

Sewer Use and Wastewater Treatment Service Rate

or any officer, agent or employee thereof, who shall continue any violation beyond the aforesaid notice time limit provided shall, upon conviction thereof, forfeit no more than \$1,000 plus the costs of prosecution. Each day in which any violation is continued beyond the aforesaid notice time shall be deemed a separate offense.

SEC. 9-10-4 LIABILITY TO VILLAGE FOR LOSSES. Any person violating any provision of this Ordinance shall, in addition to any penalty or fine that may be assessed against them, become liable to the Approving Authority for any expense, loss or damage occasioned by reason of such violation which the Approving Authority may suffer as a result thereof.

SEC. 9-10-5 DIFFERENCES OF OPINION. The Board of Trustees of the Village shall arbitrate differences between the Approving Authority and sewer users on matters concerning interpretation and execution of the provisions of the Ordinance.

SEC. 9-10-6 ENFORCEMENT OF INDUSTRIAL PROVISIONS.

(a) Notification of Violation. Whenever the POTW finds that any Industrial user has violated or is violating this Ordinance, or a wastewater permit or order issued hereunder, the Approving Authority or their agent may serve upon said user written notice of the violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Approving Authority. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.

(b) Civil Penalties.

- (1) Any industrial user who has violated or continues to violate this Ordinance or any order or permit issued hereunder, shall be liable to the POTW for a civil penalty of not more than \$1,000, plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the POTW may recover reasonable attorney's fees, court costs and other expenses associated with the enforcement activities, including sampling, monitoring and analysis expenses.
- (2) The Approving Authority shall petition the Court to impose, assess, and recover such sums. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to , the extent of harm caused by the violation,

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the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

ARTICLE J - APPEALS

SEC. 9-11-1 PROCEDURES. Any user, permit applicant or permit holder affected by a decision, action or determination, including cease and desist orders, made by the Approving Authority interpreting and implementing the provisions of this Ordinance or in any permit issued herein, may file with the Approving Authority a written request for reconsideration within ten (10) days of the date of such decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration. The Approving Authority shall render a decision on the request for reconsideration to the user, permit applicant or permit holder in writing within fifteen (15) days of receipt of request. If the ruling on the request for reconsideration made by the Approving Authority is unsatisfactory, the person requesting reconsideration may, within ten (10) days after notification of the action, file a written appeal with the Village Board. The written appeal shall be heard by the Village Board within thirty (30) days from the date of filing. The Village Board shall make a final ruling on the appeal within ten (10) days from the date of hearing.

ARTICLE K. VALIDITY

SEC. 9-12-1 SUPERSEDING PREVIOUS ORDINANCES. This Ordinance governing sewer use, industrial wastewater discharges, sewer service charges and sewer connections or construction shall replace and supersede all previous ordinances or portion of ordinances of the Municipality regarding sewer service charge.

SEC. 9-12-2 INVALIDATION CLAUSE. Invalidity of any section, clause, sentence or provision in the Ordinance shall not affect the validity of any other section, clause, sentence or provision of this Ordinance that can be given effect without such invalid part or parts.

SEC. 9-12-3 AMENDMENT. The municipality, through its duly authorized officers, reserves the right to amend this Ordinance in part or in whole whenever it may deem it necessary.

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ARTICLE L - AUDIT, NOTIFICATION & RECORDS

SEC. 9-13-01 BIENNIAL AUDIT. The municipality shall review, at least every two (2) years, the wastewater contribution of its sewer users, the operation, maintenance and replacement expenses of the wastewater treatment facilities, and the sewer service charge system. Based upon this review, the municipality shall revise the sewer service charge system, if necessary, to accomplish the following:

- (a) Maintain a proportionate distribution of operation and maintenance expenses among sewer users based upon the wastewater volume and pollutant loadings discharged by the users.
- (b) Generate sufficient revenue to pay the debt service costs and the total operation and maintenance costs necessary to provide for the proper operating and maintenance (including replacement) of the treatment works.
- (c) Apply excess revenues collected from a class of users to the operation and maintenance expenses attributable to that class of users for the next year and adjust the sewer service charge rates accordingly.

SEC. 9-13-2 ANNUAL NOTIFICATION. The municipality shall notify its sewer users annually about the sewer service charge rates. The notification shall show what portion of the rates are attributable to the operation and maintenance expenses, and debt service costs of the wastewater treatment facilities. The notification shall occur in conjunction with a regular bill.

SEC. 9-13-3 RECORDS. The municipality shall maintain records regarding wastewater flows and loadings, costs of the wastewater treatment facilities, sampling programs and other information necessary to document compliance with 40 CFR 35, Sub-part E of the Clean Water Act.

ARTICLE M - EFFECTIVE DATE

SEC. 9-14-1 DATE OF EFFECT. This Ordinance shall take effect and be in force from and after March 15, 2003.

SEC. 9-14-2 DATE OF ENACTMENT (APPROVAL). Passes and adopted by the Village Board of the Village of Nichols, in the County of Outagamie, in the State of Wisconsin, on the 11th day of March , 2003.

CHAPTER 3

Cable Television

9-16-1	Grant of Franchise
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9-16-3	Franchise Expiration and Cancellation
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9-16-14	Compliance with Laws, Rules and Regulations
9-16-15	Protection of Nonsubscribers
9-16-16	Conflict with Other Ordinances

Sec. 9-16-1 GRANT OF FRANCHISE.

This Chapter grants to Northern Lakes Cable Television, with offices at 101 North Cecil Street, P.O. Box 8, Bonduel, Wisconsin 54107, a nonexclusive franchise to install, maintain and operate a cable television system for the distribution of television signals, frequency modulated radio signals, closed circuit television programs, data transmissions and any and all additional services which are now or may be commonly associated with the cable television industry in the future. The term of this grant is for fifteen (15) years.

Sec. 9-16-2 DEFINITIONS.

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such word or phrase:

- (a) **Additional Service.** Any subscriber service provided by the grantee for which a special charge is made in addition to the regular monthly charge paid by all subscribers.
- (b) **Basic Subscriber Service.** Subscriber services provided by the grantee, including the delivery of broadcast signals and programming originated over the cable system, covered by the regular monthly charge paid by all subscribers.
- (c) **Board.** The duly elected Village Board of Nichols or other future governing body of said entity.
- (d) **Cable System.** A system of antennas and other receiving equipment, cables, wires, lines, towers, waveguides, laser beams or any other conductors, converters, equipment or facilities, designed or constructed for the purpose of producing, receiving, amplifying and distributing by audio, video and other forms of

electronic or electrical signals to and/or from locations in and outside the Village of Nichols.

- (e) **Full Network Service.** All "basic services" and "additional services" offered by the grantee.
- (f) **Grantee.** Northern Lake Cable Television.
- (g) **Subscriber.** A purchaser of any service delivered by the grantee pursuant to this franchise, and "subscriber" shall also include all persons who are not required to pay any fee, but receive any service delivered by grantee pursuant to the franchise.
- (h) **Substantially Completed.** Construction will be considered substantially completed when sufficient distribution facilities have been installed so as to permit the offering of "basic subscriber service" to at least eighty percent (80%) of the dwelling units in each of the service areas.

Sec. 9-16-3 FRANCHISE EXPIRATION AND CANCELLATION.

The initial service area to be covered by the franchise is the municipal limits of Nichols and the cable operator shall provide service to that portion of the Village where there are a minimum of fifteen (15) homes per linear mile of cable plant. The grantee shall be required to extend its service to any additional part of the municipality pursuant to said extension policy.

Sec. 9-16-4 TECHNICAL STANDARDS.

The grantee shall maintain a cable television system at all times in compliance with the Federal Communications Commission Technological Standards and shall file all necessary reports as required by the Rules of the Federal Communications Commission.

Sec. 9-16-5 GRANTEE'S USE OF VILLAGE RIGHTS.

Upon acceptance of this franchise, the grantee is hereby granted the right to erect, maintain, and operate a cable system in the streets, alleys and utility easements of the Village and other public places. The poles used for such distribution shall be those erected or used by the local utilities.

Sec. 9-16-6 METHOD OF INSTALLATION.

- (a) All installations made by the grantee shall be made in good, substantial, safe condition and maintained in such condition at all times and shall be made in accordance **with all applicable rules and** regulations, including the rules and regulations of **the utility company owning** any poles utilized by the grantee.
- (b) The grantee's transmission **and distribution** system poles, wires and appurtenances shall be **located, erected and maintained so** as not to interfere with the lives or safety of **persons, or to interfere with improvements the Village** may deem proper to **make, or to unnecessarily hinder or** obstruct the free use of the streets, alleys, bridges **or other public property.**
- (c) The grantee shall **restore all areas of construction and or** excavation to the condition existing **prior to the beginning of construction and or excavation.**