- z. Mining/and or quarrying.

(5) OTHER PERMITTED USES.

(A) Individuals and/or facilities may request the Village to permit other land uses in the District.

(B) All requests shall be in writing to the Village and shall include an environmental assessment report.

(C) A copy of the Environmental Assessment Report shall be forwarded to the Village Administrator as designee for recommendation to the Village Plan Commission.

(D) Any permitted uses shall be conditional and may include required environmental and safety monitoring consistent with local, state and federal requirements, and/or bonds and/or sureties satisfactory to the Village.

(6) NONCONFORMING USES.

(A) General. Insofar as standards in this section are not inconsistent with the provisions of s. 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming uses. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

- 1. No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this section. For the purposes of this

section, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, rebuilding or replacement of any such existing structure or accessory use. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components.

2. If a nonconforming use is discontinued for 12 consecutive months, any future use of the land structure or building shall conform with the appropriate provisions of this Chapter.

(7) **REQUIREMENTS FOR EXISTING FACILITIES.**

(A) Facilities shall provide copies of all federal, state and local facility operation approvals or certificate and on-going environmental monitoring results to the Village.

(B) Facilities shall provide additional environmental or safety structures/monitoring as deemed necessary by the Village, which may include but are not limited to stormwater runoff management and monitoring.

(C) Facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.

(D) Facilities shall have the responsibility of devising and filing with the Village for the immediate notification of Village officials in the event of an emergency.

(E) In the event the individual and/or facility causes the release of any contaminants which endanger the District, the activity causing said release shall immediately cease and a cleanup satisfactory to the Village shall occur.

(F) The individual/facility shall be responsible for all costs of cleanup, Village consultant fees at the invoice amount, plus administrative costs for oversight, review and documentation.

(8) **ENFORCEMENT AND PENALTIES.**

(A) **Violations.** It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this ordinance. In case of any violation, the Village of Sussex Board may institute appropriate action or proceedings to enjoin a violation of this ordinance.

(B) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit not less than \$100.00, nor more than \$500.00 plus the costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall have such costs added to their real property as a lien against the property. Each day a violation exists or continues shall constitute a separate offense.

**12.27 - 12.29 Intentionally Left Blank (Reserved for Future Use)**

**12.30 PENALTIES.** Any person who shall violate any provision of this subchapter or rules or regulations established by the Board relating to the Village water system, any person who shall turn on the water into any premises from which the water has been shut off or has not yet been turned on, any person who shall connect any water main or service pipe without a permit therefor or any person who shall violate any provision of State Statutes applicable hereto, Wis. Adm. Code or any other provision which are incorporated by reference shall upon conviction therefor forfeit not less than \$35.00 nor more than \$300.00 plus costs of prosecution. In default of payment of such forfeiture and costs, he shall be imprisoned in the County Jail until

payment of such forfeiture and costs of prosecution, but not exceeding 90 days for each violation. If the violation continues, each day the violation is allowed to continue shall be considered a separate violation.