

AGENDA REPORT

SUBJECT: Stormwater Improvement Financing Options:
Stormwater Utility

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REF: August 2, 2011 Council Agenda, pp. 26 - 39

DATE: August 11, 2011

Introduction

At the August 2, 2011, regular Council meeting the Council received a comprehensive report on the storms of July 22-23, and on possible infrastructure improvements. Part of that report included preliminary information on the Village's options for financing stormwater improvements. (August 2, 2011, Agenda pp. 31 – 35) In the course of its discussions, the Council requested further information on stormwater utilities.

Pursuant to that request, this memo provides a more detailed explanation of the nature, purpose and legal structure of stormwater utilities, the procedural steps for establishing a stormwater utility, and the policy issues that need to be decided along the way. In addition, this memo also provides a table listing the advantages and disadvantages of the different financing methods that were identified in the August 2 agenda materials.

Two other points should be noted at the outset. First, the purpose of this memo is to provide the Council with more information, rather than to ask the Council to decide on a course of action at this time. As the list of policy issues below discloses, there are other decisions to be made, and more information to be gathered, before the Council will be in a position to decide which of the financing options is most appropriate. Second, although any discussion of a stormwater utility necessarily includes a discussion of all financing alternatives, this memo is intended to provide detailed information only on the stormwater utility method, as requested by the Council, rather than to recommend a particular financing method.

Discussion

1. What is a stormwater utility?

There are three general ways to define a utility: (i) by the nature of the commodity or service provided, (ii) by the nature of ownership, and (iii) by the way in which they are governed.

The functional concept of utilities is widely understood, because utilities touch our everyday lives. The most familiar of the utilities are those that provide the service of delivering a commodity to the customer, such as water, electricity, telephone service and natural gas. Less familiar are the utilities that provide the service of removing products from the customer's premises. Stormwater utilities fall into this latter category, as do refuse services, and sanitary sewer services.

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Like the Village's water, electric, refuse and sanitary sewer utilities, a stormwater utility would be owned and operated by the Village. Like all municipal utilities (and unlike investor owned utilities, which are subject to the Illinois Commerce Commission), a Village stormwater utility would be governed and regulated by the Village itself.

More specifically, a Village of Winnetka stormwater utility would provide a mechanism for funding capital improvements designed to protect properties within the Village through a stormwater mitigation program that includes collecting, detaining and transporting stormwater at controlled rates of flow so that it is ultimately deposited into its natural outflows in the Skokie River and Lake Michigan.

2. What are the benefits of a stormwater utility?

There are two principal benefits to establishing a stormwater utility.

First, because the Village already provides the basic services that a stormwater utility would provide, the primary benefit of establishing a stormwater utility is that it would create an identifiable, predictable revenue stream that would be designated solely for the capital improvements to the stormwater system. This dedicated revenue stream would enable the Village to issue revenue bonds, making large sums of money available as necessary to fund large-scale improvements to the existing stormwater management system, while allowing the debt to be paid down over time as the system is used.

Revenues of the stormwater utility would be deposited into a new enterprise fund that would be created solely for the stormwater utility. This enterprise fund would operate in the same manner as the Village's four other enterprise funds, which manage and account for the revenues and operating costs of the Village's water, electric, refuse and sanitary sewer utilities. (Currently, the operations of the existing stormwater infrastructure is funded through property taxes and is accounted for in the Village's General Fund.)

Second, as with the other enterprise funds, user fees would be developed to fund the stormwater utility. User fees would be designed to provide an equitable measurement of the impact that each property in the Village has on stormwater flows. Because user fees would apply to all properties, regardless of their tax status, creation of a stormwater utility is generally regarded as a more equitable means of funding major stormwater management improvements. (User fees are discussed in greater detail in point 4, below.)

3. How is a stormwater utility established?

From a procedural standpoint, establishing a stormwater utility is a straightforward process, as the Village's home rule status enables it to create a stormwater utility by enacting an ordinance. The ordinance would add a new chapter to Title 13 of the Village Code, which contains the chapters that establish and govern the Village's water, electric and sewer systems. (The Village's refuse removal system is governed by Chapter 8.16 of the Village Code, which is part of the Village's health and safety regulations.)

Drafting the actual ordinance establishing a stormwater utility requires considering the purpose of the ordinance as well as the nature and extent of the improvements. For example, the

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stormwater utility provisions in some Illinois communities include not only the basic utility fees and billing provisions, but also construction, development and usage regulations pertaining to storm drainage and floodplain management infrastructure, which makes for a lengthy, complex ordinance. Other Illinois municipalities, such as Highland Park, have focused simply on creating the stormwater utility fee, stating the purpose of the fee, and establishing billing and collection procedures. For such municipalities, the development, storm and floodplain regulations are found in other locations in their municipal codes.

Winnetka's floodplain regulations (Chapter 15.68) are part of Title 15 of the Village Code, which governs all of construction and property development. Because there would be no need to develop a new regulatory scheme for stormwater management, Winnetka's new Code chapter could be as simple as Chapter 13.12, which governs the Village's sewer system. (See Attachment 2)

4. Who would run the stormwater utility?

As with the Village's other four utilities, a Village stormwater utility would be governed by the Village Council and operated by Village employees. No separate governing entity would be required. As noted above, the governing policies of the stormwater utility would be defined in the Village Code. The Department of Public Works, which also includes the Village Engineer, would continue to be responsible for the day-to-day operations of the system.

5. How are user fees established?

Procedurally, user fees would be set by the Village Council, which would adopt an annual rate resolution as it currently does for all of the Village's other utility services. However, the method of establishing the user fee is more complex than for the other utilities for, unlike the water, electric, refuse and sewer utilities, which can meter the amount of product delivered or measure the amount of waste removed or wastewater produced, a stormwater utility system handles water that cannot be metered.

The most commonly used metric for establishing stormwater user fees is through determining the intensity of development and impact of run-off by measuring impervious surfaces, developing units based on average residential equivalents, and setting a base rate per equivalent unit. The greater the impervious surface on a given parcel, the more equivalent units it would have, and the greater the charge would be.

The foregoing paragraph is a very skeletal and simplistic description of the rate structure, which requires engineering expertise to develop. However, the basic method is sound and has been upheld in Illinois courts. See *Church of Peace v. City of Rock Island*, 357 Ill.App.3d 471, 828 N.E.2d 1282, 293 Ill.Dec. 784 (3d Dist. 2005).

6. How does user fee financing compare with other methods of financing?

The several financing methods that were outlined in the August 2, 2011, fall into two general categories: (i) "pay-as-you-go," using available cash from general revenues and accumulated surplus, and (ii) long-term financing, using some form of bond. These methods are compared in detail in the table provided in Attachment 1 to this Agenda Report.

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7. What are the next steps?

It is necessary for the Council to gather additional information and address several policy issues before establishing a stormwater utility system and fund. Those further steps and decisions include the following:

- Obtain further information from Village Engineer and consulting engineer on engineering and cost estimates for stormwater system improvements.
- Decide on scope and scheduling of improvements.
- Determine cost of proposed improvements.
- Obtain information from Finance Director and Village Manager on project financing methods.
- Determine amount of project to be financed through revenue bonds.
- Obtain cost of service study and proposed rate methodology and structure from Village Engineer and consulting engineer.
- Obtain information from Village Engineer, consulting engineer and Village Attorney on scope of regulation needed to manage proposed improvements.
- Village Attorney to draft ordinance creating stormwater utility and resolution setting rates, with assistance from Village Engineer and consulting engineer.
- Adopt ordinance and resolution establishing stormwater utility and setting fees.

All of the foregoing decision points would be brought back to the Council for action as indicated in the proposed Timeline provided by the Village Engineer, so the project can continue to move steadily forward.

Reference Materials

The following materials are attached for the Council's reference:

- Attachment 1** Table listing advantages and disadvantages of the different financing methods for stormwater improvements
- Attachment 2** Title 13 of the Winnetka Village Code, "Municipal Utility Services"

Recommendation:

Information only. No action required.

ATTACHMENT 1

**Financing Stormwater Improvements
Comparison of Pay-as-You-Go (Cash) vs. Long-Term Financing (Bonds)**

Financing Method: Pay-as-you-go

NOTE: The signature characteristic of the pay-as-you-go method is that cash is required for all transactions: if there is insignificant cash to pay for an improvement as it is constructed, then the improvement cannot be made.

Source of Funds	Advantages	Disadvantages
Available Cash Reserves	<ul style="list-style-type: none"> • Village has significant cash reserves (\$17.23M), of which up to \$5M could be available • No additional procedural steps beyond normal budget, purchasing and contract process 	<ul style="list-style-type: none"> • Village policy to maintain minimum of \$11M for fund balance (~6 months, per GFOA standards) • Depletion of cash reserves reduces income potential of those funds • Depletion of cash reserves leaves them unavailable for other infrastructure projects for which they were accumulated • Cash reserves are needed to meet contingencies and emergencies • Cash reserves are insufficient to fund all improvements under consideration • Higher cash reserves support Village's high bond rating • Doesn't allocate costs based on use of the improvements
General Fund Revenues	<ul style="list-style-type: none"> • No additional procedural steps beyond normal budget, purchasing and contract process 	<ul style="list-style-type: none"> • Stormwater improvements must compete with all Village needs for fixed amount of dollars each year • Amounts available may fluctuate year to year, making it difficult to plan for large scale project • Setting aside significant funds for stormwater improvements would require reducing amounts allocated to general Village operations • Limited amount of funds makes it impossible to fund other significant projects, regardless of their importance • Doesn't allocate costs based on use of the improvements
Dedicated Revenues from User Fees	<ul style="list-style-type: none"> • Compatible with normal budget, purchasing and contract process • Dedicated revenues protect availability of general fund revenues for general operations and more routine capital expenditures 	<ul style="list-style-type: none"> • Fees may be insufficient to fund projects immediately • Need to accumulate revenues to be able to fund major projects can delay implementation • Implementing projects immediately could require prohibitively high fees

Financing Stormwater Improvements
Continuation of Comparison of Pay-as-You-Go (Cash) vs. Long-Term Financing (Bonds)

Financing Method: Long Term Financing

NOTE: Long term financing with bonds has three primary characteristics. First, it involves the borrowing of money that is to be repaid over a long period of time. Second, the source of the money is derived from the sale of bonds. Third, there must be an identified, long-term source of revenue sufficient to pay off the bonds as they become due.

Source of Funds	Advantages	Disadvantages
<p>Bond Proceeds in General</p> <ul style="list-style-type: none"> • Revenue Bonds • General Obligation Bonds • SSA Bonds 	<p>NOTE: The following advantages apply to <u>all</u> bond financings, regardless of the type of bond</p> <ul style="list-style-type: none"> • Spreads costs over life of the improvements • Maintains cash reserves, allowing cash to be invested and generate returns • Takes advantage of Village's high bond rating • Takes advantage of current market's low interest rates 	<p>NOTE: The following disadvantages apply to <u>all</u> bond financings, regardless of the type of bond</p> <ul style="list-style-type: none"> • Structuring and marketing bonds adds additional costs: (e.g., financial services, bond counsel, publication, bond ratings, bond sale, etc.)
<p>General Obligation Bonds</p>	<ul style="list-style-type: none"> • Combination of Village's Aaa bond rating and historically low interest rates create unique opportunity for spreading costs over time • Debt service is part of annual budget and tax levy process • No additional Village administration required because taxes are billed and collected by Cook County • Potential deductions from income taxes • Home rule status eliminates need for referendum to increase property taxes 	<ul style="list-style-type: none"> • May increase property taxes • All taxable properties pay, regardless of impact on system • No funds collected from tax exempt properties • Alternative minimum tax rate may remove availability of income tax deduction

Financing Stormwater Improvements
Continuation of Comparison of Pay-as-You-Go (Cash) vs. Long-Term Financing (Bonds)

Financing Method: Long Term Financing (Cont'd)

Source of Funds	Advantages	Disadvantages
Revenue Bonds	<ul style="list-style-type: none"> • Repaid through stormwater utility rates (i.e., user fees) imposed on all properties served by the utility • User fees can be collected from tax exempt properties • Home rule powers allow stormwater utility to be created by ordinance • User fees are set based on types of impact on the system (e.g., amount of impervious surface) rather than on property values • Rates and fees can be set on a systemwide basis, rather than by geographic areas for individual projects • System accounting is the same as for water and electric utilities • Does not require meter readers • Dedicated revenues protect availability of general fund revenues for general operations and more routine capital expenditures 	<ul style="list-style-type: none"> • Requires creating stormwater utility for collection of revenues • Requires setting user fees, which initially requires technical assistance to determine revenue requirement, measure impact of properties on system, and establishing classifications of fees • Requires Finance Department to create additional customer account records, plus billing and collection procedures • Additional burden on Finance Department Staff
Special Service Area Bonds	<ul style="list-style-type: none"> • Repaid through property tax levy only on areas served • Different areas can be created, based on benefits received • No additional Village administration required because taxes are billed and collected by Cook County • Dedicated revenues protect availability of general fund revenues for general operations and more routine capital expenditures 	<ul style="list-style-type: none"> • Requires separate special service area for each project area • Process includes publication, public hearing and post-hearing waiting period to allow for backdoor referendum petitions • Referendum petition delays implementation • Referendum vote could result in cancellation of project • Increases property taxes in assessed areas • May be additional layer of tax on top of existing SSAs: SSA 3 (Trapp Lane), SSA 4 (Locust-Rosewood Alley), SSA 5 (Rosewood-Glendale Alley) • No funds collected from tax exempt properties

ATTACHMENT 2

Winnetka Village Code

Title 13

MUNICIPAL UTILITY SERVICES

Chapters:

- 13.04 - MUNICIPAL WATER SYSTEM**
- 13.08 MUNICIPAL ELECTRIC SYSTEM**
- 13.12 MUNICIPAL SEWER SYSTEM**

Chapter 13.04

MUNICIPAL WATER SYSTEM

Sections:

- 13.04.010 Water service by Village.**
- 13.04.020 Rules and regulations.**
- 13.04.030 Meters.**
- 13.04.040 Charges for water service.**
- 13.04.050 Reading meters--Issuance of bills.**
- 13.04.060 Effect of nonpayment of bill.**
- 13.04.070 Application for water service.**
- 13.04.080 Inspection of premises.**
- 13.04.090 Piping and fixtures.**
- 13.04.100 Water service connections.**
- 13.04.110 Accessibility, maintenance, use and protection of fire hydrants.**
- 13.04.120 Charges for the maintenance and availability of fire suppression and emergency paramedical and rescue services.**
- 13.04.130 Turning on water after service discontinued.**
- 13.04.140 Excavations near mains or service connections.**
- 13.04.150 Temporary water service during construction.**
- 13.04.160 Water emergency use plan.**
- 13.04.170 Water conservation.**
- 13.04.180 Cross-connection control.**
- 13.04.190 Referendum for disposition of property.**

Section 13.04.010 Water service by Village.

A. Water Utility. It is lawful for the Village to own and operate a water utility consisting of such plant, equipment, pipes and property, and any appurtenances, used or intended to be used to pump, purify, store, transmit, distribute and to sell water from Lake Michigan to all water users located within the corporate limits of the Village and to such water users outside of the corporate limits as the Council of the Village determines, in the exercise of its discretion, may reasonably be supplied with water without interfering with or impairing water service to users within the Village.

B. Operation of Water Utility. The Municipal Water Utility shall be operated by the Water and Electric Department established in Chapter 2.68 of this code.

C. Use of Municipal Water Utility Required. All water service to any location within the corporate limits of the Village shall be provided by the Municipal Water Utility.

D. Terms and Conditions of Service. All water service shall be provided in accordance with the provisions of this chapter and the rules and regulations promulgated pursuant to this chapter. In addition, all water service to other municipalities and to any individual users outside of the corporate limits of the Village may be provided only pursuant to written agreements, the terms of which have been authorized and approved by the Village Council. Agreements for water service outside of the corporate limits of the Village may include such terms and conditions in addition to the provisions of this chapter and the rules and regulations of the Water and Electric Department as the Village Council, in the reasonable exercise of its discretion, may determine to be in the best interests of the Village, its Municipal Water Utility, and the

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water utility customers located within the corporate limits. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.01)

Section 13.04.020 Rules and regulations.

The Village Manager shall adopt such rules and regulations as may be necessary to give effect to and explain the provisions of this chapter. The Water and Electric Director shall make recommendations to the Village Manager regarding the content of the rules and regulations and shall enforce the rules and regulations once they are adopted. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.02)

Section 13.04.030 Meters.

A. Meters Required. Unless otherwise specifically provided in this chapter, all water services shall be metered.

B. Meters to be Provided by Village. The Water and Electric Department shall provide meters, to be located upon all premises furnished with water service, for the purpose of metering the quantity of water supplied by the Village to such premises. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.03)

Section 13.04.040 Charges for water service.

A. Establishing Rates and Fees. Each person using water furnished by the Water and Electric Department to any building or premises shall be charged for such service in accordance with rates, fees and charges established from time to time by resolution of the Village Council. All resolutions setting or amending rates, fees and other charges for water service shall be introduced at one meeting and adopted at a subsequent meeting.

B. Additional Charges for Failure to Pay Bill. If any bill for water service is not paid within the payment period prescribed by resolution, a late payment penalty of five percent shall be added to the bill and collected from the user.

C. Collection Costs. Any unpaid bill that is turned over for collection shall be subject to an additional charge, the amount of which shall be established by the Village Manager, upon the recommendation of the Director of Finance, in an amount sufficient to recover the Village's costs of carrying and collecting the debt. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.04)

Section 13.04.050 Reading meters—Issuance of bills.

A. Reading Meters. Water meters shall be read periodically and bills for water service shall be payable at Village Hall at the time provided for by the applicable rate resolution.

B. Estimate of Water Consumption and Sewer Usage. Whenever for any cause any water meter shall fail to register accurately the amount of water used, consumed or delivered to any premises, the Water and Electric Director is authorized to estimate the amount of water used, consumed or delivered to such premises. The estimate shall be based on any relevant information available to the Village, including the average amount of water used, consumed or delivered to the premises as shown by the records of the Water and Electric Department during the corresponding period of the preceding year. Such estimate shall be the basis for billing for water and sewer service to such premises. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.05)

Section 13.04.060 Effect of nonpayment of bill.

A. Discontinuance of Service. Any account for water service for which payment is not received within the time prescribed in the applicable rate resolution shall be considered a delinquent account, and it shall thereupon be the duty of the Water and Electric Department to discontinue service until the delinquent account is paid in full or an enforceable payment plan has been entered into as provided in Section 1.04.140(C) of this code. A disconnection charge shall be charged to the customer's account, in an amount set by resolution of the Village Council introduced at one meeting and adopted at a subsequent meeting.

B. Unpaid Accounts Constitute Lien. All unpaid amounts of rates, fees and charges for water service shall constitute a lien against the property to which service was provided, to the extent such lien is authorized by law.

C. Effect of Delinquent Accounts. All delinquent water or sewer accounts shall be subject to the provisions of Section 1.04.140 of this code. In addition, no person with a delinquent water or sewer account shall either be allowed a new water service connection at another location served by the Municipal Water Utility, or a change or upgrade of the service at the premises for which the delinquent account has accrued, unless the account is paid in full or an enforceable payment plan has been agreed to by the Village.

D. Security Deposits. The Village may require a security deposit from existing customers under the following circumstances:

1. If the customer's wires, pipes, meters or other service equipment have been tampered with and the customer has benefited from the tampering;
2. If the customer has paid late two times within any twelve (12) month period; or
3. If the customer's service has been discontinued for nonpayment of bills. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.06)

Section 13.04.070 Application for water service.

A. Application. Any person owning premises either within the corporate limits of the Village or otherwise adjacent to the water distribution system of the Village, may obtain water service by signing an application or contract in the regular form used by the Water and Electric Department at the time of application, and providing for the appropriate security, if any, required under subsection B of this section. The application for service shall contain an agreement that the applicant will conform to all the provisions of this code, to all applicable resolutions and to all of the rules and regulations of the Water and Electric Department as a condition to receiving water service from the Village.

B. Cash Deposits. Collection of a cash deposit in an amount equal to the estimated maximum for the bill for the billing cycle (as determined by the Finance Director) of an applicant for water or sewer service if the applicant is not owner of the premises to which the service is to be provided. In lieu of such deposit, the applicant may file an agreement, signed by the owner of the premises, agreeing to pay on demand the amount of any bills for services rendered to the nonowner applicant. The deposit shall be not less than twenty-five dollars (\$25.00) and shall be used first in payment of the final bill for services rendered and the balance, if any, returned to the depositor. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.07)

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Section 13.04.080 Inspection of premises.

Before any water shall be supplied by the Village to any premises in the Village, the water piping, meter location and installation, water service connections, fixtures, plumbing and drains of such premises shall be inspected the Village. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.08)

Section 13.04.090 Piping and fixtures.

No water shall be supplied to any premises by the Village if the water piping, meter location and installation, water service connections, fixtures and plumbing or drainage facilities are not constructed and maintained completely in accordance with the provisions of this code and with the provisions of all rules and regulations of the Water and Electric Department. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.09)

Section 13.04.100 Water service connections.

A. Definitions.

1. **Water Service Connection; Service Connection.** As used in this section, water service connection or, alternatively, service connection shall mean the pipe, corporation cock, roundway, shut-off cock and other appurtenances necessary to bring water from any water main of the Village to the plumbing system of the building or premises to be supplied.

2. **Service Connection Break.** As used in this section, service connection break shall mean a failure of any part of a water service connection that causes water to leak from any part of the water service connection or the building or premises being supplied by the service connection.

3. **Lead-free.** As used in this section, lead-free shall have the same meaning as defined in the Illinois Plumbing Code, as adopted by reference by the Village.

4. **Minor service connection repair.** As used in this section, minor service connection repair shall mean the repair of a service connection break that, in the sole determination of the Director of Water and Electric, does not require the complete replacement of the water service connection, the installation of a new water meter, or the reconnection of any part of the service connection to the water meter.

B. Standards for Installation, Repair and Maintenance of Water Service Connections.

1. Permits and approval required.

a. No water service connection shall be installed, repaired, maintained or replaced except by a licensed plumber who has first notified the Water and Electric Department. All such work shall be subject to the approval of the Water and Electric Department and shall be performed in accordance with the rules, regulations, standards and practices of the Water and Electric Department, which shall have the sole discretion and authority to determine whether the work constitutes minor service connection repairs, as defined in subsection (A) above.

b. In addition, any person who performs any work on a water service connection other than a minor service connection repair shall first obtain a permit from the Village as provided in Title 15 of this Code. All such work shall be done in accordance with the terms of the permit authorizing the work and with the rules, regulations, standards and practices of the Water and Electric Department.

2. **Approved materials; existing lead service connections.** All work on water service connections shall be performed using lead-free and other approved materials, as provided in the Illinois Plumbing Code, as adopted by reference in Chapter 15.08 of this Code. Existing lead water service connections shall be allowed to remain, provided that they comply with all applicable statutes and regulations.

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3. Penalties. Any person who engages in any work on a water service connection that requires a permit, without first obtaining such permit, shall be subject to such additional fines, fees and penalties as may be set by the Village Council from time to time pursuant to Title 15 of this Code.

4. Except for the requirements of paragraph (2), the provisions of this subsection (B) do not apply to work performed by employees of the Water and Electric Department.

C. Responsibility of Owner. Except as provided in the following subsection (D) and in section 13.04.105 of this Code, the installation, connection, alteration, maintenance, repair and replacement of water service connections shall be at the sole expense of the owner of the premises to which the water service is supplied.

D. Allocation of Certain Costs to Village.

1. Service connection breaks caused by Village. In the event a service connection break is caused by work being performed by the Village, its employees, agents or contractors, the Village or such agent or contractor shall, at no cost to the owner, repair the service connection, which may include the replacement of all or part of the service connection.

2. Repairs to service connections in single-family residential districts. In the event of a service connection break in a single-family residential zoning district, as defined in Title 17 of this Code, if the service connection break is located between the main and the property line, and if the roadway is located within one foot of the property line or between the property line and the curb, the Village or its contractor shall repair the portion of the line between the roadway and the main. As part of such work, the Village, in its sole discretion, may relocate the roadway to a location within one foot of the property line, in which case the Village will also supply the roadway at no additional cost to the owner. In the event such service connection break is in a lead service, the Village will assume the cost of replacing that portion of the service connection line from the main to within one foot of the property line.

3. Repairs to service connections in multi-family, commercial and light industrial districts. In the event of a service connection break in a service connection on property located in a multi-family, commercial or light industrial zoning district, as defined in Title 17 of this Code, the Village will assume the cost of repairing or replacing that portion of the service connection line from the Village's water main up to the curb nearest the property being served, regardless of the location of the roadway. If the roadway is located between the building line and the curb, the Village shall have the sole discretion to relocate the roadway to a location closer to the curb, in which case the Village will also supply the roadway at no additional cost to the owner. In the event such service connection break is in a lead service, the Village will assume the cost of replacing that portion of the service connection line from the main to the curb nearest the property being served.

(MC-5-2008 § 2, Amended, 10/07/2008; MC-9-2007, Amended, 06/19/2007)

Section 13.04.105 Responsibility for damage to water system.

A. Damage to water utility system. Any person who causes damage to any part of the Village's water utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs.

B. Damage to service connections. Any person who causes damage to any part of any service connection in the Village's water utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform

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such repairs. All such repairs shall be made by a licensed plumber in accordance with all applicable provisions of the rules, regulations, standards and practices of the Water and Electric Department.

C. Village rights reserved. The Village reserves all rights to recover the cost of repairing any damage to any part of the Village's water utility system or to any part of any service connection in the Village's water utility from the person or persons that caused the damage necessitating the repairs. (MC-5-2008 § 3, Added, 10/07/2008)

Section 13.04.110 Accessibility, maintenance, use and protection of fire hydrants.

A. Accessibility and Protection of Fire Hydrants. No object shall be constructed, maintained, installed or placed within forty-eight (48) inches of any fire hydrant. It is unlawful to install, maintain, construct or enlarge any barriers, trees, bushes, walls or other obstacles which may hide or impede the use of or access to any fire hydrant, whether on public or private property, or which may in any manner hinder, delay or obstruct members of the Fire Department. The Director of Water and Electric and the Fire Chief are authorized to remove, or require the removal of, any such barriers, trees, bushes, walls or other obstacles. The cost of the removal shall be at the sole expense of the owner of the property on which such barriers, trees, bushes, walls or other obstacles are located or, if the hydrant is on public property, at the sole expense of the person or persons who installed or are maintaining such barriers, trees, bushes,

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walls or other obstacles.

B. Use of Fire Hydrants. Except for firefighting purposes, no person other than an authorized agent of the Village shall cause water to flow from any public or private fire hydrant, without first obtaining a special permit from the Water and Electric Department for the use of the water. (Ord. MC-228-99 § 5 (part), 1999; Ord. MC-191-97 § 2, 1997; prior code § 8.11)

Section 13.04.120 Charges for the maintenance and availability of fire suppression and emergency paramedical and rescue services.

A. Annual Fee. Except as provided in subsection E of this section 13.04.120, any customer of the Municipal Water Utility that is located outside of the corporate limits of the Village and in the vicinity of one or more fire hydrants maintained by the Village for fire protection purposes, shall, as a condition to the furnishing of water service, enter annually into an agreement with the Village, which shall run from April 1st through March 31st of the following year, to pay an annual fee for the maintenance and availability of fire suppression and emergency paramedical and rescue services. The annual fee shall be in an amount determined from time to time by resolution of the Village Council introduced at one meeting and enacted at a subsequent meeting.

B. Fee Formula. The annual fee established by this section and any amendment to this section shall be based on a formula using a combination of assessed valuation, population and past number of fire suppression and emergency paramedical and rescue calls (including false alarms), with each receiving equal weight, in order to allocate the cost of fire suppression and emergency paramedical and rescue services based on budgeted costs for the ensuing year, with such adjustments as the Council shall deem proper, such as credits for any prior year in which the payments made to the Village exceeded the final audited expenses. The annual amount to be charged, as so computed, may be, but need not be, rounded off to the nearest whole dollar annual amount and shall be included ratably over each year with and as part of each bill for water.

C. Authority of Village Manager. The Village Manager is authorized to prepare appropriate forms of agreement for the maintenance and availability of fire suppression and emergency paramedical and rescue services and to enter into such agreements on behalf of the Village.

D. Discontinuance of Service for Failure to Pay Annual Fee. The Water and Electric Department shall discontinue water service to any premises whenever the owner or occupant fails to make payment of any charges billed pursuant to this section for fire suppression and emergency paramedical and rescue services within thirty (30) days after the date of the bill. (Ord. MC-228-99 § 5 (part), 1999; prior code § 8.12)

E. Exceptions; Intergovernmental Agreements. The annual fee provided for in this section shall not be assessed if: (i) the customer's property has been annexed to another municipality that funds fire protection services through revenues derived from the levy of taxes on real estate within its corporate limits; and (ii) the annexing municipality has an intergovernmental agreement with the Village for the provision of fire protection services, for the supply of all water services within its corporate limits, or for both.

(Ord. MC-07-2004 § 2, 05/04/04)

Section 13.04.130 Turning on water after service discontinued.

No plumber or other person shall turn on the supply of water, or cause the supply of water to be turned

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on, to any building or premises for which the supply has been shut off by the Water and Electric Department for any cause, without first obtaining a special permit from the Water and Electric Department to do so. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.13)

Section 13.04.140 Excavations near mains or service connections.

No person shall make any excavation in any street, public place or easement within four and one-half feet of any water main or service connection while the ground is frozen, without first obtaining a special permit from the Water and Electric Department to do so. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.14)

Section 13.04.150 Temporary water service during construction.

Water used in connection with building construction, before the water service connection is established and metered, may be furnished without metering, subject to the approval of the Water and Electric Director. The quantity of unmetered water supplied shall be estimated in accordance with the rules and regulations of the Water and Electric Department. The Water and Electric Director may authorize the use of a direct connection to a fire hydrant as a source of water during building construction before the water service connection is established and metered. The quantity of water supplied from any fire hydrant shall be determined by use of a meter provided and installed by the Water and Electric Department. Temporary water service shall be billed at the rate applicable to the use specified in the building permit. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.15)

Section 13.04.160 Water emergency use plan.

In the event that the Secretary of the Illinois Department of Transportation declares a water shortage crisis, the Village President may, in order to reduce the use of water in the Village to a minimum level consistent with the health, safety and welfare of the residents of the Village, by emergency proclamation, order one or more of the following:

A. The reduction or prohibition of external water use for, without limitation: sprinkling or watering lawns and plants, washing or cleaning paved areas, washing the outside of single-family dwellings, washing the inside or outside of buildings other than single-family dwellings, washing or cleaning any business or industrial equipment and machinery, operation of any ornamental fountain or other structure making a similar use of water which does not recirculate the water, establishing or maintaining water levels in swimming and wading pools not employing a filter and recirculating system;

B. The curtailment or closing of any commercial car wash and the prohibition of the washing of vehicles or any other type of mobile equipment;

C. The reduction in consumer-per-capita consumption of water;

D. The installation of water saving devices;

E. The reduction in water pump pressure. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.16)

Section 13.04.170 Water conservation.

A. During the period from May 15th to September 15th of each year it is unlawful for any person to use or any owner to allow the use of any water from the Village water mains for the purpose of

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unrestricted lawn sprinkling except between the hours of five a.m. to eleven a.m. and five p.m. to eleven p.m. daily.

B. Subject to the restrictions contained in this section and upon prior approval by the Water and Electric Director, any person or owner may use water from the Village water mains for sprinkling during otherwise prohibited hours in connection with the following activities:

1. Newly sodded or seeded areas of lawn may be watered at any time for the two week period following installation of such sod or seed;

2. The annual activation or repair of a sprinkler system may be undertaken at any time for a one day period in connection with such annual activation or repair. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.17)

Section 13.04.180 Cross-connection control.

A. All plumbing installed within the Village shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Water and Electric Director, an approved backflow prevention device is necessary for the safety of the public water supply system, the Water and Electric Director will give notice to the water customer immediately to install such a device. The water customer shall, at his or her own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such device upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

B. No person shall establish or permit to be established or maintain or permit to be maintained any connection where 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 Water and Electric Director and the Illinois Environmental Protection Agency.

C. The Water and Electric Director shall cause surveys and investigations to be made of commercial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply exists. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every two years, or as often as the Water and Electric Director shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least five years.

D. The Water and Electric Director or his or her authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the Village for the purpose of verifying the presence or absence of cross-connections, and for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessees or occupants of any property so served shall furnish to the Water and Electric Director any information that the Director may request regarding the piping system or systems or water use on such property. The refusal to provide such information shall, within the discretion of the Water and Electric Director, be deemed evidence of the presence of improper connections as provided in this section.

E. The Water and Electric Director is authorized and directed to discontinue, after reasonable notice to the occupant, the water service to any property where any connection in violation of the provisions of

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this section is known to exist, and to take such other precautionary measures as the Director may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this section, and until a reconnection fee in an amount as set from time to time by resolution of the Village Council is paid to the Village. Immediate disconnection with verbal notice can be affected when the Water and Electric Director has reason to believe that imminent danger or harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply; provided that, in the reasonable opinion of the Water and Electric Director or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply. Neither the Village nor any agent or official of the Village shall be liable to any person for any injury, damages or lost revenues which may result from termination of any person's water supply in accordance with the terms of this chapter, whether or not such termination was with or without notice.

F. The person responsible for backsiphoned or back pressured material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the potable water supply system. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.18)

Section 13.04.190 Referendum for disposition of property.

The Village shall not sell, lease or otherwise dispose for all or substantially all of the properties owned or used by the Village in connection with the operation of its water utility, except upon first submitting the question of any such sale, lease or other disposition, to the legal voters of the Village at a referendum duly called for that purpose; provided, however, that the provisions of this section shall not be deemed to prohibit the sale or other disposition by the Village of any property used in connection with the operation of such utilities if such property is deemed obsolete or is considered no longer necessary or efficiently usable in the operation of such utility.

The Council of the Village shall have the power to regulate any referendum held in accordance with the provisions of this section, to appoint judges of such referendum and to make all necessary provisions and rules for such referendum; provided, however, that the voting at any such referendum shall be by ballot in form as prescribed by statute. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.19)

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Chapter 13.08

MUNICIPAL ELECTRIC SYSTEM

Sections:

- 13.08.010 Electric service by Village.
- 13.08.015 Bidding or selling of system demand response.
- 13.08.020 Rules and regulations.
- 13.08.030 Meters.
- 13.08.040 Charges for electric service.
- 13.08.050 Reading meters--Issuance of bills.
- 13.08.060 Effect of nonpayment of bill.
- 13.08.070 Application for electric service.
- 13.08.080 Rates for residential service.
- 13.08.090 Rates for residential space heating service.
- 13.08.100 Rates for commercial service.
- 13.08.110 Rates for government and school service.
- 13.08.120 Rates for water heating service.
- 13.08.130 Rates for large residential service.
- 13.08.140 Rates for street lighting service.
- 13.08.150 Rates for summer service.
- 13.08.155 Credits for certain renewable energy sources.
- 13.08.160 Wholesale power purchase cost adjustment.
- 13.08.170 Inspection and condition of premises.
- 13.08.180 Electric service connection.
- 13.08.190 Turning on electricity after discontinuance of service.
- 13.08.200 Interference with meter.
- 13.08.210 Electricity at construction sites.
- 13.08.220 Location of utility facilities.
- 13.08.230 Discretionary undergrounding of transmission and distribution lines.
- 13.08.240 Rates for discretionary undergrounding.
- 13.08.250 Referendum for disposition of property.
- 13.08.260 Standards for renewable energy sources.

Section 13.08.010 Electric service by Village.

A. Electric Utility. It is lawful for the Village to own and operate an electric utility consisting of such plant, equipment, lines and property, and any appurtenances, used or intended to be used to generate, transmit, distribute and sell electricity to all users of electricity located within the corporate limits of the Village and to such other users of electricity outside of the corporate limits as the Council of the Village determines, in the exercise of its discretion, may lawfully and reasonably be supplied with electricity without interfering with or impairing electric service to users within the Village.

B. Operation of Electric Utility. The Municipal Electric Utility shall be operated by the Water and Electric Department established in Chapter 2.68 of this code.

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C. **Use of Municipal Electric Utility Required.** Every location within the corporate limits of the Village that uses electricity shall be connected to the Municipal Electric Utility. Except as otherwise provided in section 13.08.260 of this chapter, all electric service to any location within the corporate limits of the Village shall be provided by the Municipal Electric Utility.

D. **Terms and Conditions of Service.** All electric service shall be provided in accordance with the provisions of this chapter and the rules and regulations promulgated pursuant to this chapter. (MC-8-2008 § 2, Amended, 11/18/2008; Ord. MC-228-99 § 6 (part), 1999; prior code § 9.01)

Section 13.08.015 Bidding or selling of system demand response.

A. **General Prohibition Against Bidding or Selling System Demand Response.** Except as provided in subsections B. and C. of this section, all retail customers of the Municipal Electric Utility are hereby restricted, precluded and prohibited from (a) bidding or selling demand response into any organized electric or ancillary services markets operated or administered by any independent system operator or any regional transmission organization or (b) otherwise participating in such markets with any demand response resources, whether directly or through a third-party aggregator.

B. **Curtailed Service Provider Authorized.** The Illinois Municipal Electric Agency (IMEA) is hereby approved, authorized and permitted to operate as a Curtailed Service Provider with respect to demand response resources within the Village's Municipal Electric Utility System, including the behind-the-meter generation owned by the Village that has been dedicated to IMEA, and to offer and sell such demand response resources into programs and markets of PJM Interconnection, L.L.C or its duly authorized successor.

C. **Exception to General Prohibition.** Notwithstanding the general prohibition stated in subsection A. above, to the extent that the offer and sale of the above-referenced generation into such markets by IMEA may be deemed to be such a bid, sale or participation through a third-party aggregator, such offer and sale by IMEA is hereby specifically authorized. (MC-1-2010 § 3, Amended, 2/4/2010; Ord. MC-2-2009 § 2, 2009)

Section 13.08.020 Rules and regulations.

The Water and Electric Department shall adopt and enforce such rules and regulations as may be necessary to give effect to and explain the provisions of this chapter. The Water and Electric Director shall make recommendations to the Village Manager regarding the content of the rules and regulations and shall enforce the rules and regulations once they are adopted. (Ord. MC-228-99 § 6 (part), 1999; prior code § 9.02)

Section 13.08.030 Meters.

A. **Meters Required.** Unless otherwise specifically provided in this chapter, all electric services shall be metered.

B. **Meters to Be Provided by Village.** The Water and Electric Department shall provide meters to be located upon all premises furnished with electric service, for the purpose of metering the quantity

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of electric energy supplied by the Village to such premises. All meters shall be owned and maintained by the Water and Electric Department at its expense. Notwithstanding the foregoing, any customer that requires a bi-directional or other custom meter to allow for the registration of energy obtained from a renewable source pursuant to sections 13.08.155 and 13.08.260 of this chapter, shall be responsible for all costs related to the purchase, installation, maintenance, repair and replacement of such meter to the extent those costs exceed the costs related to standard meters used by customers that are not connected to a renewable energy source. (Ord. MC-8-2008 § 3, Amended, 11/18/2008; Ord. MC-228-99 § 6 (part), 1999; prior code § 9.03)

C. **Meter Pedestals.** The meter pedestal or meter enclosure for underground electric service shall be provided by the customer and shall be owned and maintained at the customer's expense. (Amended MC-4-2002 § 2, 2002)

Section 13.08.040 Charges for electric service.

A. **Establishing Rates and Fees.** Each person using electricity furnished by the Water and Electric Department to any building or premises shall be charged for such service in accordance with rates, fees and charges established from time to time by resolution of the Village Council. All resolutions setting or amending rates, fees and other charges for electric service shall be introduced at one meeting and adopted at a subsequent meeting.

B. **Additional Charges for Failure to Pay Bill.** If any bill for electric service is not paid within the payment period prescribed by resolution, a later payment penalty of five percent shall be added to the bill and collected from the user.

C. **Collection Costs.** Any unpaid bill that is turned over for collection shall be subject to an additional charge, the amount of which shall be established by the Village Manager, upon the recommendation of the Director of Finance, in an amount sufficient to recover the Village's costs of carrying and collecting the debt. (Ord. MC-228-99 § 6 (part), 1999; prior code § 9.04)

Section 13.08.050 Reading meters--Issuance of bills.

A. **Reading Meters.** Electric meters shall be read periodically and bills for electric service shall be payable at Village Hall at the time provided for by the applicable rate resolution.

B. **Estimate of Electric Consumption.** Whenever for any cause any electric meter shall fail to register accurately the amount of electric used, consumed or delivered to any premises, the Water and Electric Director is authorized to estimate the amount of electricity used, consumed or delivered to the premises. The estimate shall be based on any relevant information available to the Village, including the average amount of electricity used, consumed or delivered to any such premises as shown by the records of the

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Water and Electric Department during the corresponding period of the preceding year. Such estimate shall be the basis for billing for electric service to such premises. (Ord. MC-228-99 § 6 (part), 1999: prior code § 9.05)

Section 13.08.060 Effect of nonpayment of bill.

A. **Discontinuance of Service.** Any account for electric service for which payment is not received within the time prescribed in the applicable rate resolution, including the surcharge time allowed, shall be considered a delinquent account, and it shall be the duty of the Water and Electric Department to discontinue service until the delinquent account is paid in full or an enforceable payment plan has been entered into as provided in Section 1.04.140(C) of this code. A disconnection charge shall be charged to the customer's account, in an amount set by resolution of the Village Council introduced at one meeting and adopted at a subsequent meeting.

B. **Unpaid Accounts Constitute Lien.** All unpaid amounts of rates, fees and charges for electric service shall constitute a lien against the property for which service was provided, to the extent such lien is authorized by law.

C. **Effect of Delinquent Accounts.** All delinquent electric accounts shall be subject to the provisions of Section 1.04.140 of this code. In addition, no person with a delinquent electric account shall either be allowed a new electric service connection at another location served by the Municipal Electric Utility, or a change or upgrade of the service at the premises for which the delinquent account has accrued, unless the account is paid in full for an enforceable payment plan has been agreed to by the Village.

D. **Security Deposits.** The Village may require a security deposit from existing customers under the following circumstances:

1. If the customer's wires, pipes, meters or other service equipment have been tampered with and the customer has benefited from the tampering;
2. If the customer has paid late two times within any twelve (12) month period; or
3. If the customer's service has been discontinued for nonpayment of bills. (Ord. MC-228-99 § 6 (part), 1999: prior code § 9.06)

Section 13.08.070 Application for electric service.

A. **Application.** Any owner or occupant of premises either within the corporate limits of the Village or otherwise adjacent to the electric distribution system of the Village, may obtain electric service by signing an application or contract, in the regular form used by the Water and Electric Department at the time of application, for the particular class of service desired, and providing for the appropriate security, if any, required under subsection B of this section. The application for service shall contain an agreement that the applicant will conform to all the provisions of this code, to all applicable resolutions and to all of the rules and regulations of the Water and Electric Department as a condition precedent to receiving electric service from the Village.

B. **Cash Deposit.** Collection of a cash deposit in an amount equal to the estimated maximum for the bill for the billing cycle (as determined by the Finance Director) of an applicant for electric service if the applicant is not the owner of the premises to which the service is to be provided. In lieu of such deposit, the applicant may file an agreement, signed by the owner of the premises, agreeing to pay on demand the amount of any bills for services rendered to the nonowner applicant. The deposit shall be not less than twenty-five dollars (\$25.00) and shall be used first in payment of the final bill for services rendered and

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the balance, if any, returned to the depositor. (Ord. MC-228-99 § 6 (part), 1999; prior code § 9.07)

Section 13.08.080 Rates for residential service.

A. Each customer using electric energy furnished by the Water and Electric Department for lighting and power to any building or premises for residential purposes shall pay such basic rate charge as is determined from time to time by resolution of the Village Council introduced at one meeting and enacted at a subsequent meeting.

B. The basic rate charge for each kilowatt hour supplied in the period covered by any bill is subject to adjustment in accordance with the provisions of the purchase power cost adjustment Rider A as provided in Section 13.08.160 of this chapter.

C. Where three phase service is provided, the customer shall pay an additional monthly service charge as prescribed by resolution of the Village Council.

D. On every bill of each customer there shall be added to the charge a computed above a charge to offset the effect of the tax imposed by the state pursuant to "The Public Utilities Revenue Act" (35 ILCS 620/1 et seq.). Such added charge shall be separately itemized and shown on the face of the customer's bill.

E. On every bill of each customer there shall be added a surcharge as prescribed in the rules and regulations, to be paid upon payment of the bill if the bill is not paid within the time prescribed in the rules and regulations. The surcharge shall be separately itemized and shown on the face of the customer's bill.

F. Service under this rate will be furnished only to single occupancy buildings. Where service to a multiple occupancy building is desired under this section, each occupancy unit shall be treated as a separate customer and served through a separate metering installation.

G. Where a residence and a business are combined in one premises, service will not be furnished for the entire premises under this rate unless the preponderant requirement is for residential purposes.

H. Service under this section shall be available only under terms and conditions set forth in the rules and regulations of the Water and Electric Department relating particularly to use of intermittent equipment, control of power factor and procedures for service connections and metering. (Ord. MC-228-99 § 6 (part), 1999; prior code § 9.08)

Section 13.08.090 Rates for residential space heating service.

A. Each customer using electric energy furnished by the Water and Electric Department for space heating requirements as well as for lighting and power to any building; provided that, the major electric space heating facilities are permanently installed, shall pay such basic rate charge as is determined from time to time by resolution of the Village Council introduced at one meeting and enacted at a subsequent meeting.

B. The basic rate charge for each kilowatt hour supplied in the period covered by any bill is subject to adjustment in accordance with the provisions of the purchase power cost adjustment Rider A as provided in Section 13.08.160 of this chapter.

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C. Where three phase service is provided, a customer shall pay an additional monthly service charge as prescribed by resolution of the Village Council.

D. On every bill of each customer there shall be added to the charge as computed above a charge to offset the effect of the tax imposed by the state pursuant to "The Public Utilities Revenue Act" (35 ILCS 620/1 et seq.). Such added charge shall be separately itemized and shown on the face of the customer's bill.

E. On every bill of each customer there shall be added a surcharge as prescribed in the rules and regulations, to be paid upon payment of the bill if the bill is not paid within the time prescribed in the rules and regulations. The surcharge shall be separately itemized and shown on the face of the customer's bill.

F. Service under this rate will be provided to each customer only if all of the requirements for space heating, cooking, water heating and air conditioning are supplied electrically. Where service to a multiple occupancy building is desired under this section, each occupancy unit shall be treated as a separate customer and served through a separate metering installation.

G. Where a residence and a business are combined in one premises, service will not be furnished for the entire premises under this rate unless the preponderant requirement is for residential purposes.

H. Service under this section shall be available only under terms and conditions set forth in the rules and regulations of the Water and Electric Department relating particularly to use of intermittent equipment, control of power factor and procedures for service connections and metering. (Ord. MC-228-99 § 6 (part), 1999; prior code § 9.09)

Section 13.08.100 Rates for commercial service.

A. Each customer using electric energy furnished by the Water and Electric Department and supplied for lighting and power to any building or premises used for commercial purposes shall pay such basic rate charge as is determined from time to time by resolution of the Village Council introduced at one meeting and enacted at a subsequent meeting.

B. The basic rate charge for each kilowatt hour supplied in the period covered by any bill is subject to adjustment in accordance with the provisions of the purchase power cost adjustment Rider A as provided in Section 13.08.160 of this chapter.

C. Where three phase service is provided, a customer shall pay an additional monthly service charge as prescribed by resolution of the Village Council.

D. On every bill of each customer there shall be added to the charge as computed above a charge to offset the effect of the tax imposed by the state pursuant to "The Public Utilities Revenue Act" (35 ILCS 620/1 et seq.). Such added charge shall be separately itemized and shown on the face of the customer's bill.

E. On every bill of each customer there shall be added a surcharge as prescribed in the rules and regulations, to be paid upon payment of the bill if the bill is not paid within the time prescribed in the rules and regulations. The surcharge shall be separately itemized and shown on the face of the customer's bill.

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F. Where a residence and a business are combined in one premises, service will not be furnished for the entire premises under this rate unless the preponderant requirement is for commercial purposes.

G. Service under this section shall be available only under terms and conditions set forth in the rules and regulations of the Water and Electric Department relating particularly to use of intermittent equipment, control of power factor and procedures for service connections and metering. (Ord. MC-228-99 § 6 (part), 1999; prior code § 9.10)

Section 13.08.110 Rates for government and school service.

A. Each government agency and each school, seminary or college conducted on a not-for-profit basis, using electric service furnished by the water and electric department for lighting and power to any building or premises used solely for governmental or school purposes shall pay such basic rate charge as is from time to time by resolution of the village council introduced at one meeting and enacted at a subsequent meeting.

B. The basic rate charge for each kilowatt hour supplied in the period covered by any bill is subject to adjustment in accordance with the provisions of the purchase power cost adjustment Rider A as provided in Section 13.08.160 of this chapter.

C. On every bill of each customer there shall be added to the charge as computed above a charge to offset the effect of the tax imposed by the state pursuant to "The Public Utilities Revenue Act" (35 ILCS 620/1, et seq.). Such added charge shall be separately itemized and shown on the face of the customer's bill.

D. Service under this rate will be furnished only to government agencies, to any public school, for educational activities of private schools, seminaries, colleges, and any other educational institutions organized and operated on a not-for-profit basis.

E. Where there are two or more demand metering installations on customer's premises, the demand in any thirty (30) minute interval shall be determined by adding together the separate demands at each metering installation during such thirty (30) minute interval. The maximum demand in any month shall be the highest thirty (30) minute demand established during such month. The maximum demands and kilowatt hours supplied at two or more premises will not be combined for billing purposes.

F. Where there are two or more watt-hour metering installations on a customer's premises, the kilowatt hours supplied shall be determined by adding together the kilowatt hours metered at each installation.

G. Service under this section shall be available only under terms and conditions set forth in the rules and regulations of the Water and Electric Department relating particularly to use of intermittent equipment, control of power factor and procedures for service connections and metering. (Ord. MC-228-99 § 6 (part), 1999; prior code § 9.11)

Section 13.08.120 Rates for water heating service.

A. Each customer using electric energy furnished by the Water and Electric Department for water heating requirements to any building or premises shall pay such basic rate charge as is determined from time to time by resolution of the Village Council introduced at one meeting and enacted at a subsequent meeting.

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B. The basic rate charge for each kilowatt hour supplied in the period covered by any bill is subject to adjustment in accordance with the provisions of the purchase power cost adjustment Rider A as provided in Section 13.08.160 of this chapter.

C. On every bill of each customer there shall be added to the charge as computed above a charge to offset the effect of the tax imposed by the state pursuant to "The Public Utilities Revenue Act" (35 ILCS 620/1, et seq.). Such added charge shall be separately itemized and shown on the face of the customer's bill.

D. Service under this rate shall be available only under the following conditions and restrictions:

1. The building or premises must be equipped by the customer or owner with a three wire one hundred fifteen (115)/two hundred thirty (230) volt service connection to the distribution lines of the village.

2. Only permanently installed storage-type electric water heaters with thermostatic control, equipped with heating elements of not less than one thousand (1,000) watts nor more than four thousand (4,000) watts capacity at two hundred thirty (230) volts, which conform to the Department's standard specifications for water heaters, shall be used by the customer.

3. Energy shall be furnished through a separate two hundred thirty (230) volt meter, to be supplied by the Village, and no other appliance shall be connected to such meter.

4. The customer shall provide and maintain all necessary wiring.

5. Energy will be supplied under this rate only in case the demand of the heater does not exceed the capacity of the transformer and service connection required for service furnished at other rates, and only during such portions of any twenty-four (24) hour period, aggregating not more than eighteen (18) hours per day, when the generating and line capacity of the Village is not required for other service. Such periods of the day, during which energy is supplied under this rate, may be established and changed at the option of the Village whenever demands on its generating and distribution system make such changes advisable.

6. No additional investment shall be required by the Village, other than for the meter necessary to measure the energy used, and if additional investment is required to furnish service under this rate to any applicant in order to reserve necessary capacity to render adequate service under other rates, the Village shall have the right to restrict the availability of this rate in such cases.

7. Failure of the customer to comply with one or more of the foregoing conditions shall be sufficient cause for the discontinuance of the service under this rate. (Ord. MC-228-99 § 6 (part), 1999: prior code § 9.12)

Section 13.08.130 Rates for large residential service.

A. Each customer using electric energy furnished by the Water and Electric Department for lighting and power to any building or premises for residential purposes with an established demand in excess of fifty (50) kW shall pay such basic rate charge as is determined from time to time by resolution of the Village Council introduced at one meeting and enacted at a subsequent meeting.

B. The basic rate charge for each kilowatt hour supplied in the period covered by any bill is subject to adjustment in accordance with the provisions of the purchase power cost adjustment Rider A as provided in Section 13.08.160 of this chapter.

C. Where three phase service is provided, the customer shall pay an additional monthly service charge as prescribed by resolution of the Village Council.

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D. On every bill of each customer there shall be added to the charge as computed above a charge to offset the effect of the tax imposed by the state pursuant to "The Public Utilities Revenue Act" (35 ILCS 620/1, et seq.). Such added charge shall be separately itemized and shown on the face of the customer's bill.

E. On every bill of each customer there shall be added a surcharge as prescribed in the rules and regulations, to be paid upon payment of the bill if the bill is not paid within the time prescribed in the rules and regulations. The surcharge shall be separately itemized and shown on the face of the customer's bill.

F. Service under this rate will be furnished only to single occupancy buildings. Where service to a multiple occupancy building is desired under this section, each occupancy unit shall be treated as a separate customer and served through a separate metering installation.

G. Where a residence and a business are combined in one premises, service will not be furnished for the entire premises under this rate unless the preponderant requirement is for residential purposes.

H. Service under this section shall be available only under terms and conditions set forth in the rules and regulations of the Water and Electric Department relating particularly to use of intermittent equipment, control of power factor and procedures for service connections and metering. (Ord. MC-228-99 § 6 (part), 1999; prior code § 9.13)

Section 13.08.140 Rates for street lighting service.

A. Each customer using electric energy furnished by the Water and Electric Department for lighting public ways for municipal purposes shall pay such basic rate charge as is determined from time to time by resolution of the Village Council introduced at one meeting and enacted at a subsequent meeting.

B. The basic rate charge for each kilowatt hour supplied in the period covered by any bill is subject to adjustment in accordance with the provisions of the purchase power cost adjustment Rider A as provided in Section 13.08.160 of this chapter.

C. Where three phase service is provided, the customer shall pay an additional monthly service charge as prescribed by resolution of the Village Council.

D. On every bill of each customer there shall be added to the charge as computed above a charge to offset the effect of the tax imposed by the state pursuant to "The Public Utilities Revenue Act" (35 ILCS 620/1, et seq.). Such added charge shall be separately itemized and shown on the face of the customer's bill.

E. On every bill of each customer there shall be added a surcharge as prescribed in the rules and regulations, to be paid upon payment of the bill if the bill is not paid within the time prescribed in the rules and regulations. The surcharge shall be separately itemized and shown on the face of the customer's bill.

F. Service under this section shall be available only under terms and conditions set forth in the rules and regulations of the Water and Electric Department relating particularly to use of intermittent equipment, control of power factor and procedures for service connections and metering.

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G. Service under this section may be unmetered, in which case the rates shall be based on the number and type of fixtures. (Ord. MC-228-99 § 6 (part), 1999: prior code § 9.14)

Section 13.08.150 Rates for summer service.

Where summer rates are established by any resolution of the Council for using electric energy, such rates shall be in effect for each of the four consecutive months with ending meter dates on or after June 1st of each year. (Ord. MC-228-99 § 6 (part), 1999: prior code § 9.15)

Section 13.08.155 Credits for certain renewable energy sources.

A. Any customer that has installed a solar or wind generating unit of 10 kW or less in accordance with the standards established by section 13.08.260 of this chapter shall be eligible, upon submitting a written request, to receive a credit for energy delivered to the Village.

B. The formula for calculating the renewable energy production credit shall be established by resolution of the Village Council introduced at one meeting and adopted at a subsequent meeting.

C. The renewable energy credit shall be separately itemized and shown on the face of the customer's bill.

(Ord. MC-8-2008 § 4, Added, 11/18/2008)

Section 13.08.160 Wholesale power purchase cost adjustment.

The charges for all kilowatt hours of energy supplied in the period covered by any bill shall be increased or decreased by an amount to be known as the wholesale power purchase cost adjustment, which shall reflect changes in the total costs incurred by the Village for the purchase of wholesale power for furnishing electric energy. The wholesale power purchase cost adjustment shall be established by a resolution of the Village Council introduced at one meeting and enacted at a subsequent meeting, which resolution shall either set a specific amount for the wholesale power purchase cost adjustment or establish a methodology for calculating the wholesale power purchase cost adjustment. (Ord. MC-1-2008, § 2, 2008; Ord. MC-228-99 § 6 (part), 1999: prior code § 9.16)

Section 13.08.170 Inspection and condition of premises.

Before any electric energy shall be supplied by the Village to any premises in the Village, the wiring, electric service connections, fixtures and other electric equipment shall be inspected by the Village. No electric energy shall be supplied to any premises if the wiring, electric service connections, fixtures or other electric equipment are not constructed and maintained completely in accordance with the provisions of this code and with the provisions of all rules and regulations of the Water and Electric Department. (Ord. MC-228-99 § 6 (part), 1999: prior code § 9.17)

Section 13.08.180 Electric service connection.

The electric service connection for any premises is defined as the conductors, conductor supports and other appurtenances necessary to bring electric energy from the main distribution lines of the Village to the service outlet on the building or other premises to be supplied with electric service. (Ord. MC-228-99 § 6 (part), 1999: prior code § 9.18)

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Section 13.08.190 **Turning on electricity after discontinuance of service.**

No electrician or other person shall turn on the supply of electricity, or cause the supply of electricity to be turned on, for any building or premises from which the supply has been shut off by the Water and Electric Department for nonpayment of bills or for any other cause, without first obtaining a special permit from the water and electric department to do so. (Ord. MC-228-99 § 6 (part), 1999: prior code § 9.19)

Section 13.08.200 **Interference with meter.**

No electrician or other person shall remove, reset or otherwise interfere with any electric meter in any building or premises without first obtaining a special permit from the Water and Electric Department to do so. (Ord. MC-228-99 § 6 (part), 1999: prior code § 9.20)

Section 13.08.210 **Electricity at construction sites.**

Except as provided in Section 15.32.140 of the Winnetka Building Code, electrical service for all construction sites shall be provided through a temporary electric service connection the Village's electric distribution system. Temporary electric service shall be billed at the rate applicable to the use specified in the building permit. The use of electric generators and the drawing of electricity from adjoining properties is expressly prohibited. (Ord. MC-228-99 § 6 (part), 1999: Ord. MC-223-99 § 2, 1999: prior code § 9.21)

Section 13.08.220 **Location of utility facilities.**

A. **Village Electric Facilities.** No new overhead lines shall be extended by the Water and Electric Department within the Village, whether for the transmission or distribution of electric energy, or for individual connections for electric service or for the upgrading of an existing electrical service. An overhead line that is relocated by the Village in the course of placing primary, secondary and service lines underground shall not be considered a new overhead line.

B. **Other Utility Facilities.** No utility that uses wires, cable or conduit in the delivery of its services, including such services as telecommunications and cable television, shall extend any new or replacement overhead lines in locations where the Water and Electric Department has placed its lines underground. In the event that the Water and Electric Department places any of its transmission, distribution or service connection lines underground, all other utilities having overhead lines in the same locations shall also place their lines underground, at the expense of each individual utility. (Ord. MC-4-2002 § 3, 2002; Ord. MC-228-99 § 6 (part), 1999: Ord. MC-214-98 § 2, 1999: prior code § 9.22)

Section 13.08.230 **Discretionary undergrounding of transmission and distribution lines.**

A. **Requests for Discretionary Undergrounding.** Any person or group of persons who own and occupy one or more single-family residences that receive electric service from the Village may request that the Water and Electric Department place local transmission and distribution lines serving those residences underground; provided: (1) that the request be submitted on petition forms that are prescribed by the Water and Electric Department; (2) that the petitions include the notarized signatures of at least ninety (90) percent of the customers and ninety (90) percent of the property owners in the area for which the undergrounding is requested; (3) that the forms contain a statement that each person who signs, understands and agrees that the Village has and reserves the right to determine whether the requested undergrounding will be done and to determine the locations of the underground lines and all related utility

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equipment and facilities, including pad mounted transformers and switch gear; and (4) that each property owner who signs agrees to grant to the Village, without charge, any easements that the Village may determine are necessary for such underground lines and related utility equipment facilities.

B. **Review of Petitions.** The Village Manager shall review the request and submit a report to the Village Council. The report shall include the finding of the Director of Water and Electric, made in the exercise of his or her engineering judgment, as to the specific portions of the transmission and distribution system to which the petition shall apply and the estimated cost of placing the lines underground as requested. The report shall also address the following points:

1. Whether granting the request will in any way result in the interruption, modification or interference with the Village's scheduled undergrounding or capital improvements for the electric system;
2. Whether the Water and Electric Department has sufficient cash on hand to perform the requested undergrounding;
3. Whether the requested undergrounding will reduce present or future cash reserves of the Water and Electric Department to a level that is not consistent with the Village's fiscal practices;
4. Whether the cost of the requested undergrounding, including the cost of funds, can be fully amortized in sixty (60) months or less at a rate of no more than two hundred fifty dollars (\$250.00) per month;
5. Whether another request for discretionary undergrounding has already been approved for that year;
6. Whether the Director of Water and Electric Determines that the area for which the undergrounding is requested is either too small to be done in a cost effective manner or too large to be done in the current year;
7. Whether the Village can acquire, without cost, all necessary easements before entering into any contracts or fixing any schedules for the performance of the work;
8. Whether granting the request will impose an undue financial burden or hardship on customers in the proposed project area who did not sign the petition; and
9. Any other information which the manager deems relevant for the Council's consideration of the request.

C. **Decision by Village Council.** The Village Council shall have the sole discretion to approve or deny any request for discretionary undergrounding and, in the exercise of that discretion, shall consider the information in the Manager's report and such other or additional information about the requested undergrounding and its effects as it may deem relevant. All approvals of requests for undergrounding shall be by resolution of the Village Council and may include any conditions or modifications that the council, in the exercise of its discretion, determines are in the best interests of the Village's electric utility, the Village as a whole and the customers in the proposed project area. The Council may deny the request for any reason, including but not limited to a determination that granting the request may impose an undue financial burden or hardship on any customer in the project area who did not sign the petition. (Ord. MC-228-99 § 6 (part), 1999; Ord. MC-214-98 § 3, 1999; prior code § 9.23)

Section 13.08.240 Rates for discretionary undergrounding.

A. Each customer whose electric service line is connected to a distribution line that is placed underground pursuant to Section 13.08.230 of this chapter shall pay a fixed monthly charge in an amount determined from time to time by resolution of the Village Council introduced at one meeting and enacted at a subsequent meeting.

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B. The rates for discretionary undergrounding shall be in amounts sufficient to recover all direct costs of the undergrounding, including all labor, materials, financing and easement recording costs which the Director of Water and Electric and the Director of Finance estimate will be incurred in placing the high voltage primary lines, low voltage secondary lines and individual service lines underground. No customer shall be required to pay more than once for placing his or her individual service lines underground, and separate rates shall be established to the extent necessary for customers who have previously had their individual service lines placed underground.

C. The charge for discretionary undergrounding shall be added as a surcharge to every bill of each customer whose electric service line is connected to a distribution line that is placed underground pursuant to Section 13.08.230 of this chapter, until the full cost of the share of the total project cost attributable to the premises served has been paid. No surcharge shall be added if a customer pays his or her share of the total project cost in advance. The undergrounding surcharge shall be separately itemized and shown on the face of the customer's bill and shall be due and payable at the same time and in the same manner as the rest of the customer's bill. Failure to pay the undergrounding surcharge when due shall be considered nonpayment of a bill and shall be subject to the provisions of Section 13.08.060 of this chapter and any sanctions provided for in this chapter, including the discontinuance of service. (Ord. MC-228-99 § 6 (part), 1999; Ord. MC-214-98 § 4, 1999; prior code § 9.24)

Section 13.08.250 Referendum for disposition of property.

The Village shall not sell, lease or otherwise dispose of all or substantially all of the properties owned or used by the Village in connection with the operation of its Electric Utility, except upon first submitting the question of any such sale, lease or other disposition, to the legal voters of the Village at a referendum duly called for that purpose; provided, however, that the provisions of this section shall not be deemed to prohibit the sale or other disposition by the Village of any property used in connection with the operation of such utilities if such property is deemed obsolete or is considered no longer necessary or efficiently usable in the operation of such utility.

The Council of the Village shall have the power to regulate a referendum held in accordance with the provisions of this section, to appoint judges of such referendum and to make all necessary provisions and rules for such referendum; provided, however, that the voting at any such referendum shall be by ballot in form as prescribed by statute. (Ord. MC-228-99 § 6 (part), 1999; prior code § 9.25)

Section 13.08.260 Standards for renewable energy sources.

A. Permitted renewable energy sources. Any renewable energy source must be powered by photovoltaic or wind generators. A customer may have more than one renewable energy source, provided that the combined generating capacity of all such sources does not exceed 10 kW.

B. Technical requirements. No customer shall be allowed to take power from a renewable energy source that does not meet or exceed all of the standards set forth in the following paragraphs of this subsection. The customer shall be responsible for having the power generating facility tested every three years for compliance with these standards and for promptly submitting the test results to the Director of Water and Electric. Failure to provide the test results in a timely manner may be cause for disconnection without further notice:

1. IEEE Std. 929-2000 Recommended Practice for Utility Interface of Photovoltaic (PV) Systems.

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2. IEEE Std 1547-2003 IEEE Standard for Interconnecting Distributed Resources with Electric Power Systems.
3. IEEE Std 1547.1-2005. Title. IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems.
4. UL 1998, Software in Programmable Components.
5. UL 1741, Inverters, Converters, Controllers, and Interconnection Systems for use with Distributed Energy Resources.
6. NEC Article 690 – 2008, Solar Photovoltaic Systems.

C. Additional requirements.

1. Any person supplying power and energy to the Village shall indemnify the Village, its officers, employees, agents and assigns from all liability and losses of any kind resulting from the customer's operation of the renewable energy source.
2. The customer shall provide proof that the customer maintains general liability insurance that does not exclude liability and losses related to the customer's operation of the renewable energy source.
3. Every renewable energy source shall bear a decal or sticker warning of a possible backfeed from the renewable source. The identifying decal or sticker shall be in a form approved by the Director of the Water and Electric Department and shall be installed on the face of the electric meter.
4. All renewable energy sources shall be equipped with an outdoor disconnect switch with provisions for padlocking in the open position for the protection of workers and the public. The disconnect switch shall be clearly marked and placed within five feet of the electric meter.

D. Financial responsibility of customer. The customer shall be responsible for all costs incurred by the Village that are in excess of those that would be charged a customer without a source of Renewable Power and Energy.

(MC-8-2008 § 5, Added, 11/18/2008)

Chapter 13.12

MUNICIPAL SEWER SYSTEM

Sections:

13.12.010 Charges for sewer services.

Section 13.12.010 Charges for sewer services.

A. Sewer Service Charge. All users of the public sewers shall be charged a sewer service charge, as determined from time to time by resolution of the Village Council introduced at one meeting and adopted at a subsequent meeting.

B. Additional Charges for Failure to Pay Bill. If any bill for sewer service is not paid within the payment period prescribed by resolution, a late payment penalty of five percent shall be added to the bill and collected from the user.

C. Collection Costs. Any unpaid bill that is turned over for collection shall be subject to an additional charge, the amount of which shall be established by the Village Manager, upon the recommendation of the Director of Finance, in an amount sufficient to recover the Village's costs of carrying and collecting the debt. (Ord. MC-228-99 § 5 (part), 1999: prior code § 8.04.1)