

# CHAPTER 9

## UTILITIES

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# UTILITIES

## 9.01 WATER UTILITY MANAGEMENT; PUBLIC WORKS COMMITTEE

See s. 2.09 of this Code.

## 9.02 RULES AND REGULATIONS OF WATER UTILITY

### (1) Compliance with Rules

All persons receiving a water supply from the Middleton Water Utility, or who may make application therefor, shall be considered as having agreed to be bound by the rules and regulations as filed with the Public Service Commission of Wisconsin.

### (2) Establishment of Service

#### (a) Service Applications

Application for the original installation of a supply from a City water main, or for any extension or alteration of any existing supply from the curb line, or within the street property line, shall be filed by the owner of the property or an authorized agent therefor for the approval of the manager of the Water Utility prior to the performance of any such work. If a master plumber, or the owner, makes such application, he or she shall provide, fully and truly, the legal description of the property, the street location, the character of the supply pipe, and the fixtures or appliances to be supplied. (Note particularly any special refrigeration or air conditioning water consuming appliances). The manager is empowered to withhold approval of any application wherein full information of the purpose of such supply is not clearly and fully set forth by the applicant.

#### (b) Service Connections

1. Each applicant for water service shall make application for such service, agreeing to put in the service pipe from the curb line to each piece of water using property existing at that point and owned by him or her where such water is desired, at the expense of such applicant and to commence the payment for such water service when a bill is rendered for the same.
2. No service pipe shall be installed to any lot or parcel of land not being served unless said lot or parcel of land has a frontage on a regularly platted street or public strip in which a cast iron or other long life water main has been laid and unless the water service connection therewith is made between the property lines, extended to the main.
3. The service pipe shall be laid in conformance with City specifications. No division of the water service of any lot or parcel of land shall be made for the extension and independent meterage of the supply to an adjoining lot or parcel of land.
4. No division of a water supply service shall be made at the curb for separate premises having frontage on any street or public service strip whether owned by the same or different parties.
5. All water supplies shall be of undiminished size from the street main to and including the outlet valve of the water meter.
6. Beyond the meter outlet valve the piping shall be sized and proportioned to provide, on all floors, at all times, an ample and equitable distribution of water supply for the greatest probable number of fixtures or appliance units operating

simultaneously, in conformance with the State Plumbing Code.

### **(3) Installation Charges**

(a) Installation of Distribution System and Services

The Water Utility will extend water mains for new customers within the City limits where the cost of extension is to be immediately assessed against the benefitted property owners under procedure set forth under Wis. Stat. s 66.60. Service Connection Assessment. The service assessment shall be based on the actual cost to the City for installation of the service to the property being assessed.

(b) Services from Existing Mains

The Water Utility will install the initial water service lateral from the main through curb cock and box at rates authorized by the Public Service Commission and approved by the Common Council.

(c) Replacement of Service Pipe

In case it is necessary to install a larger service to replace an existing small diameter service pipe, the new service will be installed as authorized by the Public Service Commission and by City ordinance or resolution.

### **(4) Meters**

(a) Installation of Meters

Meters will be furnished and placed by the Water Utility and are not to be disconnected or interfered with by the consumer. All meters shall be so located that they shall be preserved from obstructions and allow easy access thereto for reading and inspection, such location to be designated by the manager. All piping within the building must be supplied by the consumer.

(b) Services Piping for Meter Settings

In installing new service piping, if meters are to be set, the consumer shall, at his or her own expense, provide the proper connections for the meter. A horizontal run of sufficient length complete with necessary valving and connections shall be installed to accommodate the meter. Valves shall be provided on both sides of the meter.

### **(5) Turning on Water**

The water shall not be turned on for a consumer except by a duly authorized employee of the Water Utility. When a plumber has completed a job he or she shall leave the water turned off. This does not prohibit the plumber from testing the work performed.

### **(6) Repairs to Service**

The service pipe from the main to the curb box shall be maintained and kept in repair at the expense of the Water Utility. The consumer shall maintain the service pipe from the curb box to the point of use and shall be billed for any water which has not passed through the meter and has been wasted by leakage of defective pipes and fixtures.

If a consumer fails to repair a leaky or broken service pipe from curb box to point of metering or use within such time as may appear reasonable to the manager of the Water Utility after notification has been served on the consumer by the Manager or his or her designee the water will be shut off and will not be turned on again until the repairs have been completed.

### **(7) Turning on Water**

Frozen services shall be thawed out by and at the expense of the Water Utility except where the freezing was caused by contributory fault or negligence on the part of the consumer such as reduction of the grade or undue exposure of the piping in the building or on consumer's property, or failure to

comply with the Water Utility's specifications and requirements as to depth of service, lack of sufficient backfill, etc.

Following the freezing of a service the Water Utility shall take such steps and issue such instructions as may be necessary to prevent the refreezing of the same service. No charge will be made for rethawings if the instructions are followed. In case it is necessary to allow the water to flow to prevent refreezing, the consumer must make provision for proper disposal of the waste water. For the period in which the water is allowed to run the consumer will be billed according to his or her meter readings but in no event to exceed the average amount paid in the corresponding billing periods of the previous two (2) years. A new consumer will be charged the average bill for other consumers of the same class receiving service under comparable conditions.

### **(8) Repairs to Meters**

Meters will be repaired by the Water Utility and the cost of such repairs caused by ordinary wear and tear will be borne by the Water Utility. Repair of any damage to a meter resulting from the carelessness of the owner of the premises, his or her agent or tenant, or from the negligence of anyone of them to properly secure and protect same, including any damage that may result from allowing a water meter to become frozen or to be injured from the presence of water or steam in the meter, shall be paid for by the consumer or the owner of the premises.

### **(9) Stop Boxes**

The consumer shall protect the stop box in his or her terrace and shall keep the same free from dirt and other obstructions. The Water Utility shall not be liable for failure to locate stop box and shut off water in case of a leak on the consumer's premises.

### **(10) Billing Procedures**

(a) Billing

When a consumer's premises have several buildings each supplied with service and metered separately, the full minimum charge will be billed for each meter separately, and the readings will not be cumulated. If these buildings are all used in the same business and are connected by the consumer, they can be metered in one place. If the utility, for its own convenience, installs more than one meter, the readings will be cumulated for billing. The consumer shall be the property owner of the premises and shall be responsible for all charges for water service.

(b) Payment of Bills.

All bills for water service to premises shall be due and payable on the first day of April, July, October and January, each year. Failure to receive a bill does not relieve that party from his or her obligation nor exempt him or her from the lawful penalty if not paid within the period specified.

(c) Charges for Unpaid Bills

The gross bill, which shall be 3% higher than the net bill, will be payable if the bill is not paid by April 30, July 31, October 31 and January 31. Bills that remain unpaid (for the previous yearly period) on October 15 shall be processed pursuant to Wis. Stat. s. 66.069(1)(b), and become a lien on the property served.

### **(11) Charges**

Charges shall be as established by the Public Service Commission.

### **(12) Failure to Read Meters**

Where the Water Utility is unable to read the meter the Utility may estimate a bill as prescribed by the Public Service Commission.

If the meter is damaged (see Surreptitious Use of Water) or fails to operate for any reason, the Water Utility will render a bill for the current period based on an average of the last two (2) billing periods, providing there is no particular reason why the use during that period has not been normal. In case the last two (2) periods cannot be properly used, then the bill shall be estimated by some equitable method.

### **(13) Complaint Meter Tests**

If a customer so requests, the Utility shall promptly make an accuracy test in addition to the periodic or installation test if 24 months or more have elapsed since the last complaint test of the same meter in the same location. If less than 24 months have expired, there will be a charge of \$2.00 per inch of nominal size or fraction thereof, payable in advance. If the meter is found fast in excess of 2%, any payment that we made for the test will be refunded and there will be an adjustment for past billings. See Wis. Adm. Code Sections PSC 185.61 through PSC 185.78.

### **(14) Surreptitious Use of Water**

When the Water Utility has reasonable evidence that a consumer is obtaining his or her supply of water, in whole or in part, by means of devices or methods used to stop or interfere with the proper metering of the water service being delivered to his or her equipment, the Water Utility reserves the right to estimate and present immediately a bill for service unmetered as a result of such interference and such bill shall be payable subject to a 24 hour disconnection of service. When the Water Utility shall have disconnected the consumer for any such reason, the Water Utility will reconnect the consumer upon the following conditions:

- (a) The consumer will be required to pay the Water Utility for any and all damages to its equipment on the consumer's premises due to such stoppage or interference with its metering.
- (b) The consumer must further agree to comply with reasonable requirements to protect the Water Utility against further losses. Wis. Stat. ss. 98.25 and 343.17, as relating to water service, are hereby adopted and made a part of these rules relating to the operation of the Water Utility.

### **(15) Use of Hydrants**

Permission may be granted by the Manager to use a hydrant. No hydrant shall be used until it is equipped with a valve and in no case shall any valve be set or moved except by a member of the Water Utility. An application must be made to the utility for setting a valve and the applicant must make payment as required by the City Council and authorized by the Public Service Commission. When the applicant is finished with the hydrants, he or she shall notify the Water Utility and when the valve and valve wheel is returned undamaged, the deposit shall be refunded.

### **(16) Unauthorized Operation of Valves and Hydrants**

Any person who shall, without authority of the Manager, operate any valve connected with the supply mains or service line, or open any fire hydrant connected with the distribution system, except for the purpose of extinguishing fire, or who shall wantonly injure or impair the same, shall be subject to a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00). Owners or operators of motor vehicles will be held for the cost of repair of any hydrant damaged by being hit by a motor vehicle and the Water Utility will not be responsible for the damage to the motor vehicle by reason of such accident.

### **(17) Right to Open Hydrants**

Only such persons as shall be authorized by the Manager of the Water Utility or the Chief of the Fire Department shall be permitted to open any fire hydrant for any purpose whatsoever and no one except such persons shall be permitted to take the hydrant wrenches or wheels or suffer the same to be taken from any fire engine house, except for Fire Department purposes.

### **(18) Refunds of Monetary Deposits**

All monies deposited as security for payment of charges arising from the use of temporary water supply on a metered basis, or for the return of a hydrant wrench or reducer, if the water is used on an unmetered basis, will be refunded to the depositor on the termination of the use of the water, the payment of all charges levied against the depositor and the return of the property.

### **(19) Inspection of Premises**

Any officer or authorized employee of the Water Utility shall have the right of access during reasonable hours to the premises supplied with service, for the purpose of inspection or for the enforcement of the Water Utility's rules and regulations.

### **(20) Complaint Meter Tests**

When premises are to be vacated, the Water Utility shall be notified in writing at once. The owner of the premises shall be liable to prosecution for any damage to the property of the Water Utility by reason of failure to notify the Water Utility of vacancy.

### **(21) No Claims for Damages**

No person shall enter a claim for damage against the City of Middleton as a water utility, or any officer thereof, for damage to any pipe, fixture, or appurtenance by reason of interrupted water supply, or variation of pressure, or for damage of any nature whatsoever caused by the turning off, or turning on, either wholly or partially, of the water supply, or for the extension, alteration, or repair of any water main or premises supply, or for the discontinuance of the premises' water supply, or for the violation of any rules or regulations of the Middleton Water Utility. No claims will be allowed against the City on account of the interruption of the water supply caused by the breaking of pipes or machinery, or by stoppage for repairs on account of fire or other emergency, and no claim shall be allowed for any damage caused by the breakage of any pipe or machinery.

### **(22) Repairs to Mains**

The Water Utility reserves the right to shut off the water in the mains temporarily to make repairs, alterations or additions to the plant or system. When the circumstances will permit of sufficient delay, the Water Utility will give notification by newspaper publication or otherwise of the discontinuance of the supply. No rebate or damages will be allowed to consumers for such temporary suspension of supply.

### **(23) Trenches for Mains and Service Pipes**

#### **Contractor's Responsibilities**

Where excavating machines are used for the installation of other utilities or services, all water mains shall be maintained at the expense of the contractor. Contractors must ascertain for themselves the existence and location of all service pipes. Where they are removed, cut or damaged in the construction of a sewer, the contractor must at his or her own expense cause them to be replaced or repaired at once. He or she must not shut off the water service pipes from any customer for a period exceeding six (6) hours.

### **(24) Protective Devices in General**

The owner or occupant of every premises receiving water supply shall apply and maintain suitable means of protection of the premises supply, and all appliances thereof, against damage arising in any manner from the use of the water supply, variation of water pressure or any interruption of water supply. Particularly must such owner or occupant protect water cooled compressors for refrigeration systems by means of high pressure safety cut-out devices. There shall likewise be provided means for the prevention of the transmission of water ram or noise of operation of any valve or appliance through the piping of their own or adjacent premises.

## **(25) Unprotected Cross Connections Prohibited**

- (a) No person, firm or corporation may establish, maintain or permit to be established or maintained, any unprotected cross connection. A cross connection is any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the City of Middleton's public water system, and the other of which contains water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from one system to the other with the direction of flow depending on the pressure differential between the two systems. Cross connections shall be protected as required under Wis. Admin. Code Chap. SPS 382.
- (b) Inspection  
The Water Utility may inspect or arrange for an inspection of property served by the public water system for cross connections. As an alternative, the Water Utility may require a person, firm or corporation that owns, leases, or occupies property to have the plumbing inspected at the owner's, lessor's or occupant's expense by a State of Wisconsin certified cross connection inspector. The frequency of inspections shall be established by the Water Utility in accordance with the Wisconsin Administrative Code. Any unprotected cross connections identified by the inspection shall be promptly corrected. The failure to promptly correct an unprotected cross connection shall be sufficient cause for the Water Utility to discontinue water service to the property, as provided under paragraph (e) of this subsection.
- (c) Right of Entry  
Upon presentation of credentials, representatives of the Water Utility shall have the right to request entry, at any reasonable time, to property served by a connection to the public water system for the purpose of inspecting the property for cross connections. Refusing entry to such Utility representative shall be sufficient cause for the Water Utility to discontinue water service to the property, as provided under paragraph (e) of this subsection. If entry is refused, a special inspection warrant under Wis. Stats. § 66.0119 may be obtained.
- (d) Provision of Requested Information  
The Water Utility may request an owner, lessee or occupant of property served by a connection to the public water system to furnish the Water Utility with pertinent information regarding the piping system on the property. Refusing to provide requested information shall be sufficient cause for the Water Utility to discontinue water service to the property, as provided under paragraph (e) of this subsection.
- (e) Discontinuation of Water for Violation  
The Water Utility may discontinue water service to any property wherein any unprotected connection in violation of this subsection exists, and may take other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service may be discontinued, however, only after reasonable notice and an opportunity for a hearing under Wis. Stats. Chap. 68, except as provided in paragraph (f) of this subsection. Water service to such property shall not be restored until the unprotected cross connection has been eliminated.
- (f) Emergency Discontinuance  
If it is determined by the Water Utility that an unprotected cross connection or emergency endangers the public health, safety or welfare and requires immediate action, and if a written finding to the effect is filed with the City Clerk and delivered to the customer's premises, water service may be immediately discontinued. The customer shall have an opportunity for a hearing under Wis. Stats. Chap. 68 within ten days of such emergency discontinuance. Water service to such property shall not be restored until the unprotected

cross connection has been eliminated.

**(26) Public Fire Protection Systems**

For public fire protection service to the City of Middleton, the annual charge shall be as approved by the Common Council and the Public Service Commission.

**(27) Private Fire Protection Service**

Charges for Private Fire Protection service shall be as approved by the Common Council and the Public Service Commission.

**(28) Public Water Service**

Water supplied to public buildings, schools, and like places shall be metered and the general service rates shall be charged. Water used for flushing sewers, streets, park sprinkling, flooding rinks and pools, tanks on fire trucks, or other like, intermittent service shall be metered where meters can be set to measure such use. Where the use of a meter is impractical, the Manager shall estimate the gallons of water used, such estimate to be based on the pressure, size of orifice and period of flow, or on some suitable basis, as the size of containers filled. The quantity used shall be billed to the City or proper department at rates approved by the Common Council and Public Service Commission.

**(29) Main Extensions for New Plats**

All costs involved in the extension of water mains in newly platted areas shall be borne in full by the owners or developers of the plat. Laterals must be laid from the main to a point six feet from the property line at the time of the laying of water mains, and the total cost for the same shall be borne in full by the property owner or developer.

**(30) Charges for Service Beyond Corporate Limits**

If the City elects by ordinance to serve any premises outside the corporate limits, rates applicable for such service shall be the urban rates hereinabove set forth, plus a surcharge of 25%. The cost of any extensions of mains, laterals, and water meters to serve such premises shall be borne by the property owners.

**9.03 PAYMENT OF NON-ASSESSED WATER CONNECTION CHARGES**

**(1) Connection to Water Supply System**

All property within the corporate limits of the City of Middleton and within all areas outside the corporate limits to which the City of Middleton has extended water service shall be entitled to be connected with the supply system of the City of Middleton and the rules and regulations of the Public Works Committee, provided, however, that no application for the connection of any premises, lot or parcel of land to the water system of the City where the mains shall be installed after the date of the adoption of this section shall be permitted or approved where special assessments for the construction and laying of water mains and service pipes have not been levied against the property affected, or where the expense of laying of water mains and service pipes has not been otherwise provided for, except as hereinafter provided.

**(2) Charges for Non-Assessed Connections**

The owner of property wishing to be connected to the water system of the City where such property has not been subjected to special assessments for the laying of water mains serving such property, or where the expense of the laying of water mains serving such property has not been otherwise defrayed or provided for by the applicant for such water service, or his or her predecessor in title or interest, may be permitted to make such connection upon paying to the City a connection charge based upon the following formula:

- (a) Where the land upon which the building proposed to be served by the water connection

does not exceed two hundred (200) feet measured along the street or lot upon which the water main is constructed, a charge based on a lineal foot basis, equivalent to the assessment made against the assessable property on a lineal foot basis at the time the water main was laid.

- (b) Where the land upon which the building proposed to be served by the water connection exceeds two hundred (200) feet measured along the street or lot upon which the main is constructed, a lineal foot charge equivalent to the lineal foot assessment against the assessable property at the time the water main was laid, not to exceed, however, a charge based upon two hundred (200) feet, provided that the structures served by said service do not occupy a parcel greater than two hundred (200) feet in width. If the structures served by water service occupy a parcel of a width greater than two hundred feet (200), the charge shall be based on the width of the parcel so served. In the event that additional applications are made for connections to additional buildings beyond the limits of the initial installation, additional connection charges shall be made in conformity with the provisions of this section.

### **(3) Connections to Mains Installed Prior to Date of Adoption of this Section**

Connections to the water supply system of the City where the mains have been installed prior to the effective date of this ordinance shall be subject to the same rates, terms and conditions as set forth in subsection (2), above, of this section, it being the purpose and intent of this section to make the provisions governing connections to existing mains severable, so that in the event the provisions of this subsection shall be declared illegal, unconstitutional or invalid, the provisions of subsections (1) and (2) of this section above set forth shall be and remain in full force and effect. Any language to the contrary tenor or effect notwithstanding.

## **9.04 SEWER UTILITY**

### **(1) Introduction and General Provisions**

The intent of this Ordinance is to regulate the use of the Community's wastewater facilities and to set forth equitable revenue systems so as to derive the maximum public benefit. This Ordinance has been developed pursuant to Public Law 92-500 and Wis. Stat. s. 66.076. This Ordinance shall supersede any previous Sewer Use Ordinance and shall repeal all parts thereof that may be inconsistent with this Ordinance. If there is any conflict between this Ordinance and any applicable Statute, the Statute shall be controlling.

### **(2) Definitions**

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- (a) "Approving Authority" means the City of Middleton.
- (b) The term CBOD replaces the term BOD everywhere it appears in the ordinance. "Carbonaceous Biochemical Oxygen Demand (CBOD)" shall mean the quantity of oxygen used in the biochemical degradation of organic material in five days at 20 degrees Centigrade when the oxidation of reduced forms of nitrogen is prevented by the addition of an inhibitor. This analytical procedure shall be performed in accordance with 40 CFR Part 136, or as EPA otherwise determines.
- (c) "Building Sewer" denotes a sanitary sewer beginning at the immediate outside of the foundation wall of any building being served to its connection with a community sewer or interceptor.
- (d) "Chief Engineer" means the Chief Engineer of the Madison Metropolitan Sewerage District or his or her designee.

- (e) "Combined Sewer" means a sewer designed to receive or receiving both wastewater and storm or surface water.
- (f) "Commission" means the Commission of the Madison Metropolitan Sewerage District as defined and with such powers as set forth in Wis. Stat. s. 66.23.
- (g) "Commissioners" denotes the Commissioners of the District.
- (h) "Community Sewer" means any sanitary sewer owned and operated by the Middleton Sewer Utility which is tributary to an intercepting sewer or treatment facility operated by the District.
- (i) "Compatible Pollutant" means CBOD, suspended solids, TKN, TP, pH, or fecal coliform bacteria, plus additional pollutants identified in the Wisconsin Pollutant Discharge Elimination System (WPDES) Permit issued to the Madison Metropolitan Sewerage District for the Nine Springs Wastewater Treatment Plant, provided that said wastewater treatment plant was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree.
- (j) "District" means the Madison Metropolitan Sewerage District.
- (k) "District Customer" means a city, village, town sanitary district or utility district, or a county, state or Federal Agency which is billed directly by the District for sewerage services.
- (l) "DNR" means the Wisconsin Department of Natural Resources.
- (m) "Domestic Wastewater" means wastewater discharged from sanitary conveniences which contain no incompatible pollutants exceeding the limits set in section 19.05(7) herein.
- (n) "Equivalent Meters" means the number of equivalent 5/8 inch water meters and shall be based on the following:

Meter Size	Equivalent Meter Size
5/8 inch	1
3/4 inch	1.5
1 inch	2.5
1 1/2 inch	5
2 inch	8
3 inch	15
4 inch	25
6 inch	50

- (o) "Federal Act" means the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) as amended by the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500 and Pub. L. 93-243), or any subsequent amendments, or as implemented by Wis. Stat. Chapter 147, or appropriate sections of the Wisconsin Administrative Code adopted pursuant to Chapter 147 as well as any guidelines, limitations and standards promulgated by the Environmental Protection Agency pursuant to the Act.
- (p) "Floatable Oil" is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater in treatment in approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and does not interfere with the collection system.
- (q) "Garbage" means the animal and vegetable waste resulting from the handling,

preparation, cooking and serving of foods.

- (r) "Holding Tank Waste" is any waste from holding tanks such as septic tanks, vessels, chemical toilets, campers, trailers, and vacuum pump tank trucks.
- (s) "Incompatible Pollutant" means any pollutant which is not a compatible pollutant.
- (t) Reserved for future use
- (u) "Industrial User" means:
  - 1. Any user classified under the following numbers as specified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget: Major groups 20, 22, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39; Groups 024, 144, 261, 262, 263, 266, 311, 321, 322, 324, 325, 326, 327, 328, 329, 494, 495, 496, 721; Industries 2641, 2646, 2647, 2649, 2753, 2793, 2794, 2795, and 7542, or
  - 2. A major industrial contributor, or
  - 3. A significant industrial contributor, or
  - 4. A user required to file effluent reports under Section NR 101 of the Wisconsin Administrative Code.
- (v) "Industrial Discharges" means any water borne solids, liquids, or gaseous wastes other than domestic wastewater, resulting from, discharging from, flowing from or escaping any commercial, industrial, manufacturing or food processing operation or from the development of any natural resource, or any mixture of these with water or domestic wastewater.
- (w) "Intercepting Sewer" means any sanitary sewer built or acquired by the District.
- (x) "Major Industrial Contributor" means an industrial user that has a discharge flow which:
  - 1. is 50,000 gallons or more per average work day; or
  - 2. is greater than five (5) percent of the total flow rate or design compatible pollutant loading received at the municipal wastewater treatment plant; or
  - 3. contains a material included on a list of toxic pollutants as defined in Wis. Stat. s. 147.07(1); or
  - 4. contains a waste which the DNR, the District or the Middleton Sewer Utility has found to have significant impact, either singularly or in combination with other contributing industries, on the wastewater facilities or upon the effluent from such facilities.
- (y) "May" is permissive.
- (z) "Municipality" or "Community" means the City of Middleton Sewer Utility.
- (aa) "Nonindustrial User" means any user not classified as an industrial user.
- (bb) "Person" means any individual, firm, company, partnership, association, and private, public, and municipal corporations, districts and all political subdivisions and governmental agencies.
- (cc) "Pretreatment" means treating industrial wastes as required by a governmental agency to remove or reduce the quantity of one or more pollutants prior to discharge to a public sewer.
- (dd) "Properly Shredded Garbage" means the wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers.

- (ee) "Public Sewer" means a sewer owned and maintained by a governmental agency or public utility.
- (ff) "Public Sewerage System" means all structures, conduits, and pipelines by which wastewater treatment works, except plumbing inside and in connection with buildings and properties served, and building sewers.
- (gg) "Sanitary Sewer" means a sewer that carries liquid and water carried wastes from residences, and commercial buildings, industrial plants, or institutions.
- (hh) "Sewer" means a pipe or conduit that carries wastewater or drainage water.
- (ii) "Shall" is mandatory.
- (jj) "Significant Industrial Contributor" means a user that has a discharge flow which:
  - 1. is greater than 10,000 gallons on any day of the year; or
  - 2. is greater than five (5) percent of the total flow rate or design compatible pollutant loading received at the municipal wastewater treatment plant and/or is subject to pretreatment standards for incompatible pollutants as defined in Chapter NR 211 of the Wisconsin Administrative Code; or
  - 3. has been notified in writing by the DNR, the District or any municipality within the District that it is necessary to provide information concerning the concentration and quantity of the pollutants discharged.
- (kk) "Standard Methods" means the examination and analytical procedures set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater" as prepared, approved and published jointly by the American Public Health Association, American Water Works Association, and the Water Pollution Control Federation and is in compliance with Federal Regulations 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants."
- (ll) "Suspended Solids (SS)" 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 unfilterable residue.
- (mm) "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.
- (nn) "User" means any person who discharges, or causes to be discharged, wastewater into the public sewerage system.
- (oo) "User Charge" means a charge levied on users of wastewater facilities for the cost of operation, maintenance, and replacement of such wastewater facilities.
- (pp) "Wastewater Facilities" means the structures, equipment, and processes designed to collect, carry and treat domestic and industrial wastes and dispose of the effluent.
- (qq) "Wastewater Treatment Plant" means an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment works" or "water pollution control works."
- (rr) "WPDES Permit" means a permit to discharge pollutants, obtained under the Wisconsin Pollutant Discharge Elimination System (WPDES) pursuant to Wis. Stat. Chapter 147.
- (ss) Total Kjeldahl Nitrogen (TKN) shall mean the quantity of organic nitrogen and ammonia

as determined in accordance with 40 CFR Part 136, or as EPA otherwise determines.

- (tt) Total Phosphorus (TP) shall mean the quantity of total phosphorus as determined in accordance with 40 CFR Part 136, or as EPA otherwise determines.

### **(3) Organization, Purpose, and Powers**

- (a) The City of Middleton shall operate a sewerage system, which shall be known as the Middleton Sewer Utility, for the protection of the health, safety and welfare of the public. For this purpose, the Middleton Sewer Utility shall control, operate, maintain and install all necessary facilities for the operation of an efficient and effective sewerage system and shall charge and collect such sewer charges and rentals upon all lots, lands and premises served or benefited by the sewerage system, as the Common Council shall establish.
- (b) The Middleton Sewer Utility shall constitute a public entity within the purview of Wis. Stat. s. 66.06, and shall be under the management of the Public Works Committee as prescribed in section 2.09(4) of this Code.
- (c) The Public Works Committee shall establish rules and regulations for the operation and management of the Sewer Utility, which may from time to time be approved and adopted by the Common Council, and these rules and regulations shall be administered by the City Engineer.

### **(4) Disposition of Revenue**

The amounts received from the collection of the charges authorized by this section shall be credited to a Sewer Utility account which shall show all receipts and expenditures of the Sewer Utility. When appropriated by the Common Council, the credits to said account shall be available for the payment of the requirements for operation, maintenance, repairs and depreciation of the sewerage system. Said charges shall likewise be available for the payment of principal and interest of bonds issued and outstanding, or which may be issued, to provide funds for said sewerage system, or part thereof, and all or a part of the expenses for additions and improvements and other necessary disbursements or indebtedness, and the Common Council may by resolution pledge such surplus or any part thereof for any such purpose.

## **9.05 RULES AND REGULATIONS OF THE SEWER UTILITY**

### **(1) Compliance with Rules**

All persons now connected to the sewerage system of the Middleton Sewer Utility or who may hereafter make application therefor shall be considered as having agreed to be bound by the rules and regulations of the Sewer Utility as adopted by the Common Council.

### **(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 City of Middleton, or in any area under the jurisdiction of said City of Middleton, any human or non-farm animal excrement, garbage, or other waste as defined in this Ordinance.
- (b) It shall be unlawful to discharge to any natural outlet within the City of Middleton, or in any area under the jurisdiction of the City of Middleton, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance, Chapter 27 of the Dane County Sanitary Ordinance or under the provisions of the public health laws of the State of Wisconsin.
- (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 of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the City, and abutting on any street, alley, or right of way in which there is now located or may be in the future, be located a public sanitary sewer of the City or the District, is hereby required at his or her or its expense to install suitable toilet facilities therein and to connect such facilities directly with the public sewer in accordance with this Ordinance, within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet (30.5 meters) of the property line.

### **(3) Private Wastewater Disposal**

- (a) Where a public sanitary sewer is not available under the provisions of section 9.05(2), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article, Chapter 27 of the Dane County Sanitary Ordinance and the Wisconsin Administrative Code and State Statutes.
- (b) Before starting construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the County Sanitarian of the Dane County Environmental Health Department. The application for such permit shall be made on a form furnished by the Dane County Environmental Health Department, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Dane County Sanitarian.
- (c) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Dane County Sanitarian. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Dane County Sanitarian when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made no later than the first working day after the receipt of notice by the Dane County Sanitarian.
- (d) At such time as a public sewer becomes available to the property served by a private wastewater disposal system, as provided in s. 9.05(2) hereof, a connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned and filled with suitable material.
- (e) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.
- (f) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Dane County Environmental Health Department or the State of Wisconsin.

### **(4) Connection to District Intercepting Sewers**

- (a) No combined sewers shall be connected with the wastewater facilities of the City.
- (b) Sanitary Sewer Connections to District Intercepting Sewers
  1. Any person desiring to connect directly with an intercepting sewer of the District shall make application to the District in accordance with the District's Sewer Use Ordinance.
  2. No connection shall be made directly with any intercepting sewers without the inspection and approval of such connection by the Chief Engineer.
  3. All connections shall be made in accordance with Chapter 14 of this Code.

### **(5) Connections to City of Middleton Sewers**

- (a) Applications for permission to connect to any existing sewer service lateral shall be made to the Inspections Director, as required by s. 14.04 of this Code, in the case of a building

sewer.

- (b) No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City of Middleton.
- (c) Cost of Sewer Connection  
All costs and expense incidental to the installation and connection of a building sewer shall be borne by the Owner. The Owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewers.
- (d) Materials and Method of Construction  
The size, slope, alignment, materials of construction of 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 City.
- (e) Storm and Groundwater Drains  
No person shall make connection of roof downspouts or drains, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer.
- (f) Conformance to Plumbing Code  
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 City. Any deviation from the prescribed procedures and materials must be approved by the Approving Authority before installation.
- (g) Barricades; Restoration  
All excavations for the building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

## **(6) Extension of City Sewers**

- (a) The Sewer Utility will extend sewer mains for new customers within the City limits where the cost of extension is to be immediately assessed against the abutting property under procedures set forth under Wis. Stat. s. 66.60. This assessment shall be composed of the actual cost of the main and lateral installation.
- (b) Any person desiring to connect a sanitary sewer, other than a building sewer, to a Community Sewer shall make application to the Sewer Utility in writing. Such application shall be made by a licensed professional engineer authorized by the owner(s) of the property for which such connection is desired. The application shall describe the location of the requested connection and the volume and characteristics of the wastewater to be transmitted and shall include a statement that the design and construction of the system shall be subject to the lawful rules and regulations of the District and the City. Connections will be allowed only when the capacity of downstream collection and treatment facilities is adequate. All construction costs, including engineering, materials, labor, inspection, and easements shall be the responsibility of the owner(s) of the property for which such connection is desired. Upon completion of the project for which the connection is desired, all of the facilities constructed, other than the building sewers, shall be deeded to the City free and clear of any liens and the City shall assume the responsibility for the operation and maintenance of said facilities thenceforth.
- (c) All plans for extension of community sewers must be submitted for review and approval by the City Engineer and the Public Works Committee. The engineer preparing the plans

is responsible for obtaining the approval of the Department of Natural Resources and the District.

## **(7) Use of Public Sewers**

### **(a) General Prohibitions**

Prohibited discharges shall be the same as those prohibited by the District's Sewer Use Ordinance. In addition, no person shall discharge wastes to a community sewer which cause, or are capable of causing, either alone or with other substances:

1. a condition unacceptable to any public agency having regulatory jurisdiction over the Community, or
2. use of a disproportionate share of the Community's wastewater facilities.

### **(b) Limitations on Discharge Characteristics**

The limitations on the characteristics of wastewater discharged to any public sewer in the Community shall be the same as the limits set in the District's Sewer Use Ordinance.

### **(c) Accidental Discharge of Prohibited Wastewater**

Any person who discharges into the public sewerage system wastes or wastewater prohibited under this Ordinance shall immediately report such a discharge to the Middleton Sewer Utility and to the Chief Engineer. Within fifteen (15) days of such discharge a detailed written statement describing the cause of the discharge and the measures taken to prevent a future occurrence shall be submitted to the Middleton Sewer Utility and the Chief Engineer.

### **(d) Alternatives to Acceptance of Wastewater**

If any waters or wastes are discharged or are proposed to be discharged to the public sewers, in excess of those limitations enumerated in the District's Sewer Use Ordinance, the Middleton Sewer Utility may, subject to approval of the Chief Engineer:

1. reject the wastes,
2. require pretreatment,
3. control the quantities and rates of discharge, and/or
4. recover the increased costs of handling and treating such wastes.

### **(e) Pretreatment of Industrial Water**

Industrial users may be required to pretreat their wastewater when necessary to protect the wastewater facilities or prevent discharge of incompatible pollutants. Construction, operation, and maintenance of pretreatment facilities shall be at the expense of the user. Pretreatment facilities shall be operated by qualified personnel holding a Grade 5 license issued by the DNR.

### **(f) Limitations of Discharge of Holding Tank Wastes**

1. No person shall discharge any holding tank wastes directly into a manhole or other opening in a community sewer.
2. Discharge of holding tank wastes shall be allowed at the grit tanks of the Nine Springs Wastewater Treatment Plant only. The user shall pay the District all applicable fees and charges, based on the characteristics of the discharge.

### **(g) Sand and Grease Trap Installations**

Grease, oil and sand interceptors at repair shops, gasoline stations, car washes, and other industrial or commercial establishments must be installed where necessary to prevent discharge of sand, flammable wastes, oil or grease in amounts exceeding the limits set forth in the District's Sewer Use Ordinance. All such traps shall be constructed and maintained by the owner at his or her expense, in accordance with the Wisconsin Plumbing Code and shall be readily accessible for cleaning and inspection.

## **(8) Service Laterals**

### **(a) Repairs to Laterals**

The sewer lateral shall in general be maintained by the property owner in its entirety from the wye to the premises. Any sewer lateral repairs taking place within the street or right of way must be made by a plumber meeting the approval of the City Engineer.

### **(b) Blockages**

1. When a blockage occurs and is apparent on a premise, it is the property owner's responsibility to immediately notify the Sewer Utility. Upon investigation by employees of the Sewer Utility, the caretaker will be notified as to whether the blockage is in the main or in the lateral. If it is in the main, the Sewer Utility will take immediate remedial action to remove the obstruction. If the blockage is in the lateral, it is the property owner's responsibility to eliminate the blockage.
2. If a sewer main blockage occurs and causes damage to a premise, the Sewer Utility will accept claims for damages. The Sewer Utility will not honor claims consisting of charges from plumbers called to open sewer laterals when in fact the sewer main was blocked.

## **(9) Wastewater Measurement, Sampling, and Reporting**

### **Monitoring Facilities**

Monitoring facilities shall be constructed, operated, and inspected, and reports filed in accordance with the District's Sewer Use Ordinance. In addition, any user who so desires may install and operate monitoring facilities and report their wastewater characteristics for billing purposes in accordance with Article VI of the District's Sewer Use Ordinance.

## **(10) Service Charges**

### **(a) General**

The service charges to users served by the Middleton Sewer Utility are intended to recover the following costs:

1. The Sewer Utility's costs for operating and maintaining the Community sewers, including lift stations;
2. The Sewer Utility's costs for construction of new or replaced Community Sewers, including lift stations;
3. The Sewer Utility's administrative costs, including construction or replacement costs of the Sewer Utility's administrative facilities; and
4. The District's costs billed to the Sewer Utility.

### **(b) Nonindustrial User's Service Charge**

Unless they desire to monitor their waste discharges, service charges to nonindustrial users shall be based on the volume of water used, as determined from regular water meter readings, and on the size of the water meter(s) serving the user; or shall be a flat fee if no water use data is available. The portion of the service charge based on the water volume metered shall reflect the following:

1. The Community's costs for operating and maintaining the Community's sewers, including lift stations;
2. The Community's costs for construction of new or replaced Community Sewers, including lift stations; and
3. The collection and treatment charges to the Community billed by the District.

The portion of the service charge based on the number and size of meter(s) serving a user shall reflect the following:

- aa. The Community's administrative costs, including the construction or replacement costs of the Community's administrative facilities; and
- bb. The District's administrative costs charged to the Community by the District.

(c) Industrial User's Service Charges

Service charges to industrial users required to monitor their wastewater discharges and other users who desire to monitor their wastewater discharges shall be based on the volume of waste- water discharged, the pounds of CBOD discharged, the pounds of suspended solids discharged, the pounds of TKN discharged, the pounds of TP discharged and the actual or estimated size of the water meter(s) that serves or would be necessary to serve such a user. The metering and sampling necessary to determine the volume of wastewater and the CBOD and suspended solids, TKN and TP concentrations of the wastewater shall be done in accordance with s. 9.05(9) hereof. The rate per volume of wastewater shall reflect the unit cost for transporting and treating a volumetric unit of wastewater and shall be used to determine the volume portion of the service charge for such users. The rate per pound of CBOD shall reflect the cost for transporting and treating a pound of CBOD and shall be used to determine the CBOD portion of the service charge for such users. The rate per pound of suspended solids shall reflect the cost for transporting and treating a pound of suspended solids and shall be used to determine the suspended solids portion of the service charges for such users. The rate per pound of TKN shall reflect the unit cost for transporting and treating a pound of TKN and shall be used to determine the TKN portion of the service charge for such users. The rate per pound of TP shall reflect the unit cost for transporting and treating a pound of TP and shall be used to determine the TP portion of the service charge for such users. The rate based on the size of water meter shall reflect the administrative costs of serving such user and shall be used to determine the demand portion of the service charge for such users.

Unless they desire to monitor their wastewater discharges, service charges to industrial users that discharge primarily segregated domestic wastewater shall be determined in the same manner as service charges for nonindustrial users.

(d) 1. Service Charge Rates

(a) Quarterly Service Charge

<b>Quarterly Service Charges</b>	
<b>Meter Size</b>	<b>Quarterly Charge</b>
5/8"	\$29.60
3/4"	\$29.60
1"	\$45.39
1 1/2"	\$71.23
2"	\$102.48
3"	\$175.03
4"	\$278.80
6"	\$538.19
8"	\$857.06
10"	\$1,299.68
12"	\$1,751.10

(b) Volume Charge per hundred gallons \$.298

(c) Purchased Treatment Adjustment Clause

The following adjustment to sewer rates will be applied to reflect an increase or decrease in rates charged by Madison Metropolitan Sewerage District (MMSD). The adjustment will be effective for service rendered on and after the effective date of the change in rates for service provided by MMSD. The utility shall provide notice to its customers of such changes in rates resulting from application of the Purchased Treatment Adjustment Clause.

<b>Description of the Adjusted Domestic Strength Charge</b>	
<b>Formula:</b>	$AVR = V + AV + ACBOD + AS + ATKN + ATP$
	$A = (N-O) \times C \times PV + (O + QV)$
<b>Where:</b>	AVR = Adjusted volume component
	V = Base domestic volume charge
	AS = Adjusted SS rate component
	ACBOD = Adjusted CBOD rate component
	ATKN = Adjusted TKN rate component
	ATP = Adjusted TP rate component
	A = Adjusted rate component
	N = New component rate (i.e. V, CBOD, SS, TKN, TP) based on latest MMSD information
	O = Old component rate (i.e. V, CBOD, SS, TKN, TP) based on the first Quarter 1989 MMSD bill
	C = Convert rate per pound to rate per gallon (1 Gal = 8.3450 Lb)
	PV = Price Variance Percentage MMSD component billable units converted to gallons divided by the estimated billable sewer gallons. Based on latest MMSD information
	QV = Quantity Variance Percentage MMSD component billable units based on latest info less component billable units based on rate study estimated bill divided by the estimated billable sewer gallons.

<b>Description of the Adjusted Domestic Strength Charge</b>	
<b>Formula:</b>	$C = Z * (1+P)$ $P = (N-B) / T$
<b>Where:</b>	<p>C = Adjusted quarterly service charge (to nearest one cent)</p> <p>Z = Existing quarterly service charge at base rates</p> <p>P = Adjusted factor rounded up to nearest hundredth</p> <p>N = New MMSD quarterly service charges</p> <p>B = MMSD quarterly service charges at base rates of \$22,400</p> <p>T = Total present revenue from Middleton Sewer Utility quarterly service charges</p>

2. Service charge rates to industrial users which discharge wastewater exceeding 250 mg/l for CBOD or suspended solids, 40 mg/L TKN, or 7 mg/l TP:
 

Volume: Charge shall be \$.192 per 100 gallons discharged, plus \$.12 per pound for the total pounds of CBOD discharged, and \$.18 per pound for the total pounds of suspended solids discharged, \$.33 per pound for the total pounds of TKN discharged, and \$1.98 per pound for the total pounds of TP discharged, to the sewer system.

Equivalent Meter Charge: Each equivalent meter - \$4.68 per quarter year.

Customer Charge: Each customer - \$2.28 per quarter year.

3. Service charge rates for industrial users not exceeding 250 mg/l for CBOD or suspended solids, 40 mg/L TKN and 10 mg/L TP shall be the same as non-industrial users.
4. Service charge rates for non-metered service shall be equivalent to the average bill experienced by customers of the same class.
5. Service charge rates shall be reviewed at least annually and may be adjusted whenever necessary.

(e) Biennial Audit

The Sewer Utility shall review, at least every two years, the wastewater contribution of its sewer users, the operation, maintenance, and replacement expenses of the wastewater collection facilities, and the sewer service charge system. Based on this review, the Municipality shall revise the sewer service charge system, if necessary, to accomplish the following:

1. Maintain a proportionate distribution of operation, maintenance, and replacement expenses among sewer users based on the wastewater volume and pollutant loadings discharged by the users;
2. Generate sufficient revenues to pay the operation, maintenance, and replacement expenses of the wastewater collection facilities; and
3. Apply excess revenues collected from a class of users to the operation,

maintenance, and replacement expenses attributable to that class of users for the next year and adjust the sewer charge rates accordingly.

(f) Annual Notification of Sewer Rates

The Sewer Utility shall notify its sewer users annually about the sewer service charge rates. The notification shall show what portion of the rates are attributable to the operation, maintenance, replacement, and debt service costs of the wastewater collection facilities. The notification shall occur in conjunction with a regular bill or public notice in the official newspaper.

(g) Sewer Utility Operation, Maintenance, and Replacement Funds Account

All sewer service charge revenues collected for replacement costs shall be deposited in a separate and distinct fund to be used solely for replacement costs of the sewer collection system, including pump stations. All sewer service charge revenues collected for other operation and maintenance expenses shall also be deposited in a separate and distinct fund.

## **(11) Billing and Collection**

(a) Payment of Bills

All bills for sewerage services to premises shall be due and payable on the first day of April, July, October, and January, each year. Failure to receive a bill does not relieve that party from his or her obligation nor exempt him or her from the lawful penalty if not paid within the period specified.

(b) Charges for Non-payment and Collection of Unpaid Bills

Quarterly billings, as hereinabove provided, shall contain the net bill for the period for which service is rendered. The gross bill, which shall be 3% higher than the net bill, shall be payable if the bill is not paid by April 30, July 31, October 31, and January 31, respectively. Bills which remain unpaid for one or more quarters prior to October 15 in each year shall be processed pursuant to Wis. Stat. s. 66.069(1)(b), and become a lien on the property served.

## **9.06 PAYMENT OF NON-ASSESSED SEWER CONNECTION CHARGES**

### **(1) Connection to Sewerage System**

All property within the corporate limits of the City of Middleton and within all areas outside the corporate limits to which the City of Middleton has by ordinance extended sanitary sewer service shall be entitled to be connected with the sewerage system of the City of Middleton, subject to the ordinances of the City of Middleton and the rules and regulations of the Public Works Committee, provided, however, that no application for the connection of any premises, lot or parcel of land to the sewerage system of the City of Middleton where the mains shall be installed after the date of the adoption of this section shall be permitted or approved where special assessments for the construction and laying of sewer mains and service pipes have not been levied against the property affected, or where the expense of laying of sewer mains and service pipes has not been otherwise provided for, except as hereinafter provided.

### **(2) Charges for Non-Assessed Connections**

The owner of property wishing to be connected to the sewerage system of the City of Middleton where such property has not been subjected to special assessments for the laying of sewer mains service such property, or where the expense of laying the sewer mains serving such property has not been otherwise defrayed or provided for by the applicant for such sewer service, or his or her predecessor in title or interest, may be permitted to make such connection upon paying to the City of Middleton a connection charge based upon the following formula:

- (a) Where the land upon which the building proposed to be served by the sewer connection does not exceed two hundred feet (200 feet) measured along the street or lot upon which

the sewer main is constructed, a charge based upon a lineal foot basis, equivalent to the assessment made against the assessable property on a lineal foot basis at the time the sewer main was laid.

- (b) Where the land upon which the building proposed to be served by the sewer connection exceeds two hundred (200) feet measured along a street or lot upon which the sewer main is constructed, a lineal foot charge equivalent to the lineal foot assessment against the assessable property at the time the sewer main was laid, not to exceed, however, a charge based upon two hundred (200) feet, provided that the structures served by said service do not occupy a parcel greater than two hundred (200) feet in width. If the structures served by sewer service occupy a parcel of a width greater than two hundred (200) feet, the charge shall be based on the width of the parcel so served. In the event that additional applications are made for connections to additional buildings beyond the limits of the initial installation, additional connection charges shall be made in conformity with the provisions of this section.

### **(3) Connections to Mains Installed Prior to Date of Adoption of This Section**

Connections to the sewerage system of the City of Middleton where the mains have been installed prior to the date of the adoption of this section shall be subject to the same rates, terms and conditions as set forth in subsection (2), above, of this section, it being the purpose and intent of this section to make the provisions governing connections to existing mains severable, so that in the event the provisions of this subsection shall be declared illegal, invalid or unconstitutional, the provisions of subsections (1) and (2) of this section set forth above shall be and remain in full force and effect. Any language of the contrary tenor or effect notwithstanding.

## **9.07 ENFORCEMENT AND ABATEMENT OF THE DISTRICT ORDINANCE**

Enforcement and abatement of the District's Sewer Use Ordinance shall be in accordance with Article X of the District's Sewer Use Ordinance.

## **9.08 ENFORCEMENT AND ABATEMENT OF THIS ORDINANCE**

### **(1) Notice of Violation and Special Order of Remedy**

Any person found in violation of this ordinance or of any prohibition, limitation or requirement contained therein, will be served with a written notice stating the nature of the violation and issuing a special order for the appropriate remedy thereof.

### **(2) Appeal Procedure**

Any person who objects to a notice of violation, a special order, or an ICR charge shall, upon request made to the Director of Public Works, be entitled to be heard by the Public Works Committee with respect to the objection.

### **(3) Penalties**

A violation of any rule or order of the Public Works Committee shall be a public nuisance pursuant to Wis. Stat. s. 823.02, and shall be abated and damages and costs recovered therefore in accordance with Wis. Stat. s. 66.74(1)(d). Any person who fails to comply with a special order within the time specified shall be declared to be a person creating a public nuisance enjoined under Wis. Stat. s. 823.02 and shall forfeit to the Community not more than \$1,000.00 for each day such violation continues.

### **(4) Falsifying of Information**

No person shall knowingly make any false statement, representation, record, report, plan or other document or knowingly render inaccurate any monitoring device or method required under this

Ordinance of the District's Sewer Use Ordinance. Any person who violates this provision shall be subject to the penalties imposed under s. 9.08(3) of this Ordinance.

## **9.09 STORM WATER UTILITY**

### **(1) Purpose**

The Common Council finds that the management of storm water and other surface water discharges draining to the Pheasant Branch, Esser Pond, Stricker Pond, Tiedeman Pond, Graber Pond, Dorn Creek, Black Earth Creek, and Lake Mendota is a matter that affects the health, safety and welfare of the City, its citizens and businesses and others in the surrounding area. In addition, the Federal Environmental Protection Agency and the Wisconsin Department of Natural Resources have implemented standards for storm water management that will require significant upgrades to the existing storm water practices of the City, as well as increased costs for complying with these standards. Failure to effectively manage storm water affects the sanitary sewer utility operations of the City by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system. 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 and adjacent to the City. A system for the collection and disposal of storm water provides services to all properties within the City and surrounding areas including properties not currently served by the systems. The cost of operating and maintaining the City storm water 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. In order to protect the health, safety and welfare of the public, the Common Council hereby exercises its authority to establish a storm water utility and establish the rates for storm water management services, adopting and publishing as required by law the regulations contained in this Section. The City is acting pursuant to the authority granted by Wis. Stats. § 66.0821.

### **(2) Creation, Power, and Authority of Utility**

- (a) In order to protect the health, safety, and welfare of the public, the Common Council hereby exercises its authority to establish the City of Middleton Storm Water Utility.
- (b) The management, operation and control of the City of Middleton Storm Water Utility shall be vested in the Storm Water Utility Board.
- (c) Subject to the approval of the Common Council, the Storm Water Utility shall have the power and authority to operate and maintain major storm water management facilities, and to conduct, manage, and finance such utilities, operations and activities as the Storm Water Utility Board deems to be proper and reasonably necessary for a system of storm water and surface water management. These facilities may include, without limitation due to enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, ponds, streets, roads, ditches and such other facilities relating to collection, runoff, detention and retention. This includes facilities that will support a storm water management system, whether such facilities are owned and operated directly by the City or are provided under statutory or contractual provisions and furnishing of which facilities create or impose a cost or charge upon the City for the services afforded by such facilities.

### **(3) Definitions**

The following words, terms and phrases, when used in this Section 9.09 shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (a) "Adjustment" means a change to the number of ERUs assigned to a customer in cases where the Storm Water Utility Manager determines that cumulative rate charges for multiple parcels or units within a parcel are not appropriate. Adjustments are only available for residential properties.

- (b) “City Engineer” means the City employee so designated by the City or his or her designee.
- (c) “Commercial building” means a building for business and commercial uses.
- (d) “Condominium” means a residential unit subject to a condominium declaration as required by Wis. Stats. Chap. 703.
- (e) “Credit” means a reduction that a customer may receive for implementing practices or providing services that reduce the City’s costs for managing storm water runoff, or for discharging storm water runoff from impervious surfaces directly to any Water of the State that are not maintained by the City.
- (f) “Customer” means the owner of a developed parcel.
- (g) “Developed parcel” means any parcel where the land has been altered by the construction or exposure of impervious area that equals or exceeds 200 square feet.
- (h) “Duplex” means a building containing two dwelling units, or as otherwise defined in the City’s Building and Zoning Codes.
- (i) “Equivalent runoff unit (ERU)” means the statistical average amount of impervious surface area per residential parcel, in square feet, associated with parcels within the City, containing single-family, duplex or triplex units. One ERU is equal to 2,880 square feet of impervious area.
- (j) “Fixed cost” means the portion of the storm water fee that is applied to each residential and nonresidential customer where the charge arises from the administrative and general expenses of the Storm Water Utility. The fixed costs shall include the following as applicable:
  1. Storm water salaries, including overtime, social security and fringe benefits based upon percentage of time spent by City employees on storm water management and related overhead functions;
  2. Membership in the Madison Area Municipal Storm Water Partnership (MAMSWaP) and direct costs associated therewith;
  3. Costs for audits of the Storm Water Utility;
  4. The City’s share of the cost for any permit issued by the Wisconsin Department of Natural Resources that covers the City and may include the other MAMSWaP communities and UW Madison;
  5. Storm water facility rental cost;
  6. Allocated share of liability, property and worker’s compensation insurance costs;
  7. Storm water newsletter and website expenses;
  8. Storm water office supplies;
  9. Storm water equipment maintenance; and
  10. Storm water education.
- (k) “Impervious area” means a surface as measured on a horizontal plane that 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, all areas covered by structures, roof extensions, patios, porches, driveways, loading docks, parking lots, sidewalks, any removal of pervious soil layer that results in the exposure of an impervious soil or rock layer, and compacted clay and gravel which are used as driveways or parking lots.

Impervious area is deemed to generate excess or increased runoff as compared to property in its undeveloped state.

- (l) "Industrial parcel" means that parcel of land intended for manufacturing and industrial activities.
- (m) "Institutional parcel" means that parcel of land intended for governmental, educational or religious activities that has obtained exemption from Wisconsin property taxes under Wis. Stats. § 70.11(1), (2), (2m), (3), (4), (6), (7), (20), (32) and (34).
- (n) "Multifamily residential parcel" means that parcel of land containing four or more dwelling units and may include condominiums in which the dwelling units are contained within individual structures containing four or more dwelling units.
- (o) "Nonresidential parcel," for the purposes of this Section, means that parcel of land intended for the following uses: commercial, industrial, institutional and multifamily.
- (p) "Owner" means a person having a vested or contingent interest in the property in question and includes the duly authorized agent or attorney of the owner, a purchaser, a deviser, or a fiduciary of the subject property.
- (q) "Parcel" means a legally defined piece of land, or as otherwise defined elsewhere in this Code as may be applicable.
- (r) "Residential parcel" means that parcel of land intended for single-family, duplex or triplex use and includes condominiums in which the dwelling units are contained within individual structures containing three or fewer dwelling units.
- (s) "Single-family" means a building containing one dwelling unit, or as otherwise defined in the City's Building and Zoning Codes.
- (t) "Storm Water Credit Manual" means a document, on file with the Storm Water Utility Manager, describing the requirements for the application and documentation of eligibility for a storm water utility credit or adjustment. The Common Council shall approve this Manual and all amendments thereto.
- (u) "Storm Water Utility Board" means the body created under Section 2.32 of the City Code of Ordinances.
- (v) "Storm Water Utility Manager" means that person designated by the City Administrator to oversee and manage the activities of the Storm Water Utility.
- (w) "Triplex" means a building containing three dwelling units, or as otherwise defined in the City's Building and Zoning Codes.
- (x) "Undeveloped" or "undeveloped parcel" means a parcel on which no manmade land disturbing activities have occurred that resulted in the creation or exposure of impervious surface of or on the land. Undeveloped parcels are not deemed to generate excess or increased runoff.
- (y) "Variable costs" means the portion of the storm water fee reflecting the costs incurred by the Storm Water Utility related to activities in the maintenance and operations of the Utility as outlined in subparagraph (2) of this Section.

These costs may include portions of:

1. Storm water legal services;
2. Storm water engineering services;
3. Storm water detention basin maintenance;
4. Storm sewer maintenance;

5. Yard waste collection services;
6. Storm water monitoring and testing;
7. Storm water facilities locates;
8. Allocated costs for City-owned facilities used by employees who have a percentage of their labor time allocated to the Storm Water Utility;
9. Storm water equipment rental;
10. Storm water operating supplies;
11. Storm water capital projects; and
12. Debt service from storm water capital projects.

#### **(4) Applicability of Charges**

A storm water utility charge to cover the costs of the storm water management system necessary to fulfill the purposes set forth in this Section 9.09 shall apply to each developed parcel in the City. The City Engineer shall prepare a map, the "City Impervious Area Map," depicting impervious areas of all such properties in the City other than single-family, duplex and triplex units and which shall be approved by the Storm Water Utility Board. In the alternative, the City Engineer may submit data justifying the calculation of impervious surface areas for properties other than single-family, duplex and triplex units not yet included on such map. A copy of such map or such calculations of impervious areas shall be kept on file in the office of the City Engineer. Storm water utility charges shall not apply to public rights-of-way or railroad rights-of-way, or undeveloped parcels as defined herein during the time period in which the parcels remain undeveloped.

#### **(5) Calculation of Storm Water Utility Charges**

(a) **Customer Classification**

All property subject to storm water utility charges shall be classified into one of the following customer classes:

1. Residential
2. Nonresidential

(b) **Storm Water Fee**

Each customer shall be charged a storm water fee, comprised of the customer's share of the fixed costs and variable costs based upon a rate as established by the Common Council, as set forth in Appendix A of this Code.

(c) **Residential**

Each single-family unit, or each unit within a duplex or triplex or each unit in a condominium, shall be charged for one ERU. Condominiums configured as multifamily residential units (four or more units per building) are eligible for amendment to this assignment to treat the condominium as a multifamily property. Such requests shall be made in writing to the City Engineer by the condominium association and shall be granted for any eligible property.

(d) **Nonresidential**

Each other developed parcel, whether multifamily residential, commercial, industrial or institutional, shall be assigned and charged for one ERU or a number of ERUs equal to the ratio of the total impervious area of the parcel to the square footage of one ERU, whichever is greater. The number of ERUs shall be rounded to the nearest tenth.

## **(6) Credits**

Credits may be obtained toward a reduction of the variable cost portion of the storm water fee, chargeable to a given parcel. Such credits may be obtained as follows:

- (a) **Applicability**

Except as provided in subparagraph (6)(f), credits are only applicable to nonresidential land uses with a minimum un-credited ERU total of 2.5 ERUs. Credits for implementing on-site storm water management practices will be given only where such practices exceed the minimum standards for new development or redevelopment, as applicable, established by the City for such purposes.
- (b) **Discharge Rate Reduction**

The owner of an eligible nonresidential developed parcel who installs and maintains storm water controls to achieve storm water discharge rate reduction, may receive a credit, not to exceed 20%, calculated in accordance with subparagraph (i) of this Section.
- (c) **Runoff Volume Reduction**

The owner of an eligible nonresidential developed parcel who installs and maintains storm water controls to achieve storm water runoff volume reduction, may receive a credit, not to exceed 20%, calculated in accordance with subparagraph (i) of this Section.
- (d) **Quality Improvement**

The Owner of an eligible nonresidential developed parcel who installs and maintains storm water controls to improve the quality of storm water discharge, may receive a credit, not to exceed 20%, calculated in accordance with subparagraph (i) of this Section.
- (e) **Education**

Any property on which there is located an elementary, middle, or high school where an established storm water education curriculum is taught may receive a credit not to exceed 20% calculated in accordance with subparagraph (i) of this Section and as further described in this subparagraph. Such credit shall apply only to the property of the school where the storm water education curriculum is taught. The method of calculation of the credit shall be established by the Storm Water Utility Board upon review of a proposed curriculum. A qualifying storm water education curriculum shall present storm water and water resources management education to every student at least one time during each student's time at the particular school and shall be reasonably calculated to encourage appreciation and stewardship of water resources and thereby reduce negative impacts on local streams and lakes. Subparagraphs (h) and (j) through (l) of this Section shall not apply to obtain this credit. Application for this credit shall be made by submitting a proposed curriculum to the Storm Water Utility Manager with a written request for consideration of a credit. The Storm Water Utility Manager shall review and render a decision regarding the proposed curriculum and shall submit a recommendation to the Board within 120 days of receipt of the request unless an extension of time is agreed to, in writing, by the school or district. The Storm Water Utility Manager may negotiate with the school or district during the 120 days regarding the specifications of the curriculum and the amount of credit to be recommended. The Storm Water Utility Board shall have final approval authority.
- (f) **Direct Discharge**

The owner of any residential or nonresidential parcel that discharges storm water runoff directly to Lake Mendota, or other Waters of the State that are not maintained by the City, without first passing through an element of the publicly owned storm water collection and conveyance system operated or maintained by the City or without crossing any public rights-of-way, may apply for a credit toward the variable cost portion of the storm water utility bill, regardless of the number of ERUs assigned to the parcel. The amount of this credit shall be in direct proportion to the fraction of the impervious area of the parcel that

drains directly to the lake.

(g) Effect of Credits

In the event the City grants any storm water fee credits, the cost of any credits may be reallocated across all properties within the City by increasing the charge rate of a single ERU so that the total revenue available to the Storm Water Utility shall not be reduced by the amount of the credits allowed.

(h) Application

To obtain a storm water fee credit, the owner of developed parcels must submit an application on a form prescribed by the Storm Water Utility Manager, and which includes design calculations as specified in the Storm Water Credit Manual and certified by a professional engineer or professional hydrologist. The Storm Water Utility Manager shall review the application and supporting materials to determine eligibility and amount of the credit. No property shall receive a credit unless the calculation methodology conforms to the calculation methodologies specified in the Storm Water Credit Manual. If the information submitted is complete, the Storm Water Utility Manager shall make a determination within 60 days of submittal.

(i) Calculation of Credit

If any property qualifies for a storm water fee credit under subparagraphs (b) through (e), the maximum available credit shall be applied only against the variable cost portion of the storm water fee. No credit is available against the fixed cost portion of the storm water fee. In no case may a credit or a combination of credits reduce the variable portion of the storm water fee below the charge for one ERU per year, nor exceed 60% of the variable portion. Except for subparagraph (e), calculations shall be done in accordance with applicable, current calculation methodologies specified by the Wisconsin Department of Resources and by Dane County as set forth in the Storm Water Credit Manual. The maximum available storm water fee credit available under subparagraph (f) may be up to 100% of the variable cost portion of the Storm Water fee, but no other credits are applicable to the portion of the site which is approved for a direct discharge credit.

(j) Appeal

The customer may appeal any decision of the Storm Water Utility Manager to the Storm Water Utility Board. Written notice of appeal shall be filed with the City Clerk within 15 days of receipt of the Storm Water Utility Manager's determination. The notice of appeal shall describe the basis of the appeal.

(k) Fees

The credit application shall be accompanied by a fee as established in Appendix A to Chapter and Section 3.12 of this Code. There shall be no fee required for a notice of appeal.

(l) Effective Date

No credit shall take effect unless the storm water management facilities for which the application was filed are completely installed, stabilized against erosion, and approved by the City Engineer. Additionally, the owner of such developed parcel(s) shall enter into a Storm Water Management Maintenance Agreement with the City, approved by the Storm Water Utility Board and Common Council, and recorded. Any storm water facility approved by the City Engineer shall receive a credit as of July 1 in the year of completion if completed prior to April 1 of such year. Any storm water facility approved by the City Engineer after April 1 of any year shall receive a credit on January 1 of the next succeeding year.

(m) Maintenance

Once installed, the owner of developed parcels shall maintain the practices for which credit was granted. In order to qualify for a credit in subsequent years, the owner shall

certify in writing to the City no later than June 30 of each succeeding even numbered year of the owner's continued maintenance of the practice for which credit was granted. The certification must be accompanied by a certification from a professional engineer or professional hydrologist that the practices and methods continue to exceed the minimum standards established by the City for such purposes. Failure to maintain the practice or to submit the required certifications shall result in cancellation of the credit.

## **(7) Adjustments**

A Customer may be eligible to have the number of ERUs assigned to their property adjusted if either of the conditions described in this section apply. Such requests shall be made in writing to the City Engineer and shall be granted for any property meeting the applicable conditions.

### **(a) Residential Property**

The number of ERUs on a property may be reduced to zero for any residential property meeting the following criteria:

1. The property is a lot classified as residential;
2. The customer can demonstrate that there are no living units on the lot;
3. The lot abuts another residential lot owned by the same customer and to which an ERU has been assigned; and
4. The lot functions as an extension of the abutting residential lot.

### **(b) Nonresidential Property**

The number of ERU's may be reduced if property is classified as nonresidential and the customer can demonstrate through more accurate documentation than the City's Impervious Area Map that the impervious area or number of ERUs allocated to the property is incorrect, in which case the allocated ERUs may be adjusted to reflect the more accurate data.

## **(8) Billing**

- (a) The Storm Water Utility Board shall establish billing procedures and may bill charges on the same invoice as water and sewer charges.
- (b) Bills for storm water utility charges are rendered quarterly and become due and payable upon issuance following the period for which service is rendered. A late payment charge of 3% but not less than 50 cents will be added to bills not paid within 20 days of issuance. This 3% late payment charge will be applied only to any unpaid balance for the current billing period's usage. This late payment charge is applicable to all customers.
- (c) First billing, or subsequent amendment to billing resulting from further development, will be prorated as a fraction of the billing quarter during which the project commenced, based on the date of installation of the water meter, or if no meter is installed, the date of first land disturbance.
- (d) On October 15 of each year, the City Treasurer shall cause a notice to be mailed or delivered to the owner or occupant of any parcel to which storm water utility charges, plus any interest are in arrears. All balances in arrears on November 1 of each year shall become a lien on the parcel and shall be inserted on the tax rolls for collection in accordance with Wis. Stats. § 66.0809(3) as amended.
- (e) Billing methods and charge calculations may be modified for governmental customers by intergovernmental agreement pursuant to Wis. Stats. § 66.0301.

## **(9) Annual Budget; Enterprise Fund**

The City of Middleton Storm Water Utility shall prepare an annual budget, which shall separately account for the revenue and expense of the City of Middleton Storm Water Utility. Storm Water Utility expenses shall include all operation and maintenance costs, cost of borrowing, planning costs and

other costs related to the operation of the City of Middleton Storm Water Utility. The budget is subject to approval by the Common Council. Storm water utility charges collected shall be deposited in the City of Middleton Storm Water Utility enterprise fund and shall be used for no other purpose. Any excess of revenues over expenditures in a year shall be retained in the enterprise fund and used for storm water utility expenses in subsequent years.

#### **9.10 SEVERABILITY OF PROVISIONS**

If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, sub-section, sentence, clause, or phrase or portions thereof. The Common Council of the City of Middleton declares that it would have passed this Ordinance and each section, sub-section, sentence, clause or portion thereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.