



WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Veterans, Homeland Security,  
Military Affairs, Small Business and Government  
Reform (SC-VHSMASBGR)

**COMMITTEE NOTICES ...**

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**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

# FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

Date ?

CLEARINGHOUSE RULE NO.: 04-135

RULE NO.: Chapters Comm 26, 95 and 2

RELATING TO: Manufactured Home Communities

Final regulatory flexibility analysis not required. (Statement of determination required.)

Sections 101.935 and 101.937, Stats., direct the Department to license and regulate manufactured home communities and to regulate the provision of water and sewer service to manufactured home community occupants through the promulgation of administrative rules. The proposed rules of Clearinghouse Rule No. 04-135 are minimum requirements to meet the directive of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

*(Continued on reverse side)*

3. Nature and estimated cost of preparation of any reports by small businesses.
  
  
  
  
  
  
  
  
  
  
4. Nature and estimated cost of other measures and investments required of small businesses.
  
  
  
  
  
  
  
  
  
  
5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.
  
  
  
  
  
  
  
  
  
  
6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.



# RULE REPORT

## Department of Commerce

Date ?

Clearinghouse Rule No.: 04-135

Rule No.: Chapters Comm 26, 95 and 2

Relating to: Manufactured Home Communities

*Contact person for substantive questions:*

*Contact person for internal processing:*

Name Larry Swaziek

Name Ronald Acker

Title Program Manager

Title Code Development Consultant

Telephone Number 608/267-7701

Telephone Number 608/267-7907

1. Basis and purpose of the proposed rule.

The basis of the proposed rule are sections 101.935 and 101.937, Stats., and 2005 Wisconsin Act 45. The purpose of the proposed rule is to update and consolidate the current administrative rules for the licensure and regulation of manufactured home communities and for the provision of water and sewer service to manufactured home community occupants. The purpose is also to incorporate the rule changes required under 2005 Wisconsin Act 45.

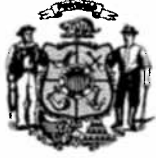
2. How the proposed rule advances relevant statutory goals or purposes.

The proposed rule updates the necessary provisions to issue licenses to and to regulate manufactured home communities, and to regulate water and sewer service in manufactured home communities, as required under sections 101.935 and 101.937, Stats. The proposed rule also updates terminology and codifies the fees removed from the statutes, as required under 2005 Wisconsin Act 45.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

The rule analysis and fiscal estimate that were prepared for public hearing were changed to incorporate the rule revisions and additions required under 2005 Wisconsin Act 45.





State of Wisconsin \ Department of Commerce

# **RULES in FINAL DRAFT FORM**

**Rule No.:** Chapters Comm 26, 95 and 2

**Relating to:** Manufactured Home Communities

**Clearinghouse Rule No.:** 04-135

The Wisconsin Department of Commerce proposes an order to repeal chapters Comm 95 and PSC 186; and to create s. Comm 2.33 (3), (4) and (5) and chapter Comm 26, relating to manufactured home parks/communities and affecting small businesses.

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**ANALYSIS OF PROPOSED RULES**

**1. Statutes interpreted.**

Sections 101.935 and 101.937, Stats., and 2005 Wisconsin Act 45

**2. Statutory authority.**

Sections 101.935 and 101.937, Stats., and 2005 Wisconsin Act 45

**3. Related Statute or Rule.**

None.

**4. Explanation of Agency Authority.**

Section 101.935, Stats., currently requires the Department of Commerce to issue permits to and regulate manufactured home parks through the promulgation of administrative rules. The rules must also establish the park permit fee. Chapter Comm 95 currently contains the required rules for the regulation of manufactured home parks, including the park permit fees. Section 101.937, Stats., currently requires the department to establish rules for providing water or sewer service by a manufactured home park operator or manufactured home park contractor to a manufactured home park occupant. Chapter PSC 186 currently contains the required rules relating to the provision of water or sewer service to manufactured home park occupants. The authority for administering chapter PSC 186 was transferred from the Public Service Commission to the department in 2001.

2005 Wisconsin Act 45 changes the word “park” to “community” in chapter 101, Stats. The Act also removes the certificate of title fees from the statutes and directs the department to establish those fees by rule.

**5. Summary of Proposed Rules.**

The proposed rules repeal both chapters Comm 95 and PSC 186 and create a new chapter Comm 26 consisting of the regulation of manufactured home communities, including the provision of water or sewer service to the communities. The permit fees currently in chapter Comm 95 are being moved, without change, to chapter Comm 2 – Fee Schedule. In response to 2005 Wisconsin Act 45, “park” was changed to “community” and the certificate of title fees have also been added to chapter Comm 2.

In moving the administrative rules from chapters Comm 95 and PSC 186 into chapter Comm 26, some changes are being proposed. The following listing is a summary of the major changes contained in the proposed rules.



1. Two sets of plans are required to be submitted for plan approval of a new or expanded manufactured home community. [Comm 26.07]

2. Street width requirements for new manufactured home communities are proposed to be wider where off-street parking is not provided. [Comm 26.12 (3)]

3. Fire hydrants are required in new manufactured home communities depending on the availability of adequate water supply. [Comm 26.13 (2)]

4. The rules regarding the establishment of general service charges for water and sewer service are revised and separated depending on whether the service is metered or not metered. [Comm 26.30 (1)]

5. The maximum allowed deposit for water and sewer service is increased from \$40 to \$60, and the requirement to pay interest on the deposit is deleted. [Comm 26.33 (1)]

## **6. Summary of, and Comparison with, Existing or Proposed Federal Regulations.**

An Internet-based search of the *Code of Federal Regulations* (CFR) found the following existing federal regulations relating to manufactured home parks/communities.

- Title 44 CFR Part 60 – Criteria for Land Management and Use. This regulation in the federal Department of Homeland Security requires local municipalities to have flood plain management regulations relating to proposed construction or other development in the municipality, including the placement of manufactured homes.
- Several other federal regulations, such as Title 24 CFR Part 201, Title 24 CFR Part 883 and Title 38 CFR Part 36, relate to loans and housing assistance for manufactured homes and home lots.

These federal regulations apply to different subjects and do not address the same activities as compared to the proposed rules.

An Internet-based search of the 2004 and 2005 issues of the *Federal Register* did not find any proposed regulations relating to manufactured home parks/communities.

## **7. Comparison with Rules in Adjacent States.**

An Internet-based search of adjacent states' rules found the following regulations that include requirements relating to manufactured home parks/communities.

- Illinois has state regulations applying to the licensure of manufactured home communities, administered by the Department of Public Health. The regulations are comprehensive, covering areas such as streets, parking, water, sewer, fire safety, waste disposal, and inspections.

- Iowa has no state regulations applying to manufactured home parks/communities. Iowa's manufactured home regulations govern the construction and installation of the homes as well as the licensure of home installers.
- Michigan has extensive regulations applying to the licensure of manufactured home communities, administered by the Department of Consumer and Industry Services. The regulations are very detailed and comprehensive, covering areas such as plan approval, inspections, streets, utilities, fire safety, home installation, recreational areas, and business practices.
- Minnesota has state regulations applying to the licensure of manufactured home parks and recreational camping areas, administered by the Department of Health. The regulations are very general, covering areas such as home spacing, water supply, sewage disposal, garbage and refuse, fire protection, and inspection.

The Illinois, Michigan and Minnesota regulations generally cover the same topics as the proposed rules.

**8. Summary of Factual Data and Analytical Methodologies.**

There were no factual data or analytical methodologies used to develop the proposed rules.

**9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report.**

The proposed rules should have a minimal effect on small business. There were no supporting documents used to determine the effect on small business, and an economic impact report was not prepared.

**Advisory Council**

The proposed rules have been developed with the assistance of the Manufactured Homes and Home Parks Advisory Council. The members of that citizen advisory council are as follows:

<u>Name</u>	<u>Representing</u>
Phil Blazkowski	WI Counties Association (Municipal inspector)
Brian Brown	WI Housing Alliance (Sewer/water service provider)
Gregg Cleveland	WI Fire Chiefs Association (Fire chief)
Joseph Dentice, Jr.	WI Housing Alliance (Community operator)
Mark Flood	WI Housing Alliance (Community owner)
John Geise	WI Housing Alliance (Manufacturer)
Pete Halverson	WI Housing Alliance (Dealer/Salesperson)
Ron Middleton	WI Housing Alliance (Community owner)
Al Rhinerson	WI Housing Alliance (Installer)
Tom Schrader	WI Housing and Economic Development Authority (Public)
Kristen Zehner	WI Manufactured Home Owners Association (Home owner)

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SECTION 1. Comm 2.33 (3), (4) and (5) are created to read:

**Comm 2.33 (3) COMMUNITY INSPECTIONS.** The department shall assess a fee of \$100 for each inspection of a new manufactured home community or community expansion or for investigation of a complaint.

**(4) COMMUNITY PERMITS.** (a) Manufactured home community permit fees are as follows:

1. For a community with 1 to 20 sites, \$250.
2. For a community with 21 to 50 sites, \$450.
3. For a community with 51 to 100 sites, \$700.
4. For a community with 101 to 175 sites, \$900.
5. For a community with more than 175 sites, \$1000.

**Note:** The community permit fees cover the department's costs for plan examination.

(b) A late fee of \$30 shall be required for each permit if the renewal fee is not paid before the permit expires.

(c) Agents issuing permits shall reimburse the department 37% of the permit fees specified in par. (a).

**(5) CERTIFICATE OF TITLE FEES.** Fees for a certificate of title for a manufactured home shall be determined in accordance with the following schedule:

- (a) For filing an application for the first certificate of title . . . . . \$8.50
- (b) A manufactured housing rehabilitation and recycling fee upon filing an application under par. (a) or (d) . . . . . \$7.00
- (c) For the original notation and subsequent release of each security interest noted upon a certificate of title . . . . . \$4.00
- (d) For a certificate of title after a transfer . . . . . \$8.50
- (e) A supplemental title fee upon filing an application under par (a) or (d), except that this fee shall be waived with respect to an application under par. (d) for transfer of a decedent's interest in a manufactured home to his or her surviving spouse . . . . . \$7.50
- (f) For each assignment of a security interest noted upon a certificate of title . . . . . \$1.00
- (g) For a replacement certificate of title . . . . . \$8.00
- (h) For processing applications for certificates of title that have special handling requests for fast service . . . . . \$15.00

- (i) For the reinstatement of a certificate of title previously suspended or revoked . . . . \$25.00
- (j) For conducting a file search of manufactured home title records . . . . . \$3.00
- (k) For each notification under s. 101.9213 (8), Stats., that a security interest has not been satisfied . . . . . \$4.00

SECTION 2. Chapter Comm 26 is created to read:

**Chapter Comm 26  
Manufactured Home Communities**

**Subchapter I - Administration and Enforcement**

**Comm 26.01 Purpose.** Pursuant to s. 101.935 (3), Stats., the purpose of this chapter is to regulate manufactured home communities in order to protect public safety and health.

**Comm 26.02 Scope.** Except as specified otherwise in this chapter, the provisions of this chapter apply to all new and existing manufactured home communities.

**Comm 26.03 Petition for variance.** The department shall consider and may grant a variance to a non-statutory provision of this chapter in accordance with ch. Comm 3. The petition for variance shall include a position statement from the fire department having jurisdiction over the affected property.

**Note:** Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. Chapter Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

**Comm 26.04 Penalties.** Penalties for violations of this chapter shall be assessed in accordance with s. 101.94 (8) (c), Stats.

**Note:** Section 101.94 (8) (c), Stats., indicates that a person who violates s. 101.935, a rule promulgated under s. 101.935 or an order issued under s. 101.935 may be required to forfeit not less than \$10 nor more than \$250 for each violation. Each day of continued violation constitutes a separate violation..

**Comm 26.05 Appeals. (1) APPEAL OF DEPARTMENT ORDER.** Pursuant to ss. 101.02 (6)(e) and 101.94 (7), Stats., any person who owns or occupies a property that is affected by an order of the department may petition the department for a hearing on the reasonableness of the order.

**(2) APPEAL OF LOCAL ORDER.** Pursuant to s. 101.02 (7)(b), Stats., any person affected by a local order that is in conflict with an order of the department may petition the department for a hearing on the local order.

**(3) PETITION OF ADMINISTRATIVE RULE.** Pursuant to s. 227.12, Stats., any municipality, corporation or any 5 or more persons having an interest in an administrative rule may petition the department requesting the adoption, amendment or repeal of the rule.

**Comm 26.06 Fees.** Fees for the plan examination, community permit and inspection of communities shall be submitted to the department as specified in ch. Comm 2.

**Comm 26.07 Plan approval.** Two sets of plans and one set of related specifications and calculations for a new or expanded manufactured home community shall be submitted to the department or its agent for examination in relation to this chapter and for approval before work is begun on the community. After the initial approval, no change in plans or specifications that is affected by any provision of this chapter may be made unless the change is approved and dated by the department or its agent. Plan requirements shall be shown to scale and direction according to s. Comm 26.12 (1) to (3). An approval letter from the department shall also be attached to plans for any private sewage system. A copy of a safe water sample test result shall be submitted for private wells.

**Comm 26.08 Permit. (1) APPLICATION.** Before a manufactured home community is opened for public use, the manufactured home community operator shall obtain a permit from the department or its agent by application made upon form SBD-10675. The permit is valid for a maximum period of 2 years, and shall be renewed prior to expiration. Upon a change of manufactured home community operator, the department or its agent shall be notified on form SBD-10675.

**Note:** All forms referenced in this chapter are available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison, WI 53701-2509, telephone 608/266-3151 and 608/264-8777 (TTY), or at the Safety and Buildings Web site at [www.commerce.wi.gov/SB/](http://www.commerce.wi.gov/SB/).

**Note:** Section 101.935 (2) (c), Stats., indicates that permits are valid for a 2-year period that begins on July 1 of each even-numbered year and ends on June 30 of the next even-numbered year. If a person applies for a permit after the beginning of a permit period, the permit is valid until the end of the permit period.

**(2) ACTION BY THE DEPARTMENT.** Within 30 days after receiving a completed application, the department or its agent shall either approve the application and issue a permit or deny the application. If the application for a permit is denied, the department or its agent shall give the applicant reasons, in writing, for the denial. The department or its agent shall conduct an on-site review for new communities, community expansions, or complaints.

**Comm 26.09 Enforcement. (1) ACCESS.** An authorized employee or agent of the department, upon presenting proper identification if requested, shall be permitted to enter any manufactured home community at any reasonable time for the purpose of inspecting the manufactured home community to determine compliance with this chapter. The department's authorized employee or agent shall be permitted to examine the records of the manufactured home community pertinent to this chapter, including manufactured home community registration records.

**(2) ENFORCEMENT POLICY. (a) Notification.** If upon inspection of a manufactured home community the authorized employee or agent of the department finds that the manufactured home community is not planned, operated or equipped as required by this chapter, the employee or agent shall, except as provided under par. (b), notify the manufactured home community operator in writing. The notice shall specify the changes required to make the manufactured home community conform to the standards established in this chapter and the time period within which compliance shall take place.

**Note:** Section 101.935 (2) (b), Stats., requires the department to hold a hearing in accordance with ch. 227, Stats., before suspending or revoking a permit for violations of this chapter.

(b) *Order to deal with an immediate danger to health.* Where there is reasonable cause to believe that any construction, sanitary condition, operation or method of operation of the premises of a manufactured home community, or of equipment used on the premises, creates an immediate danger to health, an authorized designee of the administrator of the department's division of safety and buildings, pursuant to s. 101.935 (2) (e), Stats., may without advance written notice, issue a temporary order to remove the immediate danger to health. The authorized designee may issue a monetary forfeiture to the manufactured home community operator for each day the danger is present after it has been identified. That order shall take effect on the delivery to the operator or other person in charge of the manufactured home community. The order shall be limited to prohibiting the continued operation or method of operation of specific equipment, requiring the premises to cease other operations or methods of operations that create an immediate danger to health, or a combination of these, except that if a more limited order will not remove the immediate danger to health the order may direct that all operations authorized by the permit shall cease. If before scheduled expiration of the temporary order the department determines that an immediate danger to health does in fact exist, the temporary order shall remain in effect. The department shall then schedule and hold a hearing pursuant to ch. 227, Stats., unless the immediate danger to health is removed or the order is not contested and the operator and the department mutually agree that no purpose would be served by a hearing.

(3) LOCAL ENFORCEMENT. If an agent issues permits directly under this chapter, the agent shall create enforcement and appeal procedures in accordance with ss. 254.69 (2) and 66.0417, Stats., which shall supersede sub. (2).

## **Subchapter II - Definitions**

**Comm 26.10 Definitions.** In this chapter:

- (1) "Ability to pay" means a manufactured home community occupant's financial capacity to meet the manufactured home community occupant's water and sewer service financial obligation.
- (2) "Agent" means a village, city or county designated by the department to issue permits and make inspections of the manufactured home communities.
- (3) "Basic unit" means a manufactured home without hitch, awnings, cabanas, storage unit, carport, garage, windbreak, non-winterized porch or similar appurtenant structures.
- (4) "Deferred payment agreement" means an arrangement between a manufactured home community operator or manufactured home community contractor and a manufactured home community occupant for payment of a delinquent amount or deposit owed for water and sewer service in installments.
- (5) "Department" means the department of commerce.
- (6) "Disconnection" means an event or action taken by the manufactured home community operator or manufactured home community contractor to terminate or discontinue the provision of water and sewer service, but does not include cessation of service at the request of a manufactured home community occupant.
- (7) "Dispute" means a statement or question by a manufactured home community occupant alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or

action committed or created by a manufactured home community operator or manufactured home community contractor.

(8) "General service charges" means charges billed to the manufactured home community occupant by the manufactured home community operator or manufactured home community contractor and intended to recover the cost of supplying water and sewer service.

**Note:** The expenses typically recovered by general service charges are operation and maintenance expenses, taxes, depreciation, or debt service. Expenses such as late payment charges, non-sufficient funds check charges, or reconnection charges are not typically recovered through general service charges but are typically separate, additional charges applied to the manufactured home community occupant's account.

(9) "Manufactured home" has the meaning specified under s. 101.91 (2), Stats.

**Note:** Under s.101.91 (2), Stats., "manufactured home" means any of the following:

(am) A structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the federal department of housing and urban development as complying with the standards established under 42 USC 5401 to 5425.

(c) A mobile home, unless a mobile home is specifically excluded under the applicable statute.

(10) "Manufactured home community" has the meaning specified under s. 101.91 (5m), Stats.

**Note:** Under s.101.91 (5m), Stats., "manufactured home community" means any plot or plots of ground upon which 3 or more manufactured homes that are occupied for dwelling or sleeping purposes are located. "Manufactured home community" does not include a farm where the occupants of the manufactured homes are the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured homes work on the farm.

(11) "Manufactured home community contractor" has the meaning specified under s. 101.91 (6m), Stats.

**Note:** Under s.101.91 (6m), Stats., "manufactured home community contractor" means a person, other than a public utility, as defined in s. 196.01 (5) (a), who, under a contract with a manufactured home community operator, provides water or sewer service to a manufactured home community occupant or performs a service related to providing water or sewer service to a manufactured home community occupant.

(12) "Manufactured home community occupant" has the meaning specified under s. 101.91 (7), Stats.

**Note:** Under s. 101.91 (7), Stats., "manufactured home community occupant" means a person who rents or owns a manufactured home in a manufactured home community.

(13) "Manufactured home community operator" has the meaning given in s. 101.91 (8), Stats.

**Note:** Under s. 101.91 (8), Stats., "manufactured home community operator" means a person engaged in the business of owning or managing a manufactured home community.

(14) "Meter" means an instrument installed to measure the volume or rate, or both, of flow of water delivered through it.

(15) "Person" means an individual, firm, trust, partnership, association or corporation.

(16) "Protective services emergency" means a threat to the health or safety of a community resident because of the infirmities of aging, mental retardation, other developmental or mental disabilities, or the frailties associated with being very young.

(17) "Remote outside meter" means an analog device attached to a building or structure that displays the reading of the base meter through electronic pulses sent from the base meter.

**Note:** Remote outside meters are considered part of the manufactured home community operator's or manufactured home community contractor's metering configuration.

(18) "Site" means a plot of ground within a manufactured home community designed for placement of one manufactured home.

(19) "Small manufactured home community" means a manufactured home community containing fewer than 6 individual sites that are rented or offered for rent for the accommodation of a manufactured home.

(20) "Street" means the paved or surfaced portion of the roadway between curb faces.

### **Subchapter III - General Requirements**

**Comm 26.11 Location.** (1) Every manufactured home community and manufactured home within the community shall be located on a well-drained area and shall be properly graded to prevent the accumulation of stormwater or other waters.

(2) A manufactured home shall be located on soil that provides sufficient soil bearing capacity to support the manufactured home.

**Comm 26.12 Physical layout.** (1) SITES. (a) Each site shall be clearly delineated on plans submitted to the department or its agent for approval.

(b) Each basic unit shall be located on a site so that there is at least a 10-foot clearance between basic units. The clearance requirements shall be exclusive of a parking area.

(c) No basic unit may be located closer than 10 feet to:

1. Any building such as a pump house, the office building for the community, a laundry building or a recreational building, except a garage or accessory structure belonging to the site or manufactured home community occupant;

2. Any property line of the community; or

3. Any street within the community.

**Note:** See chs. Comm 20-25 for additions and alterations to manufactured homes.

(2) PARKING. Parking spaces in a ratio of one and one half for each site shall be provided and maintained in good condition.

(3) STREETS. (a) Streets shall conform to the minimum widths specified in Table 26.12.



**Table 26.12  
Street Widths, in Feet**

Travel Direction	No Off-Street Parking Provided		Off-Street Parking Provided		
	Parking 2 Sides	Parking One Side	Parking 2 Sides	Parking One Side	No Street Parking
2 Way	36	30	32	24	18
One Way	24	18	24	18	14

(b) Where parking on the street is prohibited, "no parking" signs shall be provided.

(c) Streets shall be graveled or paved, maintained in good condition, have natural drainage, and be able to support the imposed loads for occasional use of fire apparatus as determined in consultation with the local fire department.

**(4) EXISTING MANUFACTURED HOME COMMUNITIES.** (a) Except as provided in par. (b), manufactured home communities or a section of a manufactured home community that were in existence prior to 1962 need not comply with subs. (1) to (3) unless the department determines that non-compliance endangers the health or safety of community occupants.

(b) Any manufactured home community expansion shall comply with subs. (1) to (3) and other applicable parts of this chapter.

(c) Any modification of a manufactured home community that existed prior to 1962 relating to the size of the basic units, the separation between basic units or the placement of basic units on a lot in relationship to streets and other buildings shall be permitted by the department unless the department determines that the modification endangers the health or safety of community occupants. Any modification of a manufactured home community which did not exist prior to 1962 shall comply with subs. (1) to (3) and other applicable parts of this chapter.

(d) Manufactured home communities or a section of a manufactured home community that were constructed between 1962 and [the effective date of these rules . . . Revisor to insert date] shall comply with the following requirements for the width of 2-way streets within the community: At least 32 feet if parking is permitted on both sides of the street, 24 feet if parking is permitted on one side of the street and 18 feet if parking on the street is prohibited.

**Comm 26.13 Fire hydrants.** For manufactured home communities and community expansions constructed after [the effective date of these rules . . . Revisor to insert date], fire hydrants shall be provided in accordance with ch. NR 811 when the required water supply is available.

**Comm 26.14 Plumbing systems.** Water and sewer systems owned by a manufactured home community operator or manufactured home community contractor shall be constructed and maintained in compliance with chs. Comm 81 to 87.

**Note:** The connection and use of a public water or sewer system is regulated under s. 281.45, Stats.

**Comm 26.15 Adequacy of water supply.** Each manufactured home community operator or manufactured home community contractor shall furnish a continuous and adequate supply of potable water to its manufactured home community occupants.

**Comm 26.16 Electricity.** Manufactured home community electrical connections shall meet the requirements set forth in ch. Comm 16.

**Note:** Chapter Comm 16 adopts the National Electrical Code (NEC). See Article 550 Part III of the NEC for information relating to electrical connections for manufactured homes.

**Comm 26.17 Garbage and rubbish. (1)** All garbage not disposed of through a garbage disposal unit connected with the sewage system shall be kept in separate, leak proof, non-absorbent containers equipped with tight-fitting covers unless otherwise protected from flies and insects, and the contents shall be disposed of as often as necessary to prevent decomposition or overflow.

**(2)** Garbage and rubbish containers shall be maintained in a clean and sanitary condition. The use of wooden or paper containers for storing garbage and rubbish is prohibited.

**Note:** Local ordinances may require the separation of garbage and recyclable materials.

**(3)** This section does not prohibit the use of dumpsters in a manufactured home community.

**Comm 26.18 Management. (1) AVAILABILITY.** The manufactured home community operator or a designee in charge of the manufactured home community in the absence of the operator shall, during reasonable hours, be available in the community, in close proximity to the community or via electronic means.

**(2) REGISTRATION OF OWNERS.** The manufactured home community operator shall keep a register of all owners and occupants of manufactured homes located in the manufactured home community, and shall permit the department or its agent to inspect the register at all reasonable times and upon reasonable notice. The register may be kept in an electronic form. If the register is being stored at a location different than the licensed address, the operator shall disclose the storage location to the department upon request.

**(3) MAINTENANCE.** The manufactured home community operator shall maintain the manufactured home community in a clean, safe, orderly and sanitary condition at all times.

**Comm 26.19 Duties of occupants.** All owners and other occupants of manufactured homes in a manufactured home community shall:

- (1)** Register with the manufactured home community operator; and
- (2)** Maintain their site in a clean, orderly and sanitary condition at all times.

## **Subchapter IV - Water and Sewer Service**

### **Part 1 - General**

**Comm 26.25 General requirement.** A manufactured home community contractor and a manufactured home community operator that provides water service or sewer service, or both, to the

occupants of their manufactured home community shall furnish reasonably adequate service and facilities as required by this subchapter.

**Comm 26.26 Uniform billing rate.** No manufactured home community operator or manufactured home community contractor may provide water and sewer service to a manufactured home community occupant at a billing rate different from that provided to all other occupants of their manufactured home community.

## Part 2 - Records and Available Information

**Comm 26.27 Records of service interruptions.** Each manufactured home community operator or manufactured home community contractor shall maintain a record of each interruption of service that results from a failure or disruption of the manufactured home community water supply or sewer collection system lasting more than one hour or affecting more than 25% of the manufactured home community occupants upon reporting of such an outage by a manufactured home community occupant. The manufactured home community operator's or manufactured home community contractor's records shall show the date and time the service interruption began, the duration, the cause, and the approximate number of manufactured home community occupants affected. Records must be maintained for 3 years following the date of occurrence.

**Note:** See also s. Comm 26.48 for further information.

**Comm 26.28 Information available and required to be provided to customers.** Each manufactured home community operator or manufactured home community contractor shall have available and provide, to all new manufactured home community occupants and to any manufactured home community occupant making a request, a written notice that includes a summary of the rules set forth in this chapter pertaining to deposits, payment options including deferred payment agreements, disconnection, and dispute procedures. The notice shall contain a reply procedure to allow manufactured home community occupants an opportunity to advise the manufactured home community operator or manufactured home community contractor of any special circumstances, such as the presence of infants or elderly persons or the use of human life-sustaining equipment, and to advise the manufactured home community operator or manufactured home community contractor to contact a specific third-party agency or individual prior to any disconnection action being taken. Each manufactured home community operator or manufactured home community contractor shall also provide annually, and any time rates are increased, written information regarding the rates charged to manufactured home community occupants for the provision of water and sewer service. The information provided shall include a description of how rates are determined, the rate charged the manufactured home community operator or manufactured home community contractor by its water or sewer service provider, and the department's telephone number.

## Part 3 - Rates, Service and Billing

**Comm 26.29 Application.** The provisions of Part 3 are not applicable to manufactured home community operators or manufactured home community contractors who include the costs associated with water and sewer service in their rental fees.

**Comm 26.30 Reasonableness of water and sewer rates.** A manufactured home community operator or manufactured home community contractor may establish general service charges for water and sewer service in one of the following ways:

(1) (a) If a manufactured home community operator or manufactured home community contractor purchases water and sewer service and resells the service to the manufactured home community occupants where the service is not metered, the maximum allowable water and sewer bill to each manufactured home community occupant may not exceed the lesser of the manufactured home community's water and sewer bill, plus 30%, divided by the number of occupied lots within the community, or the retail rates of the local municipality's water and sewer operation applied to the average user. The bill to each manufactured home community occupant shall be based on the previous billing cycle of the service provider. The average user is one whose consumption is equal to the volume of water billed to the manufactured home community operator or manufactured home community contractor, divided by the number of occupied lots or occupants within the manufactured home community.

**Note:** The 30% additional charge is intended to recover the operational, maintenance, and capital costs associated with the facilities within the manufactured home community.

(b) If a manufactured home community operator or manufactured home community contractor purchases water and sewer service and resells the service to the manufactured home community occupants where the service is metered, the maximum allowable water and sewer billing rate to each manufactured home community occupant may not exceed the local residential meter rate based on volume.

(2) If a manufactured home community operator or manufactured home community contractor owns the water supply facilities or the sewerage treatment facilities that serve the manufactured home community, the water charge to a manufactured home community occupant may not exceed the average amount charged for a similar level of water utility service furnished by Wisconsin Class D water public utilities. The charge for sewer service may not exceed 2.5 times the charge for Wisconsin Class D water service.

**Note:** Information relative to the rates of Wisconsin Class D water public utilities is available from the Wisconsin Public Service Commission Web site at [www.psc.wi.gov/](http://www.psc.wi.gov/).

(3) (a) A manufactured home community operator or manufactured home community contractor may establish water and sewer rates in excess of those set forth in sub. (1) or (2) if the manufactured home community operator or manufactured home community contractor can provide written documentation to the department that demonstrates that higher charges are necessary to meet the reasonable costs associated with all or part of the requirements for the construction, reconstruction, improvement, extension, operation, maintenance, repair, or depreciation of the water and sewer system and for the payment of all or part of the principal and interest of any indebtedness associated with providing water and sewer service at a reasonable cost.

(b) A manufactured home community operator or manufactured home community contractor shall provide a written explanation of rates upon request of a manufactured home community occupant, and at any time rates are increased.

**Comm 26.31 Billing methods.** Sewer or water bills for manufactured home community occupants shall be based on one of the following methods:

(1) Metered.

- (2) Flat rate.
- (3) Residential equivalent units.

**Note:** See s. Comm 83.43 for information regarding estimating wastewater flow.

(4) Any other method that can be shown to reasonably allocate costs among manufactured home community occupants.

**Comm 26.32 Billing.** (1) If payments for water and sewer service are paid separately from rent, a bill for water and sewer service shall be issued at least quarterly by the manufactured home community operator or manufactured home community contractor. The bill shall include all of the following on the manufactured home community occupant's receipt:

- (a) The service address.
- (b) The present and last preceding meter readings if service is metered.
- (c) The present and last preceding meter reading dates if service is metered.
- (d) The number of units consumed if service is metered.
- (e) Clear itemization of the amounts included in the bill for the present billing period and any unpaid balance from previous billing periods, including any late payment charges.

(2) Estimated bills shall be distinctly marked as such, if service is on a metered basis.

(3) Except as provided in sub. (4), if payments for water and sewer service are paid separately from rent, a partial payment received for water and sewer service shall be applied, in descending order until fully paid, to each of the following types of charges on the manufactured home community occupant's account:

- (a) Current water and sewer service.
- (b) Current deferred payment agreement.
- (c) Water and sewer service arrears.
- (d) Miscellaneous water and sewer charges.
- (e) All other charges.

(4) Upon a manufactured home community occupant's request, or at the discretion of the manufactured home community operator or manufactured home community contractor, partial payments may be allocated differently than set forth under sub. (3) if the allocation does not result in a disconnection of service or the imposition of a late payment penalty that would not have occurred under the allocation methodology set forth under sub. (3).

(5) The manufactured home community operator or manufactured home community contractor may apply late payment charges to any portion of a manufactured home community occupant's water and sewer service bill that is not paid in full within 20 days following issuance of the bill. The late payment charge each month shall not exceed one percent of the total unpaid balance per month.

(6) (a) If a manufactured home community operator or manufactured home community contractor applies a late payment charge, the late payment charge shall apply only to that portion of the bill not paid within 20 days following issuance of the bill.

(b) If a customer disputes a bill for utility service and does not pay the disputed bill in full within 20 days following issuance of the bill, the late payment charge shall be applied only to that portion of the disputed bill later found to be correct and payable to the manufactured home community operator or manufactured home community contractor.

(7) (a) All new manufactured home community occupants shall apply for water and sewer service. This application may be incorporated into the lease agreement. The manufactured home community operator or manufactured home community contractor may require that either a verbal or written application be made. The manufactured home community operator or manufactured home community contractor shall establish a uniform policy for obtaining the information required by this paragraph. The manufactured home community operator or manufactured home community contractor may require a manufactured home community occupant to provide all of the following:

1. The name or names of parties responsible for bill payment.
2. The address where service is to be provided.
3. The address of residence immediately prior to application.

(b) Except as provided in s. Comm 26.34, water and sewer service shall not be disconnected or refused for refusal to provide any information other than that specified in par. (a).

(8) A manufactured home community occupant who uses water and sewer service but does not apply for it may be billed an estimated or actual amount at a later date for service used prior to the time of application. The manufactured home community operator or manufactured home community contractor shall have reasonable grounds to establish responsibility for the backbilling, and may disconnect service if the manufactured home community occupant fails to pay charges resulting from this backbilling. The manufactured home community operator or manufactured home community contractor shall inform the manufactured home community occupant of the right to dispute the billing through the dispute procedures set forth in s. Comm 26.38.

**Comm 26.33 Deposits for water and sewer service.** (1) (a) A manufactured home community operator or manufactured home community contractor may require a deposit as a condition of new or continued water and sewer service. The amount of the required deposit may not exceed \$60.

(b) A manufactured home community operator or manufactured home community contractor shall inform the manufactured home community occupant of the manufactured home community occupant's right to enter into an installment plan for payment of the deposit amount. Under the installment plan, the deposit amount shall be paid to the manufactured home community operator or manufactured home community contractor in no more than three equal monthly installments.

Operators or contractors of small manufactured home communities are not required to offer installment plans for the payment of deposits.

(2) The manufactured home community operator or manufactured home community contractor shall refund the water and sewer deposit of a manufactured home community occupant within the same period as for the rental agreement security deposit.

(3) (a) Any arrearage owed by a manufactured home community occupant for water and sewer service may be deducted from the manufactured home community occupant's water and sewer deposit.

(b) If the manufactured home community operator or manufactured home community contractor deducts a water and sewer arrearage from a manufactured home community occupant's deposit, it may require the manufactured home community occupant to bring the water and sewer deposit up to its original amount.

**Comm 26.34 Reasons for disconnection and refusal of service.** (1) Water and sewer service may be disconnected or refused for any of the following actions on the part of a manufactured home community occupant:

(a) Failure to pay a delinquent account or failure to comply with the terms of a deferred payment agreement.

**Note:** See s. Comm 26.37.

(b) Failure to comply with deposit arrangements as specified in s. Comm 26.33.

(c) Diversion of service around the meter.

(d) Refusal or failure to permit authorized manufactured home community operator or manufactured home community contractor personnel access to the base meter or remote register.

(e) Use of service in a manner that interferes with the service of others or the operation of nonstandard equipment, if the manufactured home community occupant has first been notified and provided with reasonable opportunity to remedy the situation.

(f) Failure to comply with Wisconsin statutes, department rules, or department orders pertaining to water and sewer service.

(g) Failure to pay costs or fees incurred by and awarded to the manufactured home community operator or manufactured home community contractor by a court of law for pursuit of collection of water and sewer bills, or failure to pay collection charges associated with water and sewer service.

(h) Use of a device that unreasonably interferes with communications or signal services used for reading meters.

(i) Failure to bring a deposit up to its original amount within 20 days of the written request to do so if all or a portion of the deposit has been used to pay a water and sewer arrearage.

(2) A manufactured home community operator or manufactured home community contractor may disconnect water and sewer service without prior notice where a dangerous condition exists for as long as the condition exists. Upon disconnection, the manufactured home community operator or manufactured home community contractor shall provide the manufactured home community occupant a written explanation of the dangerous condition.

(3) Service may be discontinued with a written 24-hour notice for nonpayment of a bill covering surreptitious use of water and sewer.

(4) A manufactured home community operator or manufactured home community contractor may disconnect water and sewer service without notice where it has reasonable evidence that water and sewer service is being obtained by potentially unsafe devices or potentially unsafe methods that stop or interfere with the proper metering of the water and sewer service.

(5) Water and sewer service may not be disconnected or refused for any of the following reasons:

(a) Failure to pay the account of another manufactured home community occupant as guarantor of that account.

(b) Failure to pay charges arising from any underbilling occurring more than one year prior to the current billing.

(c) For the purpose of eviction of a manufactured home community occupant.

(d) If a heat advisory or warning has been declared by the national weather service for a geographic area that includes the manufactured home community.

(6) Between the dates of November 1 and April 15 of each year, a manufactured home community operator or manufactured home community contractor may not disconnect residential water service that is a necessary part of a manufactured home's heating system.

(7) Notwithstanding any other provision of this section, upon due notice to a manufactured home community operator or manufactured home community contractor, the operator or contractor may not disconnect service or refuse to reconnect service to a manufactured home community occupant if disconnection will aggravate an existing medical or protective services emergency of the manufactured home community occupant, a member of the manufactured home community occupant's family, or other permanent resident of the premises where service is rendered and if the manufactured home community occupant conforms to the procedures described in s. Comm 26.35 (1) (c).

(8) Notwithstanding any other provision of this chapter, water and sewer service may not be refused or disconnected because of a delinquent account if the manufactured home community occupant or applicant provides a deposit as a condition of future service, as governed by s. Comm 26.33, or a payment agreement guaranteed by a third party. If the guarantor has agreed to be responsible for payment of all future bills, the manufactured home community occupant shall be notified of the billing arrangement and of the ability to reject the proposed arrangement.

**Comm 26.35 Disconnection procedure.** (1) (a) A notice of disconnection may not be issued until at least 20 days after the date of issuance of the bill.



(b) Manufactured home community water and sewer service shall not be disconnected or refused because of any disputed matter while the disputed matter is being pursued in accordance with the provisions of s. Comm 26.38.

(c) A manufactured home community operator or manufactured home community contractor shall postpone the disconnection of service, or reconnect the service if disconnected, for up to 21 days on the written recommendation of a licensed physician or notice from a public health, social services, or law enforcement official that identifies the medical or protective services emergency and specifies the period of time for postponement of the disconnection. This postponement is to enable the manufactured home community occupant to arrange for payment.

(d) During the period service is continued under the provisions of this subsection, the manufactured home community occupant is responsible for the cost of residential water and sewer service. However, no action to disconnect that service shall be undertaken until expiration of the period of continued service.

(e) If there is a dispute concerning an alleged medical emergency, either party may request an informal review by the department. During the informal review, residential water and sewer service shall be continued if the manufactured home community occupant has submitted a statement or notice as set forth in par. (c).

(2) (a) A manufactured home community operator or manufactured home community contractor shall not disconnect service unless written notice by first class mail is sent to the manufactured home community occupant or personally served upon the occupant at least 8 calendar days prior to the first date of the proposed disconnection except as provided in s. Comm 26.34 (2), (3), and (4). If the billing address is different from the service address, notice shall be posted at the service address not less than 5 days before disconnection. The notice shall contain the information set forth in s. Comm 26.36.

(b) If disconnection is not accomplished on or before the 15th day after the first notice date, a subsequent notice shall be left on the premises not less than 24 hours nor more than 48 hours prior to the disconnection unless the manufactured home community occupant and the manufactured home community operator or manufactured home community contractor agree to extend the 15-day time period. If disconnection is not accomplished on or before the 30th day after the original eight-day disconnection notice was issued, the manufactured home community operator or manufactured home community contractor shall issue a new eight-day disconnection notice prior to proceeding with the disconnection of water and sewer service.

(c) The manufactured home community operator or manufactured home community contractor shall make a reasonable effort to have a personal or telephone contact with the manufactured home community occupant prior to disconnection. If a contact is made, the manufactured home community operator or manufactured home community contractor shall review the reasons for the pending disconnection of service and explain what actions shall be taken by the manufactured home community occupant to avoid disconnection. The manufactured home community operator or manufactured home community contractor shall keep a record of the contacts and contact attempts.

(d) If a dispute cannot be resolved, the manufactured home community operator or manufactured home community contractor shall inform the manufactured home community occupant of the right to appeal to the department in accordance with s. Comm 26.38.

(3) Service shall not be disconnected on a day, or on the day immediately preceding a day, when the business offices of the manufactured home community operator or manufactured home community contractor are not available to the manufactured home community occupants for the purpose of transacting all business matters. If the manufactured home community operator or manufactured home community contractor is not available for all business matters, it shall be considered to be available if it provides personnel that are readily available to the manufactured home community occupant 24 hours per day to evaluate, negotiate, or otherwise consider the manufactured home community occupant's objection to the disconnection as provided under s. Comm 26.38, and proper service personnel are readily available to restore service 24 hours per day.

**Comm 26.36 Disconnection notice.** (1) A disconnection notice shall contain the following information:

(a) The name and address of the manufactured home community occupant and the address of the service, if different.

(b) The reason for the proposed disconnection of service and a statement that service will be disconnected if one of the following does not occur:

1. The account is paid.
2. Arrangement is made to pay the account under a deferred payment agreement.
3. Other suitable arrangements are made.
4. Equipment changes are made.

(c) A statement that the manufactured home community occupant shall immediately contact the manufactured home community operator or manufactured home community contractor at the number listed if the manufactured home community occupant disputes the account considered delinquent, if the manufactured home community occupant wishes to negotiate a deferred payment agreement as an alternative to disconnection, if any resident is seriously ill, or if there are other extenuating circumstances.

**Note:** Extenuating circumstances include things such as the presence of infants or young children in the household, the presence of aged, or persons with disabilities in the household, the presence of residents who use life support systems or equipment, and residents who have mental retardation or other developmental or mental disabilities.

(d) A statement that residential water and sewer service shall be continued for up to 21 days during serious illness on the written recommendation of a licensed physician.

(e) A statement that the manufactured home community occupant may appeal to the department if the grounds for the proposed disconnection or the amount of any charge remains in dispute after the manufactured home community occupant has pursued the available remedies with the manufactured home community operator or manufactured home community contractor.

(f) The date of the notice.

(g) The proposed date of disconnection.

(h) A phone number at which the manufactured home community operator or manufactured home community contractor can be contacted.

(i) A statement that the manufactured home community occupant may apply to accept responsibility for future bills and avoid disconnection of service as allowed under s. Comm 26.34 (8).

(j) A statement that disputing any matter does not relieve the manufactured home community occupant of the obligation of paying charges not in dispute, prevent disconnection of water and sewer service for nonpayment of undisputed charges, or prevent the application of a late payment charge to amounts in dispute that are later determined to be correct.

(2) If disconnection of service is to be made for default on a deferred payment agreement, the notice shall include an explanation of the acts of the manufactured home community occupant which are considered to constitute default.

**Comm 26.37 Deferred payment agreement.** (1) (a) Except as provided in par. (b), a manufactured home community operator or manufactured home community contractor shall offer deferred payment agreements to manufactured home community occupants for water and sewer service. The term of the deferred payment agreement shall not extend past the termination date of the lease in effect for the manufactured home community occupant.

(b) Operators or contractors of small manufactured home communities are not required to offer deferred payment agreements to manufactured home community occupants.

(2) Every deferred payment agreement shall provide that service not be discontinued if the manufactured home community occupant pays a reasonable amount of the outstanding bill, agrees to pay the remaining outstanding balance in installments, and agrees to pay the current bill by the due date.

(3) For purposes of determining reasonableness in sub. (2), the manufactured home community operator or manufactured home community contractor shall consider the manufactured home community occupant's ability to pay, including the following factors:

(a) Size of the delinquent account.

(b) Manufactured home community occupant's water and sewer service payment history.

(c) Time that the debt has been outstanding.

(d) Reasons why the debt has been outstanding.

(e) Any other relevant factors concerning the circumstances of the manufactured home community occupant, such as household size, income, and necessary expenses.

(4) A deferred payment agreement offered by a manufactured home community operator or manufactured home community contractor shall set out all terms and conditions of the agreement. If a deferred payment agreement cannot be reached because the manufactured home community occupant's offer is unacceptable to the manufactured home community operator or manufactured home community contractor, the manufactured home community operator or manufactured home community contractor shall inform the manufactured home community occupant why the manufactured home community occupant's offer was not acceptable. If the manufactured home community operator or manufactured home community contractor and the manufactured home community occupant cannot reach agreement on the terms and conditions of the deferred payment agreement, the manufactured home community occupant shall be informed of the right to ask the department to review the agreement being offered.

(5) The manufactured home community occupant shall be informed that signing a deferred payment agreement does not affect the responsibility of the manufactured home community occupant to pay for current service or meet the payment schedule set out in the agreement. The manufactured home community occupant will be considered in default of the agreement if any bill for current service or any payment under the agreement is allowed to become delinquent.

(6) If an applicant for manufactured home community water and sewer service or a manufactured home community occupant has not fulfilled the terms of a deferred payment agreement and there has not been a significant change in the manufactured home community occupant's ability to pay since the agreement was negotiated, the manufactured home community operator or manufactured home community contractor may disconnect under s. Comm 26.34, and under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.

(7) Any payments made by a manufactured home community occupant solely in compliance with a deferred payment agreement, and not as part of a payment for other manufactured home community services, shall first be considered as payment toward the deferred payment agreement, with any remainder credited to the current bill. Payments made to satisfy a current bill for manufactured home community service, which may include a portion for a deferred payment agreement, shall be credited as set forth in s. Comm 26.32 (3).

**Comm 26.38 Dispute procedures.** (1) If a manufactured home community occupant disputes a manufactured home community operator or manufactured home community contractor's request for a deposit, or advises the manufactured home community's designated office prior to the disconnection of service that all or any part of any billing as rendered is in dispute, or that any matter related to the disconnection or refusal of service is in dispute, the manufactured home community operator or manufactured home community contractor shall:

(a) Investigate the dispute promptly and completely.

(b) Advise the manufactured home community occupant of the results of the investigation.

(c) Attempt to resolve the dispute, including offering a deferred payment agreement under s. Comm 26.37.

(2) (a) After the manufactured home community occupant has pursued the available remedies with the manufactured home community operator or manufactured home community contractor, the

manufactured home community occupant may request that the department informally review the disputed issue and recommend terms of settlement.

(b) A request for informal review may be made in any reasonable manner, including written, electronic or telephone request directed to the department. The department may request in writing or by telephone the manufactured home community operator or manufactured home community contractor to provide investigative information regarding the dispute.

(c) A manufactured home community operator or manufactured home community contractor shall respond to the department request for an investigation promptly. Based on information provided by the manufactured home community operator or manufactured home community contractor and the manufactured home community occupant, the department shall make an informal determination for settlement of the dispute and communicate that determination to both parties. Either party to the dispute may request and receive the department determination, and the basis for it, in writing. The department shall inform any manufactured home community occupant disputing an informal determination of the right to pursue a formal review.

(d) At least 7 business days shall elapse between the date the department telephones or mails notice of terms of settlement and disconnection.

(3) (a) After informal review, any party to the dispute may make a written request for a formal review by the department. To avoid disconnection pending a formal review, the manufactured home community occupant shall request in writing a formal review by the department within 7 business days of the issuance of the informal determination. All other requests for formal review shall be made within 30 calendar days of the date the department telephones or provides written notice of terms of the settlement after informal review. If a party to a dispute requests written confirmation of the department decision, the 30-day period begins from the date of that mailing.

(b) The department shall base its formal determination on the request for formal review and the department's informal dispute file. Within 45 calendar days from the date that a request for formal review is made, the department shall draft a memorandum based on the information it has received from the manufactured home community operator or manufactured home community contractor and the manufactured home community occupant. A copy of the memorandum shall be provided to the parties no less than 15 business days prior to consideration by the department. The department shall inform both parties in writing of the date of consideration. Either party to the dispute may file a response to the department memorandum. A response shall be filed with the department no less than 2 business days prior to the date scheduled for consideration by the department. The department shall inform both parties in writing of its formal review decision.

(4) Either party to the dispute may request that the department reconsider its formal determination under this section. A request for reconsideration shall comply with s. 227.49, Stats., and shall be received by the department within 20 days after the date the department mailed the determination. A request for reconsideration shall include any additional information or arguments that the party believes were not considered in the original dispute. The department may review and reaffirm its original decision, issue a new decision, or decide to hold a hearing on the matter for the gathering of additional information.

(5) (a) If the department decides under sub. (4) to conduct a hearing, the department may impose conditions on granting the hearing. If either party fails to meet a condition, the department may or may not hold a hearing on the dispute.

(b) The hearing shall conform to the procedures of ch. 227, Stats.

(c) The hearing shall be held not less than 10 days following mailing of the notice of hearing and a decision shall be rendered within 30 days following the conclusion of the hearing.

(6) Manufactured home community water and sewer service shall not be disconnected or refused because of any disputed matter while the disputed matter is being pursued in accordance with the provisions of this section. The manufactured home community operator or manufactured home community contractor shall inform the manufactured home community occupant that pursuing a disputed matter does not relieve the manufactured home community occupant of the obligation of paying charges that are not in dispute, prevent disconnection of water and sewer service for nonpayment of undisputed charges, or prevent the application of a late payment charge to amounts in dispute and later determined to be correct.

**Comm 26.39 Complaint procedures.** Manufactured home community occupants may complain to the department concerning adequacy of water supply, or the general condition of the manufactured home community's water distribution system, sewer collection system or sewer treatment system.

#### Part 4 - Customer Meters, Accuracy Requirements

**Comm 26.40 Meters.** (1) All meters used for measuring the quantity of water delivered to a manufactured home community occupant shall be in good working condition. They shall be adequate in size and design for the type of service measured and shall be accurate to the standard specified in s. PSC 185.65 (2).

(2) If water service is supplied by a manufactured home community operator or manufactured home community contractor on a metered basis, service may not be supplied to any manufactured home community occupant from facilities which are downstream from another manufactured home community occupant's meter.

**Comm 26.41 Meter testing facilities and equipment.** Each manufactured home community operator or manufactured home community contractor billing for water and sewer service on a metered basis shall own or provide, through contract or otherwise, adequate equipment and facilities to provide for testing of all of its water meters.

**Comm 26.42 Testing of manufactured home community occupant meters.** (1) The test of any manufactured home community occupant's meter shall consist of a comparison of its accuracy with that of a standard of known accuracy. If the test standard consists of a previously calibrated reference or service meter, the test results for the manufactured home community occupant meter shall be adjusted to compensate for the inaccuracies of the reference meter at the particular flow rates.

(2) Meters shall be tested before repair ("As Found") and after repair ("As Left"), if applicable.

(3) Meters not meeting the accuracy or other requirements of s. PSC 185.65 (2) shall be repaired or rebuilt to meet those requirements before further use.

**Comm 26.43 Test flows.** The required test flow and normal test flow limits are as listed in s. PSC 185.65. The stated test flows apply for both "As Found" and "As Left" tests.

**Comm 26.44 Required tests of manufactured home community occupant meters.** Meters shall be tested by the manufactured home community operator or manufactured home community contractor at the following times:

- (1) Before use if the meter has not been tested or certified to be accurate.
- (2) Upon manufactured home community occupant request in accordance with s. Comm 26.45.
- (3) When damaged or otherwise suspected of being inaccurate.

**Comm 26.45 Requested test.** (1) Except as provided in sub. (2), each manufactured home community operator or manufactured home community contractor shall promptly make an accuracy test of any metering installation upon request of a manufactured home community occupant.

(2) If less than one year has elapsed since the last meter test, the manufactured home community operator or manufactured home community contractor is not obligated to test the meter unless there is evidence that the meter is damaged or otherwise registering incorrectly.

(3) When a meter test is performed upon request of the manufactured home community occupant, an amount equal to 50% of the estimated cost of the meter test shall be advanced to the manufactured home community operator or manufactured home community contractor by the manufactured home community occupant. This amount shall be refunded if the test shows the meter to be over registering by more than 2%. The entire cost resulting from the meter test shall be the responsibility of the manufactured home community occupant if the results of the test show the meter to be under registering or accurate under s. PSC 185.65 (2).

(4) A report giving the results of the test shall be provided to the manufactured home community occupant and a complete original test record shall be kept on file by the manufactured home community operator or manufactured home community contractor for one year following the test date.

(5) Upon request, the test shall be made in the presence of the manufactured home community occupant during normal business hours.

**Comm 26.46 Remote outside meter system tests.** The remote outside meter system, if used, shall be tested each time the associated meter is tested. If the total recorded consumption of the remote outside meter agrees with that of the base meter, no further testing of the remote outside meter system is required.

#### Part 5 - Operating Requirements

**Comm 26.47 Flushing mains.** If practical, dead-end mains or other low-flow portions of distribution systems shall be flushed as needed to eliminate or minimize complaints from

manufactured home community occupants arising from an objectionable condition of water due to lack of circulation.

**Comm 26.48 Interruptions of service. (1)** Each manufactured home community operator or manufactured home community contractor shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the manufactured home community operator or manufactured home community contractor shall endeavor to re-establish service with the shortest possible delay consistent with the safety of its employees, the manufactured home community occupants, and the general public.

(2) Reasonable notice shall be given to manufactured home community occupants of planned interruptions of service.

**Comm 26.49 Maintenance of water and sewer piping. (1)** Thawing of a manufactured home community occupant's frozen water service or building sewer shall be at the manufactured home community occupant's expense unless:

(a) The freeze-up is a direct result of a disconnect initiated by the manufactured home community operator or manufactured home community contractor and the disconnection occurs during a time when conditions are such that freeze-up could reasonably be expected to occur.

(b) The freeze-up is a result of a deficiency in the manufactured home community water or sewer service piping.

(2) The cost of maintenance of water and sewer service piping shall be at the expense of the manufactured home community occupant if the manufactured home community occupant physically damages piping or discharges improper materials into the sewer.

**Note:** See ss. Comm 82.34 and 83.32 for information regarding the discharge of improper materials into a sewer.

SECTION 3. Chapter Comm 95 is repealed.

SECTION 4. Chapter PSC 186 is repealed.

**END**

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**EFFECTIVE DATE**

Pursuant to s. 227.22 (2)(intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

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