

**TITLE 9**

## Public Utilities

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**CHAPTER 1**

## Water Utility Regulations and Rates

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**ARTICLE A**

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- Rates Per PSC Order #2940-WR-104 of 2/1/2024**

**SEC 9-1-1 Private Fire Protection Service - Unmetered**

- (a) **Description of Services.** 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) **Rates.** Quarterly Private Fire Protection Service Demand Charges:
 

<u>Size of Connection</u>	<u>Charge</u>
2-inch or smaller	\$ 30.00
3-inch	\$ 60.00
4-inch	\$ 90.00
6-inch	\$ 180.00
8-inch	\$ 270.00
10-inch	\$ 420.00
12-inch	\$ 570.00
14-inch	\$ 720.00
16-inch	\$ 840.00
- (c) **Billing.** Same as Schedule Mg-1.

**SEC. 9-1-2 GENERAL SERVICE - METERED - MG-1.**

- (a) **Quarterly Service Charge:**

5/8-inch meter -	\$ 35.64
3/4-inch meter -	\$ 35.64
1-inch meter -	\$ 57.02
1-1/4-inch meter -	\$ 85.54
1-1/2-inch meter -	\$ 114.05
2-inch meter -	\$ 190.09

3-inch meter -	\$ 343.44
4-inch meter -	\$ 515.16
6-inch meter -	\$ 800.28
8-inch meter -	\$ 1,117.80
10-inch meter -	\$ 1,464.48
12-inch meter -	\$ 1,817.64

(b) **Volume Charge:**

First	50,000	gallons used quarterly - \$ 7.70 per 1,000 gallons
Next	450,000	gallons used quarterly - \$ 6.62 per 1,000 gallons
Over	500,000	gallons used quarterly - \$ 5.54 per 1,000 gallons

(c) **Billing.** Bills for water service are rendered quarterly and become due and payable upon issuance following the period for which service is rendered. A late payment charge of one percent (1%) per month will be added to bills not paid within twenty (20) days of issuance. This late payment charge shall be applied to the total unpaid balance for utility service, including unpaid late payment charges. 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 twenty (20) days after the bill is issued. Unless payment or satisfactory arrangement for payment is made within the next ten (10) days, service may be disconnected pursuant to Wis. Admin. Code, Chapter PSC 185.

d) **Combined Metering.**

For a residential customer with more than one meter on a single service lateral, volumetric reading from all meters shall be combined for billing. For a nonresidential customer, volumetric readings may 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 may not be combined for billing. This requirement does not preclude the utility from combining readings where metering configurations support such an approach. Volumetric readings from individually metered separate service laterals may not be combined for billing purposes.

**SEC. 9-1-3 GENERAL WATER SERVICE - UNMETERED - UG-1.**

Service may be supplied temporarily on an unmetered basis where the utility cannot immediately install a water meter, including water used for construction. Unmetered service shall be billed the amount that would be charged to a metered residential customer using 8,000 gallons of water per quarter under Schedule Mg-1, including the service charge for a 5/8-inch meter. If the utility determines that actual usage exceeds 8,000 gallons of water per quarter, an additional charge for the estimated excess usage shall be made according to the rates under Schedule Mg-1.

This schedule applies only to customers with a 1-inch or smaller service connection. For customers with a larger service connection, the utility shall install a temporary meter and charges shall be based on the rates set forth under Schedule Mg-1.

**Billing:** Same as Schedule Mg-1.

**SEC. 9-1-4 PUBLIC SERVICE - MPA-1.**

(a) **Metered Service.**

Water used by the City of Ladysmith on an intermittent basis for flushing sewers, street washing, flooding skating rinks, drinking fountains, etc. shall be metered and billed according to the rates set forth in Schedule Mg-1.

(b) **Unmetered Service.**

Where it is impossible to meter the service, the utility shall estimate the volume of water used based on the pressure, size of opening and the period of time the water is used. The estimated quantity shall be billed at the volumetric rates set forth in Schedule Mg-1, excluding any service charges.

(c) **Billing.**

Same as Schedule Mg-1.

**SEC. 9-1-5 RECONNECTION CHARGES - R-1.**

The utility shall assess a charge to reconnect a customer, which includes reinstalling a meter and turning on the valve at the curb stop, if necessary. A utility may not assess a charge for disconnecting a customer.

During normal business hours: \$40.00  
 After normal business hours: \$60.00

**Billing:** Same as Schedule Mg-1.

**SEC. 9-1-6 ADDITIONAL METER RENTAL CHARGE - AM-1.**

Upon request, the utility shall furnish and install additional meters to:

- (a) Water service customers for the purpose of measuring the volume of water used that is not discharged into the sanitary sewer system; and
- (b) Sewerage service customers who are not customers of the water utility for the purpose of determining the volume of sewage that is discharged into the sanitary sewer system.

The utility shall charge a meter installation charge of \$40.00 and a quarterly rental fee for the use of this additional meter.

Quarterly Additional Meter Rental Charges:

5/8-inch meter	- \$ 16.50	3/4-inch meter	- \$ 16.50
1-inch meter	- \$ 26.40	1-1/4-inch meter	- \$ 39.60
1-1/2-inch meter	- \$ 52.80	2-inch meter	- \$ 88.02

This schedule applies only if the additional meter is installed on the same service lateral as the primary meter and either:

- (a) The additional meter is 3/4-inch or smaller if the metering configuration is the Addition Method; or
- (b) The additional meter is 2-inch or smaller for all other metering configurations.

If the additional meter is larger than 2-inch or larger than 3/4 –inch and installed in the Addition Method, each meter shall be treated as a separate account and Schedule Mg-1 rates shall apply.

**Billing:** Same as Schedule Mg-1.

**SEC. 9-1-7 SEASONAL SERVICE - SG-1.**

Seasonal customers are general service customers who voluntarily request disconnection of water service and who resume service at the same location within 12 months of the disconnection, unless service has been provided to another customer at that location in the intervening period. The utility shall bill seasonal customers the applicable service charges under Schedule Mg-1 year-round, including the period of temporary disconnection.

Seasonal service shall include customers taking service under Schedule Mg-1, Schedule Ug-1, or

Schedule Am-1.

Upon reconnection, the utility shall apply a charge under Schedule R-1 and require payment of any unpaid charges under this schedule.

**Billing:** Same as Schedule Mg-1, unless the utility and customer agree to an alternative payment schedule for the period of voluntary disconnection

**SEC. 9-1-8 WATER LATERAL INSTALLATION CHARGE - CZ-1.**

The utility shall charge a customer for the actual cost of installing a water service lateral from the main through curb stop and box if these costs are not contributed as part of a subdivision development or otherwise recovered under Wis. Stats. Chapter 66.

Billing: Same as Schedule Mg-1.

**SEC 9-1-9 Public Fire Protection Service**

Public fire protection service includes 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. Stat. Sec. 196.03(3)(b), the municipality has chosen to have the utility bill the retail general service customers for public fire protection service.

Quarterly Public Fire Protection Service Charges:

<u>Improved Value</u>			<u>Charge</u>
0	to	29,999	13.76
30,000	to	39,999	21.76
40,000	to	49,999	28.03
50,000	to	59,999	34.34
60,000	to	69,999	40.07
70,000	to	79,999	46.53
80,000	to	89,999	52.60
90,000	to	99,999	58.38
100,000	to	109,999	64.58
110,000	to	119,999	71.31
120,000	to	129,999	77.97
130,000	to	139,999	84.05
140,000	to	149,999	88.95
150,000	to	159,999	95.04
160,000	to	169,999	101.97
170,000	to	179,999	109.22
180,000	to	189,999	115.00
190,000	to	199,999	121.46
200,000	to	299,999	148.65
300,000	to	399,999	219.93
400,000	to	499,999	281.11
500,000	to	599,999	327.19
600,000	to	699,999	401.48
700,000	to	799,999	469.81
800,000	to	899,999	515.17
900,000	to	999,999	575.67
1,000,000	to	1,999,999	849.46
2,000,000	to	2,999,999	1,647.32

3,000,000	to	7,999,999	2,462.77
8,000,000 +			5,227.09

Customers who are provided service under Schedules Mg-1, Ug-1 or Sg-1 shall be subject to the charges in this schedule according to the size of their primary meter. Customers who are provided service under Schedule Am-1 are exempt from these charges for any additional meters.

**Billing:** Same as Schedule Mg-1.

#### SEC. 9-1-10 OTHER CHARGES OC-1.

- (a) **Non-Sufficient Funds Charge:** The utility shall assess a \$25.00 charge when a payment 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 payment was for multiple services.
- (b) **Special Billing Charges:** The utility shall assess a \$10.00 charge to the requester to cover administrative expenses whenever an existing customer or the property owner requests a special billing outside of the normal utility billing. This charge may not be assessed to a new customer.
- (c) **Special Meter Reading Charge:** The utility shall assess a \$20.00 charge to the requestor whenever an existing customer or the property owner requests a special meter reading by utility personnel on a date other than the regularly scheduled meter reading. This charge may not be assessed if the customer or the property owner provides the meter reading. This charge may not be assessed to a new customer.
- (d) **Real Estate Closing Account Charge:** The utility shall assess a \$15.00 charge whenever a customer or customer's agent requests written documentation from the utility of the customer's account status in connection with a real estate closing.
- (e) **Billing:** Same as Schedule Mg-1.

#### SEC. 9-1-11 BULK WATER BW-1.

- (a) All bulk water supplied from the water system through hydrants or other connections shall be metered or estimated by the utility. Utility personnel or a party approved by the utility 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 utilities service area;
  - (2) Water supplied by tank trucks or from hydrants for purposes other than extinguishing fires, such as water used for irrigation or filling swimming pools; or,
  - (3) Water supplied from hydrants or other temporary connections for general service type applications, except that Schedule Ug-1 applies for water supplied for construction purposes.
- (c) A service charge of \$40.00 and a charge for the volume of water used shall be billed to the party using the water. The volumetric charge shall be calculated using the highest volumetric rate for residential customers under Schedule Mg-1. In addition, for meters that are assigned to bulk water customers for more than 7 days, the applicable service charge in Schedule Mg-1 will apply after the first 7 days.
- (d) The water utility may require a reasonable deposits for the temporary use of its equipment under this and other rate schedules. The deposit(s) collected shall 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. 9-1-12 TAX INCREMENTAL DISTRICT WATER CHARGE.

- (a) A tax incremental district water charge is hereby imposed upon the City of Ladysmith for all of the costs of the water system (including debt service coverage ratio requirements imposed by any bond resolution) which are applicable to improvements undertaken in connection with each of the City's

Tax Incremental Districts No. 5, No. 8, No. 9, No. 10 and No. 11 (the “Districts”), whether located within or outside the Districts, as permitted by the applicable tax increment plan. On or before the first Common Council meeting in October of each year the City’s Comptroller shall compute the charge for each of the Districts. The charge shall be computed by calculating an amount equal to the annual debt service on each of the District’s share of all outstanding water utility borrowing (including debt service coverage ratio requirements imposed by any bond resolution).

- (b) The tax incremental district water charge shall be billed to the City on November 1<sup>st</sup> of each year for all obligations due during the subsequent year. The payment shall be due within ninety days of billing.

*Ord. 2013-06 adopted on 4/8/2013.*

**Sec. 9-1-13 Through 9-1-19 Reserved for Future Use.**

**ARTICLE B**

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 may 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 the 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 eight (8) feet below the surface of an established or proposed grade and meets the water utility’s specifications, and *Ord. 2017-02 adopted 8/28/2017.*
  - (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 Schedule R-1 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 Schedule R-1 for the applicable rate.
- (c) If reconnection is requested for the same location by 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 SUPPLY, METER AND DEPOSITS.**

- (a) 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 Schedule BW-1 for the 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 constructor 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 and valve 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 Schedule BW-1 for deposits and charges. Upon completing the use of the hydrant, the customer must notify the water utility to that effect.

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

- (a) 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 ordinance. 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 the 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 the curb to the 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.**

[See Wis. Admin. Code, Chapter PSC 185.35.](#)

**SEC. 9-1-32 THAWING FROZEN SERVICE LATERALS.**

[See Wis. Admin. Code, Chapter PSC 185.88.](#)

**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. Where applicable, see Schedule Am-1 for rates.

#### **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 unmetered 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. Plumbers 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**

Where the municipality has a policy regarding sprinkling restrictions and/or emergency water conditions, failure to comply with such may result in disconnection of service.

See Wis. Admin. Code Sec. 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 preceeding period. Only in unusual cases shall more than three consecutive estimated or minimum bills be rendered.

- (b) If the meter is damaged (see 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 Chapter PSC 185.33.

**SEC. 9-1-40 COMPLAINT METER TESTS**

See Wis. Admin. Code Chapter PSC 185.77.

**SEC. 9-1-41 INSPECTION OF PREMISES.**

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.

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 Schedule X-1 for further information.

**SEC. 9-1-43 DEPOSITS FOR RESIDENTIAL SERVICE.**

See Wis. Adm. Code, Chapter PSC 185.36.

**SEC. 9-1-44 DEPOSITS FOR NONRESIDENTIAL SERVICE.**

See Wis. Adm. Code, Chapter PSC 185.361.

**SEC. 9-1-45 DEFERRED PAYMENT AGREEMENT.**

See Wis. Adm. Code, Chapter PSC 185.38

**SEC. 9-1-46 DISPUTE PROCEDURES.**

See Wis. Admin. Code Chapter PSC 185.39.

**SEC. 9-1-47 DISCONNECTION AND REFUSAL OF SERVICE.**

See Wis. Admin Code Chapter PSC 185.37.

The following is an example of a disconnection notice that the utility may use to provide the required notice to customers.

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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 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)

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**SEC. 9-1-48 COLLECTION OF OVERDUE BILLS.**

An amount owed by the customer may be levied as a tax as provided in [Wis. Stat. 66.0809](#).

**SEC. 9-1-49 SURREPTITIOUS USE OF WATER.**

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:

- A. 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.
- B. 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.
- C. The customer must further agree to comply with the reasonable requirements to protect the water utility against further losses.

See [Wis. Stat. 98.26 and 943.20](#).

**SEC. 9-1-50 REPAIRS TO MAINS.**

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.

See [Wis. Admin. Code Chapter PSC 185.87](#).

**SEC. 9-1-51 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. 9-1-52 HANDLING WATER MAINS AND SERVICE PIPES IN EXCAVATION TRENCHES.**

Contractors must call Digger's Hotline and ensure a location is 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. 9-1-53 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 thereof, 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 hot water tank or at the hot water distribution 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. 9-1-54 CROSS CONNECTION CONTROL.

- (a) **Purpose.** To provide a program for protecting the public water system from contamination due to backflow of contaminants through the water service connection into the public water system.
- (b) **Applicability.** Chapters NR 810 and SPS 382, Wisconsin Administrative Code, require protection for the public water system from contamination due to backflow of contaminants through the water service connection and the Wisconsin Department of Natural Resources requires the development and implementation of a comprehensive cross connection control program to effectively prevent the contamination of potable water systems.
- (c) **Definition of Cross Connection.** A cross connection is defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the City of Ladysmith's public water system, and the other of which contains 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, with the direction of flow depending on the pressure differential between the two systems.
- (d) **Unprotected Cross Connection Prohibited.** No person, firm, or corporation may establish or maintain, or permit to be established or maintained, any unprotected cross connection. Cross connections shall be protected as required in ch. SPS 382, Wisconsin Administrative Code.
- (e) **Inspection.** The Water Utility may inspect, or arrange for an inspection of, property served by the public water system for cross connections. The Water Utility may require a person, firm or corporation who owns, leases, or occupies property to have their plumbing inspected, at their own expense by a State of Wisconsin Certified Cross Connection Inspector/Surveyor. The frequency of inspections shall be established by the Water Utility in accordance with the Wisconsin Administrative Code. Any unprotected cross connections identified by the inspection shall be promptly corrected. Failure to promptly correct an unprotected cross connection shall be sufficient cause for the Water Utility to discontinue water service to the property, as provided under paragraph (h) of this Ordinance.
- (f) **Right of Entry.** Upon presentation of credentials, a representative of the Water Utility shall have the right to request entry, at any reasonable time, to a property served by a connection to the public water system for the purpose of inspecting the property for cross connections. Refusing entry to such a utility representative shall be sufficient cause for the Water Utility to discontinue water service to the property, as provided under paragraph (h) of this Ordinance. If entry is refused, a special inspection warrant under Section 66.0119 of the Wisconsin Statutes, may be obtained.
- (g) **Provision of Requested Information.** The Water Utility may request an owner, lessee or occupant of property served by a connection to the public water system to furnish the Water Utility with pertinent information regarding the piping systems on the property. Refusing to provide requested information shall be sufficient cause for the Water Utility to discontinue water service to the property, as provided in paragraph (h) of this Ordinance.

- (h) **Discontinuation of Water for Violation.** The Water Utility may discontinue water service to any property wherein any unprotected connection in violation of this Ordinance exists, and take other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service may be discontinued however, only after reasonable notice and opportunity for hearing under Chapter 68, Wisconsin Statutes, except as provided in paragraph (i) of this Ordinance. Water service to such property shall not be restored until the unprotected cross connection has been eliminated.
- (i) **Emergency Discontinuance.** If it is determined by the Water Utility that an unprotected cross connection or emergency endangers public health, safety or welfare, and requires immediate action and if a written finding to that effect is filed with the City Clerk and delivered to the customer's premises, water service may be immediately discontinued. The customer shall have an opportunity for hearing under Chapter 68, Wisconsin Statutes, within 10 days of such emergency discontinuance. Water service to such property shall not be restored until the unprotected cross connection has been eliminated. *Ord. 2017-03 adopted on October 23, 2017.*

### **SEC. 9-1-55 WATER MAIN EXTENSION RULE X-2.**

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

- (1) 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.
- (2) Where the municipality is unwilling or unable to make a special assessment, the extension will be made on a customer-financed basis as follows:
  - a. 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 Paragraph (1).
  - b. Part of the contribution required in Paragraph (2)(a) 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 (1) 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 paragraph (1), nor will it exceed the total assessable cost of the original extension.
- (3) 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 (1).

### **SEC 9-1-56 WELL ABANDONMENT AND WELL OPERATION PERMIT**

- (a) **Purpose.** To protect public health, safety and welfare and to prevent contamination of water supplies by assuring that unused, unsafe or noncomplying wells or wells which may act as conduits for contamination of groundwater or wells which may be illegally cross-connected to the municipal water system, are properly maintained or properly filled-and-sealed.
- (b) **Applicability.** This Ordinance applies to all wells located on premises served by the Ladysmith municipal water system. Communities outside the jurisdiction of the municipal water system are also required by code, contract agreement, or utility rule to adopt and enforce equivalent ordinances within their jurisdictions for purpose stated in Section (a) above.
- (c) **Definitions.**
  - (1) **“Municipal water system”** means a community water system owned by a city, village, county, town, town sanitary district, utility district, public inland lake and rehabilitation

- district, municipal water district or a federal, state, county, or municipal owned institution for congregate care or correction, or a privately owned water utility serving the foregoing.
- (2) **“Communities served”** means any jurisdiction having customers supplied by a municipal water system as retail or wholesale customers, including those outside the jurisdiction of the supplying system;
  - (3) **“Noncomplying”** means a well or pump installation which does not comply with s. NR 812.42, Wisconsin Administrative Code, Standards for Existing Installations, and which has not been granted a variance pursuant to s. NR 812.43, Wisconsin Administrative Code.
  - (4) **“Pump installation”** means the pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.
  - (5) **“Served by”** means any property having a water supply pipe extending onto it which is connected to the Municipal water system.
  - (6) **“Unsafe”** well or pump installation means one which produces water which is bacteriologically contaminated or contaminated with other substances exceeding the drinking water standards of Chs NR 140 or 809, Wisconsin Administrative Code, or for which a Health Advisory has been issued by the Department of Natural Resources.
  - (7) **“Unused”** well means one which does not have a functional pumping system or other complying means of withdrawing water.
  - (8) **“Well”** means a drillhole or other excavation or opening deeper than it is wide that extends more than 10 feet below the ground surface constructed for the purpose of obtaining groundwater.
  - (9) **“Well Abandonment”** means the proper filling and sealing of a well according to the provisions of s. NR 812.26, Wisconsin Administrative Code.
- (d) **Well Abandonment Required.** All wells on premises served by the municipal water system shall be properly filled-and-sealed in accordance with Section 6 of this ordinance by December 31, 2018 or not later than 1 year from the date of connection to the municipal water system, or discovery or construction of a well, unless a valid well operation permit has been issued to the well owner by the City of Ladysmith under terms of Section (e) of this ordinance.
- (e) **Well Operation Permit.** Owners of wells on premises served by the municipal water system shall make application for a well operation permit for each well no later than 90 days after connection to the municipal water system or date of discovery or construction of a well. The City of Ladysmith shall grant a permit to a well owner to operate a well for a period not to exceed 5 years providing all conditions of this section are met. A well operation permit may be renewed by submitting an application verifying that the conditions of this section are met. The City of Ladysmith or its agent, may conduct inspections and water quality tests or require inspections and water quality tests to be conducted at the applicant’s expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the City Clerk. All initial and renewal applications must be accompanied by a fee of Fifty Dollars (\$50.00).

The following conditions must be met for issuance or renewal of a well operation permit:

- (1) The well and pump installation shall meet the *Standards for Existing Installations* described in s. NR812.42, Wisconsin Administrative Code, or repaired to comply with current standards. Compliance shall be verified by inspection for initial issuance of a permit and every 10 years thereafter. Inspections shall be conducted by a Wisconsin licensed well driller or pump installer and documented on inspection report form DNR #3300-221, to be submitted to the Clerk.
- (2) The well and pump shall have a history of producing safe water evidenced by a certified lab report for at least 1 safe coliform bacteria sample collected within the prior 30 days, and submitted to the Clerk. In areas where the Department of Natural Resources (DNR) has determined that groundwater aquifers are contaminated with substances other than bacteria, additional chemical tests may be required to document the safety of the water.



- (3) There shall be no cross-connections or interconnection between the well's pump installation or distribution piping and the municipal water system unless approved by the Utility and DNR.
- (4) The water from the private well shall not discharge into a drain leading directly to a public sewer utility unless properly metered and authorized by the sewer utility.
- (5) The private well shall have a functional pumping system or other complying means of withdrawing water.
- (6) The proposed use of the private well shall be justified as reasonable in addition to water provided by the municipal water system.

**(f) Filling-And-Sealing Procedures.**

- (1) All wells abandoned under the jurisdiction of this ordinance shall be filled-and-sealed according to the procedures and methods of s. NR 812.26, Wisconsin Administrative Code.
- (2) All well filling-and-sealing under jurisdiction of this ordinance shall be performed by, or under the supervision of, a Certified Water System Operator employed by the City of Ladysmith or by a Wisconsin licensed Well Driller or Pump Installer, per s. 280.30 Wisconsin Statutes.
- (3) The owner of the well, or the owner's agent, may be required to obtain a well abandonment permit prior to any well abandonment and shall notify the clerk at least 48 hours in advance of any well abandonment activities. The abandonment of the well may be observed or verified by personnel of the municipal system.
- (4) A well filling-and-sealing report form DNR #3300-005, supplied by the Department of Natural Resources, shall be submitted by the well owner to the Clerk and to the Department of Natural Resources within 30 days of the completion of the well abandonment.

- (g) Penalties.** Any well owner violating any provision of this ordinance shall upon conviction be punished by forfeiture of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) and the cost of prosecution. Each day of violation is a separate offense. If any person fails to comply with this ordinance for more than 30 days after receiving written notice of the violation, the municipality may impose a penalty and cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

*Ord. 2017-04 adopted on 10/23/2017.*

**SEC. 9-1-57 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.

*Ord. 2013-09 adopted on 5/29/2013*

**SEC. 9-1-58 ABANDONMENT OF WATER SERVICE CONNECTIONS WHEN RAZING BUILDINGS.**

- (a) **Definition.** "Razed" or "Razed building" for the purpose of this section has the meaning as defined in SEC. 15-1-9.

- (b) **Requirements for abandoning water service connections.** The following requirements for removal of water service lines shall apply to all structures having municipal water service razed within the City of Ladysmith:
- 1) **Licensed Plumber required.** A plumber licensed by the State of Wisconsin shall perform all water service line abandonment.
  - 2) **Notice Required.** Prior to abandoning a water service line servicing a razed building, the Water Utility shall be given a notice of at least one business day to facilitate the inspection of the work.
  - 3) **Permit Requirements.** Work done under this section shall meet the requirements of SEC. 9-3-15 and SEC. 6-2-3, as it applies to work being performed.
  - 4) **Service Line Removal.** The service line shall be removed to the curb stop valve box or alternate location as authorized by the Water Utility.
  - 5) **Plugging or Capping.** Service lines shall be plugged or capped with a device approved by the Wisconsin Plumbing Code or as authorized by the Water Utility.
  - 6) **Inspection Required.** Prior to the filling of the excavation used to abandon a water service line that serves a razed building, an authorized representative of the Water Utility shall inspect and approve the work performed. *Ordinance #2003-01 01/13/03.*

## CHAPTER 2 Cable Television

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**SEC. 9-2-1 SHORT TITLE.**

This chapter shall be known and may be cited as the “Ladysmith Cable Television Franchise Ordinance,” herein after “Franchise” or “Ordinance.”

**SEC. 9-2-1 DEFINITIONS.**

For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein:

- (a) **“Basic Service”** means all Subscriber services provided by the Grantee in one (1) or more service tiers, which includes the delivery of local broadcast stations, and public, educational and government access channels. Basic Service does not include optional program and satellite service tiers, a la carte services, per channel, per program, or auxiliary services for which a separate charge is made. However, Grantee may include other satellite signals on the Basic Service tier.
- (b) **“Cable Service”** means: (A) the transmission to subscribers of (1) video programming, or (2) other programming services; and (B) subscriber interaction, if any, that is required for the selection or use of such video programming or other programming services.
- (c) **“Cable System”** or **“System”** or **“Cable Television System”** means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any public right-of-way, (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of this Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621 (c) to the extent such facility is used in transmission of video programming directly to Subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility system.
- (d) **“City”** means the City of Ladysmith, Wisconsin.
- (e) **“Class IV Channel”** means a signaling path provided by a cable communications system to transmit signals of any type from a Subscriber terminal to another point in the cable communications system to transmit signals of any type from a Subscriber terminal to another point in the cable communications system.
- (f) **“Control”** or **“Controlling Interest”** shall mean actual working control or ownership of a System in whatever manner exercised. A rebuttable presumption of the existence of Control or a controlling Interest shall arise from the ownership, directly or indirectly, by any person or legal entity (except underwriters during the period in which they are offering securities to the public) of forty percent (40%) or more of a Cable System or the Franchise under which the System is operated. A change in the Control or Controlling Interest of a Legal entity which has Control or a Controlling Interest in a Grantee shall constitute a change in the Control or Controlling Interest of the System under the same criteria. Control or Controlling Interest as used herein may be held simultaneously by more than one person or legal entity.

- (g) **“Converter”** means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector, also permits a Subscriber to view more than twelve (12) channels delivered by the System at designated converter dial locations.
- (h) **“Dwelling Unit”** means any building or part of a building that is used as a home or residence.
- (i) **“FCC”** means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- (j) **“Franchise”** means an initial authorization, or renewal thereof, issued by the City, as the franchising authority, to a Grantee to construct or operate a Cable System.
- (k) **“Franchise Agreement”** means a contractual agreement entered into between the City and any Grantee hereunder that is enforceable by the City and by the Grantee, and which sets forth the rights and obligations between the City and the Grantee in connection with the Franchise.
- (l) **“Grantee”** means a persons or legal entity to whom or to which a Franchise under this Ordinance is granted by the City, along with the lawful successors or assigns of such person or entity.
- (m) **“Gross Revenues”** means all revenue collected by the Grantee, arising from or attributable to the provision of cable service by the Grantee within the City including, but not limited to: periodic fees charged Subscribers for any basic, optional, premium, per-channel or per-program service; franchise fees; installation and reconnection fees; leased channel fees; converter rentals and/or sales; program guide revenues; late or administrative fees; upgrade, downgrade or other change-in service fees; local advertising revenues; revenues from home shopping; revenue from the sale, exchange, use or cable cast of any programming developed on the System for community or institutional use; provided, however, that this shall not include any taxes on services furnished by the Grantee herein imposed directly upon any subscriber or User by the state, local or other governmental unit and collected by the Grantee on behalf of the governmental unit.
- (n) **“Initial Service Area”** means all areas in the City having a density of at least forty (40) dwelling units per street mile.
- (o) **“Installation”** means the connection of the System from feeder cable to a Subscriber’s terminal.
- (p) **“Local Advertising Revenues”** means local and regional advertising revenues derived from the sale of locally and regionally inserted advertising, except such advertising sold by or through Grantee’s national representative firm.
- (q) **“May”** is permissive.
- (r) **“Monitoring”** means observing a communications signal, or the absence of a signal, where the observer is neither the Subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever; provided monitoring shall not include system-wide, non-individually addressed sweeps of the System for purposes of verifying System integrity, controlling return paths transmissions, or verification of billing for premium or other services.
- (s) **“Normal Business Hours”** as applied to the Grantee shall mean those hours during which similar businesses in the City are open to serve customers. In all cases, Normal Business Hours must include some evening hours at least one night per week, and/or some weekend hours.
- (t) **“Normal Operating Conditions”** shall mean those service conditions that are within the control of the Grantee. Those conditions that are not within the control of the Grantee include, but are not limited to: natural disasters, civil disturbances, power outages,

- (u) telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.
- (v) **“Person”** means any natural person or any association, firm, partnership, joint stock company, limited liability company, joint venture, corporation, or other legally recognized entity, private or public, whether for-profit or not-for-profit.
- (w) **“Shall”** is mandatory.
- (x) **“Service Interruption”** is the loss of either picture or sound or both for a single or multiple Subscriber(s).
- (y) **“Street”** means the surface of and all right-of-ways and the space above and below any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the City for the purpose of public travel and shall include other easements or right-of-ways as shall be now held or hereafter held by the City which shall, within their proper use and meaning entitle the Grantee to the use thereof for the purposes of installing poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a Cable Television System.
- (z) **“Subscriber”** shall mean any person(s), firm, Grantee, corporation or other legal entity, or association lawfully receiving any service provided by a Grantee pursuant to this Ordinance.
- (aa) **“User”** means a party utilizing a Cable Television System channel for purposes of production or transmission of material to Subscribers, as contrasted with receipt thereof in a Subscriber capacity.

### **SEC. 9-2-3 RIGHTS AND PRIVILEGES OF GRANTEE.**

Any Franchise granted by the City pursuant to Wisconsin Statutes Section 66.0419 (was 66.082) shall grant to the Grantee the right and privilege to erect, construct, operate and maintain in, upon along, across, above over and under the streets now in existence and as may be created or established during the term of the Franchise any poles, wires, cable, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation of a Cable System.

### **SEC. 9-2-4 AGREEMENT AND INCORPORATION OF APPLICATION BY REFERENCE.**

- (a) Upon adoption of any Franchise Agreement and execution thereof by the Grantee, the Grantee agrees to be bound by all the terms and conditions contained herein.
- (b) Any Grantee also agrees to provide all services specifically set forth in its application and to provide cable television service within the confines of the City; and by its acceptance of the Franchise, the Grantee specifically grants and agrees that its application is thereby incorporated by reference and made a part of the Franchise.

### **SEC. 9-2-5 FRANCHISE TERRITORY.**

Any Franchise is for the legally incorporated territorial limits of the City and for any area henceforth added thereto during the term of the Franchise.

**SEC. 9-2-6 DURATION AND ACCEPTANCE OF FRANCHISE.**

Any Franchise and the rights, privileges and authority granted under this Ordinance shall take effect and be in force from and after final City approval thereof, as provided by law, and shall continue in force and effect for a term of no longer than fifteen (15) years, provided that within forty-five (45) days after the date of final City approval of the Franchise the Grantee shall file with the City its unconditional acceptance of the Franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed. Such Franchise shall be non-exclusive and revocable.

**SEC. 9-2-7 FRANCHISE RENEWAL.**

- (a) Current federal procedures and standards pursuant to 47 U.S.C. §546, shall govern the renewal of any Franchise awarded under this Ordinance.
- (b) In the event that any or all of the applicable provisions of federal law are repealed or otherwise modified, the following relevant section(s) shall apply:
  - (1) At least twenty-four (24) months prior to the expiration of the Franchise, the Grantee shall inform the City in writing of its intent to seek renewal of the Franchise.
  - (2) The Grantee shall submit a proposal for renewal that demonstrates:
    - a. That it has been and continues to be in substantial compliance with the terms, conditions, and limitations of this Ordinance and its Franchise;
    - b. That its System has been installed, constructed, maintained and operated in accordance with the FCC and this Ordinance and its Franchise;
    - c. That it has the legal, technical and financial qualifications to continue to maintain and operate its System; and
    - d. That it has made a good faith effort to provide services and facilities, which accommodate the demonstrated needs of the community, taking into, account the cost of meeting such needs.
  - (3) After giving public notice, the City shall proceed to determine whether the Grantee has satisfactorily performed its obligations under the Franchise. To determine satisfactory performance, the City shall consider technical developments and performance of the System, cost of services, and any other particular requirements set forth in this Ordinance. The City shall also consider the Grantee's reports made to the City and to the FCC and the City may require the Grantee to make available specified records, documents, and information for this purpose, and may inquire specifically whether the Grantee will supply services sufficient to meet future community needs and interest, taking into account the cost of meeting such needs. Industry performance on a national basis shall also be considered. Provisions shall be made for public comment with adequate prior notice of at least ten (10) days.
  - (4) Grantee shall be entitled to the same due process rights included in Section 626 [47 U.S.C. §546].
  - (5) The City shall then prepare any amendments to this Ordinance that it believes necessary.
  - (6) If the City finds the Grantee's performance satisfactory, and finds the Grantee's technical, legal, and financial abilities acceptable, and finds the Grantee's renewal proposal meets the future cable-related needs of the City, taking into account the cost of meeting such needs, a new Franchise shall be granted pursuant to this Ordinance as amended for a period to be determined.

- (7) If the Grantee is determined by the City to have performed unsatisfactorily, new applicants may be sought and evaluated and a Franchise award shall be made by the City according to franchising procedures adopted by the City.

#### **SEC. 9-2-8 POLICE POWERS**

- (a) In accepting a Franchise, the Grantee acknowledges that its rights thereunder are subject to the police power of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such power.
- (b) Any conflict between the provisions of a Franchise and any other current or future lawful exercise of the City's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the jurisdiction or applies exclusively to the Grantee or cable television systems which contains provisions inconsistent with this ordinance, shall prevail only if upon such exercise the City finds a danger to health, safety, property or general welfare or if such exercise is mandated by law.

#### **SEC. 9-2-9 CABLE TELEVISION FRANCHISE REQUIRED.**

No Cable Television System shall be allowed to operate or to occupy or use the streets for System installation and maintenance purposes without a Franchise.

#### **SEC. 9-2-10 USE OF GRANTEE FACILITIES.**

The City shall have the right to install and maintain upon the poles of the Grantee at a charge equal to Grantee's costs any wire or pole fixtures that do not unreasonably interfere with the Cable Television System operations, including future plans, of the Grantee. The City shall indemnify and hold harmless the Grantee from any claim that might arise due to or as a result of the City's use.

#### **SEC. 9-2-11 INITIAL FRANCHISE COSTS.**

Costs to be borne by a Grantee shall include any requirements or charges incidental to the awarding or enforcing of its initial Franchise, but shall not be limited to: all costs of publications of notices prior to any public meeting provided for pursuant to this Ordinance, and any costs not covered by application fees, incurred by the City in its study, preparation of proposal documents, evaluation of all applications, and examinations of the applicant's qualifications.

#### **SEC. 9-2-12 NOTICES.**

All notices from the Grantee to the City pursuant to any Franchise shall be to the City Clerk. The Grantee shall maintain with the City, throughout the term of the Franchise, an address for service of notices by mail. The grantee shall maintain a central office to address any issues relating to operating under this cable television Ordinance.

#### **SEC. 9-2-13 BOND.**

- (a) Within sixty (60) days after the award of an initial or renewal Franchise, the Grantee shall deposit with the City a bond in the amount of five thousand dollars (\$5,000.00) with the form to be established by the City. The form and content of such bond shall be approved by the City Attorney. This shall be used to ensure the faithful performance of the Grantee of all provisions of this Ordinance, and to ensure compliance with all orders, permits and directions of any agency, commission, board, department, division, or office of the City having jurisdiction over its acts or



defaults under this Ordinance, and to ensure the payment by the Grantee of any claims, liens, and taxes due the City which arise by reason of the construction, operation or maintenance of the system.

- (b) The bond shall be maintained at the amount established in Section 13 (a) for the entire term of the Franchise, even if amounts have to be withdrawn pursuant to this Ordinance.
- (c) If the Grantee fails to pay to the City any amounts owed under the Franchise Agreement, that is not on appeal to the court of proper jurisdiction, within the time fixed herein; or fails after fifteen (15) days notice to pay to the City any taxes due and unpaid; or fails to repay the City within fifteen (15) days, any damages, cost or expenses which the City is compelled to pay by reason of any act or default of the Grantee in connection with the Franchise, or fails, after three (3) days notice of such failure by the City to comply with any provision of the Franchise which the City reasonably determines can be remedied by demand on the bond, the City may immediately demand payment of the amount thereof, with interest and any penalties, from the bond. Upon such demand for payment, the City shall notify the Grantee of the amount and date thereof.
- (d) The rights reserved to the City with respect to the bond are in addition to all other rights of the City, whether reserved by the Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other right the City may have.
- (e) The bond shall contain an endorsement agreeing that the bond may not be canceled by the surety nor the intention not to renew be stated by the surety until thirty (3) days after receipt by the City, by registered mail, of a written notice of such intention to cancel or not to renew.
- (f) In the event the City receives a thirty (30) day notice from a surety, it shall have the right to demand payment from the bond unless Grantee provides appropriate assurance that a replacement bond will be presented before the expiration of the thirty (30) day period. Assurance shall be determined by the City at its sole discretion. This section shall not apply if the City and Grantee agree that a bond is no longer required or if the bond is, by agreement between the City and Grantee, in the process of being reduced.
- (g) The City may, at any time during the term of this Ordinance, Waive the Grantee's requirement to maintain a bond. The waiver of the requirement may be initiated by the City or may be requested by the Grantee.

#### **SEC. 9-2-14 CONSTRUCTION OF PERFORMANCE BOND.**

- (a) Within sixty (60) days after the award of an initial or renewal Franchise, the Grantee shall file with the City a performance bond in the amount of not less than fifty thousand dollars (\$50,000) in favor of the City. This bond shall be maintained throughout the construction period and until such time as determined by the City, unless otherwise specified in the Franchise Agreement.
- (b) If the Grantee fails to comply with any law, ordinance or resolution governing the Franchise, or fails to observe, fulfill and perform each term and condition of the Franchise, as it relates to the conditions relative to the Construction of the System, including the Franchise Agreement that is incorporated herein by reference, there shall be recoverable jointly and severally, from the principal and surety of the bond, any damages or losses suffered by the City, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Grantee, plus a reasonable allowance for attorney's fees, including the City's legal staff, and costs, up to the full amount of the bond. This section shall be an additional remedy for any and all violations outlined in Section 13.
- (c) The City shall, upon completion of construction of the service area, waive the requirement of the Grantee to maintain the bond. However, the City may require a performance bond to be posted by the Grantee for any construction subsequent to the completion of the initial service areas, in a reasonable amount not to fifty thousand dollars (\$50,000) and upon such terms as determined by the City.
- (d) The bond shall contain an endorsement stating that the bond may not be canceled by the surety nor the intention not to renew be stated by the surety until thirty (30) days after receipt by the City, by registered mail, a written notice of such intent to cancel and not to renew.

- (e) Upon receipt of a thirty (30) day notice, and following a 30-day period to cure, this shall be construed ad default grant the City the right to demand payment on the bond.
- (f) The City, at any time during the term of this Ordinance, may waive Grantee's requirement to maintain a performance bond. The waiver of the requirement can be initiated by the City or the Grantee.

#### **SEC. 9-2-15 LIABILITY AND INSURANCE.**

- (a) The Grantee shall maintain and by its acceptance of the Franchise specifically agrees that it will maintain throughout the term of the Franchise, liability insurance insuring the City and the Grantee in the minimum amount of:
  - (1) One million dollars (\$1,000,000.00) for property damage to any one person;
  - (2) One million dollars (\$1,000,000.00) for property damage from any one occurrence;
  - (3) One million dollars (\$1,000,000.00) for personal injury to any one person; and
  - (4) One million dollars (\$1,000,000.00) for personal injury from any one occurrence.
- (b) The certificate of insurance obtained by the Grantee in compliance with this section shall be filed and maintained with the City during the term of the franchise. The Grantee shall immediately advise the City Attorney of any litigation that may develop that would affect this insurance.
- (c) Neither the provisions of this section more any damages recovered by the City thereunder, shall be construed to or limit the liability of the Grantee under any Franchise issued hereunder.

#### **SEC. 9-2-16 INDEMNIFICATION.**

- (a) Disclaimer of Liability. The City shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of the Grantee's Cable Television system or due to the act or omission of any person or legal entity other than the City of those persons or legal entities for which the City is legally liable as a matter of law.
- (b) Indemnification. The Grantee shall, at its sole cost and expense, indemnify and hold harmless the City, its respective officers, boards, department, commissions and employees (hereinafter referred to as "Indemnitees") from and against"
  - (1) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the Indemnitees by reason of any act or omission of the Grantee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, corporation or other legal entity, which may arise out of or be in any way connected with the construction, installation, operation, maintenance or condition of the Cable Television system caused by Grantee, its subcontractors or agents or the Grantee's failure to comply with any federal, state or local law.
  - (2) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants) imposed upon Indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to Grantee, its contractors or subcontractors, for the installation, construction, operation or maintenance of the Cable Television System. Upon written request by the City, such claim or lien shall be discharged or bonded within fifteen (15) days following such request.
  - (3) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the

- Indemnitees by reason of any financing or securities offering by Grantee or its Affiliates for violations of the common law or any laws, statutes or regulations of the State of Wisconsin or of the United States, including those of the Federal Securities and Exchange Commission, whether by the Grantee or otherwise; excluding therefrom, however, claims which are based upon and arise out of information supplied by the City to the Grantee in writing and included in the offering materials with the express written approval of the City prior to the offering.
- (c) Assumption of Risk.
- (1) The Grantee undertakes and assumes for its officers, directors, agents, contractors and subcontractors and employees all risk of dangerous conditions, if any, on or about any City-owned or controlled property, including public right-of-way, and the Grantee hereby agrees to indemnify and hold harmless the Indemnitees against and from any claim asserted or liability imposed upon the Indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Cable Television System or the Grantee's failure to comply with any federal, state or local law.
  - (2) The City shall hold Grantee harmless for any damages resulting from the negligence or misconduct of the Grantor or its officials, boards, departments, commission or employees.
- (d) Defense of Indemnitees. In the event any action or proceeding shall be brought against any or all of the Indemnitees by reason of any matter from which the Indemnitees are indemnified hereunder, the Grantee shall, upon notice from any of the Indemnitees, at the Grantee's sole cost and expense, defend the same; provided further, however, that the Grantee shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of the City Attorney or the City Attorney's designee.
- (c) Notice, Cooperation and Expenses. The City shall give the Grantee reasonably prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the City from cooperating with the Grantee and participating in the defense of any litigation by the City's own counsel at the City's own expense. No recovery by the City of any sum under the bond shall be any limitation upon the liability of the Grantee to the City under the terms of this Section, except that any sum so received by the City shall be deducted from any recovery which the City might have against the Grantee under the terms of this Section.
- (d) Non-waiver of Statutory Limits. Nothing in this Ordinance is intended to express or imply a waiver by the City of statutory provisions, privileges or immunities of any kind or nature as set forth in Wisconsin Statutes Section 893.80, et. Seq., including the limits of liability of the City.

#### **SEC. 9-2-17 RIGHTS OF INDIVIDUALS.**

- (a) The Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel Users, or general citizens on the basis of race, color, religion, national origin, income, sex, marital status, sexual preference or age. The Grantee shall comply at all times with all other applicable federal, state and local laws and regulations and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this Ordinance by reference.
- (b) The Grantee shall strictly adhere to the equal employment opportunity requirements of the Federal Communications Commission and of state and local governments, and as amended from time to time.
- (c) The Grantee shall, at all times, comply with the privacy requirements of state and federal law.
- (d) The Grantee is required to make all services available to all residential dwellings throughout the service area located in areas having a density of at least forty (40) dwelling units per street mile.

#### **SEC. 9-2-18 PUBLIC NOTICE.**

Minimum public notice of any public meeting relating to the Franchise shall be governed by the provisions of the State Open Meetings Law, and shall be on at least one (1) channel of the Grantee's System between the hours of 7:00 p.m. and 9:00 p.m., for five (5) consecutive days prior to the meeting.

#### **SEC. 9-2-19 SERVICE AVAILABILITY AND RECORD REQUEST.**

The Grantee shall provide cable television service throughout the entire Franchise area pursuant to the provisions of the Franchise and shall keep a record for at least three (3) years of all requests for service received by the Grantee. This record shall be available for public inspection at the local office of the Grantee during regular office hours.

#### **SEC. 9-2-20 SYSTEM CONSTRUCTION.**

- (a) New construction timetable.
- (1) Within two (2) years from the date of the award of an initial Franchise, the Grantee must make cable television service available to every dwelling unit within the initial service area.
    - a. The Grantee must make cable television service available to at least twenty (20) percent of the dwelling units within the initial services area within six (6) months from the date of the award of the Franchise.
    - b. The Grantee must make cable television service available to at least fifty (50) percent of the dwelling units within the initial service area within one (1) year from the date of the award of the Franchise.
  - (2) The Grantee, in its application, may propose a timetable of construction which will make cable television service available in the initial service area sooner than the above minimum requirements, in which case the said schedule will be made part of the Franchise Agreement, and will be binding upon the Grantee.
  - (3) Any delay beyond the terms of this timetable, unless specifically approved by the City, will be considered a violation of this Ordinance for which the provisions of either Sections 37 or 46 shall apply, as determined by the City.
  - (4) In special circumstances the City may waive one hundred percent (100%) completion within the two (2) year time frame, provided substantial completion is accomplished within the allotted time frame, substantial completion to be not less than ninety-five (5%) percent. Justification for less than one hundred percent (100%) must be submitted subject to the approval of the City.
- (b) Line extensions:
- (1) In areas of the Franchise territory not included in the initial service areas, a Grantee shall be required to extend its System Pursuant to the following requirements:
    - a. No customer shall be refused services arbitrarily. Grantee is hereby authorized to extend the Cable system as necessary within the City. To expedite the process of extending the Cable System into a new sub-division, the City will forward to the Grantee an approved engineering plan of each project. Subject to the density requirements, the Grantee shall commence the design and construction process upon receipt of the final engineering plan. Upon notification from the City that the first home in the project has been approved for a building permit, the Grantee shall have a maximum of three (3) months, weather permitting, to complete the construction/activation process within the applicable project phase.
    - b. The Grantee shall extend and make cable television service available to every dwelling unit in all unserved, developing areas having at least forty (40) dwelling units per street mile, as measured from the existing System from which service can be provided.

- c. The Grantee shall extend and make cable television service available to any isolated resident outside the initial service area requesting connection at the standard connection charge, if the connection to the isolated resident would require no more than a standard one hundred and fifty (150) foot drop line.
- (2) Early Extension. In areas not meeting the requirements for mandatory extension of service, the Grantee shall provide, upon the request of a potential Subscriber desiring service, an estimate of the Grantee's costs required to extend service to the Subscriber. The Grantee shall then extend service upon request of the potential Subscriber. The Grantee may require advance payment or assurance of payment satisfactory to the Grantee. In the event the area reaches the density required for mandatory extension within two (2) years, such payments shall be refunded to the Subscriber upon request.
- (3) New development underground. In case of new construction or property development where utilities are to be placed underground, the developer or property owner shall give the Grantee reasonable notice of such construction or development, and of the particular date on which open trenching will be available for the Grantee's installation of conduit pedestals and/or vaults, and laterals. The Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if the Grantee fails to install its conduit, pedestals and/or vaults, the laterals within five (5) working days of the date of the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five (5) day period, the cost of new trenching is to be borne by the Grantee. Except for the notice of the particular date on which trenching will be available to the Grantee, any notice provided to the Grantee by the City of a preliminary plat request shall satisfy the requirement of reasonable notice if sent to the local general manager of the Grantee prior to approval of the preliminary plat request.
- (c) Special agreements. Nothing herein shall be construed to prevent the Grantee from serving areas within the legally incorporated boundaries of the City not covered under this section upon agreement with developers, property owners residents, or businesses, provided that five (5) percent of the gross revenues from those areas are paid to the City as franchise fees under Section 27.
- (d) A Grantee may propose a line extension policy that will result in serving more residents of the City than as required above, in which case the Grantee's policy will be incorporated into the Franchise Agreement and will be binding on the Grantee.
- (e) The Violation of this section following a 30-day period to cure shall be considered a breach of the terms of this Ordinance, for which the provisions of either Sections 38 or 46 shall apply, as determined by the City.

#### **SEC. 9-2-21 CONSTRUCTION AND TECHNICAL STANDARDS.**

- (a) Compliance with construction and technical standards. The Grantee shall construct, install, operate and maintain its System in a manner consistent with all laws, ordinances, construction standards, governmental requirements, and FCC technical standards. In addition, the Grantee shall provide the City, upon request, a written report of the results of the Grantee's annual proof of performance tests conducted pursuant to Federal Communications Commission standards and requirements.
- (b) Additional specifications:

- (1) Construction, installation and maintenance of the Cable Television System shall be performed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.
- (2) The Grantee shall at all times comply with the applicable:
  - a. National Electrical Safety Code (National Bureau of Standards);
  - b. National Electrical Code (National Bureau of Fire Underwriters);
  - c. Applicable FCC or other federal, state and local regulations.
- (3) In any event, the System shall not endanger or interfere with the safety of persons or property in the Franchise area or other areas where the Grantee may have equipment located.
- (4) Any antenna Structure used in the System shall comply with construction, marking, and lighting of antenna structure, required by the United States Department of Transportation.
- (5) All working facilities and conditions used during construction, installation and maintenance of the Cable Television System shall comply with the standards of the Occupational Safety and Health Administration.
- (6) Radio frequency (RF) leakage shall be checked at reception locations for emergency radio services to prove no interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no interference to airborne navigational reception in the normal flight patterns. FCC rules and regulations shall govern.
- (7) The Grantee shall maintain equipment capable of providing standby power for headend, transportation and trunk amplifiers for a minimum of two (2) hours.
- (8) In all areas of the City where all cables, wires and other like facilities of public utilities are placed underground, the Grantee shall place its cables, wires and other like facilities underground. When all public utilities relocate their facilities from pole to underground, the cable operator must concurrently do so.

#### **SEC. 9-2-22 USE OF STREETS.**

- (a) Interference with persons and improvements. The Grantee's system, poles, wires and appurtenances, shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with the rights or reasonable health, safety or welfare of property owners who adjoin any of the streets and public ways, or interfere with any improvements the City may make, or hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.
- (b) Restoration to prior condition. In case of any disturbance of pavement, sidewalk, landscaping, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, landscaping, or surface of any street or alley disturbed, in as good condition as before the work was commenced and in accordance with standards for such work set by the City. After thirty (30) days, if restoration measures are not performed to the reasonable satisfaction of the City, the City may undertake remedial restoration activities, such activities to be performed at the Grantee's cost.
- (c) Erection, removal and common uses of poles:
  - (1) No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the City with regard to location, height, types, and any other

- pertinent aspect. However, no location of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the City determines that the public health, safety or welfare would be enhanced thereby.
- (2) Where poles or other wire-holding structures already existing for use in serving the City are available for use by the Grantee, but it does not make arrangements for such use, the City may require the Grantee to use such poles and structures if it determines that the public health, safety or welfare would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.
  - (3) Where the City desires to make use of the poles or other wire-holding structures of the Grantee and the use will not unduly interfere with the Grantee's operations, the City may require the Grantee to permit such use for reasonable consideration and terms.
- (d) Relocation of facilities. If at any time during the period of the Franchise the City shall lawfully elect to alter, or change the grade of any street, alley or other public ways, the Grantee, upon reasonable notice by the city, shall remove or relocated as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
  - (e) Cooperation with building movers. The Grantee shall, at 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. Expenses of such temporary removal, raising or lowering of wires shall be paid by the person making the request, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given at least ten (10) days advance notice to arrange for such temporary wire changes.
  - (f) Tree trimming. The Grantee shall not remove any tree or trim any portion of any tree within any public street as defined herein without the prior consent of the City, except in an emergency situation. The Grantee shall provide notice to any affected residents at the same time that the Grantee applies to the City for consent to perform tree trimming. The City shall have the right to do the trimming requested by the Grantee at the cost of the Grantee. Regardless of who performs the work requested by the Grantee, the Grantee shall be responsible, shall defend and hold City harmless from any and all damages to any tree as a result of Grantee's trimming, or to the property surrounding any tree, whether such tree is trimmed or removed.
  - (g) Road cuts. The Grantee shall not use road cuts for the laying of cable or wires without the prior approval of the City. In the absence of such approval, the Grantee shall utilize auguring.

#### **SEC. 9-2-23 OPERATIONAL STANDARDS.**

- (a) The Grantee shall maintain all parts of the System in good condition throughout the entire Franchise period.
- (b) Upon the reasonable request for service by any person located within the Franchise territory, the Grantee shall, within thirty (30) days, furnish the requested service to such person within terms of the line extension policy. A request for service shall be unreasonable for the purpose of this subsection if no distribution line capable of servicing that person's block has been installed.
- (c) Temporary Service Drops:
  - (1) The Grantee shall put forth every effort to bury temporary drops within twenty-five (25) days after placement. Any delays for any other reason than listed will be communicated to the City. The following delays will be found understandable and within the course of doing business: weather, ground conditions, street bores, System

redesign requirements and any other unusual obstacle, such as obstructive landscaping that is created by the customer.

- (2) The Grantee shall provide reports to the City, upon request, on the number of drops pending.
- (d) The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum System use.
- (e) The Grantee shall not allow its cable or other operations to interfere with television reception of Subscribers or persons not served by the Grantee, nor shall the System interfere with, obstruct or hinder in any manner the operation of the various utilities serving the customers within the confines of the City, nor shall other utilities interfere with the Grantee's System.

### SEC. 9-2-24 CUSTOMER SERVICE STANDARDS.

- (a) Nothing in this ordinance shall be construed to prohibit the enforcement of any federal, state or local law or regulation concerning customer service or consumer protection that imposes customer service standards or consumer protection requirements that exceed the customer service standards set out in this Ordinance or that address matters not addressed in this Ordinance.
- (b) The Grantee shall maintain a local or toll-free telephone access line which is available to its Subscribers and shall have knowledgeable, qualified representatives available to respond to customer telephone inquires regarding repairs twenty-four (24) hours per day, seven (7) days per week.
- (c) Under Normal Operating Conditions, telephone answer, time including wait time and the time required to transfer the call, shall not exceed thirty (30) seconds. This standard shall be met no less than ninety percent (90%) of the time as measured on a quarterly basis.
- (d) Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the total time that the office is open for business.
- (e) A centrally-located customer service center will be open for walk-in customer transactions a minimum of eight (8) hours per day Monday through Friday, unless there is a need to modify those hours because of the location or customers served. The Grantee and City by mutual consent shall establish supplemental hours on weekdays and weekends as fits the needs of the community.
- (f) Under Normal Operating Conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time as measured on an annual basis.
  - (1) **Standard installations will be performed within seven (7) business days after an order has been placed. A standard installation is one that is within one hundred fifty (150) feet of the existing System.**
  - (2) Excluding those situations that are beyond its control, the Grantee will respond to any service interruption promptly and in no event later than twenty-four (24) hours from time of initial notification. All other regular service requests will be responded to within thirty-six (36) hours during the normal work week for that System. The appointment window alternatives for installations, service calls and other installation activities will be: "morning" or "afternoon"; not to exceed a four-hour "window" during Normal Business Hours for the System, or at a time that is mutually acceptable. The Grantee shall schedule supplemental hours during which appointments can be scheduled based on the needs of the community. If at any time an installer or technician is running late, an attempt to contact the customer will be



- made and the appointment rescheduled as necessary at a time that is convenient to the customer.
- (g) Subscriber Credit for Outages. Upon Service Interruption of a Subscriber's Cable Service, the following shall apply:
- (1) For Service Interruptions of more than four (4) hours and up to four (4) days, the Grantee shall provide, at the Subscriber's request, a credit of one-thirtieth (1/30) of one month's fees for affected services for each 24-hour period service is interrupted for four (4) or more hours for any Subscriber, with the exception of Subscribers disconnected because of non-payment or excessive signal leakage.
  - (2) For interruptions of seven (7) days or more in one month, the Grantee shall provide, at the Subscriber's request, a full month's credit for affected services for all affected Subscribers.
- (h) The Grantee shall provide written information for each of the following areas at the time of installation and at any future time upon the request of the customer:
- (1) Product and services offered
  - (2) Prices and service options
  - (3) Installation and service policies
  - (4) How to use the cable television services
- (i) Bills will be clear, concise and understandable, with all charges for cable services itemized.
- (j) Credits will be issued promptly, but no later than the customer's next billing cycle following the resolution of the request and the return of the equipment by the Grantee if service has been terminated.
- (k) The grantee shall notify customers a minimum of thirty (30) days in advance of any rate or channel change.
- (l) The Grantee shall maintain and operate its network in accordance with the rules and regulations incorporated herein or as may be promulgated by Federal Communications Commission, the United States Congress, or the State of Wisconsin.
- (m) The Grantee shall continue, through the term of the Franchise, to maintain the technical standards and quality of service set forth in this Ordinance. Should the City find, by resolution, that the Grantee has failed to maintain these technical standards and quality of service, and should it, by resolution, specifically enumerate improvements to be made, the Grantee shall make such improvements. Failure to make such improvements within three (3) months of such resolution will constitute a breach of a condition for which penalties contained in Section 46 are applicable.
- (n) The Grantee shall keep a monthly service log that indicates the nature of each service complaint received in the last twenty-four (24) months, the date and time each complaint was received, the disposition of each complaint, and the time and date thereof. This log shall be made available for periodic inspection by the City.

#### **SEC. 9-2-25 CONTINUITY OF SERVICE MANDATORY.**

- (a) It shall be the right of all Subscribers to continue receiving service as long as their financial and other obligations to the Grantee are honored. If the Grantee elects to over build, rebuild, modify or sell the System, or the City gives notice of intent to terminate or fails to renew the Franchise, the Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted service regardless of the circumstances.
- (b) If there is a change of Franchise, or if a new operator acquires the System, the Grantee shall cooperate with the City, new franchise or new operator to maintain continuity of service to all Subscribers.
- (c) If the Grantee fails to operate the System for seven (7) consecutive days without prior approval of the City or without just cause, the City may, at its options, operate the System or designate an operator until such time as the Grantee restores service under conditions acceptable to the City or a

permanent operator is selected. If the City is required to fulfill this obligation for the Grantee, the Grantee shall reimburse the City for all reasonable costs or damages in excess of revenues from the System received by the City that are the result of the Grantee's failure to perform.

#### **SEC. 9-2-26 COMPLAINT PROCEDURE.**

- (a) The City Council or its designee has primary responsibility for the continuing administration of the Franchise and implementation of complain procedures.
- (b) During the terms of the Franchise and any renewal thereof, the Grantee shall maintain a central office, designated by the Grantee, for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. The office must be reachable by a local and/or toll-free telephone call to receive complaints regarding quality of service, equipment functions and similar matters. The Grantee will make good faith efforts to arrange for one or more payment locations in a central location where customers may pay bills or drop off equipment.
- (c) As Subscribers are connected or reconnected to the System, the Grantee shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed.
- (d) When there have been similar complaints made, or where there exists other evidence, which, in the judgement of the City, casts doubt on the reliability or quality of cable service, the City shall have the right and authority to require the Grantee to test, analyze and report on the performance of the System. The Grantee shall fully cooperate with the City in performing such testing sand shall prepare results and a report, if requested, within thirty (30) days after notice. Such report shall include the following information.
  - (1) The nature of the complaint or problem that precipitated the special tests;
  - (2) The System component(s) tested;
  - (3) The equipment used and procedures employed in testing;
  - (4) The method, if any, in which such complaint or problem was resolved;
  - (5) Any other information pertinent to the tests and analysis which may be required.
- (e) The City may require that tests be supervised, at the Grantee's expense unless results are found to be in compliance by an independent professional engineer or equivalent of the City's choice. The engineer shall sign all records of special tests and forward to the City such records with a report interpreting the results of the tests and recommending actions to be taken.
- (f) The City's rights under this section shall be limited to requiring tests, analysis and reports covering specific subjects and characteristics based on complaints or other evidence require that tests be performed to protect the public against substandard cable service.

#### **SEC. 9-2-27 GRANTEE RULES AND REGULATIONS.**

The Grantee shall have the authority to 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 each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations.

#### **SEC. 9-2-28 FRANCHISE FEE.**

- (a) A Grantee shall pay to the City a franchise fee in the amount designated in the Franchise Agreement. Unless otherwise specified in the Franchise Agreement, such franchise fee shall be five percent (5%) of the Grantee's Gross Revenues.

- (b) The franchise fee payment shall be in addition to any other tax or payment owed to the City by the Grantee and shall not be construed as payment in lieu of municipal property taxes or other state, county or local taxes.
- (c) The franchise fee and any other costs or penalties assessed shall be payable quarterly on a calendar year basis to the City within forty-five (45) days of the end of each quarter. The Grantee shall also file a complete and accurate verified statement of all Gross Revenues as previously defined within forty-five (45) days of the end of each quarter.
- (d) The City shall have the right to inspect the Grantee's income records and to audit and recompute any amounts determined to be payable under this Ordinance; provided, however, that such audit shall take place within sixty (60) months following the close of each of the Grantee's fiscal years that is the subject of the audit. Any additional amount due the City as a result of an audit shall be paid within thirty (30) days following written notice to the Grantee by the City, which shall include a copy of the audit report.
- (e) If any franchise fee payment or recomputed amount, cost or penalty, is not made on or before the applicable dates heretofore specified, interest shall be charged from such date at an annual rate of twelve percent (12%). The Grantee shall reimburse the City for any additional expenses and costs incurred by the City by reason of the delinquent payment(s), including, but not limited to, attorney's fees, consultant fees and audit fees.

#### **SEC. 9-2-29 TRANSFER OF OWNERSHIP OR CONTROL.**

- (a) A Franchise shall not be assigned or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any person without the prior written consent of the City. The Grantee may, however, transfer or assign the Franchise to a wholly owned subsidiary of the Grantee and such subsidiary may transfer or assign the Franchise back to the Grantee without such consent, providing that such assignment is without any release of liability of the Grantee. Any proposed assignee must show legal, technical and financial responsibility as determined by the City and must agree to comply with all provisions of the Franchise. The City shall have one hundred and twenty (120) days to act upon any request for approval of a sale or transfer submitted in writing that contains or is accompanied by all such information as is required in accordance with FCC regulations and by the City. The City shall be deemed to have consented to a proposed transfer or assignment if its refusal to consent (including the reasons therefor) is not communicated in writing to the Grantee within one hundred and twenty (120) days following receipt of written notice together with all necessary information as to the effect of the proposed transfer or assignment upon the public, unless the requesting party and the City agree to an extension of time. The City shall not unreasonably withhold consent to a proposed transfer.
- (b) The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of the Grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of forty percent (40%) of the voting shares of the Grantee. Every change, transfer or acquisition of control of the Grantee shall make the Franchise subject to cancellation unless and until the City shall have consented thereto, which consent shall not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the City may inquire into the legal, technical, financial and other qualifications of the prospective controlling party, and the Grantee shall assist the City in such inquiry.
- (c) The consent or approval of the City to any transfer of the Grantee shall not constitute a waiver or release of the rights of the City in and to the streets, and any transfer shall by its terms, be expressly subordinate to the terms and conditions of the Franchise.

- (d) In the absence of extraordinary circumstances, the City shall not be required to approve any transfer or assignment of a new Franchise prior to substantial completion of construction of the proposed System.
- (e) In no event shall a transfer of ownership or control be approved without the successor(s) in interest agreeing in writing to abide by the terms and conditions of the Franchise Agreement.

#### **SEC. 9-2-30 AVAILABILITY OF BOOKS AND RECORDS.**

- (a) The Grantee shall fully cooperate in making available at reasonable times, and the City shall have the right to inspect at the Grantee's office, upon reasonable notice and where reasonably necessary for the enforcement of the Franchise, books, records, maps, plans and other like materials of the Grantee applicable to the Cable Television System, at any time during Normal Business Hours.
- (b) Unless prohibited by law, rule or regulation, the following records and/or reports are to be made available to the City upon request, but no more frequently than on an annual basis if so mutually agreed upon by the Grantee and the City:
  - (1) A yearly review and resolution or progress report submitted by the Grantee to the City;
  - (2) Periodic preventive maintenance reports;
  - (3) Copies of FCC Form 395-A (or successor form) or any supplemental forms related to equal opportunity or fair contracting policies;
  - (4) Subscriber inquiry/complaint resolution data (but not including names or addresses) and the right to review documentation concerning these inquiries and/or complaints periodically;
  - (5) Periodic construction update reports including, where appropriate, the submission of strand maps.

#### **SEC. 9-2-31 OTHER PETITIONS AND APPLICATIONS.**

Copies of all petitions, applications, communications and reports submitted by the Grantee to the Federal Communications Commission, to the Securities and Exchange Commission, or to any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to the Franchise or received from such agencies shall be provided to the City upon request.

#### **SEC. 9-2-32 FISCAL REPORTS.**

- (a) The Grantee shall file annually with the City no later than one hundred twenty (120) days after the end of the Grantee's fiscal year, a copy of a gross revenues statement certified by an officer of the Grantee.

#### **SEC. 9-2-33 REMOVAL OF CABLE TELEVISION SYSTEM.**

At the expiration of the term for which the Franchise is granted or when any renewal is denied, or upon its termination as provided herein, the Grantee shall forthwith, upon written notice by the City, remove at its own expense all aerial portions of the Cable Television System from all streets and public property within the City within six (6) months. If the Grantee fails to do so within six (6) months, the City may perform the work at the Grantee's expense. Upon such notice of removal, a bond shall be furnished by the Grantee in an amount sufficient to cover this expense.

#### **SEC. 9-2-34 REQUIRED SERVICES AND FACILITIES.**

- (a) The Cable Television System shall have a minimum channel capacity of sixty (6) channels.
- (b) The Grantee shall provide the following:
  - (1) At least one (1) specially-designated channel for use by local education authorities;
  - (2) At least one (1) specially-designated channel for local governmental uses;

- (3) If required by the Franchise Agreement, an Institutional Network (I-Net) of cable, optical, electrical or electronic equipment, including Cable Television systems, used for the purpose of transmitting two-way video signals interconnecting designated entities to be determined by the City. The cost of such network will be borne by the City as negotiated between the Grantee and the City. Such Network may be provided as needed by utilizing capacity on the System.
  - (4) Provided, however, these uses may be combined on one or more channels until such time as additional channels become necessary in the opinion of the City. Studios and associated production equipment will be located in a mutually agreed upon site to meet the need for educational and local governmental access as noted in (1), (2) and (3). Financial and technical support and replacement and maintenance of equipment of this facility shall be separately incorporated into the Franchise by agreement.
- (c) The Grantee shall incorporate into its Cable Television System the capacity to permit the City, in times of emergency, to override by remote control the audio, video and/or text of all channels simultaneously, which the Grantee may lawfully override. The Grantee shall provide emergency broadcast capacity pursuant to FCC rules. The Grantee shall cooperate with the City in the use and operation of the emergency alert override system.

#### **SEC. 9-2-35 RULES AND REGULATIONS.**

- (a) In addition to the inherent powers of the City to regulate and control any cable television Franchise, and those powers expressly reserved by the City, or agreed to and provided for herein, the right and power is hereby reserved by the City to promulgate such additional regulations as it shall find necessary in the exercise of its lawful powers and furtherance of the terms and conditions of the Franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations and do not appreciably increase the burdens or appreciably impair the rights of the Grantee under the Franchise Agreement.
- (b) The City may also adopt such regulations at the request of Grantee upon application.

#### **SEC. 9-2-36 PERFORMANCE EVALUATION SESSIONS.**

- (a) The City and the Grantee may hold scheduled performance evaluation sessions within thirty (30) days of the third and sixth anniversary dates of the Grantee's award or renewal of the Franchise and as may be required by federal and state law. All such evaluation sessions shall be open to the public.
- (b) Special evaluation sessions may be held at any time during the term of the Franchise at the request of the City of the Grantee.
- (c) All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with legal notice. The Grantee shall notify its Subscribers of all evaluation sessions by announcements on at least one (1) channel of its System between the hours of 7:00 p.m. and 9: 00 p.m., for five (5) consecutive days proceeding each session.
- (d) Topics which may be discussed at any scheduled or special evaluation session may include, but are not limited to: service rate structures; franchise fee, penalties; free or discounted services; application of new technologies; System performance; services provided; programming offered; customer complaints; privacy; amendments to this Ordinance; judicial and FCC rulings; line extension policies; and Grantee or City rules. The City acknowledges that, pursuant to federal law, it does not have jurisdiction nor enforcement rights over all the standards and services mentioned above, including programming and the

application of all new technologies under a cable television franchise. Nothing in this subsection shall be construed as requiring the renegotiation of the cable Franchise Agreement.

- (e) Members of the general public may add topics either by working through the negotiating parties or by presenting a petition. If such a petition bears the valid signatures of fifty (50) of more residents of the City, the proposed topic or topics shall be added to the list of topics to be discussed at the evaluation session.

### **SEC. 9-2-37 RATE CHANGE PROCEDURES.**

Pursuant to the Cable Television consumer Protection and Competition Act of 1992, if the City is currently certified to regulate the Basic Service rates charged by Grantee, it may, under these rules, require the Grantee to obtain approval from the City for a rate increase for any change to the rates for Basic Service. Should federal or state law permit further rate regulation beyond Basic Service the City may, if certified, assume such rate regulation and adopt appropriate procedures for such regulation.

### **SEC. 9-2-38 FORFEITURE AND TERMINATION.**

- (a) Pursuant to Section 47, in addition to all other rights and powers retained by the City under this Ordinance or otherwise, the City reserves the right to forfeit and terminate the Franchise and all rights and privileges of the Grantee hereunder in the event of a substantial breach of its terms and conditions following the required 30-day period to cure. A substantial breach by the Grantee shall include, but shall not be limited to the following:
  - (1) Violation of any material provision of the Franchise or any material rule, order, regulation or determination of the City made pursuant to the Franchise;
  - (2) Attempt to evade any material provision of the Franchise or to practice any fraud or deceit upon the City or its Subscribers or customers;
  - (3) Failure to begin or complete System construction or System extension as provided under section 20;
  - (4) Failure to provide the services promised in the Grantee's initial application as incorporated herein by section 4;
  - (5) Failure to restore service after one hundred sixty-eight (168) consecutive hours of interrupted service, except when approval of such interruption is obtained from the City; or
  - (6) Material misrepresentation of fact in the application for or negotiation of the Franchise.
- (b) The foregoing shall not constitute a major breach if the violation occurs but is without fault of the Grantee or occurs as a result of circumstances beyond its control. The Grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.
- (c) The City may make a written demand that the Grantee comply with any such provision, rule, order or determination under or pursuant to the Franchise. If the violation by the Grantee continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the City may place the issue of termination of the Franchise before the City Council. The City shall cause to be served upon the Grantee, at least twenty (20) days prior to the date of such meeting, a written notice of intent to request such termination

and the time and place of the meeting. Public notice shall be given of the meeting and the issue(s) which the Council is to consider.

- (d) The City Council shall hear and consider the issue(s) and shall hear any person interested therein and shall determine in its discretion whether or not any violation by the Grantee has occurred.
- (e) If the City Council determine that the violation by the Grantee was the fault of the Grantee and within its control, the Council may, by resolution declare that the Franchise of the Grantee shall be forfeited and terminated unless there is compliance within such period as the Council may fix, such period to not be less than thirty (30) days; provided, however, that no opportunity for compliance need be granted for fraud or material misrepresentation.
- (f) The issue of forfeiture and termination shall automatically be placed upon the Council agenda at the expiration of the time set by it for compliance. The Council may then terminate the Franchise forthwith upon finding that the Grantee has failed to achieve compliance or it may further extend the period, at its discretion.

### **SEC. 9-2-39 FORECLOSURE.**

Upon the foreclosure or other judicial sale of all or a substantial part of the System, or upon the termination of any lease covering all or a substantial part of the System, the Grantee shall notify the City of such fact, and such notification shall be treated as a notification that a change in control of the Grantee has taken place, and the provisions of the Franchise governing the consent of the City to such change in control of the Grantee shall apply.

### **SEC. 9-2-40 APPROVAL OF TRANSFER AND RIGHT OF ACQUISITION BY THE CITY.**

Federal regulations as per 47 U.S.C. §537 shall apply to approval of transfer issues and the right of acquisition by the City.

### **SEC. 9-2-41 RECEIVERSHIP.**

The City shall have the right to cancel a Franchise one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the Grantee, unless such receivership or trusteeship shall have been vacated prior to the expiration of one hundred twenty (120) days, or unless:

- (1) Within one hundred twenty (120) days after his/her election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Ordinance and remedied all defaults thereunder; and
- (2) Such receiver or trustee, within the one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Ordinance and the Franchise granted to the Grantee.

### **SEC. 9-2-42 COMPLIANCE WITH STATE AND FEDERAL LAWS.**

- (a) Notwithstanding any other provisions of the Franchise to the contrary, the Grantee shall at all times comply with all laws and regulations of the state and federal government or any

administrative agencies thereof; provided, however, of any such state or federal law or regulation shall require the Grantee to perform any service, or shall permit the Grantee to perform any service, or shall prohibit the Grantee from performing any service, in conflict with the terms of the Franchise or of any law or regulation of the City, then as soon as possible following knowledge thereof, the Grantee shall notify the City of the point of conflict believed to exist between such regulation or law and the laws or regulations of the City or the Franchise.

- (b) If the City determines that a material provision of this Ordinance is affected by any subsequent action of the state or federal government, the City and the Grantee shall negotiate to modify any of the provision herein to such reasonable extent as may be necessary to carry out the full intent and purpose of this Ordinance.
- (c) If any section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the franchise, or any renewal or renewals thereof.

#### **SEC. 9-2-43 LANDLORD/TENANT.**

- (a) Interference with cable service prohibited. Neither the owner of any multiple unit residential dwelling nor his agent or representative shall interfere with the right of any tenant or lawful resident thereof to receive cable television service, cable installation or maintenance from a cable television Grantee regulated by and lawfully operating under a valid and existing Franchise issued by the City.
- (b) Penalties and charges to tenants for service prohibited. Neither the owner or any multiple unit residential dwelling nor his agent or representative shall penalize, charge or surcharge a tenant or resident or forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable television service from a Grantee operating under a valid and existing cable television Franchise issued by the City.
- (c) Reselling service prohibited. No person shall resell, without the expressed, written consent of the Grantee, any cable service, program or signal transmitted by a cable television Grantee under a Franchise issued by the City.
- (d) Protection of property permitted. Nothing in this Ordinance shall prohibit a person from requiring that Cable Television System facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning, appearance and value of premises or the convenience and safety of persons or property.

#### **SEC. 9-2-44 APPLICANTS' BIDS FOR INITIAL FRANCHISE.**

- (a) All bids received by the City from the applicants for an initial Franchise will become the sole property of the City.
- (b) The City reserves the right to reject any and all bids and waive informalities and/or technicalities where the best interest of the City may be served.
- (c) All questions regarding the meaning or intent of this Ordinance or application documents shall be submitted to the City in writing. Replies will be issued by addenda mailed or delivered to all parties recorded by the City as having received the application documents. The City reserves the right to make extensions of time for receiving bids as it deems necessary. Questions received less than fourteen (14) days prior to the date for the opening



of bids will not be answered. Only replies to questions by written addenda will be binding. All bids must contain an acknowledgement of receipt of all addenda.

- (d) Bids must be sealed, and submitted at the time and place indicated in the application documents for the public opening. Bids may be modified at any time prior to the opening of the bids, provided that any modifications must be duly executed in the manner that the applicant's bid must be executed. No bid shall be opened or inspected before the public opening.
- (e) Before submitting a bid, each applicant must:
  - (1) Examine this Ordinance and the application documents thoroughly;
  - (2) Familiarize himself/herself with local conditions that may in any manner affect performance under the Franchise;
  - (3) Familiarize him/herself with federal, state and local laws, ordinances, rules and regulations affecting performance under the Franchise; and
  - (4) Carefully correlate the bid with the requirements of this Ordinance and the application documents.
- (f) The City may make such investigations as it deems necessary to determine the ability of an applicant to perform under the Franchise, and the applicant shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any bid if the evidence submitted by, or investigation of, such applicant fails to satisfy the City that such applicant is properly qualified to carry out the obligations of the Franchise and to complete the work contemplated therein. Conditional bids will not be accepted.
- (g) All bids received shall be placed in a secure depository approved by the City and shall not be opened nor inspected prior to the public opening.

#### **SEC. 9-2-45 FINANCIAL, CONTRACTUAL, SHAREHOLDER AND SYSTEM DISCLOSURE FOR INITIAL FRANCHISES.**

- (a) No initial Franchise will be granted to any applicant unless all requirements and demands of the City regarding financial, contractual, shareholder and System disclosure have been met.
- (b) Applicants, including all shareholders and parties with any interest in the applicant, shall fully disclose all agreements and undertakings, whether written or oral, or implied with any person, firm, group, association or corporation with respect to the Franchise and the proposed Cable Television System. The Grantee of a Franchise shall disclose all other contracts to the City as the contracts are made. This section shall include, but not be limited to, any agreements between local applicants and national companies.
- (c) Applicants, including all shareholders and parties with any interest in the applicant, shall submit all requested information as provided by the terms of this Ordinance or the application documents, which are incorporated herein by reference. The requested information must be complete and verified as true by the applicant.
- (d) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose the number of shares of stock, and the holders thereof, and shall include the amount of consideration for each share of stock and the nature of the consideration.
- (e) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding other cable Systems in which they hold an interest of any nature, including but not limited to, the following:
  - (1) Locations of all other Franchises and the dates of award for each location;

- (2) Estimated construction costs and estimated completion dates for each System;
  - (3) Estimated number of miles of construction and number of miles completed in each System as of the date of this application; and
  - (4) Date for completion of construction as promised in the application for each System.
- (f) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding pending applications for other cable Systems, including, but not limited to, the following:
- (1) Location of other Franchise applications and date of applications and date of application for each System;
  - (2) Estimated dates of Franchise awards;
  - (3) Estimated number of miles of construction; and
  - (4) Estimated construction costs.

### **SEC. 9-2-46 DAMAGES.**

For the violation of any of the following provisions of this Ordinance, damages shall be chargeable to the letter of credit or corporate guarantee in lieu of bond as follows, and the City may determine the amount of the forfeiture for other violations that are not specified in a sum not to exceed two hundred and fifty dollars (\$250.00) for each violation, with each day constituting a separate violation:

- (a) Failure to furnish, maintain, or offer all cable services to any potential Subscriber within the City pursuant to Section 20 herein upon order of the City: two-hundred-fifty dollars (\$250.00) per day, per violation, for each day that such failure occurs or continues up to a maximum of \$1,000;
- (b) Failure to obtain or file evidence of required insurance, construction bond, performance bond, or other required financial security: two-hundred-fifty dollars (\$250.00) per day, per violation, for each day such failure occurs or continues up to a maximum of \$1,000;
- (c) Failure to provide access to data, documents, records, or reports to the City as required by sections 19,29, 30, 31 and 37: two-hundred-fifty dollars (\$250.00) per day, per violation, for each day such failure occurs or continues up to a maximum of \$1,000;
- (d) Failure to comply with applicable construction, operation, or maintenance standards: two-hundred and fifty dollars (\$250.00) per day, per violation, up to a maximum of \$1,000;
- (e) Failure to comply with a rate decision or refund order: five hundred dollars (\$500.00) per day, per violation, for each day such a violation occurs or continues up to a maximum of \$1,000.
- (f) Any violations for non-compliance with the customer service standards of Sections 23 through 25, the Grantee shall pay two-hundred-fifty dollars (\$250.00) per day for each day, or part thereof, that such noncompliance continues up to a maximum of \$1,000;
- (g) Any other violations of a Franchise Agreement to be determined by the Grantor in a public hearing but not specifically noted in this section shall not exceed two hundred and fifty dollars (\$250.00) per day, per violation up to a maximum of \$1,000.

### **SEC. 9-2-47 PROCEDURES.**

- (a) Whenever the City believes that the Grantee has violated one (1) or more terms, conditions or provisions of the Franchise, and wishes to impose penalties, a written notice shall be given to the Grantee informing it of such alleged violation or liability. The written notice

shall describe in reasonable detail the specific violation so as to afford the Grantee an opportunity to remedy the violation. The Grantee shall have thirty (30) days subsequent to receipt of the notice in which to correct the violation before the City may impose penalties unless the violation is of such a nature so as to require more than thirty (30) days and the Grantee proceeds diligently within the thirty (30) days to correct the violation. In any case where the violation is not cured within thirty (30) days of notice from the City, or such other time as the grantee and the City may mutually agree to, the City may proceed to impose liquidated damages.

- (b) The Grantee may, within ten (10) days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by the Grantee to the City shall specify with particularity the matters disputed by the Grantee and shall stay the running of the thirty (30) day cure period pending Council decision as required below. The Council shall hear the Grantee's dispute. Grantee must be given at least five (5) days notice of the hearing. At the hearing, the Grantee shall be entitled to the right to present evidence and the right to be represented by counsel. After the hearing, the City shall provide Grantee a copy of its action, along with supporting documents. In the event the City upholds the finding of a violation, the Grantee shall have fifteen (15) days subsequent, or such other time period as the Grantee and the City mutually agree, to correct the violation.
- (c) The rights reserved to the City under this section are in addition to all other rights of the City whether reserved by this Ordinance or authorized by law or equity, and no action, proceeding or exercise of a right with respect to penalties shall affect any other right the City may have.

#### **SEC. 9-48 FORCE MAJEURE.**

The grantee shall not be held in default under, or in non compliance with, the provisions of the franchise, nor suffer any enforcement or penalty relating to noncompliance or default including termination, cancellation or revocation of the franchise, where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, severe weather conditions or other catastrophic act of nature, labor disputes, inability to obtain necessary contract labor or materials, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate and control and that makes performance impossible.

**CHAPTER 3**  
Sewer Use Rates and Regulations

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**SEC. 9-3-1 PURPOSE.**

- (a) The purpose of this Chapter is to provide for the use of City-owned and operated sewerage facilities, including the new wastewater treatment facility, without damage to the physical facilities, without impairment of their normal function of collecting, treating, and discharging domestic wastewaters from the area served by the City, and without the discharge by the publicly owned treatment works of pollutants which would be in violation of its permitted discharge under the applicable rules and regulations of state and federal regulatory agencies.
- (b) Enactment of this Chapter and its user charge system shall take place prior to placing the new wastewater treatment facility into operation; Project No. 0551098-03.

**SEC. 9-3-2 DEFINITIONS.**

- (a) Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:
  - (1) **Approving Authority** shall mean the Common Council of Ladysmith or its authorized deputy, agent, representative, or consulting engineer. Approving Authority and City are used interchangeably.
  - (2) **BOD (Biochemical Oxygen Demand)** shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter, under standard laboratory procedure, in five (5) days at twenty (20) degrees Centigrade and expressed in milligrams per liter (mg/l).
  - (3) **Combined Sewer** shall mean a sewer intended to receive both wastewater and storm water or surface water.
  - (4) **Commercial and Institutional User** means those users of the publicly owned treatment works which are not residential and are not classified as an industrial user.
  - (5) **Compatible Pollutants** means those pollutants generally characterized as BOD, suspended solids, pH, and fecal coliforms, together with an additional pollutants defined in the City's

- WPDES permit, unless the concentrations of any of these pollutants are such that they interfere with the operation of the treatment works or exceed the limits established under Section 9-3-4 and 9-3-5.
- (6) **Debt Service Charge** means that charge to the users which shall, in whole or in part, defray the costs of retiring the debts incurred in the construction of any wastewater facilities used by the City of Ladysmith.
  - (7) **Domestic Wastewater** means water-borne wastes normally being discharged from the sanitary conveniences of dwellings, apartment houses, hotels, office buildings, factories, and institutions, free of industrial wastes and in which the average concentration of suspended solids is established at or below Three Hundred Forty-Three (343) mg/L and the BOD is established at or below Two Hundred Ninety-Two (292) mg/L.
  - (8) **Flat Charge** means the charge made to unmetered users for use of the treatment works.
  - (9) **Incompatible Pollutants** are specifically defined in Section 9-3-5. Generally, incompatible pollutants shall mean wastewater or septage with pollutants that will adversely affect or disrupt the wastewater treatment processes or effluent quality if discharged to the wastewater treatment facility.
  - (10) **Industrial Cost Recovery** means recovery by the City of Ladysmith from industrial users of a wastewater works of the grant amount allocable to the treatment of wastes from such users pursuant to Section 204(b) of the Federal Act.
  - (11) **Industrial User as Defined for Industrial Cost Recovery** shall mean:
    - a. Any nongovernmental user of publicly owned treatment works which discharges more than Fifty Thousand (50,000) gallons per day of sanitary waste, or a volume of process waste, or combined process and sanitary waste, equivalent to Fifty Thousand (50,000) gallons per day of domestic strength sanitary waste. Sanitary wastes are the wastes discharged from the average residential user in the City's service area. The strength of the average residential waste discharge in the City's service area shall be defined in terms of a concentration of Two Hundred Ninety-Two (292) mg/L biochemical oxygen demand (BOD) and Three Hundred Forty-Three (343) mg/L suspended solids (SS). These concentrations will be applied in determining equivalent volumes of process waste or combined discharge of sanitary and process wastes.
    - b. Any nongovernmental user of publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has any adverse effect on the waters receiving any discharge from the treatment works.
  - (12) **Industrial User as Defined for Industrial User Class** means any user of publicly owned treatment process that engages in processing, blending, assembling, or in some way transforms materials or substances into new products. This type of user would normally occupy an establishment described as a plant, factory, or a mill.
  - (13) **Industrial Waste** means the wastewater from an industrial user as distinct from domestic wastewater.
  - (14) **Minimum Charge** means the amount charged to each user regardless of use. This charge does not provide the user a minimum amount of user.
  - (15) **Operation and Maintenance Costs** shall mean all costs incurred in the operation and maintenance of the City's wastewater treatment works. This class of cost shall include, but not be limited to, labor, energy, chemicals, and replacement costs, but excludes debt retirement.
  - (16) **Person** means any individual, firm, company, association, society, corporation, public authority, or group.
  - (17) **PH** means the logarithm [base ten (10)] of the reciprocal of the hydrogen ion concentration in gram moles per liter of solution as determined by acceptable laboratory procedures.

- (18) **Replacement Cost** means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performances during the service life of the treatment works for which such works were designed and constructed. The term "operation and maintenance" includes replacement. The yearly replacement cost is calculated as follows:
- $$a = \frac{\text{Present Installed Cost}}{\text{Projected Service Life}}$$
- (19) **Residential User** means a user of the publicly owned treatment works that would occupy an establishment considered a house or apartment or other dwelling facilities in which people reside.
- (20) **Sanitary Sewer** means a sewer pipe that conveys domestic wastewater or industrial waste, or a combination of both, and into which storm, surface, and ground waters or unpolluted industrial wastewater are not intentionally passed.
- (21) **Septic Tank** is a buried reservoir, usually located adjacent to the structure it serves, which directly receives raw wastewater from a building's internal waste plumbing collection system. During detention of the wastewater in the septic tank, sewage solids are separated from the liquid and bacterial action digest the major portion of these solids.
- (22) **Holding Tank** is a buried temporary storage reservoir, usually located adjacent to the structure it serves, which directly receives raw wastewater from a building's internal waste plumbing collection system. The waste contents are periodically removed by a septic tank pumper and transported elsewhere for treatment.
- (23) **Service Lateral** is either a pressure or gravity pipe connecting an individual building's sanitary sewer with the municipal wastewater collection system.
- (24) **Sewer Service Charge** is the sum of the minimum charge, user charge, debt service charge, and any applicable surcharge.
- (25) **Slug** means any discharge of water or wastewater which, in concentrations 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 which adversely affects the sewage collection system and/or performance of the wastewater treatment plant.
- (26) **Standard Methods** means the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes," published jointly by the American Public Health Association, the American Waterworks Association, and the Federation of Sewage and Industrial Wastes Association.
- (27) **Septage** shall mean scum, liquid, sludge, or other waste from a septic tank, soil-absorption field, holding tank, vault toilet, or privy. This does not include the waste from a grease trap.
- (28) **Storm Sewer** means a sewer pipe which carries storm and/or surface drainage but excludes domestic wastewater and industrial wastes.
- (29) **Surcharge** means an additional charge related to industrial wastes being discharged by any user having unusual characteristics such as excessive BOD, excessive suspended solids, or other pollutants.
- (30) **Suspended Solids (SS)** means total suspended matter that either floats on the surface of or are in suspension in water, sewage, or other liquids and which are removable by a laboratory filtration device. Quantitative determination of SS shall be made in accordance with procedures set forth in "Standard Methods."
- (31) **Unpolluted Water** is water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards as established by the DNR and published in the applicable section of the Wisconsin Administrative Code.
- (32) **User** means any person discharging domestic wastewater or industrial wastes into the collection system.
- (33) **User Charge** means that charge to users of the treatment plant which adequately provides for proportionate recovery of the operation and maintenance costs.
- (34) **User Class** means a group of users having similar wastewater flows and characteristics,

- levels of BOD, suspended solids, pH, etc.
- (35) **Wastewater** means a combination of the water-carried waste discharged into the sanitary sewer collection system from residences, commercial buildings, institutions, and industrial establishments, together with such ground, surface, and/or storm water as may be present.
  - (36) **Wastewater Treatment Works** means all facilities and appurtenances for collection, pumping, treating, and disposing of domestic wastewater and industrial waste.
  - (37) **WPDES Permit** means the "Wisconsin Pollutant Discharge Elimination System Permit," which allows the City of Ladysmith to discharge treated effluent to a water course, provided the effluent meets the conditions of the WPDES permit.

### SEC. 9-3-3 GENERAL REQUIREMENTS.

- (a) **Discharge of Wastewater Prohibited.** It shall be unlawful to discharge to any natural outlet within the City of Ladysmith, or in any area under the jurisdiction of said City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.
- (b) **Privies, Septic Tank, and Cesspools -- Compliance with Provisions Required.** Except as provided in this Section, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, holding tank, cesspool, or other facility intended or used for the disposal of wastewater.
- (c) **Connection with Public Sewer Required.** The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City of Ladysmith and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a properly designed and constructed public sanitary sewer of said City, is hereby required, at the owner's expense, to install suitable toilet facilities which have been properly designed pursuant to all applicable rules as published in the Wisconsin Administrative Code therein, and to connect such facilities directly with the proper public sanitary sewer, in accordance with the provisions of this Chapter, within ninety (90) days after date of "Official Notice" to do so, provided that said public sewer is within one hundred (100) feet or thirty and one-half (30.5) meters of the property line. Where a public sanitary sewer is not available under the provisions of this Section, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Chapter and all applicable state codes.
- (d) **Compliance with County Regulations Required.** Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Rusk County Zoning Administrator and comply with the then-applicable Rusk County sanitary laws. The City expressly consents to the enforcement of such laws by the Rusk County Zoning Administrator and other Rusk County officials within the City. Violations of this Section may also be prosecuted by the City.
- (e) **Inspection of Installation.** A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Approving Authority. The Approving Authority shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Approving Authority when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Approving Authority.
- (f) **Compliance with DILHR Regulations.** All private wastewater collection and treatment/disposal systems shall comply with applicable sections of the Wisconsin Administrative Code; namely, ILHR -Plumbing.
- (g) **Discharge to Natural Outlet Prohibited.** No septic tank, holding tank, or cesspool effluent shall be permitted to discharge into any natural outlet or drainage course.
- (h) **Connections with Public Sewer Required; When.** At such times as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Subsection (f) above, a direct connection shall be made to the public sewer within ninety (90) days, in compliance with this Chapter; and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

- (i) **Sanitary Operation Required.** The owner shall operate and maintain his or her private wastewater disposal facility in a sanitary manner at all times, at no expense to the City.
- (j) **Conflict of Provisions.** No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the Health Officer or Public Works Director.
- (k) **A Wastewater Discharge Permit** shall be required of any person desiring to discharge wastewater to the wastewater treatment works and shall be two (2) classes:
  - (1) A domestic wastewater discharge permit shall be required of any person desiring to discharge domestic waste and shall be considered as part of the "building permit" required and issued by the City of Ladysmith.
  - (2) An industrial wastewater discharge permit shall be required of any person desiring to discharge an industrial waste and shall be completely separate from any other permits issued by the City. Further requirements for this class of permit can be found in Section 9-3-8.
- (l) **Owner Responsibility and Compliance with City Regulations.** All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the State Building and Plumbing Code, or other applicable rules and regulations of the City of Ladysmith.
- (m) **Inspection.** The City shall be permitted to have an authorized representative inspect any new or old installation for compliance with the regulations of this Ordinance.
- (n) **New Connections.** New connections to the system shall not be allowed unless all downstream components have a reserve capable of accepting them.

#### **SEC. 9-3-4 PROHIBITED DISCHARGES.**

- (a) No person or persons shall discharge or cause to be discharged any unpolluted water, such as storm water, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except that storm water runoff from limited areas, which may be polluted at times, may be discharged to the sanitary sewer by permission of the Approving Authority. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Approving Authority, to a storm sewer or natural outlet.
- (b) Except as provided in this Chapter, no person or persons shall discharge or cause to be discharged any of the following described water or wastes into any public sewer:
  - (1) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
  - (2) Water or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, or create a public nuisance in the receiving waters of the wastewater treatment plant;
  - (3) Water or wastes having a pH lower than six (6.0) or higher than ten (10.0) or having any other corrosive property capable of causing damage or hazard to piping, structures, equipment, and personnel of the wastewater treatment works;
  - (4) Solid or viscous substances in quantities or of such size as to be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, sand, mud, straw, shavings, metal, glass, rags, feathers, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

#### **SEC. 9-3-5 LIMITED AND RESTRICTED DISCHARGES.**

The following-described substances, materials, water, or wastes shall be limited to discharges to municipal systems to concentrations or quantities which will not harm the municipal sewers, wastewater treatment, process equipment, will not have an adverse effect on the receiving waters, or will not otherwise endanger life, limb, or public property, or constitute a nuisance. The Approving Authority may



set limitations lower than the limitations established in the regulations below, if such limitations are necessary to meet the above objectives. In forming an opinion as to acceptability, the 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 sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer, which shall not be violated without approval of the Approving Authority, are as follows:

- (a) Wastewater having a temperature higher than One Hundred Fifty (150) degrees Fahrenheit or Sixty-Five (65) degrees Celsius;
- (b) Wastewater containing more than Twenty-Five (25) milligrams per liter of petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin;
- (c) Wastewater from industrial plants containing floatable oils, fats, or grease;
- (d) 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 the garbage originates from the preparation of food in kitchens for the purpose of the consumption on the premises or when served by caterers;
- (e) Water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such a degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Approving Authority in compliance with state regulations;
- (f) Water or wastes containing odor-producing substances exceeding limits which may be established by the Approving Authority in compliance with state regulations;
- (g) Radioactive wastes or isotopes of such half life or concentrations as may exceed limits established by the Approving Authority in compliance with state and federal regulations;
- (h) Quantities of flow, concentrations, or both, which constitute a "slug," as defined in Section 9-3-2;
- (i) Water 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 a degree that the wastewater treatment plant effluent cannot meet the requirements of the City's WPDES permit;
- (j) Water or wastes which, by interaction with other water or wastes in the public 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 plant;
  - (2) Unusual volume of flow or concentration of wastes constituting "slugs;"
  - (3) Unusual concentrations of inert suspended solids, such as fuller's earth, lime slurries and lime residues, or dissolved solids, such as sodium sulfate.
  - (4) Excessive discoloration, such as dye wastes and/or vegetable tanning solutions.

#### **SEC. 9-3-6 PRETREATMENT.**

- (a) **Pretreatment Required When; Cost.** When, in the opinion of the Approving Authority and in accordance with Title 40, Part 128 of the Code of Federal Regulations, and/or other applicable state and federal regulations, pretreatment is required to modify or eliminate wastes that are harmful to the structures, processes or operation of the wastewater treatment facility, the person or persons creating the waste shall provide, at his or their expense, such preliminary treatment or processing facilities as may be determined required to render his or their wastes acceptable for admission to the public sewers.
- (b) **Interceptor Requirements.** Grease, oil, and sand interceptors shall be provided when, in the opinion of the Approving Authority, they are necessary for the proper handling of such wastes, except, that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by ILHR Plumbing Code, Wisconsin Administrative Code, and shall be located so as to be readily and easily accessible for cleaning and

inspection. In the maintaining of these interceptors, the owner 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, which are subject to review by the Approving Authority. Any removal and handling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste-disposal firms.

#### **SEC. 9-3-7 SPECIAL AGREEMENTS.**

No statement contained in this Chapter shall be construed as prohibiting any special agreement between the City and any person or persons, whereby an industrial waste of unusual strength or character may be admitted to the sewage disposal works, either before or after pretreatment, provided that there is no impairment of the functioning of the sewage disposal works by reason of the admission of such wastes and no extra costs are incurred by the City without recompense by said person or persons to the City of Ladysmith.

#### **SEC. 9-3-8 INDUSTRIAL WASTES.**

- (a) An industrial wastewater discharge permit is required under Section 9-3-3 for any discharge by an industrial user, as defined in Section 9-3-2(a)(11) or (12). This permit must be obtained one hundred eighty (180) days prior to the beginning of discharge. In support of this application, the user shall submit the following information:
- (1) Name, address, and standard industrial classification number of applicant.
  - (2) Average hydraulic volume of wastewater to be discharged.
  - (3) Wastewater constituents and characteristics as determined by examination according to "Standard Methods."
  - (4) Time and duration of discharge.
  - (5) Average and peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
  - (6) Site plan, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location, and elevation.
  - (7) Description of activities, facilities, and plant processes on the premises, including all materials and types of materials which are, or could be, discharged.
  - (8) Each product produced by type, amount, and rate of production.
  - (9) Number and type of employees, including work hours of week.
  - (10) Any other information as may be deemed by the Approving Authority to be necessary to evaluate the permit application.
- (b) The Approving Authority will use a professional consulting engineer to evaluate the data furnished by the prospective user and may require additional information be supplied by applicant. After evaluation and acceptance of the data furnished, the Approving Authority may issue a wastewater discharge permit, subject to appropriate terms and conditions.

#### **SEC. 9-3-9 INDUSTRIAL COST RECOVERY.**

As the City currently has no user that would qualify for industrial cost recovery, this Section will be expanded in accordance with 40 C.F.R. Sec. 35.928 at such time as an application for an industrial discharge permit is made. A part of this Section will be modified to include such monitoring and testing requirements necessary for equitable division of costs.

#### **SEC. 9-3-10 SEWER SERVICE CHARGE.**

- (a) **Authority.** The Common Council of the City of Ladysmith shall have the authority to establish and collect a sewer service charge for the use of the public wastewater treatment works maintained and operated by the City of Ladysmith.
- (b) **Classes of Users.**
  - (1) The following user classes are established:
    - a. Residential.
    - b. Commercial and Institutional.
    - c. Industrial.
  - (2) All users will pay at the residential rate plus the appropriate surcharges for their user class.
- (c) **Method of Computing.**
  - (1) The service charge shall be based on water or wastewater meter reading, when available. When such meter readings are unavailable, the service charges will be a flat charge based on the estimate of usage for the unmetered users as established from City records.
  - (2) Where the flat charge must be used, it will be paid for the full quarter and shall not be prorated. If service should be interrupted for any full quarter, only the minimum will be charged. The flat charge will be adopted by Resolution.
- (d) **Debt Service Charge.** All charges incurred for debts prior to January 1, 1988, for capital improvements, operating and maintenance expenses for the wastewater treatment works shall be paid for by a debt service charge which is a part of the total sewer service charge, or by such sums as the Common Council may annually elect to take from the general fund. The amount of this charge will be reviewed annually and adopted by Resolution.
- (a) **Minimum Charge.** The minimum charge per user shall be the charge to cover the cost of billing and collecting of accounts and for maintenance cost of the sewage collection system per connection. This charge will be made regardless of use and shall be adopted by Resolution.
- (f) **User Charge.** The user charge for the residential user class for discharging domestic wastewater shall be based on a minimum annual charge per user and on the volume used by each user. The amount of this charge will be reviewed annually and adopted by Resolution.
- (g) **Surcharges.**
  - (1) The commercial and institutional class of users shall be charged at the residential user rate and such additional surcharges as may be shown equitable.
  - (2) The industrial user class of users shall be charged at the residential user rate plus a surcharge developed at such time as an application is received for a permit to discharge an industrial waste.
- (h) **Industrial Cost Recovery**, as determined in Section 9-3-9 of this Chapter, shall be included here and made a part of the total sewer service charge.
- (i) **Total Sewer Service Charge** shall be the sum of the minimum charge, the debt service charge, user charge, any applicable surcharges, and industrial cost recovery charges. Each user within the service area shall pay its proportionate share of operation and maintenance and replacement (OMR) expense.
- (j) **Billing Periods.** The debt charge, user charge, industrial surcharge, and ICR payment portions of the service charges provided in this Section shall be included as separate items by the City. The bill will be payable in accordance with the schedule established by the Common Council. The bills are normally payable in four (4) quarterly payments each year.
- (k) **Due Date.** All portions of the service charges shall be due and payable at the time the bill for the same period is issued.
- (l) **Late Penalties.** Charges levied in accordance with this Section shall be debt due to the City and shall be a lien upon the property. If this debt is not paid within twenty (20) days after it is due and payable, it shall be deemed delinquent, and a one and one-half percent (1 1/2%) charge added. This debt may then be recovered by civil action in the name of the City of Ladysmith against the property owner, the person, or both. If delinquent payments are not received by November 1st of the calendar year, a ten percent (10%) charge shall be added to delinquent bills. Thereafter, if payment is not received prior to November 15th, the delinquent bill will be forwarded to the county (Rusk) for placement on the succeeding tax roll.

- (1) **Failure to Pay; Removal or Closure of Connection; Restoration of Service.**
- (1) In the event of failure to pay sewer service charges after they become delinquent, the City shall have the right to remove or close sewer connections and enter upon the property for accomplishing such purposes.
  - (2) The expense of such removal or closing, as well as the expense of restoring service, shall likewise be a debt to the City and a lien upon the property and may be recovered by a civil action in the name of the City of Ladysmith against the property owner, the person, or both.
  - (3) Sewer service shall not be restored until all charges, including the expense of removal, closing, and restoration, shall have been paid.
  - (4) Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.
- (m) **Audit of General Account.** The City shall conduct an annual audit, the purpose of which shall be to maintain the proportionality and adequacy of the sewer service charge relative to changing system operation, maintenance, and debt service costs. The users shall be notified annually of that portion of user charges attributable to wastewater treatment services.
- (n) **Audit of Industrial Cost Recovery Account.** The City shall conduct an annual audit of the separate industrial cost recovery account, if and when it is established, to ensure that proportionate and adequate payments are being made by industries to the City.

#### SEC. 9-3-11 VIOLATIONS AND PENALTIES.

- (a) **Written Notice Required.** Any person found to be violating any provision of this Chapter, except Section 9-3-4 (1), shall be served by the City with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- (b) **Accidental Discharge into Sewers.** Any person found to be responsible for accidentally allowing a deleterious discharge into the sewer system which causes damage to the treatment facility and/or receiving body of water shall, in addition to a fine, pay the amount to cover damages as established by the Approving Authority.
- (c) **Continued Violations.** Any person, partnership, or corporation, or any officer, agent, or employee thereof, who shall continue any violation beyond the notice time limit provided in this Section shall, upon conviction thereof, forfeit no more than Five Hundred Dollars (\$500.00), together with the costs of prosecution. In default of payment of such forfeiture and cost, the violator shall be imprisoned in the county jail for a period not to exceed thirty (30) days. Each day in which any violation is continued beyond the notice time limit shall be deemed a separate offense.
- (d) **Liability for Expense, Loss, or Damage.** Any person violating any provisions of this Title shall become liable to the City for any expense, loss, or damage occasioned by reason of such violation, which the City may suffer as a result thereof
- (e) **Right to Reject Connections.** The City reserves the right to reject connections to the system if downstream facilities do not have adequate capacity.
- (f) **Right to Enter Premises.** The City reserves the right to enter premises of any user to sample and/or inspect.

#### SEC. 9-3-12 MANAGEMENT, OPERATION, AND CONTROL OF FACILITIES.

- (a) **Management.** The management, operation, and control of the wastewater treatment facility and sanitary collection system for the City is the responsibility of the City of Ladysmith and all records, minutes, and written proceedings thereof shall be kept by the City Clerk. The City Comptroller shall keep all financial records of said facilities.
- (b) **Authority to Construct.** The sewer utility of the City of Ladysmith shall have the power to construct sewer lines for public use and shall have the power to lay sewer pipes in and through alleys, streets, easements, and public grounds of the City and, generally, to do all such work as may be found necessary or convenient in the management of the sewer system. The City shall have the

power by themselves, their officers, agents, and representatives, to enter upon any land for the purpose of making an examination or to supervise in the performance of their duties under this Chapter, without liability therefor; and the City shall have power to purchase and acquire for the sewer utility all real and personal property which may be necessary for construction of the sewer system, or for any repair, remodeling, or additions thereto.

- (c) **Condemnation of Real Estate.** Whenever any real estate or any easement therein, or use thereof, shall, in the judgment of the City Sewer Utility, be necessary to the sewer system; and whenever, for any cause, an agreement for the purchase thereof, cannot be made with the owner thereof, the City shall proceed with all necessary steps to take such real estate easement or use by condemnation in accordance with Wisconsin Statutes and the Uniform Relocation and Real Property Acquisition Policy Act of 1970, if federal funds are used.
- (d) **Title to Real Estate and Personal Property.** All property, real, personal and mixed, acquired for the construction of sewer system, and all buildings, equipment, piping, tanks, machinery, and fixtures pertaining thereto, shall be property of said City.

### SEC. 9-3-13 USER RULES AND REGULATIONS.

The rules, regulations, and sewer rates of Ladysmith's Sewer Utility herein set forth shall be considered a part of the contract with every person, company, or corporation who is connected to the sewer system of Ladysmith and every such person, company, or corporation by connecting to the sewer system shall be considered as expressing his or their consent to be bound thereby. Whenever any said rules and regulations, as adopted, are violated, the service shall be shut off from the building or place of such violation [even though two (2) or more parties are receiving service through the same connection] and shall not be reestablished except by order of the City of Ladysmith and, on payment of all debts, plus the expenses and established charges of shutting off and putting on, and other such terms as the City may determine, and a satisfactory understanding with the parties that no further cause for complaint shall arise. In case of such violation, the City, furthermore, may declare any payment made for the service by the party or parties committing such violation to be forfeited. The right is reserved by the City to change the said rules, regulations, and sewer rates from time to time as they may deem advisable and to make special rates and contracts in all proper cases.

### SEC. 9-3-14 PLUMBING REQUIREMENTS.

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

- (a) **Plumbing.** No plumber, pipe fitter, or other person will be permitted to do any plumbing or pipe fitting work in connection with the sewer system without first receiving a license from the State of Wisconsin.
- (b) **Application for Service.** Every person connecting with the sewer system shall file an application in writing to the City of Ladysmith on such forms as may be prescribed for that purpose. Blanks for such applications will be furnished at the office of the City Clerk. The application must state fully and truly all the use which is requested. If the applicant is not the owner of the premises, the written consent of the owner must accompany the application. People connected to the sewer system of the City of Ladysmith are referred to herein as "users." The application may be for service to more than one (1) building or more than one (1) unit of service through one (1) service connection; and in such case, charges shall be made accordingly. If it appears that the service applied for will not provide adequate service for the contemplated use, the City may reject the application. If the City shall approve the application, it shall issue a permit for services as shown on the application.
- (c) **Tap Permits.** After sewer connections have been introduced into any building or upon any premises, no plumber shall make any alterations, extensions, or attachments, unless the party ordering such tapping or other work shall exhibit the proper permit for the same from the City.
- (d) **User Use Only.** No user shall allow others or other services to connect to the sewer system through his/her lateral.

- (e) **User to Permit Inspection.** Every user shall permit the City, or its duly authorized agent, at any reasonable hour of the day, to enter their premises or building to examine the pipes and fixtures, and the manner in which the drains and sewer connections operate; and they must, at all times, frankly and without concealment, answer all questions put to them relative to its use.
- (f) **Utility Responsibility.** It is expressly stipulated that no claim shall be made against said City or its representative by reason of the breaking, stoppage, or freezing of any service pipes, nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary. The right is hereby reserved to cut off the service at any time for the purpose of repairs or any other necessary purpose; any permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the sewer service within any district of the said Sewer Utility, the City shall, if practicable, give notice to each and every consumer within such affected district of the time when such service will be so shut off.
- (g) **Abandonment of Sewer Service Connections When Razing Buildings**
  - (1) **Definition.** “Razed” or “Razed building” for the purpose of this section has the meaning as defined in Sec. 15-1-9.
  - (2) **Requirements for abandoning sewer service connections.** The following requirements for removal of sewer service lines shall apply to all structures having municipal sewer service razed within the City of Ladysmith.
    - a) **Licensed Plumber Required.** A plumber licensed by the State of Wisconsin shall Perform all sewer service line abandonment.
    - b) **Notice Required.** Prior to abandoning a sewer service line servicing a razed building, the Sewer Utility shall be given notice of at least one business day to facilitate the inspection of the work.
    - c) **Permit Requirements.** Work done under this section shall meet the requirements of Sec. 9-3-15 and Sec. 6-2-3, as it applies to work being performed.
    - d) **Service Line Removal.** Service lines shall be removed to the property line or alternate location as approved by the Sewer Utility.
    - e) **Plugging or Capping.** Service lines shall be plugged or capped with a means approved by the Wisconsin Plumbing Code or as authorized by the Sewer Utility.
    - f) **Inspection Required.** Prior to the filling of the excavation used to abandon a sewer service line that serves a razed building, an authorized representative of the Sewer Utility shall inspect and approve the work performed.  
*Ord. #2003-01 adopting Sec. 9-3-14(g) 1-13-03*

#### **SEC. 9-3-15 EXCAVATIONS.**

- (a) In making excavations in streets, alleys, highways, or easements for laying service pipe or making repairs, the paving and earth removed must be deposited in a manner that will occasion the least inconvenience to the public.
- (b) No person shall leave such excavation made in any street or highway open at any time without barricades, and during the night, warning lights must be maintained at such excavations.
- (c) In refilling the opening, after the service pipes are laid, the earth must be laid in layers of not more than nine (9) inches in depth, and each layer thoroughly compacted to prevent settling. This work, together with the replacing of sidewalks, ballast and paving must be done so as to make the street as good, at least, as before it was disturbed and satisfactory to the City. No opening of the streets for tapping the pipes will be permitted when the ground is frozen.

#### **SEC. 9-3-16 TAPPING MAINS.**

- (a) **Tapping Approval.** No person, except those having special permission from the City or persons in its service and approved by them, will be permitted, under any circumstances to tap the sanitary mains or collection pipes.

- (b) **Size of Connection.** The kind and size of the connection with the pipe network shall be that specified in the permit or order from the City.
- (c) **Laterals.** All private service laterals and pumping facilities shall be installed per specifications supplied by the City and in conformance with applicable specifications.
- (d) **Hook-up Fee.** The connection fee shall be paid in advance of physical installation of lateral.
- (e) **Inspection.** All private service laterals and pumping facilities will be inspected by a City representative upon completion of pipe installation and prior to backfilling and testing.

#### SEC. 9-3-17 SEPTIC TANK SLUDGE AND HOLDING TANK DISPOSAL.

- (a) **Permission Required.** No person or persons shall dispose of septic tank sludge or holding tank sewage by injecting, in any manner, this septage into the City's sewer collection system or wastewater treatment facility unless said person or persons have first obtained written approval from the City of Ladysmith.
- (b) **Definition.** "Licensed Disposer" means a person holding a license under Sec. 281.48, Wis. Stats. (reference per Wisconsin Administrative Code, NR 113.05).
- (c) **Required to Treat Septage.** The Ladysmith municipal wastewater treatment facility shall accept and treat septage from a licensed disposer during the period of time commencing on November 15 and ending on April 15, and may accept and treat septage at other times during the year.
- (d) **Exceptions.** Notwithstanding Subsection (c), the Ladysmith municipal wastewater treatment facility will not accept septage from a licensed disposer if:
  - (1) Treatment of the septage would cause the wastewater treatment facility to exceed its operating design capacity or to violate any applicable effluent limitations or standards, water quality standards, or any other legally applicable requirements, including court orders or state or federal statutes, rules, regulations, or orders.
  - (2) The septage is not compatible with the municipal wastewater treatment facility.
  - (3) The licensed disposer has not applied for and received approval from the City of Ladysmith to dispose of septage in the municipal wastewater treatment facility or the licensed disposer fails to comply with the disposal plan.
  - (4) The licensed disposer fails to comply with septage disposal rules promulgated by the municipal wastewater treatment facility.
  - (5) The licensed disposer has failed to file a bond with the City. *Ord. 2010-08 adopted March 22, 2010.*
- (e) **Priorities.** The priority system for acceptance of septage at Ladysmith's wastewater treatment facility shall be strictly followed. If the municipal wastewater treatment facility can accept part, but not all, of the septage offered for disposal, the following priority list shall control:
  - (1) First Priority. Septage from existing or new holding and septic tanks within the sewer service area.
  - (2) Second Priority. Septage from existing or new holding and septic tanks outside of the sewer service area, but within the City limits.
  - (3) Third Priority. Septage from existing or new holding and septic tanks outside of the City limits, but within the planning area.
  - (1) Fourth Priority. Septage from existing or new holding and septic tanks outside of the planning area, but located within twenty (20) miles (shortest direct route by road of Ladysmith's wastewater treatment facility).
- (f) **Application for Septage Disposal.**
  - (1) Between August 1st and September 1st of each year, every licensed disposer wishing to discharge septage to the Ladysmith wastewater treatment facility shall file a nonrefundable filing fee and an application in writing to the City Clerk on such a form as may be prescribed for said purpose. During the months of July and August, forms for such application will be furnished at the office of the City Clerk. The application must state fully and truly the type, frequency, quantity, quality, and location of generated septage to be disposed at the Ladysmith wastewater treatment facility.

- (2) During the month of September, the Public Works Director will evaluate the application and make a determination as to the amount and conditions of septage disposal at the Ladysmith wastewater treatment facility.
  - (3) The City shall approve or reject all applications by October 1 of each year and so notify each applicant.
  - (4) If the municipal wastewater treatment facility cannot accept all the proposed septage disposal, then the priority list described in Subsection (d) shall be used.
  - (5) All approvals for septage disposal shall have conditions that any time the municipal wastewater treatment facility has operational problems, maintenance problems, or threat of WPDES permit violations that are indirectly or directly related to septage disposal. The City may immediately restrict septage disposal until such time as corrective action or mitigative measures have been executed.
- (g) **Septage Disposal Location.** Septage shall only be discharged to the City's wastewater treatment facility by City-approved and State of Wisconsin licensed disposers and only at locations, times, and conditions as specified by the City of Ladysmith. Septage discharges to City-specified manholes may, under special circumstances, be allowed, provided discharge rates are restricted as necessary to facilitate mixing, prevent a backup in the receiving sanitary sewer collection main and prevent a slug load to the municipal wastewater treatment facility. Discharges will be limited to normal working hours and require prior written approval from the City and documentation of the discharge must be submitted to the Public Works Director or other designated City official following discharge.
- (h) **Documentation of Discharge.** Forms for documentation of discharge will be furnished by the City Clerk and will include the following:
- (1) Name, address, and telephone number of hauling company.
  - (2) License number of disposer.
  - (3) Name of driver.
  - (4) Type of septage.
  - (5) Quantity of septage.
  - (6) Estimated quality of septage.
  - (7) Location, date, time, and feed rate of discharge into municipal sewerage system.
  - (8) Source of septage.
  - (9) Name and location of septage generator.
  - (10) Other information.
- (i) **Control of Septage.** If any septage is discharged or proposed to be discharged into the municipal sewerage system which contains substances or possesses any characteristics enumerated in Section 9-3-4 and which, in the judgment of the City, may have deleterious effects upon the wastewater treatment facility, processes, equipment, or receiving waters or which otherwise create any hazard to life, health, or constitute a public nuisance, the City of Ladysmith may:
- (1) Reject the septage.
  - (2) Require pretreatment to an acceptable condition for discharge into the municipal sewers.
  - (3) Require control over the quantities and rates of discharge.
  - (4) Require payment to cover the added cost of handling and treating the septage not covered by existing sewer users fees as detailed in Section 9-3-21.
- (j) **Testing and Analysis of Septage.**
- (1) All measurements, tests, and analyses of the characteristics of septage shall be determined in accordance with "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association and "Guidelines Establishing Test Procedures for Analysis of Pollutants," (1987, 40 C.F.R. Sec. 136). Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis subject to approval by the City of Ladysmith.
  - (2) If the City requires testing and analysis of the septage, the laboratory and testing facilities shall be approved by the City and all fees and testing expenses shall be paid by the licensed disposer.



- (k) **Disposal Fee.** Refer to Section 9-3-21 for the disposal fee rates for septage.
  - (1) **Violations.** Any licensed disposer discharging septage to the municipal wastewater treatment facility or City sewerage collection system found to be violating a provision of this Chapter or of any condition(s) of the City-issued approval for septage disposal may have their approval immediately revoked. This revocation shall be done in writing and state the reason for revoking the septage disposal approval.

**SEC. 9-3-18 AUDIT.**

The City of Ladysmith shall conduct an annual audit, the purpose of which shall be to maintain the proportionality between users and user classes of the user charge system and to ensure that adequate revenues are available relative to increasing operation, maintenance, and replacement costs.

**SEC. 9-3-19 VALIDITY**

- (a) **Repeal of Conflicting Ordinances.** All Ordinances, Resolutions, Orders or parts thereof heretofore adopted, enacted or entered in conflict with this Ordinance shall be and the same are hereby repealed.
- (b) **Savings Clause.** If any provision of this Ordinance is found invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this Ordinance which can be given effect without the invalid or unconstitutional provision of application.

**SEC. 9-3-20 USER CHARGE SYSTEM.**

It shall be the policy of the City of Ladysmith to obtain sufficient revenues through a user charge to pay the cost of the annual debt retirement, operation, and maintenance expenses, replacement account and related costs incurred to successfully manage the sanitary sewer utility. The user charge system (UCS) shall assure that each user of the sanitary sewer facilities pay a proportionate share of all costs necessary to operate the utility. These charges are to be reviewed annually and all excess revenues from a user class shall be applied to operation and maintenance replacement (OMR) costs to that class for the following year.

**SEC. 9-3-21 SEWER USER RATES. Effective 01-01-2022**

Being that the City of Ladysmith must adopt an equitable sewer user charge system and being that at this time all users discharge wastewater similar in strength, but varying in quantity, the following rates are adopted and take precedence over any and all pre-existing agreements: *Ordinance 2021-08 adopted 11/8/2021.*

		Per Quarter:				
		Effective	Effective	Effective	Effective	Effective
(a) <b>Metered Services</b>		01/01/2022	01/01/2023	01/01/2024	01/01/2025	01/01/2026
(1)	Operations & Maintenance Charge	30.21	31.72	32.67	33.65	34.66
(2)	Replacement Fund Charge	7.35	7.72	7.95	8.19	8.43
(3)	Debt Retirement Charge	19.45	20.42	21.04	21.67	22.32
	Total Quarter Unit Charge	57.01	59.86	61.66	63.51	65.41
<b>Volume Charges (per 1,000 gallons)</b>						
(1)	Operations & Maintenance Charge	3.01	3.16	3.26	3.35	3.45
(2)	Debt Retirement Charge	1.46	1.53	1.58	1.63	1.68
	Total Volume User Charge	4.47	4.69	4.83	4.98	5.13

(b) **Unmetered Services**

(1)	Operations & Maintenance Charge Replacement	30.23	31.74	32.69	33.67	34.68
(2)	Charge	7.35	7.72	7.95	8.19	8.43
(3)	Debt Retirement Charge	19.45	20.42	21.04	21.67	22.32
(4)	Flat Rate User Charge (based on 11,000gal/qtr)	55.00	57.75	59.48	61.27	63.10
	<b>Total Unmetered Services Charge</b>	<b>112.03</b>	<b>117.63</b>	<b>121.16</b>	<b>124.80</b>	<b>128.54</b>

(c) **Septage Disposal Fee**

	Holding Tank					
(1)	Waste	20.46	21.48	22.13	22.79	23.48
(2)	Septic Tank Waste	37.34	39.21	40.38	41.59	42.84

(d) **Surcharges**

Any user discharging wastewater with:

BODS in Excess of 292 mg/1 per lb	.29/lb	.30/lb	.31/lb	.32/lb	.33/lb
TSS Greater than 343 mg/1 per lb	.068/lb	.071/lb	.073/lb	.075/lb	.077/lb

**Tax Incremental District Sewer**

(e) **Charge**

- (i) A tax incremental district sewer charge is hereby imposed upon the City of Ladysmith for all of the costs of the sewer system (including debt service coverage ratio requirements imposed by a bond resolution) which are applicable to improvements undertaken in connection with each of the City's Tax Incremental Districts (The "Districts"), whether located within or outside the Districts, as permitted by the applicable tax increment plan. On or before the first Common Council meeting in October of each year, the City's Comptroller shall compute the charge for each of the Districts. The charge shall be computed by calculating an amount equal to the annual debt service on the District's share of all outstanding sewer utility borrowing (including debt service coverage ratio requirements imposed by any bond resolution).
- (ii) The tax incremental district sewer charge shall be billed to the City on November 1st of each year for all obligations due during the subsequent year. The payment shall be due within 90 days of billing.

**SEC. 9-3-22 ANNUAL RATE REVIEW; REPLACEMENT ACCOUNT.**

- a) **Annual Review.** These charges are to be reviewed annually and all excess revenues from a user class shall be applied to operation and maintenance and replacement (OMR) costs attributed to that class for the following year.
- (b) **Replacement Account.** A separate account shall be established for replacement cost revenues.