

## TITLE 5

### Public Utilities

#### Chapter 1 Regulation of Sewer Use and User Rates

### CHAPTER 1

#### Regulation of Sewer Use and User Rates

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#### SEC. 5-1-1 DEFINITIONS.

(a) The following definitions shall be applicable in this Chapter:

- (1) APPROVING AUTHORITY shall mean the Water and Sewer Commission of the Village of Bear Creek or its duly authorized deputy, agent or representative.
- (2) BOD (denoting 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 degrees centigrade, expressed in milligrams per liter.
- (3) BUILDING DRAIN shall mean the part of the lowest horizontal piping of a drainage system which received the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- (4) BUILDING SEWER shall mean the extension from the building drain to the public sewer or other place of disposal also called house connection.
- (5) CHLORINE REQUIREMENT shall mean the amount of chlorine, in milligrams per liter, which must be added to sewage to produce a specified residual chlorine content in accordance with procedures set forth in "Standard Methods".
- (6) COMMERCIAL AND INSTITUTIONAL CUSTOMERS shall mean those customers of the Village which are not residential and do not discharge industrial wastes.



- (7) DEBT CHARGE shall mean that charge to customers of the Village which shall in whole or in part defray the costs of retiring the debts incurred in the construction of any wastewater facilities by the Village.
- (8) EASEMENT shall mean an acquired legal right for the specific use of land owned by others.
- (9) FLOATABLE OIL is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- (10) GARBAGE shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
- (11) GROUND GARBAGE is garbage that has been shredded to such degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than one-half (1/2) inch in any dimensions.
- (12) INDUSTRIAL USER shall mean any customer of the Village which discharges industrial wastes and is identified in the Standard Industrial Classification Manual, 1972, office of Management and Budget, as amended and supplemented under the following divisions:
  - a. Division A. Agriculture, Forestry, and Fishing.
  - b. Division B. Mining.
  - c. Division D. Manufacturing.
  - d. Division E. Transportation, Communications, Electric, Gas, and Sanitary Services.
  - e. Division I. Services.

For the purpose of this Chapter, user in the Divisions listed is excluded if it is determined that it discharges primarily segregated domestic wastes or wastes from sanitary conveniences, or that it discharges the equivalent of 25,000 gallons per day, or less, of sanitary wastes providing such discharge does not contain pollutants which (1) interfere with the treatment process, (2) are toxic or incompatible, or (3) contaminate or otherwise reduce utility of the sludge.

- (13) INDUSTRIAL WASTES shall mean the wastewater from industrial processes, trade, or business as distinct from sanitary sewage.
- (14) NATURAL OUTLET shall mean any outlet, including storm sewers and combined sewer overflows, into a water course, pond, ditch, lake, or other body of surface or groundwater.
- (15) OPERATION AND MAINTENANCE COSTS shall mean all costs incurred in the operation and maintenance of the Village wastewater treatment works. Notwithstanding other accounting procedures as may be used by the Village for other purposes, in the context of this Chapter this class of costs shall be understood to include equipment replacement costs and shall be understood to exclude depreciation charges and debt retirement.
- (16) PARTS PER MILLION (Also milligrams per liter) is a weight to weight ratio; the parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.
- (17) PERSON shall mean any individual, firm, company, association, society, corporation, or group.
- (18) pH shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of the hydrogen ions, in



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- grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$ .
- (19) PHOSPHORUS shall mean the element of that same name, the concentration of which in wastewater is ascertained by the test for Total Phosphorus, as defined in Standard Methods.
- (20) PUBLIC SEWER shall mean a common sewer controlled by a governmental agency or public utility.
- (21) REPLACEMENT COST shall mean the cost associated with maintaining a fund with sufficient resources to provide for obtaining and installing the equipment associated with the Village's wastewater treatment works at the end of the service life of each equipment item. The yearly replacement cost is calculated by calculating the depreciation on the Village's equipment accounts.
- (22) SANITARY SEWAGE shall be considered to be synonymous with "Domestic Sewage" and "Domestic Wastewater" and shall mean any combination of liquid and water-carried wastes discharged from sanitary plumbing facilities. Sanitary sewage shall be assumed to have the following waste concentrations:
- BOD - 200 mg/l  
Suspended Solids - 240 mg/l
- Other - no substances as prohibited or limited in Section 5-1-5 (d)
- (23) SANITARY SEWER shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- (24) SERVICE CHARGE shall mean the total charge to customers of the Village and shall mean the sum of the user charge and debt charge.
- (25) SEWAGE is the spent water of a community. The preferred term is "wastewater".
- (26) SEWER shall mean a pipe or conduit that carries wastewater or drainage water.
- (27) SHALL is mandatory. "May" is permissive.
- (28) SLUG shall mean any discharge of water or wastewater which is concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal performance of the wastewater treatment works.
- (29) STANDARD METHODS shall mean 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 Water Works Association and the Federation of Sewage and Industrial Wastes Associations.
- (30) STORM DRAIN (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
- (31) STORMWATER RUNOFF shall mean that portion of the rainfall that is drained into the sewers.



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- (32) SUSPENDED SOLIDS (SS) shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for Examination of Water and Wastewater" and referred to as nonfilterable residue.
- (33) 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 and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (34) USER CHARGE shall mean that charge to customers of the Village which shall adequately provide for proportionate recovery of the operation and maintenance costs of the wastewater treatment works owned by the Village.
- (35) VILLAGE shall mean the Village of Bear Creek, Outagamie County, Wisconsin.
- (36) WASTEWATER shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.
- (37) WASTEWATER FACILITIES shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.
- (38) WASTEWATER TREATMENT WORKS shall mean an arrangement on devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant".
- (39) WPDES PERMIT shall mean the Wisconsin Pollutant Discharge Elimination System Permit which authorizes the Village to discharge wastes to a watercourse provided the treatment of those wastes meets the conditions of the permit.

### SEC. 5-1-2 USE of PUBLIC SEWERS REQUIRED

- (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Village or in any area under the jurisdiction of said Approving Authority, any human or animal excrement, garbage, or objectionable waste.
- (b) It shall be unlawful to discharge to any natural outlet within the Village, or in any area under the jurisdiction of said Approving Authority, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
- (c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- (d) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the Village, is hereby required at the owner(s)' expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of



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this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet (30.5 meters) of the property line.

### SEC. 5-1-3 PRIVATE WASTEWATER DISPOSAL

- (a) Where a public sanitary sewer is not available under the provisions of Section 5-1-2(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Section.
- (b) Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain a written permit signed by the Approving Authority. The application for such permit shall be made on a form furnished by the Approving Authority which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Approving Authority. A permit and inspection fee of Ten (\$10.00) Dollars shall be paid to the Approving Authority at the time the application is filed.
- (c) 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 48 hours of receipt of notice by the Approving Authority.
- (d) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Health and Social Services of the State of Wisconsin. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- (e) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 5-1-2(d) 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.
- (f) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Approving Authority.
- (g) No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the health officer.

### SEC. 5-1-4 BUILDING SEWERS and CONNECTIONS

- (a) No authorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Approving Authority.
- (b) There shall be two classes of building sewer permits:
  - (1) For industrial service
  - (2) For non-industrial serviceIn either case, the owner(s) or his agent shall make applications on a special form furnished by the Approving Authority. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Approving Authority. A permit and inspection fee of Ten (\$10.00) Dollars for a residential or commercial building sewer permit



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- and Twenty-Five (\$25.00) Dollars for an industrial building sewer permit shall be paid to the Approving Authority at the time the application is filed.
- (c) All costs and expenses incidental to the installation and connection to the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the Approving Authority from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
  - (d) A separate and independent building sewer shall be provided for every building.
  - (e) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the Approving Authority, to meet all requirements of this ordinance.
  - (f) The size, slope, alignment, 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 building and plumbing code or other applicable rules and regulations of the Village.
  - (g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
  - (h) No person(s) shall make connection of roof downspouts, foundation drains, airway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Approving Authority for purpose of disposal of polluted surface drainage.
  - (i) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Approving Authority before the installation.
  - (j) The applicant for the building sewer permit shall notify the Approving Authority when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Approving Authority or his representative.
  - (k) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Approving Authority.
  - (l) The Approving Authority shall levy a charge upon connection of a building sewer to the public sewer. The amount of this charge shall be cost of installation as determined by the Approving Authority. This amount shall be paid by the person(s) owning the building served by the building sewer.
  - (m) The Approving Authority shall not grant a connection to the sanitary sewers unless sufficient capacity for that connection is available in the Wastewater Treatment Works.

### SEC. 5-1-5 USE OF THE PUBLIC SEWERS

- (a) **SANITARY SEWERS.** No person(s) shall discharge or cause to be discharged any unpolluted water such as storm water, groundwater, roof runoff, subsurface



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drainage, or cooling water to any sanitary sewer, except that storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the Approving Authority.

- (b) INSPECTIONS. The Village personnel will make inspections throughout the Village for sump pump connections to sanitary sewers and illegal downspout connections. Violations will be reported to the Approving Authority.
- (c) STORM SEWERS. Storm water other than that exempted under Sub Section (a) and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by 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.
- (d) PROHIBITIONS AND LIMITATIONS. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described water or wastes to any public sewer.
  - (1) Gasoline, benzine, naptha, 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 6.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
  - (4) Solid or viscous substances in quantities or of such size 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, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garage grinders.
  - (5)
    - (1) The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance.
    - (2) The Approving Authority may set limitations lower than the limitations established in the regulations below if, in his opinion, such limitations are necessary to meet the above objections. In forming his opinion as to the 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, degree of treatability of the waste in 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:



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- a. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- b. Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.
- c. Wastewater from industrial plants containing floatable oil, fat 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 garbage originates from the preparation of food in kitchens for the purpose of 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 degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Approving Authority.
- f. Water or wastes containing odor-producing substances exceeding limits which may be established by the Approving Authority.
- g. Radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established by the Approving Authority in compliance with state or federal regulations.
- h. Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.
- 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 degree that the wastewater treatment plant effluent cannot meet the requirements of the Approving Authority'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" as defined herein.
  - 3. Unusual concentrations of inert suspended solids (such as fuller's earth, lime slurries and lime residues) or of dissolved solids (such as sodium sulfate).
  - 4. Excessive discoloration (such as dye wastes and vegetable tanning solutions).

(e) SPECIAL ARRANGEMENTS. No statement contained in this Section shall be construed as prohibiting any special agreement between the Approving Authority and any



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person whereby an industrial waste of unusual strength or character may be admitted to the sewage disposal works, either before or after pre-treatment, 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 Approving Authority without recompense by the person. Any costs or special fees anticipated by the Approving Authority for acceptance of wastes under this Section shall be paid in advance to the Village.

### SEC. 5-1-6 CONTROL of INDUSTRIAL WASTES DIRECTED TO PUBLIC SEWERS

- (a)
  - (1) Within three (3) months after passage of this Chapter each person who discharges industrial wastes to a public sewer shall prepare and file with the Approving Authority a report that shall include pertinent data relating to the quantity and characteristics of the wastes discharged to the wastewater works.
  - (2) Similarly, each person desiring to make a new connection to a public sewer for the purpose of discharging industrial waste shall prepare and file with the Approving Authority a report that shall include actual or predicted data relating to the quantity and characteristics of the waste to be discharged.
  - (3) The minimum information required is outlined on the Industrial Sewer Connection Application called for in Section 5-1-4(b).
- (b) When it can be demonstrated that circumstances exist which would create an unreasonable burden on the person to comply with the time schedule imposed by Subsection (a), a request for extension of time may be presented for consideration of the Approving Authority.
- (c) If any waters or wastes are discharged or proposed to be discharged to the public sewers, which waters or wastes contain substances or possess the characteristics enumerated in Section 5-1-5(d) and which in the judgement of the Approving Authority, may have deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise created a hazard to life, health, or constitute a public nuisance, the Approving Authority may:
  - (1) Reject the wastes.
  - (2) Require pretreatment to an acceptable condition for discharge to the public sewers.
  - (3) Require control over the quantities and rates of discharge and/or
  - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 802.
- (d)
  - (1) Each person discharging industrial wastes into a public sewer shall construct and maintain one or more control manholes or access points to facilitate observation, measurement and sampling of his wastes, including domestic sewage.
  - (2) Control manholes or access facilities shall be located and built in a manner acceptable to the Approving Authority. If measuring devices are to be permanently installed they shall be of a type acceptable to the Approving Authority.
  - (3) Control manholes, access facilities and related equipment shall be installed by the person discharging the waste, at his expense and shall be maintained by him so as to be in safe condition, accessible and in proper operating condition at all times. Plans for installation of the control manholes or access facilities and related equipment shall be approved by the Approving Authority prior to the beginning of construction.



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- (e) The volume of flow used for computing industrial waste collection and treatment charges shall be the metered water consumption of the person as shown in the records of meter readings maintained by the Owner except as noted in Subsection (f).
- (f) In the event that a person discharging industrial waste into the public sewer produces evidence satisfactory to the Approving Authority that more than 10 percent of the total annual volume of water used for all purposes does not reach the public sewer, then the determination of the water consumption to be used in computing the waste volume discharged into the public sewer may be made a matter of agreement between the Approving Authority and the person.
- (g) Devices for measuring the volume of waste discharged may be required by the Approving Authority if this volume cannot otherwise be determined. Metering devices for determining the volume of waste shall be installed, owned, and maintained by the person. Following approval and installation, such meters may not be removed without the consent of the Approving Authority.
- (h)
  - (1) Industrial wastes discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration of said wastes. The determinations shall be made by the Industry as often as may be deemed necessary by the Approving Authority.
  - (2) Samples shall be collected in such a manner as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the Approving Authority.
  - (3) Installation, operation and maintenance of the sampling facilities shall be the responsibility of the person discharging the waste and shall be subject to the approval of the Approving Authority. Access to sampling locations shall be granted to the Approving Authority or its duly authorized representatives at all times. Every care shall be exercised in the collection of samples to insure their preservation in a state comparable to that at the time the sample was taken.
- (i) The Approving Authority may at its option install such structures and equipment and perform monitoring, sampling and laboratory analysis called for in Subsections (d) through (g) above. In such cases all structures and equipment shall be considered a part of the wastewater treatment works and the costs of construction, operation and maintenance of same shall be incorporated in the service charge of the industrial user as outlined in Section 5-1-8(c).
- (j) When, in the opinion of the Approving Authority, and in accordance with Title 40, Part 128 of the Code of Federal Regulations and 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 shall provide at his expense such preliminary treatment or processing facilities as may be determined required to render his wastes acceptable for admission to the public sewers.
- (k) Grease, oil and sand interceptors shall be provided when, in the opinion of the Approving Authority, they are necessary for the proper handling of liquid wastes as described in Section 5-1-5(d), or any flammable wastes, sands, or other harmful ingredients; 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 the Approving Authority and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Approving



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Authority. Any removal and handling of the collected materials not performed by owner(s) personnel must be performed by currently licensed waste disposal firms.

- (l) (1) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with Title 40, Part 136 of the Code of Federal Regulations and in accordance with the latest edition of Code of Federal Regulations and in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association. Sampling methods, location, times, duration, and frequencies are to be determined on an individual basis subject to approval by the Approving Authority.
- (2) Determination of the character and concentration of the industrial wastes shall be made by the person discharging them, or his agent as designated and required by the Approving Authority. The Approving Authority may also make its own analysis on the wastes and these determinations shall be binding on a basis for treatment service charges.
- (m) Plans, specifications and any other pertinent information relating to proposed flow equalization, pre-treatment or processing facilities shall be submitted for review of the Approving Authority from time to time by resolution prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers.

### SEC. 5-1-7 SEWER SERVICE CHARGE.

- (a) BASIS FOR SEWER SERVICE CHARGES. The Approving Authority shall have the authority to establish and collect a sewer service charge for the use of the public sewers maintained by the Village, subject to concurrence by the Board of Trustees of the Village.
- (b) SEWER SERVICE CHARGES. Upon establishment of the operation and maintenance costs and debt retirement costs associated with the wastewater facilities maintained by the Village, the Approving Authority shall establish rates for the following classes of users:
  - (1) Residential
  - (2) Commercial
  - (3) Industrial
  - (4) Public
- (c) DISPOSITION OF SERVICE CHARGES.
  - (1) Service Charges collected by the Village shall be deposited to separate funds or accounts according to the following schedule:
    - a. Debt Charge Debt Retirement Fund
    - b. User Charge Operation and Maintenance Fund
  - (2) That portion of the user charges and industrial wastewater surcharges which offset the replacement cost as defined herein shall be deposited into special long-term interest bearing certificates of deposits and savings accounts.

### SEC. 5-1-8 AMOUNT OF SERVICE CHARGE

- (a) FORM OF CHARGE. All users shall be assessed a sewer service charge. For the purpose of this ordinance, the format of the sewer service rates shall be as follows:

User Charge per Residential Equivalent                      \$                      per billing period



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Debt Charge Per Residential Equivalent                      \$                      per billing.

Total Sewer Service Charge Per

Residential Equivalent                      \$                      per billing period

- (b) RESIDENTIAL EQUIVALENTS. All users shall be assigned a number of residential equivalents based on the methodology in Appendix A, a copy of which is on file with the Village-Clerk.
- (c) METHOD OF COMPUTING CHARGES. The methodology of determining sewer service charges is given in Appendix "A". The annual sewer utility gets for (1) operation and maintenance and (2) debt service shall each be divided by the total number of residential equivalent users, except that the debt service budget may be partially offset by property tax levies. The total sewer service charge shall be the sum of the user charge and debt charge.
- (d) INDUSTRIAL WASTE SURCHARGES. Any user discharging industrial waters shall be subject to surcharges based on a study of the cost of providing treatment of such wastes.

### SEC. 5-1-9 BILLING PRACTICE

- (a) BILLING PERIODS AND PAYMENT. The Debt charge and User charge portions of the service charges provided in this ordinance shall be payable in accordance with the schedule established by the Approving Authority.
- (b) PENALTIES
  - (1) Such charges levied in accordance with this Chapter shall be a debt due to the Approving Authority and shall be a lien upon the property. If this debt is not paid within twenty (20) days of the date of the bill, a eighteen percent (18%) charge shall be added to delinquent bills. Thereafter, if payment is not received prior to November 15 of the calendar year, the delinquent bill will be forwarded to the county for placement on the succeeding tax roll.
  - (2) In the event of failure to pay sewer service charges after they become delinquent, the Approving Authority shall have the right to remove or close sewer connections and enter upon the property for accomplishing such purposes.
  - (3) The expense of such removal or closing, as well as the expense of restoring service, shall likewise be a debt to the Village and a lien upon the property and may be recovered by civil action in the name of the Approving Authority against the property owner, the person, or both.
  - (4) Sewer service shall not be restored until all charges, including the expense of removal, closing and restoration, shall have been paid.
  - (5) Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

### SEC. 5-1-10 RIGHT OF ENTRY SAFETY AND IDENTIFICATION

- (a) RIGHT OF ENTRY. The Village Engineer, Superintendent of the Wastewater Treatment Plant, Plumbing Inspector, or other duly authorized employee of the Village, bearing proper credentials and identification shall be permitted to enter all properties for the purpose of investigations required to carry out the provisions of this Chapter and Section 196.171, Wisconsin Statutes. They shall have no authority to inquire into any process beyond that point having a direct bearing on the kind and source of discharge to the sewers, waterways or facilities for wastewater treatment.



## Regulation of Sewer Use and User Rates

- (b) SAFETY While performing the necessary work on private premises in Subsection (a) Village employees shall observe all safety rules applicable to the premises established by the company and the Approving Authority shall indemnify the company against the liability claims and demands for personal injury or property damage asserted against the company and growing out of gauging and sampling operation, and indemnify the company against loss by negligency or failure of the company to maintain safe conditions as required in Section 5-1-6(d).
- (c) IDENTIFICATION. RIGHT TO ENTER BASEMENTS. The Village Engineer, Superintendent of the Wastewater Treatment Plant and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement, all subject of the terms, if any, of the agreement.

### SEC. 5-1-11 DAMAGE OR TAMPERING WITH SEWAGE FACILITIES

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the sewage facility. Any persons violating this provision shall be subject to immediate arrest under a charge of disorderly conduct.

### SEC. 5-1-12 VIOLATIONS AND PENALTIES

- (a) WRITTEN NOTICE OF VIOLATION. Any person found to be violating any provision of this Chapter, except Section 5-1-9(b), shall be served by the Approving Authority 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. 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 aforesaid notice time limit provided shall, upon conviction thereof, forfeit, not more than \$500.00 together with the costs of prosecution. In default of payment of such forfeiture and costs, said violator shall be imprisoned in the County Jail for a period not to exceed thirty (30) days. Each day in which any violation is continued beyond the aforesaid notice time limit shall be deemed a separate offense.
- (d) LIABILITY TO VILLAGE FOR LOSSES. Any person violating any provisions of this Chapter shall become liable to the Approving Authority for any expense, loss, or damage occasioned by reason of such violation which the Approving Authority may suffer as a result thereof.
- (e) DIFFERENCES OF OPINION. The Board of Trustees of the Village shall arbitrate differences between the Approving Authority and sewer users on matters concerning interpretation and execution of the provisions of this Chapter.



SEC. 5-1-13 AUDIT

- (a) ANNUAL AUDIT OF GENERAL ACCOUNT. The Approving Authority 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. Said audit shall also review the relative funding of the various accounts detailed in Section 5-1-7 (d).
- (b) If the results of the audit referenced in the previous paragraph indicate that proportionality and adequacy of rates are not being maintained, the Approving Authority shall make application to the Wisconsin Public Service Commission for the changes necessary to maintain proportionality and adequacy. Insofar as allowed by the Wisconsin Public Service Commission the Approving Authority shall also make those changes necessary to apply excess revenues from a customer class to that class's rates whenever that excess is greater than what is reasonable.



## CHAPTER 2

### Cable Television

- § 5-2-1 Definitions
- § 5-2-2 Franchise Required
- § 5-2-3 Procedure for Granting
- § 5-2-4 Term of Franchise
- § 5-2-5 Termination for Cause
- § 5-2-6 Documents Incorporated by Reference
- § 5-2-7 Indemnification, Defense and Insurance Requirements
- § 5-2-8 Use of Streets and Other Public Property
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- § 5-2-12 Rates
- § 5-2-13 Franchise Fees
- § 5-2-14 Prohibitions
- § 5-2-15 Franchise Non-exclusive
- § 5-2-16 Authorizing Transfer of a Cable Television Franchise
- § 5-3-2 *With ABANDONMENT*

#### SEC. 5-2-1 DEFINITIONS.

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory:

- (a) "Cable Television System" hereinafter referred to as "CATV System" or "System" means a system of coaxial cables or other electrical conductors and transmission equipment used, or to be used, primarily to receive television or radio signals directly, or indirectly, off the air and other related services and transmit them to a subscriber for a fee.
- (b) "Village" is the Village of Bear Creek.
- (c) "Community Antenna Television System" hereinafter referred to as a "CATV System" or "System" means any facility that, in whole or in part, receives directly, or indirectly, over the air, and amplifies or otherwise modified the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public who pay for such service, but such term shall not include:
  - (1) any such facility that serves fewer than 18 subscribers; or
  - (2) any such facility that serves only the residents of one or more apartment facility that serves only the residents of one or more apartment dwellings under common ownership control, or management, and commercial establishments located on the premises of such an apartment house.
- (d) "Board" is the Village Board of the Village of Bear Creek.
- (e) "FCC" means the Federal Communications Commission and any legally appointed or elected successor.
- (f) "Grantee" is anyone who is granted a permit by separate ordinance in accordance with provisions of the Chapter.



- (g) "National Electrical Code" is defined as that code as sponsored by the National Fire Protection Association under the auspices of the American National Standards Institute, with the purpose of the code being detailed in Section 90-1, and the scope of the code as outlined in section 90-2, of the National Electrical Code, and any subsequent amendments thereto.
- (h) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- (i) "Street" shall mean the surface of, and the space above and below, any public street, road, highway, freeway, right-of-way, easement, alley, court, sidewalk, parkway, drive or other public property hereafter existing as such within the Village of Bear Creek, also meant to include those areas dedicated for any of the above described purposes.

#### SEC. 5-2-2 FRANCHISE REQUIRED.

It shall be unlawful for any person to construct, install or maintain within any public street in the Village, or within any other public property of the Village, or within any privately owned property within the Village which has not yet become a public street, but is designated or delineated as a proposed public street on the Village's official map or on any tentative subdivision map approved by the Village, any equipment or facilities for distributing any television signals or radio signals through a cable television system unless a franchise authorizing the use of such street or property or area has first been obtained pursuant to the provisions of this Chapter, and unless such franchise is in full force or effect.

#### SEC. 5-2-3 PROCEDURE FOR GRANTING.

- (a) Review of Qualifications. The Village Board may grant a franchise for the operation of a community antenna television and audio communication system under the provisions of this Chapter to any grantee after a review of the legal, character, financial, technical and other qualifications as determined by said Board, and the adequacy and feasibility of the grantee's construction arrangements. Determinations by the Board regarding such qualifications shall be made and determined as part of a full public proceeding including a public hearing before the Board prior to the grant of any franchise.
- (b) Submission of Proposal Required. Any person seeking a franchise hereunder shall first submit a proposal to the Village Clerk which provides full, complete and detailed responses to any information required by the Village which will aid the Board in reviewing the qualifications set forth in Subsection (a), above.
- (c) Public Hearing. Any public hearing required hereunder shall be held before the Board at a regular or special meeting thereof and adequate notice thereof shall be published.
- (d) Grant of Authority. Any franchise granted hereunder by the Village Board pursuant to this chapter shall give a grantee the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the Village, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the Village of a CATV System for the interception, sale and distribution of television and radio signals. Such rights and privileges however shall be limited by all rules, regulations and prohibitions contained in this chapter.



- (e) Acceptance of Franchise. The grantee of any franchise hereunder shall, within thirty (30) days of the grant of said franchise, acknowledge in writing that:
- (1) Grantee accepts the award of the franchise.
  - (2) Grantee acknowledges that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the Village concerning any term or condition of this franchise that is not included in the Chapter.
  - (3) Grantee acknowledges by the acceptance of this Chapter and the franchise awarded hereunder that it has carefully read its terms and conditions and that it is willing and does accept all the obligation of such terms and conditions and further agrees that it will not set up as against the Village, the claim that any provision of this as originally adopted, and franchise granted hereunder is unreasonable, arbitrary, invalid or void.
  - (4) That grantee has secured the necessary policies of insurance required by this Chapter and files therewith a copy of said policy.

SEC. 5-2-4      TERM OF FRANCHISE.

- (a) Initial Term. Upon the grant and acceptance of a franchise in accordance with the provisions of this Chapter, such franchise shall take effect and shall continue in full force and effect, subject to termination for cause, for a term of fifteen (15) years.
- (b) Renewal. Any franchise granted hereunder may be renewed by the Board for an additional term of ten (10) years. At least one (1) year prior to the expiration of the initial franchise terms, the grantee shall notify the Board, in writing, of its intent to seek renewal of said franchise. Upon receipt of such notice, the Board or a committee thereof shall schedule a public meeting or meetings with the grantees to review franchise performance, plans, prospects and any need for amendments to any rules or regulations imposed upon the franchise. The Board shall, after such meeting or meetings, order a public hearing as required in the granting of an initial franchise and, thereafter, may renew any franchise upon the same or different terms, conditions, regulations and prohibitions as are determined by the board in the public interest.
- (c) Periodic Franchise Review. In addition to any other regulations contained herein, the Board may, on or about every third anniversary of the effective date of the franchise, schedule a public meeting or meetings with any grantee to review the franchise performance, plans and prospects. The Village may require the grantee to make available specified records, documents and information for this purpose. The Board, or designated committee thereof, shall first confer with the granted regarding modifications in the franchise which might impose additional obligations on the grantee, and the grantee may in turn seek to negotiate relaxations in any requirements previously imposed on it that are subsequently shown to be impractical. In addition to the reviews hereby permitted, this review procedure may be initiated at any time during the term of the franchise by mutual agreement of the Board and the grantee. Any changes in the franchise ordinance which are mutually agreed upon shall be passed into law by the Board and accepted in the manner prescribed in Sec. 5-2-3(e).

SEC. 5-2-5      TERMINATION FOR CAUSE.

- (a) Power to Terminate. The Board may terminate any franchise granted pursuant to the provisions of this Chapter in the event of the willful failure, refusal or neglect



by grantee to do or comply with any material requirement or limitation contained in this ordinance, applicable state regulations, or FCC rules and regulations.

(b) Procedure for Termination.

- (1) Whenever any of the above mentioned circumstances occur or exist, the Board may direct an appropriate officer, agent or employee of the Village to make written demand upon the grantee that said grantee do or comply with any aforementioned requirement, limitation, term condition, rule or regulation. The written notice shall direct that such action or compliance occur within thirty (30) days of the date of the written demand and, if the same does not occur, that the Board will act to terminate the franchise.
- (2) After such thirty (30) day period, and upon the refusal, failure or neglect of grantee to comply with the requirements set forth in the written demand, the Board may summon the grantee to appear before it at a regular or special meeting of such Board for the purpose of holding a public hearing to determine whether such franchise shall be terminated. Such summons shall be served upon the grantee at least ten (10) days prior to the date for such regular or special meeting. Upon the completion of testimony at such hearing, the Board shall determine whether any act, failure, refusal, or neglect by the grantee occurred with or without just cause. If just cause exists for such act, failure, refusal or neglect, the Board may order a reasonable time within which compliance may occur. If such act, failure, refusal or neglect occur without just cause, the Board may find and determine that the franchise shall be terminated and adopt an ordinance providing for termination.

SEC. 5-2-6 DOCUMENTS INCORPORATED BY REFERENCE.

All state and national health and safety codes, including the National Electrical Code, all applicable rules and regulations of the FCC regarding cable television service and cable television relay service, and the proposal of any person granted a franchise hereunder are hereby incorporated herein by reference and made part hereof as if fully set forth herein. Any violation of such regulations or any failure, refusal or neglect by the grantee to comply with any representation made in said proposal shall be a violation of this Section. If any valid law, rule or regulation promulgated by any governing authority or agency having jurisdiction (including but not limited to the FCC) contravenes the provisions of the Section, the provisions hereof shall supersede the proposal.

SEC. 5-2-7 INDEMNIFICATION, DEFENSE AND INSURANCE REQUIREMENTS.

- (a) Indemnification A grantee shall indemnify, hold and save harmless and defend the Village, and all of its officers, boards, commissions, agents, employees and representatives from any and all claims, demands, causes of action, copyright action liability, judgments, costs, expenses, damages arising out of any failure by grantee to secure consents from the owners, authorized distributors of licensees of programs to be delivered by grantee's cable television system, and liabilities, including costs of liabilities of the Village with respect to its employees of every kind and nature whatsoever, including but not limited to damages for injury or death or damage to person or property, regardless of the merit of any of the same, except when caused by the Village's negligence, and any loss, cost, and expense resulting or arising out of any of the same, including reasonable attorney fees, reasonable accountant fees, reasonable expert witness or consultant fees, court