

# Village of Oliver

## Chapter 205. Water Utility

Section 1. General

Section 2. Definitions

Section 3. User Rules and Regulations

Section 4. Regulations for Plumbers, Water Users and Others

Section 5. Water User Charge System

Section 6. Miscellaneous Rules and Regulations

### Section 1. General

- A. Administration. The management, operation, and control of the water system for the Village of Oliver is vested in the Village Board of said Village of Oliver; all records, minutes and all written proceedings thereof shall be kept by the Clerk of the Village of Oliver and all financial records shall be kept by the Treasurer of the Village of Oliver.
- B. Utility powers. The water utility of the Village of Oliver shall have the power to construct facilities for pumping, treating and storing drinking water and to construct water lines for public use, and shall have the power to lay water pipes in and through the alleys, streets, and public grounds of the Village of Oliver, and generally, to do all such work as may be found necessary or convenient in the management of the water system. The Village of Oliver shall have power by themselves, their officers, agents, and servants, to enter upon any land for the purpose of making examination or supervise in the performance of their duties under this chapter, without liability therefore, and the Village Board may acquire all real and personal property which may be necessary for construction of the water system, or for any repair, remodeling, or additions thereto.
- C. Condemnation of Real Estate. Whenever any real estate or any easement therein, or use thereof, shall in the judgment of the Village Board be necessary to the water system; and cannot be made with the owner thereof, the Village Board shall proceed with all necessary steps to take such real estate easement, or use by condemnation in accordance with Wisconsin Statutes and, if Federal Funds are used, the Uniform Relocation and Real Property Acquisition Policy Act of 1970, as amended.
- D. Title to Real Estate and Personal Property. All property, real, personal, and mixed, acquired for the construction of the water system, and all plans, specifications, diagrams, papers, books and records connected therewith said water system, and all buildings, machinery, and fixtures pertaining thereto, shall be the property of said Village of Oliver.
- E. Maintenance of Services. The Owner shall maintain water service from the street main to the house and including all controls between the same, without expense to the Village, except when they are damaged as a result of negligence or carelessness on the part of the Village. All water services must be maintained free of defective conditions, by and at the expense of the Owner or occupant of the property. When any water service is to be relaid and there are two or more buildings on such service, each building shall be disconnected from such service and a new water service shall be installed for each building.

## Section 2. Definitions

The following definitions are applicable to this chapter:

**BUILDING LATERAL** shall mean the extension of the public water system ending at the outside of the inner face of the building wall.

**CUSTOMER** shall mean any entity which purchases water from Village water system.

**DEBT SERVICE CHARGES** shall include all costs associated with repayment of debts incurred for the construction and/or rehabilitation of the water system.

**OPERATION AND MAINTENANCE COSTS** shall include all costs associated with the operation and maintenance of the water system.

**PERSON** shall mean any and all persons, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency, or other entity.

**REPLACEMENT COSTS** shall include all costs necessary to accumulate the resources to replace equipment as required to maintain capacity and performance during the design life of the facility. A separate segregated replacement fund shall be established and used for only replacement of equipment.

**VILLAGE** shall mean the Village of Oliver, Wisconsin.

## Section 3. User Rules and Regulations

- A. **User Rules and Regulations.** The rule, regulations, and water rates of the Village of Oliver of Douglas County, Wisconsin, hereinafter set forth shall be considered a part of the contract with every person, company or corporation who is connected with the water system of the Village of Oliver and every such person, company, or corporation by connecting with the water system shall be considered as expressing their assent to be bound thereby. Whenever any of said rules and regulations, or such others as the said Village of Oliver may hereafter adopt are violated, the service shall be shut off from the building or place of such violation (even though two or more parties are receiving service through the same connection), and shall be re-established by order of the Village Board and on payment of all areas, the expenses and established charges of shutting off and turning on, and such other terms as the Village Board may determine, and a satisfactory understanding with the party that no further cause for complaint shall arise. In case of such violation, the Village Board, may declare any payment made for the service by the party or parties committing such violation, to be forfeited. The right is reserved by the Village Board to change said 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.
- B. **General Purpose.** This Ordinance regulates the use of public and private water lines within the Village of Oliver. It provides for and explains the method used for levying and collecting water service charges and enables the Village of Oliver to comply with administrative provisions, water quality requirements, and other criteria which are required or authorized by the State of Wisconsin or Federal law.
- C. **Revenues.** This Ordinance provides a means for setting of charges and fees, and the issuing of permits to certain users. Revenues derived from the application of this Ordinance shall be used to defray the capital and operational costs of operating and maintaining an adequate water system and to provide sufficient funds for capital outlay, debt service costs and capital improvements.
- D. **Charges and Fees.** The charges and fees herein have been established pursuant to requirements of the Wisconsin Statutes.
- E. **Supersede Previous Ordinances.** This ordinance shall supersede any previous Ordinance, Rules or Regulations; and shall repeal all parts thereof that may be inconsistent with this Ordinance and any applicable Statute, the State Statute shall be controlling.

## Section 4. Regulations for Plumbers, Water Users and Others

The following rules and regulations for the government of licensed plumbers, water users, and others, are hereby adopted and established:

- A. Plumbers. No plumber, pipe fitter, or other person will be permitted to do any plumbing or pipe fitting work in connection with the water system without first receiving a license from the State of Wisconsin. All work performed by plumbers including service connections to the water main shall comply with the Department of Commerce Chapter 82 state plumbing code, and Wisconsin Department of Natural Resources regulations.
- B. Users.
  1. Mandatory Hook-up.
    - a. The owner of each parcel of land adjacent to a water main on which there exists a building usable for human habitation or a new building usable for human habitation is constructed or in a block through which such system is extended, shall make an application and upon approval will connect to such system within 10 days notice in writing from the Village. Upon failure to do so the Village may cause such connection to be made and bill the property owner for such costs. If such costs are not paid within 30 days, such notice shall be assessed as a special tax lien against the property, however, the owner may with 30 days after the completion of the work file a written option with the Village stating that he or she cannot pay such amount in one sum and ask that there be levied in not to exceed 5 equal installments and that the amount shall be so collected with interest at the rate of 15 percent per annum from the completion of the work, the unpaid balance being special tax lien, all pursuant to Section 281.45, Wisconsin Statutes.
    - b. In lieu of the above, the Village at its option may impose a penalty for the period that the violation continues, after 10 days written notice to any Owner failing to make a connection to the water system of a fine as set by the Village Board and the costs of prosecution. Upon failure to make such payment said charge shall be assessed as a special tax lien against the property, all pursuant to Section 281.45, Wisconsin Statutes.
    - c. This ordinance ordains that the failure to connect to the water system is contrary to the minimum health standards of the Village and fails to assure preservation of public health, comfort, and safety of the Village.
  2. Application for Service.
    - a. Every person connecting with the water system shall file an application in writing to the Village Clerk, in such forms as is prescribed for that purpose. Blanks for such applications will be furnished at the office of the Village of Oliver. The application must fully and truly identify all uses which will be allowed; additional uses may be identified at a later date by submitting an updated application for approval by the Village of Oliver. If the applicant is not the owner of the premises, the written consent of the owner must accompany the application. Persons connected to the water system of the Village of Oliver are referred to herein as "Users."
    - b. The application may be for service to more than one building, or more than one unit of service through one service connection; and in such case, charges shall be made accordingly.
    - c. If it appears that the service applied for will not provide adequate service for the contemplated use, the Village of Oliver may reject the application. If the Village of Oliver approves the application, it shall issue a permit for services as shown on the application.
  3. Tap Permits. After water connections have been introduced into any building or upon any premises, no plumber shall make any alterations, extensions, or attachments, unless the party

ordering such tapping or other work shall exhibit the proper permit for the same from the Village Board.

4. **Connection Charge.** Persons attaching to a water main shall have the lateral from the water main installed at their own expense. Connection fee, as set by the Village Board, is due to the Village of Oliver at the time of application for service.
5. **User to Keep in Repair.** All users shall keep their own service in good repair and protected from frost, at their own risk and expenses, and shall prevent any unnecessary overburdening of the water system.
6. **User Use Only.** No user shall allow others or other services to connect to the water system through his lateral.
7. **User to Permit Inspection.** Every user shall permit the Village of Oliver, or their duly authorized agent, at all reasonable hours of the day, to enter their premises or building to examine the pipes and fixtures, and the manner in which water connections operate; and they must at all times, frankly and without concealment, answer all questions put to them relative to its use in accordance with this ordinance and Section 196.171, Wis. Stats., as amended.
8. **Utility Responsibility.** It is expressly stipulated that no claim shall be made against the Village of Oliver or its officers, agents and employees by reason of the breaking, clogging, stoppage, or freezing of any building water lines; nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary to shut off the water service within any district of the Village of Oliver, the Village Clerk shall, if practicable, give notice to each and every consumer within such affected district at the time when such service will be shut off.
9. **Vacating of Premises and Discontinuance of Service.** The user shall be responsible for all costs to disconnect and cap the building water lateral. Inspection by the Village water operator will be required prior to backfilling.

#### C. Excavations.

1. In making excavations in streets or highways for laying service pipe or making repairs, the paving and earth removed must be deposited in a manner that will occasion the least inconvenience to the public and maintain access to all homes and businesses.
2. No person shall leave any such excavation made in any street or highway open at any time without barricades; and during the night, warning lights must be maintained at such excavations.
3. In backfilling the opening, after the service pipes are laid each layer shall be thoroughly compacted so as to prevent settling. This work together with the replacing of sidewalks, ballast and paving, must be done so as to make the street, at least, as good as before it was disturbed, and satisfactory to the Village Board. No opening of the streets for tapping the pipes will be permitted when the ground is frozen.

#### D. Tapping the Mains.

1. No person, except those having special permission from the Village Board, or persons in their service and approved by them, will be permitted, under any circumstances to tap the mains. The kind and size of the connection with the pipe shall be that specified in the permit or order from the Village Board.
2. Pipes should always be tapped on the top-half, and not within 6 inches (15 cm) from a joint, or with 24 inches (60 cm) of another lateral (building water or service connection) connection. All service connections to mains must comply with Wisconsin State plumbing code. Lateral connections (building water or service connection) to existing water mains shall be made with saddles and by coring the existing water main.

- E. Installation of House Laterals.
  - 1. All building laterals on private property will be installed in accordance with State of Wisconsin Administrative Code Chapter including COMM 82 "Design, Construction, Installation, Supervision and Inspection of Plumbing."
  - 2. Per Section the Wisconsin Administrative Code, all laterals will be inspected. "The building water and/or private water main shall be inspected upon completion of placement of the pipe and before backfilling; and tested before backfilling."
- F. Extensions. The Village shall extend water mains to a new person(s) in accordance with the following charges and the following conditions:
  - 1. When an extension of a water main is required by the prospective use, said person shall make an application on such a form as is prescribed for that purpose for such an extension in writing to the Village by filing of such an application, the Village shall first determine the logical location of the next valve(s) and hydrant(s). Next, the Village shall determine the length and location of the extension, taking into consideration the prospective demand for service, the capacity of the facilities, and the orderly development of the particular area. No extension shall be made for a distance less than to the next valve or hydrant. All water extensions shall be constructed in compliance with local and state laws, ordinances, and regulations.
  - 2. The person who requests the extension shall pay the entire cost of said extension including the valve(s) or hydrant(s) that are part of the extension. If more than one user is involved, the entire cost shall be divided among those users. The person requesting the extension may recover pro-rata shares of the cost of installing the water extension from subsequent owners who are benefitted by the extension in accordance with a recapture agreement between the developer, the Village, and if necessary, future users. All of the terms and conditions of such an agreement must be presented to the Village and be acceptable to the Village before such recovery of development costs can be paid by subsequent users and the terms of such recapture agreement shall be fully in compliance with existing Wisconsin law.
  - 3. If the Village has extended the water mains any subsequent user (other than a user who made an original pro-rata contribution to the cost of the extension) shall be required to pay the Village their pro-rata share of the lot or lots owned by the new attaching user as if said new user had been one of the original contributors.

## **Section 5. Water User Charge System**

- A. Policy. It shall be the policy of the village to obtain sufficient revenues to pay the costs of the operation and maintenance of the water facilities, including a replacement fund (i.e., an account to be used for future expenditures for obtaining or installing equipment, accessories or appurtenances which are necessary to maintain the capacity and performance of the water system during the service life for which such facilities were designed and constructed), through a system of water service charges as defined in this Section. The system shall assure that each user of the water system pays their proportionate share of the cost of such facilities.
- B. Basis for Service Charge. The minimum monthly billing shall be sufficient to pay all outstanding debt payments, replacement, operating and maintenance, and administrative expenses of the water system. The unit price per volume charge shall be used to contribute to a capital reserve fund for replacing and upgrading the water system.
- C. Water Service Charge. A water service charge is hereby imposed upon each lot, parcel of land, building, or premise served by the public water system given that capacity for service exists within the system. Such water service charge shall be payable as hereinafter provided and in amount determined by resolution of the Village Board of Oliver.
- D. Unit of Service Definition. When a consumer's premises has several buildings, for which services are eligible and such buildings are used in the same business and connected by the user, the Village Board shall set a separate rate for such a complex.

- E. Metering of Use. Devices for measuring the volume of water consumed by each user shall be installed for all users.
- F. Lateral Charge. In those instances where a lateral serves a property but is not connected to a structure and there is no service to the property given that capacity for service exists within the system, a monthly lateral charge shall be assessed. Said charge shall be in an amount set by resolution of the Village Board and shall be equal to the lowest water service charge.
- G. Payment for Charges.
1. Payment and Penalty. The water service charge shall be paid monthly, and shall be payable to the Village Treasurer not later than 30 days after billing by the Village for each period.
    - a. All charges for water service shall be made monthly. If water payment is not received within 30 days of statement, a late fee will be assessed. In addition, a late fee will be assessed with each subsequent statement until paid in full. Statements to delinquent users will be issued each month until paid in full. Partial payments will be accepted at any time, but the full amount of the bill, including all late fees, remains due within 30 days of the statement. Late fees will accrue to any amount which has not been paid as of the 30<sup>th</sup> day, and at the time of subsequent statements. Failure to receive a bill shall not excuse non-payment.
    - b. Any user having not paid their water bill for 3 consecutive months shall be considered grossly delinquent and issued a notice on the twenty-first (21<sup>st</sup>) day after the end of the third delinquent month. This notice will be sent by registered mail or served personally to a household member 14 years of age or older. If payments not received within 5 days of this notice, water service will be disconnected at the user's expense. Fees for disconnection and reconnection shall be set by resolution of the Village Board of Oliver. The cost for disconnection shall be the disconnection fee plus the actual amount incurred by the Village to hire a licensed contractor to perform the disconnection. The cost for reconnection shall be the reconnection fee plus the actual amount incurred by the Village to hire a licensed contractor to perform the re-connection. These rates and all delinquent charges shall be paid in full before re-connection takes place. In addition, a deposit, set by resolution of the Village Board of Oliver, shall be paid to the Village as security for future delinquency. This deposit shall be non-interest bearing, and will be returned after 3 consecutive months have elapsed during which the account has been paid in full in a timely fashion. Paying the oldest statement up does not excuse the delinquent user from being considered grossly delinquent. At the time the Village is required to implement this section, the user will be charged an administrative service fee to be set by resolution of the Village Board of Oliver. Any user who pays the water bill on the day disconnection is to take place is responsible for all fees and charges made by the contractor hired to perform the disconnection (regardless of whether the equipment is used that day). Such fee will be due and payable on the same day.
    - c. In the event that a structure which is connected to the water system is destroyed or demolished, removed and not replaced the following shall apply:
      1. The lateral connecting the structure to the main shall be removed as per this ordinance and the disconnection fee paid.
      2. All back water water utility fees are to be paid at time of disconnection.
      3. The property shall continue to be assessed and be responsible for paying the monthly water lateral charge. If a new structure is subsequently built upon the lot and part or all of the monthly water lateral charges are in arrears, the Village may, upon request of the property owner, waive part or all of the unpaid charges.
      4. If a new structure is built on the lot, a new lateral connection shall be built as per this ordinance along with payment of the connection charge and reconnection administrative fee. In addition, if the Village has outstanding debt on the water utility system an additional debt service reconnection charge shall be assessed.

- d. In addition to all other remedies, the Village may seek recourse in small claims court for any delinquent charges or assessments, plus court costs.
2. Charges a Lien. All water service charges shall be a lien upon the property serviced pursuant to Section 66.076(7), Wisconsin Statutes, and shall be collected in the manner therein provided.
3. Disposition of Revenue. The amounts received from the collection of charges authorized by this Ordinance shall be credited to the water utility account which shall show all receipts and expenditures of the water system. Charges collected for replacement expenses shall be credited to a segregated, non-lapsing replacement account. These funds are to be used exclusively for replacement. When appropriated by the Board, the credits to the water utility account shall be available for the payment of the requirements for operation, maintenance, repairs, and depreciation of the water system. Any surplus in said account shall be available for the payment of principal and interest of bonds issued and outstanding, or which may be issued, to provide funds for said water system, or part thereof, and all or a part of the expenses for additions and improvements and other necessary disbursements or indebtedness, and the Board may Resolve to pledge each surplus or any part thereof for any such purpose. All present outstanding water system general obligation bonds, including the refunding bonds, shall be paid from this fund as to both principal and interest.
4. Additional Charges. Additional charges shall be imposed upon each lot, parcel of land, building, or premises served by the public water system located outside the boundaries of the Village to equalize local capital costs. Such additional charges shall result in a minimum charge for each user according to the schedule for debt repayment from utility revenues. Such additional charges shall be added to the water bill for each billing period.
5. Excess Revenues. Excess revenues collected will be applied to operation and maintenance costs for the next year.
- H. Annual Audit. The Village shall have conducted an independent Annual Audit, the purpose of which shall be to ensure that adequate revenues are available relative to increasing operation, maintenance and replacement costs and debt retirement. The findings and recommendations of this audit shall be posted at the Village Hall.
- I. Violations and Penalties.
  1. Damages.
    - a. It shall be unlawful for any person to willfully injure the water system, or any building, machinery, or fixture pertaining thereto, or, to willfully and without authority of the Village Board, bore or otherwise cause to leak, any tunnel, aqueduct, reservoir, pipe or other thing used in the system for pumping, holding, treating, or conveying water.
    - b. Damage Recovery. In addition to any other penalty provided by this Ordinance or other law, the Village of Oliver shall have the right of recovery from any responsible persons of any expense incurred by the Village of Oliver for penalties imposed on the Village due to a violation of this Ordinance or other law, correction of conditions impairing the proper operation of the water system and the repair or replacement of any water pipe or other property of the water system damaged in any manner by any negligent or intended act or omission by such person or by others under their control.
    - c. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.
  2. Written notice of violation. Any person connected to the water system found to be violating a provision of this Ordinance shall be served by the Village with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

3. Continued Violations. Any person, partnership, or corporation, or any officer, agent, or employee thereof, who shall continue any violation beyond the aforesaid time limit, shall, upon conviction thereof, forfeit an amount to be set by the Village Board of Oliver together with the costs of prosecution. In default of payment of such forfeiture and costs, said violator shall be imprisoned in the County Jail for a period not to exceed 5 days. Each day in which any violation is continued beyond the aforesaid time limit shall be deemed a separate offense.
4. Liability to Village for Losses. Any person violating any provision of this Ordinance shall become liable to the Village for any expense, loss, or damage occasioned by reason of such violation.
5. Damage Recovery. The village shall have the right of recovery from all persons, any expense incurred for the repair or replacement of any part of the water system damaged in any manner by any person for any work under their control, or by any negligent acts.
6. Penalties. Any person who shall violate any of the provision of this Ordinance, rules or regulations of the Village or who shall connect a service pipe (lateral) without first having obtained a permit; or who shall violate any provisions of the Wisconsin Statutes, Wisconsin Administrative Code, or any other materials which are incorporated by reference, shall upon conviction thereof forfeit an amount to be set by the Village Board of Oliver and the costs of prosecution. This, however, shall not bar the Village from enforcing the connection duties set out in Section 4B.1 for mandatory hookup.
7. Appeal Procedures. Any user, affected by any decision, action, or determination, including cease and desist order, made by the interpreting or implementing provisions of this Ordinance file with the Village a written request for reconsideration within 10 days of the date of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration. The Village upon receiving the request for reconsideration shall publish the request in the official newspaper. The Board shall render a decision on the request for reconsideration to the user in writing within 15 days of the receipt of request. If the ruling on the request for reconsideration made by the Board is unsatisfactory, the person requesting reconsideration may, within ten days after notification of the action, file a written appeal with the Village.

## **Section 6. Miscellaneous Rules and Regulations**

- A. Damage Recovery. In addition to any other penalty provided by this Ordinance or other law, the Village of Oliver shall have the right of recovery from any responsible persons of any expense incurred by the Village of Oliver for penalties imposed on the Village due to a violation of this Ordinance or other law, correction of conditions impairing the proper operation of the water system and the repair or replacement of any water pipe or other property of the water system damaged in any manner by any negligent or intended act or omission by such person or by others under their control.
- B. Charges are a Lien on Property. All water services, charges, and special assessments shall be a lien on a lot, part of a lot, or land on which water services were supplied. All sums which have accrued during the preceding year and which are unpaid by the first day of October of any year, shall be certified by the Village Clerk to be placed on the tax roll for collection as provided by Wisconsin Statutes.
- C. Validity.
  1. Repeal of Conflicting Ordinances. All ordinances, resolution, orders or parts thereof heretofore adopted, enacted or entered in conflict with this Ordinance are hereby repealed.
  2. Severability. If any section, subsection, sentence, clause, or phrase of the ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Village Board hereby declares that it would have passed this ordinance and section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more section, subsection, sentences, clauses, and phrases be declared unconstitutional.

3. Amendments. The Village, through its duly qualified governing body, may amend this Ordinance in part or in whole whenever it may deem necessary.

History: Ordinance 2011-5 adopted May 31, 2011.