

TITLE 9

Public Utilities

Chapter 1	Water Utility Regulations and Rates
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CHAPTER 1

Water Utility Regulations and Rates

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(Adopted 12/14/2010, Effective Date 1/1/2011, Ord. RC-295)

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ARTICLE A

(Adopted 12/14/2010, Effective Date 1/1/2011, Ord. RC-295)

Rates

SEC. 9-1-1 PUBLIC FIRE PROTECTION SERVICE -- F-1 (Ord RC-339, 03/11/2014)

This service shall include the use of hydrants for fire protection service only and such quantities of water as may be demanded for the purpose of extinguishing fires within the service area. This service shall also include water used for testing equipment and training personnel. For all other purposes, the metered or other rates set forth, or as may be filed with the Public Service Commission, shall apply.

Under Wis. State 196.03(3)(b), the municipality has chosen to have the utility bill the retail general service customers for public fire protection service.

Public Fire Protection – Monthly Service Charges

Residential:

5/8 – inch meter	\$6.70	3 inch meter	\$101.00
¾ - inch meter	\$6.70	4 inch meter	\$168.00
1 – inch meter	\$17.00	6 inch meter	\$336.00
1 ¼ inch meter	\$25.00	8 inch meter	\$537.00
1 1/2 inch meter	\$33.00	10 inch meter	\$806.00
2 inch meter	\$54.00	12 inch meter	\$1,075.00

Non-Residential:

5/8 – inch meter	\$13.40	3 inch meter	\$201.00
¾ - inch meter	\$13.40	4 inch meter	\$334.00
1 – inch meter	\$33.00	6 inch meter	\$669.00
1 ¼ inch meter	\$49.00	8 inch meter	\$1,070.00
1 1/2 inch meter	\$67.00	10 inch meter	\$1,606.00
2 inch meter	\$107.00	12 inch meter	\$2,141.00

Residential Class includes customers who have water service provided for residential or domestic purposes. Sales through a single meter to buildings with three or more dwelling units are classified as commercial.

Nonresidential Class includes commercial, industrial, and public authority customers. Commercial customers include business entities and institutions, except governmental entities, that provide goods or services. Sales through a single meter to buildings with three or more dwelling units are classified as commercial. Churches and parochial schools are not governmental and are classified as commercial.

Industrial customers include customers who are engaged in the manufacture or production of goods. Public Authority customers include any department, agency, or entity of local, state, or federal government, including public schools, colleges and universities.

Customers who are provided service under schedules Mg-1, Ug-1, Mgt-1, or Mz-1, shall also be subject to the charges in this schedule.

Under Wis. Stats. 196.03(3)(b), the City of Delavan has elected to make the charges in this schedule applicable to non-general service customers who own property that is located in an area where the utility has an obligation to provide water for public fire protection. Each parcel shall be billed at the 5/8 inch meter rate under this schedule.

(Ord RC-339, 03/11/2014)

SEC. 9-1-2 PRIVATE FIRE PROTECTION SERVICE -- UNMETERED -- UPF-1. (Ord RC-339, 03/11/2014)

- (a) This service shall consist of permanent or continuous unmetered connections to the main for the purpose of supplying water to private fire protection systems such as automatic sprinkler systems, standpipes, and private hydrants. This service shall also include reasonable quantities of water used for testing check valves and other backflow prevention devices.
- (b) Monthly Private Fire Protection Service Demand Charges:

2-inch or smaller connection	\$ 8.00
3-inch connection	\$ 15.00
4-inch connection	\$ 25.00
6-inch connection	\$ 50.00
8-inch connection	\$ 80.00
10-inch connection	\$120.00
12-inch connection	\$160.00
14-inch connection	\$200.00
16-inch connection	\$240.00
- (c) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-3 GENERAL SERVICE -- METERED -- MG-1. (Ord RC-339, 03/11/2014)

- (a) Monthly Service Charges:

5/8-inch meter - \$ 6.50	3-inch meter - \$ 50.00
3/4-inch meter - \$ 6.50	4-inch meter - \$ 70.00
1-inch meter - \$ 11.00	6-inch meter - \$ 100.00
1¼-inch meter - \$ 15.00	8-inch meter - \$ 140.00
1½-inch meter - \$ 20.00	10-inch meter - \$ 190.00
2-inch meter - \$ 30.00	12-inch meter - \$ 240.00
- (b) Plus Volume Charges:

First	833 cubic feet used per month - \$3.40 per 100 cubic feet
Next	32,500 cubic feet used per month - \$2.67 per 100 cubic feet
Over	33,333 cubic feet used per month - \$1.57 per 100 cubic feet
- (c) **Billing.** Bills for water service are rendered monthly and become due and payable upon issuance following the period for which service is rendered. A late payment charge of 3 percent, but not less than 50 cents, will be added to bills not paid within 20 days of issuance. This one-time 3 percent late payment charge will be applied only to any unpaid balance for the current billing period usage. This late payment charge is applicable to all customers. The utility customer may be given a written notice that the bill is overdue no sooner than 20 days after the bill is issued. Unless payment or satisfactory arrangement for payment is made within the next 10 days, service may be disconnected pursuant to Wis. Admin. Code ch. PSC 185. (Ord RC-339, 03/11/2014)

- (d) **Combined Metering.** Volumetric meter readings will be combined for billing if the utility for its own convenience places more than one meter on a single water service lateral. Multiple meters placed for the purpose of identifying water not discharged into the sanitary sewer are not considered for utility convenience and shall not be combined for billing. This requirement does not preclude the utility from combining readings where metering configurations support such an approach. Meter readings from individually metered separate service laterals shall not be combined for billing purposes.

SEC. 9-1-4 OTHER CHARGES -- OC-1.

- (a) **Non-Sufficient Funds Charge.** A \$25.00 charge shall apply to the customer's account when a check rendered for utility service is returned for non-sufficient funds. This charge may not be in addition to, but may be inclusive of, other non-sufficient funds charges when the check was for payment of multiple services.
- (b) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-5 GENERAL SERVICE -- SUBURBAN -- MG-2.

- (a) Water customers residing outside the corporate limits of the City of Delavan shall be billed at the regular rates for service (Schedule Mg-1) plus a 25 percent surcharge.
- (b) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-6 GENERAL WATER SERVICE -- UNMETERED -- UG-1. (Amended RC-339, 3/11/2014)

- (a) Where the utility cannot immediately install its water meter, service may be supplied temporarily on an unmetered basis. Such service shall be billed at the rate of \$23.50 per month. This rate shall be applied only to single-family residential and small commercial customers and approximates the cost of 500 cubic feet of water per month under Schedule Mg-1. If it is determined by the utility that usage is in excess of 500 cubic feet of water per month, an additional charge per Schedule Mg-1 will be made for the estimated additional usage.
- (b) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-7 PUBLIC SERVICE -- MPA-1.

- (a) Water service supplied to municipal buildings, schools, sewer treatment plants, etc., shall be metered and the regular metered service rates (Schedule Mg-1) applied.
- (b) Water used on an intermittent basis for flushing sewers, street sprinkling, flooding skating rinks, drinking fountains, etc., shall be metered where meters can be set to measure the service. Where it is impossible to measure the service, the superintendent shall estimate the volume of water used based on the pressure, size of opening, and period of time water is allowed to be drawn. The estimated quantity used shall be billed at the rate of \$2.67 per 100 cubic feet.
- (c) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-8 RECONNECTION CHARGES -- R-1.

(a)	<u>During Normal Business Hours</u>	<u>After Normal Business Hours</u>
Reinstallation of meter, including at curb stop	\$50.00	\$70.00
Valve turned on at curb stop	\$25.00	\$50.00

NOTE: No charge for disconnection.

(b) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-9 WATER LATERAL INSTALLATION CHARGE -- CZ-1.

- (a) Subdivision developers shall be responsible, where the main extension has been approved by the utility, for the water service lateral installation costs from the main through the curb stop and box.
- (b) When the cost of a utility main extension is to be collected through assessment by the municipality, the actual average water lateral installation costs from the main through the curb stop and box shall be included in the assessment of the appropriate properties.
- (c) The initial water service lateral(s), not installed as part of a subdivision development or an assessable utility extension, will be installed from the main through the curb stop and box by the utility, for which the actual cost will be charged.
- (d) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-10 SEASONAL, EMERGENCY, OR TEMPORARY SERVICE-- MGT-1. (Amended RC-339, 3/11/2014)

- (a) Seasonal customers* shall pay an annual seasonal service charge equal to twelve times the applicable service charge in Schedule Mg-1. Water use in any billing period shall be billed at the applicable volume rates in Schedule in Mg-1 and the charge added to the annual seasonal service charge.
- (b) For disconnection of service not previously considered as seasonal, emergency, or temporary, if service is resumed at the same premises by the same customer within a 12-month period, and if there has been no service to another customer during the intervening period, the customer shall be billed for the pro rata share of the applicable service charge for the period of disconnection.
- (c) Further, if service has been disconnected or a meter removed, a charge under Schedule R-1 shall be applied at the time of reconnection or meter reinstallation.

*Seasonal customers are general service customers whose use of water is normally for recurring periods of less than a year.

(d) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-11 BUILDING AND CONSTRUCTION WATER SERVICE -- MZ-1.

- (a) For single-family and small commercial buildings, apply the unmetered rate (Schedule Ug-1).
- (b) For large commercial, industrial, or multiple apartment buildings, a temporary metered installation shall be made and general metered rates (Schedule Mg-1) applied.
- (d) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-12 BULK WATER -- BW-1.

- (a) All bulk water supplied from the water system through hydrants or other connections shall be metered, or at the direction of the utility, estimated. Utility personnel or a utility-approved party shall supervise the delivery of water.
- (b) Bulk water sales are:
 - (1) Water supplied by tank trucks or from hydrants for the purpose of extinguishing fires outside the utility's immediate service area;
 - (2) Water supplied by tank trucks or from hydrants for purposes other than extinguishing fires, such as irrigation or the filling of swimming pools; or,
 - (3) Water supplied from hydrants or other temporary connections for general service type applications. (Water supplied for construction purposes – see Schedule Mz-1).
- (c) A charge for volume of water used will be billed to the party using the water at \$3.40 per 100 cubic feet. A service charge, in addition to the volumetric charge, will be \$50.00. In addition, for meters that are assigned to bulk water customers for more than 30 days, the applicable service charge in Schedule Mg-1 will apply after the first 30 days.
- (d) The water utility may require reasonable deposits for the temporary use of its equipment under this and other rate schedules. The deposit(s) collected will be refunded upon return of the utility's equipment. Damaged or lost equipment will be repaired or replaced at the customer's expense.
- (e) **Billing.** Same as Schedule Mg-1.

SEC. 9-1-13 THROUGH SEC. 9-1-19 RESERVED FOR FUTURE USE.

ARTICLE B

(Repealed and Recreated 2/14/2012, RC-316)

Rules and Regulations

SEC. 9-1-20 COMPLIANCE WITH RULES

All persons now receiving water service from this water utility, or who may request service in the future, shall be considered as having agreed to be bound by the rules and regulations as filed with the Public Service Commission of Wisconsin.

SEC. 9-1-21 ESTABLISHMENT OF SERVICE

- (a) Application for water service shall be made in writing on a form furnished by the water utility. The application will contain the legal description of the property to be served, the name of the owner, the exact use to be made of the service, and the size of the service lateral and meter desired. Note particularly any special refrigeration, fire protection, or water-consuming air-conditioning equipment.
- (b) Service will be furnished only if (1) the premises have a frontage on a properly platted street or public strip in which a cast iron or other long-life water main has been laid, or where property owner has agreed to and complied with the provisions of the water utility's filed main extension rule, (2) the property owner has installed or agrees to install a service lateral from the curb stop to the point of use that is not less than 6 feet below the surface of an established or proposed grade and meets the water utility's specification, and (3) the premises have adequate piping beyond the metering point.
- (c) The owner of a multi-unit dwelling has the option of being served by individual metered water service to each unit. The owner, by selecting this option, is required to provide interior plumbing and meter settings to enable individual metered service to each unit and individual disconnection without affecting service to other units. Each meter and meter connection will be treated as a separate water utility account for the purpose of the filed rules and regulations.
- (d) No division of the water service lateral to any lot or parcel of land shall be made for the extension and independent metering of the supply to an adjoining lot or parcel of land. Except for duplexes, no division of a water service lateral shall be made at the curb for separate supplies for two or more separate premises having frontage on any street or public service strip, whether owned by the same or different parties. Duplexes may be served by one lateral provided (1) individual metered service and disconnection is provided and (2) it is permitted by local ordinance.
- (e) Buildings used in the same business, located on the same parcel, and served by a single lateral may have the customer's water supply piping installed to a central point so that volume can be metered in one place.
- (f) The water utility may withhold approval of any application where full information of the purpose of such supply is not clearly indicated and set forth by the applicant property owner.

SEC. 9-1-22 RECONNECTION OF SERVICE

- (a) Where the water utility has disconnected service at the customer's request, a reconnection charge shall be made when the customer requests reconnection of service. See Section 9-1-8 for the applicable rate.
- (b) A reconnection charge shall also be required from customers whose services are disconnected (shut off at curb stop box) because of nonpayment of bills when due. See Section 9-1-8 for the applicable rate.
- (c) If reconnection is requested for the same location of any member of the same household, or, if a place of business, by any partner of the same business, it shall be considered as the same customer.

SEC. 9-1-23 TEMPORARY METERED SERVICE, METER, AND DEPOSITS

An applicant for temporary water service on a metered basis shall make and maintain a monetary deposit for each meter installed as security for payment for use of water and for such other charges which may arise from the use of the supply. A charge shall be made for setting the valve and furnishing and setting the meter. See Section 9-1-12 for applicable rate.

SEC. 9-1-24 WATER FOR CONSTRUCTION

- (a) When water is requested for construction purposes or for filling tanks or other such uses, an application shall be made to the water utility, in writing, giving a statement of the amount of construction work to be done or the size of the tank to be filled, etc. Payment for the water for construction may be required in advance at the scheduled rates. The service lateral must be installed into the building before water can be used. No connection with the service lateral at the curb shall be made without special permission from the water utility. In no case will any employee of the water utility turn on water for construction work unless the contractor has obtained permission from the water utility.
- (b) Customers shall not allow contractors, masons, or other persons to take unmetered water from their premises without permission from the water utility. Any customer failing to comply with this provision may have water service discontinued and will be responsible for the cost of the estimated volume of water used.

SEC. 9-1-25 USE OF HYDRANTS

- (a) In cases where no other supply is available, permission may be granted by the water utility to use a hydrant. No hydrant shall be used until the proper meter, valve, and backflow preventer are installed. In no case shall any valve be installed or moved except by an employee of the water utility.
- (b) Before a valve is set, payment must be made for its setting and for the water to be used at the scheduled rates. Where applicable, see Section 9-1-12 for deposits and charges. Upon completing use of the hydrant, the customer must notify the water utility to that effect.

**SEC. 9-1-26 OPERATION OF VALVES AND HYDRANTS AND UNAUTHORIZED USE OF WATER
- PENALTY**

Any person who shall, without authority of the water utility, allow contractors, masons, or other unauthorized persons to take water from their premises, operate any valve connected with the street or supply mains, or open any fire hydrant connected with the distribution system, except for the purpose of extinguishing fire, or who shall wantonly damage or impair the same, shall be subject to a fine as provided by municipal ordinances. Utility permission for the use of hydrants applies only to such hydrants that are designated for the specific use.

SEC. 9-1-27 REFUNDS OF MONETARY DEPOSITS

All money deposited as security for payment of charges arising from the use of temporary water service on a metered basis, or for the return of a hydrant valve and fixtures if the water is used on an unmetered basis, will be refunded to the depositor on the termination of the use of water, the payment of all charges levied against the depositor, and the return of the water utility's equipment.

SEC. 9-1-28 SERVICE LATERALS

- a) No water service lateral shall be laid through any trench having cinders, rubbish, rock or gravel fill, or any other material which may cause injury to or disintegration of the service lateral, unless adequate means of

protection are provided by sand filling or such other insulation as may be approved by the water utility. Service laterals passing through curb or retaining walls shall be adequately safeguarded by provision of a channel space or pipe casing not less than twice the diameter of the service connection. The space between the service lateral and the channel or pipe casing shall be filled and lightly caulked with an oakum, mastic cement, or other resilient material and made impervious to moisture.

- (b) In backfilling the pipe trench, the service lateral must be protected against injury by carefully hand tamping the ground filling around the pipe. There should be at least 6 inches of ground filling over the pipe, and it should be free from hard lumps, rocks, stones, or other injurious material.
- (c) All water service laterals shall be of undiminished size from the street main into the point of meter placement. Beyond the meter outlet valve, the piping shall be sized and proportioned to provide, on all floors, at all times, an equitable distribution of water supply for the greatest probable number of fixtures or appliances operating simultaneously.

SEC. 9-1-29 REPLACEMENT AND REPAIR OF SERVICE LATERALS

- (a) The service lateral from the main to and through the curb stop will be maintained and kept in repair and, when worn out, replaced at the expense of the water utility. The property owner shall maintain the service lateral from the curb stop to the point of use.
- (b) If an owner fails to repair a leaking or broken service lateral from curb to point of metering or use within such time as may appear reasonable to the water utility after notification has been served on the owner by the water utility, the water will be shut off and will not be turned on again until the repairs have been completed.

SEC. 9-1-30 ABANDONMENT OF SERVICE

If a property owner changes the use of a property currently receiving water service such that water service will no longer be needed in the future, the water utility may require the abandonment of the water service at the water main. In such case, the property owner may be responsible for all removal and/or repair costs, including the water main and the utility portion of the water service lateral.

SEC. 9-1-31 CHARGES FOR WATER WASTED DUE TO LEAKS

- (a) See Wis. Admin. Code § PSC 185.35.
- (b) Subject to the utility's rules setting forth the method of determining a reduced rate herein authorized, if a leak unknown to the customer is found in an appliance or the plumbing, the utility may estimate the water so wasted and bill for it at a reduced rate not less than the utility's cost thereof. No such adjustment shall be made for water supplied after the customer has been notified and has had an opportunity to correct the condition.
- (c) The Water Utility shall inform each customer at least once each year that it is the sole responsibility of the customer to prevent leakage in all piping and fixtures on the premises at and beyond the metering point, and that any leaks or other losses of water, registered by the meter, will be billed at the filed rates. [See, however, Subsection (d) immediately following].
- (e) Pursuant to the Wisconsin Administrative Code citation above referenced in Subsection (a) of this Section, should it be determined that a leak unknown to a customer has been found in an appliance or the plumbing, the Utility may make adjustment for the water so wasted by estimating the water so wasted and bill for it at a reduced rate not less than the Utility's cost thereof in accordance with policies and/or rules it may establish therefor. No such adjustment shall be made for water supplied after the customer has been notified and has had an opportunity to correct the condition.

SEC. 9-1-32 THAWING FROZEN SERVICES

- (a) See Wis. Admin. Code § PSC 185.88.
- (b) Frozen services shall be thawed by and at the entire expense of the utility except where the customer has been notified in advance of a corrective measure to follow or the freezing was caused by contributory fault or negligence on the part of the customer, such as reduction of the cover or undue exposure of the piping in the building or on the customer's property, or failure to comply with the water department specifications and requirements as to depth of service, sufficient backfill, etc. (See PSC 185.35(7) for adjustment of bill where utility requests customer to permit stream of water to flow to prevent freezing.)
- (c) The thawing of frozen services or other underground pipes electrically may introduce hazards if proper precautions are not taken. Damage to buildings and to electrical facilities may result from high current flow in grounding conductors and neutrals. The electric current may reach the grounding conductor and the neutral which may be in parallel with the pipe, or reach the conductor because of physical contact between the interior water piping and the metallic tubing or conduit of the interior wiring.
- (d) It is recommended that when service pipes are being thawed electrically, the water meters be removed and that experienced personnel familiar with the above hazards be asked to disconnect the grounding conductors and to suggest a safe place to connect the conductors used for thawing the pipe.

SEC. 9-1-33 CURB STOP BOXES

The curb stop box is the property of the water utility. The water utility is responsible for its repair and maintenance. This includes maintaining, through adjustment, the curb stop box at an appropriate grade level where no direct action by the property owner or occupant has contributed to an elevation problem. The property owner is responsible for protecting the curb stop box from situations that could obstruct access to it or unduly expose it to harm. The water utility shall not be liable for failure to locate the curb stop box and shut off the water in case of a leak on the owner's premises.

SEC. 9-1-34 INSTALLATION OF METERS

Meters will be owned, furnished, and installed by the water utility or a utility-approved contractor and are not to be disconnected or tampered with by the customer. All meters shall be so located that they shall be protected from obstructions and permit ready access for reading, inspection, and servicing, such location to be designated or approved by the water utility. All piping within the building must be supplied by the owner. Where additional meters are desired by the owner, the owner shall pay for all piping.

SEC. 9-1-35 REPAIRS TO METERS

- (a) Meters will be repaired by the water utility, and the cost of such repairs caused by ordinary wear and tear will be borne by the water utility.
- (b) Repair of any damage to a meter resulting from the carelessness of the owner of the premises, owner's agent, or tenant, or from the negligence of any one of them to properly secure and protect same, including any damage that may result from allowing a water meter to become frozen or to be damaged from the presence of hot water or steam in the meter, shall be paid for by the customer or the owner of the premises.

SEC. 9-1-36 SERVICE PIPING FOR METER SETTINGS

Where the original service piping is installed for a new metered customer, where existing service piping is changed for the customer's convenience, or where a new meter is installed for an existing un-metered customer, the owner of the premises at his/her expense shall provide a suitable location and the proper connections for the meter. The

meter setting and associated plumbing shall comply with the water utility's standards. The water utility should be consulted as to the type and size of the meter setting.

SEC. 9-1-37 TURNING ON WATER

The water may only be turned on for a customer by an authorized employee of the water utility. Plumber may turn the water on to test their work, but upon completion must leave the water turned off.

SEC. 9-1-38 SPRINKLING RESTRICTIONS AND EMERGENCY WATER CONDITIONS

(Amended 4/16/2019 RC-409)

- (a) **Intent.** To prevent overuse of the City's water resources to avoid substantial depletion of the water table and to ensure a safe and secure potable water supply to the public and a sufficient water supply for fire protection purposes during periods of adverse conditions such as droughts, equipment failures, electrical interruptions, system maintenance or other conditions which might interfere with the regular water supply to the community.
- (b) **Emergency Conditions.** The Director of Utilities is responsible for the efficient operation of the City's water supply system. When the Director of Utilities or his/her designee's determines through consultations with the City Engineer or other City staff that the water supply to the public is threatened to be reduced below minimum requirements, the Director or his/her designee shall have the authority to implement restrictions of water use for landscape, lawn watering purposes, and residential hand washing of motor vehicles in the City as set forth in Section (c) herein.
- (c) **Emergency Restrictions.**
 - (1) **First Stage:** Restrict all outside water uses to an odd/even side of the street system based on the day of the week and the address of the user. Even number addresses may water lawns or wash cars on even number days, and odd number address may do so on odd number days. The hours allowed for outside use of water shall be 6:00 a.m. to 8:00 a.m. and 7:00 p.m. to 10:00 p.m. The Utility Director or his/her designee is authorized to issue, during a First Stage restriction only, a temporary permit allowing daily watering of newly placed sod or other vegetation. Such temporary permits shall be applied for on forms approved by the Utility director. The period of watering pursuant to such a permit may occur during the first three weeks following sod placement or other planting and may be extended if so noted on the permit. All temporary water permits must be accompanied by an agreed upon installation date for a temporary meter, pursuant to the temporary metering policy. All temporary watering permits shall be subject to revocation if, in the opinion of the director of Utilities, such action is warranted.
 - (2) **Second Stage:** Restrict all outdoor water use except the Utility Director or his/her designee, is authorized to issue a temporary permit allowing daily watering of newly placed sod or other vegetation. Such temporary permits shall be applied for on forms approved by the Utility Director. The period of watering pursuant to such a permit may occur during the first three weeks following sod placement or other planting and may be expanded if so noted on the permit. All temporary water permits must be accompanied by an agreed upon installation date for a temporary meter, pursuant to the temporary metering policy, if a temporary meter is necessary. All temporary watering permits shall be subject to revocation if, in the opinion of the Director of Utilities, such action is warranted.
 - (3) **Third Stage:** Restrict all outdoor water use immediately and limit indoor water use to minimum needs.
 - (4) The duration of the restriction will depend on the nature of the emergency. The restrictions shall remain in effect until further notice from the City. The Police Department and Utility Department shall notify the public by any convenient means including public address systems, handbills at each household and newspaper notices.

- (d) **Special Permit.** Any person may make an application for a Special Permit allowing sprinkling during the hours prohibited by subs. (c)(1) and (c)(2) of this section.
- (1) The Director of Public Works or his/her designee, is authorized to issue a Special Permit only if the Director of Public Works or his/her designee finds that the permit is necessary to avoid an emergency condition affecting health, sanitation or fire protection of the applicant or the public; or if failure to grant the permit would substantially deprive the applicant of the applicant's financial livelihood; or conditions which reasonably relate to the goal of minimizing depletion of the water table may be placed on a time or manner of sprinkling to be conducted under a Special Permit.
 - (2) The Director of Public Works or his/her designee shall grant or deny an application no later than three (3) business days after the completed application is filed with the Utility. If an application is denied, an agent of the Utility shall advise the applicant in writing of the denial and the reasons thereof within seven (7) days thereafter.
 - (3) Any person aggrieved by a decision to grant or deny a Special Permit under this subsection may appeal to the General Operations Committee by filing a written notice of appeal with the General Operations Committee within twenty (20) days of receipt of notice of the decision. The Committee shall hold a hearing at its next meeting or at a reasonable time thereafter and permit the appellant to be heard and state his or her reasons for the need to overturn the decision of the Director of Public Works. The Committee shall then determine whether the decision of the Director or Public Works was made consistent with the factors set forth in sub. (d)(1) and inform the appellant of its decision no later than thirty (30) days following the hearing. This hearing provision shall not be governed by the administrative review procedures provided for in Chapter 68, Wis. Stats.
- (e) **Enforcement.** The Police Department and Public Works Department shall be responsible for enforcement of any water use restrictions placed in effect under this code section.
- (f) **Penalty.** Any person, firm or corporation who fails to comply with the provisions of this code section shall be subject to a fine not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars for each such offense. Each day that such violation exists shall constitute a separate offense. Failure to comply with sprinkler restrictions and/or emergency water conditions may result in disconnection of service. See Wis. Admin. Code § PSC 185.37.

SEC. 9-1-39 FAILURE TO READ METERS

- (a) Where the water utility is unable to read a meter, the fact will be plainly indicated on the bill, and either an estimated bill will be computed or the minimum charge applied. The difference shall be adjusted when the meter is again read, that is, the bill for the succeeding billing period will be computed with the gallons or cubic feet in each block of the rate schedule doubled, and credit will be given on that bill for the amount of the bill paid the preceding period. Only in unusual cases shall more than three consecutive estimated or minimum bills be rendered.
- (b) If the meter is damaged (see Section 9-1-46 Surreptitious Use of Water) or fails to operate, the bill will be based on the average use during the past year, unless there is some reason why the use is not normal. If the average use cannot be properly determined, the bill will be estimated by some equitable method.
- (c) See Wis. Admin. Code § PSC 185.33.

SEC. 9-1-40 COMPLAINT METER TESTS

- (a) See Wis. Admin. Code § PSC 185.77.
- (b) Each utility shall promptly make an accuracy test without charge of any metering installation upon request of the customer if twenty-four (24) months or more have elapsed since the last complaint test of the meter in

the same location, and for a charge of Two Dollars (\$2.00) per inch of nominal size or fraction thereof, payable in advance, if less than twenty-four (24) months have elapsed. Said amount shall be refunded if the test shows the meter to be over registering by more than two percent (2%). A report giving the results of such test shall be made to the customer and the complete, original test record shall be kept on file in the office of the utility. The test shall be made in the presence of the customer if he desires. (See also PSC 185.35, Wis. Adm. Code).

SEC. 9-1-41 INSPECTION OF PREMISES

- (a) During reasonable hours, any officer or authorized employee of the water utility shall have the right of access to the premises supplied with service for the purpose of inspection or for the enforcement of the water utility's rules and regulations. Whenever appropriate, the water utility will make a systematic inspection of all unmetered water taps for the purpose of checking waste and unnecessary use of water.
- (b) See Wis. Stat. § 196.171.

SEC. 9-1-42 VACATION OF PREMISES

When premises are to be vacated, the water utility shall be notified, in writing, at once, so that it may remove the meter and shut off the water supply at the curb stop. The owner of the premises shall be liable for prosecution for any damage to the water utility's property. See "Abandonment of Service" in Section 9-1-30 for further information.

SEC. 9-1-43 CUSTOMER'S DEPOSITS

- (a) **New Residential Service.** The Utility may require a cash deposit or other guarantee as a condition of new residential service if, and only if, the customer has an outstanding account balance with the Utility which accrued within the last six (6) years and which, at the time of the request for new service, remains outstanding and not in dispute. See Wis. Admin. Code § PSC 185.36.
- (b) **Existing Residential Service.** The Utility may require a cash deposit or other guarantee as a condition of continued service if, and only if, either or both the following circumstances apply:
 - (1) Service has been shut off or discontinued within the last twelve (12) months for violation of these rules and regulations or for nonpayment of a delinquent bill for service which is not in dispute.
 - (2) Credit information obtained by the Utility subsequent to the initial application indicates that the initial application for service was falsified or incomplete to the extent that a deposit would be required under these rules and regulations.
- (c) **Commercial and Industrial Service.** If the credit for an applicant for commercial or industrial service has not been established to the satisfaction of the Utility, the applicant may be required to make a deposit or otherwise guarantee to the Utility payment of bills for service. See Wis. Admin. Code § PSC 185.361.
- (d) **Conditions of Deposit.** The maximum deposit for a new or existing residential account shall not exceed the estimated gross bills for all water service, both billed and unbilled, which can be supplied before the utility's filed disconnect rule becomes applicable. The amount to be deposited may be a minimum of One Dollar (\$1.00) per month for each class of water service furnished. See Wis. Admin. Code § PSC 185.36(4).
- (e) **Refund of Deposits.** The Utility shall review the payment record of each residential customer with a deposit on file at not less than twelve (12) month intervals and shall not require or continue to require a deposit unless a deposit could be required under the conditions stated above. In the case of a commercial or industrial customer, the Utility shall refund the deposit after twenty-four (24) consecutive months of prompt payment if the customer's credit standings satisfactory to the Utility. Payment shall be considered "prompt" if it is made prior to notice of disconnection for nonpayment of a bill not in dispute. Any deposit or portion thereof refunded to a customer shall be refunded by check unless both the customer and the Utility agree to credit the regular bill, or unless service is terminated, in which case, the deposit with accrued interest shall be applied to the final bill and any balance returned to the customer promptly.

- (f) **Other Conditions.** A new or additional deposit may be required upon reasonable written notice of the need therefor if such new or additional deposit could have been required under the circumstances when the initial deposit is made. Service may be refused or disconnected for failure to pay a deposit request as provided in the rules. When service has been disconnected for failure to make a deposit, or for failure to pay a delinquent bill, or for failure to comply with the terms of a Deferred Payment Agreement, and satisfactory arrangements have been made to have service restored, a reconnection charge as specified elsewhere in these rules shall be paid by the customer as a condition to restoration of service.
- (g) **Guarantee Contracts.**
 - (1) The Utility may accept, in lieu of a cash deposit, a contract signed by a guarantor satisfactory to the Utility, whereby payment of a specified sum not exceeding the cash deposit requirement is guaranteed. The term of a guarantee contract shall be two (2) years, but shall automatically terminate after the customer has closed his/her account, or at the guarantor's request upon thirty (30) days' written notice to the Utility.
 - (2) Upon termination of a guarantee contract or whenever the Utility deems same insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required upon reasonable written notice to the customer. Service to any customer who fails to comply with these requirements may be refused, or upon ten (10) days' written notice, disconnected.
 - (3) The Utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account he has guaranteed unless the guarantor waives such notice in writing.
 - (4) In lieu of cash deposit or guarantee, an applicant for new service who has an outstanding account accrued within the last six (6) years with the Utility shall have the right to receive service from the Utility under a Deferred Payment Agreement as provided in these rules and regulations for the outstanding account balance.

SEC. 9-1-44 DISCONNECTION AND REFUSAL OF SERVICE (See Wis. Admin. Code § PSC 185.37)

- (a) **Reasons for Disconnection.** Service may be disconnected or refused for any of the following reasons:
 - (1) Failure to pay a delinquent account or failure to comply with the terms of a Deferred Payment Agreement.
 - (2) Violation of the utility's rules and regulations pertaining to the use of service in a manner which interferes with the service of others or to the operation of nonstandard equipment, if the customer has first been notified and provided with reasonable opportunity to remedy the situation.
 - (3) If a customer remains delinquent without making prior payment arrangements, the utility shall post a twenty-four (24) hour notice at the property that a service disconnection will occur the following day unless payment or payment arrangements are completed. The following day, the utility personnel will complete service disconnections at remaining delinquent customers. If the billing address is different from the service address, notice shall be posted at each individual dwelling unit of the service address not less than 5 days before disconnection. If access is not possible, this 5-day notice shall be posted, at a minimum, to all entrances to the building and in the lobby. Of service to a residential customer which has been disconnected has not been restored within twenty-four (24) hours after disconnection, the utility shall notify the City of Delavan Health Officer of the billing name and service address and that a threat to health and life might exist to persons occupying the premises. (Amended Ord. RC-326, 10-09-2012)
 - (4) Diversion of service around the meter.
- (b) **Disconnection for Delinquent Accounts.**
 - (1) A bill for service is delinquent if unpaid after the due date shown on the bill. The utility may disconnect service for a delinquent bill by giving the customer at least ten (10) calendar days prior to disconnection, a written disconnect notice which may be included with the bill for service. For purposes of this rule, the due date shall not be less than twenty (20) days after issuance.

- (2) The utility may disconnect without notice where a dangerous condition exists for as long as the condition exists. Service may be denied to any customer for failure to comply with the applicable requirements of the rules and regulations of the Public Service Commission or of these rules and regulations, or if a dangerous or unsafe condition exists on the customer's premises.
- (3) The utility shall notify the County Department of Health and Social Services at least five (5) calendar days prior to any scheduled disconnection of residential service if the customer or responsible person has made a written request for this procedure. The utility shall apprise customers of this right upon application for service. If service to a residential customer which has been disconnected has not been restored within twenty-four (24) hours after disconnection, the utility shall notify the appropriate county Sheriff's Department of the billing name and service address and that a threat to health and life might exist to persons occupying the premises.

(c) **Deferred Payment Agreement.** (See Wis. Admin. Code § PSC 185.38)

- (1) The utility shall offer Deferred Payment Agreements to residential customers. The Deferred Payment Agreement shall provide that service will not be discontinued for the outstanding bill if the customer pays a stated reasonable amount of the outstanding bill and agrees to pay a stated reasonable portion of the remaining outstanding balance in installments until the bill is paid. In determining what amounts are "reasonable," the parties shall consider the:
 - a. Size of the delinquent account.
 - b. Customer's ability to pay.
 - c. Customer's payment history.
 - d. Time that the debt has been outstanding.
 - e. Reasons why the debt has been outstanding.
 - f. Any other relevant factors concerning the circumstances of the customer.
- (2) In the Deferred Payment Agreement it shall state immediately preceding the space provided for the customer's signature and in boldface print at least two (2) sizes larger than any other used thereon, the following:

"If you are not satisfied with this agreement, do not sign. If you do sign this agreement you give up your right to dispute the amount due under the agreement except for the utility's failure or refusal to follow the terms of this agreement."
- (3) A Deferred Payment Agreement shall not include a finance charge.
- (4) If an applicant for service has not fulfilled the terms of a Deferred Payment Agreement, the utility shall have the right to disconnect service or refuse service in accordance with these rules and under such circumstances it shall not be required to offer subsequent negotiation of a Deferred Payment Agreement prior to disconnection.
- (5) Any payments made by the customer in compliance with a Deferred Payment Agreement, or otherwise, shall be first considered made in payment of the previous account balance with any remainder credited to the current bill.

(d) **Dispute Procedures.** (See Wis. Admin. Code § PSC 185.39)

- (1) Whenever the customer advises the utility's designated office prior to the disconnection of service that all or part of any billing as rendered is in dispute, or that any matter related to the disconnection is in dispute, the utility shall investigate the dispute promptly and completely, advise the customer of the results of the investigation, attempt to resolve the dispute, and provide the opportunity for the customer to enter into a Deferred Payment Agreement when applicable in order to settle the dispute.
- (2) After the customer has pursued the available remedies with the utility, he may request that the Public Service Commission's staff informally review the disputed issue and recommend terms of settlement.

- (3) Any party to the dispute after informal review may make a written request for a formal review by the Commission. If the Commission decides to conduct a formal hearing on the dispute, the customer must pay fifty percent (50%) of the bill in dispute or post a bond for that amount on or before the hearing date. Failure to pay the amount or post the bond will constitute a waiver of the right to a hearing. Service shall not be disconnected because of any disputed matter while the disputed matter is being pursued under the disputes procedure. In no way does this relieve the customer from the obligation of paying charges which are not disputed.
- (3) The following is an example of a disconnection notice that the utility may use to provide the required notice to customers.

DISCONNECTION NOTICE

Dear Customer:

The bill enclosed with this notice includes your current charge for water utility service and your previous unpaid balance.

You have 10 days to pay the water utility service arrears or your service is subject to disconnection.

If you fail to pay the service arrears or fail to contact us within the 10 days allowed to make reasonable deferred payment arrangement or other suitable arrangement, we will proceed with disconnection action.

To avoid the inconvenience of service interruption and an additional charge of (amount) for reconnection, we urge you to pay the full arrears IMMEDIATELY AT ONE OF OUR OFFICES.

If you have entered into a Deferred Payment Agreement with us and have failed to make the deferred payments you agreed to, your service will be subject to disconnection unless you pay the entire amount due within 10 days.

If you have a reason for delaying the payment, call us and explain the situation.

PLEASE CALL THIS TELEPHONE NUMBER, (telephone number), IMMEDIATELY IF:

1. You dispute the notice of delinquent account.
2. You have a question about your water utility service arrears.
3. You are unable to pay the full amount of the bill and are willing to enter into a deferred payment agreement with us.
4. There are any circumstances you think should be taken into consideration before service is discontinued.
5. Any resident is seriously ill.

Illness Provision: If there is an existing medical emergency in your home and you furnish the water utility with a statement signed by either a licensed Wisconsin physician or a public health official, we will delay disconnection of service up to 21 days. The statement must identify the medical emergency and specify the period of time during which disconnection will aggravate the existing emergency.

Deferred Payment Agreements: If you are a residential customer and, for some reason, you are unable to pay the full amount of the water utility service arrears on your bill, you may contact the water utility to discuss arrangements to pay the arrears over an extended period of time.

This time payment agreement will require:

1. Payment of a reasonable amount at the time the agreement is made.
2. Payment of the remainder of the outstanding balance in monthly installments over a reasonable length of time.
3. Payment of all future water utility service bills in full by the due date.

In any situation where you are unable to resolve billing disputes or disputes about the grounds for proposed disconnection through contacts with our water utility, you may make an appeal to the Public Service Commission of Wisconsin by calling (800) 225-7729.

(WATER UTILITY NAME)

SEC. 9-1-45 COLLECTION OF OVERDUE BILLS

An amount owed by the customer may be levied as a tax as provided in Wis. Stat. § 66.0809.

SEC. 9-1-46 SURREPTITIOUS USE OF WATER

- (a) When the water utility has reasonable evidence that a person is obtaining water, in whole or in part, by means of devices or methods used to stop or interfere with the proper metering of the water utility service being delivered, the water utility reserves the right to estimate and present immediately a bill for unmetered service as a result of such interference, and such bill shall be payable subject to a 24-hour disconnection of service. If the water utility disconnects the service for any such reason, the water utility will reconnect the service upon the following conditions:
 - (1) The customer will be required to deposit with the water utility an amount sufficient to guarantee the payment of the bills for water utility service.
 - (2) The customer will be required to pay the water utility for any and all damages to water utility equipment resulting from such interference with the metering.
 - (3) The customer must further agree to comply with reasonable requirements to protect the water utility against further losses.
- (b) See Wis. Stat. §§ 98.26 and 943.20.

SEC. 9-1-47 REPAIRS TO MAINS

- (a) The water utility reserves the right to shut off the water supply in the mains temporarily to make repairs, alterations, or additions to the plant or system. When the circumstances will permit, the water utility will give notification, by newspaper publication or otherwise, of the discontinuance of the water supply. No credit will be allowed to customers for such temporary suspension of the water supply.
- (b) See Wis. Admin Code § PSC 185.87.

SEC. 9-1-48 DUTY OF WATER UTILITY WITH RESPECT TO SAFETY OF THE PUBLIC

It shall be the duty of the water utility to see that all open ditches for water mains, hydrants, and service laterals are properly guarded to prevent accident to any person or vehicle, and at night there shall be displayed proper signal lighting to insure the safety of the public.

SEC. 9-1-49 HANDLING WATER MAINS AND SERVICE LATERALS IN EXCAVATION TRENCHES

Contractors must call Digger's Hotline and ensure a location if done to establish the existence and location of all water mains and service laterals as provided in Wis. Stat. § 182.0175. Where water mains or service laterals have been removed, cut, or damaged during trench excavation, the contractors must, at their own expense, cause them to be replaced or repaired at once. Contractors must not shut off the water service laterals to any customer for a period exceeding 6 hours.

SEC. 9-1-50 PROTECTIVE DEVICES

- (a) **Protective Devices in General:** The owner or occupant of every premise receiving water supply shall apply and maintain suitable means of protection of the premise supply and all appliances against damage arising in any manner from the use of the water supply, variation of water pressure, or any interruption of water supply. Particularly, such owner or occupant must protect water-cooled compressors for refrigeration systems by means of high and/or low pressure safety cutout devices. There shall likewise be provided means for the prevention of the transmission of water ram or noise of operation of any valve or appliance through the piping of their own or adjacent premises.
- (b) **Relief Valves:** On all "closed systems" (i.e., systems having a check valve, pressure regulator, reducing valve, water filter or softener), an effective pressure relief valve shall be installed at or near the top of the hot water tank or at the hot water distributing pipe connection to the tank. No stop valve shall be placed between the hot water tank and the relief valve or on the drain pipe. See applicable plumbing codes.
- (c) **Air Chambers:** An air chamber or approved shock absorber shall be installed at the terminus of each riser, fixture branch, or hydraulic elevator main for the prevention of undue water hammer. The air chamber shall be sized in conformance with local plumbing codes. Where possible, the air chamber should be provided at its base with a valve for water drainage and replenishment of air.

SEC. 9-1-51 CROSS CONNECTION CONTROL (Amended 4/16/2019 RC-409)

- (a) **Purpose.** Pursuant to state requirement of protection of the public water system from contaminants due to backflow thereof through water service connections and the further requirement for maintenance of continuing program of cross connection control to prevent the contamination of all the public water system, there is hereby created a program in this City to effectuate the same as hereinafter provided.
- (b) **Definition.** A cross connection shall be defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the City water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.
- (c) **Cross Connections Prohibited.** No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the City may enter the supply or distribution system of said municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Common Council and by the Wisconsin Department of Natural Resources in accordance with Section NR 811.09, Wis. Adm. Code.
- (d) **Inspections.** It shall be the duty of the Public Works Committee to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the Common Council and as approved by the Wisconsin Department of Natural Resources.

- (f) **Right to Inspect.** Upon presentation of credentials, the representative of the Commission shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the City for cross connections. If entry is refused, such representative shall obtain a special inspection warrant under Sec. 66.0119, Wis. Stats. On request the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.
- (g) **Discontinuation of Service.** The utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this Section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Chapter 68, Wis. Stats. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this Section.
- (g) **Immediate Discontinuation.** If it is determined by the utility that a cross connection or an emergency endangers public health, safety, or welfare and requires immediate action, and a written finding to that effect is filed with the City Clerk and delivered to the customer's premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under Chapter 68, Wis. Stats., within ten (10) days of such emergency discontinuance.
- (h) **State Code Adopted.** The City adopts by reference the State Plumbing Code of Wisconsin being Department of Commerce Chapter 81 to 87, Wisconsin Administrative Code.
- (i) **Section Not to Supersede Other Ordinances.** This Section does not supersede the State Plumbing Code and any City plumbing ordinances but it supplementary to them.
- (j) **Additional Protection.** In the case of premises having (a) internal cross-connections that cannot be permanently corrected or controlled, or (b) intricate plumbing and piping arrangements or where entry to all portions of the premises is impossible to ascertain whether or not dangerous cross-connections exist, the public water system shall be protected against backflow from the premises by installing an approved backflow preventer in the service line. In the case of any premises where there is any material dangerous to health that is handled in such a manner that, in the opinion of the Utility, could create an actual or potential hazard to the public water system, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure principle backflow preventer. Examples of premises where these conditions will exist include sewage treatment plants, hospitals, mortuaries, plating plants and car wash establishments. In the case of any premises where, in the opinion of the Utility, an undue health threat is posed because of the presence of toxic substances, the Utility may require an approved air- gap at the service connection to protect the water system. This requirement will be at the discretion of the Utility.

SEC. 9-1-52 WATER MAIN EXTENSION RULES -- X-2.

Water mains will be extended for new customers on the following basis:

- (a) Where the cost of the extension is to immediately be collected through assessment by the municipality against the abutting property, the procedure set forth under Wis. Stat. § 66.0703 will apply, and no additional customer contribution to the utility will be required.
- (b) Where the municipality is unwilling or unable to make a special assessment, the extension will be made on a customer-financed basis as follows:
 - (1) The applicant(s) will advance as a contribution in aid of construction the total amount equivalent to that which would have been assessed for all property under sub.(a).
 - (2) Part of the contribution required in sub.(b)(1) will be refundable. When additional customers are connected to the extended main within 10 years of the date of completion, contributions in aid of construction will be collected equal to the amount which would have been assessed under A. for the abutting property being served. This amount will be refunded to the original contributor(s). In no case will the contributions received from additional customers exceed the proportionate amount which would have been required under sub.(a), nor will it exceed the total assessable cost of the original extension.

- (c) When a customer connects to a transmission main or connecting loop installed at utility expense within 10 years of the date of completion, there will be a contribution required of an amount equivalent to that which would have been assessed under sub.(a).

SEC. 9-1-53 WATER MAIN INSTALLATIONS IN PLATTED SUBDIVISIONS -- X-3.

- (a) Application for installation of water mains in regularly platted real estate development subdivisions shall be filed with the utility.
- (b) If the developer, or a contractor employed by the developer, is to install the water mains (with the approval of the utility), the developer shall be responsible for the total cost of construction.
- (c) If the utility or its contractor is to install the water mains, the developer shall be required to advance to the utility, prior to the beginning of the construction, the total estimated cost of the extension. If the final costs exceed estimated costs, an additional billing will be made for the balance of the cost due. This balance is to be paid within 30 days. If final costs are less than estimated, a refund of the overpayment will be made by the water utility.

SEC. 9-1-54 CONNECTION WITH WATER SYSTEM REQUIRED. (Amended 4/16/2019 RC-409)

- (a) **Purpose.** To assure preservation of public health, comfort, and safety, all buildings used for human habitation and located adjacent to the water main, or in a block through which such system extends, shall be required to connect with such system, unless otherwise agreed to in a developer's agreement, intergovernmental agreement, postponement agreement, or other agreement approved by the Common Council.
- (b) **Notice.** Notice to connect shall be issued in writing by the City Clerk upon motion of the Common Council, and served either personally or by registered or certified mail upon either the owner or the occupant of said premises.
- (c) **Failure to Connect.** Should any person, firm, or corporation fail to comply for more than ninety (90) consecutive days after such notice, such person, firm, or corporation shall be liable for a penalty as imposed by Subsection (e) of this Section. In the event the ninety (90) day deadline falls between November 15 and March 15 of any calendar year, an extension to April 15 of said calendar year shall be granted.
- (d) **Alternative to Prosecution.** In addition to prosecuting for failure to connect, after the delivery of such notice and failure to connect, the City may cause such premises to be connected to the water system, including the work of making the necessary connections within the building as are, in the opinion of the City, necessary to permit the function thereof; and the City shall assess all of the expense thereof as a special tax against the property pursuant to Sec. 144.06, Wis. Stats., subject, however, to the right of the owner within thirty (30) days to file written objections with the City Clerk stating that he cannot pay such amount in one sum and asking that it be levied in not to exceed five (5) equal annual installments, together with interest based upon the current prime interest rate.
- (e) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.
- (f) **Location of Property.** A property must be located within the corporate limits of the City of Delavan in order to receive water service from the water utility, except as provided for in an intergovernmental agreement with the City of Delavan, as approved by the Common Council.

SEC. 9-1-55 FLUORIDATION. (Amended 4/16/2019 RC-409)

- (a) **Intent and Purpose.** It is the consensus of scientific, dental, and medical opinion that the presence of fluoride in drinking water is a deterrent to tooth decay. Such chemical is not found in the natural supply of water distributed to the citizens of the City of Delavan. It appears that fluoride can be introduced to the same and into water as furnished to the users as a measure to promote public health and good.

- (b) **Authorization.** The Public Works Department is hereby authorized and directed to affect the fluoridation of water supplied and distributed in the water supply system of the City of Delavan by the introduction of approximately one (1) to one and one-half (1.5) parts of fluoride to every million parts of water being distributed.
- (c) **Health Requirements Observed.** The introduction of such fluoride into the said water system shall be in strict accordance with any instructions and requirements which the State Board of Health may issue and prescribe.
- (d) **Analyses and Reports.** Any and all analyses and reports which may be required by said State Board of Health during the continued introduction of fluoride into said water system shall be promptly and timely made.

SEC. 9-1-56 MATERIALS AND METHODS OF CONSTRUCTION.

The size, slope, alignment, materials of construction of water lines, and the methods to be used in excavating, placing of pipe, jointing, testing and backfilling the trench shall conform to the pertinent requirements of the City's Building and Plumbing Code and other applicable rules and regulations of the City and the Wisconsin Administrative Code.

SEC. 9-1-57 TAPPING. (Amended 4/16/2019 RC-409)

All tapping of water mains shall be done under the direction of the Director of Public Works.

SEC. 9-1-58 ONE (1) SERVICE PER TAP.

No more than one (1) service shall be connected to one (1) tap, and each building shall be on a distinct and separate tap. Exception: with the approval of the Utility, a properly sized water service maybe divided at the property line to serve separate buildings in a multi-family complex, providing each separate lateral has a curb box shut off at the property line.

SEC. 9-1-59 PAVEMENT CUTS.

Where it becomes necessary to cut through pavement for making repairs or installing new services the work shall be done under the direction of the Public Works Director and all costs shall be paid by the person for whom the work is done.

SEC. 9-1-60 SERVICES DAMAGED BY CONTRACTORS. (Amended 4/16/2019 RC-409)

All contractors for underground construction, whether the work is done by machine or by hand labor, shall maintain all water services encountered at their own expense. Contractors must ascertain for themselves the existence and location of all service pipes. Where they are removed, cut or damaged in the process of the work, the contractor must immediately cause them to be repaired. He shall not cause the water to be shut off from the service pipes for a period exceeding six (6) hours. Water utility personnel shall operate all valves required for shut-off unless duly authorized by the Director of Public Works or his/her designee.

SEC. 9-1-61 FLUSHING MAINS.

The water mains shall periodically undergo a most thorough treatment of flushing. Provisions shall be made for readily flushing each dead ended main and such flushing shall be done from time to time as the circumstances of each case appear to require in order to forestall complaints from consumers regarding stagnant and offensive water.

SEC. 9-1-62 PRIVATE WELL ESTABLISHMENT/ABANDONMENT. (Amended 4/16/2019 RC-409)

- (1) **Public Purpose.** It is declared that this section of the code is adopted in the interests of safeguarding the public health and ensuring the safety of its citizenry in constructing new wells and to prevent unused or improperly constructed wells from serving as passageways for contaminated surface or near-surface waters or other materials to reach the usable ground water and to therefore require such unused or improperly constructed unpermitted wells to be properly filled and sealed. This subsection is in no way to be interpreted as a departure from the City's position that all properties shall be connected to the municipal water system when/where available.
- (2) **Requirement for Filling.** All private wells located in the City, whether or not the property whereon they are located are served by the public water system, shall be properly filled, excepting as hereinafter provided.
- (3) **Well Operation Permits.**
 - (a) Initial permit. A well permit may be granted to the owner of a premises to construct or maintain a private well and to operate the same for a period not to exceed one year providing all of the following criteria are met:
 - 1. The well and pump installation meet the requirements of Chapter NR 812, Wis. Adm. Code, and evidence of compliance is furnished by a licensed well driller, pump installer or certified well inspector;
 - 2. The new or existing well does not have a history of producing unsafe water and produces bacteriological safe water as evidenced by two samplings, taken at least thirty days apart by a licensed well driller, pump installer or certified well inspector and tested at laboratory qualified to make such determination;
 - 3. The application for the proposed use of the new or existing well shall be submitted to the Director of Public Works, for his/her review and recommendation to the Common Council. The Common Council may grant a well permit in addition to the water service provided by the public water system if one of the following criteria is met.
 - A. Any well used for geothermal heat sources.
 - B. Wells on private property within the City where public water mains are not available.
 - C. Wells for Industrial uses of non-contact cooling.
 - D. Any other uses that the Common Council may deem necessary due to unusual circumstances.
 - 4. No physical connection shall exist between the piping of the public water system and the private well as verified by the City.
 - (b) Renewal of well permit. A one year renewal well permit may be issued by the City to a well owner who holds an expiring well operation permit providing the well continues to produce bacteriologically safe water as evidenced by single sample taken by the Director of Public Works or his authorized agent and duly tested, and further providing no report(s) of inability to meet any of the other three criteria listed in subsection (3)(a), above, for issuance of original permit shall have been received. The fifth year of renewal for the private well, the well owner shall be required to submit prior to renewal a statement or report from a certified well driller or pump installer stating that the well has been inspected and is in compliance with WIS. ADM. Code NR 812. Should such adverse report(s) have been received, the Director of Public Works or his designee shall then investigate and satisfy himself as to the applicant's ability to meet the other said criteria before a renewal permit may be issued. Should the applicant no longer be able to meet all of said other criteria, no renewal permit shall issue and the original permit shall be revoked forthwith.

(c) **Fees.** Permit fees shall be paid at the time of making application for initial well permit or renewal permit and shall be based on expense of processing the application, required inspection and testing which, at the time of enactment hereof, are as follows:

Initial well permit	\$ 100.00
Renewal well permit	\$ 70.00

Should the initial well permit not be approved by the Common Council, the fee shall be refunded to the applicant. The fees established herein may be changed by resolution made and adopted by the Common Council, without amendment of this Code.

- (4) **Location of Private Wells.** Private wells shall be located pursuant to Zoning Code regulations for an accessory structure and pursuant to applicable NR regulations.
- (5) **Abandonment Procedures.** Wells to be abandoned shall be filled according to the procedures outline in Chapter NR 811, NR 812, or NR 841 Wisconsin Administrative Code by a licensed well driller or pump installer. The cost of inspection and eventual abandonment shall be the expense of the property owner.
- (6) **Reports and Inspection.** A well abandonment report must be submitted by the owner of the premises on which the well has been located to the Department of Natural Resources. The report, copy of which shall also be filed with the City, shall be submitted to the Department of Natural Resources immediately upon completion of the filling of the well.
- (7) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.

SECTION 2. EFFECTIVE DATE

This ordinance shall be in full force and effect upon and from its passage, approval, and publication as required by law.

CHAPTER 2

Cable Communication System Franchise

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SEC. 9-2-1 GRANT OF FRANCHISE.

This chapter allows the City of Delavan to grant to a Franchise Grantee, its successors and assigns, a nonexclusive license to install, maintain and operate a cable television system for the distribution of television signals, frequency-modulated radio signals and any other electronic signals capable of being transmitted over a fiber optic and/or coaxial cable network and closed circuit television programs for a term not to exceed 15 years, provided that the Franchise Grantee conforms to the conditions, limitations and requirements of this Ordinance. This Ordinance may be amended from time to time by the City through the enactment of amendments thereto.

SEC. 9-2-2 DEFINITIONS.

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense included the future, words in the plural number include the singular number and words in the singular number include the plural number.

- (a) **CABLE.** Coaxial and/or fiber optic cables, wave guides or other conductors and equipment for providing television or other services by cable or through its facilities as herein contemplated, and including closed-circuit special event programs and education television.
- (b) **CITY.** The City of Delavan, County of Walworth, State of Wisconsin, in its present incorporated form or in any later recognized, consolidated, enlarged or reincorporated form.
- (c) **CITY COUNCIL; COUNCIL.** The present governing body of the City or any future body constituting the legislative body of the City.
- (d) **GRANTEE.** A person or entity to whom or which a Franchise under this chapter is granted by the City, along with the lawful successors or assigns or such person or entity.
- (e) **GROSS REVENUES.** Any revenue, derived directly or indirectly by a Grantee, its affiliates, subsidiaries, parents and any persons or entities in which a Grantee has a financial interest of five percent or more, from or in connection with the operation of a Delavan cable system including, but not limited to, basic or extended basic subscriber service monthly fees, pay cable fees, installation and reconnection fees. The term does not include any taxes on services furnished by a Grantee and imposed directly upon any subscriber or used by the City, State or other governmental unit and collected by a Grantee on behalf of said governmental unit.
- (f) **NORMAL BUSINESS HOURS.** Those hours during which most similar businesses in the City are open to serve customers, plus at least one night per week until 8 p.m. and at least four hours on the weekend.
- (g) **NORMAL OPERATING CONDITIONS.** Those conditions affecting service within the control of the Grantee. Those conditions presumed to be outside Normal Operating Conditions include natural disasters, human-caused disasters and civil disturbances, power or telephone outages, and severe or unusual weather conditions where such condition limits the Grantee's ability to provide service. Those conditions presumed to be within Normal Operating Conditions include special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance, rebuild or upgrade of the cable system.
- (h) **STREET.** The surface of and space above and below any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the City.
- (i) **SUBSCRIBER.** Any person or entity legally receiving for any purpose the services of a Grantee herein.
- (j) **FRANCHISE** is a license to install, maintain and operate a cable television system for the distribution of television signals, frequency-modulated radio signals and any other electronic signals.
- (k) **FRANCHISE AREA** shall mean the existing corporate limits of the City of Delavan.

SEC. 9-2-3 RENEWAL.

- (a) To the extent applicable, Federal law shall govern the procedures and standards for renewal of any Franchise awarded pursuant to this Ordinance.
- (b) To the extent Federal law is not applicable, the City shall, in its sole judgement and discretion, have the right to grant or deny renewal, provided that, at a minimum, Grantee provides written notice of its intent to seek renewal at least 30 months but not more than 36 months prior to the expiration of the applicable Franchise term.

SEC 9-2-4 TERMINATION OR EXPIRATION.

- (a) A Franchise granted under this ordinance may be terminated by the City for just cause, which may include, but not be limited to, a material breach of the provisions of this Ordinance, a Franchise Agreement issued under this Ordinance, or other violation of local, state or federal law. The City shall not terminate a Franchise without notice to the Grantee, reasonable opportunity to cure, and a public proceeding offering the Grantee and other interested parties the opportunity to comment.

- (b) Should a Grantee's Franchise be terminated or expire and there is no judicial or administrative review of the termination or expiration taking place, the Grantee shall begin removal, within 90 days of termination or expiration, of all property owned by the Grantee and placed on a public right-of-way unless permitted by the City to abandon said property to the City or to a purchaser.
- (c) In the event that a Franchise has been terminated or has expired, the City shall have options, to the extent then permitted by law, to purchase the tangible assets of the Grantee's cable television system previously governed by the Franchise at its fair market value which may be determined by a bona fide offer to purchase the system, to assign such rights to purchase, or to require removal of all Grantee's property located within the public ways of the City at the Grantee's expense. Such an option must be exercised within one year from the date of the termination or expiration of the Franchise, the entry of a final judgment by a court reviewing the question of the termination or expiration, or the entry of a final order upon appeal of the same, whichever is later.

SEC. 9-2-5 TRANSFER PROCEDURE.

All of the rights and privileges and all the obligations, duties and liabilities created by this Ordinance shall pass to and be binding upon the successors of the City and the successors and assigns of the Grantee. The Franchise shall not be assigned or transferred by the Grantee without the written approval of the City hereunder, which approval shall not be unreasonably withheld without a showing of good cause; provided, however, that this section shall not prevent the assignment or pledge of a Franchise or system by a Grantee as security for debt without such approval; and provided further that transfers or assignments of a Franchise between any parent and subsidiary corporation or between entities of which at least 51% of the beneficial ownership is held by the Grantee or any parent corporation shall be permitted without the prior approval of the City. The sale, transfer or assignment of a material portion of the tangible assets of a Grantee to an unrelated third party shall be considered an assignment subject to the provisions of this section.

- (a) The parties to the sale or transfer of a Franchise shall make a written request to the City for its approval of a sale or transfer of the Franchise.
- (b) The City shall reply in writing within 30 days of the request with a written notification of any information it needs to evaluate the request unless both parties agree that more time may be granted. Within 30 days of such information being provided, the City shall indicate approval of the request or its determination that a public hearing is necessary.
- (c) If a public hearing is deemed necessary pursuant to subsection B, the City shall conduct such hearing within 30 days of such determination. Notice of any such hearing shall be given at least 14 days prior to the hearing by publishing notice thereof one in a newspaper of general circulation in the areas being serviced by the Franchise. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the City.
- (d) Within 60 days after the public hearing, the City shall approve or deny the sale or transfer request and notify the Grantee in writing of its decision.
- (e) The parties to the sale or transfer of a Franchise only, without the inclusion of a cable communications system in which at least substantial construction has commenced, shall establish to the City of Delavan that the sale or transfer of a Franchise only will be in the public interest.
- (f) The new holder of a sold or transferred Franchise shall, within 30 days of the sale or transfer, file with the City a copy of the deed, agreement or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by the Grantee. The new holder shall within the same period file with the City any and all required bonds, proofs-of-insurance and certifications, and accept in writing all responsibilities relating to the Cable Franchise and System.

SEC. 9-2-6 FRANCHISE TERRITORY.

The Franchise territory shall be the corporate limits of the City of Delavan. The Grantee shall extend cable service therein to new subdivisions or other land divisions within the City of Delavan when either of the two following criteria are met:

- (a) When there exists a density of 20 homes per plant mile or portion thereof measured from the nearest existing plant from which service can be reasonably provided, or
- (b) When the subdivision or other land divisions is within three hundred feet of existing cable plant and the Grantee has a reasonable opportunity to install cable facilities at the time other utilities such as electricity and telephone are installed. In this context, the Grantee shall be deemed to have reasonable opportunity when given sufficient notice to acquire the necessary materials for the installation and when the Grantee is not unfairly discriminated against by the developer and/or other utility companies involved, with respect to cost sharing on the project.

For residents requesting service which does not meet the criteria set forth in paragraphs (a) and (b) above, the Grantee shall reasonably cooperate with such residents in reaching a cost-sharing agreement providing that the Grantee pay the cost of the first 300 feet and 60% of the cost of the extension beyond 300 feet, up to a maximum of 600 feet, and the resident pay 40% of the cost.

SEC. 9-2-7 SUBSCRIBER PRIVACY.

- (a) No monitoring of any authorized terminal connected to the system shall take place without specific written authorization by the user of the terminal in question on each occasion and written notice to the City, except as may be required for normal maintenance of the system.
- (b) A Grantee shall not, except as required by governmental action, provide any data concerning specific subscribers or users or their use of subscriber services without first securing written authorization from the subscribers or users as required in the Cable Communications Policy Act of 1984.
- (c) Subscribers and users shall retain the right to deactivate their terminals, but shall continue to be responsible for charges until the Grantee is notified to terminate service.

SEC. 9-2-8 TECHNICAL PERFORMANCE.

The cable system shall be operated to comply with or exceed all guidelines and standards set by the FCC for signal quality and leakage. The City reserves the right to test the system or any part thereof and independently measure the signal quality. The Grantee shall provide reasonable access to its facilities and any assistance necessary for such testing. The system shall comply at all times with the applicable National Electrical Code of the National Fire Protection Association.

SEC. 9-2-9 OPEN BOOKS AND RECORDS.

A Grantee shall manage all of its operations in accordance with the policy of totally open books and records vis-à-vis the City. The authorized officers or agents of the City shall have the right to inspect, upon notice, during normal business hours all books, records, maps, plans, financial statements, service complaint logs, performance test results, records of request for service and other like materials of the Grantee that relate to the operation of the Franchise.

SEC. 9-2-10 SUBSCRIBER SERVICE.

- (a) A Grantee shall be required to provide a location within the City open during Normal Business Hours to receive customer payments, and to deliver, exchange or accept return of cable equipment.
- (b) The Grantee shall provide access to a local or toll-free telephone number for programming questions and service requests. The number shall be either staffed or provided with answering capabilities 24 hours a day.

SEC. 9-2-11 DESCRIPTION OF THE SYSTEM.

- (a) A Delavan cable system shall be a least 450 MHZ in bandwidth when newly built, rebuilt or significantly upgraded.
- (b) A Grantee shall, upon request of the City, provide a complete written description of the cable system in the City of Delavan. Such written description shall be updated as substantial changes are made.

SEC. 9-2-12 RATES.

- (a) Rates charged by a Grantee for service hereunder shall be fair and reasonable. Before any service is sold to any customer, the Grantee shall file with the City Clerk its schedule of rates for installation, monthly service charges and any other charges related to the operation of the cable system, together with a statement of the rights and obligations of subscribers.
- (b) Subsequent additions or amendments to rates and service charges shall likewise be filed with the City Clerk at least 30 days before the same become effective.
- (c) The City reserves the option to regulate rates for cable service, should such power be allowed under federal and state law.

SEC. 9-2-13 CONDITIONS ON STREET OCCUPANCY.

- (a) **USE.** All transmission and distribution structures, lines and equipment erected by a Grantee within the City shall be so located as not to cause interference with the proper use of streets, alleys and other public ways and places, and not to cause interference with the rights of or reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways and places.
- (b) **RESTORATION.** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall first give notice to the Director of Public Works of any contemplated disturbances of pavement, sidewalk, driveway or other surfacing, and shall, at its own cost and expense and in a manner approved by the Director of Public Works, replace and restore all pavement, sidewalk, driveway or other surface of any street or alley disturbed in as good condition as before such work commenced. The Grantee shall otherwise comply with City ordinances relating to street openings.
- (c) **RELOCATION.** If, at any time during a Franchise, the City shall elect to alter or change the location or grade of any street, alley or other public way, the Grantee shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures as its own expense. The City shall notify the Grantee of potential City changes affecting Grantee's facilities as soon as plans allow, and give the Grantee at least 30 days advance notification for nonemergency relocations. If any construction by the Grantee is in violation of the provisions of subsection A, the Grantee will likewise, upon reasonable notice by the City, remove, relay and relocate its property in such a manner as to remedy such violation at its own expense.
- (d) **PLACEMENT OF FIXTURES.** The Grantee shall not place poles or other fixtures where the same will interfere with any gas, electric, telephone or other fixture, water hydrant or main. All such poles or other fixtures placed in any street shall be placed between the outer edge of sidewalk and the curb line where such boundaries exist, and those placed in alleys shall be placed close to the line of the lot abutting on such alley in such a manner as not to interfere with the usual travel on the streets, alleys and public

ways. However, nothing in this chapter shall prohibit the use by the Grantee of existing public utility poles where practical, providing mutually satisfactory rental agreements can be entered into with the Grantee.

- (e) **UNDERGROUND SERVICE.** The Grantee shall install underground service in areas where electric and phone services are underground. Unless a greater depth is required, the minimum depth for underground cable service at the time of initial installation shall be 12 inches.
- (f) **TEMPORARY REMOVAL OF WIRE FOR BUILDING MOVING.** A Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary raising or lowering of the wires shall be paid by the person requesting the same, and the Grantee may require such payment in advance. The Grantee shall be given notification at the time a building moving permit is issued by the City, in no case receiving less than five working days advance notice to arrange for such temporary wire changes.
- (g) **TREE TRIMMING.** The Grantee, to the same extent that the City has such authority, may trim trees that overhang streets, alleys, sidewalks and public places so the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. The Grantee must apply to the City for a no-fee permit before trimming trees.

SEC. 9-2-14 INDEMNIFY.

- (1) **INDEMNIFICATION.** The Grantee shall defend and save the City and its agents and employees harmless from all claims, damages, losses, and expenses, including attorney's fees, sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever arising out of:
 - (a) The enactment of this Ordinance and granting of a Franchise thereunder.
 - (b) The installation, operation or maintenance of the cable system except for acts of the City, its agents or employees, unless said acts are at the request of and under the direction or supervision of the Grantee.
- (2) **NOTIFICATION AND FILING.** The Grantee shall furnish to the City, before any Franchise becomes effective, satisfactory evidence in writing that the Grantee has in force and will maintain in force during the term of the Franchise public liability insurance. The City shall notify the Grantee within 10 days after their representation of any claim or demand, either by suit or otherwise, made against the City of the part of the Grantee.
- (3) **LIABILITY INSURANCE.**
 - (a) A Grantee shall maintain throughout the term of the permit a general comprehensive liability insurance policy naming as additional insured the City, its officers, Councils, commissions, agents and employees, in a company approved by the City and in a form satisfactory to the City Attorney. The policy shall protect the City and its agencies and employees against liability for loss or damage for personal injury, death or property damage occasioned by the operations of Grantee under any Franchise granted hereunder, in the amounts of (a) \$1,000,000.00 for bodily injury or death to any one person with the limit however of \$2,000,000.00 for bodily injury or death resulting from any one accident, and (b) \$1,000,000.00 for property damage resulting from any one accident. The City shall be named as an additional insured under such insurance and a copy of the current in-force policy shall be deposited with the City Clerk.
 - (b) On every third year anniversary of the granting of a cable franchise, the City shall have the power to reasonably increase the amount of liability insurance required, and the Grantee shall have 60 days after notification to file proof of such increased coverage.

SEC. 9-2-15 BOND, SECURITY FUND AND REMEDIES

(a) BOND. During the construction or substantial rebuild of a cable system, the Grantee shall file with the City a performance bond in the amount of \$50,000. The bond shall be released when the Grantee certifies to the City that the construction or substantial rebuild is complete, and the City accepts such certification as proven.

(b) SECURITY FUND. At the time a Franchise is accepted, the Grantee shall file with the City and maintain through the term of the Franchise a bond in the amount of \$5,000.00 as common security fund for the faithful performance by the Grantee of all the provisions of the Franchise. Provision shall be made to permit the City to withdraw funds from the security fund pursuant to subsection C. The Grantee shall not use the security fund for other purposes and shall not assign, pledge or otherwise use this security fund as security for any purpose. Within ten days after notice to it that any amount has been withdrawn by the City from the security fund pursuant to this section, the Grantee shall replenish the bond to the required amount.

(c) FAILURE TO COMPLY. Any violation by a Grantee, its vendor, lessee or successor of the provisions of a Franchise or any material portion or portions thereof, of the failure promptly to perform any of the provisions thereof shall, after 30 days written notice and opportunity to cure is given to the Grantee, cause the Grantee to be fined up to \$100 a day commencing after said 30 day notice period from the Security Fund until proper correction is made. The City also reserves the right to terminate the Franchise and cancel all rights hereunder. A Grantee is not responsible for failure to provide adequate service when that failure is caused by acts of God, strikes, governmental or military action, or other conditions beyond its control including the unavailability of material or parts.

SEC. 9-2-16 FRANCHISE FEE AND FINANCIAL REPORTING.

(a) FRANCHISE FEE PAYMENT. As compensation in accordance with Federal law, the Grantee shall pay to the City each year an amount equal to 5% of the Grantee's annual Gross Revenues.

(b) PAYMENT SCHEDULE; ESTIMATED PAYMENTS; LATE PAYMENTS. The Franchise fee shall be paid annually, due no later than April 15th of each year.

(c) ANNUAL REPORT. No later than April 15th of each year, the Grantee shall present to the City a report of system finances for the previous year, which shall include gross revenues from all sources and detail of the amount contributed by each revenue component within the franchise territory. In addition, upon request of the City the Grantee shall present to the City an audited, consolidated financial statement showing operating expenses, net income and an end-of-year balance sheet.

(d) ACCEPTANCE NOT CONSIDERED RELEASE. No acceptance of any payment by the City shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a Franchise fee or for the performance of any other obligation of the Grantee.

SEC. 9-2-17 CITY RULES.

(a) The City hereby reserves the right to adopt, in addition to the provision contained in this Ordinance and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police powers. Such regulations, by ordinance or otherwise, shall be reasonable and not be in substantial conflict with the rights granted in this Ordinance and not be in conflict with the laws of the State.

(b) The City may, during the term of a Franchise, free of charge where aerial construction exists, maintain upon the poles of the Grantee within the City limits wire and pole fixtures necessary for a police and fire alarm system, such wires and fixtures to be constructed and maintained to the satisfaction of the Grantee and in accordance with its specifications.

(c) The City may inspect all construction or installation work during such construction or installation, or at any time after completion thereof, in order to insure compliance with the provisions of this chapter and all other governing ordinances.

SEC. 9-2-18 WAIVER OF CHARGES

(a) During a Franchise, a Grantee shall provide one free outlet and allow distribution within that building in accordance with FCC rules for basic and expanded basic cable service to each municipality owned or leased building passed by the cable system and used substantially for municipal purposes, as well as to any and all schools, whether private or public, within the Franchise territory.

(b) The Grantee shall be required to provide two dedicated, noncommercial access channel, including wiring and insertion equipment needed to connect to the cable system, but not equipment needed to allow the generation or playback of programming.

(c) Upon 270 days notice by the City, the Grantee shall, at the option of the City, be required to add an additional access channel, including wiring and insertion equipment needed to connect to the cable system, at a location within the Franchise territory chosen by the City.

(d) The City shall have sole authority to administer the community access channels unless it chooses to delegate such authority. A Grantee shall not be responsible for the equipment or operating costs for community access channels, except as provided for in a Franchise Agreement.

(e) The Grantee shall provide the City with an emergency alert override capacity, capable of securely accepting from a remote location and displaying City emergency information on all channels. This provision may be waived if Federal Standards for such emergency alert systems are not yet issued.

SEC. 9-2-19 SEVERABILITY.

Should any word, phrase, clause, sentence, paragraph or portion of this Ordinance and or a Franchise thereunder be declared to be invalid by a Court of competent jurisdiction, such adjudication shall not affect the validity of this Ordinance and or the Franchise as a whole, but shall only affect the portion thereof declared to be invalid; and the City hereby expressly states and declares that it would nonetheless have passed this Ordinance and or granted the Franchise had it known that any such word, phrase, clause, sentence, paragraph or portion of said Ordinance and or Franchise were invalid.

SEC. 9-2-20 ACCEPTANCE BY GRANTEE.

A Franchise granted under this Ordinance shall be effective upon written acceptance of the Franchise being filed with the Clerk of the City. The filing must take place within 30 days of the granting of the franchise of the Franchise being made by the City.

SEC. 9-2-21 INCORPORATION OF AMENDMENTS.

This Ordinance and a Franchise granted hereunder may be amended to incorporate amendments to the statutes, rules and regulations of the Federal government as they are promulgated by the Federal government. Any provision therein in conflict with or preempted by said rules, regulations or statutes shall be superseded.

SEC. 9-2-22 PROTECTION OF NONSUBSCRIBERS.

A Grantee shall at all times keep its cables and other appurtenances used for transmitting signals shielded in such a manner that there will be no interference with signals received by radios or televisions not connected to the Grantee's service.

SEC. 9-2-23 GRANTEE RULES.

A Grantee may promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under the Franchise and to assure uninterrupted service to all its subscribers. However, such rules, regulations, terms and conditions shall not be in conflict with the provisions of this Ordinance or the laws of the State.

SEC. 9-2-24 WAIVER OF OBJECTIONS.

By the adoption of this chapter, the City expressly waives all objections it has or may have to the legal rights of the Grantee to attach its cables, equipment and transmission lines to the poles of the City, pursuant to an agreement.

SEC. 9-2-25 GRANTEE WITHOUT RECOURSE.

A Grantee shall have no recourse whatsoever against the City for any loss, cost, or expense, or damage arising out of any provisions or requirements of a Franchise or because of the enforcement thereof by the City, or for the failure of the City to have authority to grant all or any part of the Franchise.

Grantee expressly acknowledges that in accepting a Franchise it does so relying on its own investigation and understanding of the power and authority of the City to grant the Franchise. By accepting a Franchise, a Grantee acknowledges that it has not been induced to enter into the Franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the City or by any other third person concerning any term or condition of the Franchise not expressed herein.

The Grantee further acknowledges by acceptance of the Franchise that it has carefully read the terms and conditions hereof, and is willing to and does accept all the risks of the meeting of such terms and conditions.

SEC. 9-2-26 WORK PERFORMED BY OTHERS.

- (a) A Grantee shall give prior notice to the City specifying the names and addresses of any entity, other than the Grantee, that performs substantial services pursuant to the Franchise, provided, however, that all provisions of the Franchise remain the responsibility of the Grantee. All personnel of the Grantee or its subcontractors shall carry and display if requested a photo I.D. identifying themselves as representatives of the Grantee when performing services at subscriber locations in the City.
- (b) All provisions of a Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of the Franchise.

SEC. 9-2-27 CONTEST OF VALIDITY.

Grantee agrees by acceptance of a Franchise that it will not at any time set up against the City in a claim for proceeding any condition or term of the Franchise as unreasonable, arbitrary or void, or that the City had no power or authority to make such term or condition, but shall be required to accept the validity of the terms and conditions of the Franchise in their entirety.

SEC. 9-2-28 CUSTOMER SERVICE STANDARDS.

The Grantee shall maintain resources sufficient and near enough to the franchise territory to provide the necessary facilities, equipment and personnel to comply with this section and other provisions of this Ordinance.

- (a) **SERVICE STANDARDS.** The Grantee shall render efficient service, make repairs promptly and interrupt service between the hours of 7 a.m. and 1 a.m. only for good cause and for the shortest possible time. Service may be interrupted between 1 a.m. and 7 a.m. for routine testing, maintenance and repair, except on nights commencing on Saturday and Sunday and on holidays. Scheduled or predictable service interruptions, except for weekly routine maintenance, insofar as possible shall be preceded by notice, which may be provided across the cable system. The interruptions shall occur during periods of minimum use of the system to the extent practicable. The Grantee shall maintain a written log or an equivalent capable of access and reproduction of all service interruptions and requests for service, which log shall be available for City inspection during the franchise period.
- (b) **TELEPHONE LINES.** The Grantee shall provide local toll-free or collect call telephone access to its subscribers within the franchise territory. Any calls should be answered by a customer service representative during Normal Business Hours; calls outside this period may be answered by an automated response mechanism, but such calls should be processed by a Grantee's representative within 12 hours. The Grantee shall provide sufficient phone answering capacity that customer calls are answered on average within 30 seconds 90% of the time; and that customers receive a busy signal no more than 3% of the time. Violations of these standards shall be subject to penalties under provisions of this Chapter.
- (c) **INSTALLATION.** The Grantee shall complete requests for subscriber installations within seven business days of order placement when the installation is within 150 feet of the existing cable system. Installation requests required to be honored under this Ordinance beyond the 150 foot standard must be completed within 14 days. If the Grantee fails to meet these standards the Grantee shall provide the subscriber with a free month of the requested service. The Grantee may request the City toll these periods for reasonable circumstances beyond its control.
- (d) **REPAIR STANDARDS.** The Grantee shall maintain a repair force capable, under normal operating circumstances, or responding to service interruption and degradation complaints made during Normal Business Hours within four hours. For complaints made outside Normal Business Hours, the Grantee must respond within 16 hours. For the purpose of this subsection, "response" shall mean at a minimum contacting the subscriber by phone or in person. Where a Grantee misses either of these deadlines, Grantee must provide the subscriber with one free month's service. The Grantee may request the City toll the repair period for reasonable circumstances beyond its control.
- (e) **SERVICE CALL SCHEDULING.** When the Grantee needs to arrange a service appointment at a subscriber's location, the Grantee must offer the subscriber a service window not to exceed four hours in duration. Grantee may not cancel a service window without the subscriber's consent. Where a Grantee misses a service window, Grantee must provide the subscriber with one free month's service. The Grantee may request the City toll the service call period for reasonable circumstances beyond its control.

- (f) **SERVICE INTERRUPTIONS AND SIGNIFICANT DEGRADATION.** When the Grantee has failed to provide a subscriber with appropriate service due to service outage or significant audio or video degradation not due to the subscriber's equipment or action, the subscriber may request a rebate of any fees paid for the affected service(s) under the following schedule, and the Grantee must provide such rebates. For the purposes of this section the outage or degradation period shall begin when the subscriber provides notice to the Grantee of the outage or degradation. For the purposes of this section any complaints of outage or degradation by a subscriber within any month shall be cumulative. The City shall waive or modify the rebate provisions for reasonable circumstances beyond the control of the Grantee. Outages for initial construction, upgrading and normal maintenance shall be exempt from this section.
- (1) For periods at least four hours long but under 24 hours, a rebate of one-thirtieth of the monthly fee for affected services for each instance.
 - (2) For periods of at least 24 hours, a rebate of one-tenth of the monthly fee for affected services for each 24-hour period or portion thereof.

CHAPTER 3

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- 9-3-51 **Category A Sewer Service Charge** (Repealed and Recreated 12/8/1998 by RC-57)(Repealed and Recreated 12/14/1999 by RC-85) (Repealed and Recreated 12/09/03 Ord RC-173) (Repealed and Recreated 05/17/05 Ord RC-204) (Repealed and Recreated 5/9/2006 Ordinance #RC-218) (Repealed and Recreated 12/12/06 Ordinance RC-225) (Repealed and Recreated 12/11/07 Ordinance RC-238) (Amended 11/2/2013, RC-334) (amended 3/11/2014 by RC-338)
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ARTICLE A

Introduction; Definitions

SEC. 9-3-1 INTRODUCTION; DEFINITIONS. (Amended 4/16/2019 RC-409)

- (a) **Introduction.** The following Chapter Sections 9-3-1 through 9-3-101 are adopted pursuant to the requirements of the Walworth County Metropolitan Sewage District.
- (b) **Definitions.** The following definitions shall be applicable in this Chapter:
- (1) **BOD (denoting Biochemical Oxygen Demand)** shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at twenty degrees (20°) Celsius, expressed as milligrams per liter (mg/l) or pounds. Quantitative determination of BOD shall be made in accordance with procedures set forth in "Standard Methods".
 - (2) **Building Sewer** shall mean a sanitary sewer which begins immediately outside of the foundation wall of any building or structure being served and ends at its connection with a community sewer or interceptor. The repair and maintenance of a building sewer shall be the responsibility of the person or property owner who discharges wastewater into such sewer.
 - (3) **Category A** shall be those sanitary sewer users who discharge normal domestic strength wastewater with concentrations of BOD no greater than two hundred (200) mg/l, suspended solids no greater than two hundred thirty (230) mg/l, and nitrogen no greater than forty (40) mg/l. (Amended 11/2/2013, RC-334)
 - (4) **Category B** shall be those sanitary sewer users who discharge wastewater with concentrations in excess of two hundred (200) mg/l for BOD, two hundred thirty (230) mg/l for suspended solids, and forty (40) mg/l for nitrogen. Users whose wastewater exceeds the concentrations for any one (1) of these parameters shall be in Category B.
 - (5) **Chlorine Requirement** shall mean the amount of chlorine, in mg/l, which must be added to sewage to produce a residual chlorine as specified in the District's Wisconsin Pollutant Discharge Elimination System (WPDES) permit.
 - (6) **City** shall mean the City of Delavan.
 - (7) **Commission** shall mean the Commission of the District as defined and with such powers as set forth in Section 66.23 of the Wisconsin Statutes.
 - (8) **Community** shall mean the City of Delavan.
 - (9) **Community Sewer** shall mean any sanitary sewer owned and operated by the community, which sewer is a tributary to an intercepting sewer or treatment facility owned or operated by the District.
 - (10) **Compatible Pollutants** shall mean BOD, suspended solids, nitrogen, pH, or fecal coliform bacteria, plus additional pollutants identified in the WPDES permit issued to the District for its wastewater treatment facility; provided that such facility is designed to treat such additional pollutants, and, in fact, does remove such pollutants to a substantial degree.
 - (11) **Customer or Individual Customer** shall mean the individual sewer system user within the corporate limits of a municipality.
 - (12) **Customer Units** shall mean the ratio of the capacities of a customer's water meter(s) as compared to a five-eighths (5/8) inch water meter. For the purposes of determining the number of customer units the following ratios are hereby established:

<u>Water Meter Size</u>	<u>Customer Units</u>
5/8-inch	1.0
3/4-inch	1.0
1-inch	2.5
1-1/4-inch	3.5
1-1/2-inch	5.0
2-inch	8.0
3-inch	16.0
4-inch	25.0
6-inch	50.0
8-inch	80.0
10-inch	115.0
12-inch	160.0

Where a customer does not have a water meter(s) for measuring the customer's water consumption, the District Approving Authority shall estimate the number and size of water meters that would otherwise be required to serve that customer, based on standard engineering practices; and the customer units shall then be determined based on this estimate.

- (13) **District** shall mean the Walworth County Metropolitan Sewerage District (WalCoMet), a regional sewerage district governed by the Commission.
- (14) **District Approving Authority** shall mean the District Administrator, or other authorized representative of the Commission or District.
- (15) **District Wastewater Collection Facilities** (or District Wastewater Collection System) shall mean the District's interceptor sewers, force mains, and lift stations.
- (16) **Domestic Wastewater (or Sanitary Sewage)** shall mean a combination of liquid and water-carried wastes and wastewater discharged from toilets, conveniences, or sanitary plumbing facilities, which contain no incompatible pollutants exceeding the limitations set forth in Article B hereof and which contain no substances prohibited by the terms of this Chapter.
- (17) **Easement** shall mean an acquired legal right for the specified use of land owned by others.
- (18) **Floatable Oil** is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
- (19) **Garbage** shall mean the residue from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food products and produce.
- (20) **Ground Garbage** shall mean garbage that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than one-half (1/2) inch in any dimension.
- (21) **Holding Tank Waste** is any waste from holding tanks such as chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.
- (22) **Incompatible Pollutants** shall mean wastewater with pollutants that will adversely affect or disrupt the quality of wastewater treatment if discharged to the District's wastewater treatment facility or wastewater with pollutants that will adversely affect the wastewater collection and treatment facilities. Incompatible pollutants are any pollutants which are not compatible pollutants.
- (23) **Industrial Waste** shall mean any water borne solids, liquids or gaseous wastes, other than domestic wastewater, resulting from, discharging from, flowing from or escaping from any industrial user, including but not limited to, cooling water and discharges from wastewater pretreatment facilities. Such term includes any wastewater which is not sanitary sewage.
- (24) **Intercepting Sewer** shall mean any sanitary sewer owned by the District.

- (25) **Municipal Approving Authority** shall mean the Municipal Engineer, Public Works Director, Administrator or other designated representative of the Municipality.
- (26) **Municipality** shall mean the City of Delavan.
- (27) **Municipal Wastewater Collection Facilities (or Municipal Wastewater Collection System)** shall mean the municipal sewer systems, structures, equipment, lift stations, and processes required to collect and carry away wastewater. These municipal wastewater collection facilities, which are owned, operated, and maintained by the municipalities, extend to the influent point of the District wastewater facilities. Such term includes by definition a community sewer and a public sewer.
- (28) **Nitrogen** shall mean Kjeldahl nitrogen which is the sum of organic nitrogen and ammonia nitrogen.
- (29) **Normal Domestic Strength Wastewater** shall mean wastewater with concentrations of BOD no greater than two hundred (200) mg/l, suspended solids no greater than two hundred thirty (230) mg/l, and nitrogen no greater than forty (40) mg/l. (Amended 11/2/2013, RC-334)
- (30) **Operation and Maintenance Expenses** shall include all costs and expenses incurred in connection with the operation and maintenance of the District's wastewater collection and treatment facilities and the Municipal Wastewater collection facilities, including administration costs and replacement costs.
- (31) **Person** shall mean any individual, firm, municipality, company, association, cooperative, public or private corporation, society, institution, enterprise, governmental agency or other entity.
- (32) **pH** shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven (7) and a hydrogen-ion concentration of 10^{-7} .
- (33) **Public Sewer** shall mean a sewer owned and maintained by a municipality, governmental entity or a public utility.
- (34) **Replacement Costs** shall mean expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the wastewater treatment facility to maintain the capacity and performance for which such facilities were designed and constructed. Operation and maintenance costs include replacement costs.
- (35) **Sanitary Sewage (or Domestic Wastewater)** shall mean a combination of liquid and water-carried wastes and wastewater discharged from toilets, conveniences or sanitary plumbing facilities, which contain no incompatible pollutants exceeding the limitations set forth in Article II hereof, and which contain no substances prohibited by the terms of this Chapter.
- (36) **Sanitary Sewer** shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants or institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- (37) **Sewage** is the spent water of a municipality. The preferred term is "wastewater"
- (38) **Sewer** shall mean a pipe or conduit that carries wastewater or drainage water.
- (39) **Sewer Service Charge** is a charge levied on users of the wastewater collection and treatment facilities to recover annual revenues for debt services, operation and maintenance expenses, and other costs and expenses of such facilities.
- (40) **Shall** is mandatory; **May** is permissible.
- (41) **Slug** shall mean any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation, and shall adversely affect the system and/or performance of the wastewater treatment facilities.
- (42) **Standard Methods** shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater" published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.
- (43) **Storm Drain (sometimes termed "Storm Sewer")** shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

- (44) **Suspended Solids** shall mean total suspended matter that either floats on the surface of, or are in suspension in, water, wastewater or other liquids, and that are removable by laboratory filtering as prescribed in "Standard
- (45) **Unpolluted Water** is water of quality equal to or better than the effluent of the wastewater treatment facilities or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities.
- (46) **User** shall mean any person who discharges, or causes to be discharged, wastewater into public sewer.
- (47) **Wastewater** shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water, and storm water that may be present.
- (48) **Wastewater Collection Facilities (or Wastewater Collection System)** shall mean the District and Municipal Wastewater Collection Facilities.
- (49) **Wastewater Treatment Facility** shall mean the District's arrangement of devices and structures for treating wastewater, industrial wastes and sludge Sometimes used synonymously with wastewater treatment plant.
- (50) **Wisconsin Pollutant Discharge Elimination System (WPDES) Permit** is a permit issued by the Wisconsin State Department of Natural Resources to the District and which establishes effluent limitations and monitoring requirements for the District's wastewater treatment facility.

SEC. 9-3-2 THROUGH SEC.9-3-9 RESERVED FOR FUTURE USE.

ARTICLE B

Use of the Public Sewers

SEC. 9-3-10 USE OF PUBLIC SEWER REQUIRED.

The owner of properties used for human occupancy, recreation, or the conduct of any business, trade, or industry or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the District or the City, is hereby required at his expense to install suitable toilet facilities and to connect any facilities discharging sanitary sewage and/or industrial wastes to the proper public sewer. The connection shall be made directly to the proper public sewer in accordance with the provisions of this Chapter. Such connections shall be made not later than twelve (12) months after the installation of the public sewer adjoining such property, or such later time as the District may determine.

SEC. 9-3-11 PROHIBITED CONNECTIONS.

No connection shall be made to any municipal wastewater collection facility if the connection pipe will carry any contents from a septic tank, unless said septic tank is serving as a pretreatment unit process which has been required pursuant to Sections 9-3-27 and 9-3-28 hereof.

SEC. 9-3-12 PROHIBITION AGAINST UNPOLLUTED WATERS.

No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, groundwater, roof runoff, subsurface drainage, or cooling water to any sanitary sewer.

SEC. 9-3-13 PROHIBITIONS AND LIMITATIONS.

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, gas or other pollutants which could create an explosion or fire hazard in the wastewater collection and treatment facilities.
- (b) Any water or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, that could injure or interfere with any waste treatment or sludge disposal process, constitute a hazard to humans or animals, or create a public nuisance in the receiving waters of the wastewater treatment facility.
- (c) Any waters or wastes having a pH lower than 5.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater collection and treatment facilities.
- (d) Any waters or wastes having a pH in excess of 9.0.
- (e) Solid or viscous substances in quantities or of such size capable of causing obstructions to the flow in public sewers or other interference with the proper operation of the wastewater collection and treatment facilities, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, ingrained garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

- (f) (1) The following described substances, materials, waters, or waste shall be limited in discharges to sanitary sewers to concentrations or quantities which will not harm either the sanitary sewers, wastewater treatment process, or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The District Approving Authority may set limitations more stringent than those established below if, in his opinion, such more severe limitations are necessary to meet the above objectives; and may exercise such authority as is conferred by Section 9-3-22 hereof.
- (2) In forming opinions as to the acceptability, the District Approving Authority will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sanitary sewers, the wastewater treatment facility, and other pertinent factors. Waste or wastewaters discharged to the sanitary sewers shall not exceed the following limitations:
- a. Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (65°C).
 - b. Wastewater containing more than twenty-five (25) mg/l of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin.
 - c. Wastewater from industrial plants containing floatable oils, fat, or grease.
 - d. Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
 - e. Any waters or wastes containing iron, chromium, copper, zinc, and other toxic and nonconventional pollutants to such degree that the concentration exceeds levels specified by federal, state and local authorities.
 - f. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the District Approving Authority or limits established by any federal or state statute, rule or regulation.
 - g. Wastewater containing any leachates from any landfill or industrial or commercial process.
 - h. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the District Approving Authority in compliance with applicable state or federal regulations.
 - I. Any waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment facility effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
 - j. Any water or wastes which, by interaction with other water or wastes in the sanitary sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
 - k. Materials which exert or cause:
 1. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility.
 2. Unusual volume of flow or concentration of wastes constituting "slugs" as defined help.
 3. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium sulfate).
 1. Incompatible pollutants in excess of the allowed limits as determined by state and federal laws and regulations in reference to pretreatment standards developed by the Environmental Protection Agency and as contained in 40 CFR 403, as amended from time to time.

SEC. 9-3-14 WPDES PERMIT.

No person shall cause or permit a discharge into the sanitary sewers that would cause a violation of the conditions of the District's WPDES permit and any modifications or reissuance thereof.

SEC. 9-3-15 SPECIAL ARRANGEMENTS.

No statement contained in this Article or elsewhere in this Chapter shall be construed as prohibiting any special agreement between the District Approving Authority and any municipality or person whereby an industrial waste of unusual strength or character may be admitted to the wastewater collection and treatment facilities, either before or after pretreatment, provided that there is no impairment of the functioning of the wastewater collection and treatment facilities by reason of the admission of such wastes, and no extra costs are incurred by the District or City without recompense by the person; and further provided that all rates and provisions set forth in this Chapter are recognized and adhered to.

SEC. 9-3-16 NEW CONNECTIONS.

New connections to the wastewater collection and treatment facilities will be allowed only if there is available capacity in all of the downstream wastewater collection and treatment facilities.

SEC. 9-3-17 LIMITATIONS ON DISCHARGE OF HOLDING TANKS.

Any person discharging holding tank wastes to a community sewer or the District's wastewater collection and treatment facilities shall be bound by the provisions of Article VII, "Limitations on Discharge of Holding Tank Wastes", of the District's sewer use ordinance.

SEC. 9-3-18 AND SEC. 9-3-19 RESERVED FOR FUTURE USE.

ARTICLE C

Control of Industrial Wastes Directed to Public Sewers

SEC. 9-3-20 SUBMISSION OF BASIC DATA.

The District Approving Authority or Municipal Approving Authority may require each person who discharges or seeks to discharge industrial wastes to a public sewer to prepare and file with the District Approving Authority, at such times as it determines, a report that shall include pertinent data relating to the quantity and characteristics of the wastes discharged to the wastewater collection and treatment facilities. Such report shall be in the form of the annual NR 101 Effluent Reporting Form, as provided for in NR 101 of the Wisconsin Administrative Code, as amended from time to time; and shall contain such additional information as the District Approving Authority may require. Such person shall also file a copy of such report with the Municipal Approving Authority.

SEC. 9-3-21 EXTENSION OF TIME.

When it can be demonstrated that circumstances exist which would create an unreasonable burden on the person to comply with the time schedule imposed under Section 9-3-20, a request for extension of time may be presented to the District Approving Authority and Municipal Approving Authority for consideration.

SEC. 9-3-22 INDUSTRIAL DISCHARGES.

If any industrial wastes are discharged or are proposed to be discharged to the public sewers, which wastes contain substances or possess the characteristics described in Article B and which, in the judgment of the District Approving Authority, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life, health, or constitute a public nuisance, the District Approving Authority may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

SEC. 9-3-23 CONTROL MANHOLES.

Each person discharging industrial wastes into a sanitary sewer shall, at the discretion of the District Approving Authority or the Municipal Approving Authority, construct and maintain one or more control manholes or access points to facilitate observation, measurement and sampling of industrial wastes. Control manholes or access facilities shall be located and built in a manner acceptable to the District Approving Authority and the Municipal Approving Authority. If measuring devices are to be permanently installed, they shall be of a type acceptable to the District Approving Authority and Municipal Approving Authority. Control manholes, access facilities, and related equipment shall be installed by the person discharging the waste, at his expense, and shall be maintained by him so as to be in safe condition, accessible, and in proper operating condition at all times. Plans for installation of the

control manholes or access facilities and related equipment shall be approved by the District Approving Authority and Municipal Approving Authority prior to the beginning of construction.

SEC. 9-3-24 MEASUREMENT OF FLOW.

The volume of flow used for computing sewer service charges shall be the metered water consumption of the person as shown in the records of water meter readings maintained by the Water Utility except as noted in Section 9-3-25.

SEC. 9-3-25 METERING OF WASTE.

Devices for measuring the volume of wastewater discharged may be required by the District Approving Authority or the Municipal Approving Authority if this volume cannot otherwise be determined from the metered water consumption records. Metering devices for determining the volume of wastewater shall be installed, owned, and maintained by the person discharging the wastewater. Following approval and installation, such meters may not be removed without the consent of the District Approving Authority and Municipal Approving Authority.

SEC. 9-3-26 WASTE SAMPLING.

- (a) Industrial wastes discharged into the sanitary sewers shall be subject to periodic inspection and a determination of character and concentration of said wastes. The determination shall be made by the industry as often as may be deemed necessary by the Municipal or District Approving Authorities.
- (b) Samples shall be collected in such a manner and at such times so as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the District Approving Authority and Municipal Approving Authority.
- (c) Installation, operation, and maintenance of the sampling facilities shall be the responsibility of the person discharging the waste and shall be subject to the approval of the District Approving Authority and Municipal Approving Authority. Access to sampling locations shall be granted to the District Approving Authority and Municipal Approving Authority or their duly authorized representative at all times. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken.

SEC. 9-3-27 PRETREATMENT.

Persons discharging industrial wastes into any public sewer may be required to pretreat such wastes, whenever the District Approving Authority determines it necessary to protect the District's wastewater collection and treatment facilities or to prevent the discharge of incompatible pollutants. In that event, such person shall provide at his expense such preliminary treatment or processing facilities as may be determined necessary by the District Approving Authority to render his wastes acceptable for admission to the sanitary sewers.

SEC. 9-3-28 GREASE, OIL AND SAND INTERCEPTORS.

The City shall require the installation of grease, oil and sand interceptors when, in the opinion of the District Approving Authority and Municipal Approving Authority, such interceptors are necessary for the proper handling of liquid wastes containing floatable grease in amounts in excess of those specified in this Chapter, or any flammable wastes, sand, or other harmful ingredients. However, such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the District Approving Authority and Municipal Approving Authority, and shall be located as to be readily and easily accessible for cleaning and inspection. In maintaining these interceptors, the owner(s) shall be responsible for the proper removal

and disposal by appropriate means of the captured material, and shall maintain records of the dates and means of disposal. Such records shall be submitted upon request to the District Approving Authority and Municipal Approving Authority. Disposal of the collected materials must be in accordance with applicable Department of Natural Resources rules and regulations.

SEC. 9-3-29 ANALYSES.

- (a) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Chapter shall be determined in accordance with the latest edition of "Standard Methods of the Examination of Water and Wastewater", and with the Federal Regulations 40 CFR 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants". Sampling methods, location, time, durations, and frequencies are to be determined on an individual basis subject to approval by the Municipal Approving Authority and District Approving Authority.
- (b) Determination of the character and concentration of the industrial wastes shall be made by the person discharging them or his agent. The Municipal Approving Authority and District Approving Authority may also make its own analyses on the wastes, and this determination shall be binding as a basis for sewer service charges.

SEC. 9-3-30 SUBMISSION OF INFORMATION.

Plans, specifications, and any other pertinent information relating to proposed flow equalization, pretreatment or processing facilities shall be submitted for review by the Municipal and District Approving Authority prior to the start of construction if the effluent from such facilities is to be discharged into the public sewers.

SEC. 9-3-31 THROUGH SEC. 9-3-39 RESERVED FOR FUTURE USE

ARTICLE D

Basis for Sewer Service Charges

**SEC. 9-3-40 SEWER USERS SERVED BY WATER UTILITY
WATER METERS.**

There is hereby levied and assessed upon each lot, parcel of land, building or premises having a connection with the wastewater collection system and being served with water solely by the Water Utility, a sewer service charge based, in part, on the quantity of water used, as measured by the Water Utility water meter used upon the premises.

SEC. 9-3-41 SEWER USERS SERVED BY PRIVATE WELLS

- (a) If any person discharging sewage into the public sanitary sewer system procures any part or all of his water from sources other than the Water Utility, all or part of which is discharged into the public sanitary sewer system, the person shall be required to have water meters installed at his expense for the purpose of determining the volume of water obtained from these sources. Where sewer meters are already installed, water meters will not be required. The water meters shall be furnished by the Water Utility and installed under its supervision, all costs being at the expense of the person requiring the meter.
- (b) The Water Utility will charge for each meter a charge set by the Water Utility to compensate for the cost of furnishing and servicing the meter. The charge shall be billed at the time the sewer service charge is billed.

SEC. 9-3-42 DEDUCT METERS. (Amended RC-338, 03/11/2014)

If a non-residential customer requests the installation of an additional meter to receive credit for clear water not discharged into the sanitary sewer system, or if a sewerage service customer who is not a customer of the water utility requests the installation of a meter to determine the volume of sewage discharged into the sanitary sewer system, the utility shall supply and install this additional meter. The cost of the meter and installation will be billed to the customer. A monthly fee shall be charged for the maintenance and reading of this meter and the following rates shall apply:

- 5/6 & 3/4-inch meter - \$ 1.17 per month
- 1-inch meter - \$ 2.47 per month
- 1-1/2-inch meter - \$ 4.63 per month
- 2-inch meter - \$ 7.23 per month
- 3-inch meter - \$13.30 per month
- 4-inch meter - \$21.97 per month
- 6-inch meter - \$43.63 per month (RC-69) (Amended RC-337, 03/11/2014), (Amended 03/11/2014, Ord RC-338)

SEC. 9-3-43 THROUGH SEC. 9-3-49 RESERVED FOR FUTURE USE

ARTICLE E
Amount of Sewer Service Charges

SEC. 9-3-50 SEWER SERVICE CHARGE UNIT COSTS (Repealed and Recreated 12/8/1998 by RC-57)(Repealed and Recreated 12/14/1999 by RC-85) (Repealed and Recreated 12/09/03 Ord RC-173) (Repealed and Recreated 05/17/05 Ord RC-204) (Repealed and Recreated 5/9/2006 Ordinance #RC-218) (Repealed and Recreated 12/12/06 Ordinance RC-225) (Repealed and Recreated 12/11/07 Ordinance RC-238) (Amended 2/9/2008, RC-260) (Amended 12/08/2009 RC-284) (Amended 12/14/2010 RC-294) (Repealed and Recreated 12/13/2011, RC-313) (Repealed and Recreated 12/11/2012, RC-328), (Amended 11/2/2013, RC-334) (Amended RC-337, 03/11/2014) (Amended 03/11/2014, Ord RC-338) (Amended 11-17-2015, Ord RC-360), (amended 03/21/17, Ord. RC-381) (amended 11-21-17, Ord RC-390) (amended 11-20-2018, Ord-401)

The unit costs for the sewer service charge are as follows:

	<u>Delavan's Related Costs</u>	<u>WalCoMet's Costs</u>	<u>Total</u>	<u>Billing Basis</u>
(a) Fixed Monthly Charge	\$ 5.99	0.00	\$5.99	Connection
(b) Volume	0.84	1.28	2.12	100 cubic feet
(c) BOD	0.00	2.28	2.28	100 cubic feet
(d) Solids	0.00	1.28	1.28	100 cubic feet
(e) Nitrogen	0.00	0.76	0.76	100 cubic feet
(f) Radium Agreement	0.00	0.03	0.03	100 cubic feet
(g) Adjustment Factor	0.00	0.00	0.00	100 cubic feet
(h) Category A & B Volume Charge	0.84	5.63	6.47	100 cubic feet
(i) Customer unit charge (\$ per month per equivalent meter)	0.91	3.61	4.52	Equivalent meter

SEC. 9-3-51 CATEGORY "A" SEWER SERVICE CHARGE. (Repealed and Recreated 12/8/1998 by RC-57)(Repealed and Recreated 12/14/1999 by RC-85) (Repealed and Recreated 12/09/03 Ord RC-173) (Repealed and Recreated 05/17/05 Ord RC-204) (Repealed and Recreated 5/9/2006 Ordinance #RC-218) (Repealed and Recreated 12/12/06 Ordinance RC-225) (Repealed and Recreated 12/11/07 Ordinance RC-238) (Amended 12/08/2009 RC-284) (Amended 12/14/2010 RC-294) (Repealed and Recreated 12/11/2012, RC-328) (Amended 11/2/2013, RC-334) (Amended RC-337, 03/11/2014), (Amended 03/11/2014, Ord RC-338) (Amended 11-17-2015, Ord RC-360) (amended 03/21/17, Ord. RC-381), (amended 11-21-17, Ord RC-390) (amended 11-20-2018, Ord. 401)

The sewer service charge for Category "A" sewer users is as follows:

- (a) Fixed Monthly Charge per Connection -- \$5.99
- (b) Volume Charge -- \$6.47 per 100 cubic feet.
- (c) Monthly Customer Unit Charge -- Depends on water meter size. See Section 9-3-53.

SEC. 9-3-52 CATEGORY "B" SEWER SERVICE CHARGE. (Repealed and Recreated 12/09/03 Ordinance RC-173) (Repealed and Recreated 5/17/05 Ordinance RC-204) (Repealed and Recreated 5/9/2006 Ordinance #RC-218) (Repealed and Recreated 12/12/06 RC-225) (Repealed and Recreated 12/11/07 RC-238) (Amended 12/9/2008, RC-260) (Amended 12/08/2009 RC-293) (Amended 12/14/2010 RC-294) (Repealed and Recreated 12/13/2011, RC-313) (Repealed and Recreated 12/11/2012, RC-328) (Amended 11/2/2013, RC-334) (Amended RC-337, 03/11/2014) (Amended 11-17-2015, Ord RC-360) (amended 03/21/17, Ord. RC-381) (amended 11-21-17, Ord RC-390) (amended 11-20-2018, Ord. 401)

- (a) The sewer service charge for Category “B” sewer users are as follows:
 - (1) Fixed Monthly Charge per Connection - \$5.99
 - (2) Volume Charge - \$6.47/100 cubic feet.
 - (3) Monthly Customer Unit Charge - Depends on water meter size. See Section 9-3-53.
 - (4) Surcharges:
 - BOD greater than 200 mg/l = \$.69/pound
 - Suspended Solids greater than 230 mg/l = \$.48/pound
 - Nitrogen Greater than 40 mg/l = \$2.94/pound

(b) The Category "B" sewer service charge shall be computed in accordance with the formula presented below:

$$T = F + CU + (V \times C_V) + .00624V [(B \times C_B) + (S \times C_S) + (N \times C_N)]$$

Where:

- T = Total sewer service charge
- F = Fixed monthly charge per connection
- CU = Monthly customer unit charge
- B = Concentration of BOD in mg/L in the wastewater minus 200 mg/l
- S = Concentration of suspended solids in mg/l in the wastewater minus 230 mg/L
- N = Concentration of nitrogen in mg/L in the wastewater minus 40 mg/L
- V = Wastewater volume in 100 cubic feet
- C_V = Volume charge per 100 cubic feet
- C_B = Surcharge per pound of BOD
- C_S = Surcharge per pound of suspended solids
- C_N = Surcharge per pound of nitrogen
- .00624 = Conversion factor

SEC. 9-3-53 CUSTOMER UNIT CHARGES (Repealed and Recreated 12/8/1998 by Ord RC-57)(Repealed and Recreated 12/14/1999 by Ord RC-85) (Repealed and Recreated 12/09/03 Ord RC-173) (Repealed and Recreated 05/17/05 Ord RC-204) (Repealed and Recreated 5/9/2006 Ord RC-218) (Repealed and Recreated 12/12/06 Ordinance RC-225) (Repealed and Recreated 12/11/07 Ordinance RC-238) (Amended 12/9/2008, RC-260) (Amended 12/08/2009 RC-284) (Amended 12/14/2010 RC-294) (Repealed and Recreated 12/13/2011, RC-313) (Repealed and Recreated 12/11/2012, RC-328) (Amended 11/2/2013, RC-334) (Amended RC-337, 03/11/2014) (Amended 03/11/2014, Ord RC-338), (amended 03/21/17, Ord. RC-381) (amended 11-21-17, Ord RC-390) (amended 11-20-2018, Ord. 401)

Customer unit charges are based on the size of a person's water meter. Water meter sizes and corresponding customer unit charges are as follows regardless of service status. In the event a meter is removed from a dwelling the WalCoMet customer unit charge will remain calculated at the last known meter size:

Monthly Customer Unit Charge

<u>Water Meter Size</u>	<u>Equivalent</u>	<u>Delavan Related Costs</u>	<u>WalCoMet's Costs</u>	<u>Total</u>
5/8"	1.0	0.91	3.66	4.57
3/4"	1.0	0.91	3.66	4.57
1"	2.5	2.28	9.15	11.43
1-1/4"	3.5	3.19	12.81	16.00
1-1/2"	5.0	4.55	18.30	22.85
2"	8.0	7.28	29.28	36.56
3"	16.0	14.56	58.56	73.12
4"	25.0	22.75	91.50	114.25
6"	50.0	45.50	183.00	228.50
8"	80.0	72.80	292.80	365.60

SEC. 9-3-54 REASSIGNMENT OF SEWER USES. (RC-57)

The Municipal Approving Authority will reassign sewer users into appropriate sewer service charge categories if wastewater sampling programs and other related information indicates a change of categories is necessary.

SEC. 9-3-55 OPERATION, MAINTENANCE AND DEBT SERVICE ACCOUNTS. (Amended 11/2/2013, RC-334)

- (a) Revenues generated to cover Delavan's operation and maintenance expenses and revenues generated to cover Delavan's share of WalCoMet's operation and maintenance expenses, and debt service shall be recorded in separate accounts.
- (b) Revenues generated to cover Delavan's operation and maintenance expenses shall be used for the operation and maintenance of Delavan's wastewater collection facilities. Revenues generated to cover Delavan's share of WalCoMet's operation and maintenance expenses and debt service shall be used to pay for those expenses.
- (c) An annual adjustment shall be made to the "WalCoMet" rates established by Delavan for the subsequent period to reasonably adjust for variances in year-end projection of actual "WalCoMet" revenues generated by the rates and the year-end projection of actual "WalCoMet" expenses. Said adjustment shall be calculated per section 9-3-57 of this code.

SEC. 9-3-56 CHARGE FOR TOXIC POLLUTANTS. (Amended 4/16/2019 RC-409)

Any person who discharges toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the District wastewater treatment facility shall pay for such increased costs, as may be determined by the Common Council. Any person who discharges wastewater which causes an increase in the costs of operating or maintaining the municipal wastewater collection facilities shall pay for such increased costs, as determined by the Common Council.

SEC. 9-3-57 SEWER SERVICE CHARGE ADJUSTMENT CLAUSE (Amended 11/2/2013, RC-334) (amended 03/21/17, Ord. RC-381)

- ~~(a) Charges for sewer service set forth under Sections 9-3-50 through 9-3-53 include amounts to reflect charges for sewage treatment provided by the Walworth County Metropolitan Sewerage District (WALCOMET). The charges specified in the above stated sections shall be reviewed annually and shall be adjusted as necessary to generate revenues sufficient to cover estimated annual costs related to the treatment of sanitary sewage by WALCOMET.~~ (amended 03/21/17, Ord. RC-381)
- (b) The City shall use its best efforts to develop a rate structure that will generate the actual revenues needed to cover WalCoMet related costs. Annually in the third quarter of the year, a projection based on actual WalCoMet revenues and expenses through September and projected WalCoMet revenues and expenses through remainder of the year shall be made. Consistent with the objective of Section 9-3-55 to have the rates established for the operations, maintenance and debt service related to collection facilities and the rates established for the operations, maintenance and debt service related to treatment facilities each cover their respective related costs, an adjustment shall be made to City's proposed WalCoMet charges for the subsequent period to the extent WalCoMet related revenues for the current period exceed or fall short of covering WalCoMet related expenses for the current period.

For purposes of this section, no adjustment shall be made if projected year-end expenses fall within a range of 95% to 105% of projected year-end WalCoMet revenues.

If projected year-end expenses fall below 95% of projected year-end revenues the amount to be recovered by the proposed WalCoMet rates for the subsequent period shall be reduced by the amount expenses fall below this 95% of projected year-end revenue number;

If projected year-end expenses exceed 105% of projected year-end revenues the amount to be recovered by the proposed WalCoMet rates for the subsequent period shall be increased by the amount expenses exceed this 105% of projected year-end revenue number.

SEC. 9-3-58 SANITARY SEWER CONNECTION FEE. (Created RC-323, 8/21/2012) (Amended RC-337, 03/11/2014) (Amended 1-17-2017, Ord. RC-378)

- a) Sanitary Sewer Connection Fee
A connection fee is imposed to fund the costs of future capital improvements to the sanitary sewer collection system related to future growth. Each lot which becomes connected to the municipal wastewater collection system shall pay at the time of the issuance of the building permit a sanitary sewer connection fee. The sewer connection fee shall be based on residential equivalent users (REUs) as determined by the size of the water meter. The amount of the sanitary sewer connection fee shall be set forth below in Table 1 of this section.

Sewer Utility Regulations and Rates

Meter Size	Meter Conversion to Equivalent Users	Cost per Equivalent Users	2012 Connection Fee Calculation ¹
¾"	1	\$1,678.00	\$ 1,678.00
1"	2.5	\$1,678.00	\$ 4,195.00
1.5"	5	\$1,678.00	\$ 8,390.00
2"	8	\$1,678.00	\$13,424.00
3"	15	\$1,678.00	\$25,170.00
4"	25	\$1,678.00	\$41,950.00

¹ The connection fee shall be adjusted each December, with any adjustment to be effective on January 1 of the following year. The annual adjustment will be based on the Construction Cost Index (CCI) published in the Engineering News Record.

- (b) Development Incentive Effective January 1, 2017 – December 31, 2022 (Amended 01-17-2017, Ord. RC-378) (Amended 2-19-2019, Ord. RC-404)

To encourage development of existing lots within the City of Delavan, the sanitary sewer connection fees shall be adjusted pursuant to the percentage set forth in Table 2 of this section.

Table 2 – Temporary Adjustment of Sanitary Sewer Connection Fee.

Time Period	Percentage of Connection Fee Calculation ¹
Calendar Year 2016	0%
Calendar Year 2017	0%
Calendar Year 2018	0%
Calendar Year 2019	0%
Calendar Year 2020	0%
Calendar Year 2021	33%
Calendar Year 2022	66%
Calendar Year 2023	100%
Calendar Year 2024 & Each Calendar Year Thereafter	100%

¹ The connection fee is adjusted each December, with any adjustment to be effective on January 1 of the following year. The annual adjustment is based on the Construction Cost Index (CCI) published in the Engineering News Record.

ARTICLE F

Billing Practice

SEC. 9-3-60 CALCULATION OF SEWER SERVICE CHARGES.

Sewer service charges that shall be assessed to sewer users shall be computed by the City according to the rates and formula presented in this Chapter.

SEC. 9-3-61 BILLING AND PAYMENT. (Amended 4/16/2019 RC-409)

Sewer service charges shall be billed by the City to the sewer users on a periodic time basis as set from time to time by the City. Those persons billed by the City for sewer service charges shall pay such charges by the date fixed for final payment of the bill.

SEC. 9-3-62 DELINQUENT PAYMENTS. Amended 2-23-2006, Ordinance #RC-213 (Amended RC-337, 03/11/2014) (Amended 03/11/2014, Ord RC-338)

Bills for sewer service are rendered monthly and become due and payable upon issuance following the period for which service is rendered. A late payment charge of three (3) percent but not less than 50 cents will be added to bills not paid within 20 days of issuance. This one-time three (3) percent late payment charge will be applied only to any unpaid balance for the current billing period usage. This late payment charge is applicable to all customers.

SEC. 9-3-63 REMEDIES FOR FAILURE TO MAKE PAYMENTS.

- (a) **Suit.** Sewer service charges, connection fees, or other charges due from any person or user shall be deemed to be a debt due to the Municipality from that person or user. If sewer service charges, connection fees, or other charges are not paid when due, the City may commence an action in a court of competent jurisdiction; and recover from such person or user the amount of charges or fees, and damages, if any, sustained by the Municipality as a result of such failure to pay, together with such costs and expenses as may be allowed by law.
- (b) **Lien on Property.** As an alternative to the above, the City may direct that unpaid sewer service charges, connection fees, or other charges due from any person or user, shall be collected and taxed and shall be a lien upon the property served in the manner provided for in Sec. 66.076, Wis. Stats., as amended from time to time.

SEC. 9-3-64 OBLIGATION FOR PAYMENT.

While the obligation for payment of the bills in case the user is a non-property owner shall be that of the user; in the event said bill is not paid, the property owner shall be liable for the bill and the unpaid bill shall remain a lien against the property serviced until paid in accordance with this Chapter. To the end that there may be attempts at avoidance of payment of these bills by the tenants, and to overcome the same, the Municipality may send the bill for a user, who is a tenant, in care of the property owner who shall thereupon determine the method in which the payment shall be assured.

SEC. 9-3-65 THROUGH SEC. 9-3-69 RESERVED FOR FUTURE USE.

ARTICLE G

Right of Entry, Safety and Identification

SEC. 9-3-70 RIGHT OF ENTRY.

The District and Municipal Approving Authorities or other duly authorized employees of the District and Municipality, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation, or testing, all in accordance with the provisions of this Chapter.

SEC. 9-3-71 SAFETY.

While performing the necessary work on private premises referred to in Section 9-3-70, the duly authorized District and Municipal employees shall observe all safety rules applicable to the premises established by the person.

SEC. 9-3-72 IDENTIFICATION; RIGHT TO ENTER EASEMENTS.

The District and Municipal Approving Authorities or other duly authorized employees of the District and Municipality, bearing proper credentials and identification, shall be permitted to enter all private properties through which the District and/or Municipality holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement, all subject to the terms, if any, of such easement.

SEC. 9-3-73 THROUGH SEC. 9-3-79 RESERVED FOR FUTURE USE

ARTICLE H

Sewer Construction and Connections

SEC. 9-3-80 PERMISSION REQUIRED.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the Municipal wastewater collection facilities without first obtaining written permission from the Municipal Approving Authority.

SEC. 9-3-81 PERMIT REQUIRED.

Each person desiring to connect a building sewer to a community sewer shall make written application on a special form furnished by the Municipal Approving Authority. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent by the Municipal Approving Authority. Copies of all commercial and industrial waste discharge permit applications shall be provided to the District Approving Authority; and such applications must be approved by the Commission prior to connection to any community sewer.

SEC. 9-3-82 COST OF SEWER CONNECTION.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the person making said connection. Said person making the connection shall pay the City any connection fees, inspection fees, or other charges prescribed by the City together with any connection fee required by the District.

SEC. 9-3-83 USE OF OLD BUILDING SEWERS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Municipal Approving Authority, to meet all requirements for this Chapter.

SEC. 9-3-84 MATERIALS AND METHODS OF CONSTRUCTION.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the City's building and plumbing code, utility material specifications, other applicable rules and regulations of the City, and the State of Wisconsin Plumbing Code of the Wisconsin Administrative Code. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

SEC. 9-3-85 STORM AND GROUNDWATER DRAINS.

No persons shall make connection of roof downspouts, exterior foundation drains areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which is connected directly or indirectly to a sanitary sewer.

SEC. 9-3-86 INSPECTION OF CONNECTION.

The applicant for the building sewer permit shall notify the Municipal Approving Authority when the building sewer is ready for inspection and connection to the public sewer. At the time of connection, each building sewer shall be inspected by the Municipal Approving Authority or other designated representative of the City.

SEC. 9-3-87 BARRICADES; RESTORATION.

All excavations for the building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Municipal Approving Authority.

SEC. 9-3-88 REPAIR OF BUILDING SEWER.

All costs and expenses incident to the repair and maintenance of the building sewer shall be borne by the owner of the property served.

SEC. 9-3-89 RESERVED FOR FUTURE USE

ARTICLE I

Violations, Abatement Procedures and Penalties

SEC. 9-3-90 VIOLATIONS.

Violation of any provision of this Chapter or any other rule or order lawfully promulgated by the City is declared to be a public nuisance.

SEC. 9-3-91 ENFORCEMENT.

The Municipal Approving Authority shall enforce those provisions of this Chapter that come within the jurisdiction of its office, and shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this Article to abate a public nuisance unless the Municipal Approving Authority shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does in fact exist.

SEC. 9-3-92 SUMMARY ABATEMENT.

If the Municipal Approving Authority determines that a public nuisance exists within the Municipality and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Municipal Approving Authority may cause the same to be abated immediately without notice and charge the cost thereof to the owner, occupant or person causing, permitting, or maintaining the nuisance, as the case may be.

SEC. 9-3-93 ABATEMENT AFTER NOTICE.

If the Municipal Approving Authority determines that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to prevent great and immediate danger to the public health, safety, peace, morals or decency, the Municipality shall service notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper office shall cause the nuisances to be removed as provided in Section 9-3-92.

SEC. 9-3-94 OTHER METHODS NOT EXCLUDED.

Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the Municipality or its officials in accordance with the laws of the State of Wisconsin.

SEC. 9-3-95 COST OF ABATEMENT.

In addition to any other penalty imposed by this Article for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Municipality shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance.

SEC. 9-3-96 CONTINUED VIOLATIONS.

Any person, partnership, or corporation or any office, agent, or employee thereof, who shall continue any violation beyond the aforesaid notice time limit provided, shall, upon conviction thereof, forfeit not more than Two Hundred Dollars (\$200.00) together with the costs of prosecution. In default of payment of such forfeiture and costs, said violator shall be imprisoned in the Walworth County Jail for a period not to exceed thirty (30) days. Each day in which any violation is continued beyond the aforesaid notice time limit shall be deemed a separate offense.

**SEC. 9-3-97 LIABILITY TO MUNICIPALITY AND/OR DISTRICT
FOR LOSSES.**

Any person violating any provisions of this Chapter shall become liable to the Municipality and/or District for any expense, loss or damage occasioned by reasons of such violation which the Municipality and/or District may suffer as a result thereof. If any violations affect the District wastewater collection and treatment facilities as well as the Municipal sanitary sewer system, the district may penalize the violator independently and/or concurrently with the Municipality.

SEC. 9-3-98 AND SEC. 9-3-99 RESERVED FOR FUTURE USE.

ARTICLE J

Appeals; Validity; Audit

SEC. 9-3-100 APPEALS PROCEDURES. (Amended 4/16/2019 RC-409)

- (a) Any person, permit applicant, or permit holder affected by any decision, action, or determination, including cease and desist orders, made by the Municipal Approving Authority interpreting or implementing the provisions of this Chapter or in any permit issued herein, may file with the Municipal Approving Authority a written request for reconsideration within (10) days of the date of such decision, action, or determination, setting forth in detail the facts supporting the person's request for reconsideration. The Municipal Approving Authority shall render a decision on the request for reconsideration to the person, permit applicant, or permit holder in writing within fifteen (15) days of receipt of request. If the ruling on the request for reconsideration made by the Municipal Approving Authority is unsatisfactory, the person requesting reconsideration may, within ten (10) days after notification of the action, file a written appeal with the Common Council.
- (b) A fee of one hundred dollars (\$100.00) shall accompany any appeal to the Council for their ruling. This fee may be refunded if the appeal is sustained in favor of the appellant.
- (c) The written appeal shall be heard by the Common Council within forty-five (45) days from the date of filing. The Council shall make a final ruling on the appeal within sixty (60) days from the date of filing.

SEC. 9-3-101 VALIDITY.

- (a) **Conflict with Previous Ordinances.** In case of conflict between the provisions of this Chapter with other provisions of the Municipal Code of the City of Delavan, the provisions of this Chapter shall prevail.
- (b) **Invalidation Clause.** Invalidity of any section, clause, sentence, or provision in this Chapter shall not affect the validity of any other section, clause, sentence, or provision of this Chapter which can be given effect without such invalid part or parts.
- (c) **Amendment.** The City, through its duly authorized officer, reserves the right to amend this Chapter in part or in whole whenever it may deem necessary.
- (d) **Conflict with District's Rules and Regulations.** In the event that any provisions of the Rules and Regulations of the District are in conflict with this Chapter, the former shall control.
- (e) **Conflict with Federal Rules and Regulations.** The sewer service charge system shall take precedence over any terms or conditions of pre-existing agreements or contracts, between the City and any person, which are inconsistent with Section 204(b)(1)(A) and 40 CFR Subpart E of the Clean Water Act.

SEC. 9-3-102 AUDIT AND NOTIFICATION. (Amended 4/16/2019 RC-409)

- (a) **Biennial Audit.** The City shall review, at least every two (2) years, the wastewater characteristics of its sewer users, the operation and maintenance expenses of the wastewater collection and treatment facilities, and the sewer service charge system. Based on this review, the City shall revise the sewer service charge system, if necessary, to accomplish the following:
 - (1) Maintain a proportionate distribution of operation and maintenance expenses among sewer users based on the wastewater characteristics of the users;

- (2) Generate sufficient revenues to pay the operation and maintenance expenses of the wastewater collection and treatment facilities; and
 - (3) Apply excess revenues collected from a class of users to the operation and maintenance expenses attributable to that class of users for the next year and adjust the sewer service charge rates accordingly.
- (b) **Annual Notification.** The City shall notify its sewer users annually about the sewer service charge rates. The notification shall show what portion of the total rate is attributable to the City's operation and maintenance expenses, the District's operation and maintenance expenses, and the District's debt service costs. The notification shall occur in conjunction with a regular bill