

Chapter 54 UTILITIES

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Article I. In General

Sec. 54-1. Penalty.

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.

(Code 1982, § 19.20)

Secs. 54-2—54-30. Reserved.

Article II. Sanitary Wastes

Division 1. Generally

State Law reference— Holding tanks, Wis. Stat. § 281.48.

Secs. 54-31—54-50. Reserved.

Division 2. Holding Tanks

Sec. 54-51. Restricted.

Holding tanks for new residential construction shall be prohibited in the town. Any person who is denied the use of a holding tank as a result of this section may appeal the application of this section to his situation. The appeal shall be to the town board and shall comply with section 2-400. The town board may grant variances to this prohibition where the enforcement of the prohibition will result in severe and unnecessary hardship. The town board may also grant variances on a trial basis for new residential construction for conversion to a mound system in accord with the rules and regulations of the state department of safety and professional services and the county sanitarian and in accord with rules and regulations established by the town board. The clerk-treasurer shall inform the state department of safety and professional services and the county sanitarian of any such variance. Section 54-52 shall apply to any such variance.

(Code 1982, § 11.06(1))

Sec. 54-52. Agreement required.

- (a) As a precondition to the installation of a holding tank for existing residential construction or new or existing nonresidential construction, the landowner shall enter into an agreement with the town relative to the installing, maintaining and emptying of such holding tank. Such agreement shall conform to the regulations of the state department of safety and professional services and/or department of natural resources. The owner

shall cause the agreement to be recorded with the office of the county register of deeds and the agreement shall constitute an agreement running with the land and binding upon the owner, his heirs, successors, administrators and assigns. In such agreement, the owner shall agree to:

- (1) Install the holding tank in accord with the applicable laws, rules, regulations and ordinances governing such installations.
- (2) Be fully responsible and liable for the proper operation and maintenance of the holding tank and for the disposal of the contents of the holding tank in accord with all applicable laws, rules, regulations and ordinances governing the holding tank.
- (3) Obey all lawful orders with respect to the holding tank which are issued by the town and its officers, as well as all other agencies and officers with jurisdiction as to such holding tank.
- (4) Payment of an annual inspection fee to the town in the sum of \$60.00, and to pay at the rate of \$24.00 per inspection for any inspections in excess of four per annum necessary to ensure the proper operation and maintenance of the holding tank.
- (5) Install warning devices, both visual and audible, to indicate when the holding tank is full or in need of pumping.
- (6) Install a sealed meter on the water system on the premises to meter the amount of water consumed on the premises.
- (7) Have the contents from the holding tank removed, hauled and disposed of by a hauler licensed by the state in accord with all state and local laws, ordinances, rules and regulations.
- (8) File receipts and a pumping report with the clerk-treasurer and the county at least quarterly evidencing the date and volume of contents which was removed from the holding tank.
- (9) Have the agreement recorded with the office of the county register of deeds which shall constitute an agreement running with the land, binding upon the owner, his heirs, administrators, successors and assigns.
- (10) Allow any authorized person of the town to inspect the holding tank and the premises at all reasonable times.
- (11) Have a lien asserted against the property served by the holding tank for any obligations or damages accruing to the town under the agreement and to have any such obligations or damages placed upon the town tax rolls and collected as any other real estate tax.
- (12) Bind any future owner of the property served by the holding tank to enter into a like agreement with the town.

- (13) Be bound to such new contract terms provided under this section as shall be enacted from time to time; provided, however, that prior to the adoption of any amendment to this section which shall provide for any such new contract terms the owner, or his successor in interest, shall be given at least 15 days' notice of the intention to amend this section and shall be given an opportunity to be heard before the adoption of such amendment.
 - (b) Unless required by the applicable law, rules and regulations, no contract shall be entered into with respect to a holding tank to serve more than one property.
 - (c) If the owner does not cause the holding tank to be properly maintained in response to orders from the state department of safety and professional services and/or department of natural resources, the county or the town, and if it becomes necessary to prevent or abate a nuisance as described in Wis. Stat. § 254.59, the town may provide for the maintenance of the holding tank, including the pumping, transportation and disposal of the holding tank contents.
- (Code 1982, § 11.06(2))

Sec. 54-53. Disposal of holding tank wastes.

- (a) No person in the business of collecting and disposing of holding tank wastes shall transfer such material wastes into any manhole or other appurtenance of any district sewer, or into any local, private building or lateral sewer which is a branch thereof, unless a permit for disposal of such wastes has first been obtained from the district.
 - (1) Written application of such permit shall be made to the district and shall state the name and address of the applicant, the make, model, year, license number and capacity of the disposal unit and, where applicable, the state sanitary license number granted to the hauler by the state department of safety and professional services and/or department of natural resources.
 - (2) Permits shall be renewed on an annual basis. Applications for permits will be transmitted to all current permit holders by June 1 of each year. Completed applications shall be submitted to the district prior to July 1. The district shall either approve or deny each application prior to August 1. An annual fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall accompany each application for a permit. Charges for treatment of the disposed wastes will be based upon the unit costs of treatment.
 - (3) The permit, or a copy thereof, shall be kept at all times with the disposal unit.
 - (4) The permit will allow the holder to dispose of wastes, which are strictly domestic in origin. The discharge of any other wastes without prior approval of the district is prohibited.
- (b) No holding tank wastes may be disposed of into any sewer within the district without prior approval of the district.
- (c) No disposing of wastes after permit revocation.

- (1) The district may revoke any permit issued for any reason it deems sufficient. The issuance of a permit is not intended to create any interest in the permit holder, but is instead intended to allow the district to know about, monitor and properly charge for the disposal of waste.
 - (2) If the district revokes a permit, the revocation is effective on the date the order is mailed, by certified mail, to the address of the permit applicant.
 - (3) Continued disposal of holding tank wastes after revocation subjects the permittee or those acting pursuant to the permittee's direction to the penalties provided by law.
- (d) The disposal of holding tank wastes shall occur only at those sites designated by the district. Disposal at any location other than those designated by the district is prohibited.
- (e) See sections 54-51 and 54-52 for the installation of holding tanks.

(Code 1982, § 19.18)

Secs. 54-54—54-70. Reserved.

Division 3. Nonplumbing Sanitation Systems

Sec. 54-71. Restricted.

The use of nonplumbing sanitation systems is restricted as provided in this division.

(Code 1982, § 11.065)

Sec. 54-72. Prohibited systems.

Composting toilet systems, incinerating toilets and pit privies, as defined in Wis. Admin. Code § SPS 391.03, are prohibited.

(Code 1982, § 11.065(1))

Sec. 54-73. Portable restrooms.

Portable restrooms may be allowed for use at temporary construction sites and seasonal truck farming operations when an indoor plumbing system is not available on the premises. In addition, portable restrooms may be used for temporary special events to handle anticipated increase in wastewater flow above the design capacity of the private sewage system located at the site. The following apply to these uses:

- (1) If plumbing is installed or running water is supplied, excluding hose bibbs and wall hydrants, to a structure on the premises, an acceptable method of sewage disposal other than, or in addition to a nonplumbing sanitation system must be provided.

- (2) Any required private sewage system that serves the use cannot be downsized due to the use of a nonplumbing sanitation system.
- (3) The use must comply with the provisions of Wis. Admin. Code ch. SPS 391, and associated regulations.

(Code 1982, § 11.065(2))

Sec. 54-74. Vault privies and portable restrooms for parks, golf courses and recreational areas.

Vault privies and portable restrooms will be allowed for parks, golf courses and recreational areas on a case-by-case basis. The following applies to these uses:

- (1) A need must be established to show why it is not feasible to use another technology allowed by Wis. Admin. Code ch. SPS 383, and this section.
- (2) If plumbing is installed or running water is supplied, excluding hose bibbs and wall hydrants, to a structure on the premises, an acceptable method of sewage disposal other than, or in addition to a nonplumbing sanitation system must be provided.
- (3) Any required private sewage system that services the use cannot be downsized due to the use of a nonplumbing sanitation system.
- (4) The use must comply with the provisions of Wis. Admin. Code ch. SPS 391, and associated regulations.

(Code 1982, § 11.065(3))

Secs. 54-75—54-90. Reserved.

Division 4. Sanitary Sewer System

Article I. In General

Sec. 54-91. Purpose.

The purpose of this division is to establish rules and regulations to promote and preserve the public sanitation within the town and to establish rules and regulations and sewer service rates and charges within Sewer Utility District No. 1 of the town.

(Code 1982, § 19.01)

Sec. 54-92. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approving authority means the commission of the district or its duly authorized deputy, agent or representative.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter in five days at 20 degrees Celsius, expressed as milligrams per liter (mg/l). Quantitative determination of BOD shall be made in accordance with procedures set forth in "Standard Methods."

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal, also called house connection or house lateral.

Category A means those sanitary sewer users who discharge normal domestic strength wastewater with concentrations of BOD no greater than 200 mg/l, suspended solids no greater than 250 mg/l, phosphorus no greater than 10 mg/l, or chlorides no greater than 450 mg/l.

Category B means those sanitary sewer users who discharge wastewater with concentrations in excess of 200 mg/l of BOD, 250 mg/l of suspended solids, 10 mg/l of phosphorus, or 450 mg/l of chlorides. Users whose wastewater exceeds the concentration for any one of these parameters shall be in category B.

Chlorine requirement means the amount of chlorine, in mg/l, which must be added to sewage to produce a residual chlorine as specified in the Wisconsin Pollutant Discharge Elimination System (WPDES) permit.

Combined sewer means a sewer intended to receive both wastewater and stormwater or surface water.

Commission of the district means the duly appointed commission of the district.

Compatible pollutants means biochemical oxygen demand, suspended solids, phosphorus, nitrogen, pH or fecal coliform bacteria, plus additional pollutants identified in the WPDES permit for the publicly owned wastewater treatment facility receiving the pollutants, if such works were designed to treat such additional pollutants and, in fact, do remove such pollutants to a substantial degree.

District means Sewer Utility District No. 1 of the town and all present and future additions thereto.

Easement means an acquired legal right for the specified use of land owned by others for wastewater conveyance or treatment.

Floatable oil means oil, fat or grease in a physical state such that it will separate by gravity from wastewater in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not adversely interfere with the collection system.

Garbage means the residue from the preparation, cooking and dispensing of food, and from the handling, storage, and sale of food products and produce.

Ground garbage means the residue from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than one-half-inch in any dimension.

Incompatible pollutants means wastewater with pollutants that will adversely affect or disrupt the quality of wastewater treatment if discharged to a wastewater treatment facility.

Industrial waste means the wastewater from industrial process, trade or business as distinct from sanitary sewage.

Natural outlet means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal domestic strength wastewater means wastewater with concentrations of BOD no greater than 200 mg/l, suspended solids no greater than 250 mg/l, phosphorus no greater than 10 mg/l, or chlorides no greater than 450 mg/l.

Operation and maintenance costs means includes all costs associated with the operation and maintenance of the wastewater collection and treatment facilities, as well as the costs associated with periodic equipment replacement necessary for maintaining capacity and performance of wastewater and collection and treatment facilities.

Parts per million means a weight-to-weight ratio; the parts per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Person means any and all persons, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

pH means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7} .

Phosphorus means total phosphorus expressed in mg/l of P (phosphorus).

Plumbing inspector means the plumbing inspector appointed by the town.

Public sewer means any publicly owned sewer, storm drain, sanitary sewer or combined sewer.

Replacement costs means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the wastewater collection and treatment facilities to maintain the capacity and performance for which such facilities were designed and constructed.

Sanitary sewage means a combination of liquid and water carried wastes discharged from toilets and/or sanitary plumbing facilities.

Sanitary sewer means 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.

Sewage means the spent water of a community. The preferred term is "wastewater."

Sewage works means all facilities for collecting, pumping, treating and disposing of sewage.

Sewer means a pipe or conduit that carries wastewater or drainage water.

Sewerage means the facilities used for collection, treatment and disposal of wastewater.

Sewer service charge means a charge levied on users of the wastewater collection and treatment facilities to recover annual revenues for debt services, replacement costs and operation and maintenance expenses of the facilities. The user charge which covers operation and maintenance and replacement expenses is a part of the sewer service charge.

Shall and may. The term "shall" is mandatory; the term "may" is permissive.

Standard methods means the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater" published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

Storm drain (storm sewer) means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

Stormwater runoff means that portion of the rainfall that is drained into the sewers.

Superintendent means the superintendent of the district or his authorized deputy, agent or representative.

Suspended solids means 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," and referred to as nonfilterable residue.

Unpolluted water means 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.

User charge means a charge levied on users of the wastewater collection and treatment facilities for payment of operation and maintenance costs of such facilities.

Wastewater means the spent water of a community. From the standpoint of source, wastewater may be a combination of the liquid and water-carried wastes from residents, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater collection facilities or system means the structures and equipment required to collect and carry away domestic and industrial wastewater.

Wastewater treatment facility means the town's arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with wastewater treatment plant.

Watercourse means a natural or artificial channel for the passage of water, either continuously or intermittently.

Wisconsin pollutant discharge elimination system (WPDES) permit means a document issued by the state department of natural resources which establishes effluent limitations and monitoring requirements for the regional wastewater treatment facility.

(Code 1982, § 19.02)

Cross reference— Definitions generally, § 1-2.

Sec. 54-93. Adoption of state plumbing code and statutes.

- (a) The provisions of the State Plumbing Code, Wis. Admin. Code chs. SPS 381-387, of the state department of commerce, and all amendments and additions thereto, in effect at any time hereafter, are incorporated herein by reference with the same force and effect as though set forth at length; provided, however, if there shall be any conflict between the provisions of these sections or other ordinances of the town and this Code, at any time, that provision shall govern which requires the maximum of compliance or is more restrictive. The provisions thereof and of these sections shall govern all plumbing as therein defined and no plumbing shall be installed except in accordance with this Code.
- (b) The provisions of Wis. Stat. § 145.06 are incorporated herein by reference as though set forth in length, provided that all plumbing work done with respect to connecting any building whether commercial, residential, industrial or otherwise to the sewer system of the district and of disconnecting and filling existing septic tanks shall be done under the direction of a master plumber, duly licensed by the state department of safety and professional services or such other department with jurisdiction over licensing of plumbers.

(Code 1982, § 19.03)

Sec. 54-94. User rules and regulations.

The rules, regulations and sewer charges of the district set forth in this division shall be considered a part of the contract with every person who is connected with the sanitary sewer system to the district, and every such person by connecting with the sanitary sewer system shall

be considered as expressing his or their assent to be bound thereby. Whenever any of the rules and regulations of the district are violated, the service for the building or place of such violation may be terminated pursuant to applicable rules and regulations of the applicable administrative agency of the state, if any. A violator shall also be subject to any penalties provided by law or in these rules and regulations. The right is reserved to the town board and the commission of the district to change the rules, regulations and sewer service charges from time to time as they may deem advisable; and to make special rates and contracts in all proper cases.
(Code 1982, § 19.04)

Sec. 54-95. Use of public sewer required.

- (a) No person shall place, deposit or permit to be deposited upon public or private property within the district or in any area under the jurisdiction of the district, any human or animal excrement (other than the normal type of fertilizer), garbage or other objectionable waste.
- (b) No person shall discharge to any natural outlet within the district, or in any area under the jurisdiction of the district, any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with this division and the laws of the state.
- (c) The owner of all houses, buildings or properties used for human habitation, occupancy, employment, recreation, business or any other purposes, situated within the district and abutting on any street, alley, right-of-way or easement in which a public sewer is located, or in which the extension of the public sewer may be deemed feasible by the commission of the district, is hereby required, at his expense, to connect any such building or facility which is within 300 feet of the public sanitary sewer to such sewer within six months after date of written notice from the district that the public sanitary sewer is available. The sewer service charges provided in subdivision V of this division which are applicable to such a parcel of property shall be due and payable upon connection being made or 60 days after the first day of the month following the month in which notice was given, whichever occurs first. Such charges shall be due and payable regardless of whether the connection is made.

(Code 1982, § 19.05)

Sec. 54-96. Injury to sewer system.

No person shall willfully injure the public sewer system or any building, machinery or fixture pertaining thereto or to willfully and without authority of the district, bore or otherwise cause to leak any tunnel, aqueduct, sewer, pipe or other thing used in the system for holding, conveying or distributing sewage.

(Code 1982, § 19.16)

Sec. 54-97. Damage recovery.

The district shall have the right of recovery from all persons, any expense incurred by the district for the repair or replacement of any sewer pipe damaged in any manner by any person by the performance of any work under their control or by any negligent act.

(Code 1982, § 19.17)

Secs. 54-98—54-120. Reserved.

Subdivision II. Private Sewage Disposal

Sec. 54-121. Restricted.

Except as provided in this subdivision, no person shall construct or maintain within the district any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage or human excrement.

(Code 1982, § 19.06(1))

Sec. 54-122. Connection to private sewage disposal system.

Where a public sanitary sewer is certified by the district as not available to serve any house, building or property under the provisions of section 54-95(c), the building sewer shall be connected to a private sewage disposal system complying with the provisions set forth by the state statutes, the state plumbing code and the ordinances of the town.

(Code 1982, § 19.06(2))

Sec. 54-123. Connection to public sewer when available.

At such time as a public sanitary sewer becomes available to a property served by a private sewage disposal system, as provided in section 54-95(c), a direct connection shall be made to the public sewer in compliance with this division, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material in accord with the applicable laws, rules, regulations and ordinances.

(Code 1982, § 19.06(3))

Sec. 54-124. Sanitary operation.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the district.

(Code 1982, § 19.06(4))

Secs. 54-125—54-140. Reserved.

Sec. 54-141. Unauthorized connections prohibited.

No unauthorized person 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 plumbing inspector.

(Code 1982, § 19.07(1))

Sec. 54-142. Permits required for connections.

No connections shall be made to any of the sewers of the district from any building, premises, excavation, place or property of any kind whatsoever by any drain, tap or sewer intended or designed to, or capable of, discharging any matter, whether fluid or solid, into the sewers of the district unless a permit has first been issued therefor by the plumbing inspector.

(Code 1982, § 19.07(2))

Sec. 54-143. Restrictions on issuance of permit.

No permit shall be issued to connect with the public sewer, any lot, excavation or open basement. No permit shall be issued to connect any building with this public sewer until such building is completely enclosed by roof, the outside wall back filled to establish grade, and all sanitary sewer lines within buildings that will be covered by basement floors have been inspected and approved by the plumbing inspector and after the permanent floor is constructed in the basement. In buildings without basements, the permit shall be issued after the footing and the subfloor has been constructed.

(Code 1982, § 19.07(3))

Sec. 54-144. Responsibility for costs and expenses; indemnification.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town and the district from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Code 1982, § 19.07(4))

Sec. 54-145. Use of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found on examination and test by the plumbing inspector to meet all requirements of this division.

(Code 1982, § 19.07(5))

Sec. 54-146. Foundation drainage systems.

In all buildings where a foundation drainage system is provided and there is no natural drain for this subsurface water to drain into, the owner shall provide or build a suitable pit, minimum size 15 inches diameter by 30 inches deep, to collect all water that may enter the foundation drainage system; also he shall install, operate and maintain a sump pump, cellar drainer or some suitable pump and he shall pump this foundation water to a storm sewer or outside the building to a natural drain, or discharge water at least 15 feet from the foundation wall of the building. No person shall connect any foundation drainage system to the sanitary sewer system or willfully allow any sump pit to overflow into the basement floor drain that is connected to the sanitary sewer.

(Code 1982, § 19.07(6))

Sec. 54-147. Installation of building sewer.

The building sewer shall be installed in accordance with the applicable provisions of the Wisconsin Administrative Code.

(Code 1982, § 19.06(7))

Sec. 54-148. Excavations; pipe laying and backfilling.

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the plumbing inspector. Pipelaying and backfill shall be performed in accordance with regulations as set forth in the plumbing code, and no backfill shall be replaced until the work has been inspected.

(Code 1982, § 19.06(8))

Sec. 54-149. Joints and connections to be gastight and watertight.

All joints and connections made in laying sewer and drain pipes shall be made gastight and watertight.

(Code 1982, § 19.06(9))

Sec. 54-150. Building drains too low to permit gravity flow.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer at the expense of the building owner.

(Code 1982, § 19.06(10))

Sec. 54-151. Connection to public sewer.

The connection of the building sewer into the public sewer shall be made at the "Y" branch. If no suitable "Y" branch is available, a neat hole may be cut into the public sewer to receive the building sewer with entry in the downstream direction at any angle of about 45 degrees. Pipes shall always be tapped on the top, and not within six inches of the joint or within 24 inches of another lateral connection. A 45-degree ell may be used to make such connection, with the spigot and cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight. Special connections may be used for the connection only when approved by the plumbing inspector. If the public sewer is broken or damaged in any manner by making a connection, the owner shall replace all damaged pipe in the public sewer at his expense.

(Code 1982, § 19.07(11))

Sec. 54-152. Excavations and repairs.

When opening any street surface or other public way, such work shall be done in conformity with the requirements of the governmental body with jurisdiction over such street or right-of-way. In making excavations in streets or highways for laying service pipe or to make repairs, the paving and earth removed shall be deposited in a manner that will occasion the least inconvenience to the public. No person shall leave any such excavation made in any street or highway open at any time without proper barricades; and during the night, warning lights shall be maintained at such excavations. In refilling the opening, after the service pipes are laid, the backfill shall be laid in layers of not more than nine inches in depth, and each layer thoroughly compacted to prevent settling. This work, together with the replacing of sidewalks, ballast and paving, shall be done so as to make the street as good, at least, as before it was disturbed, and satisfactory to the plumbing inspector.

(Code 1982, § 19.07(12))

Sec. 54-153. Tapping or connection to sewerage system; information furnished plumbers.

No person, except plumbers licensed by the state, shall be permitted to tap or make any connection with the sanitary sewerage system or any part thereof. Such information as the plumbing inspector, the superintendent, the commission of the district or its engineer may have with regard to the location of sewer junctions or slants will be furnished to plumbers, but neither the town nor the district shall assume any risk as to the accuracy of the information.

(Code 1982, § 19.07(13))

Sec. 54-154. Maintenance of water and drain pipes.

All owners shall keep their water and drain pipes in good repair and protected from frost, at their own risk and expense, and shall prevent any unnecessary overburdening of the sewer system. All expenses relating to the connection to the sewer system shall be paid by the applicant.

(Code 1982, § 19.07(14))

Sec. 54-155. Lateral connections prohibited.

No owner shall allow others or other services to connect to the sewer system through his lateral.

(Code 1982, § 19.07(15))

Sec. 54-156. Access for purpose of inspection.

Every owner or user shall permit the town and the district or their authorized agents, at all reasonable hours 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.

(Code 1982, § 19.07(16))

Sec. 54-157. Town not liable for damages; right to cut off service.

It is expressly stipulated that no claim shall be made against the town or the district by reason of the breaking, clogging, stoppage or freezing of any sewer pipe; 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 purposes, any permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the sewer service, the district shall, if practicable, give notice to each and every owner or user affected by it.
(Code 1982, § 19.07(17))

Secs. 54-158—54-180. Reserved.

Subdivision IV. Sanitary Sewer System Use Regulations

Sec. 54-181. Sewer discharge restrictions.

No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage or cooling water to any sanitary sewer. Stormwater runoff from limited areas, which may be polluted at times, may be discharged to the sanitary sewers by permission of the approving authority.
(Code 1982, § 19.08(1))

Sec. 54-182. Prohibited discharges.

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

- (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids or gasses in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment or sludge disposal process, constitute a hazard to humans or animals or create a public nuisance in the receiving waters of the wastewater treatment facility.
- (3) Any waters or wastes having a pH lower than 6 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater collection and treatment facilities.
- (4) Any waters or wastes having a pH in excess of 9.0.
- (5) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in public sewers or other interference with the proper operation of the wastewater, collection and treatment facilities, such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags,

feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

- (6) The following described substances, materials, waters or waste shall be limited in discharges to the sanitary sewer systems to concentrations or quantities which will not harm either the sanitary sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limbs, public property or constitute a nuisance. The commission of the district may set limitations lower than the limitations established in this division if, in its opinion, such more severe limitations are necessary to meet the objectives in this subsection. In forming its opinion as to the acceptability, the commission of the district will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sanitary sewers, the wastewater treatment process employed, capacity of the waste in the wastewater treatment facility and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewers which shall not be violated without approval of the commission of the district are as follows:

- a. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- b. Wastewater containing more than 25 mg/l of petroleum oil, nonbiodegradable cutting oils or products of mineral oil origin.
- c. Wastewater from industrial plants containing floatable oils, fat or grease.
- d. Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- e. Any waters or wastes containing iron, chromium, copper, zinc and other toxic and nonconventional pollutants to such degree that any such material received in the composite wastewater in concentrations that exceed levels specified by federal, state or local authorities.
- f. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the approving authority.
- g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the approving authority in compliance with applicable state or federal regulations.
- h. Any waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater

treatment facility effluent cannot meet the requirements of other agencies having jurisdiction over discharge of the receiving waters.

- i. Any water or wastes which, by interaction with other water or wastes in the sanitary sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.
 - j. Materials which exert or cause:
 - 1. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility.
 - 2. Unusual volume of flow or concentration of wastes constituting "slugs" as defined in this division.
 - 3. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium sulfate).
 - 4. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
- (7) Incompatible pollutants in excess of the allowed limits as determined by town, state, and federal rules and regulations in reference to pretreatment standards developed by the Environmental Protection Agency, 40 CFR 403.

(Code 1982, § 19.08(2))

Sec. 54-183. Review and approval for certain waters and waste; pretreatment facilities.

The admission into the public sanitary sewers of any waters or wastes having a five-day BOD greater than 200 parts per million by weight, containing more than 250 parts per million by weight of suspended solids, containing any quantity of substances having the characteristics described in section 54-182 in or having an average daily flow greater than two percent of the average daily sewage flow of the district, shall be subject to the review and approval of the superintendent. Where necessary in the opinion of the superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the BOD to 200 parts per million by weight, reduce objectionable characteristics or constituents to within the maximum provided for in this section or control the quantities and rates of discharge of such waters or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval to the state department of natural resources and the commission of the district. No construction of such facilities shall be commenced until such approvals are obtained in writing.

(Code 1982, § 19.08(3))

Sec. 54-184. Maintenance of pretreatment facilities.

Where preliminary treatment facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
(Code 1982, § 19.08(4))

Sec. 54-185. Control manhole.

When required by the superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
(Code 1982, § 19.08(5))

Sec. 54-186. Special agreements.

No statement contained in this section shall be construed as preventing any special agreement or arrangement between the town or the district and any concern whereby an industrial waste of unusual strength or character may be accepted by the town or the district for treatment, subject to payment therefor by the industrial concern.
(Code 1982, § 19.08(6))

Secs. 54-187—54-210. Reserved.

Subdivision V. Rates, Charges, Billing Procedures

Sec. 54-211. Purpose; use of proceeds.

It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the town and the district to provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance (including replacement) and the establishment of adequate cash reserves by levying upon and collecting from all lands, lots and premises served by having connections with the sewer system of the district or where connection to the sewer system of the district is available monthly sewerage service charges. The proceeds of such charges shall be used and set aside to provide for debt service, operation and maintenance (including replacement). Such sewerage service charges shall be so established so as to proportionately allocate the costs of operation and maintenance (including replacement) to each user class. In allocating such costs, factors such as strength, volume and delivery flow rate characteristics shall be utilized in determining the waste load contribution from each user class.
(Code 1982, § 19.09(1))

Sec. 54-212. Assessment of sewer service charge.

There is levied and assessed upon each lot, parcel of land or premises having any sewer connection with the sanitary sewer system of the district or for which sewer connection is available, a monthly sewer service charge as set forth below, payable on or before April 30, July 31, October 31 and January 31 of each year. In addition to the charge, rental or rate of service, a further charge of ten percent shall be added thereto in each case of failure to make a timely payment. In each case, such charges shall be collected by the clerk-treasurer on behalf of the district. Each charge levied pursuant hereto is hereby made a lien upon the lot, land or premises served by the sewerage system of the district and additions thereto pursuant to law and shall be collected pursuant to Wis. Stat. § 66.0821, if not paid.

(Code 1982, § 19.09(2); Ord. No. 2013-01, § 1, 1-28-2013)

Sec. 54-213. Basis for assessments.

METHOD OF DETERMINATION. Customers in the town shall be billed quarterly, in an amount sufficient to provide adequate revenues for the purposes set forth above in Section 54-211. Residential and unmetered customers shall be billed at a flat rate based on the user classification set forth below. Metered customers shall be billed a volumetric charge based on meter readings with a minimum charge of two times the total residential user charge applicable to a single-family dwelling. Pollutant surcharges shall be passed on directly to the specific user.

- (a) Category A. Category A includes sanitary sewer users who discharge normal domestic strength wastewater with concentrations of biochemical oxygen demand (BOD) no greater than 200 mg/l, suspended solids no greater than 250 mg/l, phosphorus no greater than 10 mg/l, or chlorides no greater than 450 mg/l. The sewer service charge for category A wastewater shall be determined by resolution of the Town Board, from time to time.
- (b) Category B. Category B includes sanitary sewer users who discharge wastewater with concentrations in excess of 200 mg/l of BOD, 250 mg/l of suspended solids, 10 mg/l of phosphorus, or chlorides greater than 450 mg/l. Users whose wastewater exceeds the concentrations for any one of these parameters shall be in category B. The sewer service charge for category B wastewater, as well as the amount of surcharges to be imposed by the Utility to cover the cost of treating exceedances, shall be determined by resolution of the Town Board, from time to time.

(Code 1982, § 19.09(3))

Sec. 54-214. Replacement charges.

All sewerage service charges specifically collected for replacement shall be deposited and maintained in a separate and distinct fund and shall be used exclusively for replacement as defined in Wis. Admin. Code § NR 128.03(18).

(Code 1982, § 19.09(4))

Sec. 54-215. Charges for increased costs in managing certain pollutants.

If a user discharges any toxic pollutant into the district's sewer system which cause an increase in the cost of managing the effluent or sludge of the district's treatment works, such user's sewerage service charges shall be adjusted to charge such user for such increased costs.

(Code 1982, § 19.09(5))

Sec. 54-216. Notification of charges attributable to wastewater treatment service.

The district shall notify each user at least annually, in conjunction with a regular billing, of the sewerage service charges and the portion of such charges attributable to wastewater treatment services.

(Code 1982, § 19.09(6))

Sec. 54-217. Amendments or changes in charges; adjustments.

The sewer service charge fixed in this subdivision shall be subject to amendment or change from time to time by amending this section. At least biennially, the district shall review the wastewater contributions of its users and adjust the sewerage service charges to recover the actual costs of debt service, operation and maintenance, including replacement. The district shall apply any excess revenues collected from a class of users for operation and maintenance (including replacement) to the costs of operation and maintenance (including replacement) attributable to that class for the next year and adjust the charges accordingly.

(Code 1982, § 19.09(7))

Sec. 54-218. Sewerage connection charge.

There shall be paid to the district and collected by the clerk-treasurer on each lot, parcel of land or premises on which a unit or connection charge shall not have been assessed or paid prior to the time that a permit for and connection is made to the sanitary sewerage system of the district a unit connection charge as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution each unit determined and attributed to such connection as provided in section 54-213; provided, however, if the land was previously assessed or otherwise charged an acreage assessment, the unit connection charge shall be as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution. No such permit or connection shall be made to the sanitary sewer system until such unit connection charge is first so paid in full or levied and assessed. The property owner shall install the building sewer from the building to the street lateral at his own expense. In no case shall the property owner deduct the cost of the building sewer from the connection charge.

(Code 1982, § 19.10)

Sec. 54-219. Additional connection charge.

To allocate costs of sewer extensions and connections among the various users in the district in a fair and equitable manner, the following shall apply:

- (1) *Property previously subjected to acreage assessment.* The owner or developer shall pay the cost of sewer extensions reasonably required to provide sewer service to the parcel to be serviced, including internal sewer lines within the development. A connection charge for each unit for the proposed building as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be paid by the owner. The user charge will be determined in accordance with the user charge provisions of this division.
- (2) *Property not previously subject to acreage assessment.* The owner or developer shall pay the cost of sewer extension reasonably required to provide sewer service to the parcel to be serviced, including internal sewer lines within the development. A connection charge for each unit for the proposed building as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be paid by the owner. The user charge will be determined in accordance with the user charge provisions of this division.
- (3) *Nonresidential property not previously subjected to an acreage assessment.* The owner or developer shall pay the cost of sewer extension reasonably required to provide sewer service to the parcel to be serviced, including internal sewer lines within the development. A connection charge of \$3,000.00 for each unit for the proposed building shall be paid by the owner. The user charge will be determined in accordance with the user charge provisions of this division.

(Code 1982, § 19.11)

Sec. 54-220. Maintenance of services.

The public sewer services of the district from the street main to the property line and including all controls between the street main and the property line shall be maintained by the district without expense to the property owner, except when they are damaged as a result of negligence or carelessness on the part of the property owner, a tenant or an agent of the owner, in which case they will be repaired at the expense of the property owner. All sewer services from the point of maintenance by the district to and throughout the premises shall be maintained free of defective conditions by and at the expense of the owner or occupant of the property.

(Code 1982, § 19.12)

Sec. 54-221. Payment of charges.

- (a) Every reasonable care will be exercised in the proper delivery of sewer service charge bills. Failure to receive a bill, however, shall not relieve any person of the responsibility for payment of sewer service charges within the prescribed period, or exempt any person from any penalty imposed for delinquency in the payment of such charges.
- (b) The property owner is held responsible for all sewer service charge bills on premises that he owns. All sewer service charge bills and notices of any nature, relative to the sewer service, will be addressed to the owner and delivered to the premises referred to on such bill or notice.

(Code 1982, § 19.13)

Sec. 54-222. Vacating of premises and discontinuance of service.

Whenever premises served by the system are to be vacated, or whenever any person desires to discontinue service from the system, the district shall be notified in writing. The owner of the premises shall be liable for any damage to the property of the system by reason of failure to notify the district of a vacancy or any such damage which may be discovered having occurred to the property of the district other than through the fault of the district or its employees, representatives or agents.

(Code 1982, § 19.14)

Sec. 54-223. Charges to be lien on property.

All sewer service charges, rates and special assessments shall be a lien on a lot, part of a lot or land on which sewer services were supplied as provided in the state statutes. All sums which have accrued during the preceding year and which are unpaid by October 1 of any year, shall be certified to the clerk-treasurer to be placed on the tax roll for collection as provided by the state statutes.

(Code 1982, § 19.15)

Secs. 54-224—54-250. Reserved.

Article III. Water System

Sec. 54-251. Purpose.

The purpose of this article is to establish rules and regulations to promote and preserve the public health, safety and welfare within the town and to establish rules and regulations for Water Utility District No. 1 of the town.

(Code 1982, § 20.01)

Sec. 54-252. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approving authority means the commission of the district or its duly authorized deputy, agent or representative.

Commission of the district means the duly appointed commission of the district.

District means Water Utility District No. 1 of the town and all present and future additions thereto.

Plumbing inspector means the plumbing inspector appointed by the town.

Superintendent means the superintendent of the district or his authorized deputy, agent or representative.

Water works means all facilities for acquiring, pumping, treating, transportation and distribution of water.

(Code 1982, § 20.02)

Cross reference— Definitions generally, § 1-2.

Sec. 54-253. Adoption of state plumbing code and statutes.

- (a) The provisions of the state plumbing code, Wis. Admin. Code chs. Comm 81—86, of the state department of commerce, and all amendments and additions thereto, in effect at any time hereafter, are incorporated herein by reference with the same force and effect as though set forth at length; provided, however, if there shall be any conflict between the provisions of these sections or other ordinances of the town and this Code, at any time, that provision shall govern which requires the maximum of compliance or is more restrictive, unless otherwise provided by applicable law. The provisions thereof and of this article shall govern all plumbing as therein defined and no plumbing shall be installed except in accordance with this Code.
- (b) The provisions of Wis. Stat. § 145.06 are incorporated herein by reference as though set forth in length, provided that all plumbing work done with respect to connecting any building whether commercial, residential, industrial or otherwise to the water system of the district shall be done under the direction of a master plumber, duly licensed by the state department of commerce or such other department with jurisdiction over licensing of plumbers.

(Code 1982, § 20.03)

Sec. 54-254. User rules and regulations.

The rules, regulations and charges of the district set forth in this article shall be considered a part of the contract with every person who is connected with the water system to the district, and every such person by connecting with the water system shall be considered as expressing his assent to be bound thereby. Whenever any of the rules and regulations of the district are violated, the service for the building or place of such violation may be terminated pursuant to applicable rules and regulations of the applicable administrative agency of the state, if any. A violator shall also be subject to any penalties provided by law or in these rules and regulations. The right is reserved to (i) the town board and the commission of the district to change the rules, regulations from time to time as they may deem advisable; and (ii) to the public service commission to change the rules and regulations and water rates from time to time.

(Code 1982, § 20.04)

Sec. 54-255. Use of public water required.

The owner of all houses, buildings or properties used for human habitation, occupancy, employment, recreation, business or any other purposes, situated within the district and abutting on any street, alley, right-of-way or easement in which a public water main or line is located, or in which the extension of the public water may be deemed feasible by the commission of the district, is hereby required, at his expense, to connect any such building or facility which is within

300 feet of the public water main or line to such main or line within six months after date of written notice from the district that the public water is available.

(Code 1982, § 20.05)

Sec. 54-256. Connections and standards.

- (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public water main or line or appurtenance thereof without first obtaining a written permit from the plumbing inspector.
- (b) Any water service lateral shall be installed in accordance with the applicable provisions of the Wisconsin Administrative Code.
- (c) When opening any street surface or other public way, such work shall be done in conformity with the requirements of the governmental body with jurisdiction over such street or right-of-way. In making excavations in streets or highways for laying service pipe or to make repairs, the paving and earth removed shall be deposited in a manner that will occasion the least inconvenience to the public. No person shall leave any such excavation made in any street or highway open at any time without proper barricades; and during the night, warning lights shall be maintained at such excavations. In refilling the opening after the service pipes are laid, the backfill shall be laid in layers of not more than nine inches in depth, and each layer thoroughly compacted to prevent settling. Any this work, together with the replacing of sidewalks, ballast and paving, shall be done so as to make the street as good, at least, as before it was disturbed, and satisfactory to the plumbing inspector.
- (d) No person, except plumbers licensed by the state, shall be permitted to tap or make any connection with the district's water system or any part thereof. Such information as the plumbing inspector, the superintendent, the commission of the district or its engineer may have with regard to the location of water mains, lines and laterals shall be furnished to plumbers, but neither the town nor the district shall assume any risk as to the accuracy of the information.
- (e) All owners shall keep their water pipes in good repair and protected from frost, at their own risk and expense. All expenses relating to the connection to the water system shall be paid by the applicant.
- (f) No owner shall allow others or other services to connect to the water system through his service lateral or otherwise without the approval of the district.
- (g) Every owner or user shall permit the town and the district or their authorized agents, at all reasonable hours of the day, to enter their premises or building to examine the pipes and fixtures, and the manner in which the water connections operate; and they must at all times, frankly and without concealment, answer all questions put to them relative to its use.
- (h) No claim shall be made against the town or the district by reason of the breaking, stoppage or freezing of any water pipe; nor from any damage arising from repairing mains, lines and laterals, 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 purposes, any permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the water service, the district shall, if practicable, give notice to each and every owner or user affected by it.

(Code 1982, § 20.06)

Sec. 54-257. Water service charges.

The users of district water service shall be subject to and charged such rates as shall be established from time to time by the state public service commission or such other agency as shall have jurisdiction to establish such rates. Such charges shall be billed quarterly.

(Code 1982, § 20.07)

Sec. 54-258. Rules and regulations of public service commission.

The rules and regulations established from time to time by the state public service commission for the district shall be applicable to the district and its users and are incorporated herein by reference.

(Code 1982, § 20.08)

Sec. 54-259. Payment of charges.

- (a) Every reasonable care will be exercised in the proper delivery of water service charge bills. Failure to receive a bill, however, shall not relieve any person of the responsibility for payment of water service charges within the prescribed period, or exempt any person from any penalty imposed for delinquency in the payment thereof.
- (b) The property owner is held responsible for all water service charge bills on premises that he owns. All water service charge bills and notices of any nature, relative to the water service, shall be addressed to the owner and delivered to the premises referred to on such bill or notice.

(Code 1982, § 20.09)

Sec. 54-260. Charges to be lien on property.

All water service charges, rates and special assessments shall be a lien on a lot, part of a lot or land on which water services were supplied as provided in the state statutes. All sums which have accrued during the preceding year and which are unpaid by October 1 of any year, shall be certified to the clerk-treasurer to be placed on the tax roll for collection as provided by the state statutes.

(Code 1982, § 20.10)

Sec. 54-261. Injury to water system.

No person shall willfully injure the public water system or any building, machinery or fixture pertaining thereto, or to willfully and without authority of the district bore or otherwise cause to

leak any tunnel, aqueduct, main, line, pipe or other thing used in the system for holding, conveying or distributing water.
(Code 1982, § 20.11)

Sec. 54-262. Damage recovery.

The district shall have the right of recovery from all persons, any expense incurred by the district for the repair or replacement of any water main, line or appurtenance damaged in any manner by any person by the performance of any work under their control or by any negligent act.
(Code 1982, § 20.12)

Secs. 54-263—54-273. Reserved.

Article IV. Stormwater Utility

Sec. 54-274. Purpose and necessity.

The town board does hereby find that the management of stormwater and other surface water discharges to bodies of water within the town is a matter that affects the public health, safety and welfare of the town, its citizens and businesses.

Surface water runoff may cause erosion of lands, threaten residences and businesses with water damage, and create environmental damage to the rivers, streams and other bodies of water within the town.

A system for the collection, conveyance and disposal of stormwater provides services to all properties within the town including those properties that are exempt by law from taxation.

The cost of operating and maintaining the town's stormwater management system and financing necessary repairs, replacements, improvements, and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the system.

Failure to effectively manage stormwater affects the operations of the town sanitary sewer utility by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system.

In order to protect the health, safety and welfare of the public, the town board hereby exercises its authority to establish a stormwater utility and establish the rates for stormwater management services.

By adopting and publishing as required by law the regulations contained in this chapter, the town board is acting pursuant to authority granted by Wis. Stat. chs. 60 and 66.
(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-275. Authority.

The town board, acting through the stormwater utility, may acquire, construct, lease, own, operate, maintain, improve, modify, extend, expand, replace, clean, dredge, repair, conduct and manage programs, finance, borrow monies, assess and/or levy fees for such facilities, operations, and activities, as are deemed by the town board to be proper and reasonably necessary for a system of storm and surface water management and to obtain compliance with applicable local, state and federal stormwater management requirements with which the town must comply. Neither the town, nor the stormwater utility, shall exercise authority with respect to stormwater matters affecting only private property interests, except where otherwise permitted by law.

(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-276. Establishment of stormwater utility.

In order to protect the health, safety, and welfare of the public, the town board is exercising its authority to establish a townwide utility known as the "Yorkville Storm Water Utility" and set the rates for stormwater management services.

(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-277. Establishment of Yorkville Storm Water Commission.

- (a) There is hereby established a stormwater commission in the Town of Yorkville which shall be designated as the "Yorkville Storm Water Commission." The commission shall consist of five town residents, serving at the pleasure of the town board, one town board member and one plan commission member. The town residents shall be appointed for staggered five-year terms by the town board, with each term commencing May 1. Initially, the terms of the various town resident committee members shall be staggered so that one term shall expire each year. The town board shall annually appoint the town board and plan commission members to serve on the commission, with said appointments being made by the end of May.

(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-278. Powers and duties of utility.

- (a) *Facilities.* The town, through the stormwater utility, shall exercise authority with respect to stormwater facilities. Facilities may include, without limitation due to enumeration, surface and underground drainage facilities, inlets, manholes, catch basins, sewers, channels, watercourses, retaining walls, ponds, detention and retention basins, infiltration facilities, streets, roads, curbs, gutters, ditches and such other facilities as will support a stormwater management system.
- (b) *Rates and charges.* The town, through the stormwater utility, may establish such charges as are necessary to finance planning, design, construction, maintenance, and operation of the facilities and to conduct necessary stormwater programs and activities in accordance with the procedures set forth in this article. Any expenditure of funds shall be consistent with the approved budget, and shall require the approval of the town board. The bases for charges imposed under the ordinance are set forth in the "Town of

Yorkville Storm Water Utility Creation and Rate Structure Study," dated July 11, 2011 and incorporated herein by reference.

- (c) *Budgeting process.* The town through the stormwater utility shall prepare an annual budget, which is to include all capital, operation and maintenance costs, extension and replacement costs, regulatory compliance costs, debt service, and other costs related to the operation of the stormwater utility.
- (d) *Excess revenues.* The town will retain any excess of revenues over expenditures in a year in a segregated stormwater enterprise fund which shall be used exclusively for purposes consistent with this article.

(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-279. Definitions.

Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary. The word "shall" is mandatory and the word "may" is permissive.

- (a) *Base charge* means a uniform charge established by the town board to be imposed on all parcels within the town to defray a portion of the costs of the stormwater utility which may include, but not be limited to, capital, operating and maintenance costs, extension and replacement costs, regulatory compliance costs, and stormwater related public education expenses.
- (b) *Condominium* means property subject to a condominium declaration established under Wis. Stat. ch. 703.
- (c) *Cubic feet per second (cfs)* means a standard unit of measurement for flow. When applied to stormwater runoff calculations it means the rate at which stormwater leaves a parcel, drainage basin or watershed.
- (d) *Developed property* means real property which has been altered from its natural state by the addition of any improvements, such as buildings, structures or impervious surfaces.
- (e) *Duplex* means a residential space containing two dwelling units.
- (f) *Dwelling unit* means one or more rooms that are arranged, designed, or used as living quarters for occupancy by a single-family unit or as classified by the Racine County Zoning Code. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.
- (g) *Equivalent runoff unit (ERU) charge* means the charge established by the town board on all parcels within the town, tax-exempt or not, to defray, in part, the costs of the stormwater utility which may include, but not be limited to, capital, operating and maintenance costs, extension and replacement costs, regulatory compliance costs and stormwater related public education expenses. The ERU charge is determined utilizing a methodology that is based on each parcel's gross area, intensity of development, and

modeling established by the National Resources Conservation Service and set forth in Technical Release 55 ("TR-55").

- (h) *Geographic information system (GIS)* is any system that captures, stores, analyzes, manages, and presents groups of data that are linked to a specific location.
- (i) *Impervious area or impervious surface* means a relatively horizontal or semi-horizontal surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes, but is not limited to, semi-impervious surfaces such as compacted clay and gravel as well as streets, roofs, sidewalks, patios, parking lots, driveways and other similar surfaces.
- (j) *Life cycle replacement cost* means the sum of all recurring and one-time (non-recurring) costs over the full life span, or a specified period, of a good, service, structure, or system. It includes purchase price, installation cost, operating costs, maintenance and replacement cost. For example, if a 30-inch reinforced concrete storm sewer has a useful design life of 40 years, $1/40^{\text{th}}$ of its original installed cost should be collected every year for 40 years in order to have sufficient funds available to replace it at the end of its life span. (This scenario assumes inflation rates = savings interest rates.)
- (k) *Lot* means a parcel of land having a width and depth sufficient for one principal building and its accessory building together with open spaces required by the town's subdivision ordinance and abutting a public street or access easement.
- (l) *Multifamily residential* means a residential space consisting of three or more dwelling units.
- (m) *Nonresidential property* means any developed lot or parcel not exclusively residential property as defined herein, including, but not limited to, transient rentals (such as hotels and motels), mobile home parks, commercial, industrial, institutional, governmental property, and parking lots.
- (n) *100-year storm* is an event of the magnitude that has a one percent chance of occurrence in any given year (also called a "1-in-100 chance storm event"). A 100-year storm event in the Town of Yorkville equals 5.88 inches of rainfall in any given 24-hour period.
- (o) *Percent of impervious coverage* means the total coverage by impervious surfaces in an area, such as a parcel or watershed, usually expressed as a percentage of the total land mass.
- (p) *Property owner* includes, but is not limited to, natural persons, partnerships, corporations, limited liability companies, limited liability partnerships, joint ventures, and all other legal entities of any kind or nature.
- (q) *Residential property* means any parcel of land developed exclusively for residential purposes including, but not limited to, single-family homes, manufactured homes, duplex units, multifamily apartment and condominium units, but not including transient rentals (such as hotels and motels).

- (r) *Runoff* means "stormwater runoff" which is a term used to describe water that originates during precipitation events. It may also be used to apply to water that originates with snowmelt or runoff water from overwatering that enters a stormwater system. Stormwater runoff does not soak into the ground, therefore becoming surface runoff, which either flows directly into surface waterways or is channeled into storm sewers, which eventually discharge to surface waters.
- (s) *Runoff curve numbers (CN)* (also called a curve number) is an empirical parameter used in hydrology for predicting the amount of direct runoff or infiltration from a rainfall event. The runoff curve number is based on the area's hydrologic soil group, land use treatment and hydrologic condition. It is widely used and is an efficient method for determining the approximate amount of direct runoff from a rainfall event in a particular area.
- (t) *Runoff coefficient* means the ratio of the amount of water that is not absorbed by the surface to the total amount of water that falls during a rainstorm.
- (u) *Single-family home* means any residential property consisting of a single dwelling unit.
- (v) *Stormwater management program* means activities required to control stormwater runoff to protect the health, safety, and welfare of the public, and to comply with state and federal regulations. It includes construction and maintenance of physical infrastructure as well as development, implementation and management of policies, procedures and programs necessary for regulatory compliance. It includes, but is not limited to, street sweeping, erosion control, stormwater basin improvements and maintenance, culvert and storm sewer maintenance, stormwater testing, stormwater management planning and related public education.
- (w) *Stormwater system* means the system of streets, curbs, gutters, berms, swales, detention and retention ponds or basins, infiltration basins, pipes, outfalls, inlets, and other components of infrastructure owned and/or maintained by the municipality for the purpose of managing, gathering, transmitting, treating or conveying stormwater. This term includes tributaries, creeks, rivers, canals, and streams.
- (x) *Stormwater utility* means the utility established under this article for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.
- (y) *Technical Release 55 (TR-55)* presents simplified procedures to calculate storm runoff volume, peak rate of discharge, hydrographs, and storage volumes required for floodwater reservoirs. These procedures were developed by the USDA Soil Conservation Service (SCS) and are applicable to small watersheds.
- (z) *Time of concentration (T_c)* is a concept used in hydrology to measure the response of a watershed to a rainfall event. It is defined as the time needed for water to flow from the most remote point in a watershed to the watershed outlet. It is a function of the topography, geology, and land use within the watershed.
- (aa) *Town* means the Town of Yorkville, Racine County, Wisconsin.
- (bb) *Town board* means the town board of the Town of Yorkville, Racine County, Wisconsin or designee.

- (cc) *2-year storm* is an event of the magnitude that has a 50-percent chance of occurrence in any given year (also called a "50-in-100 chance storm event"). A 2-year storm event in the Town of Yorkville equals 2.57 inches of rainfall in any given 24-hour period.
- (dd) *Undeveloped property* means any real property with no artificial impervious area, but due to surface area, soil type, topography and natural imperviousness, generates runoff and has an impact on the town's stormwater drainage system.
- (ee) *Watershed* means an area of land that drains downslope to a single low point with water moving through a network of drainage pathways, both underground and on the surface. The pathways generally converge into streams and rivers, which become progressively larger as the water moves on downstream, eventually reaching an estuary and the ocean. Other terms used interchangeably with watershed include drainage basin or catchment basin.

(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-280. Utility rates and charges.

- (a) By this article, the town is establishing the basis for the rates that will be used to calculate and impose charges upon each parcel within the town for services and facilities provided by the town board consistent with this article.
- (b) The actual rate of charges to be imposed and any future changes in those rates for each customer classification shall be made by resolution. All rates established pursuant to this article shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the town clerk.
- (c) Charges shall be imposed to recover all or a portion of the costs incurred by the town for stormwater management purposes. Such charges may include the following components:
 - (1) *Base charge.* A base charge may be imposed on all parcels in the town. The base charge is established in recognition of the fact that all properties in the town receive services from the stormwater management activities of the town and that all properties contribute to some degree to the stormwater discharge that must be managed by the town.
 - (2) *Equivalent runoff unit (ERU) charge.* The ERU charge shall be assessed for each parcel in the town based upon the town engineer's methodology that incorporates the use of gross area, intensity of development and modeling established by the National Resources Conservation Service and set forth in Technical Release 55 ("TR-55"). The town engineer shall prepare a list of all parcels within the town, utilizing the statutory land use classification(s) for each parcel as determined by the town assessor or State Department of Revenue. The ERU charge shall be updated by the town engineer based on any additions to the impervious area as approved through the building permit process, as well as changes in land use classifications as determined by the town assessor or State Department of Revenue.

(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-281. Land use classifications.

- (a) For purposes of imposing one or more of stormwater utility charges, all lots, parcels or portions thereof within the town are classified into the following classes:
 - (1) Residential lots with an area of less than one acre.
 - (2) Residential lots with an area of one acre or more.
 - (3) Agricultural - Crop land.
 - (4) Agricultural - Improved.
 - (5) Commercial.
 - (6) Manufacturing.
 - (7) Forest land.
 - (8) Parkland.
 - (9) Municipal/institutional.
 - (10) Railroad.
- (b) The town board may make such other classifications in accordance with this article as will be likely to provide reasonable and fair distribution of the costs of the stormwater utility.
(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-282. Billing and payment.

Stormwater charges at the rate set annually by resolution of the town board, shall be billed to the owners of each parcel within the Yorkville Storm Water Utility at the same time and in the same manner as the town tax bill, as a charge for stormwater services. The full stormwater charge shall be due with the first tax installment. Alternatively, stormwater charges may be levied and collected as a special charge against property in the town, under Wis. Stat. § 66.0627 and as provided in this section. The mailing of the bill containing the stormwater charges shall serve as notice to the property owner that failure to pay the stormwater charges when due may result in the fee being levied, imposed and collected as a special charge, pursuant to the procedures set forth in Wis. Stat. § 66.0627.
(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-283. Lien.

All stormwater charges shall be a lien upon the property, as provided in Wis. Stat. § 66.0809.
(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-284. Credits and adjustments.

- (a) *Credit policy.* The town board shall utilize the following provisions in considering any request for a stormwater charge credit:
- (1) No credit shall be given for the installation of stormwater management facilities required by the town, Racine County, or state stormwater regulations.
 - (2) No credit shall be considered for structural or nonstructural best management practices that are required in order to comply with town or county ordinance or state statute or regulation.
 - (3) No credits shall be considered for any "natural" features such as, but not limited to, wetlands, lakes and floodplains or water impoundment of any kind in existence prior to passage of this section.
 - (4) The town board may, in its sole discretion, extend a credit in other situations that warrant relief from the stormwater ERU charge (e.g., where a property owner installs a stormwater facility that provides a regional benefit).
 - (5) The base charge is not eligible for credit or adjustment.
- (b) *Adjustment of fees and appeal procedure.*
- (1) The town elects not to be subject to the administrative review provisions contained in Wis. Stat. ch. 68, except as set forth below, and establishes the following as a complete and final review procedure. Appeals shall be limited to a determination of the ERU charge or ERU credits made for nonresidential properties. There shall be no right of appeal as to the underlying findings and necessity of this article or the ERU charge as applied to the following classifications:
 - a. Residential lots with an area of less than one acre.
 - b. Residential lots with an area of one acre or more.
 - c. Agricultural - Crop land.
 - d. Agricultural - Improved.
 - (2) Requests for adjustment. Requests for adjustment of the ERU Charge, including requests for stormwater charge credits, shall be submitted to the Yorkville Storm Water Commission, which is hereby given the authority to develop and administer the procedures and standards for the adjustment of fees as established herein. All requests shall be judged on the basis of the amount of impervious area on the site, and other criteria deemed relevant by the town engineer. The commission shall not have the authority to revise a property's classification of uses as established by the town assessor, but shall alert the assessor where it appears there is merit to a property owner's complaint on the basis of classification.

- a. Any property owner who has paid a stormwater ERU charge and believes the charge to be incorrect, may, within 60 days of the timely payment of such charge and subject to the limitations set forth in this section, submit an adjustment request to the commission. To defray the town's costs for reviewing the request, an adjustment review fee may be imposed and collected from an applicant in such amount, if any, as is set periodically by resolution of the town board.
- b. Adjustment requests shall be in writing and set forth in detail, the grounds upon which relief is sought.
- c. The property owner requesting the adjustments may be required, at his/her own expense, to provide supplemental information to the commission, including, but not limited to, survey data prepared by a registered land surveyor (R.L.S.) and engineering reports prepared by a professional engineer (P.E.). Failure to provide such information may result in the denial of the adjustments request.
- d. The commission shall issue a written determination as to whether the request for adjustment shall be granted. For adjustments that are granted, a credit shall be applied to the property owner's account. Denials of adjustment requests shall be made, in writing, by the commission.

(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-285. Exemptions.

Public rights-of-way are considered part of the town's stormwater conveyance system and are therefore exempt from stormwater utility charges.

(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-286. Method of appeal.

The town elects not to be subject to the administrative review provisions contained in Wis. Stat. ch. 68, except as set forth below, and establishes the following as a complete and final review procedure. Appeals shall be limited to a determination of the ERU charge or ERU credits made for nonresidential properties. There shall be no right of appeal as to the underlying findings and necessity of this article or the single-family unit charge as applied to any single-family, duplex, residential, multifamily, or residential condominium properties.

- (a) The stormwater utility charge may be appealed as follows:

A written appeal shall be filed with the town clerk prior to the stormwater utility charge due date; or

Within 60 days of payment, a written challenge to the stormwater utility charge must be filed with the town clerk on behalf of the property owner, specifying all bases for the challenge and the amount of the stormwater utility charge the customer asserts is

inappropriate. Failure to file a challenge within 60 days of payment waives all right to later challenge the charge.

- (b) The commission will determine whether the stormwater utility charge is fair and reasonable, or whether a refund is due the property owner. The commission may act with or without a hearing and will inform the property owner in writing of its decision. The commission or its designee may, at its discretion, require access to the property to assist in its determination.
- (c) The property owner has 30 days from the decision of the commission to file a written appeal to the town board.
- (d) In the event of an appeal, the town board shall hold a hearing as provided in Wis. Stat. §§ 68.11(2) and 68.11(3). The town board shall hold such hearing within 30 days of the appeal request, and shall notify the appellant of the hearing date no less than ten days' notice in advance of the hearing. Within 20 days of the hearing and the filing of briefs, if any, the town board shall mail or deliver to the appellant its written final determination, setting forth, in detail, the reasons for its decision.

If the town board or commission determines that a refund is due the property owner, the refund will be applied as a credit on the property owner's next annual billing, or will be refunded at the discretion of the town clerk.

- (e) Public service commission complaint. Notwithstanding the above procedures, any property owner may file a complaint to the public service commission claiming that rates, rules and practices herein are unreasonable or unjustly discriminatory, pursuant to Wis. Stat. § 66.0821(5).

(Ord. No. 2011-02, § 1, 7-11-2011)