

## **CHAPTER 8**

### **PUBLIC WORKS**

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## STREETS AND SIDEWALKS

8.01 SPECIAL ASSESSMENTS (Repealed and Recreated 04/08/98, Amended 11/13/02, Amended 3-23-05, Amended 5-27-09). Special assessments shall be levied upon any parcel of land within the Village whenever special benefits are conferred upon such parcel of land by any municipal work or improvement. Special assessments will be levied as provided for in §66.0703, Wis. Stats. and the provisions of this chapter.

(1) **DEFINITIONS.** The following terms shall have the following meanings for purposes of this ordinance:

(a) **Assessment District.** Any geographical area designated by a resolution of the Village Board in which public works or improvements are to be installed, the costs of which are to be recovered through the levy of special assessments against benefiting properties within such district.

(b) **Corner Lot.** A lot located at the intersection of two (2) public streets where the interior angle of such intersection does not exceed one hundred thirty-five (135) degrees.

(c) **Through Lot.** A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot.

(d) **Surface Improvement.**

(i) **Mill and overlay.** Mill and overlay is a pavement rehabilitation process that removes the top layer of bituminous pavement by the grinding action of a large machine called a “milling machine”. The overlay part of the term refers to the placement of a new bituminous pavement. The mill and overlay pavement rehabilitation may also include spot repairs of concrete curb and gutter.

(ii) **Reconditioning.** Pavement reconditioning is a rehabilitation process that pulverizes old bituminous pavement and mixes it with the underlying aggregate, which adds additional stability to the existing subgrade and aggregate base. After reclamation and grading, two (2) lifts of bituminous pavement will be placed. The reclamation process may include spot repairs of existing concrete curb & gutter.

(iii) **Reconstruction.** Pavement reconstruction involves the complete rebuilding of the subgrade, aggregate base, and bituminous pavement of a roadway. The reconstruction process will also involve installation or replacement of concrete curb and gutter and driveway aprons.

(e) **Local Street.** Any street within the Village of Bellevue that is not designated as a County, State, or Federal Highway and has the following characteristics:

(i) **Width:** (maximum) 37-feet back of curb to back of curb

(ii) **Section:** 3-inches of E-1 Bituminous Pavement  
7-inches of 1 ¼” Crushed Aggregate Base Course  
8-inches of 3” Breaker Run  
24-inch curb and gutter on both sides of the street

(f) **Major Street.** Any street within the Village of Bellevue that is not designated as a County, State or Federal Highway with the following characteristics:

(i) **Width:** greater than 37-feet back of curb to back of curb

(ii) **Section:** greater than 3-inches of E-1 Bituminous Pavement  
7-inches of 1 ¼” Crushed Aggregate Base Course  
8-inches of 3” Breaker Run  
24-inch curb and gutter on both sides of the street

(g) County Highway. Any street within the Village that is officially designated as a County Highway.

(h) State Highway. Any street within the Village that is officially designated as a State or Business Highway.

(i) Federal Highway. Any street within the Village that is designated as a Federal Interstate or US Highway.

(j) Residentially Zoned Property. Property that is zoned R-1 or R-2 as defined in the Village Zoning Code.

(k) Non-Residentially Zoned Property. Property that is zoned R-3, B-1, B-2, B-3, LI, HI, I-1, or PDD as defined in the Village Zoning Code.

(l) Agriculturally Zoned Property. Property that is zoned A-1 or A-2 as defined in the Village Zoning Code.

(2) COST COMPUTATION. (a) Per Foot Assessments. The amount to be levied and charged against a parcel of land lying within an assessment district shall be determined by multiplying the assessable footage of the parcel by the sum of the assessable project costs divided by the total assessable frontage within the assessment district.

(b) Per Lot Assessments. When the scope of public improvements to be made is limited to street resurfacing, to include any necessary curb replacement, and if the Village Board further determines that the properties within the assessment district are reasonably homogeneous with respect to size, street frontage and use, the amount to be levied and charged against a parcel of land lying within an assessment district shall be determined by dividing the sum of the assessable project costs by the total number of lots within the assessment district. Corner lots shall be counted as one lot for assessment purposes, except that when only one of the two abutting streets is being resurfaced, the corner lot shall be counted as, and receive a ½ lot assessment. If in the judgment of the Village Board a parcel of land has the potential to be subdivided to create additional buildable lots, the Board may assess that parcel of land additional “per lot” charges as appropriate.

(c) Alternative Methods. Notwithstanding (a) and (b) above, the Village Board may specify an alternative method of computing the amount of assessments to be levied when, in their judgment, such alternative method would produce assessments that are more equitable than if calculated using either of the foregoing methods.

(3) ASSESSABLE PROJECT COSTS. Except as specifically provided in subs. (a) through (p) hereafter, the total cost of any municipal work or improvement installed, to include associated engineering, inspection, and administrative expenses, shall be assessed to those parcels of land within the assessment district benefiting therefrom.

(a) Sanitary sewer. When sanitary sewer pipe larger than 8” in diameter is installed, benefiting parcels shall only be assessed for 8” pipe at a cost determined by the Village’s Engineer. The additional expense for the larger pipe shall be paid by the Village.

(b) Residential storm sewer. When storm sewer pipe larger than 24” in diameter is installed within a residential area, benefiting parcels shall only be assessed for 24” pipe at a cost determined by the Village’s Engineer. The additional expense for the larger pipe shall be paid by the Village.

(c) Non-Residential storm sewer. Properties within business, industrial and institutional districts will be assessed for the full diameter of any installed storm sewer pipes less any incremental size of

pipe which is needed to accommodate drainage from properties located outside the assessment district as determined by the Village's Engineer.

(d) Water mains. When water mains larger than 8" in diameter are installed, benefiting parcels shall only be assessed for 8" main at a cost determined by the Village's Engineer. The additional expense for the larger main shall be paid by the Village.

(e) Residentially zoned street construction – Local or Major. When any local or major street within the Village is constructed or reconstructed to be wider than 37' as measured from the back of curb to back of curb, benefiting residentially zoned parcels shall be assessed for no greater than a 37' street as defined in section 8.01 (1)(e) at a cost determined by the Village's Engineer, less facility costs listed in sections (m) through (p) below. The additional expense for the wider street shall be paid by the Village.

(f) Non-Residentially Zoned street construction – Local or Major. When any local or major street within the Village is constructed or reconstructed to be wider than 44' as measured from the back of curb to back of curb, benefiting non-residentially zoned parcels shall be assessed for no greater than a 44' street as defined in Section 8.01 (1) (f) at a cost determined by the Village's Engineer, less facility costs listed in sections (m) through (p) below.. The additional expense for the wider street shall be paid by the Village

(g) Residentially zoned street construction – County Highway. Any residentially zoned property located on a County Highway shall not be assessed more than a 37' local road section as defined in section 8.01 (1) (e). The additional expense of the wider street shall be paid by the Village. Supplemental funds that become available to a project are used to reduce special assessments after Village funding contributions, including oversize road sections, and facility costs listed in sections (m) through (p) below, have been removed from the project costs.

(h) Non-Residentially zoned street construction – County Highway. Any Non-Residentially zoned property located on a County Highway shall not be assessed more than a 44' major road section as defined in section 8.01 (1) (f). The additional expense of the wider street shall be paid by the Village. Supplemental funds that become available to a project are used to reduce special assessments after Village funding contributions, including oversize road sections, and facility costs listed in sections (m) through (p) below, have been removed from the project costs.

(i) Agriculturally Zoned improvements. Land zoned A-1 or zoned A-2 and complies with the Farmland Preservation criteria as defined in Wisconsin Statutes Chapter 91, shall be assessed in accordance with Section 91.15 for eligible project costs. The stated cost of the installed improvements are deferred and are funded and held by the Village for the benefit of the property owner, until a time that the zoning changes or the farmland preservation agreement no longer applies.

The rate of assessment for street construction shall be capped at no more than the cost to reconstruct a local street section as defined in section 8.01 (1) (e) above.

(j) Sanitary sewer, storm sewer, and water service laterals. The cost of laterals shall not be added to the assessable project costs. The total cost of all laterals installed shall be divided by the total number of laterals to produce an average cost for each type of lateral (sanitary sewer, storm sewer, and water service). Separate costs shall be established for each size of sanitary sewer and water service lateral if one more than one size is to be installed within the assessment district. The resultant lateral cost(s) shall be charged directly to each parcel within the assessment district for each type and size of lateral installed to that parcel.

(k) Concrete driveway aprons. Except as provided in 1. hereafter, the cost of concrete driveway aprons shall not be added to the assessable project costs. Each parcel within the assessment district that receives a concrete driveway apron will be charged directly for the cost of the improvement.



1. When streets are resurfaced, and the Village determines that a portion of any concrete gutter at the base of a driveway apron must be replaced, then the costs for the removal and replacement of the gutter and the first 24" (twenty-four) inches of the concrete apron measured from the back or curb shall be included in the assessable project costs.

(l) Replacement of sanitary sewer, storm sewer or water service mains. The cost of replacing any sanitary sewer, storm sewer, or water service main shall be paid by the Village.

(m) Bike Lanes. The costs associated with the additional pavement width related with bike lanes shall be paid for by the Village, unless it is related to a new development and required as part of the plat approval process. Section 8.01 (6) shall apply in this instance.

(n) Sidepaths and Multiuse Paths. The costs associated with the installation of Side paths and Multiuse Paths shall be paid for by the Village, unless it is related to a new development and required as part of the plat approval process. Section 8.01 (6) shall apply in this instance.

(o) Bridges. The costs associated with the installation and/or maintenance of a bridge structure shall be paid for by the Village.

(p) Street Lighting. The costs associated with the installation of street lighting as determined by the Village Board shall be paid for by the Village.

(4) ASSESSABLE FOOTAGE. Assessable footage is equal to the total number of feet that a parcel of land fronts upon the right-of-way or easement in which the public work or improvement is to be installed. For assessment purposes, assessable footage shall be determined as follows:

(a) Platted lands. If the parcel of land to be assessed has been platted under §236, Wis. Stats., the lot line dimensions shown on the certified survey map or subdivision plat shall be used to determine assessable footage.

(b) Unplatted lands. If the parcel of land to be assessed is not platted, and if no accurate plat of survey or other record is available which indicates the dimensions of the parcel, assessable footage shall be determined by scaling or field measurement, with said assessable footage subject to field verification upon completion of the project.

(c) Corner lots. The following special provisions shall apply to corner lots:

(1) Corner lots when both sides are to be improved. The assessable footage of a corner lot is equal to the sum of the dimensions of the two lot lines fronting on the right(s)-of-way or easement(s) in which the public work or improvement is to be installed plus the arc of the intersection of the same two lot lines.

(2) Corner lots when only one side is to be improved. The assessable footage shall be calculated in the manner described in sub. (1) except that only the dimension of the lot line which fronts on the right-of-way or easement in which the public work or improvement is to be installed shall be used plus one-half of the arc of the intersection of said lot line with the lot line fronting on the second right-of-way.

(3) Where the dimension of the arc on a corner lot is not available or cannot be determined, the tangent, radius, or a field measurement may be substituted.

(d) Minimum assessable footage. If the assessable footage of a parcel is determined to be less than 80', then said parcel shall be considered to have an assessable footage of 80'.

(e) Maximum assessable footage – improvements to rural road sections. If the assessable footage of a parcel is determined to be more than 150', then said parcel shall be considered to have an assessable footage of 150'. The foregoing maximum assessable footage provision applies only to parcels

located within an assessment district where a rural road section is being reconstructed or improved, but will remain a rural road section. The Village shall pay the costs for said reconstruction or improvement on any footage exceeding 150' on any parcel within the assessment district.

(f) Full-assessment. Except as specified in sub. (g) of this paragraph, anytime storm sewer, sanitary sewer or water services are extended in such a manner so as to allow a parcel of land to connect to or benefit from such services, that parcel's assessable footage shall be calculated in the manner specified in subs. (a) through (d) of this paragraph regardless of whether the storm sewer, sanitary sewer or water service mains are physically installed along the entire length of that parcel of land. Any parcel of land so assessed shall be deemed fully served and shall not be subject to any further assessment for storm sewer, sanitary sewer or water service mains.

(g) Partial-assessment. An assessment shall be considered partial when any public work or improvement is installed which is intended to serve only a portion of a parcel of land, given that such parcel may be further subdivided, and such subdivision would then require further extension of services at that time in order to serve said parcel. In such cases, the assessable footage of the parcel of land partially served shall be equal to the actual footage of the public work or improvement installed within the right-of-way or easement upon which the parcel fronts. In no case, however, shall the assessable footage be less than 80' as provided for in sub. (d) of this paragraph. Any parcel of land assessed in accordance with this subparagraph shall be considered partially served and shall be fully subject to future assessments for additional extensions of public works or improvements.

(5) **ASSESSMENT CREDITS**. When the "per foot" method of assessment is used, certain properties are eligible for assessment credits. Any assessment credit granted reduces the total assessable footage within the assessment district for the purposes of cost computation unless otherwise specified by this ordinance or by the Village Board, in which case, the Village shall pay the cost of the assessments for the credited area. Assessment credits will be provided as follows: (Amended 05/14/08).

(a) Corner lots. The assessable footage of a corner lot shall be reduced by an amount equal to ½ of the longest lot line fronting on a public right-of-way, however, such reduction shall not exceed 75'. A corner lot assessment credit is not granted until the second side has been improved.

(b) Through lots. Through lots shall be assessed for public works or improvements which are installed in the street right-of-way from which the property is served with street access, sanitary sewer, storm sewer, and water service, as applicable. Through lots will not be assessed for any public works or improvements installed within the second street right-of-way except as provided for in sub. 1. and 2. hereafter.

1. Through lots which could be subdivided to create a legal zoning lot which would abut the second street right-of-way may be assessed for those services.

2. Through lots that may utilize and benefit from a public work or improvement on a second street right-of-way shall be assessed for that public work or improvement.

(c) Non-benefiting property. If the Village Board determines that a natural or manmade feature or obstruction has prevented a parcel from being subdivided to create the maximum number of zoning lots that would have been possible had the feature or obstruction not been present, the assessable footage of that parcel may be reduced as follows:

1. A map of the affected parcel shall be prepared which lays out the potential features or obstructions. Such features and obstructions may include creeks, ravines, floodplains, steep embankments, large public utility easements, or place of public access.

2. In the event that a parcel has an existing habitable structure, and the remaining frontage is less than the minimum zoning lot width, the parcel shall be assessed the minimum zoning lot width applicable to that zoning.

3. The map prepared in accordance with sub. 1. Above will be compared to the actual topography of the site. The parcel shall receive a credit for the portion of the feature or obstruction that lies within the parcel.

4. No credit under this section will be granted if the Village Board determines that the feature or obstacle which prevents further subdivision of the parcel was intentionally created by the property owner.

5. If in the judgment of the Village Board there is a reasonable belief that the portion of the parcel for which a credit is to be granted under this section may eventually be developed, no credit shall be given, and a deferred assessment shall be placed against the property instead that shall only become due if said portion of property is issued a building permit, subdivided, or is provided a connection to sanitary sewer, water, or storm sewer utilities. If such a deferred assessment is granted, then the Village shall initially pay the cost of the assessments which are to be deferred.

(6) **SPECIAL PROVISIONS FOR DEVELOPERS.** Any person, partnership, corporation or other similar entity who requests that the Village extend or install public works or improvements for the purpose of developing one or more parcels of land under their control or ownership is considered a Developer and subject to the following special provisions:

(a) No new subdivision or development located within the sewer service area will be permitted without sanitary sewers, water mains, curb and gutter, blacktop or concrete streets and storm sewers or other approved drainage conveyances, unless the Village Board determines that installation of one or more of the foregoing improvements is not necessary to serve the public interest.

(b) All public works and improvements to be installed within the rights-of-way and easements of the Village shall be designed by the Village Engineer and installed by approved construction contractors selected in accordance with applicable Wis. Stats. and Village contracting policies.

(c) Prior to the installation of any approved public works or improvements, the Developer must enter into an agreement with the Village that provides the terms of payment for the improvements to be installed.

(d) Prior to the installation of any approved public works or improvements, the Developer must deposit with the Village an instrument of security as may be acceptable to the Village, which will guarantee full payment to the Village for the public works and improvements to be installed for the Developer's benefit.

(e) The Developer shall pay for the total cost of any municipal work or improvement installed, to include associated engineering, inspection, and administrative expenses, except for oversized streets and oversized storm sewer, sanitary sewer, and water service mains as provided for in paragraph 3., subs. (a) through (f)., and except as provided for in sub. (f) hereafter.

(f) The Developer shall pay all costs for oversized streets and oversized storm sewer, sanitary sewer, and water service mains if the Village Board determines that the requirement for such oversized streets and oversized pipes is directly attributable to and for the principal benefit of the development, and such oversized streets and pipes would not otherwise be required to provide capacity for future development to be served utilizing the same infrastructure.

8.02 STREET GRADES. (1) ESTABLISHMENT. The grade of all streets and sidewalks shall be established by the Town's Engineer and approved by the Town Board. No street or sidewalk shall be installed or constructed until the grade is established. The grades of all streets having curb and gutter on the effective date of this Code are established at the levels then existing.

(2) ALTERING GRADE. No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof unless authorized or instructed to do so by the Town Board and Town Engineer.

(3) STREET ELEVATION. All street elevations shall be based on United States Coast and Geodetic Survey Datum.

8.03 STREET WIDTHS. (1) MINIMUM REQUIREMENTS. The following shall be minimum requirements in the acquisition, laying out, improvement, construction or altering of any of the streets of the Town:

(a) Property dedicated or otherwise conveyed to the Town for street purposes after the effective date of this Code shall provide for streets with a minimum width of 70'.

(b) Any installation of curbs and gutters and replacement of existing curbs and gutters upon streets shall be located so as to provide roadways of a minimum width of 33' (37' as measured back to back on the curbs).

(2) EXCEPTIONS. The Town Board may grant an exception from the requirements of this section in any specific case where the Board considers that there is an emergency, hardship or urgent need for granting such exception.

8.04 DRIVEWAYS. (1) No driveway shall be constructed in the Town unless such driveway complies with the following requirements. As used in this section, the word driveway shall include any curb cut for a driveway.

(2) No driveway shall exceed the following width at the curb line unless approved by the Building Inspector:

- |     |                    |         |
|-----|--------------------|---------|
| (a) | Single Driveway.   | 17'     |
| (b) | Double Driveway.   | 30'     |
| (c) | Duplex Center.     | 40'     |
| (d) | Duplex End Garage. | 25'-25' |

(3) On a corner lot, no driveway shall be closer than 30' to the point of intersection of the two (2) intersecting property lines on all local streets.

(a) On a corner lot, no driveway shall be closer than 50' to the point of intersection of the two (2) intersecting property lines on all collector streets.

(4) In areas where there is no curb and gutter, concrete driveways will not be allowed on Town right-of-way.

(5) When any rural road within the Town is reconstructed as an urban street (storm sewer, curb and gutter), the Town shall install and assess each property owner within the assessment district for a concrete driveway apron and sidewalk section from the back of the curb to the Town right-of-way. In the case of a vacant lot, the concrete driveway apron and sidewalk section from the back of the curb to the

Town right-of-way shall be installed within one (1) year of the completion of the building. All concrete driveway aprons and sidewalk sections shall be constructed to Town specifications (Amended 04/08/98).

(a) Where the curb and gutter is extended from the street into a blacktop or concrete parking lot and proper drainage is provided so that all storm water is controlled on site, the driveway approach may be blacktop and no sidewalk section is required. It is the intent that no storm water be diverted to the street except for the area within the right-of-way. If sidewalks are ever required, curb ramps must be installed to take pedestrians safely from the driveway to the sidewalk (Created 07/27/94).

(6) Where a culvert is required by Public Works on a Town street, the minimum size shall be 15". The Public Works Director may grant a 12" culvert under special consideration. On a County road, the minimum culvert size shall be 18". A Brown County driveway permit is required.

8.05 CURBS AND GUTTERS. (1) REQUIRED. No street in the Town shall be permanently improved unless curb and gutter is installed on each side in accordance with plans and specifications approved by the Board and the Town's Engineer.

(2) CUTTING IN DRIVEWAYS. Header portions of existing concrete curb and gutter may be removed to provide driveway access to private property. These driveway openings shall be in conformance with §8.02. Any concrete header to be removed shall be in accordance with the following:

(a) A saw joint at least 2' deep shall be cut in the gutter section for the full length of the proposed driveway opening.

(b) The header section shall then be removed for the full depth of the concrete to the base of the curb section.

(c) In all cases, concrete shall be replaced from the gutter line to a line extended along the back of existing curb sections, forming a continuous gutter section for storm water.

(d) When a concrete driveway is installed between curb and lot line, a 3/4 expansion joint shall be placed along a line at the back of the curb section.

(e) Reinforcing and tie rods required as per curb cut permit.

(3) VEHICLES CROSSING CURBS. Curb and gutter sections shall be properly planked prior to crossing over with any vehicle.

(4) PERMIT REQUIRED. No portion of an existing concrete curb or gutter may be cut, removed or altered to provide driveway access to private property until a curb cut permit is first obtained from the Town Building Inspector.

(5) FORM OF APPLICATION. Application for such permit shall be made on a form provided by the Town and shall include the following information:

(a) The location of the premises at which the work is to be performed.

(b) The name and address of the property owner or owners and the name of the contractor doing the work.

(c) The width of the opening requested.

(d) Type of surface to be used on the driveway.

(e) A plot plan drawn to a scale of not less than one inch to 20' shall be provided. The plot plan shall indicate the location of the driveway on the lot and the location of any trees, signs, utility poles and existing catch basins located on the lot frontage.

(6) **CONSTRUCTION; NEW OR REPLACEMENT.** All curbs and gutters may be constructed by contractors working under Town specifications. Private parties repairing or installing replacement curbs will not be reimbursed for this work unless said construction meets specifications of the Town Engineer, and reimbursement has been approved by the Town Board prior to construction.

8.06 **SIDEWALKS.** (Amended 10-13-10). (1) Permit Required. The policy of the Village of Bellevue is to allow for new sidewalk installation, replacement, repair or maintenance by permit only. The Village of Bellevue Public Works Department issues permits including construction criteria and specifications.

(2) **Standard Dimensions.** The standard dimensions of sidewalks shall be 4" thick, 5' wide concrete, with 4" of crushed aggregate base course. The section in a driveway for the crossing of a sidewalk, has the width and slope of a sidewalk, but is handled as a "driveway" for thickness and payment purposes. Sidewalks are constructed on both sides of the street to minimize unnecessary pedestrian crossing, thereby increasing pedestrian safety.

8.07 **SIDEWALK LOCATIONS.** (Amended 10-13-10). The policy of the Village of Bellevue is to add sidewalks to streets in accordance with the Village of Bellevue Pedestrian, Bicycle & Safe Routes to School Plan and in all new subdivisions. The plan provides for sidewalks to serve pedestrian traffic area associated with parks, schools, churches, malls, etc., on collector and arterial streets, and areas of high pedestrian traffic on minor or local streets. A minor or local street is a street with limited continuity used primarily for access to abutting properties and the local needs of a neighborhood. A collector street is a street including the principal entrance street of a residential development and the circulating street within a development, which carries traffic from a local or minor street to the system of major streets including arterials and highways. An arterial street is a high capacity street designed to carry large volumes of traffic between various areas of the community and to highways.

8.08 **INSTALLATION.** (Amended 10-13-10). (1) Schedule. Sidewalks on existing urban streets (with curb & gutter) are schedule for installation in accordance with the prioritization identified on the Village's Capital Improvement Plan. Sidewalks on rural streets (without curb & gutter) are installed when the street is reconstructed to an urban type street. Sidewalks in new developments are installed concurrently with roadway construction.

(2) **Prioritization.** Guideline for capital improvement plan prioritization of sidewalk projects to be installed on existing urban streets in order from highest to lowest, are as follows:

- a. Health hazard exists from conflict of vehicular traffic and pedestrian traffic.
- b. Areas where there is high levels of pedestrian traffic.
- c. After 75% of the street has a building permit, sewer or water used, or is divided by a CSM or Plat.

8.09 **COST OF SIDEWALK CONSTRUCTION.** (Amended 10-13-10). (1) New Development. The developer contributes 100% of the sidewalk construction cost. It is the policy of the Village of Bellevue to extend sidewalks concurrently with street construction. New development is defined as subdivisions of land on parcels or tracts large enough for agricultural purposes or are presently woodland or another non-intensive uses.

(2) **Existing Streets.** The Village contributes 100% of the sidewalk construction cost.

(3) **Sidewalk Replacement/Repair.** The Village contributes 50% of the project cost for replacement as determined by the Village of Bellevue on a hazard basis only, without aesthetic considerations. A sidewalk may be replaced as determined by the property owner on an aesthetics basis, however, the full

cost for replacement will be the responsibility of the property owner. The property owner shall assume the full cost of replacement of sidewalk damaged as a result of property owner construction.

8.10 BOULEVARDS AND ISLANDS. All boulevards and islands must be previously approved by the Town Board. Whenever curbing has been installed and a boulevard provided, such boulevard area shall be improved and maintained by the owner of the premises abutting thereon at such grade and in such condition as to provide adequate drainage of the sidewalks and of the boulevard area.

8.11 STREET IMPROVEMENTS. (1) PETITIONS. No petitions for improvements will be accepted after December 1 for the February - March bidding or after May 1 for the June - July bidding.

(2) EXCEPTIONS. The Town Board may grant an exception from the provisions of this section in any specific case where the Board shall find that there is sufficient need for granting such exception.

(3) STORM SEWERS. No curb and gutter shall be installed in any street unless connection with a storm sewer is first provided.

(4) IMPROVEMENTS REQUIRED. No permanent paving of any street in the sewer service area shall be made or installed unless curb and gutter, sewer mains, water mains and laterals are in place prior to such paving.

8.12 EXCAVATIONS IN STREETS. (Created 12/19/84) (Revised 2/22/12) (1) PERMIT REQUIRED. No person shall tunnel under or excavate, dig upon or in, remove any tree or remove any material from any street, sidewalk or other public place in the Village without having obtained a permit as required herein. The excavation permit shall be obtained by the contractor or person performing the work and a separate permit shall be obtained for each property owner benefited by the work to be performed and for each street involved. The excavation permit shall be void if the work for which the permit is issued is not started within 15 days or completed within 30 days from the date of issuance of the excavation permit.

(2) FORM OF APPLICATION. Application for such permit shall be made to the, Public Works Director, or authorized designee shall provide information as required under the Village of Bellevue Administrative Policy Code #24, Right of Way Excavation Policy and Permitting.

(3) FEES. Within sixty (60) days following the adoption of this ordinance, the Director of Public Works shall establish a schedule of fees which reflect the Public Works operating and maintenance costs related to the review and inspection of utility excavation and maintenance within the right-of-way. Said schedule of fees shall be subject to review and approval by the Village Board, which shall adopt the same by resolution, and which may be amended from time to time in the same manner.

(4) AGREEMENT OF APPLICANT. The application shall contain and, if permission to excavate is granted, the applicant and owner shall agree to comply with the provisions of Village of Bellevue Administrative Policy Code #24, Right of Way Excavation Policy and Permitting.

(5) NOTIFICATION. . An applicant who has been authorized to excavate or dig in accordance with the terms of this section shall notify adjacent property owners and Village officials in accordance with the Village of Bellevue Administrative Policy Code #24, Right of Way Excavation Policy and Permitting.

(6) REPORT OF UTILITY PIPES. Discovery or damage to existing utilities within the permit area, shall comply with the provisions of the Village of Bellevue Administrative Policy Code #24, Right of Way Excavation Policy and Permitting

(7) INSURANCE COVERAGE OR DEPOSIT. A utility, contractor or excavator must execute and file with the Village Clerk a cash bond in the amount and for as provided for in the Village of Bellevue Administrative Policy Code #24, Right of Way Excavation Policy and Permitting.

(8) **APPEAL PROCESS.** In case any applicant shall be aggrieved by any action in connection with the issuance of a permit, the refund of a deposit or in connection with the application of this chapter he shall have the right to appeal to the Village Board of Appeals by filing notice of appeal with his legal mailing address within ten (10) days after receipt of notice.

(9) **BARRICADES.** Barricades which must meet the State MUTCD specifications shall be placed at excavations, road closures, or required traffic control conditions; as stated in the Village of Bellevue Administrative Policy Code #24, Right of Way Excavation Policy and Permitting.

(10) **EXCAVATION AND RESTORATION WORK:** Excavation and restoration work shall comply with the Village of Bellevue Administrative Policy Code #24, Right of Way Excavation Policy and Permitting.

(11) **EMERGENCY ACTION.** Nothing in this section prohibits the making of such excavations as may be necessary for the preservation of life or property, for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavations shall apply to the Town for a permit on the first working day after such work is commenced.

**8.13 DAMAGE TO STREETS, CURBS AND SIDEWALKS.** (1) No person shall cause to be moved on, upon or across any public street, curb or sidewalk and motor vehicle, trailer or other thing which by its weight, construction or manner of operation does, or which is reasonably likely to cause damage or destruction to such street, curb or sidewalk or any part thereof or appurtenant thereto.

(2) No person shall cause to be moved onto, across or upon any public curbing any motor vehicle, trailer or other thing unless there is first placed on and about such curbing planking, bracing or other material of sufficient size, quality and quantity to prevent all damage and destruction to such curbing and all parts thereof by such motor vehicle, trailer or other thing. All repair costs to streets, curb and sidewalks shall be the property owner's expense.

**8.14 OBSTRUCTIONS AND ENCROACHMENTS.** No person shall encroach upon or in any way obstruct or encumber any street, sidewalk, public grounds or land dedicated to public use or any part thereof or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in the building code or with Town approval.

**8.15 OBSTRUCTION BY RAILROADS.** No person shall obstruct any street so as to interfere with traffic thereon with a railroad locomotive or car for a period longer than five (5) minutes.

**8.16 FIRES IN STREETS.** No person shall start or maintain a fire on the improved portion of any street.

**8.17 DEBRIS IN STREETS.** No person shall deposit, throw, spill, place or leave any rubbish or other foreign matter on the improved portion of any street or on any sidewalk.

**8.18 HAULING ON TOWN STREETS.** (1) No person shall haul any garbage, refuse, debris, ashes, lime, sludge or other materials which are liable to be blown away by the wind or drop from the conveying vehicle to the street, through or over any streets of the Town without having such materials securely covered in such a manner that no part thereof can fall or drop upon the streets of the Town.

(2) Any person transporting material which shall fall from the transporting vehicle onto a public street shall remove such material or the Town shall cause the same to be removed and the cost shall be assessed against the owner of the vehicle.

**8.19 DUMPING OF MATERIALS INTO SEWERS AND STREETS.** No person shall dump concrete washings, sand, gravel, waste oils, hazardous or other foreign material into any sewers, streets or catch basins.



8.20 SNOW ON STREETS. No person shall throw or place any snow or ice upon any sidewalk or street. The deposit of any snow upon any sidewalk or street shall be a nuisance and in addition to the penalty provided for the Town may summarily remove any snow so deposited and cause the costs of the removal to be charged to the owner of the property from which the snow has been removed.

8.21 CLEANING OF SIDEWALKS. (Amended 10-13-10). (1) The owner of property abutting on any sidewalk shall, without notice and at all times, keep such abutting sidewalk clean and free of debris, dirt, sweepings, obstructions and clear of snow and ice and shall not deposit or place any sweepings or debris or other foreign matter upon the same.

(2) The lessee, occupant of first or ground floor, or persons having charge of a building, or if there be no lessee, occupant or person having charge, then the owner of each and every parcel of real estate in the Village abutting or bordering upon any street, highway or other public place, shall remove or cause to be removed all snow and ice from the public sidewalk in front of or adjacent to such premises to the full paved width of such sidewalk, within 48 hours after such snow or ice shall have fallen or accumulated.

(3) If the snow and ice on the public sidewalk shall be frozen so hard that it cannot be removed without injury to the sidewalk, the lessee, occupant, person having charge or owner of every parcel of real estate shall within the time specified in sub. (2) cause the public sidewalk abutting or adjacent to such premises to be kept strewn with ashes, sand or some other suitable material and shall as soon thereafter as the weather shall permit thoroughly clean such sidewalk.

(4) If the owners or occupants of lands abutting sidewalks fail to clear them as provided herein, the Village may, at its option, clear said sidewalks of ice and snow. The cost of such ice and snow removal by the Village shall be charged against such abutting lands as a special tax by the entry of such amount in the tax roll and shall be collectible with all other property taxes.

(5) The obligation of landowners and occupants provided herein shall not abate in the event the Village removes snow and ice from sidewalks as provided herein, and elects not to charge therefor; nor shall any duty or responsibility for snow and ice removal accrue to the Village as a result of the Village's election to provide snow removal services without charge.

(6) Sidewalks designated on the Official Village of Bellevue Snow Removal Map approved by the Village Board on October 13, 2010, and thereafter the snow removal map approved by resolution yearly at the December Village Board meeting are exempt for Section 8.21.

8.22 STREET NAMES. Pursuant to §81.01(11), Wis. Stats., all existing roads in the Town under Town Board jurisdiction and future extensions thereof are hereby assigned the names designated on the Town's official map. Subsequent roads laid out or constructed within the Town shall be assigned such names as shall appear:

(1) On plats finally approved by the Town effective on the date of the recording of the plats with the Register of Deeds; or

(2) On the official map, effective on the date of amendment of such map.

8.23 STREET CLASSIFICATION AND WARRANTY PERIOD (Repealed and Recreated 04/08/98, Amended 5/27/09). (1) STREET CLASSIFICATION. Every public freeway, highway, street, and road within the Village shall be classified on the Village's Official Traffic Map according to the following designations:

(a) Principal Arterial. Serves the major economic activity centers of the urban area, has the highest traffic volumes, and primarily serves regional and intra-urban traffic. These routes are generally extensions of rural arterials and provide a high level of travel mobility.

(b) Minor Arterial. Serves other economic activity centers important within the urban area, has moderate traffic volumes and primarily serves inter-community traffic. Minor arterials interconnect and augment the principal arterial system, and are generally extensions of the rural collector (county highway) system. Although the predominant function of minor arterials is traffic mobility, these routes serve some local traffic and provide more land access than principal arterials.

(c) Collector. Provides direct access to residential neighborhoods and commercial/ industrial areas, has moderate to low traffic volumes, and primarily serves inter-neighborhood traffic. Collector streets function to collect and distribute traffic between local streets and arterials. The travel mobility and land access functions of collector streets are equal in nature.

(d) Local. Provides direct access to adjacent land uses, and serves the ends of most trips within the urban area. All streets not classified as arterials or collectors are local.

(2) STREET IMPROVEMENT LIFE EXPECTANCY PERIOD. Any curb, gutter, sidewalk, concrete driveway aprons, or bituminous surface installed upon any street right-of-way by the Village for which special assessments were levied on, or after January 1, 2007 against benefiting properties shall be subject to a street improvement life expectancy period as follows:

(a) The pavement life expectancy for a bituminous reconstructed street shall be 25- years. The pavement life expectancy period shall commence on the date of billing for the special assessment. If any bituminous surface must be repaired or replaced within the original assessment district before the expiration of the planned live expectancy for such improvement, and the a new assessment hearing is ordered to pay for the new surface; the benefiting property owner may be credited up to 1/25 times the remaining pavement life expectancy times the original assessment amount for that improvement.

(b) The pavement life expectancy for a bituminous reconditioned street shall be 20- years. The pavement life expectancy period shall commence on the date of billing for the special assessment. If any bituminous surface must be repaired or replaced within the original assessment district before the expiration of the planned live expectancy for such improvement, and the a new assessment hearing is ordered to pay for the new surface; the benefiting property owner may be credited up to 1/20 times the remaining pavement life expectancy times the original assessment amount for that improvement.

(c) The pavement life expectancy period for a bituminous mill and overlay street shall be 15- years. The pavement life expectancy period shall commence on the date of billing for the special assessment. If any bituminous surface must be repaired or replaced within the original assessment district before the expiration of the planned live expectancy for such improvement, and the a new assessment hearing is ordered to pay for the new surface; the benefiting property owner may be credited up to 1/15 times the remaining pavement life expectancy times the original assessment amount for that improvement.

(d) The improvement life expectancy period for any curb, gutter, or concrete aprons shall be 15 - years. The improvement life expectancy period shall commence on the date of billing for the special assessment. If any curb, gutter, or concrete apron must be repaired or replaced within the original assessment district before the expiration of the planned live expectancy for such improvement, and the a new assessment hearing is ordered to pay for the new improvement; the benefiting property owner may be credited up to 1/15 times the remaining improvement life expectancy times the original assessment amount for that improvement

8.24 TREES. (Amended 05/13/09).

(1) PURPOSE:

(a) Having determined that a well managed urban forest provides many benefits to the Village, it is hereby declared to be the policy of the Village of Bellevue, Wisconsin, to regulate and control the planting, removal, maintenance, and protection of trees and shrubs upon or in all public areas of the Village in order to:

- i. Promote and enhance the aesthetics and general welfare of the Village.
- ii. Eliminate and guard against dangerous conditions which may result in injury to persons using public areas of the Village.
- iii. Protect trees and shrubs in public areas from undesirable and unsafe planting, removal, maintenance and protection practices.
- iv. Protect all trees and shrubs from the damaging effects of construction, alteration or repair of utility facilities and other improvements in any public area.
- v. Guard all trees and shrubs both public and private, within the Village against the spread of disease, insects, or pests.
- vi. Prevent damage to any public sewer, water main, street, sidewalk, or other public property.

(2) **AUTHORITY & POWER.** The following entities are hereby established and have authority to administer the provisions of this Ordinance:

(a) **TREE BOARD**

1. **ESTABLISHMENT.** The Village of Bellevue Park Commission shall function as the Village of Bellevue Tree Board (hereinafter "Tree Board"). Its functions and duties are limited to those set forth in this ordinance.
2. **DUTIES & RESPONSIBILITIES.** The Tree board shall have the following duties and responsibilities:
  - i. The Tree Board, with the assistance of the Village Forester, shall prepare for Village Board approval an Urban Forestry Strategic Plan. The Urban Forestry Strategic Plan shall outline urban forestry program activities for a minimum of five years. This plan shall describe the urban forestry activities to be undertaken by the village, the reasons for those activities, the possible funding source(s), and the means of accomplishing the activities, the alternatives available to the village to fund or accomplish the activity, the projected date of completion, and the consequences if the activity is not completed.
  - ii. The Tree Board, with the assistance of the Forester shall develop and periodically review and revise, as necessary, the Arboricultural Specifications Manual.
  - iii. The Tree Board shall advise and consult the Forester on any matter pertaining to the Village Tree Ordinance and its enforcement. The topics under which this advice and consultation may be given may include, but are not limited to, any of the following:
    - (b) Recommend for Village Board approval, amendments to the Tree Ordinance, development, alterations and/or revisions to the Arboricultural Specifications Manual, and/or other related urban forestry plans.
    - (c) Policy concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the village;

- (d) Recommendation for the allocation of funds to the Tree Program, and expenditures of funds by the Tree Program;
  - (e) Establishment of educational and informational programs; and
  - (f) Development of policies and procedures regarding the Tree Program.
3. The Tree Board, upon request shall hear all issues of disputes which arise between the Village and any such person whenever those issues involve matters or the interpretation or enforcement of the Arboricultural Specifications, Urban Forestry Plans and Programs or of the interpretation or enforcement of this Ordinance.

**(b) VILLAGE FORESTER**

1. **ESTABLISHMENT.** The Director of Leisure Services or his/her designee shall function as the Village Forester.
2. **DUTIES.** The Village Forester shall perform the following duties:
- i. **MANAGE THE URBAN FORESTRY PROGRAM.** The Village Forester shall implement, monitor and evaluate the Urban Forestry Program. The Village Forester shall manage the planting, removing, maintaining and protecting of all public trees and shrubs or cause such work to be done as may be necessary to preserve the beauty of public areas, public ways and to protect life and property.
  - ii. **PROVIDE URBAN FORESTRY EDUCATION & AWARENESS.** The Village Forester shall implement a program of public education and awareness that will encourage the planting, maintenance and removal of trees and shrubs on private property in furtherance of the goals of the Urban Forestry Program.
  - iii. **ISSUANCE OF PERMITS.** The Village Forester shall issue permits as are required by this Ordinance. The Village Forester shall have the right to inspect all work performed pursuant to such permits.

**(3) APPLICABILITY:**

- (a). This ordinance provides full power and authority over all trees and shrubs which now or which may hereafter be located within all public areas and to trees and shrubs located on private property that constitute a hazard or threat as described herein.

**(4) DEFINITIONS:** In this chapter, unless the context clearly requires otherwise, the following words and phrases shall be defined as follows:

"Village" is the Village of Bellevue, Wisconsin.

"Village Forester" shall mean the person designated by the Village under section 8.24.2b of this chapter, or his/her duly authorized representative designated to perform inspection or otherwise enforce the provisions of this chapter.

"Arboricultural Specifications Manual" means the urban forestry document for the Village that serves as a standard for the planting, maintaining, removing and protecting of all trees in public areas by identifying specific practices, policies and procedures.

"Clear-vision triangle" shall mean a triangle shaped zone formed by the existing or proposed curb lines of two or more intersecting streets, roads, or alleys and a third line connecting said curb lines at a distance of thirty (30) feet in each direction from the point of curb line intersection, in order to provide vehicular traffic an unobstructed view of cross traffic at intersections.

"Commission" shall mean the Park Commission of the Village of Bellevue as constituted under the Municipal Code of the Village of Bellevue.

"Maintenance and protection" shall include all operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing, cabling and cutting any tree or shrub above or below ground.

"Permit" shall mean written permission from the Village Forester to perform maintenance and protection on any public tree or shrub, or do construction (as defined in section 8.24.7) in the vicinity of any public tree or shrub. Any permit may include specifications which shall be complied with, and any special provisions applicable to the purpose of the permit.

"Person" shall mean any individual, firm, partnership, association, corporation or government entity.

"Public way" shall include all public streets, roads, boulevards, median strips, alleys, and sidewalks.

"Public area" shall include all public ways, parks, and other lands owned, controlled, or leased by the city.

"Public nuisance" shall mean any tree or shrub or part thereof which by reason of its condition and location has been declared to be a public nuisance under section 8.24.8 of this ordinance.

"Tree" shall mean a woody plant usually with a single stem unbranched at the base, reaching a height of twelve feet or more.

"Shrub" shall mean a woody plant usually with multiple stems branched at or near the base, reaching a height of less than twelve feet.

"Public trees and shrubs" shall mean any tree or shrub as herein defined, presently or hereafter planted in or upon any public area.

"Street tree" shall mean any public tree presently or hereafter located in the public way between the curb and public sidewalk, or between the curbs of a median strip, or in the equivalent location with respect to future curb, sidewalk or median strips where such curbs or sidewalk are not yet installed.

"Tree Board" shall mean the group of individuals appointed by the Village under section 8.24.2(a) of this chapter, designated to enforce the provisions of this chapter.

"Urban Forestry Management Plan(s)" means the urban forestry document(s) that establish specific field operations of the urban forestry program. Management plans identify and prioritize site specific tree planting, maintenance removal and abatement activities within a multi-year timeframe.

"Urban Forestry Strategic Plan" means the urban forestry document for the Village that establishes the overall goals and objectives of the urban forestry program.

**(5) STANDARDS AND SPECIFICATIONS FOR TREE PLANTING, MAINTENANCE, PROTECTION AND REMOVAL**

(a) The following document, in its entirety, is hereby adopted and made a part of this section:

1. "Village of Bellevue Arboriculture Specifications Manual."

**(6) STREET TREE PLANTING PLAN**

(a) **PLAN FOR THE ORDERLY PLANTING OF TREES.** The Village Board may establish a plan for the orderly planting of trees in the terraces or boulevards along village streets to reduce conflicts between trees and other public use of streets, to facilitate care of the trees, and to make the village

a more attractive place in which to live. The plan shall take into consideration the recommendations of the Urban Forestry Management Plan and Arboricultural Specifications Manual when determining species, size, and location of trees.

(b) **PLANTING ALONG ESTABLISHED STREETS.** When, in the opinion of the tree board, with approval from the Village Board, the street right-of-way or terrace of any established street can be improved by planned tree planting, existing trees have been removed due to the moving or construction of buildings or roadways or when the number of trees in any street right-of-way or terrace has become so few as a result of normal removal or other cause, the Village may plant or cause to be planted such trees in the street right-of-way or terraces as it deems necessary. The cost of replanting in the street right-of-way or terrace shall be assessed against owners of adjacent property in the same manner as other special assessments.

(c) **PLANTING OF TREES WHEN STREETS ARE RECONSTRUCTED.** When streets are fully reconstructed, new trees shall be planted if, in the opinion of the Village Forester, there is adequate land in the terrace or boulevard to reasonably support tree growth. The cost of these new trees shall be assessed against owners of adjacent property in the same manner as other special assessments. The number and location of each tree, species and size of stock are to be determined by the Village Forester.

(d) **PLANTING OF REPLACEMENT TREES.** When trees are removed for the widening of any established street, for death or illness of the tree or the abatement of a nuisance, replacement trees shall be planted if, in the opinion of the Village Forester, there is adequate land in the terrace or boulevard to reasonably support tree growth. The cost of replacing these trees will be at the expense of the Village. The number and location of each tree, species and size of stock are to be determined by the Village Forester.

(e) **NEW SUBDIVISIONS TREE PLANTING.** The Village shall require street trees for all new subdivisions in the village. A linear curb fee shall be charged per a developer agreement, collected and placed in an escrow account for trees. The fee shall be approved by resolution. After occupancy permits have been issued for approximately 70% of the houses in the development, trees shall be selected and planted in the terrace by the Village. The number and location of each tree, species and size of stock are to be determined by the Village Forester.

(f) **NEIGHBORHOOD TREE PLANTING PROGRAM.** The Village of Bellevue shall provide a neighborhood tree planting program for residents who wish to have trees planted in the terrace area adjacent to their property. The planting program will be offered in the fall and runs concurrent with other fall plantings. The resident pays for the wholesale cost of the tree including planting.

(g) **PUBLIC TREE PLANTING.** Should any owner of adjacent property desire to plant a tree on any public property, written permission shall be obtained from the Village Forester in which the number, species, location and size of the tree shall be designated. The cost of such planting shall be borne by the adjacent property owner.

(h) **PLANTING ALONG UNIMPROVED STREETS.** Trees shall not be planted in the terrace on unimproved streets or where no curb and gutter exist.

## (7) PERMITS

(a) **SCOPE OF REQUIREMENT.** No person except the Village Forester or authorized agent of the Village may perform any of the following acts without first obtaining from the Village Forester a permit (FREE OF CHARGE), and nothing in this Section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law:

- i. Remove, destroy, cut, deface or injure any tree existing in the public area or attach any rope, wire, chain sign or any other device to any public tree.
- ii. Plant, prune, fertilize or spay any tree or shrub existing on any public area in the Village or authorize or cause the same to be done.
- iii. Place or maintain upon the ground in any public area any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water.

(b) **ISSUANCE.** Within fourteen days of receipt of the application, the Village Forester may issue a permit to perform within thirty days of the day of issuance, any of the acts specified in parts (A, B, C), immediately above, for which a permit is requested whenever;

- i. Such acts would result in the abatement of a public nuisance; or Such acts are not inconsistent with the development and implementation of the Urban Forestry Management Plan or with any regulations or standards of the Arboricultural Specifications Manual; and whenever;
- ii. An application has been signed by the applicant and submitted to the Village Forester detailing the location, number, size, and species of trees, shrubs, or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Village Forester may find reasonably necessary.
- iii. The applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Ordinance, the Urban Forestry Management Plan and with the regulations and standards set forth in the Arboricultural specifications Manual; and
- iv. The applicant certifies that he/she has read and understands those provisions of the Urban Forestry Management Plan, this Ordinance and the Arboricultural Specifications Manual which are pertinent to the work for which the permit is sought;

**(8) PUBLIC NUISANCES**

(a) **DEFINITION.** The following are hereby declared public nuisances under this Ordinance:

- i. Any dead or dying tree, shrub, or other plant, whether located on Village-owned property or on private property that are the cause of substantial annoyance to the general public;
- ii. Any otherwise healthy tree, shrub, other plant or portion thereof, whether located on public areas or on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub, or other plant;
- iii. Any tree, shrub, other plant, or portion thereof, whether located on public areas or on private property, which by reason of location or condition constitutes a potential danger to the health, safety, or welfare of the general public;
- iv. Any tree, shrub, or other plant or portion thereof whether located on public areas or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street sign on village property.
- v. Any tree, shrub or other plant or portion thereof whether located on public areas or on private property which dangerously obstructs the view as such may be determined by the Village Forester pursuant to this Ordinance.

(b) **RIGHT TO INSPECT.** The officers, agents, servants, and employees, of the village have the authority to enter onto private property, after prior notification to property owner, whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

(c) **ABATEMENT.** The following are the prescribed means of abating public nuisances under this Ordinance:

- i. Any public nuisance under this Ordinance which is located on public areas shall be pruned, removed, or otherwise treated by the Village Forester or agent of the Village in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.

- ii. Any public nuisance under this Ordinance which is located on private-owned property shall be pruned, removed, or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied:
  - 1. The Village Forester or agent of the Village shall cause a written notice to be personally served or sent by Registered Mail to the person to whom was sent the tax bill for the general taxes for the last preceding year.
  - 2. Such notice shall describe the kind of tree, shrub, or the plant or plant part which has been declared to be a public nuisance; its location on the property; the reason for declaring it a nuisance;
  - 3. Such notice shall describe by legal description or by common description the premises;
  - 4. Such notice shall state the actions that the property owner may undertake to abate the nuisance;
  - 5. Such notice will require the elimination of the nuisance no less than thirty days after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year.
- iii. In the event that the nuisance is not abated by the date specified in the notice the Village Forester or agent of the Village is authorized to cause the abatement of said nuisance.
- iv. The Village Forester is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Village Forester or agent of the Village to be an immediate threat to any person, or property.

(9) INTERFERENCE WITH VILLAGE

(a) It shall be unlawful for any person to prevent, delay, or interfere with the Village or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees or trees and shrubs from any public area or trees and shrubs on private property as authorized by this Ordinance.

(10) PENALTIES, CLAIMS, AND APPEALS

- (a) VIOLATIONS. Any person who violates any provision of this Ordinance or fails to comply with any notice issued pursuant to the provisions of Ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed Two Hundred Dollars (\$200) for each separate offense, each day during which any violation of the provisions of this Ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Ordinance, the injury, mutilation, or death of a tree, shrub, or other plant located on public areas is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the most recent edition of A Guide to Plant Appraisal published by the International Society of Arboriculture.
- (b) ASSESSMENT OF CLAIM. In the event that a nuisance is not abated by the date specified in the notice, the Village Forester is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.
- (c) APPEAL. Any party who elects to dispute any action or decision by the Village Forester or Tree Board shall be entitled to appeal to the Village Board for a final determination.

(11) SEVERABILITY

- (a) If any provision of this Ordinance or application thereof to any person or circumstance is held invalid by any court, other provisions or applications of the Ordinance which can be given



effect without the invalid provision or application shall not be affected, and to this end the provisions of this Ordinance are declared to be severable.

8.25 VISION STANDARDS (Created 3/9/94, Amended 8/11/99). (1) Railroad Crossings. At the intersection of all railroad crossings and Town streets a vision triangle shall be created by the following: Use the point where the center line of the street and the center line of the railroad right-of-way meet as the point of origin. From the point of origin measure 200' along the center line of the street and 200' along the center line of the railroad right-of-way. The area encompassed in forming a triangle by attaching these points shall not be built upon.

(a) From the date of adoption forward this triangle shall be shown on any newly created plats or CSM's.

(b) This vision triangle shall control all building and land reconstruction on new or existing parcels.

(c) All such intersections on County or State roads shall meet the requirements of the County or State, whichever has jurisdiction and are thereby exempt from this section.

(2) Intersections. (a) Notwithstanding any other provision of this Chapter, no person shall plant, cause to grow, allow to grow, construct, cause to construct, maintain, or permit to remain any natural (e.g. shrub, tree, or other plant) or man made object of any kind, on any private or public premises situated at the intersection of two (2) or more streets or alleys, which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection. A clear sight triangle shall be maintained to a minimum distance of 15 feet measured from the point of intersection of the two property lines extended to meet one another. The Director of Public Works may require a larger clear sight triangle if determined that a hazard exists.

(b) It is unlawful for any person to plant, cause to grow, allow growing, constructing, causing to construct or maintain any natural (e.g. shrub, tree, or other plant) or man made object of any kind which is an obstruction to the clear and complete vision of any traffic sign. It shall be the duty of every owner of such tree, bush, shrubbery, or vegetation to remove such obstruction.

(c) Any natural (e.g. shrub, tree, or other plant) or man made object which obstructs the view at an intersection or the view of a traffic sign, shall be deemed to be dangerous to public travel and the Director of Public Works shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specified, it shall be lawful for the Town of Bellevue to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof shall be assessed to the owner.

8.26 STREET NUMBERS (Created 08/18/82). (1) All lots and parts of lots in the Town of Bellevue shall be numbered in accordance with a map designated "Street Numbering Map", now on file with the Building Inspector and at the Town Office. All lots and parts of lots hereafter platted shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined on such map.

(2) Each owner or occupant shall conform with the following regulations:

(a) All houses and buildings shall have numbers.

(b) All numbers shall be in a conspicuous place on the front of the building not above the first floor.

(c) All numbers shall be made so that they are easily seen/read from the road.

(d) All numbers shall be at least 2½" tall (minimum).

- (e) Any home or building with a setback beyond 40' shall also have their numbers on their mailbox.
- (f) The owner or occupant shall at all times keep the numbers on the building and in readable condition.
- (g) The numbers must be numerals and not script.

(3) If the owner or occupant of any building required by this section to be numbered neglects for a period of 20 days to duly attach and maintain the proper numbers on such building, the Town will send him a notice requiring such owner or occupant to properly number the same; and if he/she neglects to do so within 20 days after the service of such notice, he will be considered to be in violation of this section and be penalized. The penalty shall be not less than \$10 and not more than \$100. Each day is considered a separate violation.

**8.27    PLACEMENT UNDERGROUND OF ELECTRICAL UTILITIES (Adopted 5-26-04).**

(1) All new electrical utilities within the Village municipal limits shall be placed underground and shall be at no expense to the Village.

(2) Exemption from mandatory placement of electric utilities underground may only be given with a four-fifths consenting vote of the Village Board of Trustees at a duly noticed Village Board meeting.

**8.30    PENALTY.** Except as otherwise provided, any person found to be in violation of any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in §25.04 of this Code of Ordinances.

## SEWER USE AND USER CHARGE SYSTEM

(Created 09/23/92)

### **INTRODUCTION AND GENERAL PROVISIONS**

8.40 INTRODUCTION. This subchapter regulates the use of public and private sewers and drains, connections to the public sewerage system, discharge of septage into the public sewerage system, and the discharge of waters and wastes into the public sewerage system within the Bellevue Sanitary District. It also provides for and explains the method used for levying and collecting wastewater treatment service charges, sets uniform requirements for discharges into the wastewater collection and treatment systems, and enables the said Sanitary District to comply with administrative provisions, and other discharge criteria which are required or authorized by the State of Wisconsin or Federal law. Its intent is to derive the maximum public benefit by regulating the characteristics of wastewater discharged into the sewerage system.

8.41 GENERAL PROVISIONS. This subchapter provides a means for regulating the use of the public sewers, effectuating connections thereto, determining wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuing of permits to certain users. Revenues derived from the application of this subchapter shall be used to defray the costs of operating and maintaining the wastewater collection and treatment systems and to provide sufficient funds for capital outlay, debt service costs and capital improvements. The charges and fees herein have been established pursuant to requirements of the Wisconsin Statutes. This subchapter shall supersede any previous chapters, rules or regulations of the Sanitary District and the Town relating to the subject matter hereof; and shall repeal all parts thereof that may be inconsistent with this subchapter. If there is any conflict between this subchapter and any applicable Wisconsin Statute, the Wisconsin Statute shall control in such instance.

8.42 LEGAL AUTHORITY. This subchapter is enacted pursuant to the power and authority conferred by Ch. 60, Wis. Stats. and §66.072, Wis. Stats., as amended from time to time.

8.43 ORGANIZATION. The Bellevue Sanitary District is organized as a Sanitary District pursuant to Ch. 60, Wis. Stats. The Sanitary District shall have all of the power and authority authorized by applicable statutes; and nothing contained in this subchapter shall prohibit or otherwise limit the exercise of all such statutory power and authority. In connection with the organization of the Sanitary District, the following provisions shall control:

(1) TOWN BOARD TO ACT AS SANITARY DISTRICT COMMISSION. (a) Unless otherwise provided for in sub. (b) hereof, the Town Board shall act as the Commission of the Sanitary District. The term of office of such members of the Commission of the Sanitary District shall be concurrent with their terms of office as members of the Town Board. In the event of any vacancy on the Commission of the Sanitary District, such vacancy shall be filled in the same manner as the filling of a vacancy in the office of a Town Board Supervisor.

(b) As an alternative to sub. (a) above, the Town Board may, by resolution, appoint five (5) persons, who shall be residents of the Town and of the Sanitary District and shall own property within the District, as members of the Commission. The term of office for such members shall be three (3) years, and shall be staggered so no more than one (1) member is appointed each year. In making the initial appointments, the Town shall appoint one (1) member for a one-year term of office, another member for a two-year term of office, and another member for a three-year term of office. Any vacancy may be filled by appointment by the Town Board for the remainder of the unexpired term.

(2) DUTIES AND POWERS. (a) When the Town Board constitutes the Commission of the Sanitary District, the Town Board Chairman shall be the President of the Commission, the Town Clerk shall be the Secretary of the Commission, and the Town Treasurer shall be the Treasurer of the Commission; except where there is a Town Clerk-Treasurer, in which event, such individual shall be the Commission Secretary-Treasurer. Any vacancy in the offices of President, Secretary or Treasurer shall be filled in the manner applicable to filling vacancies in similar Town offices.

(b) When the Commission has been appointed by the Town Board pursuant to sub. (1)(b) above, the Commission shall organize itself by electing one of its members as President. The Town Clerk and the Town Treasurer shall be the Secretary and Treasurer of the Commission as provided for in sub. (2)(a) hereof, in any event.

(3) The President of the Commission shall preside at all meetings of the Commission. The Secretary shall keep a separate record of all proceedings and minutes of meetings and hearings of the Commission. The Treasurer shall maintain the accounts of the District pursuant to Ch. 60, Wis. Stats.

(4) The Commission of the Sanitary District may project, plan, construct and maintain a system of water supply and disposal of sewerage, including drainage improvements, sanitary sewers, surface sewers or storm water sewers, or all of the improvements or activities or any combination of them necessary for the promotion of the public health, comfort, convenience or welfare of the Sanitary District. Without intending to limit the generality of the foregoing, the Commission may:

(a) With the approval of the Town Board, sell any of its services to users inside or outside of the corporate limits of the Sanitary District.

(b) Fix and collect charges for sewerage service and water supply services.

(c) Employ attorneys, engineers, financial consultants, and other persons to assist it in the performance of its work.

(5) The Commission of the Sanitary District shall meet at such times and places as it deems appropriate; and shall adopt such rules and procedures relative to its meetings as it may reasonably require.

(6) The Town Board, acting for the benefit of and on behalf of the Sanitary District, may levy special assessments to finance the activities of the Sanitary District and may acquire property by means of eminent domain for public purposes on behalf of the Sanitary District.

(7) The fiscal year of the Sanitary District shall be the calendar year.

8.44 AUTHORITY OF TOWN. Nothing contained in this subchapter shall be construed in any way as limiting the statutory authority of the Town and Town Board, to act with respect to the subject matter of this subchapter. The Town, by adoption of this subchapter, is enacting the chapter within the territories comprising the Sanitary District. In the event of any challenge to the legal authority of the Commission of the Sanitary District to enact this subchapter, or any portion thereof, this subchapter shall nevertheless be effective and applicable by virtue of its adoption and enactment by the Town and Town Board pursuant to Ch. 60, Wis. Stats.

8.45 CURATIVE PROVISIONS. All acts or actions performed or done by or on behalf of the Commission or the Sanitary District prior to the effective date of this subchapter, are hereby ratified, confirmed and declared to be valid.

8.46 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this subchapter shall be as follows:

(1) *Approving authority* of the Sanitary District shall mean its Commission or its duly authorized committee, agent or representative.

(2) *Building drain* shall mean 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 or structure and conveys it to the building sewer.

(3) *Building sewer* shall mean the pipe extension beginning at the outside of the inner face of the building wall, to a point of connection with the public sewer.

(4) *Carbonaceous Biochemical Oxygen Demand (CBOD)* shall mean the quantity of oxygen used in the biochemical degradation of organic material in five (5) days at 20°C 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 Standard Methods.

(5) *Commission* shall mean the Commission of the Sanitary District.

(6) *Compatible pollutants* shall mean carbonaceous biochemical oxygen demand, suspended solids, total Kjeldahl nitrogen, plus additional pollutants identified in the WPDES permit for the publicly owned treatment works receiving the pollutant if such works were designed to treat such additional pollutants to a substantial degree.

(7) *Floatable oil* shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater or septage shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection or treatment system.

(8) *Garbage* shall mean the residue from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food products and produce.

(9) *Ground garbage* shall mean the residue from the preparation, cooking, and dispensing of food that has been shredded to such degree that all particulates will be no greater than one-half (1/2) inch in any dimension and will be carried freely in suspension under normal flow conditions in sewers.

(10) *Incompatible pollutants or wastewater* shall mean wastewater or septage with pollutants of such a strength that will adversely affect or disrupt the wastewater treatment processes or effluent quality or sludge quality if discharged to the sewerage system facility.

(11) *Industrial waste* shall mean the wastewater from an industrial process, trade, or business, as distinct from sanitary sewage, including cooling water and the discharge from sewage treatment facilities.

(12) *May* is permissible.

(13) *GBMSD Ordinance* shall mean the Sewer Use Ordinance of the Green Bay Metropolitan Sewerage District (herein "GBMSD") adopted on December 18, 1989, and any amendments thereto or restatements thereof.

(14) *Municipal wastewater* shall mean the wastewater of a municipality, including that of the Sanitary District. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residential, commercial buildings, industrial plants and institutions, together with any groundwater, surface water, and stormwater that may have inadvertently entered the sewerage system of the municipality.

(15) *Natural outlet* shall mean any outlet, including storm sewers, into a water course, pond, ditch, lake or other body of surface water or groundwater.

(16) *Parts per million* shall mean 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.

(17) *Person* shall mean any and all persons, including any individual, firm, company, municipal or private corporations, association, society, institution, enterprise, government agency or other entity.

(18) *pH* shall mean the logarithm of the reciprocal of hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grains per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of  $10^{-7}$ .

(19) *Phosphorus* shall mean the quantity of phosphorus as determined in accordance with "Standard Methods".

(20) *Public sewer* shall mean any sewer owned or provided by or subject to the jurisdiction of the Sanitary District or any other municipality.

(21) *Sanitary district* shall mean the Bellevue Sanitary District.

(22) *Sanitary sewage* shall mean a combination of liquid and water-carried wastes discharged from toilets and/or sanitary plumbing facilities, together with such ground, surface, and storm waters as may have inadvertently entered the sewerage system.

(23) *Sanitary sewer* shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with small quantities of ground, storm and surface waters that are not admitted intentionally.

(24) *Septage* shall mean the wastewater or contents of septic or holding tanks, closing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies or portable restrooms.

(25) *Sewer service charge* is a service charge levied on users of the wastewater collection and treatment facilities for payment of use-related capital expenses as well as the operation and maintenance costs, building replacement costs, of said facilities.

(26) *Sewer system* means the public sanitary sewers within a sewerage system. The facilities which convey wastewater from individual structures, from private property to the public sanitary sewer, or its equivalent, are specifically excluded from the definition of "sewer system"; except that pumping units and pressurized lines for individual structures or groups of structures may be included as part of a "sewer system" when such units are cost-effective and are owned and maintained by the Sanitary District. For example, a building sewer is not part of the sewer system.

(27) *Sewerage system* means all structures, conduits and pipes, by which sewage is collected, treated, and disposed of, except plumbing inside and in connection with buildings served, and service pipes, from building to street main, i.e., a building sewer.

(28) *Shall* is mandatory.

(29) *Slug load* shall mean any substance release at a discharge rate and/or concentration which cause interference to wastewater treatment processes or plugging or surcharging of the sewer system.

(30) *Standard methods* shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage, and Industrial Wastes" published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and is in compliance with Federal Regulations 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants," all as amended from time to time.

(31) *Stats.* shall mean the Wisconsin Statutes in effect from time to time.

(32) *Storm drain* (sometimes termed *storm sewer*) shall mean drain or sewer for conveying surface water, groundwater, subsurface water or unpolluted water from any source.

(33) *Stormwater runoff* shall mean that portion of the rainfall that is collected and drained into the storm sewers.

(34) *Suspended solids* shall mean solids that either float on the surface of, or are in suspension in, water, wastewater, septage, or other liquids, and that are removable by laboratory filtering as prescribed in "Standard Methods" and is referred to as non-filterable residue.

(35) *Total Kjeldahl nitrogen (TKN)* shall mean the quantity of organic nitrogen and ammonia as determined in accordance with "Standard Methods".

(36) *Town* shall mean the Town of Bellevue, a municipal corporation located in Brown County, Wisconsin.

(37) *Town Board* shall mean the Town Board of the Town.

(38) *Wastewater facilities* shall mean the structures, equipment, and processes required to collect, carry away, store, and treat domestic and industrial waste and septage and dispose of the effluent and sludge.

(39) *Wastewater treatment works* shall mean an arrangement of devices and structures for treating wastewater, septage, industrial waste, and sludge. Sometimes used as synonymous with waste treatment.

(40) *Watercourse* shall mean a natural or artificial channel for the passage of water, either continuously or intermittently.

#### **MANAGEMENT, OPERATION AND CONTROL**

8.50 MANAGEMENT. The management, operation, and control of the sewer system for the Sanitary District shall be vested in the Commission of the Sanitary District. All records, minutes and all written proceedings thereof shall be kept by the secretary. The treasurer shall keep all the financial records thereof.

8.51 DISTRICT CONSTRUCTION AUTHORITY. The Commission of the Sanitary District shall have the power to construct sewer lines for public use, and shall have the power to lay sewer pipes in and through the public alleys, streets, and public grounds located within the Sanitary District; and generally, to do all such work as may be found necessary or convenient in the management of the sewer system. The Sanitary District shall have power by itself, its officers, agents, and servants, to enter into any land in the Sanitary District for the purpose of making examination or supervise in the performance of their duties under this subchapter, without liability therefor; and the Sanitary District shall have power to purchase and acquire for the Sanitary District all real and personal property which may be necessary for construction of the sewer system, or for any repair, remodeling, or additions thereto.

8.52 OWNER'S MAINTENANCE OF BUILDING SEWER. The owner of property abutting a public sewer shall maintain sewer service from the public sewer main to the structure or building on the owner's property, including all controls between the same, without expense to the Sanitary District, except when they are damaged as a result of negligence or carelessness on the part of the Sanitary District. Without intending to limit the generality of the foregoing, the owner has the sole responsibility for the repair and maintenance of all Building Sewers; and the ownership thereof shall at all times be vested in such property owner. All sewer services must be maintained free of defective conditions, by and at the expense of the owner or occupant of the property. When any sewer service is to be re-laid and there are two (2) or more buildings on such service, each building shall be disconnected from such service and a new sewer service shall be installed for each building. In the event of any obstruction of, damage to or repair of a building sewer, the same shall be the responsibility of the property owner, except as provided for in §8.65 hereof or as otherwise provided for in this subchapter.

8.53 TITLE TO REAL ESTATE AND PERSONAL PROPERTY. All property, real, personal, and mixed, including but not limited to easements, acquired for the construction of the Sanitary District sewer system, and all plans, specifications, diagrams, papers, books and records connected therewith, and all

buildings, machinery, and fixtures pertaining thereto, shall be the property of and titled in the name of the Town for the benefit of the Sanitary District. Nothing contained in this subchapter shall be construed as revoking, changing, abandoning or otherwise altering any conveyance of property previously made to the Sanitary District prior to the effective date of this subchapter; and such title shall be deemed to be vested in the Town as provided for herein.

8.54 AUTHORITY. Nothing contained in this subchapter shall be construed as limiting the power and authority of the Commission or the Sanitary District as provided for by applicable Wisconsin Statutes; and the Commission and the Sanitary District shall have all rights and authority as provided for by law.

8.55 ADDITION TO DISTRICT. Territory may be added to the Sanitary District in the manner provided for by law. In the event of any such addition, the Commission of the Sanitary District may condition the provision of sewer service to such territory upon the owner thereof making such contributions, dedications and payments as the Commission may reasonably require in order to provide such sewer service.

### **ADMINISTRATIVE RULES AND REGULATIONS**

8.60 GENERAL PROVISIONS. The following rules and regulations for the government of licensed plumbers, sewer users, property owners and others, are hereby adopted and established.

(1) AGREEMENT TO RULES AND REGULATIONS. All persons now receiving sewerage service from the Sanitary District or who may hereafter make application for such service or who otherwise receive such service, shall be considered as having agreed to be bound by all of the terms and provisions of this subchapter, as amended from time to time; and such agreement is a condition precedent to the provision of such sewerage service.

(2) APPLICATION FOR SERVICE. Every person desiring to connect property, buildings or structures to public sewers shall make application in writing to the Sanitary District on such forms as are prescribed for that purpose, prior to commencing use of such service. The application must describe fully and truthfully all the wastes which are anticipated to be discharged. If the applicant is not the fee simple owner of the property, the written consent of the owner must accompany the application. Persons connected to the public sewers of the Sanitary District are referred to herein as "Users." By submitting such an application, all users are deemed to have agreed to be bound by this subchapter, as amended from time to time. If it appears that the service applied for will not provide adequate service for the contemplated use, the Commission of the Sanitary District may reject the application. If the Commission approves the application, it shall issue a connection permit as shown on the application. No service shall be provided or application, approved without prior payment of all applicable fees.

(3) APPLICATION FEE WAIVER. Where the application for service is for a connection to the Sanitary District's public sewers, the application shall be accompanied by an application fee in an amount to be determined from time to time by the Commission of the Sanitary District. Such fee shall cover the cost of processing the application and inspection of the connection. Application fees may vary in amount between residential users and commercial/industrial users. The payment of this fee shall be in addition to any connection fees that may be charged to or on account of new users by the Commission of the Sanitary District or by GBMSD.

(4) INSPECTIONS. Any connection to the public sewers within the Sanitary District shall be subject to the prior inspection and approval of the work by any authorized representative of the Commission. No trench or other excavation shall be filled, or any connection completed, without such prior inspection. The applicant requesting the connection shall reimburse the District for all inspection costs incurred, if not previously paid as part of the application fee.

(5) DISCONNECTION AND REFUSAL OF SERVICE. Sewer service may be disconnected or refused for any of the following reasons:



- (a) Violation of this subchapter, as amended from time to time;
- (b) Violation of the GBMSD Ordinance, as amended from time to time;
- (c) Failure to pay the application fee, any connection fee or delinquent account of the user.

(6) **DISCONNECTION FOR DELINQUENT ACCOUNTS.** A bill for service is delinquent if unpaid after the due date shown on the bill. The Sanitary District may disconnect service for a delinquent bill by giving the user at least eight (8) calendar days prior to disconnection, a written disconnect notice which may be included in the bill for service. For purposes of this rule, the due date shall not be less than 20 days after issuance of the bill. The Sanitary District may disconnect without notice where a dangerous condition exists for as long as the condition exists. Service may be denied to any user for failure to comply with the applicable requirements of these rules and regulations or if a dangerous or unsafe condition exists on the user's property.

(7) **SUBSEQUENT AMENDMENTS.** The Commission reserves the right to subsequently amend, modify, repeal and modify, any or all provisions of this subchapter.

8.61 **PLUMBERS.** No plumber, pipe fitter, or other person will be permitted to do any plumbing or pipe fitting work in connection with the sewer system without first receiving a license from the State of Wisconsin and obtaining permission from the Sanitary District in which the work is to be performed. All service connections to the sewer main shall comply with the State plumbing code, as amended.

8.62 **MANDATORY CONNECTIONS.** (1) Within the Sanitary District, the owner of each parcel of land adjacent to a public sewer main on which there exists a building used or usable for human habitation or in a block through which such system is extended, shall connect to the sewer system within 120 days of notice in writing from the Commission. Upon failure to do so, the Commission may cause such connection to be made and bill the property owner for all such costs. If such costs are not paid within 30 days, such cost shall constitute a special tax lien against the property, in the manner provided for by law.

However, the owner may, within 30 days after the completion of the work, file a written election with the Commission stating that the owner cannot pay such amount in one sum and ask that the sum be levied in five (5) or less equal annual installments. The amount shall be so collected with interest at a rate not to exceed 15% per annum from the date of completion of the work, all as determined by the Commission. The unpaid balance shall constitute a special tax lien, all pursuant to § 144.06, Wis. Stats. as amended.

(2) In lieu of the above, the Commission, at their option, may impose a penalty for the period that the violation continues after ten (10) days written notice to any owner failing to make a connection to the sewer system. The penalty shall be in the amount of a minimum of \$10 per day. Upon failure to make such payment, said penalty shall be assessed as a special tax lien against the property, all pursuant to §144.06, Wis. Stats. as amended.

(3) This subchapter ordains that any such failure to connect to the sewer system is contrary to the minimum health standards of the Sanitary District and fails to assure preservation of public health, welfare, comfort, and safety; and that such failure constitutes a public nuisance under §823.02, Wis. Stats., as amended, subject to abatement as provided for herein.

8.63 **BUILDING SEWER CONNECTION EXPENSE.** Persons attaching to a public sewer shall have the building sewer, or lateral, installed at their own cost and expense.

8.64 **TAP PERMITS.** After sewer connections have been introduced into any building or upon any premises, no plumber shall make any alterations, extensions, or attachments, unless the party ordering such tapping or other work exhibits the proper permit for the same from the Sanitary District.

8.65 OBSTRUCTION OF BUILDING SEWERS IN PUBLIC RIGHT-OF WAYS. In the event of any blockage, drainage or break in any building sewer, which occurs within a public street, alley, highway, or other public right-of-way, the Sanitary District shall have the exclusive right and option to repair the building sewer within said street, alley, highway, or right-of-way. In such event, the owner of the building sewer shall promptly reimburse the Sanitary District for all costs so incurred. If not so reimbursed, the same shall be added to the owner's sewer service charges and collected in the same manner as such charges are so collected.

8.66 BACKFLOW PREVENTER. All floor drains shall have a backflow prevention valve installed at the owner's expense.

8.67 USER USE ONLY. No user shall allow other persons or other services to connect to the sewer system through their lateral or building sewer.

8.68 DISCONTINUANCE OF SERVICE. Whenever any person desires to discontinue sewer service from the system, the Sanitary District must be notified in writing prior to such disconnection. Disconnection shall only be allowed where a structure is demolished. The fact that a structure is vacant shall not entitle the property owner to discontinue sewer service or to an abatement of sewer service charges.

8.69 USER TO PERMIT INSPECTION. Every user shall permit the Sanitary District or its duly authorized agent, at all reasonable times to enter their premises or building to examine the pipes and fixtures, and the manner in which the drains, and sewer connections operate; and the user must at all times, frankly and without concealment, answer all questions put to them relative to its use, all in accordance with this subchapter and §196.171, Wis. Stats., to the extent applicable.

8.70 SANITARY DISTRICT RESPONSIBILITY. It is expressly stipulated that no claim shall be made against the Sanitary District or its commissioners, agents, employees and representatives by reason of the breaking, clogging, stoppage, or freezing of any pipes; prior from any damage arising from repairing mains, making corrections or extensions or any other work that may be deemed necessary. The right is hereby reserved to cut off sewer service at any time for the purpose of repairs or any other necessary purpose, any permit granted or regulations to the contrary notwithstanding. Whenever it shall become necessary to shut off the sewer within any Sanitary District, the Sanitary District shall, if practicable, give notice to each and every user within the affected area of the time when such service will be shut off.

8.71 EXCAVATIONS WITHIN PUBLIC RIGHT-OF-WAY. (1) In making excavations in public streets or other public highways for laying pipe or making repairs, the paving and the earth removed must be deposited in a manner that will result in the least inconvenience to the public. Prior to commencing any such excavations, an excavation permit shall be obtained from the Town. In connection therewith, the person making application for such permit shall comply with such terms and conditions as the Town may impose with respect to such excavation. Further, the person obtaining the permit shall guarantee that all excavation and repair of streets and the construction of facilities shall be free from defect in material and installation for a period of one year following completion of construction. No person shall have any such excavation made in any street or highway open at any time without barricades; and during the night, warning lights must be maintained at such excavations. In refilling the opening, after the pipes are laid, the earth must be laid in layers of not more than 9' in depth, and each layer thoroughly compacted to prevent settling. This work, together with the replacing of sidewalks, ballast and paving, must be done so as to make the street as good, at least, as before it was disturbed, and satisfactory to the Town and the Sanitary District. No opening of the streets for tapping the pipes will be permitted when the ground is frozen, except in emergency situations or except as the Commission may otherwise expressly allow in writing.

(2) Any excavation performed under this §8.71 shall be subject to the inspection of the Town or the Sanitary District, and no work shall be deemed completed unless and until accepted by the Town or the Sanitary District as the case may be. All work performed under this section and the inspection thereof shall be at the cost of the person obtaining the excavation permit described herein.

8.72 TAPPING THE MAINS. Connections to the sewer system, other than building sewer connections, shall be done only in accordance with Part IV of the GBMSD Sewer Use 78-1 Ordinance, as amended.

8.73 INSTALLMENT OF BUILDING SEWERS. All building sewers on private property shall be installed in accordance with Ch. ILHR 82, Wis. Adm. Code, "Design, Construction, Installation, Supervision, and Inspections of Plumbing," especially, §82.04, ILHR, "Building Sewers", as amended. As required by §82.04(5), ILHR, Wis. Adm. Code, all laterals shall be inspected. The building sewer and/or private interceptor main sewer shall be inspected upon completion of placement of the pipe and before backfilling and tested before or after backfilling.

8.74 APPLICATION OF GBMSD ORDINANCE. Notwithstanding anything to the contrary contained herein, any connection to the public sewers shall be subject to the provisions of Sewer Use Ordinance 78-1, as adopted July 23, 1985 of the GBMSD Ordinance, as amended from time to time, to the extent applicable. In the event of any conflict between the provisions of this subchapter and Article 78-1 of the GBMSD Ordinance, the GBMSD Ordinance shall control.

8.75 NEW CONNECTIONS. New connections to the Sanitary District's sewer system will be allowed only if there is available capacity in all of the downstream wastewater collection and treatment facilities of the Sanitary District and GBMSD.

#### **USE OF THE PUBLIC SEWER**

8.80 NO CLEAN WATER DISCHARGES. No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, ground water, roof rain, subsurface, drainage or collecting water to any sanitary sewer.

8.81 COMPLIANCE WITH GBMSD ORDINANCE. No person shall discharge wastes into a public sewer within the Sanitary District, except in accordance with the provisions of the Sewer Use Ordinance, adopted 7-23-85, the GBMSD Chapter, as amended from time to time.

8.82 SPECIAL ARRANGEMENTS. No provision contained in this subchapter shall be construed as prohibiting any special agreement between the Sanitary District and any person whereby an industrial waste of unusual strength or character may be admitted to the wastewater collection and treatment facilities, either before or after pretreatment, provided that there is no impairment of the functioning of the wastewater collection and treatment facilities by reason of the admission of such wastes, and the extra costs are incurred by the Sanitary District without recompense from such person.

8.83 NO DISCHARGE TO VIOLATE GENERAL PERMIT FOR BY-PASSING. No person shall discharge or cause to be discharged any waters, wastewaters or other substances of any kind or nature that will result in or otherwise cause a violation of any General Permit For Bypassing issued by the Wisconsin Department of Natural Resources and held by the Sanitary District.

#### **PUBLIC SEWER MAIN EXTENSIONS**

8.90 APPLICATION AND APPROVAL. The extension of public sewer mains to serve new customers/users is subject to the prior review and approval of the Commission of the Sanitary District and any other governmental agency having appropriate jurisdiction thereof. Any person seeking to develop real property and requiring sewer service in connection with such development, shall make application to the Sanitary District for a public sewer main extension, if so required in order to serve such development. Such application shall be in writing and shall set forth the following information:

- (1) Name of development and the legal description of the property involved.
- (2) Plat map or certified survey map or other map showing street layout and lot sizes.

- (3) Zoning of the property.
- (4) Proposed plans and specifications for the sewers.
- (5) Name and address of consulting engineer.
- (6) Number of housing units and/or other units to be constructed.
- (7) Such additional information as the Sanitary District may require.

8.91 CONDITIONS OF APPROVAL. The Sanitary District shall have the sole discretion to approve or disapprove the requested public sewer main extensions. In granting such approval, the Commission of the Sanitary District may condition its approval upon compliance with:

- (1) Any applicable ordinances of the Sanitary District, Town, GBMSD or Brown County.
- (2) Any applicable statute, rules, orders or codes of the State of Wisconsin.
- (3) The preparation of plans and specifications for the sewer main extension, subject to the approval of the Sanitary District and its consulting engineer.
- (4) The applicant making and installing the public sewer main extension at his/her/its/sole cost and expense or otherwise providing surety bond or other security to ensure that the main will be so constructed within a reasonable period of time.
- (5) The dedication of such rights-of-way, easements and sewerage facilities as the Commissioner of the Sanitary District may reasonably require.
- (6) The pay merit of all costs and expenses incurred or to be incurred by the Sanitary District in connection with the review and approval of such sewer extension, including, but not limited to engineers fees, attorneys fees, inspection fees and other similar costs and expenses.
- (7) The payment of any applicable connection fees due or to become due pursuant to §§8.150-8.152 hereof.
- (8) Any other condition determined by the Commission to be fair and reasonable in order to protect the interest of the Sanitary District in connection with the proposed development.

8.92 CONTRACT FOR SEWER IMPROVEMENTS. The Commission of the Sanitary District may require the person filing an application pursuant to §8.90 hereof, to enter into a written development agreement with the Sanitary District, as a condition of the approval of the sewer main extension. Such agreement shall define the scope of the work, the obligations of the applicant to construct the sewer facilities, the requirement of security for performance of the applicant's obligations set forth therein, and such other matters as the Commission may reasonably determine, the applicant shall reimburse the Sanitary District for all attorney's fees incurred hereunder.

8.93 SEWER EXTENSION BY DISTRICT. The Commission of the Sanitary District may, on its own, cause any public sewer main to be extended at such time and under such conditions as the Commission deems appropriate in its sole discretion.

8.100 DEFINITIONS. The following terms shall have the following meaning under this subchapter:

- (1) *Debt service charges* shall include all costs associated with repayment of debt incurred for the construction and/or rehabilitation of the wastewater collection system and treatment facility.

(2) *Normal domestic strength wastewater* shall mean wastewater with concentrations of CBOD, suspended solids, nitrogen and phosphorus greater than 200, 200, 50 and 12 milligrams per liter (mg/l), respectively.

(3) *Restaurant strength wastewater.* (Am. S-1-93) All restaurants within the Sanitary District shall be charged at the residential rate beginning with the first quarter of 1993.

(4) *Normal user* shall be a user whose contributions to the sewerage system consist only of normal domestic strength wastewater originating from a house, apartment, flat, or other living quarters occupied by a person or persons constituting a distinct household, business or commercial enterprise.

(5) *Operation and maintenance costs* shall include all costs associated with the operation and maintenance of the sewerage system, including but not limited to administrative costs and expenses.

(6) *Replacement costs* shall include all costs necessary to replace equipment as required to maintain capacity and performance during the design life of the sewerage facilities. When required by appropriate authority having jurisdiction thereof, a separate, segregated, distinct replacement fund shall be established and used only for replacement of equipment.

8.101 MEASUREMENT. The unit of volume measurement for wastewater or other wastes discharged into the Sanitary District's sewerage system shall be 1,000 gallons, United States Liquid Measure. The unit for assessing costs with respect to strength wastewater parameters shall be avoirdupois pounds.

8.102 POLICY. It shall be the policy of the Sanitary District to obtain sufficient revenues to pay the costs of the operation and maintenance of the sewerage system including debt service and replacement fund (i.e., a cash account to be used for future, expenditures for obtaining or installing replacement equipment accessories or appurtenances which are necessary to maintain the capacity and performance of the sewerage system during the service life for which such facilities were designed and constructed), through a system of sewer service charges as defined in this subchapter. The system shall assure that each user of the sewerage system pays their fair and proportionate share of the cost of such facilities.

8.103 SEWER SERVICE CHARGE GENERALLY. Charges to each user shall be based on wastewater parameters established from time to time by the Commission of the Sanitary District. The sewer service charges shall consist of the sum of the annual debt service charges, all annual operation and maintenance costs, all replacement costs, and all sewer service charges levied or assessed to the Sanitary District by GBMSD.

8.104 BIENNIAL REVIEW. The sewer service charges of the Sanitary District shall be reviewed not less than biennially. Sewer service charges shall be adjusted as required, to reflect actual number and size of users and actual costs. Users will be notified annually of the portion of such sewer service charges attributable to operation and maintenance, debt service, and replacement costs. For purposes hereof, the Commission may satisfy this notice requirement by including in the budget summary required to be published under §65.90, Wis. Stats., a statement of the aforesaid components of the sewer service charges, based on the results of operations for the preceding fiscal year.

8.105 SEWER SERVICE CHARGES. A sewer service charge is hereby imposed upon each lot, parcel of land, building, or premise served by the public sewer or otherwise discharging sewage, including industrial wastes, into the public sewerage system. Such sewer service charge shall be payable as hereinafter provided and an amount determined as follows:

(1) **CATEGORY A.** Service charges shall be imposed on each user whose water use is metered and whose sewer discharges are normal domestic strength wastewater. The Category A service charge is of the following form:

Service Charge	=	Customer Charge + Volume Charge
Customer Charge	=	A flat rate based on the size of the water meter
Volume Charge	=	The volume of metered water in thousands of gallons multiplied by the volume rate.
Volume Rate	=	The volume unit price for sewer service expressed in dollars per 1,000 gallons, as determined by the Commission

(2) CATEGORY B. Service charges shall be imposed on each user whose water use is not metered and whose sewage discharges are normal domestic strength wastewater. The Category B sewer service charge shall be of the form as follows:

Service Charge	=	Equivalent Residential Units ("ERU's") multiplied by the Equivalent Residential Unit Rate ("ERU Rate").
A Single ERU	=	Shall mean a single family residential dwelling unit that discharges normal domestic strength wastewater.
ERU Rate	=	The average cost of providing wastewater service to a residential customer for one calendar quarter, plus proportional share of the administrative and billing costs of the District.

No user shall be assigned less than one ERU. The number of residential unit equivalents for non-residential users shall be as determined by the Commission from time to time.

(3) CATEGORY C. Service charges shall be imposed on users whose sewage discharges are high strength wastewater having organic concentrations of carbonaceous biochemical oxygen demand (CBOD) greater than 200 milligrams per liter (mg/l) and/or suspended solids greater than 200 milligrams per liter (mg/l) and/or total Kjeldahl nitrogen (TKN) greater than 50 milligrams per liter (mg/l) and/or phosphorus greater than 12 milligrams per liter (mg/l). The minimum Category C service charge shall be based on a concentration of 200 mg/l CBOD, 200 mg/l suspended solids, 50 mg/l TKN and 12 mg/l phosphorus. The form of the Category C service charge is as follows:

Service Charge	=	Customer Charge + Volume Charge + High Strength Surcharge.
Customer Charge	=	A flat rate based on the size of the water meter.
Volume Charge	=	The volume of metered water in thousands of gallons multiplied by the Volume Rate.
Volume Rate	=	The volume unit price for sewer service expressed in dollars per 1,000 gallons, as determined by the Commission.
High Strength Surcharge	=	The excessive CBOD, suspended solids, TKN and phosphorus multiplied by the respective CBOD, suspended solids, TKN and phosphorus rates. The excessive CBOD, suspended solids, TKN and phosphorus are the portions of each of these constituents that are in excess of normal domestic strength wastewater. The excessive amounts of CBOD, suspended solids, TKN and phosphorus are expressed in pounds and their respective rates are expressed in dollars per pound.

(4) **REASSIGNMENT OF CATEGORIES OF SEWER USERS.** The Sanitary District may reassign sewer users into appropriate sewer service charge categories if wastewater sampling programs and other related information indicate a change of categories is necessary or otherwise required.

8.106 **RATE DETERMINATIONS.** The Commission of the Sanitary District shall determine each year, the rates referred to in §8.105 hereof; and the Commission shall have the right to amend, modify, adjust or change the rates at any time and from time to time.

8.107 **CREDITS FOR WATER NOT DISCHARGED TO PUBLIC SEWERS.** In the event any user who is required to pay Category A service charges can demonstrate to the reasonable satisfaction of the Commission that such user does not discharge significant amounts of the water consumed by such user into the public sewers, the Commission may authorize a reduction of the volume of wastewater that would otherwise be assigned to such user by application of this subchapter. In authorizing a reduction, the Commission may require the user, at its own expense, to make necessary changes in the water piping and install couplings so that a water meter can be set that will read only water that is ultimately discharged into the public sewers.

### **CONTROL OF INDUSTRIAL WASTES**

8.110 **GENERAL.** (1) An "Industrial Discharge" or "Industrial Waste" shall have the same meaning as provided for in the GBMSD Ordinance, as amended from time to time.

(2) Each person discharging industrial waste into the public sewers of the Sanitary District shall comply with all applicable provisions of the GBMSD Ordinance. No person shall discharge any industrial waste that contains substances or possesses characteristics that are detrimental to the Sanitary District's sewerage collection system. In such event, the Commission of the Sanitary District may impose any of the alternatives provided for in sewer use §78-1 of the GBMSD Ordinance, as amended from time to time.

8.111 **CONTROL MANHOLES.** (1) Each person discharging Industrial Waste into a public sewer shall construct and maintain one or more control manholes or access points to facilitate observation, measurement, and sampling their waste, including domestic sewage.

(2) Control manholes or access facilities shall be located and built at such location and in such manner as may be acceptable to GBMSD. If measuring devices are to be permanently installed, they shall be of a type acceptable to GBMSD.

(3) Control manholes, access facilities and related equipment shall be installed by the person discharging industrial waste at its expense and shall be maintained by the person discharging the waste so as to be in safe condition at all times. Plans for installation of the control manholes or access facilities and related equipment shall be approved by the GBMSD Ordinance prior to the beginning of construction.

8.112 **WASTEWATER MEASUREMENT, SAMPLING AND REPORTING.** Wastewater flow measurements, sampling and reporting shall be done in accordance with Article 78-1 of the GBMSD Ordinance, as amended from time to time.

### **DISCHARGE OF HOLDING TANK WASTE AND OTHER WASTE**

8.120 **GENERAL.** For purposes of this subchapter, the terms "holding tank waste" and "licensed disposer" shall have the same meaning as provided for in the GBMSD Ordinance, as amended from time to time.

8.121 **PROHIBITION OF DISCHARGE INTO PUBLIC SEWERS.** No person, including a licensed disposer, shall discharge any holding tank waste, or any other similar waste, into any manhole or other opening in a public sewer owned or maintained by the Sanitary District. Instead, all such discharges of holding tank wastes shall be made pursuant to §78-1, GBMSD Ordinance, as amended from time to time.

## **BILLING AND PAYMENT OF SEWER SERVICE CHARGES**

8.130 CALCULATION. Sewer service charges that are to be assessed to users shall be computed by the Sanitary District according to the rates and methodology presented in §§8.110-8.117 of this subchapter.

8.131 BILLING. Sewer service charges shall be billed to each user on a calendar quarter basis (or more frequently if so determined by the Commission). Such charges shall be payable to the Sanitary District not later than 20 days after the date of the bill, unless the Sanitary District has extended the time for payment.

8.132 PENALTY FOR DELINQUENT PAYMENTS. A penalty equal to 1½% per month of the delinquent amount shown on any bill for services, shall be added to all bills not paid by the date fixed therein for final payment. In the event the amount of the bill is placed on the tax rolls pursuant to §133(2) hereof, an additional penalty of 10% of the delinquent amount shall be imposed for each tax statement so issued.

8.133 REMEDIES FOR FAILURE TO MAKE PAYMENTS. (1) SUIT. Sewer service charges, connection fees or other charges due from any person or user shall be deemed to be a debt due to the Sanitary District from that person or user. If sewer service charges, connection fees, or other charges are not paid when due, the Commission may, on behalf of the Sanitary District, commence an action in a court of competent jurisdiction; and recover from such persons or user the amount of charges or fees, and damages, if any, sustained by the Sanitary District as a result of such failure to pay, together with attorney's fees incurred in collecting said sums, court costs and such other costs and expenses as may be allowed by law.

(2) LIEN ON PROPERTY. As an alternative to sub. (1) hereof, the Commission of the Sanitary District may direct that unpaid sewer service charges, connection fees, or other charges due from any person or user, shall be collected and taxed and shall be a lien upon the property served in the manner provided for in §66.076(7), Wis. Stats., as amended from time to time.

8.134 OBLIGATION FOR PAYMENT. The obligation for payment of sewer service charges, connection fees or other charges due the Sanitary District shall be a joint and several obligation of the user and property owner, where the user and property owner are not the same person. To the end that there may be attempts at avoidance of payment of such charges and fees by non-property owner users, and to overcome the same, the Sanitary District may send the bill for such a user, in care of the property owner.

8.135 REMEDIES CUMULATIVE. All remedies provided for in this subchapter are distinct and cumulative to any other right or remedy under this subchapter or any other ordinance of the Sanitary District or afforded by law or equity; and may be exercised by the Commission of the Sanitary District concurrently, independently, or so successively.

8.136 DISPOSITION OF REVENUE. The amounts received from the collection of sewer service charges authorized by this subchapter shall be credited to the sanitary sewerage account which shall show all receipts and expenditures of the sewerage system. Charges collected for replacement expenses shall be credited to a segregated, non-lapsing replacement account. These funds are to be used exclusively for replacement. When appropriated by the Commissioners of the Sanitary District, the credits to the sanitary sewerage account shall be available for the payment of the requirements for operation, maintenance, repairs, and depreciation of the sewerage system consistent with 40 CFR 35.929. Any surplus outside the purview of 40 CFR 35.929, in said account, shall be available for the payment of principal and interest of obligations issued and outstanding, or which may be issued to provide funds for said sewerage system, or part thereof, and all or part of the expenses for additions and improvements and other necessary disbursements or indebtedness, and the Commissioners may resolve to pledge such surplus or any part thereof for any such purpose. All present outstanding sewer system obligations, including refunding obligations, shall be paid from this fund as to both principal and interest, unless otherwise required by law.



8.137 EXCESS REVENUES. Excess revenues collected from a user class will be applied to operation and maintenance costs attributable to that class for the next year.

#### **AUDIT**

8.140 AUDIT. Unless otherwise required by applicable statutes, the Sanitary District shall conduct an independent annual audit, the purpose of which shall be to maintain the proportionality between users and user classes of the user charge system and to ensure that adequate revenues are available relative to increasing operation, maintenance and replacement costs and debt retirement. A summary of the findings and recommendations of this audit shall be published from time to time, as determined by the Commission.

#### **CONNECTION FEES**

8.150 GBMSD CONNECTION CHARGES. For each connection of a building sewer to a public sewer within the Sanitary District, there shall be paid to the Sanitary District a connection charge as determined pursuant to §80-2, GBMSD Ordinance, as amended from time to time.

8.151 SANITARY DISTRICT CONNECTION CHARGES. For each connection of a Building Sewer to a public sewer within the Sanitary District, there shall be paid to the Sanitary District a connection charge. Such connection charge shall be assessed to the person seeking the connection and shall be paid as a condition precedent to the actual connection. The connection charge of the Sanitary District shall be in such amounts and shall be paid at such time as the Commission may from time to time determine.

8.152 CONNECTION FEES. For purposes of this subchapter, the connection charges described in §§8.150 and 8.151 hereof are collectively referred to as "Connection Fee(s)." The failure to pay any connection fee is a violation of this subchapter; and this Commission may pursue all rights and remedies provided for herein.

#### **VIOLATIONS, ABATEMENT PROCEDURES AND PENALTIES**

8.160 VIOLATIONS CONSTITUTING PUBLIC NUISANCE. A violation (other than the failure to pay sewer service charges or other fees or costs due under this subchapter) of any provision of this subchapter or any other rule or order of the Commission of the Sanitary District is hereby declared to be a public nuisance.

8.161 DAMAGE TO SANITARY DISTRICT PROPERTY. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure or equipment which is a part of the Sanitary District's sewerage system. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

8.162 ENFORCEMENT. The Commission of the Sanitary District shall have the right to enforce the provisions of this subchapter and shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this subchapter to abate a public nuisance unless the Commission shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and shall have satisfied itself that a nuisance does in fact exist.

8.163 SUMMARY ABATEMENT. If the Commission determines that a public nuisance exists within the Sanitary District and that there is great and immediate danger to the public health, safety, or welfare, the Commission may cause the same to be abated and charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be.

8.164 ABATEMENT AFTER NOTICE. If the Commission determines that a public nuisance exists on the private premises but that the nature of such nuisance is not such as to present great and immediate danger to the public health, safety, or welfare, the Sanitary District shall serve notice to the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is

not removed within such ten (10) days, the Commission shall cause the nuisances to be removed as provided in §8.163.

8.165 OTHER METHODS NOT EXCLUDED. Nothing in this subchapter shall be construed as prohibiting the abatement of public nuisances by the Sanitary District or the Town or its officials in accordance with the laws of the State of Wisconsin.

8.166 COURT ORDER. Except when necessary under §8.163, the Commission shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if said premises are occupied, and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of public nuisance.

8.167 COST OF ABATEMENT. In addition to any other penalty imposed by this subchapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Sanitary District shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the nuisance, and such cost shall be assessed against the real estate as a special charge. For purposes hereof, costs shall include but not be limited to actual attorney's fees and court costs.

8.168 CONTINUED VIOLATIONS. Any person who shall continue any violation beyond the aforesaid notice time limit provided, shall forfeit not less than \$500 or more than \$1,000 together with the costs of prosecution. In default of payment of such forfeiture and costs, said violator shall be imprisoned in the Brown County Jail for a period not to exceed 30 days. Each day in which any violation is continued beyond the aforesaid notice time limit shall be deemed a separate offense.

8.169 LIABILITY TO SANITARY DISTRICT FOR LOSSES. Any person violating any provision of this subchapter shall become liable to the Sanitary District for any expense, loss, or damage occasioned by reason of such violation which the Sanitary District may suffer as a result thereof. If any violations affect the GBMSD wastewater collection and treatment facilities as well as the Sanitary District's sanitary sewer system, GBMSD may penalize the violator independently and/or concurrently with the Sanitary District according to the GBMSD Ordinance.

8.170 ACCIDENTAL DISCHARGE. Any person found to be responsible for accidentally allowing a deleterious discharge into the sewerage system which causes damage to the sewerage system and/or a receiving body of water (e.g., lake, river, stream, etc.) shall, in addition to a fine, pay the amount to cover all damages, both of which will be determined by the Sanitary District or other governmental authority having appropriate jurisdiction.

8.171 ACCIDENTAL DISCHARGE REPORTING. Any person responsible for an accidental discharge, that may have a detrimental impact on the sewerage system, shall immediately report the nature and amount of the discharge to the GBMSD.

8.172 LIABILITY TO SANITARY DISTRICT FOR LOSSES. Any person violating any provision of this subchapter shall become liable to the Sanitary District for any expense, attorney's fees, costs, engineering fees, loss, or damage occasioned by reason of such violation which the Sanitary District may suffer as a result thereof. Without intent to limit the generality of the foregoing, the Commission of the Sanitary District shall have the right of recovery from all such persons, any expense incurred by the Sanitary District for the repair or replacement of any part of the public sewerage system damaged in any manner by any person by the performance of any work under its control, or by any negligent acts.

## **APPEALS**

8.180 REVIEW OF ADMINISTRATIVE DETERMINATIONS. Any person having a substantial interest which is adversely affected by an administrative determination of the Commission or any agent thereof, may have such determination reviewed or provided for herein. Only administrative determinations described in §68.02, Wis. Stats., as amended from time to time, are subject to review under §§8.180-8.186

of this subchapter. Notwithstanding anything to the contrary contained herein, any determinations involving sewer service charges (or any component thereof), application fees, connection fees, or any other fees or costs due under this subchapter are not subject to review hereunder. Further, any determinations involving the levying and assessment of special assessments or any of the determinations described in §68.03, Wis. Stats., are not subject to review hereunder.

**8.181 PROCEDURE FOR REVIEW.** A person satisfying the requirements of §8.180 hereof, shall first make a written request to the Commission for a review and administrative determination, which request shall be submitted to the Commission within 15 days following the determination in question. The request shall be in writing, shall state the name and address of the person seeking the review, shall describe the circumstances surrounding the determination and shall state the grounds upon which such person contends that the determination should be modified or reversed.

**8.182 HEARING.** Upon receipt of a request for review under §8.181, the person seeking the review shall have a hearing before the Commission; provided the provisions of §8.183 are satisfied. The hearing shall be held at a time and place determined by the Commission, within 30 days from the date of receipt of the request. The Commission shall notify such person by mail or personal service, at least ten (10) days before such hearing of the time and place of the hearing. Except as otherwise provided for herein, the hearing shall be conducted in accordance with §68.11(2), Wis. Stats., as amended from time to time.

**8.183 COSTS.** Any approval to the Commission under §8.181 hereof, shall be accompanied by a non-refundable review fee of \$50. In the event the person seeking review desires the hearing proceedings to be taken by a stenographer or by a recording device, the expense thereof shall be paid by the person seeking the review.

**8.184 DECISION AND APPEAL.** Within 30 days of completion of the hearing under §8.182 hereof and the filing of briefs, if any, the Commission shall make its written determination on the request for review. Such determination shall be mailed or delivered to such person at the address set forth in the request for review. The decision of the Commission may be subject to judicial review under §68.13, Wis. Stats., as amended from time to time, in the manner provided therein.

**8.185 APPLICATION OF CHAPTER 68 OF THE WISCONSIN STATUTES.** Except as to those specific statutes expressly incorporated herein, the Commission elects not to be governed by any other provisions of Ch. 68, Wis. Stats., as amended.

**8.186 COSTS.** In the event the Commission does not modify or reverse the administrative determination in question following the hearing thereon, or in the event the administrative determination is sustained on appeal under §68.13, Wis. Stats., then in either of such events, the person who has sought the review shall reimburse the Sanitary District for all hearing and costs incurred, including, but not limited to, reasonable attorneys fees.

## **SEPTIC SYSTEMS**

**8.190 SEPTIC TANKS PROHIBITED.** The maintenance and use of a septic tank or other private sewerage disposal system by any owner of land located within the Sanitary District, where such land is adjacent to a public sewer main, and which has failed to connect to the Sanitary District's sewerage system is hereby declared to be a public nuisance and a health hazard. Such nuisance and hazard shall be abated; and damages and costs recovered therefor in accordance with §823.02, Wis. Stats.

**8.191 SEPTIC SYSTEMS ALLOWED.** In certain isolated locations within the boundaries of the Sanitary District it may be necessary for the owners of certain properties not served by the Sanitary District's sanitary sewer system to continue the maintenance and use of a septic tank or other private sewerage disposal system. Such maintenance and use shall be considered as a temporary wastewater disposal system and is subject to the review and approval of the Commission of the Sanitary District. The review

and approval will be on a case by case basis with each case determined upon its particular facts and circumstances.

#### **VALIDITY**

8.200 REPEAL OF CONFLICTING ORDINANCES. All ordinances, resolutions, orders or parts thereof heretofore adopted or enacted, which are in conflict with this subchapter, shall be and the same are hereby repealed.

8.201 SAVINGS CLAUSE. If any provision of this subchapter is found invalid or unconstitutional or if the application of this subchapter to any person or circumstances is found to be invalid or which can be given effect without the invalid or unconstitutional provision or application.

8.202 AMENDMENTS. The Commission of the Sanitary District may amend this subchapter in part or in whole at any time whenever it may deem necessary.