

Sec. 9-16-8 INDEMNITY.

- (a) The grantee shall indemnify, defend and save the Village and its agents and employees harmless from all claims, damages, losses and expenses, including attorney's fees, sustained by the Village on account of any suit, judgment execution, claim or demand whatsoever arising out of the installation, operation, maintenance, repair, use or removal of the cable system, except for such claims, damages, losses and expenses, including attorney's fees, which are attributable in part or in whole to acts of the Village or its agents.
- (b) The grantee shall maintain throughout the term of the franchise a general comprehensive liability insurance policy naming as an additional insured the Village, its officers, boards, commissioners, agents and employees, protecting the Village and its agencies and employees against liability for loss or damage for personal injury, death or property damage, occasioned by the operations of the grantee under the franchise granted hereunder, in the amount of Five Hundred Thousand Dollars (\$500,000.00) for bodily injury or death to any one person, and One Million Dollars (\$1,000,000.00) for bodily injury or death resulting from any one accident, and One Hundred Thousand (\$100,000.00) for property damage resulting from any one accident.
- (c) The insurance policy shall contain an endorsement stating that the policy is extended to cover the liability assumed by the grantee under the terms of this Chapter and shall further contain the following endorsement:

It is hereby understood and agreed that this policy may not be cancelled nor the amount of coverage thereof reduced until thirty (30) days after receipt by the Village Clerk by mail of a written notice of such intent to cancel or reduce the coverage.

Sec. 9-16-9 SERVICES PROVIDED.

The grantee shall provide the maximum amount of services as are economically feasible to provide taking into consideration all costs of operation and the density of the cable television system as it relates to the number of subscribers. Pursuant to the Federal Cable Communications Policy Act of 1984, the Village shall exercise no censorship or control over programming services and/or content thereof.

Sec. 9-16-10 SUBSCRIBER PRIVACY.

No monitoring of any terminal connected to the system shall take place without specific written authorization by the user of the terminal in question.

Sec. 9-16-11 UNAUTHORIZED CONNECTIONS OR MODIFICATIONS.

- (a) It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency, without the expressed written consent of the grantee, to make or possess any connection, extension or diversion, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the cable system for any purpose whatsoever.
- (b) It shall be unlawful for any firm, person, group, company, corporation or government body or agency to willfully interfere, tamper, remove, obstruct or

damage any part, segment or content of the cable system for any purpose whatsoever.

- (c) Any person violating this Section shall be subject to a forfeiture of up to Five Hundred Dollars (\$500.00) per occurrence and may be required to pay for any damages resulting from said violation. Each continuing day of the violation shall be considered a separate occurrence.

Sec. 9-16-12 FRANCHISE REVOCATION AND EXPIRATION.

- (a) The Village may subject to the procedure in Subsection (b) below, revoke any franchise granted hereunder and rescind all rights and privileges associated therewith in the event of a material or substantial breach of any term or condition of this Chapter.
- (b) In the event the Board determines it is in the public interest to terminate the cable television franchise, the Board shall give the grantee sixty (60) days' written notice of its intention to terminate and stipulate the cause. If during the sixty (60) day period the cause shall be cured, the notice and right to terminate shall be null and void. The grantee shall, in any event, be given an opportunity to be heard before the Board regarding termination and the grantee shall be afforded all due process rights regarding termination. In the event of termination, the Board shall provide a written summary of its reasons for termination and said decision shall be subject to judicial review.
- (c) The expiration of this franchise shall be governed by the terms and provisions of the Cable Communications Policy Act of 1984.

Sec. 9-16-13 SEVERABILITY.

Should any word, phrase, clause, sentence, paragraph or portion of this Chapter and franchise be declared to be invalid by a Court of competent jurisdiction, such adjudication shall not affect the validity of this Chapter and franchise as a whole, but shall only affect the portion thereof declared to be invalid; and the Village expressly states and declares that it would nonetheless have passed this Chapter and granted this franchise had it known that any such word, phrase, clause, sentence, paragraph or portion of said franchise was invalid.

Sec. 9-16-14 COMPLIANCE WITH LAWS, RULES AND REGULATIONS.

In the event that any valid law, rule, or regulation of any governing authority or agency having jurisdiction, including but not limited to, the Federal Communications Commission, contravenes the provisions of this Chapter subsequent to its adoption, then the provisions hereof shall be superseded to the extent that the provisions hereof are in conflict with any such law, rule or regulation.

Sec. 9-16-15 PROTECTION OF NONSUBSCRIBERS.

The grantee shall at all times keep its cables and other appurtenances used for transmitting signals protected in such a manner that there will be no interference with communications signals received by persons not subscribing to the grantee's service.

Sec. 9-16-16 CONFLICT WITH OTHER ORDINANCES.

Should any other ordinance or part thereof be in conflict with the provisions of this Chapter, this Chapter shall prevail insofar as it applies to the Cable Communications System Franchise granted to the grantee.

ORDINANCE TO CREATE 9-1-52 , CODE OF ORDINANCES OF THE VILLAGE OF NICHOLS, WISCONSIN AS IT RELATES TO WELLHEAD PROTECTION

The Village Board of the Village of Nichols, Outagamie County, Wisconsin, does hereby ordain as follows:

SECTION 9-1-52 of the CODE OF ORDINANCES OF THE VILLAGE OF NICHOLS is hereby created to read as follows:

Section 9.1.52. WELL k¹) PROTECTION

(1) CONSTRUCTION OF ORDINANCE

(a) TITLE - This chapter shall be known, cited and referred to as the "Wellhead Protection Ordinance" (hereafter WHP ORDINANCE).

(b) PURPOSE AND AUTHORITY

1. The residents of the Village of Nichols (hereafter Village) depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of the WHP Ordinance is to institute land use regulations and restrictions to protect the Village municipal water supply and well field, and to promote the public health, safety and general welfare of the residents of the Village.

2. These regulations are established pursuant to the authority granted to villages by the Wisconsin Legislature in ss. 61.35 and 62.23 (7) (a) and (c), Wis. Stats., to adopt ordinances to protect groundwater.

(c) APPLICABILITY. The regulations specified in the WHP ORDINANCE shall apply within the Village boundary limits.

(2) DEFINITIONS

(a) EXISTING FACILITIES - "Existing facilities" means current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the Village's wellhead protection area that lies within the corporate limits of the Village. Existing facilities include but are not limited to the type listed in the Department of Natural Resources' form 3300-215, Public Water Supply Potential Contaminant Use Inventory Form which is incorporated herein as if fully set forth.

(b) GROUNDWATER PROTECTION OVERLAY DISTRICT - "Groundwater protection overlay district" means that area derived from the wellhead protection area described within the Village's wellhead protection plan. A copy of the Village's wellhead protection plan can be obtained from the Village Clerk. A map of the overlay district is attached to this ordinance.

(c) WELL FIELD - "Well field" means a piece of land used primarily for the purpose of supplying a location for construction of wells to supply a municipal water system.

③ GROUNDWATER PROTECTION OVERLAY DISTRICT (hereafter DISTRICT).

(a) INTENT. The area to be protected as a District is the area within the recharge area of the well, extending to a distance of the five-year time-of-travel from the well and including a 1,200-foot fixed radius around the well, as determined in the wellhead protection plan, normalized to geographic boundaries, and contained within the Village boundary limits and shown on the attached map. These lands are subject to land use and development restrictions because of their close proximity to the well fields and the corresponding high threat of contamination.

(b) PERMITTED USES. Subject to the exemptions listed in section (3) (e), the following are the only permitted uses within the DISTRICT. Uses not listed are to be considered non-permitted uses.

1 Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.

2. Playgrounds.

3 Wildlife areas.

4 Non-motorized trails, such as biking, skiing, nature and fitness trails.

5 Municipally sewered residential development, free of flammable and combustible liquid underground storage tanks.

6 Municipally sewered business development zoned B-1, B-2, or B-3, except for the following uses:

a. Above ground and underground storage tanks.

b. Animal waste containment or disposal facilities.

c. Automotive service and repair garages, body shops.

d. Paint or coating manufacture.

e. Bulk fertilizer or pesticide facilities.

f. Asphalt products manufacture.

g. Junk yards, auto salvage yards or recycling facilities.

h. Dry cleaning.

i. Gas stations.

j. Holding ponds or lagoons or infiltration ponds.

k. Bulk salt storage.

l Nurseries, lawn and garden supply stores.

m. Small engine repair services.

n. Wastewater treatment facilities.

o. Wells, private, production, injection or other.

p. Any other use determined by the Village Zoning Administrator to be similar in nature to the above listed items.

7 Agricultural uses in accordance with the county soil conservation department's best management practices guidelines.

(c) SEPARATION DISTANCES. The following separation distances as specified in s. NR 811.16(4)(d), Wis. Adm. Code, shall be maintained and shall not be exempted as listed in section (3)(e). The following separation distances shall apply for Village Wells #2 and #3:

1. Fifty feet between a well and a storm sewer main.
2. Two hundred feet between a well and any sanitary sewer main, sanitary sewer manhole, lift station or a single family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current AWWA C600 specifications. In no case may the separation distance between a well and a sanitary sewer main be less than 50 feet.
3. Four hundred feet between a well and a septic tank or soil adsorption unit receiving less than 8,000 gallons per day, a cemetery or a storm water drainage pond.
4. Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under s. Comm 10.10, Wis. Adm. Code.
5. One thousand feet between a well and land application of municipal, commercial or industrial waste; the boundaries of a landspreading facility for spreading of petroleum-contaminated soil regulated under ch. NR 718 while that facility is in operation; industrial, commercial or municipal wastewater lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil absorption units receiving 8,000 gallons per day or more.
6. Twelve hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; any property with residual groundwater contamination that exceeds ch. NR 140 enforcement standards that is shown on the Department of Natural Resources' geographic information system registry of closed remediation sites; coal storage area; salt or deicing material storage area, gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under s. Comm 10.10, Wis. Adm. Code; bulk fuel storage facilities and pesticide or fertilizer handling or storage facilities.

(d) REQUIREMENTS FOR EXISTING FACILITIES

1. Existing facilities shall provide copies of all federal, state and local facility operation approvals or certificate and on-going environmental monitoring results to the Village.
2. Existing facilities shall provide additional environmental or safety structures/monitoring as deemed necessary by the Village, which may include but is not limited to stormwater runoff management and monitoring.
3. Existing facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.
4. Existing facilities shall have the responsibility of devising and filing with the Village a contingency plan satisfactory to the Village which details how they intend to respond to any emergency which may cause or threaten to cause environmental pollution that occurs at their facility, including the prompt notification of Village officials in the event of an emergency.
5. Existing facilities cannot engage in or employ a use, activity or structure listed in prohibited uses, par. (b) above which they did not engage in or employ at the time of enactment of a District and can only expand or replace in kind or rebuild those present uses, activities, equipment or

structures on the site or property of record associated with the facility at the time of enactment of a District, and in a manner that improves the environmental and safety technologies already being used. No existing use, activity or structure listed as prohibited use or conditional use permit is granted for expansion, replacement or rebuilding. This section does not apply to normal maintenance or minor repairs.

6 The owners of existing facilities shall comply with the requirements of this section to provide information, protections, monitoring or filing not less than 6 months after the effective date of this section.

(e) EXEMPTIONS AND WAIVERS

1. Individuals and/or facilities may request the Village in writing, to permit additional land uses in the District.

2. All requests shall be in writing. Such requests may require an environmental assessment report prepared by a licensed environmental engineer. Said report shall be forwarded to the Village and/or designee(s) for recommendation and final decision by the Village Board.

3. The individual facility shall reimburse the Village for all consultant fees associated with this review at the invoiced amount plus administrative costs.

4. Any exemptions granted shall be conditional and may include required environmental and safety monitoring consistent with local, state and federal requirements, and/or bonds and/or securities satisfactory to the Village.

(4) SUPREMACY OF THE DISTRICT

(a) The regulation of an overlay district will apply in addition to all other regulations that occupy the same geographic area. The provisions of any zoning districts that underlay the overlay district will apply except when provisions of the Groundwater Protection Overlay District are more stringent.

(5) ENFORCEMENT

(a) In the event that an individual and/or facility causes the release of any contaminants which endanger the DISTRICT, the individual and/or facility causing said release shall immediately stop the release and clean up the release to the satisfaction of the Village.

(b) The individual facility shall be responsible for all costs of cleanup, including all of the following:

1. Village consultant fees at the invoice amount plus administrative costs for oversight, review and documentation.

2. The cost of Village employees' time associated in any way with cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the Village representing the Village's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.

3. The cost of Village equipment employed.

4. The cost of mileage reimbursed to Village employees attributed to the cleanup.

(c) Following any such discharge the Village may require additional test monitoring and/or

bonds/securities.

(d) Enforcement shall be provided pursuant to section .^{9-16-14.} of the Code.

SECTION II. CONFLICT AND SEVERABILITY. Section of the CODE OF ORDINANCES
OF THE VILLAGE OF NICHOLS applies to this ordinance.

SECTION III. EFFECTIVE DATE. This ordinance shall take effect upon passage and posting as provided by
law.

Adopted: March 13, 2007

Posted: March 15, 2007

